



FROM THE  
**BAR**

A publication of the Federal Bar Association,  
Hon. Raymond L. Acosta Puerto Rico Chapter

**IN MEMORIAM**

# Hon. Juan R. Torruella

*"Judge Torruella's embodiment of the figure of a judge was, however, most evident in his unwavering commitment to the Judiciary's role in ensuring that the interest of justice was duly served."*

*- William A. Sewell-Fernández*



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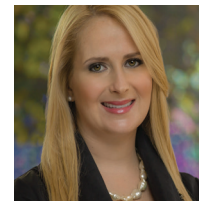
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## Message from the Editor's Committee



**Sarika J. Angulo-Velázquez**

**Linette Figueroa-Torres**

**Cecilia M. Suau-Badía**

With this issue we commemorate the Honorable Judge Juan R. Torruella (1933-2020). In honor of Judge Torruella, we look back to his legacy and remember with great appreciation his unconditional help to the Hon. Raymond L. Acosta PR Chapter of the Federal Bar Association.

As you may already know, Judge Torruella was nominated by President Gerald Ford and appointed as United States district judge in 1974. He then served as chief judge of this Court from 1983 to 1984. In 1984, President Ronald Regan nominated him to the United States Court of Appeals for the First Circuit where he served for thirty-eight years, and as its chief judge from 1994 to 2001. Despite reaching retirement age two decades ago, Judge Torruella remained active on the bench without diminishing his workload. An accomplished lawyer, scholar, writer, and Olympian, Judge Torruella will fore-

most be remembered as our esteemed friend, mentor, and colleague. Today we celebrate him.

In this issue you will find articles written by former law clerks who had the privilege of working with Judge Torruella during his tenure. We particularly thank Ricardo F. Casellas, Néstor Méndez, Margarita Mercado, Jacabed Rodríguez, and William Sewell for making this issue possible. We also thank María Antongiorgi, Esq., Clerk of Court, for her contribution to this issue and look forward to learning more about the inner-workings of her office.

We hope you enjoy this issue of From the Bar as much as we enjoyed putting it together and invite you to submit your articles or notes for publication in upcoming issues by e-mail to: [sangulo@amgprlaw.com](mailto:sangulo@amgprlaw.com); [lft@tcm.law](mailto:lft@tcm.law); [cms@mcvpr.com](mailto:cms@mcvpr.com).

## President's Message

My Fellow FBA-PR Chapter members:

From hurricanes and civil unrest to pandemic year-long lockdowns, a lot has happened since our last From the Bar edition. The world had to quickly adapt to a new way of life; our noble profession, as well. Change came without warning and decades of ways of doing business and work routines were upended and had to be re-invented overnight. Words like "VTC", "Zoom", "Skype" and "remote" became part of our daily vocabulary. This was no different for the Hon. Raymond L. Acosta Chapter. After Hurricane María, we focused on revamping internally. But, when we finally gained the momentum we were after, the pandemic came about and threw the proverbial wrench in our wheels causing us to re-envision the way we engage with our membership. Thankfully, using our new vernacular, we have been able to stay relevant via Zoom!

The year 2020 came at a great cost for all. Our Chapter had two significant losses that year. First, we mourned the

passing of the Hon. Juan R. Torruella, for whom this edition of From the Bar is dedicated to. And most recently, we grieved the sad passing of the Hon. Juan Pérez-Giménez who will be duly honored by the FBA-PR. To those who have been personally affected by COVID-19, be it professionally or by way of sickness or loss of someone near and dear, know that the Chapter grieves with you and is here for you.

Nevertheless, seasons change, and we carry on knowing that we are here for each other in good times and in bad times. I am extremely grateful to preside over such a committed and engaged Board that takes time out of their busy schedules to serve our membership. I know that the FBA-PR's future will be a bright one as it is entrusted in their hands.

Cordially,

**Joseph G. Feldstein**

President

Hon. Raymond L. Acosta Chapter

Federal Bar Association



## Upcoming Events

### Local

- **Conference in memoriam of Judge Juan M. Pérez-Giménez (Virtual)**  
Date to be announced
- **Webinar: Civility**  
Date to be announced
- **Webinar: Virtual Depositions**  
Date to be announced
- **Webinar: Child Pornography and Human Trafficking**  
April 2021
- **Webinar: Death Penalty Practice**  
Date to be announced
- **Conference on White Collar Practice (Virtual)**  
Date to be announced
- **Judge Jay A. García – 20 Years on the Bench (Virtual)**  
Date to be announced

### National

- **Indian Law Conference (Virtual)**  
April 8-9
- **Webinar: International Business Transactions: A guide for the Practitioner**  
April 21
- **Art Law & Litigation Conference (Virtual)**  
April 29-30
- **Webinar: Alternative Dispute Resolution and Labor & Employment Law**  
May 19
- **2021 FBA Annual Meeting & Convention (Miami, FL)**  
September 23-25

# Torruella: unclassifiable hero

by Néstor M. Méndez



His figure was imposing. Tall, broad-shouldered, with the strong body of an Olympian. His hands were huge. They called for order in his courtroom without the need for a gavel. His presence was intimidating not only because of his physique but also because of his apparently tough, direct character, with an intense gaze and strong voice. But his smile and fine humor revealed his great humanity, despite his incredible discipline and intensity in everything he did. He did not use his powerful hands to slam his judicial bench or other human beings. He used them to prodigiously write more than 2,000 judicial opinions, two books and dozens of articles on the most important issues of our times and our lives: on the legal origin of Puerto Rico's colonial condition from the Insular Cases of the early 20th century to the recent impact of Promesa and its Fiscal Control Board; on the need to legalize some controlled substances in response to the violence of drug trafficking; on the need for equality before the law for gay couples and on the discrimination in social security programs against American citizens who reside on the Island, among many others.

A giant of human rights and equality left us at the worst of times; in difficult and dangerous times, where identifying, pigeonholing and insulting those with whom you disagree is a modus vivendi: "leftist", "rightist", "fundamentalist", "pro-independence",

"pro-statehood", "sexist", "feminist", "corrupt" and many other terms are used disparagingly and accusatorily to dispose of contrary ideas in the easiest way, without evaluation or study, much less dialogue. Judge Juan R. Torruella Del Valle was the object of that dangerous tendency that tries to restrict the essence of freedom: the right to believe, to speak and write and even to vote, freely. Appointed to the federal district court in Puerto Rico by President Gerald Ford in the turbulent 1970s, during the movement to expel the Navy from the Puerto Rico islands of Culebra and Vieques, his pro-statehood and republican background -bad words for some even today- were used by those who disagreed with his personal beliefs, to try to define him as a pro-American die-hard in the service of the metropolis. Forty-six years later, he is recognized as a great Puerto Rican patriot and defender of human rights and maybe our most internationally recognized Olympic athlete, having received the Pierre de Coubertin medal and the Olympic Order.

Although his appointment as the first Hispanic judge in a Federal Court of Appeals is greatly emphasized (he was followed by the Hon. Jose Cabranes and the Hon. Sonia Sotomayor), Judge Torruella is unclassifiable; perhaps because he was a Renaissance man who never stopped studying - completing his third Master's (all obtained while he was already a judge) at Oxford, at age 80; because he had an extraordinary life partner, Judy and a family who supported his enormous talents and varied interests and because as an exalted navigator, he saw no limits on the horizon of the seas he sailed, or in the human beings he met.

Disparaged as anti-Puerto Rican in the 1970s, he turned out to be more Puerto Rican and anti-colonial than

anyone else. His 2018 article in the Harvard Law Review, "Why Puerto Rico Does Not Need Further Experimentation With Its Future: a Reply to the Notion of Territorial Federalism" is an extraordinary historical-legal analysis that unmasks, with the honesty that characterized Judge Torruella, the political situation in Puerto Rico. Ironically, said prestigious law review had provided the intellectual support for the fateful Insular Cases. True to form, Judge Torruella went to the lion's cave, where the discriminatory concept of unincorporated territories was born, to highlight that in the 21st Century Puerto Rico is, as he defined it in his 1988 book: "Separate and Unequal."

Extremely strict and demanding in court when I appeared before him, my fondest memories of Judge Torruella are those when he became simply "Billo" (his nickname to friends and family) and after using his powerful hands to warmly say hello and his strong voice to offer some fine humorous remarks, he would sit down with a guitar or mandolin on his lap, strum its strings and we would sing the best songs of our popular music in a fraternal bohemian atmosphere. Yes, like so many human beings of exemplary and extraordinary life, some would say that he was a man of great contradictions. But that is what the teaching of his life is all about, so full, so varied, so intense and fruitful: to reiterate and highlight that the wonderful thing about humans (and nature) is our diversity, our varied beliefs and convictions, even our contradictions, but above all our ability to evolve and create a better society-like the one that Judge Torruella tried to forge.

# In Honor of My Mentor

by **Jacabed Rodríguez-Coss**<sup>1</sup>

After the passing of Judge Torruella, many will undoubtedly pay tribute to his scholarly work and his many years on the bench. I would like to pay tribute to my mentor. I did not know when I applied for a clerkship with Judge Torruella that I would be joining an exclusive club. A club led by an incredible mentor and loyal friend. A club that would serve as a life-long support system for those of us lucky enough to call ourselves members. Every two years, members and their families travelled to Duxbury, MA to meet with our mentor and catch up with each other. It never failed to impress me how the judge managed to keep up with everyone's lives and that of their extended families. It would not be uncommon for me to hear how he had just been in DC and had dinner with members in the DC area. The judge knew my husband, my parents and each one of my daughters, and they each felt a sense of loss when they learned of his passing – a testament to his character as a human being. Surprisingly, the best part of my First Circuit clerkship

was not getting to sit in on oral arguments or draft complex legal opinions involving constitutional issues - it was having coffee with the judge every morning and hearing all about his life experiences, which he generously shared. Whether it was about his years as a professional basketball player, his days on the Puerto Rico Olympic team, his hunting trips to Louisiana or his days on the district court bench, there was always a life lesson in his tales. His friends crossed political and socio-economic boundaries. And he welcomed a diversity of opinions among his law clerks because he firmly believed it made him a better judge. Thus, it was not unusual for one of us to argue with him at length about a particular case (and individual times may have varied), and then have coffee as usual. It was precisely that free, uninhibited exchange of intellectual ideas that he cultivated and cherished. I will miss him always.

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<sup>1</sup> *Judicial clerk to Judge Torruella during the 1991-1992 term.*

## Note on Judge Juan R. Torruella

by **Margarita Mercado-Echegaray Esq.**<sup>1</sup>



Distinct and endearing is Judge Torruella's legacy in my life and career. Judge Torruella instantly became a mentor and teacher who opened up his family and home to his law clerks. Daily tasks as law clerks included active discussions with Judge Torruella of cases and legal controversies pending before the First Circuit. He provided me a platform to offer my positions and analysis on important matters and

cases. A touchstone of Judge Torruella's work ethic was to routinely consider different positions among the law clerks before making a final decision. Members of the federal bar in Puerto Rico will sorely miss the opportunity to work with Judge Torruella who prepared young attorneys in Puerto Rico to meet the challenges of litigation in federal courts.

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<sup>1</sup> *Judicial clerk to Judge Torruella during the 2009-2010 term.*

# The Judge: a peek from the inside

by Ricardo F. Casellas



I had the privilege of clerking for Hon. Juan R. Torruella early during his tenure in the First Circuit, from 1986 to 1987. I would like to share a window into the mind of the Judge from the inside, and many of his clerks and former clerks may share similar experiences. If, in one line, I could sum up my take about the Judge's thinking, it is that he never had a crystal ball to guide him on how he would decide a case before it was briefed and argued. To me, the Judge could not be classified by the often-used labels of conservative or liberal.

He did like some cases more than others, but he was open to being persuaded to change his mind. When I was his clerk there were cases he would handle himself from start to finish. When the briefs and appendices came up before an oral argument session, they were stacked in open file cabinets in his chambers in Old San Juan. The Judge would comb through each stack, glancing at the table of contents of each brief for each side, in all the six or so cases scheduled for argument in that sitting. He would pick a set of one or two cases with briefs and appendices and return to his desk. Many times, the clerks did not know what those cases were about until after oral argument, when we learned from

proofing his opinions –which he wrote himself, from cover to cover– that these appeals involved labor or employment disputes or admiralty cases. Those were Judge Torruella's two favorite subjects, at least back then. He would concur or dissent fairly frequently in political discrimination cases, but I cannot say he enjoyed those as much.

For other types of cases, he would delegate to his law clerks to write a first draft of the opinion. The merits panel would designate after oral argument an appeal as a "probable affirmance or reversal." The most senior Judge sitting in the Panel would assign roughly two cases to each judge per day of sitting. The Judge would then assign to his law clerk – whomever prepared the bench memo - to write the opinion for that case (except for the cases the Judge decided to write the opinion all by himself).

During my clerkship there were lots of interesting cases, including *Nodine v. Textron*, 819 F. 2d 347 (1st Cir. 1986), one of the first RICO civil cases with a standing issue that came up in the circuits after the Supreme Court's decision in *Sedima, S.P.R.L. v. Imrex Co.*, 473 U.S. 479 (1985), as well as *Greater Newburyport Clamshell Alliance v. Public Service Company of New Hampshire*, 838 F.2d 13 (1st Cir. 1988), involving the discovery of privileged communications and a vacatur of an order holding an attorney in contempt, whose facts later became the script for the movie *Class Action*.

Two cases for which I was tasked to assist writing the opinions immediately spring to mind and provide a window to the Judge's approach and think-

ing. One was a criminal case, *U.S. v. Ferreira*, 821 F.2d 1 (1st Cir. 1987), in which a defendant was indicted, tried, and convicted after a long federal jury trial for unarmed bank robbery. The main evidentiary issue on appeal was that the trial court had admitted in evidence a gun that was seized from the defendant shortly after his arrest. But the defendant was not charged with armed bank robbery. After oral argument, the panel, including Judges Coffin, Bownes, and Torruella voted tentatively to affirm the conviction. The Judge assigned the opinion to me. As I delved into the appeal and before writing a draft, I had a long conversation with the Judge about how the admission in evidence of the gun was unduly prejudicial for the charge of unarmed bank robbery; that there was no direct evidence to convict and the circumstantial evidence was not strong; finally, that the admission of the evidence was erroneous and not harmless. The Judge listened to me without making any comments. He was a man of few but pointed words. He decided the case with a question, as he asked me: "in your gut, do you believe that the evidence is insufficient to convict and the case law requires a new trial?" Yes, I said. The Judge adopted a draft vacating the conviction, which the Panel ultimately endorsed unanimously in the published opinion. The Judge was not for or against any party. He is a Judge that comes to my mind when there is a discussion about the importance of following the rule of law.

The other case, *Marshall v. Perez Arzuaga*, 828 F.2d 845 (1st Cir. 1987), was – internally at least – more contentious. This is the story of a traveler who, after arriving at the LMM airport in San Juan,

rented a car. As he was leaving the airport, he hit a pothole causing a flat front tire. He changed the tire himself but returned to the terminal to get a replacement tire from the rental company. The rental company changed the two front tires but not the rear OEM tires that had 15,000 miles on them. As Plaintiff left the airport for the second time in the same car, he felt a vibration from the rear of the car. He stopped the car on the shoulder of the main avenue and noticed that one of the rear tires was flat. He hit and cursed at the tire. As he was walking back to his car in broad daylight, he was struck and injured by an incoming vehicle. Plaintiff sued the rental car company for negligence under Article 1802 of the Civil Code. The rental company argued on appeal that the district court erred in refusing to direct a verdict in its favor. The appeal turned on a mixed issue of law and fact and whether the accident was foreseeable.

Things got interesting after the panel tentatively voted, after oral argument, to affirm the jury's verdict for Plaintiff. The Judge assigned me to write a dissenting opinion to reverse but he was passionate about how strong he felt about his position. I tried, but could not convince him otherwise, that the panel was right. Chief Judge Campbell was on that panel. The Judge was firm that the case should not have reached the jury because the Plaintiff was so negligent that, in his view, was the intervening or superseding cause of the accident. Before a law clerk got down to the actual writing, the judges in the panel would exchange typewritten memos by fax expressing concerns, suggesting language, or proposing different outcomes. With the back of my

teeth, I wrote a draft of the dissent that I felt would not come out as genuine on my part or particularly good. The Judge would rarely if ever comment on drafts of opinions that he agreed with. Seven months into the clerkship I asked for feedback and he said: "no news is good news." Coincidentally, the only time I recall seeing the judge ticked off about an opinion was when another judge (or his clerks) suggested incorporating language to his opinion that "didn't fit" or read right to him. So, he summoned me to chat after he read the Marshall dissent draft, over a coffee in the Abarca coffee shop on the first floor. As I walked gingerly there, I was worried that I would face intense criticism from him. Instead, he said that he agreed with the draft and would adopt it. He wanted to make the point that Puerto Rico civil law cases should not be resolved based on common law notions of foreseeability and that the rental car company had been transformed into an insurer. The Judge showed me his independent thinking in that case and willingness to stand up for what he thought should be the right legal result.

I witnessed the Judge vote in favor of plaintiffs, defendants, the government, corporations, and individuals in many appeals. Not once was he compelled to rule in favor of anyone because of their status or privilege in society. His dissents were few and far between, but more common in civil rights cases. The Judge had a strong personality and character and may have appeared intimidating to some. But underneath his skin he always enjoyed a good and feisty argument and was never one to hold any grudges or disrespect an attorney. He gave lawyers their freedom

and space to argue their appeals for their clients.

After all, the Judge had been a trial lawyer in private practice and a seasoned trial judge. He could identify with how difficult it is for lawyers to deal with clients and try cases. He was deferential to trial judges but firm in his rulings. His compass was always to be just, fair, and right within the bounds of the law.

# Judge Torruella: A legacy of commitment to justice

by William A. Sewell-Fernández <sup>1</sup>



Judge Torruella was an imposing figure. His entry into the courtroom would elicit a reaction from even the most seasoned attorney. His piercing and attentive gaze during oral argument let you know that there was a mind at work, and what a mind it was. Judge Torruella was a true jurist, forever reading, learning and expanding his repertoire of legal knowledge. He also was blessed with a unique sense of judicial intuition developed throughout his forty-seven years on the bench. Judge Torruella was able to detect issues and foresee consequences beyond those squarely raised in parties' submissions.

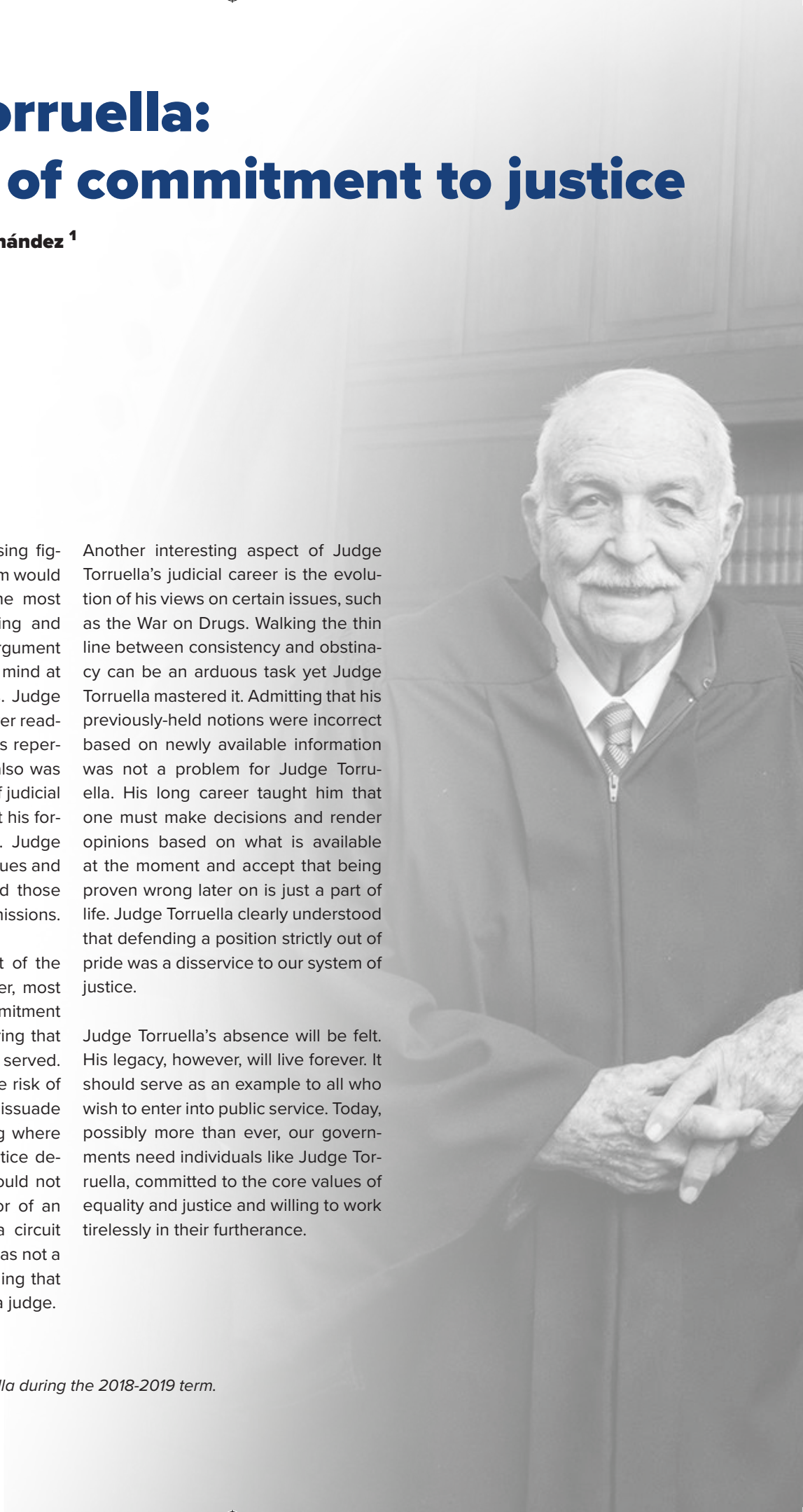
Judge Torruella's embodiment of the figure of a judge was, however, most evident in his unwavering commitment to the Judiciary's role in ensuring that the interest of justice was duly served. Neither public pressure nor the risk of disturbing consensus would dissuade him from pointing out a wrong where he saw one. If reason and justice demanded it, Judge Torruella would not shy away from finding in favor of an unpopular party or creating a circuit split. For Judge Torruella this was not a problem. It was simply something that came along with his duties as a judge.

Another interesting aspect of Judge Torruella's judicial career is the evolution of his views on certain issues, such as the War on Drugs. Walking the thin line between consistency and obstinacy can be an arduous task yet Judge Torruella mastered it. Admitting that his previously-held notions were incorrect based on newly available information was not a problem for Judge Torruella. His long career taught him that one must make decisions and render opinions based on what is available at the moment and accept that being proven wrong later on is just a part of life. Judge Torruella clearly understood that defending a position strictly out of pride was a disservice to our system of justice.

Judge Torruella's absence will be felt. His legacy, however, will live forever. It should serve as an example to all who wish to enter into public service. Today, possibly more than ever, our governments need individuals like Judge Torruella, committed to the core values of equality and justice and willing to work tirelessly in their furtherance.

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<sup>1</sup> Judicial clerk to Judge Torruella during the 2018-2019 term.



# CLERK'S TIDINGS

**By: María Antongiorgi, Esq.**

Clerk of Court  
U.S. District Court for the  
District of Puerto Rico



This is a section with news items, notices, and general information from the Clerk's Office of the U.S. District Court for the District of Puerto Rico, as part of a joint effort with the FBA to keep the Bar apprised of events and information, and to provide a better, expedited service to its members. As part of this effort, we sometimes provide Internet link addresses to sites over which the Clerk's Office or the U.S. District Court exercise no control and thus take no responsibility for their organization views, accuracy, contents, standards, copyright, or trademark compliance or legality.



## The Court

### United States District Court for the District of Puerto Rico

The District is currently composed of seven district judges, two senior judges, and five magistrate judges.

#### District Judges

Hon. Gustavo A. Gelpí, Chief Judge  
Hon. Carmen Consuelo-Cerezo  
Hon. Aida M. Delgado-Colón  
Hon. Francisco A. Besosa  
Hon. Pedro A. Delgado-Hernández  
Hon. Raúl Arias-Marxuach  
Hon. Silvia Carreño-Coll

#### Senior District Judges

Hon. Daniel R. Domínguez  
Hon. A. García-Gregory

#### Magistrate Judges

Hon. Camille L. Vélez-Rivé  
Hon. Bruce J. McGiverin  
Hon. Marcos E. López  
Hon. Marshal D. Morgan  
Hon. Giselle López-Soler

## In Memoriam

### Honorable Juan R. Torruella (1933-2020)

On November 18, 1974, Judge Juan R. Torruella was nominated by President Gerald Ford to serve as Judge for the District of Puerto Rico. He was confirmed by the Senate in December 1974. He served as Chief Judge from 1982 to 1984. On August 1, 1984, Judge Juan R. Torruella was nominated by President Ronald Reagan to serve as Judge for the United States Court of Appeals. He was confirmed by the Senate in October 1984. He served as Chief Judge from 1994 to 2001. Judge Torruella served as First Circuit Judge for 36 years until he passed away on October 26, 2020. He was the only Hispanic to serve on the First Circuit Court in Boston. Before serving on the Bench, he served as law clerk to Associate Justice Pedro Pimentel of the Puerto Rico Supreme Court, and then worked for three years for the National Labor Relations Board. He was in private practice from 1959 to 1974.

## CLERK'S TIDINGS

### Honorable Juan M. Pérez-Giménez (1941-2020)

On October 23, 1979, Judge Juan M. Pérez-Giménez was nominated by President Jimmy Carter as District Judge for the District of Puerto Rico. He was confirmed by the Senate in December 1979. He served as Chief Judge from 1984 to 1991, and assumed senior status on March 2006. Judge Pérez-Giménez served as Senior District Judge until he passed away on December 10, 2020. Just a few days earlier, on December 5, 2020, he celebrated his forty-first anniversary as a United States district judge. Judge Pérez-Giménez served forty-five years on the Bench, including four years as a United States magistrate judge. Before serving on the Bench, he was in private practice from 1968 to 1971, and was then an Assistant United States Attorney from 1971 to 1975.

### Honorable Salvador E. Casellas (1935-2017)

On June 21, 1994, Judge Salvador E. Casellas was nominated by President Bill Clinton as District Judge for the District of Puerto Rico. He was confirmed by the Senate in September 1994. He assumed senior status on June 10, 2005. Judge Casellas passed away in office on November 22, 2017. Before serving on the Bench, Judge Casellas served in the United States Army from 1961 to 1963 and remained in the United States Army Reserve in the Judge Advocate General's Corps from 1963 to 1967. He was in private practice from 1962 to 1972. He served as a Secretary of the Treasury for the Commonwealth of Puerto Rico from 1973 to 1976, thereafter returning to private practice from 1977 to 1994.

## Federal Rules

### Federal Rulemaking

The following new and amended rules became effective December 1, 2020. The changes to the federal rules follow recommendations

by the Judicial Conference of the United States, review by the Supreme Court, and consideration by Congress. These amendments affect the Appellate, Bankruptcy, Civil, and Evidence Rules.

- Appellate Rules 35 and 40.
- Bankruptcy Rules 2002, 2004, 8012, 8013, 8015, and 8021.
- Civil Rule 30; and
- Evidence Rule 404.

For more information on Federal Rulemaking please refer to: <https://www.uscourts.gov/rules-policies/current-rules-practice-procedure>.

### Local Rules

On November 2, 2020, the judges of this Court unanimously approved the adoption of the amendments to the Local Rules, effective immediately. Pursuant to 28 U.S.C. 2071(b) and Rule 83 of the Federal Rules of Civil Procedure, the Court gave public notice and provided opportunity for comment concerning the proposed amendments. No comments were filed by December 4, 2020, the conclusion of the comment period. Consequently, the Court unanimously adopted the amendments, effective immediately. On December 21, 2020, Chief Judge Gustavo Gelpí, issued a Standing Order in Adoption of Local Rules, in Misc. 03-115(GAG). On December 23, 2020, the Clerk of Court gave public notice of the adoption of the Local Rules and made them available on the Court's website.

### Adoption Order of Local Rules of the District Court of Puerto Rico

<https://www.prd.uscourts.gov/sites/default/files/Adoption%20Order%20Local%20Rules%2012.21.2020.pdf>

## CLERK'S TIDINGS

### Court Orders

#### Standing Order on Requests for Transcripts in Criminal Cases

On March 26, 2020, Chief Judge Gustavo A. Gelpí signed a second Amended General Standing Order ordering that in all criminal cases filed in the United States District Court of Puerto Rico, transcripts of any and all proceedings will only be prepared by a Court Reporter upon prior approval by the presiding judge. Court Reporters will not receive, nor process transcript requests made by a defendant's counsel of record or pro se litigants. All transcript requests shall be filed by motion with the Court and will be processed when so ordered by the presiding judge. Unless otherwise authorized by order of the presiding judge, transcripts shall remain under the sole custody of counsel of record, who shall not provide a copy of the same to the defendant or any third party.

#### Second Amended General Standing Order re: Criminal Cases

<http://www.prd.uscourts.gov/second-amended-general-standing-order-transcript-requests-criminal-cases>

#### General Order in Re: Procedures for Filing, Service and Management of Highly Sensitive Documents ("HSD").

On February 10, 2021, in response to recent disclosures of wide-spread breaches of both private sector and government computer systems, Chief Judge Gustavo A. Gelpí issued a General Order regarding Procedures for Filing, Service and Management of Highly Sensitive Documents ("HSD"). The General Order sets forth new security procedures for the District Court of Puerto Rico to protect HSD's filed with the court, as well as maintaining a secure paper filing system at the Clerk's Office to provide security for such documents.

As defined in the General Order, HSDs are documents that contain highly sensitive information that is likely to be of interest to the intelligence service of a hostile, foreign government and whose use or disclosure by such government would likely cause significant harm. HSDs also include documents with highly sensitive information whose disclosure could jeopardize the safety of specific individuals.

#### General Order Procedures for Filing, Service and Management of Highly Sensitive Documents ("HSD").

URL link in the District Court's website: <https://www.prd.uscourts.gov/sites/default/files/15918095361.pdf>

#### District Court of Puerto Rico Holds Video Telephone Conference Hearing During the COVID-19 Pandemic.

On March 31, 2020, the Court issued an Order, pursuant to §15002(b)(1) of the Coronavirus Aid, Relief and Economic Security ("CARES") Act, H.R. 748, allowing the use of video conferencing, or telephone conferencing if video conferencing was not reasonably available, with the consent of the defendant, for a series of criminal case hearings during the current COVID-19 emergency. In a separate Order, the Court notified that, beginning on April 15, 2020, judicial business would be conducted through a virtual courtroom system. In doing so, the Court enabled a Video Tele-Conferencing ("VTC") system that allows all judges to hold civil and criminal hearings and conferences. As the VTC system was implemented, attorneys received advanced notification of their participation in VTC hearings or conferences, along with instructions on how to connect to the Court's VTC system.

The Court's VTC system has proven to be a huge success in advancing the mission of the District Court of Puerto Rico in a safe and secure fashion for all parties involved. The hard work, patience and cooperation of district and magistrate judges, court operations and IT staff, members of the bar, as well as federal and local detention center personnel, has gone a long way toward the fruitful implementation of the VTC system in our District. As of January 31, 2020, the Court has held over 3,288 civil and criminal Video and Telephone Conference hearings.

### Twitter Account

#### District Court of Puerto Rico's Official Twitter Account

The District Court established its official twitter account (@USCourtsPRD) in December 2019. The Court's purpose in adopting this valuable social media tool is to have an additional mechanism to share court information quickly and effectively with the public and the members of the bar, while enhancing the functionality of its website (<http://www.prd.uscourts.gov>). The Court invites all members of the bar and public to follow its official twitter account and get the latest news and updates on court operations and events.

## CLERK'S TIDINGS

### The Bar

#### District Bar Examination

The Court offers two district bar examinations per the year. The Spring 2020 federal bar examination was postponed given the risk of exposure associated with the COVID-19 virus. The Fall 2020 bar exam was administered on November 14, 2020. For that examination, the Court adopted health and safety protocols and procedures to ensure the wellbeing of all applicants and court proctors. A total of 177 applicants sat for the examination, obtaining a 46 percent passing rate. The next Federal Bar Examination will be offered on Saturday, May 8, 2021.

During the period from January 1, thru December 31, 2020, the court conducted three (3) ceremonies for admission to the bar and a total of 89 attorneys were admitted to practice (this figure includes attorneys who passed the Bar examination in previous years).

### CLE

#### Virtual Continuing Legal Education (CLE) Programs by the United States District Court

The District Court, in its effort to provide continuous legal education to members of the Bar, sponsored four virtual programs during the COVID-19 pandemic. On March 3, 2020, the Court held a seminar on Federal Appellate Practice and Procedure, Certifications to the Puerto Rico Supreme Court, with a total of 250 participants. Speakers included Hon. David J. Barron, United States Circuit Judge of Appeals for the First Circuit and Hon. Rafael L. Martínez-Torres, Associate Justice of the Puerto Rico Supreme Court.

On September 23, 2020, the Court, in collaboration with the Commonwealth of Puerto Rico's Women's Advocate Office ("PRWAO"), conducted a virtual program in compliance with the P.O.W.E.R. Act. The program, entitled Domestic Violence During COVID-19 Pandemic, Attorney's Role in Support of Victims, was attended by 137 attorneys. Speakers included Lersy Boria-Vizcarrondo, Esq., PRWAO Solicitor, Madeline Bermúdez-Sanabria, Esq., Deputy Solicitor PRWAO and Liz Sepúlveda-Arroyo, Deputy Solicitor Education and Support Services PRWAO.

On October 29 thru September 1, 2020, the United States Sentencing Commission held a virtual training program, featuring its Deputy Director Alan Dorhoffer and trial attorney Ebise Bayisa. A total of 174 participants, including judges, chambers staff, U.S. Probation officers and criminal defense attorneys, attended the program, which included topics such as commission and case law updates, caselaw and discussion on career offender status, economic crimes, firearms offenses and undischarged terms of imprisonment.

On December 2-3, 2020, the U.S. District Court held its first virtual CLE program with over 721 registered bar members. The Virtual CLE focused on the topics of The U.S. Supreme Court 2019-2020 Term in Review, Recent Developments in Federal Environmental Law, Subject Matter Jurisdiction Update 2020 and The First Amendment, featuring the following lecturers: Professor John M. Greabe, Professor Patrick A. Parenteau, Professor James M. Wagstaffe and Professor David L. Hudson, Jr. Attorneys interested in the Virtual CLE materials and information on the speakers may access the following District Court's website link:

<https://www.prd.uscourts.gov/?q=continuing-legal-education-cle-program&q=continuing-legal-education-cle-program>

# Commentary: What's taking up so long for judges to rule?

by Ricardo F. Casellas

I'd like to debate an important and growing concern to me, and certainly to many other members of the bar. System-wide, many civil cases are languishing in our federal courts. Not all cases remain submitted with undecided motions, but many do for months or years.

We are now at a turning point in history where civil cases in our Puerto Rico Courts of First Instance, with less support staff and law clerks, are trending to be resolved faster than in federal court. This was true even before PROMESA brought to a screeching halt civil litigation for money damages against the government in Puerto Rico courts. The pandemic does not appear to have reversed this trend. The pandemic will probably impact civil cases in federal court more disproportionately than in our local courts, at least those cases with demands for jury trials. The logistics and complications of impaneling a jury for a venire to meet with social distancing requirements and holding a jury trial by videoconference cannot be underestimated. Federal civil cases are bound to get even more delayed. We dwell about delays in the adjudication of cases informally, at least between lawyers, but rarely we put pencil to paper on it.

I wrote a first draft of this piece on February 20, 2020 as we were about to come to terms with the pandemic and months before the presidential election in the U.S. Now more than ever, an independent federal judiciary remains the last check and balance on the exercise of power by other branches of government and is the forum of choice to vindicate federal constitutional

rights. This power assumes that judges will decide the cases that are brought before them and will do so reasonably promptly.

Time and again, our federal court in Puerto Rico shines in public opinion among the most trusted of institutions. The rule of law, judicial independence, and the fair and expeditious administration of justice should figure prominently in a favorable public opinion. But if judges take months or even years to decide motions and appeals, not only does this diminish the effectiveness of the judiciary as a check and balance on the abuse of power, but the public's confidence in the rule of law is likely to be undermined.

The impact on the litigants themselves of an important motion or an appeal that remains undecided for months or years or a trial that is never heard should not be underestimated. Clients lose interest or money to continue litigating. Cases settle that should not be settled or are settled prematurely or not settled when they should be. Cases are voluntarily dismissed or abandoned. Priorities and expectations of clients change. Witnesses leave the company, their memories fade, or worse, they die. Companies are sold or closed. Individuals may get sick or die without their cases ever heard. As the clock turns, the parties or their decision-makers, even lawyers, change, retire, or disappear from the action. Litigants demand answers from their attorneys and few satisfactory answers emerge to them from questions like: "why if you had to file a brief in 30 days or less and the court denied an extension of time has the court tak-

en months or even a full presidential election cycle to decide your motion?" "When is the court going to decide?" You say, "the court is busy with many other older cases or those that have priority or the criminal cases are taking too much time, but your motion will be listed in "Cheo" after 90 days from the last filing, and all we can do is wait."

There is, to my knowledge, no federal or local rule of civil or appellate procedure providing that judges must decide motions by a date certain. But still, parties need and deserve prompt rulings. Rights are not vindicated during a march that becomes eternal to judicial finality. The often-repeated motto rings true: "justice delayed is justice denied."

In 1986, then U.S. District Court Judge Hon. José A. Fusté, who himself made his career in private practice, impressed upon me as his first law clerk about the importance of working diligently and overtime as he implemented his "rocket docket" to bring down a case load of over 550 cases including multi-party criminal indictments. Many judges then and now share the same strong work ethic day in and out.

As far as moving the wheels of justice more quickly, I have learned that a judicial opinion does not have to be in every case lengthy or perfect according to the Oxford Dictionary or the Blue Book or written for publication every time, but it should be the best effort to apply the law to the facts, expeditiously. When we, as litigants, start thinking about mandamus relief or filing informative motions that try to be creative with every topic imaginable to update the record just to reappear as a blip



### **Commentary: What's taking up so long for judges to rule?**

in the court's radar screen, you share your client's frustration that the case has been sitting for far too long.

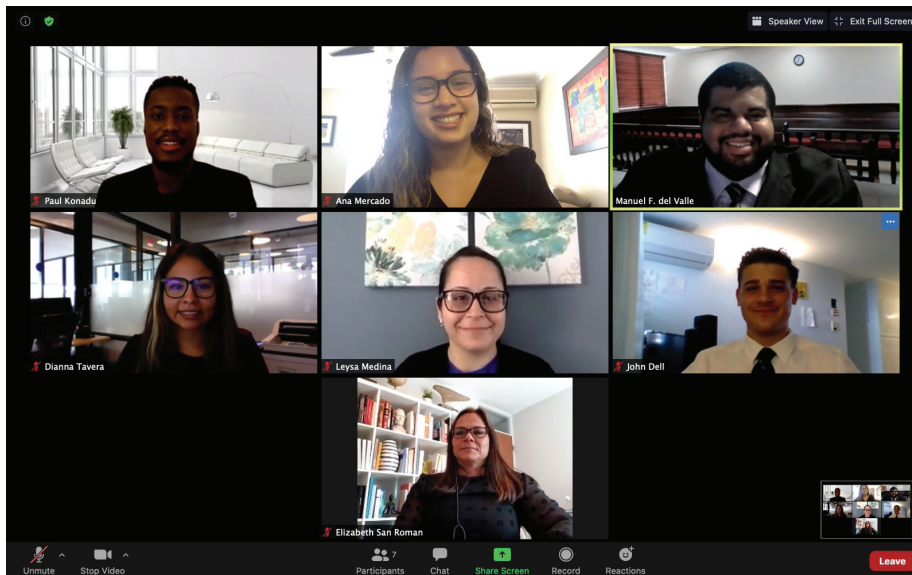
In civil cases, district court judges could consider in their standing orders directing the interested parties to file and serve drafts of orders with proposed findings of fact and conclusions of law on dispositive motions. This is common in our local trial courts to move cases along.

A swift remedy in any form, be it in a lengthy published decision, a line order, or a bench ruling, serves well both the expectations of the parties and the administration of justice. Whatever the process, prompt rulings and orders are essential to preserve the public's confidence in our courts and go a long way toward preserving the rule of law.

Ricardo F. Casellas-Sánchez, past-president of the Puerto Rico Chapter of the FBA and named partner of Casellas Alcover & Burgos, P.S.C.

# FBA Student Chapters

## Inter American School of Law Board



In 2019, the Coronavirus redefined the day-to-day of our world. Quarantines were called, shifting workplaces from in-person to online, assuming the business in question did not close outright. The day-to-day navigation of the familiar was gone, leaving the world to discover whole new means of keeping the world running while stuck in homes and waiting for a cure. But new means of going about business have not only been discovered, but developed and bettered. As members of the post-COVID world, we should never forget the lessons we have learned.

In 2020, the Inter American University of Puerto Rico shifted at the end of a winter-to-spring semester from in-person classes to online, digital video platform-based education. Similarly, the school's FBA chapter had to shift from in-person meetings to online video calls. The following fall, the board for the Inter-American's FBA did not experience a shift; our meetings had to be held online throughout the entirety of the year.

Despite the limitations, we managed

to thrive, in no small part thanks to the help and support of Alfonso Pérez, our point of contact with the island's FBA chapter, and a fair share of dedication and creativity on our part. Events core to our organization, such as an overview of the Federal Bar exam with Judge Domínguez and Head Clerk Soltero were hosted for the first time in an online format that allowed students from all law schools on the island with an FBA chapter to attend and participate. Professor Manuel del Valle offered insights gained along his journey from federal practitioner to federal judge. A workshop was hosted to facilitate the use of legal search engines. All online, and all with student attendance. We capped off the semester by hosting a digital donation drive that went towards purchasing COVID supplies and gifts for a local orphanage.

Moving on to the Spring semester, we face our circumstances not as a challenge, but as an opportunity. Even though digital platform events were developed as a way to adapt to a changing climate, they can bring us closer together than ever before.

Events no longer have to be in a rented venue or school location, reserved in competition with classes and other organizations. We are afforded greater flexibility when it comes to bringing events out for our membership. We have already planned to include a writing workshop, a workshop on becoming a solo practitioner, an overview of the MPRE, and another charity drive for the orphanage.

Though vaccines are on their way, online video conferencing will remain. It has proven itself in digital trials, classes and conferences alike. Tomorrow will not only ask for the ability to adapt to it as a need, but to master it as a medium; something that we all have been given the chance to get a leg up in, and something that we of the Inter-American's FBA chapter will strive to make easier for our membership in the years to come.

# Pontifical Catholic University School of Law Board

Greetings,

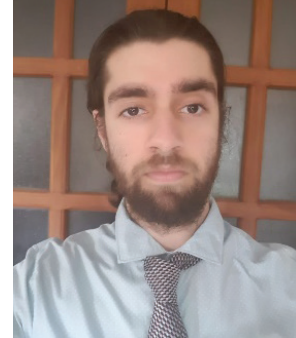
We hope all members of our prestigious organization are safe during the pandemic that has affected the lives of everyone worldwide. This semester we hope to collaborate with fellow Law Schools and their respective chapters to learn from other student experiences. The more we collaborate, the more the Puerto Rico Chapter can grow, and bring our country a talented workforce that is available for everyone. Although we are in the middle of a pandemic, we are confident in our ability to overcome obstacles and work together for the Chapter's best interests.

Below is the list of our members in the Ponce Chapter:

Ignacio L. González-Rojas, President.

Saryam D. Feliciano-Pérez, Vice President.

GianPiero W. Forina-Morales, Treasurer.



## FEDERAL BAR EXAM

### FEDERAL BAR ASSOCIATION REVIEW COURSE

MARCH 29, 30 AND 31 AND APRIL 5,6,7,8, AND 9.

6:00 p.m. to 9:00 p.m. ONLINE

San Juan, Puerto Rico

<p><b>Local Rules</b> MARCH 29, 2021 Alfonso Pérez, Esq.</p>	<p><b>Federal Rules of Criminal Procedure</b> MARCH 30, 2021 Maritza González, Esq.</p>
<p><b>Rules of Professional Conduct</b> MARCH 31, 2021 Rica López de Alós, Esq.</p>	<p><b>Federal Rules of Appellate Procedure</b> APRIL 5, 2021 Diana Pérez, Esq.</p>
<p><b>Federal Jurisdiction and Venue</b> APRIL 6, 2021 Carolina Velaz, Esq.</p>	<p><b>Bankruptcy Practice and Procedure</b> APRIL 7, 2021 Lina M. Soler-Rosario, Esq. Rosamar García-Fontán, Esq.</p>
<p><b>Federal Rules of Evidence</b> APRIL 8, 2021 Karena Montes, Esq.</p>	<p><b>Federal Rules of Civil Procedure</b> APRIL 9, 2021 Henry O. Freese, Esq.</p>

### SPACES ARE LIMITED RESPOND PROMPTLY

For Registration Contact  
ELBA CARRASQUILLO-OLIVERAS  
Telephone: (787) 273-8300  
Fax (787) 273-8371  
E-mail: [ecarrasquillo@calopsc.com](mailto:ecarrasquillo@calopsc.com)

# University of Puerto Rico School of Law Board



As the FBA UPR Student Chapter Officers, we wish everyone a 2021 full of growth, success, and health. We look forward to creating a legacy and continuance of our Student Chapter standards and traditions during this Spring semester. There are a variety of activities planned that will benefit attendees both in knowledge and networking. There might be a few surprises in store, too! Also, since all of our Board is graduating, we are excited to mentor candidates and finally see who will continue representing our Chapter and community. We invite you all to share with us -regardless of the distance- through our social media accounts ([linktr.ee/FBAUPRLAW](https://linktr.ee/FBAUPRLAW)), where you will be updated of our activities, progress, and achievements. The FBA UPR Student Chapter thanks you for being a part of us community – in your own way. Cheers!

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**Carlos Díaz-Ramírez** is a 3L graduation candidate and is the FBA UPR President. Carlos' main interests are Sport law and Criminal law. For the new year, Carlos expects to successfully fulfill the duties and responsibilities of his office, making sure that all students, members, and non-members alike, feel completely related and fa-

miliar to the FBA. On a personal note, Carlos' goals are completing his Juris Doctor with honors, creating long lasting bonds with the membership and other students, and leaving a lasting imprint in our FBA Chapter.

**Melissa M. Gallardo-Negrón** is a 3L graduation candidate and is our Chapter's Vice President. Melissa is interested in Contracts law, Administrative law, Family law and Torts. This new year Melissa hopes to acquire new knowledge, start a healthier diet and start a business. As for the semester, Melissa will bring more leadership to the table, personally and in experiences for our members.

**José David Díaz-Cabán** is a criollo from Caguas, studying his 3L at the UPR Law School. This semester José wants to pursue experiences that will help him become a great lawyer. As Chapter Secretary, José will contribute to creating exposure experiences for the FBA UPR so that our members and school's student body know of the opportunities the federal legal sphere has to offer.

**Sebastián J. Sánchez-Esteve** is a 3L student, Treasurer for the FBA UPR and highly interested in Commercial law. Sebastián's goals for this semester

is to complete his degree with his head held high and to acquire the necessary preparation to excel in the bar exams. As for the new year, Sebastián hopes his knowledge and past financial experience contribute to his role, plus Sebastián works for the organization's exposure and recognition.

**Mónica Lisete Hernández-Santiago** is a 4L graduation candidate with an interest in Immigration law and International law. As Events Coordinator, this Spring semester Mónica is committed to creating community interest and memorable activities for the FBA UPR Chapter through collaborations. This new year Mónica expects to graduate, prepare for bar exams, and to create memorable experiences.

**David Antonio Colón-Alverio** is a 3L and is the Communications Officer for the FBA UPR. David is interested in Commercial law, particularly Bankruptcy law. This 2021, David hopes to enjoy his last semester of law school, to graduate and take the bar exam. As to our Student Chapter, David will continue to communicate to our audience important updates, contribute to our social media pages and collaborate with the FBA UPR Officers in all events.

## Blurbs of Past Activities

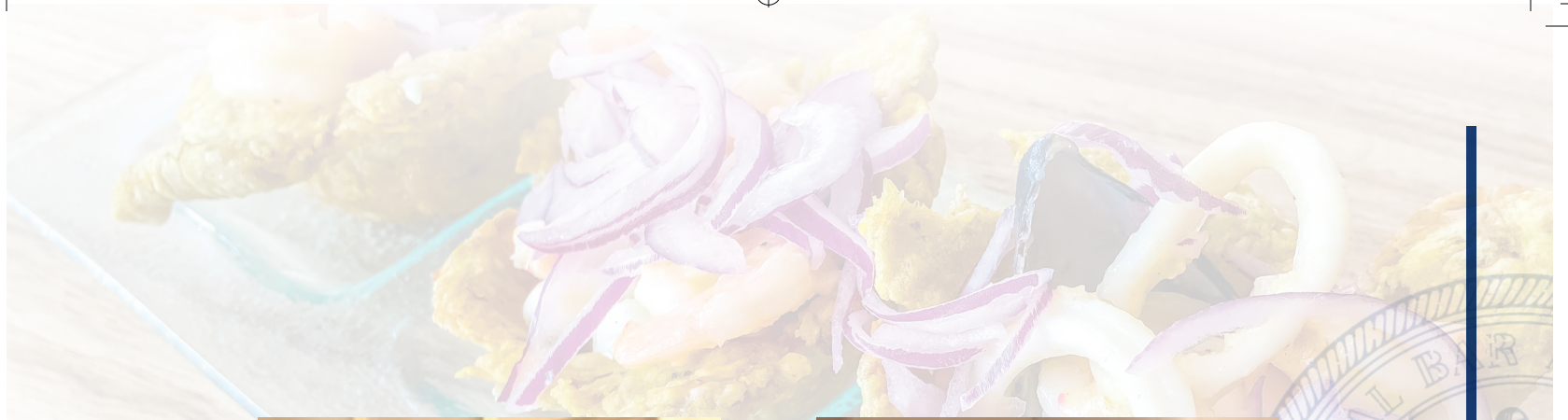
# First Circuit Reception 2019 Mario Pagán

On March 5, 2019, the Hon. Raymond L. Acosta Chapter of the Federal Bar Association held its 2019 Annual Reception for the Judges of the U.S. Court of Appeals for the First Circuit. The event was held at Mario Pagán Restaurant in San Juan. Notable guests included First Circuit of Appeals Hon. Judge Jeffrey R. Howard, Hon. Judge Juan R. Torruella, Hon. Judge O. Rogeriee-Thompson, Hon. Judge Kermit Lipez and U.S. District Court Hon. Judge Jay García-Gregory and Hon. Magistrate Judge Marshal D. Morgan. Current Chapter President María Ligia-Giráldez welcomed those in attendance and thanked Chef Pagán for preparing a wonderful menu inspired in Puerto Rican flavors for the visiting judges, members and guests. Guitarist and professor from the P.R. Conservatory Julio Reyes played various sets of traditional Puerto Rican music.

After the event, the Hon. Judge Lipez expressed his gratitude:

“I wish to thank ... the Puerto Rico Chapter of the Federal Bar Association for the splendid reception that you provided on March 5 at the Mario Pagán restaurant. It was a memorable evening, with wonderful company, great food and a lovely setting. I always enjoy the chance conversations at those events with people whom I have not previously had the pleasure of meeting. There were many such conversations that evening. And I always leave an event like that feeling so fortunate to have the privilege of working in Puerto Rico.”





**Blurbs of Past Activities**

# Christmas Party 2019 at Tinto y Blanco

At the harmonious and enlivened rhythm of the musical duet of “Celenia and Gerito”, the FBA – PR Chapter celebrated its Holiday Party on December 10, 2019 at Tinto y Blanco in Hato Rey, PR.



# Luncheon in Honor of The Honorable Judge Raúl M. Arias-Marxuach

On December 17, 2019, the FBA- PR Chapter held a luncheon at El Mesón Gallego to welcome the Hon. Judge Raúl Arias-Marxuach to the federal bench. Some notable attendees were Puerto Rico Supreme Court Justices Edgardo Rivera-García and Rafael Martínez-Torres and the Honorable Federal District Court Judge Francisco A. Besosa.



Blurbs of Past Activities

# Happy Hour @ Rare 125

On January 29, 2020, the FBA-PR Chapter kicked off the New Year by hosting a Happy Hour at Rare 125 located in the delightful neighborhood of Miramar in San Juan, PR.



**Blurbs of Past Activities**

# First Circuit Reception 2020

## O:LV 55

On March 3, 2020, the Hon. Raymond L. Acosta Chapter of the Federal Bar Association held its 2020 Annual Reception for the Judges of the U.S. Court of Appeals for the First Circuit. This is an event that has proven to be a memorable experience that both lawyers and judges look forward to attending every year. This time, the event was held at O:LV Fifty Five Hotel in San Juan. Notable guests included First Circuit of Appeals Hon. Judge Juan R. Torruella, Hon. Judge Kermit Lipiez, Hon. Judge Timothy B. Dyk, Hon. Judge O. Rogeriee-Thompson and Honorable Judge David J. Barron. Hon. Judge Laura Taylor-Swain, Hon. Judge Judith G. Dein and Hon. Judge Barbara Houser were also present at the event. Former Chapter President Natalia Morales-Echeverría welcomed those in attendance. Hon. Judge Torruella addressed the Bar and thanked the Chapter for its work throughout the years. This was the last time we were able to spend time with the Hon. Judge Torruella. He will be missed.





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