

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

ALBERTO CRESPO-MUÑIZ and  
LUIS RODRÍGUEZ-APONTE,

*Plaintiffs,*

v.

JOSÉ JAVIER RODRÍGUEZ-LÓPEZ in his personal capacity and in his official capacity as MAYOR OF THE MUNICIPALITY OF LAS MARÍAS; YADIRA ALMODÓVAR-GONZÁLEZ, in her personal capacity and in her official capacity as DIRECTOR OF HUMAN RESOURCES FOR THE MUNICIPALITY OF LAS MARÍAS; LUIS PÉREZ-RIVERA, in his personal capacity and in his official capacity as the DIRECTOR OF THE REVENUE AND FINANCE DEPARTMENT OF THE MUNICIPALITY OF LAS MARÍAS; SOCORRO ENID RODRÍGUEZ-MÁRTIR, in her personal and in her official capacity as DIRECTOR OF THE OFFICE OF COMMUNITY AND CITIZEN ASSISTANCE FOR THE MUNICIPALITY OF LAS MARÍAS; THE MUNICIPALITY OF LAS MARÍAS; JOHN DOE; and JANE DOE

*Defendants.*

Civil Action No: 13-1870

**COMPLAINT**

JURY TRIAL DEMANDED

CIVIL RIGHTS

DAMAGES

DECLARATORY RELIEF

INJUNCTIVE RELIEF

**COMPLAINT**

**TO THE HONORABLE COURT:**

Plaintiffs, ALBERTO CRESPO-MUÑIZ and LUIS RODRÍGUEZ-APONTE (collectively "Plaintiffs") hereby file this Complaint for economic, compensatory and punitive damages, and for declaratory, injunctive and equitable relief, against JOSÉ JAVIER RODRÍGUEZ-LÓPEZ in his personal capacity and in his official capacity as MAYOR OF THE MUNICIPALITY OF LAS MARÍAS; YADIRA ALMODÓVAR-GONZÁLEZ, in her personal

capacity and in her official capacity as DIRECTOR OF HUMAN RESOURCES FOR THE MUNICIPALITY OF LAS MARÍAS; LUIS PÉREZ-RIVERA, in his personal capacity and in his official capacity as the DIRECTOR OF THE REVENUE AND FINANCE DEPARTMENT OF THE MUNICIPALITY OF LAS MARÍAS; SOCORRO ENID RODRÍGUEZ-MÁRTIR, in her personal and in her official capacity as DIRECTOR OF THE OFFICE OF COMMUNITY AND CITIZEN ASSISTANCE FOR THE MUNICIPALITY OF LAS MARÍAS; THE MUNICIPALITY OF LAS MARÍAS; JOHN DOE; and JANE DOE.

### **INTRODUCTION**

1. This is a civil action filed by two (2) career employees, who seek redress for blatant, politically motivated adverse employment actions taken against them in violation of federal and local law.
2. All Plaintiffs began working for the Municipality of Las Marías (“Las Marías” or “Municipality”) under the administration of former Mayor, Edwin Soto-Santiago (“Soto-Santiago”) of the New Progressive Party (“NPP”).
3. All Plaintiffs worked in positions and carried out functions for which political affiliation is not an appropriate requirement.
4. As a result of the 2012 General Elections, the administration in the Municipality of Las Marías switched political sides; Soto-Santiago lost his bid for reelection to Defendant José Javier Rodríguez-López (“Rodríguez-López”) of the Popular Democratic Party (“PDP”).
5. Shortly after assuming control of the Municipal administration, Defendant Rodríguez-López and the other defendants – his political trust appointees – unleashed a politically motivated harassment campaign against Plaintiffs and stripped them of their work functions.

6. As it can be logically inferred from such fact-pattern, and as noted in more detail below, the adverse employment actions executed by Defendants were motivated by Plaintiffs' political affiliation, participation and beliefs in favor of a political party and/or a political candidate other than the PDP, specifically the NPP. Had it not been for Plaintiffs' political affiliation, participation and beliefs, they would not have been stripped of their work functions and subjected to politically motivated harassment and mistreatment.

7. Plaintiffs accordingly allege violations under the First Amendment of the United States Constitution, as well as under the laws and Constitution of the Commonwealth of Puerto Rico, in particular, Sections 1, 2, 4, 6 and 7 of Article II of the Constitution of Puerto Rico, and Articles 1802 and 1803 of the Civil Code §§5141 and 5142 of Title 31 of the Puerto Rico Laws Annotated.

#### **JURISDICTION AND VENUE**

8. This District Court has federal subject matter jurisdiction pursuant to 28 U.S.C. §1331 because this is a civil action brought under the laws and the Constitution of the United States.

9. This Court also has supplemental jurisdiction over all claims arising under the laws and the Constitution of the Commonwealth of Puerto Rico pursuant to 28 U.S.C. §1367.

10. Venue is proper in the District of Puerto Rico pursuant to 28 U.S.C. §1391. All parties reside in Puerto Rico, and a substantial part of the acts, events and/or omissions giving rise to the Plaintiffs' claims occurred in Puerto Rico.

11. A jury trial is demanded.

**PARTIES**

**Plaintiffs**

12. Plaintiff **Alberto Crespo-Muñiz** (“Crespo-Muñiz”) has been working for the Municipality of Las Marías since July 1, 2009. Crespo-Muñiz currently holds a career position as a Housing Official in the Municipality’s Office of Community and Citizen Assistance. The duties and functions assigned to such position have no impact on public policy. Defendants have stripped Crespo-Muñiz of his duties and functions and have subjected him to political harassment and discrimination because he exercised his First Amendment rights and had engaged in activity protected by the First Amendment. Crespo-Muñiz is a citizen of the United States, is affiliated to the NPP, and currently resides in Las Marías, Puerto Rico.

13. Plaintiff **Luis Rodríguez-Aponte** (“Rodríguez-Aponte”) has been working for the Municipality of Las Marías since May 4, 1998. Rodríguez-Aponte currently holds a career position as an Auxiliary Paymaster in the Municipality’s Revenues and Finance Department. The duties and functions assigned to such position have no impact on public policy. Defendants have stripped Rodríguez-Aponte of his duties and functions and have subjected him to political harassment and discrimination because he exercised his First Amendment rights and had engaged in activity protected by the First Amendment. Rodríguez-Aponte is a citizen of the United States, is affiliated to the NPP, and currently resides in Las Marías, Puerto Rico.

**Defendants**

14. Defendant **José Javier Rodríguez-López** (“Rodríguez-López”) is the newly elected Mayor of the Municipality of Las Marías.

- a. Rodríguez-López is a citizen of the United States and a resident of Las Marías, Puerto Rico.

- b. Rodríguez-López was elected Mayor of the Municipality Las Marías as a result of the November 2012 General Election under the PDP ticket, and currently serves as the Mayor of the Municipality Las Marías.
  - c. As Mayor, Rodríguez-López is the nominating authority of the Municipality of Arroyo and he participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
  - d. Rodríguez-López is a prominent member of the PDP.
  - e. At all times relevant and material hereto, Rodríguez-López was acting under color of state law.
  - f. Rodríguez-López is being sued for declaratory, injunctive and monetary relief in both his individual capacity and in his official capacity as Mayor of the Municipality of Las Marías.
15. Defendant **Yadira Almodóvar-González** (“Almodóvar-González”) is the Director of the Municipality’s Human Resources Office.
- a. Almodóvar-González is a citizen of the United States and upon information and belief is currently a resident of Las Marías, Puerto Rico.
  - b. Almodóvar-González was appointed the Director of the Department of Human Resources by Rodríguez-López once he assumed the office of Mayor of the Municipality of Las Marías in January of 2013.
  - c. Almodóvar-González is a well-known member of the PDP in the Municipality of Las Marías, and was a loyal follower, contributor and supporter of the PDP; of Defendant Rodríguez-López, and of his campaign for the 2012 election.

- d. As Human Resources Director, Almodóvar-González participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
  - e. At all times relevant and material hereto, Almodóvar-González was acting under color of state law.
  - f. Almodóvar-González is being sued for declaratory, injunctive and monetary relief in both her individual capacity and in her official capacity as the Human Resources Director for the Municipality of Las Marías.
16. Defendant **Luis Pérez-Rivera** (“Pérez-Rivera”) is the Director of the Municipality’s Revenue and Finance Department.
- a. Pérez-Rivera is a citizen of the United States and upon information and belief is currently a resident of Las Marías, Puerto Rico.
  - b. Pérez-Rivera was appointed the Director of the Revenue and Finance Department by Rodríguez-López once he assumed the office of Mayor of the Municipality of Las Marías in January of 2013.
  - c. Pérez-Rivera is a well-known member of the PDP in the Municipality of Las Marías, and was a loyal follower, contributor and supporter of the PDP; of Defendant Rodríguez-López and of his campaign for the 2012 election.
  - d. As Director of the Revenue and Finance Department, Pérez-Rivera participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
  - e. At all times relevant and material hereto, Pérez-Rivera was acting under color of state law.

- f. Pérez-Rivera is being sued for declaratory, injunctive and monetary relief in both his individual capacity and in his official capacity as the Director of the Revenue and Finance Department for the Municipality of Las Marías.

17. Defendant **Socorro Enid Rodríguez-Mártir** (“Rodríguez-Mártir”) is the Director of the Municipality’s Community and Citizen Assistance Office

- a. Rodríguez-Mártir is a citizen of the United States and upon information and belief is currently a resident of Las Marías, Puerto Rico.
- b. Rodríguez-Mártir was appointed the Director of the Community and Citizen Assistance Office by Rodríguez-López once he assumed the office of Mayor of the Municipality of Las Marías in January of 2013.
- c. Rodríguez-Mártir is a well-known member of the PDP in the Municipality of Las Marías, and was a loyal follower, contributor and supporter of the PDP; of Defendant Rodríguez-López and of his campaign for the 2012 election.
- d. As Director of the Community and Citizen Assistance Office, Rodríguez-Mártir participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
- e. At all times relevant and material hereto, Rodríguez-Mártir was acting under color of state law.
- f. Rodríguez-Mártir is being sued for declaratory, injunctive and monetary relief in both her individual capacity and in her official capacity as the Director of the Office of Community and Citizen Assistance for the Municipality of Las Marías.

18. Defendant **The Municipality of Las Marías** (“Municipality” or “Las Marías”) is a municipality within the Commonwealth of Puerto Rico. The Municipality has the capacity to

sue and be sued. The Municipality responds for Defendants' actions, and because at all times relevant and material hereto Defendants were acting pursuant to a Municipal policy and/or custom, and the actions giving rise to this complaint arise from acts from policy making officials for which the Municipality is responsible under 42 U.S.C. §1983.

19. Defendant **John Doe** is an individual defendant who works at the Municipality of Las Marías; whose name, identity and other personal circumstances are unknown at present. Defendant John Doe, however, directly and/or indirectly participated in, authorized or condoned and/or set in motion a series of events in connection with the political discrimination and harassment and the non-renewal of Plaintiffs' appointments and/or employment contracts because of Plaintiffs' political affiliations participation, and beliefs. At all times relevant and material hereto, Defendant John Doe was acting under color of state law.

20. Defendant **Jane Doe** is an individual defendant who works at the Municipality of Las Marías; whose name, identity and other personal circumstances are unknown at present. Defendant Jane Doe, however, directly and/or indirectly participated in, authorized or condoned and/or set in motion a series of events in connection with the political discrimination and harassment and the non-renewal of Plaintiffs' appointments and/or employment contracts because of Plaintiffs' political affiliations participation, and beliefs. At all times relevant and material hereto, Defendant Jane Doe was acting under color of state law.

### **STATEMENT OF FACTS**

#### **GENERAL ALLEGATIONS<sup>1</sup> AS TO ALL PLAINTIFFS**

21. This case involves blatant acts of political discrimination in the aftermath of the November 2012 election by the newly elected PDP Mayor of Las Marías and his co-Defendant

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<sup>1</sup> Unless individually specified, all averments made throughout this complaint referring to "Plaintiffs" or "Defendants," whether in plural or singular, shall be read to include each and every named Plaintiff or Defendant, respectively.

political trust appointees, and upon information and belief, with other defendants whose names are not yet known, against two (2) humble individuals affiliated with the NPP.

22. All of the Plaintiffs began working for the Municipality of Las Marías under an NPP Mayoral administration led by Soto-Santiago – a fact known to all Defendants.

23. The workplace for municipal employees in Las Marías is very small; where all municipal employees know and regularly interact with each other; politics is a common discussion topic amongst them, and the political affiliation of employees such as the Plaintiffs is well known to their fellow employees and to the community of Las Marías in general.

24. The Defendants associated the Plaintiffs with the NPP and with Soto-Santiago and his NPP mayoral administration, as well as with his political campaign and/or that of other NPP candidates for political office.

25. Plaintiffs have been affiliated to the NPP both on a Commonwealth-wide and municipal basis at all times relevant and material to this action – a fact known to all Defendants.

26. The political activism of the Plaintiffs on behalf of the NPP and/or Soto-Santiago during the 2012 political campaign was open and well known in the small community of Las Marías, and the Defendants were well aware of such political activism. Plaintiffs participated in political meetings and motorcades organized by Soto-Santiago during the 2012 political campaign. Plaintiffs also had bumper stickers affixed on their personal vehicles supporting Soto-Santiago and/or had flags or signs supporting his candidacy for reelection prominently displayed in front of their homes. Such political activity occurred in the streets of Las Marías, and Defendants would see it.

27. All of the Defendants knew, assumed, and/or perceived that all of the Plaintiffs had voted for the NPP and for NPP candidates in the General Election of 2012, including for Soto-Santiago and the NPP, instead of the PDP and Rodríguez-López, the mayoral candidate of the PDP.

28. Plaintiffs served as electoral polling officers for the NPP during the 2012 General Elections and in previous General Elections and Primaries. There are only a few voting centers in Las Marías. It is, therefore, a matter of common knowledge who works as volunteers in those centers, and the political affiliations of such volunteers.

29. Soto-Santiago served as mayor of Las Marías for (16) years. He first became Mayor of Las Marías in the 1996 General Election, and was reelected three consecutive times under the NPP ticket in the 2000, 2004 and 2008 General Elections.

30. On November 6, 2012, a contentious General Election<sup>2</sup> was held in Puerto Rico.

31. In the 2012 General Election, Soto-Santiago of the NPP was defeated by co-Defendant Rodríguez-López, the PDP mayoral candidate.

32. Defendants had been active in political circles in Las Marías as members of the PDP and are well known in that community as PDP activists.

33. As in virtually all elections, the atmosphere in the Municipality (and in Las Marías in general) was politically charged during the months prior to the General Election of 2012.

34. Individuals – including Plaintiffs – openly expressed their support for their respective candidates and their participation in political activities, events and campaigns. Individuals – including Plaintiffs – would also openly defend their political preferences, candidates and parties during discussions with individuals affiliated with opposing political parties including those

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<sup>2</sup> The November 6, 2012, “General Election” involved elections for all state-wide offices (the Governor, the Resident Commissioner, Senators at large, Senators by district, Representatives at large, Representatives by district), all municipal offices (78 Mayors and 78 Municipal Legislative Assemblies) and a plebiscite whereby the people selected amongst acceptable status options.

loyal to and of the political trust of Defendants and the PDP. As a result, the political affiliations of such individuals – including Plaintiffs – were openly known, including by Defendants who closely monitored their political adversaries, and the collaborators and supporters of such adversaries, as well as by the Las Marías community in general.

35. After winning the 2012 General Election, co-Defendant Rodríguez-López assumed office as the new PDP Mayor of the Municipality of Las Marías. He was sworn in as Mayor in mid-January of 2013.

36. Shortly after assuming the office of Mayor, Defendant Rodríguez-López selected co-Defendants Almodóvar-González, Pérez-Rivera and Rodríguez-Mártir to fill the positions of Director of the Human Resources Department, Director of the Revenue and Finance Department and Director of the Office of Community and Citizen Assistance, respectively.

37. Co-Defendants Almodóvar-González, Pérez-Rivera and Rodríguez-Mártir have been affiliated with the PDP both on a Commonwealth-wide and municipal basis at all times relevant and material to this action.

38. Co-Defendants Almodóvar-González, Pérez-Rivera and Rodríguez-Mártir are PDP activists and supported the political campaign of Rodríguez-López when he ran against Soto-Santiago in the General Elections of 2012.

39. Plaintiffs hold low-level career positions in the Municipality of Las Marías.

40. At all times relevant and material hereto, Plaintiffs were all public employees whose positions did not involve crafting, developing, or implementing public policy. Plaintiffs' positions were neither public policy-making positions, nor positions that required the Plaintiffs to perform public policy functions.

41. None of the Plaintiffs performed functions of close propinquity to policy-making employees, nor did they have access to politically sensitive information or confidential information related to public policy matters or the legislative process.

42. As such, political affiliation was not an appropriate requirement for Plaintiffs' positions.

43. None of the Plaintiffs had ever received a negative evaluation of their work at the Municipality of Las Marías.

44. A politically charged environment pervaded throughout the municipality immediately after Defendant Rodríguez-López took office as the new PDP Mayor of Las Marías.

45. Municipal employees affiliated with the PDP and/or who supported Defendant Rodríguez-López during the 2012 General Elections attended work dressed in red-colored clothing, in obvious reference to the colors of the PDP party insignia. Those who did not dress in red-colored clothing – such as Plaintiffs – were immediately identified and targeted by Defendants as members of the NPP and/or supporters of Soto-Santiago.

46. After Defendant Rodríguez-López was sworn in as Mayor of Las Marías on January 14, 2013, municipal employees and Plaintiffs' supervisors, including Co-Defendants Almodóvar-González, Pérez-Rivera and Rodríguez-Mártir, all whom are affiliated with the PDP and loyal to Defendant Rodríguez-López, took several politically motivated discriminatory actions against Plaintiffs and would harass and mistreat NPP-affiliated municipal workers, including the Plaintiffs.

47. Defendants were notified and were well aware of the politically motivated comments, actions, harassment and mistreatment taken against the Plaintiffs and other employees affiliated with the NPP.

48. In furtherance of the politically discriminatory scheme and consistent with their desire to discriminate and retaliate against the Plaintiffs and other municipal employees affiliated with the NPP and/or who had supported Defendant Rodríguez-López during the political campaign of 2012, Defendants stood idly by and took no action to stop such comments or discipline the PDP affiliated employees and/or supervisors who undertook politically motivated actions, harassment and mistreatment against the Plaintiffs despite being well aware of such conduct. Rather, Defendants allowed them to continue, promoted these, condoned them and/or authorized them with the purpose of discriminating and/or retaliating against employees – such as Plaintiffs – because of their political affiliation, participation and beliefs with regards to a political party other than the PDP.

49. Defendants unleashed a relentless politically motivated harassment campaign against Plaintiffs by, among others, stripping them of responsibilities and/or of obligations necessary to perform the duties assigned to their respective positions, leaving them with nothing to do during their respective work-shifts.

50. Moreover, Defendants actively prevented Plaintiff Crespo-Muñiz from having access to equipment, supplies and materials necessary to perform his duties; including access to personnel who were supposed to be under his supervision.

51. Plaintiffs notified Defendants of the above-mentioned politically motivated actions and harassment undertaken against them. But instead of ordering that such actions and harassment cease, Defendants allowed them to continue, promoted them, condoned them and/or authorized them with the purpose of discriminating and/or retaliating against them because of her political affiliation, participation and beliefs with regards to a political party other than the PDP.

52. The discriminatory and retaliatory actions mentioned above – i.e. the ongoing harassment, deprivation of duties and discrimination; and Defendants refusal to afford Plaintiffs with the abovementioned rights, privileges and entitlements – was because of the Plaintiffs’ political affiliation, their exercise of First Amendment rights, and their engagement in activities protected by the First Amendment – including the right to vote, the right to speak out on and participate in political and public policy matters and/or in political campaigns on behalf of individual candidates who share their political beliefs or affiliations, and the right of political association.

53. Defendants not only acted individually to deprive Plaintiffs of their Federal Constitutional rights, but they also acted in a joint and conspiratorial manner. Each Defendant also acted in furtherance of the pattern, practice and plan to discriminate against individuals affiliated or perceived as being affiliated with the NPP and/or as supporting an NPP-candidate, including Plaintiffs.

54. Defendants’ participation in the politically motivated adverse employment actions giving rise to this Complaint and in the politically motivated personnel administration practices described above can also be reasonably inferred by their respective positions – positions which inherent functions necessarily require such participation.

55. Defendants’ actions described throughout this Complaint, and which may reasonably be inferred from the averments in this Complaint, have also had a chilling effect on Plaintiffs speech and compromised their political beliefs – as they are now fearful of exercising their First Amendment rights and of engaging in activity protected by the First Amendment in the Municipality because of fear of being discriminated and retaliated against by Defendants. This constitutes irreparable injury.

56. Pursuant to Articles 3.009 and 12.002 (later renumbered as 11.002) of the Autonomous Municipalities Act, the mayor of a municipality is the appointing authority of the Executive branch of municipal governments and as the highest authority of the executive branch of municipal governments, the mayor is charged with the direction, administration and supervision of the operations of the municipality and has the duty, power and function, among others, of appointing all officials and employees of the municipality and dismissing them from their positions when necessary for the good of the service, for just cause and in accordance with the procedures established in the Autonomous Municipalities Act, Act No. 81 of August 30, 1991, codified at 21 L.P.R.A. §§4109(I)(o) and 4552.

57. The above facts show that the Defendants' malicious, discriminatory, and retaliatory adverse employment actions mentioned before were carried out with malice and with reckless disregard to Plaintiffs' constitutional rights and shock the conscience.

58. Reasonable public officials in Defendants' positions would have realized that subjecting Plaintiffs to political discrimination and harassment would have constituted a violation of their constitutional rights.

59. In carrying out their actions, the Defendants intentionally disregarded longstanding and consistent case law from virtually every court in the United States, which repeatedly and consistently proscribe politically-motivated adverse employment actions against government employees who hold positions for which political affiliation is not an appropriate requirement, such as those the Plaintiffs held.

60. With their actions, Defendants subjected these Plaintiffs to personal pain and suffering simply because they favored and supported (or were perceived as favoring and supporting) a

political party and/or candidates of a political party which were in opposition to the PDP and PDP candidates for office such as Defendant Rodríguez-López.

**SPECIFIC ALLEGATIONS AS TO ALL PLAINTIFFS<sup>3</sup>**

**Plaintiff Alberto Crespo-Muñiz**

61. Plaintiff Alberto Crespo-Muñiz (“Crespo-Muñiz”) is of legal age, a resident of Las Marías, Puerto Rico and a citizen of the United States of America.

62. Crespo-Muñiz is a career employee who began working for the Municipality of Las Marías in 1996.

63. On July 1, 2009, Crespo-Muñiz’s career position was reclassified to Housing Officer in the Municipality’s Office of Community and Citizen Assistance.

64. Crespo-Muñiz currently holds one of only two Housing Officer positions available in the Municipality of Las Marías.

65. Crespo-Muñiz’ duties as Housing Officer are to: (a) interview applicants to obtain and verify information in order for the applicant to purchase construction materials, rent or purchase a home in Las Marías; (b) visit residences within Las Marías to verify the information provided by applicants and to conduct follow-up interviews outside the office; (c) assist in completing forms for applicants; (d) provide information to applicants regarding their contractual obligations; (e) supervise construction workers in the work site; (f) verify the availability of construction materials at the work site; (g) serve as custodian of construction tools and (h) prepare and submit related reports.

66. Party affiliation is not an appropriate requirement for the career position of Housing Officer held by Crespo-Muñiz. At all times relevant and material hereto, Crespo-Muñiz is a

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<sup>3</sup> To avoid repetition, all previous allegations referring to Plaintiffs, unless individually specified, are incorporated as if set forth in full herein to apply to each Plaintiff.

public employee whose position is not a public policy-making position, or one that requires him to perform public policy functions. Crespo-Muñiz does not perform functions of close propinquity to policy-making employees, or otherwise has access to politically sensitive information or confidential information related to public policy matters.

67. For the reasons set forth in this Complaint, all Defendants were aware that Crespo-Muñiz is an active member of the NPP. Crespo-Muñiz is politically active on behalf of the NPP within the small community of Las Marías. It was of common knowledge in the workplace of the Municipality of Las Marías (and by Defendants themselves) that Crespo-Muñiz avidly supported the NPP, in particular Soto-Santiago who was running for re-election during the 2012 elections.

68. Moreover, Defendants also knew or assumed that Crespo-Muñiz had voted for Soto-Santiago, the NPP, and for other NPP candidates during the 2012 elections.

69. Crespo-Muñiz has served as an NPP electoral polling officer in several General Elections and Primaries. He also served as an NPP electoral officer in charge of identifying ineligible voters (“*oficial recusador*”).

70. During the political campaign of 2012, Crespo-Muñiz was in charge of crafting partisan banners and propaganda supporting the re-election campaign of Soto-Santiago.

71. Defendants knew all these facts, as well as others provided throughout this Complaint in connection with the political affiliation, involvement and activism of Crespo- Muñiz.

72. In January of 2013, the new Mayor of Las Marías, Defendant Rodríguez-López of the PDP, appointed Rodríguez-Mártir as Director of the Office of Community and Citizen Assistance.

73. Defendant Rodríguez-Mártir is the direct supervisor of Plaintiff Crespo-Muñiz.

74. Soon after Defendant Rodríguez-Mártir assumed the position of Director of the Office of Community and Citizen Assistance of Las Marías, she stripped Crespo-Muñiz of the duties and functions assigned to his position as Housing Officer without any reason, justification or cause.

75. As a result, Crespo-Muñiz spent several months with literally no tasks, functions or duties of any kind, causing him to be isolated from his fellow co-workers.

76. All of Crespo-Muñiz' duties and work functions are now performed by Defendant Rodríguez-Mártir and by transitory and/or contract employees selected by her and Defendants Rodríguez-López and Almodóvar-González. Upon information and belief, such transitory and/or contract employees are affiliated with the PDP and supported the political campaign of Defendant Rodríguez-López.

77. Defendant Rodríguez-Mártir took away office equipment and materials utilized by Crespo-Muñiz that are essential to perform his functions as Housing Officer. These include his camera, phone, phone line, case files and file cabinet. She even attempted to take away his desk.

78. Defendant Rodríguez-Mártir also prohibited Crespo-Muñiz to have any further communication and supervisory authority over the construction workers assigned to the Municipality's Housing Program, an essential part of his work functions.

79. Defendants responded to Crespo-Muñiz's demands for an explanation for these actions by assigning him receptionist duties, in a blatant effort to further humiliate him in front of his peers and punish his exercise of activity protected by the First Amendment.

80. Additionally, Crespo-Muñiz has been subjected to ridicule and harsh criticism by Defendant Rodríguez-Mártir and Co-Defendants.

81. Defendants have repeatedly spurned Crespo-Muñiz' requests that he be provided with the duties and work functions as Housing Officer.

82. Crespo-Muñiz has been subjected to numerous other instances of politically motivated derogatory comments, general mistreatment and harassment by the Defendants and by PDP-affiliated employees of the political trust of Defendant Rodríguez-López.

83. Crespo-Muñiz notified Defendants of the above-mentioned politically motivated actions and harassment undertaken against him. But instead of ordering that such actions and harassment cease, Defendants allowed them to continue, promoted them, condoned them and/or authorized them with the purpose of discriminating and/or retaliating against Crespo-Muñiz because of his political affiliation, participation and beliefs with regards to a political party other than the PDP.

84. As a result of Defendants' politically motivated discriminatory acts and harassment, Defendants have subjected Crespo-Muñiz to personal pain and suffering; and have punished him for the exercise of his civil rights – all because he is not a member of or affiliated to the PDP, and is perceived by Defendants as not having voted for the PDP or its candidates.

**Plaintiff Luis Rodríguez-Aponte**

85. Plaintiff Luis Rodríguez-Aponte (“Rodríguez-Aponte”) is of legal age, a resident of Las Marías, Puerto Rico and a citizen of the United States of America.

86. Rodríguez-Aponte holds a career position in the municipality as an Auxiliary Paymaster in the Department of Revenue and Finance.

87. During Soto-Santiago's administration, Rodríguez-Aponte was appointed by Soto-Santiago to a trust position as Police Commissioner of the Municipality's Police Department.

88. On November 30, 2012, Rodríguez-Aponte was reinstated back to his career position of Auxiliary Paymaster by Soto-Santiago.

89. Rodríguez-Aponte's principal duty and function as an Auxiliary Paymaster is to issue payments for labor and services rendered to the municipality and to sign official documents on behalf of the Revenues and Finance Department of the Municipality of Las Marías.

90. Party affiliation is not an appropriate requirement for the career position of Auxiliary Paymaster held by Rodríguez-Aponte. At all times relevant and material hereto, Rodríguez-Aponte is a public employee whose position is not a public policy-making position, or one that requires him to perform public policy functions. Rodríguez-Aponte does not perform functions of close propinquity to policy-making employees, or otherwise has access to politically sensitive information or confidential information related to public policy matters.

91. For the reasons set forth in this Complaint, all Defendants were aware that Rodríguez-Aponte is an active member of the NPP. Rodríguez-Aponte is politically active on behalf of the NPP within the small community of Las Marías. It was of common knowledge in the workplace of the Municipality of Las Marías (and by Defendants themselves) that Rodríguez-Aponte avidly supported the NPP, in particular Soto-Santiago who was running for re-election during the 2012 elections.

92. Moreover, Defendants also knew or assumed that Rodríguez-Aponte had voted for Soto-Santiago, the NPP, and for other NPP candidates during the 2012 elections.

93. Defendants knew all these facts, as well as others provided throughout this Complaint in connection with the political affiliation, involvement and activism of Rodríguez-Aponte.

94. In January of 2013, the new Mayor of Las Marías, Defendant Rodríguez-López of the PDP, appointed Co-Defendant Luis Pérez-Rivera as Director of the Revenue and Finance Department.

95. Defendant Luis Pérez Rivera is the direct supervisor of Plaintiff Rodríguez-Aponte.

96. Almost immediately after Defendant Pérez-Rivera assumed the position of Director of the Director of the Revenue and Finance Department, he stripped Rodríguez-Aponte of the duties and functions assigned to his position as Auxiliary Paymaster, without reason, justification or cause.

97. Rodríguez-Aponte could no longer issue payments on behalf of the Municipality of Las Marías, nor could he sign any official document whatsoever, effectively divesting Rodríguez-Aponte of the principal duties and functions assigned to the position of Auxiliary Paymaster.

98. Defendants' actions of stripping Rodríguez-Aponte his duties and functions of Auxiliary Paymaster are a blatant effort to humiliate him in front of his peers and to punish his exercise of activity protected by the First Amendment.

99. Defendants repeatedly spurned Rodríguez-Aponte's requests that he be provided with the duties and work functions of Auxiliary Paymaster.

100. Not only has Rodríguez-Aponte been stripped of his principal functions as Auxiliary Paymaster, he has been subjected to numerous other instances of politically motivated mistreatment and harassment by the Defendants and by PDP affiliated employees and employees of the political trust of Defendant Rodríguez-López.

101. Rodríguez-Aponte notified Defendants of the above-mentioned politically motivated actions and harassment undertaken against him. But instead of ordering that such actions and harassment cease, Defendants allowed them to continue, promoted them, condoned them and/or authorized them with the purpose of discriminating and/or retaliating against Rodríguez-Aponte because of his political affiliation, participation and beliefs with regards to a political party other than the PDP.

102. As a result of Defendants' politically motivated discriminatory acts and harassment, Defendants have subjected Rodríguez-Aponte to personal pain and suffering; and have punished him for the exercise of his civil rights – all because he is not a member of or affiliated to the PDP, and is perceived by Defendants as not having voted for the PDP or its candidates.

### **CAUSES OF ACTION**

#### **I.**

#### **FIRST AMENDMENT VIOLATIONS (POLITICAL DISCRIMINATION AND RETALIATION)**

103. Plaintiffs incorporate by reference all previous paragraphs contained in this Complaint.

104. It is clearly established that the First Amendment of the United States Constitution guarantees the right to freedom of speech, the right to freedom of expression, the right to freedom of association, the right to assemble and to petition the Government for redress, the right to vote and the right to affiliate with a political party of one's choosing. Applicable case law is as clear as it is consistent on this score.

105. It is well established that government bodies or officials, or individuals acting under color of state law and/or whose acts constitute state action, are forbidden by the First Amendment from discriminating, retaliating, abusing their authority, or taking adverse action against public employees on the basis of political affiliation, unless political loyalty is an appropriate requirement of the employment. Similarly, the First Amendment protects public employees from discrimination, retaliation, being subjected to abuses of authority, or suffering adverse employment actions in response for engaging in political activity unless political loyalty is an appropriate requirement of the employment.

106. As Defendants have done to Plaintiffs here, subjecting individuals to acts of harassment, deprivation of duties and work conditions inferior to the norm, constitute actionable adverse employment actions protected by the First Amendment.

107. Political activity, affiliation, beliefs and the right to vote are also matters of public concern.

108. It is clear that the Plaintiffs' First Amendment speech and activities were a substantial or motivating factor in the adverse employment actions complained of herein. By subjecting Plaintiffs to adverse employment actions and/or retaliating against them on the basis of political affiliation, and/or for engaging in political activity, Defendants deprived Plaintiffs of their First Amendment Rights.

109. Defendants' actions Plaintiffs have caused a chilling effect on Plaintiffs' First Amendment rights and their exercise of First Amendment protected activity.

## **II.**

### **VIOLATIONS TO CONSTITUTION AND LAWS OF THE COMMONWEALTH OF PUERTO RICO**

110. Plaintiffs incorporate by reference all previous paragraphs contained in this Complaint.

111. Defendants' actions also constitute a violation of Plaintiffs' rights secured by Article II, Sections 1, 2, 4, 6 and 7 of the Puerto Rico Constitution.

112. Defendants' actions also constitute violations of Articles 1802 and 1803 of the Civil Code, §5141-5142 of Title 31.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs request the following relief, jointly and severally against all Defendants:

1. That this Court determine and declare that the actions by all Defendants were in violation of the Constitution and laws of the United States and of Puerto Rico;
2. Compensatory damages and punitive damages in excess of \$3,000,000.00, comprised of the following amounts:
  - a. An amount in excess of \$1,000,000.00 for each plaintiff, for a total of \$2,000,000.00, in compensatory damages for the harm done to the Plaintiffs due to the actions taken against them;
  - b. Punitive damages in excess of \$500,000.00 for each Plaintiff, for a total of \$1,000,000.00, due to the malicious and wanton nature of the violations alleged herein.
3. Equitable relief in the form of a permanent injunction ordering Defendants to reinstate Plaintiffs to their positions, with all corresponding privileges and benefits, and ordering Defendants to refrain from further engaging in adverse employment action on the basis of political affiliations and beliefs.
4. Further, that this Court order the immediate, permanent removal and destruction of any and all letters of admonishment, disciplinary charges, and negative work evaluations in Plaintiffs' personnel file that were issued in connection with the alleged violations of the Constitution and laws of the United States and/or of Puerto Rico.
5. Attorneys' fees, costs and litigation expenses incurred in connection to this action pursuant to, *inter alia*, 42 U.S.C. § 1988, and other applicable statutes.
6. All applicable interests, including pre- and post- judgment interest.
7. That the Court retain jurisdiction over this action in order to ensure compliance with any decree issued by this Court;

8. Any such other and further relief as the Court may deem just and proper.
9. A jury trial is demanded.

Respectfully submitted, this 21<sup>st</sup> day of November, 2013.

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