FROM THE BAR

50TH ISSUE

Summer 2013 The Federal Bar Association Newsletter

Porto Rico and Maritime or Admiralty Law

By Daniel J. Dougherty, Esq.

The *"época"* for this treatise is from the early to mid-1950's up to the end of the 1980's.

The unusual spelling in the title or caption is taken from the spelling used in the Organic Acts subsequent to the cession of the Island of Puerto Rico by Spain to the U.S.A. and from U.S. Supreme Court cases of that era; e.g. *Balzac v. Porto Rico,* 258 U.S. 298 (1922); from the Foraker Act (31 Stat. 77 (1900); and from the case entitled *Lastra v. New York & Porto Rico S.S. Co.*, 2 Fed.2d 812 (1st Cir. 1924). This article treats, briefly, the Jones Act, 39 Stat. 951 (1917); the P.R.W.A.C.A.;[1] and a select few cases; it also mentions a few "notables" of this *época*. This writing is mostly about the Longshore and Harbor Workers personal injury cases, 33 U.S.C.A. §901 et seq. "Passenger" suits are not to be overlooked.

San Juan Bay

At the subject time, "Operation Bootstrap" had only begun. The United States District Court of Puerto Rico had only one Judge: Clemente Ruiz-Nazario. The Court was in the Post Office building in Old San Juan. Puerto Rico, an Island in need of imports and an Island rich in products desired on the mainland (hence in need of exporting), was on the verge of a big increase in merchant shipping. The primary shipper was A.H. Bull Steamship Co. ("Bull Line") with Waterman S.S. Corp. of Mobile, Alabama, a distant second.

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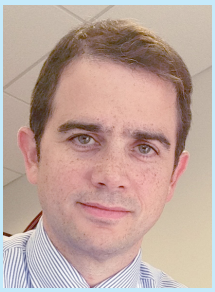
1 The Puerto Rico Workmen's Accident Compensation Act, 11 L.P.R.A. §1 et seq.

The Federal Bar Association Newsletter
Hon. Raymond L. Acosta Puerto Rico Chapter

President's Message



The date is drawing near for San Juan to host the annual National Convention and Meeting of the Federal Bar Association. At that time, Judge Gelpí will take the oath as the first ever Article III judge to serve as a national president of the FBA. As you will have noticed from the latest edition of *The Federal Lawyer*, the slate of events will surely make this convention a resounding success. I hope that all of our membership will attend the National Convention and Meeting.

This last year has been a very active one for our Chapter. And, I would like to take this opportunity to thank all of our members who attended our events as well as those who helped plan them.

We kicked off the year in September with our inaugural luncheon. Our guest of honor was the Hon. Silvia Carreño-Coll, U.S. Magistrate Judge. The format of the event was a conversation and Q&A with questions posed by Judge Gelpí to Judge Carreño. During the conference, Judge Carreño highlighted some of the turning points of her career and spoke to our membership about her experiences and approaches to judging.

In the mid fall, Judge Domínguez gave a lecture and master class on Summary Judgment practice at the Hato Rey Courthouse. This is the second time that Judge Domínguez has given this lecture, which has been a hit with our civil practitioners. The turnout gets larger each year.

As October and the general election approached, we held back-to-back conferences with Resident Commissioner Pedro R. Pierluisi and Rafael Cox Alomar. Both of them spoke about diverse issues ranging from status, the relationship between Puerto Rico and the Federal Government, their experiences as attorneys to economic development.

We helped install the FBA student divisions from the UPR, Interamerican University and Catholic University at the U.S. District Courthouse in Hato Rey. Presiding the ceremony were Judges Domínguez, Gelpí, Besosa, López, Tester, and Puerto Rico Supreme Court Associate Justice Roberto Feliberti. During the occasion, Judge Besosa spoke to those on hand about the importance of *pro bono* practice and how it helps attorneys garner significant courtroom experience, the court in streamlining cases, and clients in obtaining competent counsel and effective representation.

As the holiday season ended, we held our annual *Octavitas* party at Club Naútico in San Juan. As they say, variety is the spice of life. And, having our yearly party for the first time in recent memory at El Naútico was the perfect venue to attract our membership.

In early 2013, Judge Gelpí and Assistant Public Defender Héctor Ramos gave a lecture and master class on criminal procedure at the Old San Juan courthouse. This was another great event with many of our members attending.

The Spring was particularly busy with a "trifecta" of events. Judge Tester along with several judges from the Bankruptcy Appellate Panel spoke to our membership about the amendments to the BAP rules. We would like to thank Judge Tester for always being so generous with his time and being key in providing our membership with lectures and conferences on bankruptcy issues. We also had a lecture and seminar on Qualified Immunity that was given by Professor John Graebe of the University of New Hampshire Law School. The Puerto Rico Supreme Court approved this seminar for 3 CLE credits. We continued our speaker series in the Spring with the Honorable Luis Sánchez Betánces, Attorney General of Puerto Rico, who spoke to us about his role as the chief attorney in Puerto Rico, his experiences as such and how his private practice experience helped him to prepare for this position.

In March, we helped to sponsor the re-opening of the Luis A. Ferré Courtroom and Judicial Facility in Ponce. The reopening of a courthouse in Ponce, which is a state of the art facility, is of paramount importance to ensure access to the courts to those who do not reside in the San Juan metropolitan area.

In May, we had a brown bag luncheon sponsored by our Younger Lawyers Division with U.S. Magistrate Judge Camille L. Vélez Rivé. These conferences are always a great way for all of our membership to gain practical insight on appearing before Magistrate Judges, do's and don'ts, and pretrial (including discovery) and trial practice.

This year, like so many others, we held the Federal Bar review prep course at the Universidad del Sagrado Corazón. Year after year, our course helps attorneys with top notch materials and lecturers to prepare for the federal bar exam. This course would not be possible without the help of all of the lecturers who volunteer their time to prepare and update materials, and especially the invaluable help of our Chapter VP Roberto Cámara, who has made this his project for so many years.

In June, we continued our speaker series with a conference given by former Governors Rafael Hernández Colón and Carlos Romero Barceló at the Caparra Country Club. I would like to especially thank Roberto Santana, our past chapter president and past Circuit VP for serving as a moderator and spearheading the organization of this event. Thanks to Dora Monserrate as well for helping us secure El Caparra.

During this year we have also found new ways to reach our membership, by launching our Chapter Facebook and Twitter pages. We have reached the 21st Century and hope that these tools will continue to be helpful in not only disseminating upcoming events, but keep our membership informed about recent case law and practice trends.

It has been an honor to serve as chapter president this year. I would be remiss if I did not thank the rest of the board for all of their hard work. Manuel A. Pietrantoni for helping

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Remarks By Oreste R. Ramos, President Hon. Raymond L. Acosta Puerto Rico Chapter of The Federal Bar Association on the Opening of Luis A. Ferré Courtroom and Judicial Facility, Ponce, Puerto Rico, March 1, 2013

Judge Torruella, Your Honors, distinguished guests, particularly Governor Hernández Colón, Mayor Meléndez, and Don Antonio Luis Ferré:

On behalf of the Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association, I'd like to thank you for inviting us to the opening of the U.S. Bankruptcy Court's Southwestern Divisional Office here in Ponce, and to this courtroom that bears the name of a great ponceño, Puerto Rican, and American: Don Luis Ferré.

The Supreme Court has said that bankruptcy law gives the honest, but unfortunate debtor a new opportunity in life and a clear field for future effort, unhampered by the pressure and discouragement of preexisting debt.

Don Luis Ferré, the man for whom this courtroom is named, believed not only in the need of giving honest and decent people the opportunity of economic prosperity, and a second chance at it, but also in the parallel improvement of the human aspect of our quality of life.

During a speech given in New York on June 17, 1969, a few months after his inauguration as governor, Don Luis said: Technological [and economic] success without a parallel improvement in the quality of human life is an unbalanced development that can quickly undermine material achievement.

The title of that speech was *Solución Pacifica a los Conflictos de Intolerancia (A Peaceful Solution to Conflicts of Intolerance*).

A court that seeks to give responsible people a fresh start, and in this case those confronting trying times where our island needs not only a second chance at economic opportunity, but also to balance that attempt with the need to improve the quality of human life could not have chosen a more fitting person to name a courtroom after: Don Luis Ferré, a man who not only understood the importance of economic progress, but always framed that progress within the principles of humanity, decency, education, and values.

THANK YOU.

DON LUIS FERRÉ … BELIEVED NOT ONLY IN THE NEED OF GIVING HONEST AND DECENT PEOPLE THE OPPORTUNITY OF ECONOMIC PROSPERITY, AND A SECOND CHANCE AT IT, BUT ALSO IN THE PARALLEL IMPROVEMENT OF THE HUMAN ASPECT OF OUR QUALITY OF LIFE

Seminar on the Basics of Practice before the Bankruptcy Appellate Panel and Upcoming Amendments to the Federal Rules of Bankruptcy Procedure Related to Appeals

The complete panel (L-R): *Hon. Melvin S. Hoffman, Hon. James B. Haines, Jr, Hon. Joan N. Feeney., Mary P. Sharon and Judge Brian K. Tester*

Members of the FBA's Puerto Rico Chapter and the local bankruptcy bar enjoyed an informative and insightful presentation from the United States Bankruptcy Appellate Panel for the First Circuit on February 28, 2013, during the Panel's visit to Puerto Rico to hear pending cases.

At a jampacked seminar held at the courtroom of Hon. Bankruptcy Judge Brian K. Tester, in the José V. Toledo Federal Building & U.S. Courthouse, Old San Juan, the visiting members of the Bankruptcy Appellate Panel talked about, among other topics, their decisionmaking process, the workings of the appellate panel, and the factors that should inform the decision whether to appeal to the Bankrupcy Appellate Panel or the U.S. District Court. The seminar's panelists also reviewed some upcoming amendments to the Federal Rules of Bankruptcy Procedure in relation to appeals.

The seminar's panelists were Hon. James B. Haines, Jr., Chief U.S. Bankruptcy Judge, District of Maine; Hon. Joan N. Feeney, U.S. Bankruptcy Judge, District of Massachusetts, Eastern Division; Hon. Melvin S. Hoffman, U.S. Bankruptcy Judge, District of Massachusetts, Central Division, and Mary P. Sharon, Clerk of the U.S. Bankruptcy Appellate Panel for the First Circuit. Judge Tester acted as not only as the seminar's host but also as its moderator.

The seminar was carried out in the format of a conversation among the members of the panel and with the audience, who were free to ask questions at any time, an opportunity of which many took advantage.

The seminar, organized by the Hon. Raymond L. Acosta Puerto Rico Chapter of the FBA, was held free of cost to all. Both members and nonmembers of the FBA were invited to attend. The seminar was filled to capacity, after demand to attend it approximately doubled the attendance limit of 75 persons.

Hon. James B. Haines, Jr. and Hon. Melvin S. Hoffman

Hon. Joan N. Feeney and Hon. James B. Haines, Jr.

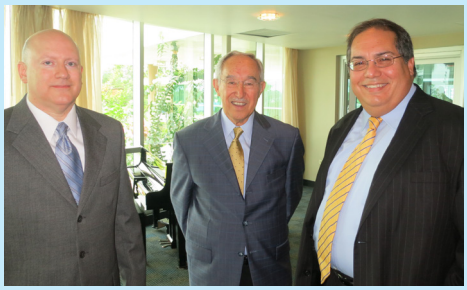
Mary P. Sharon

Judge Brian K. Tester

A Conversation with Former Governors of Puerto Rico

On June 18, 2013, the Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association hosted a first of its kind event: a conversation with former Governors Rafael Hernández Colón and Carlos Romero Barceló. Before a full house at the Caparra Country Club which included members of our bar, several of our District and Bankruptcy judges as well as several Puerto Rico Supreme Court justices, former chapter president Roberto Santana Aparicio moderated the conversation between the former political rivals. Although the focus of the discussion was the island's political status and its legal and constitutional aspects, both governors spoke about their current projects and reflected back on their careers in public service. Even though their public lives have found them at different points in the political landscape, both Hernández Colón and Romero Barceló are statesmen of profound intellectual acumen who no doubt respect one another. We thank them and Roberto Santana for coming together for this event.

Carlos Romero Barceló and Rafael Hernández Colón with moderator Roberto Santana.



Associate Justices of the Supreme Court of Puerto Rico, Hon. Roberto Feliberti Cintrón and Hon. Rafael Martínez Torres together with former U.S. District Court Judge, Héctor Laffitte.

Associate Justice of the Supreme Court of PR, Hon. Rafael Martínez Torres and former Governors Carlos Romero Barceló and Rafael Hernández Colón.

Christmas Octavitas Party

San Juan skyline at night.

On January 24, 2013, the Hon. Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association held its annual Christmas Party at the Club Náutico de San Juan. With more than 80 attendees, including notable members and guests such as former Governor Hon. Carlos Romero Barceló and judges from the Federal District Court and the Bankruptcy Court for the District of Puerto Rico, the gathering was a complete success! We danced to music by the group Jazz in Rico and had the opportunity to enjoy the company of fellow bar members and friends. This year, the celebration begins earlier, as we will have a chance to mingle with members from the bars of the 50 states at the FBA's National Convention to be held at the Caribe Hilton in San Juan from September 26-28, 2013. Don't miss it!

The Puerto Rico Chapter Presented Lecture on Civil Rights Litigation

By Hector L. Ramos-Vega

On March 18, 2013, the Honorable Raymond L. Acosta Puerto Rico Chapter of the Federal Bar Association presented the lecture *"Has Herring Swallowed Harlow (and other civil rights litigation questions)?—An Update on Individual Immunity Decisions from the Supreme Court's 2010–2012 Terms."* The resource for this seminar was John M. Greabe, Professor of Law at the University of New Hampshire School of Law.

Professor Greabe is a Harvard Law graduate who obtained his J.D. in 1988 and served as Research Assistant for Albert M. Sacks, Late Dean and Dane Professor of Law. In 1985, he obtained his B.A. in Classics from Dartmouth. Professor Greabe has clerked for several judges within the First Circuit including the Honorable Jeffery R. Howard, the Honorable Norman Stahl and the Honorable Hugh H. Bownes at the United States Court of Appeals for the First Circuit. At the district court level, Professor Greabe clerked for the Honorable Paul J. Barbadoro, United States District Judge for the District of New Hampshire and the Honorable W. Arthur Garrity, Jr., United States District Judge for the District of Massachusetts. He has also clerked for the Honorable James R. Muirhead, United States Magistrate Judge for the District of New Hampshire.

In addition to his several clerkships, from 1997 until 2010, Professor Greabe was an Associate Professor at the Vermont Law School where he taught Constitutional Law I and II, Civil Procedure I and II, Conflict of Laws, Judicial Opinion Writing and Lawyering. Professor Greabe currently teaches at the University of New Hampshire School of Law where he was granted tenure in September of 2012 by unanimous vote of the faculty. He teaches Constitutional Law, Civil Procedure, Conflict of Laws, First Amendment and Judicial Opinion Writing. Professor Greabe has also published many scholarly articles on constitutional law issues such as First Amendment and voting rights. He is also a renowned nationwide authority on the issue of Qualified Immunity publishing several articles and lecturing on the subject around the nation.

At the March 18 lecture, Professor Greabe engaged the audience from the beginning covering important practical subjects such as pleading requirements and the legal standards in civil rights cases under 42 U.S.C. § 1983. The Professor entertained questions from the audience as the lecture progressed and was able to incorporate in the discussion the most recent Supreme Court decisions on the subject. It was interesting to see how Professor Greabe cautioned that the direction the Supreme Court has taken with respect to the qualified immunity defense, particularly drawing from the holding of *Herring v. United States,* 555 U.S. 135 (2009), is worrisome. Herring, curiously, was a Fourth Amendment case in which the Court significantly limited the reach of the exclusionary rule by holding that it should not apply to police conduct that involves only a negligent disregard for Fourth Amendment rights. Instead, Herring held that the exclusionary rule should apply to conduct by the police that is deliberate, reckless, or grossly negligent (which includes recurring or systematic negligence) with respect to Fourth Amendment rights. Professor Greabe posited that an extension of the Herring deliberate, reckless or gross negligence holding to the qualified immunity doctrine might effectively wipe out the constitutional tort statue (§ 1983) making it virtually impossible for a civil rights plaintiff to overcome the defense. The Supreme Court has not explicitly done so, but it has come close.

John M. Greabe

In all, the lecture by Professor Greabe was thought provoking and practical for the civil rights practitioner. The seminar took place at the very beautiful and historical Centro de Estudios Avanzados de Puerto Rico y del Caribe in Old San Juan on a sunny Monday afternoon. It is worthy of mention that this was the first Continuing Legal Education (CLE) program sponsored by the Puerto Rico chapter that was pre-approved by the Puerto Rico Supreme Court. The participants received 3 general CLE credits. This was the first of many to come. The Puerto Rico chapter is proud of always contributing to the betterment of the legal profession. Thanks are in order to Professor Greabe for his taking time off his busy schedule to serve as resource in this event.

FEDERAL DAY:

A Day of Substantive and Practical Lectures for Law Students

By Lourdes Nicolle Martínez

On April 19, 2013, the Hon. Aida M. Delgado Student Chapter of the Federal Bar Association celebrated its first "Federal Day." This initiative consisted of a full day scheduled with federal practice related conferences.

The day started off with a Bankruptcy Conference held at the US Bankruptcy Court for the District of Puerto Rico in Ponce. The lecture was given by Hon. Edward A. Godoy, U.S. Bankruptcy Judge. Judge Godoy explained the basics of Bankruptcy Law and bankruptcy proceedings and conducted a Questions & Answers segment with the students. In addition, the Judge showed the students the courtroom technology and gave a tour of the new court facilities.

In the afternoon, the students attended a conference on Immigration law held at the US Immigration Court for the District of Puerto Rico in Guaynabo. The Honorable Irma López-Defilló, Immigration Judge presented the conference. Judge López talked to students about the basics of Immigration Law and proceedings in the immigration court. The students also had the opportunity to hear from Jorge Ramos, Senior Attorney I.C.E., about his perspective in prosecuting immigration cases. Last was attorney Rosaura González Rucci, who explained what a defense attorney does in immigration cases and also spoke about the American Immigration Law Association.

The Federal Day served its purpose exposing students to different and specialized law practices at the federal level and that are great options for them to consider when looking for areas of interest to study and/or specialize.

President's Message...

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to organize our kickoff lunch and sage advice as our immediate past president; Carlos A. Valldejuly (our past president) for his fundraising efforts for this year's National Convention; Héctor Ramos for going beyond the call of duty and helping to organize the criminal procedure conference and seminar with Professor Graebe; José L. Ramírez for organizing our conference with Rafael Cox Alomar and our *octavitas* party; Salvador J. Antonetti for coordinating our conference with Attorney General Sánchez Betances; Bobby Abesada and Circuit VP Katherine González for their work with From The Bar; María L. Giráldez for helping us organize the brownbag luncheon with Judge Vélez Rivé and your refreshing ideas for social events with our YLDs; Mariano Mier for his work as a National Delegate and organizing the conference with Judge Tester and the BAP Panel; Roberto Cámara (again) for your help with the bar review course and for being our representative and voice before the Puerto Rico Supreme Court advisory committee on continued legal education; Andrés López for all of your help with keeping our membership numbers up; Ricardo Ortíz, our treasurer, for making sure that all of our numbers and financials are accurate; Juanra Rivera for stepping up at the end of this year to serve as our newest member of the board; and Natalia Morales for ushering us into the 21st Century by setting up our Facebook and Twitter accounts. The Clerk's Office under Frances Ríos de Morán's leadership has been very helpful in getting out the word on our events (thank you Carmen Serrano and Jorge Soltero for your work); and everyone at National for doing the same. Our secret weapon this year has been Judge Gelpí who has given us so many ideas and helped us in innumerable ways to make this year a success. Last, but not least, I want to send a special word of thanks to all of our legal assistants, including Yomaira Santiago at PMA and Luz Maldonado at Fiddler, for their help this year.

I wish my good friend Andrés López the best of luck as he becomes the Chapter president in September. I'm sure he is "fired up and ready to go".

I hope to see you all in September at the convention!

With best regards,

Oreste R. Ramos, President

Recent Trends in Judicial Interpretation in a Post-Iqbal World

By Arturo V. Bauermeister

Much has been said about the Supreme Court's 2007 decision in *Bell Atlantic Corp. v. Twombly*,[1] and its 2009 enlargement and reaffirmation in *Ashcroft v. Iqbal*.[2] So there's little need to discuss here the convoluted legal discussion,[3] not to mention the policy and philosophical considerations, spawned by the post-Iqbal concepts of plausibility and pleading specificity. Still, at the risk of stating the obvious, motion practice under Fed. R. Civ. P. 12(b)(6) has increased significantly over the last few years.[4] While this influx has helped produce some seminal and well-known opinions at the appellate level,[5] three recent and noteworthy decisions from the Court of Appeals for the First Circuit catch the eye. All of them share a common theme: Circuit precedent after Twombly and Iqbal is still a "work in progress" — a work whose goal is the development of a coherent framework for the plausibility standard, or, as put by the First Circuit, a "workable distinction between fact and speculation."[6]

Pruell v. Caritas Christi[7] and *Menard v. CSX Transp., Inc.*,[8] come first. Decided last year, these cases share a similar, core holding: There are special circumstances in which courts must allow "some latitude" to plaintiffs — either by limited discovery or leave to amend — instead of dismissing a complaint with prejudice.

The Pruell court reviewed the dismissal of claims for violations of the minimum wage and overtime provisions of the Fair Labor Standards Act. The First Circuit agreed with the district court that the complaint had failed to state an FLSA claim, given the dearth of examples (or even estimates) of the unpaid time, but also for failing to describe the nature of the work performed during those times — an essential element of the claim at play. The appellate court nonetheless vacated the dismissal with prejudice, and remanded the case to give the plaintiffs "a final opportunity to file a sufficient complaint."[9] In doing so, the court recognized that "the precedents on pleading specificity are in a period of transition, and precise rules will always be elusive because of the great range and variations in causes of action, fact-patterns and attendant circumstances (e.g., warnings, good faith of counsel)."[10] Deciding that the plaintiffs deserved some "latitude", the court reasoned that some of the "information needed," — such as how the employers' pay was calculated and based on what number of hours for particular periods — depended on records that were in the possession of the defendant.[11] Pruell, in a simplified form, demonstrates that although a complaint "cannot be based on generalities, … some latitude has to be allowed where a claim looks plausible based on what is known."[12]

Pruell was reaffirmed six months later in Menard, a case of a trespasser who was seriously injured after being hit by a switched track and subsequently dragged under a train. After he sued the railroad company, his complaint was dismissed for failure to state a claim, and his motion to amend the complaint was denied. On appeal, the court explained, for reasons not relevant here, that the only way Menard could survive dismissal was if he provided facts to support his "general statement" that he was seen by the company's workers after he was initially hit by a switched track.[13] After considering Menard's extraordinary circumstances, the court held that a "limited remand" was appropriate to permit Menard "to explain to the district judge what basis he has to believe that narrow discovery is warranted as to the brief interval between the switch incident" and his fall under the train.[14] "One might not expect precise recollection," the court said, "from a man badly injured by a switched track and shortly thereafter hit and dragged under the train."[15] Citing Pruell, the court held that some leeway was warranted, because, as in Pruell, some of the pertinent evidence had been in control of the defendants. The First Circuit buttressed that the company had made its own investigation that "could easily reveal just what its employees saw between the switch accident and the denouement."[16] So Menard was given a chance to offer "a solid basis" for his remaining claim. In a rare move, however, the court warned that if the limited discovery is unpromising, the judgment dismissing his claims "should be reinstated."[17] Regardless, Menard reminds us that, in the "the interests of justice," a plaintiff can request (and courts can allow) limited discovery and, if warranted, a final amendment to the complaint.[18]

> TWOMBLY AND IQBAL MAY PRODUCE THE BEST THAT CAN BE EXPECTED IN HUMAN AFFAIRS WHICH IS A SENSIBLE COMPROMISE BETWEEN COMPETING LEGITIMATE INTERESTS."[25]

On the other hand, *Rodríguez-Reyes v. Molina-Rodríguez*,[19] an April 2013 decision, clarifies as a matter of first impression that the *prima facie* case is an evidentiary model, not a pleading standard. There, the appellate court reviewed the district court's dismissal for failure to allege facts sufficient to establish a prima facie case of political discrimination. The

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FBA Midyear Meeting Report, Dinner Event for the Fellows of the FBA Foundation and Activities' Highlights

By Mariano A. Mier-Romeu and Katherine González-Valentín

The Federal Bar Association held its Midyear Meeting at Arlington, Virginia, on April 5-6, 2013. In attendance from Puerto Rico during the various related events were the FBA's President-Elect and U.S. District Judge for the U.S. District Court for the District of Puerto Rico, Hon. Gustavo A. Gelpí; his father and life fellow of the Foundation of the FBA, Gustavo Gelpí Sr.; First Circuit Vicepresident Katherine González Valentín; PR Chapter National Delegate Mariano Mier Romeu; Treasurer of the Foundation of the FBA and Sustaining Life Fellow Néstor Méndez-Gómez; former FBA President and Sustaining Charter Life Fellow Rusell Del Toro; former PR Chapter President and Life Fellow Alfredo Castellanos; his father, former Chief U.S. Magistrate Judge for the U.S. District Court for the District of Puerto Rico Hon. Jesús Castellanos and their immediate family members.

On Saturday, April 6, FBA president Robert DeSousa opened the formal sessions of the midyear meeting with an overview of the FBA's activities during the year, and was followed by the government relations committee chair, West Allen, who gave an update on current government issues that may impact FBA's members, such as sequestration.

The midyear meeting's morning session focused on the improvement of chapter activities and membership. To that end, case studies of collaborations between chapters, sections and divisions were presented, to serve as

At the Annual Fellows Dinner at Cosmos Club, left to right: Fellows Gustavo Gelpi Sr, Mariano Mier, Foundation Board member Luis Nido, 1st Circuit Vice President Katherine Gonzalez-Valentin, FBA President Elect Hon. Gustavo Gelpi Jr., FBA Past President Russell Del Toro, Foundation Board Treasurer Nestor Mendez and Miles F. Ryan III

suggested models for the organization of future conferences and luncheon series. After these initial presentations, the meeting's attendees broke up into ad hoc brainstorming sessions to exchange and discuss chapter activities and best practices. Afterward, another breakout session was held with groups composed of each Circuit's vicepresidents and chapter leaders. Each group had the task of coming up with ideas to further membership, programming,

At the Midyear Meeting, Chapter Leaders and Circuit Vice Presidents Breakout Sessions: Chair Younger Lawyers Division Matthew C. Moschella of Mass., PR Chapter National Delegate Mariano Mier, First Circuit Vice President Chris Sullivan, Rhode Island Chapter Treasurer Richard Ratcliffe, First Circuit Vice President Katherine Gonzalez and Rhode Island Board Member George Lieberman.

Alfredo Castellanos receives recognition from FBA National President Robert DeSoussa at the Moot Court Competition.

and collaboration among the chapters, which were then shared among all present.

After the morning session, a luncheon was held with Brigadier General Kyle Goerke as the guest speaker. General Goerke, who is the highest ranking member of the Judge Advocate General's Corp in the National Guard, spoke of the changing role of the National Guard as a result of the past decade's conflicts. He also spoke of the challenges facing service men and women who return from active duty, which have lamentably given place to a high and increasing suicide rate among them.

In the afternoon session, the FBA National Council met. Some important topics discussed at the National Council Meeting included: a 2014 dues increase of six percent (6%), a revised reimbursement policy for chapter representatives' attendance at the national council's meetings; cost-reduction measures at the national executive level; the creation of a new FBA Chapter in New Mexico; and a national membership high of 16,481 members as of mid-March. Emphasis was placed on membership practices. Chapters were encouraged to "Recruit, Retain, Engage" members.

The fellows of the Foundation of the Federal Bar Association also held their traditional annual dinner on the evening of April 6, 2013. The fellows held this exclusive event at the

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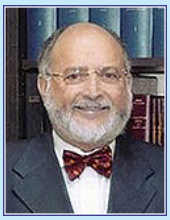

Newly Appointed Attorney General of the Commonwealth of Puerto Rico, Hon. Luis A. Sánchez Betances, Speaks to the Federal Bar

Earlier this year, the FBA invited the new Attorney General of the Commonwealth of Puerto Rico, the Honorable Luis A. Sánchez Betances, to speak at a luncheon held at Rest. Los Chavales on March 6, 2013. During the luncheon, which was attended by over eighty members of the FBA, Secretary Sánchez Betances spoke about his transition from private practice to public service, and his plans and vision for the Department of Justice over the next four years. As many of you know, he has been a distinguished member of the bar for the past forty years. He graduated from Central High School in Santurce, and obtained a B.A. in Business Administration from the U.P.R.-Río Piedras, an M.A. from New York University, and a J.D. from the U.P.R. Law School in 1972. Please note that his appointment as Attorney General is not his first stint in public service; earlier in his career, he represented indigent persons and communities as an attorney for the Legal Services Corporation, and also served as an Examining Officer for the Environmental Quality Board. Afterwards, he established his firm, Sánchez-Betances y Sifre, where he has focused on litigation in civil, environmental, labor, health, and corporate matters. He has also published various articles on various subjects spanning everything from the Civil Code, the Corporations Act, the Ethics Act, regulations governing mining, the Controlled Substances Act, consumer protection laws, and matters involving health law. He has also been a distinguished member of various commissions and task forces at the Puerto Rico Bar Association. As Secretary Sánchez Betances explained during his speech, he is intent on bringing the benefit of his experiences to his new role as head of Puerto Rico's largest law firm, where he will seek to administer government litigation in an effective, efficient, and fair manner.

FBA News and Upcoming Events

Did you know? In a recent (2012) historical book, *Theodore and Woodrow: How Two American Presidents Destroyed Constitutional Freedoms,* by Andrew P. Napolitano, the author cites Hon. Gustavo A. Gelpí's 2011 article published in *The Federal Lawyer's* March/April edition — "The Insular Cases: A Comparative Historical Study of Puerto Rico, Hawai'i, and the Philippines".

Congratulations are in order: On April 5, 2013, Judge Andrew Effron sworn in and admitted former Chapter President Alfredo Castellanos to practice before the U.S. Court of Appeals of the Armed Forces. The ceremony took place in Washington, D.C. upon conclusion of the prestigious moot court competition the Federal Bar Association holds annually in which this year fifty law schools participated. To close the event, FBA National President Robert DeSoussa recognized Castellanos for his participation as a judge in the competition's final rounds for five consecutive years. On behalf of our Chapter, we thank Alfredo for the time and effort devoted. We are proud to have him sit in our Council of Past Presidents.

Farewell and Godspeed: The Chapter would like to bid farewell to our former director Maritza Gómez, who has relocated to South Florida. Her contributions to our Chapter will be missed. We are sure that she will be very successful in her new professional endeavors.

Puerto Rico Chapter Board Nominations and Elections: The time to vote for the new Board of Directors of the FBA Hon. Raymond L. Acosta Puerto Rico Chapter is approaching. To initiate the process, the Chapter recently notified its members in good standing the list of nominees and candidates for election to serve on the Board during the 2013-2014 term. The election process will start and voting ballots will be distributed after the July 17, 2013 deadline to submit write-in nomination of candidates for the elective officers.

Judge Andrew Effron and Alfredo Castellanos.

National Elections: The Nominations & Elections Committee of the FBA has once again nominated Katherine González-Valentín as a candidate to serve for a second two-year term at the National level as First Circuit Vice President. Online voting is expected to be open in early July for the election of FBA's National Officers, Board of Directors, Vice Presidents for the Circuits, and Younger Lawyers Division Board. We urge our members to be on the lookout for the electronic ballot and applicable voting deadline.

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Post-Iqbal...

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First Circuit joined its sister courts in holding that *Swierkiewicz v. Sorema*,[20] which held that the *prima facie* case is an evidentiary — not a pleading — standard, remains unabated by Iqbal. And precisely because the *prima facie* standard is an evidentiary standard, and not a pleading standard, "there is no need to set forth a detailed evidentiary proffer in a complaint."[21] The caveat: The elements of the *prima facie* case are still relevant to "a plausibility determination in a discrimination suit."[22] And this makes perfect sense: In a discrimination case the prima facie standard is (absent direct evidence) the standard that will govern at trial. Importantly, the Rodríguez-Reyes decision also dispelled any confusion created by what the court called the interaction "between the prima facie case and the plausibility standard."[23] Now it remains to be seen how the district courts will use "the elements of a *prima facie* case…as a prism to shed light upon the plausibility of the claim."[24]

At least two important principles can be distilled from the above cases. First, as sensibly put by Judge Boudin, "if tempered by sound discretion, Twombly and Iqbal may produce the best that can be expected in human affairs which is a sensible compromise between competing legitimate interests."[25] And second, developing a functional "distinction between fact and speculation" is indeed a work in progress. So viewed, all three of these cases shape the contours of this undertaking. Rodríguez-Reyes's common sense holding could deter sterile or otherwise expensive motion practice at the pleadings stage, especially in the fact-sensitive employment discrimination context. While Pruell and Menard, if not narrowly confined, could require courts to give "some latitude" where a plausible claim may be pleaded based upon "what is known," and some of the information required may be in the control of the defendants. Of course, it is still the plaintiffs' burden to timely provide convincing arguments in support of their motion to amend the complaint or request for limited discovery.

(Endnotes)

1 550 U.S. 544 (2007).
2 556 U.S. 662 (2009).
3 Compare, e.g., Arthur R. Miller, Simplified Pleading, Meaningful Days in Court, and Trials on the Merits: Reflections on the Deformation of Federal Procedure, 88 N.Y.U. L.Rev. 286, 337 (2013) ("Under the impetus of Twombly and Iqbal, the motion to dismiss may well morph into a trial-type inquiry with the capability of terminating a case at its outset based on little more than judicial intuition and a personal sense of what in the complaint seems convincing and what does not.") with, e.g., Richard A. Epstein, The Myth of a Pro-Business SCOTUS, Defining Ideas (Jul. 9, 2013), http://www.hoover.org/publications/defining-ideas/article/151391 (citing a "careful empirical study" that "concluded that "Twombly caused no legal change, even after accounting for possible selection effects" (internal quotation marks omitted)).
4 See Miller, supra note 3, at 331.
5 See, e.g., *Ocasio-Hernández v. Fortuño-Burset*, 640 F.3d 1 (1st Cir. 2011).
6 Peñalbert-Rosa v. Fortuño-Burset, 631 F.3d 592, 597 (1st Cir. 2011).
7 678 F.3d 10 (1st Cir.), cert. denied, 132 S.Ct. 1969 (2012).
8 698 F.3d 40 (1st Cir. 2012).
9 Pruell, 678 F.3d at 15.
10 Ibid.
11 Ibid.
12 Ibid (emphasis added).
13 Menard, 698 F.3d at 44.
14 Id. at 45-46.
15 Id. at 45.
16 Ibid.
7 Id. at 46.
18 See id. at 45 (reiterating what was said in Peñalbert-Rosa — namely that "where discovery is likely to reveal the identity of the correct defendant and good faith investigative efforts to do so have already failed, the 'interests of justice' may warrant remand for limited discovery." (some quotation marks omitted)).
19 711 F.3d 49 (1st Cir. 2013).
20 534 U.S. 506 (2002)
21 Rodríguez-Reyes, 711 F.3d at 54.
22 Ibid.
23 Id. at 51.
24 Id. at 54.
25 Menard, 698 F.3d at 45.

Midyear Meeting...

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historic Cosmos Club in Washington, D.C. A private social club incorporated in 1878 by men distinguished in science, literature and the arts, the Cosmos Club brought together a community of scientists and intellectuals by creating a center of good fellowship, where members could share ideas and gather socially. Its renowned members have included three Presidents, two Vice Presidents, a dozen Supreme Court justices, 32 Nobel Prize winners, 56 Pulitzer Prize winners and 45 recipients of the Presidential Medal of Freedom. A warm welcome cocktail followed by a delightful dinner were the preambles to a recount of the Club's history, the introduction of the evening's special guest, U.S. Court of Federal Claims Senior Judge, Hon. Eric G. Bruggink and his insightful remarks about his court and experiences as an attorney. As a closing act, Fellow and the Foundation's Treasurer Néstor Méndez entertained the audience with a rendition of *En mi Viejo San Juan*, song considered by many as Puerto Rico's second national anthem.

Besides the Saturday events, other activities on the Midyear Meeting agenda were held on Friday, April 5. These included a meeting of the Federal Bar Building Corporation board and the final round and reception at the U.S. Court of Appeals for the Armed Forces of the 16th Annual Thurgood A. Marshall Memorial Moot Court Competition, hosted by the FBA's Younger Lawyers Division. For the sixth time, Alfredo Castellanos, Esq. volunteered to act as one of the judges of the competition. He also drafted this year's case for the moot court competition arguments.

All in all, a busy couple of days for the chapter members and representatives at this year's Midyear Meeting. Next stop: National Convention, San Juan, Puerto Rico, September 26–28, 2013.

Maritime Law...

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Sea-Land Service, Inc., based in Elizabeth, N.J., commenced a regular scheduled service with "only" three large vessels, at first, to and from Puerto Rico and the mainland. Also, to and from Europe and Asia. Sea-Land was contemplating a "takeover" of Waterman. It was also contemplating "containerization" of cargo (to increase speed and volume in cargo-handling) and the construction of much larger port facilities and multi-million dollar heavy cargo-handling equipment to be placed in Puerto Rico, especially San Juan and Mayaguez.

En esa época, many Puertorriqueños were emigrating to Nueva York, Nueva Jersey and elsewhere. The later trend of Puerto Ricans returning to Puerto Rico had not yet begun. Hato Rey was then somewhat "distant" from Old San Juan —unless one owned a car. *Mientras tanto*, waterfront injuries in Puerto Rico had been occurring. Lawsuits were being filed in New York City by longshoremen and harbor-workers injured during the course of their work loading and unloading vessels. The federal "transfer statute," 28 U.S.C. 1404(a), was not yet very much in vogue. The federal caselaw was not yet "flooded" with 1404(a) maritime decisions.

A young New York City lawyer named Harvey B. Nachman was an employee of "Golenbock and Komoroff"—a Manhattan law firm specializing in personal injury litigation. Another young New York City lawyer named Daniel J. Dougherty was an associate of Kirlin, Campbell and Keating—the largest exclusively maritime-admiralty law firm in the world. Dougherty's caseload (pre-*"Guerrido vs. Alcoa SS Co.,"* 234 F.2d 349 (1st Cir., 1956))[2] was ordinary for a large (not "very large") firm; about 60 cases—all maritime personal injury cases. In New York City there were at that time few law firms that had more than 100 lawyers—a number then hard to imagine. "Maritime" law firms—"specialists"—had far fewer. Kirlin also had 21 full-time investigators on its payroll. Maritime cases generated wide-ranging facts (in particular the personal injury cases) which required surveillance for those plaintiffs feigning the seriousness of injuries. Background information was also needed for cross examination during trial, etc. The writer had tried to a verdict and judgment several personal injury cases with some success—one against the aforementioned young New York City lawyer, Harvey B. Nachman,—in Municipal Court, Manhattan—a court of $3,000 "max" civil jurisdiction.

The writer was sent to Puerto Rico to:

(a) try cases (endeavor to obtain verdicts in order "to discourage the New York (guy) from continuing to file "Puerto Rican cases" in New York City where there was "exposure" for much higher verdicts;

(b) assess the capabilities of the Puerto Rico law firm[3] favored by the largest shipowners that traded in Puerto Rico (Bull Line and Waterman), and by their underwriters (of P.&I.[4] Insurance)—the "American Club"—a creation of Johnson & Higgins and several London P.&I. Clubs.

En esa época, the Hartzell, Fernández y Novas lawyers were Rafael O. Fernández, José Luis Novas, Sr. and Vicente M. Ydrach (Charles Hartzell had passed away); also Pedro Juvenal Rosa, Alberto "Sonny" Santiago Villalonga, Héctor Laffitte,[5] Jaime Pieras,[6] and a very young Francisco ("Paco") Bruno Rovira. José Luis Novas, Jr. later joined the firm. Antonio ("Tony") Modesto Bird left Fuentes Fluviales (now called the Autoridad de Energía Eléctrica) to join the Hartzell firm.

By late-1956 approximately 125 cases had been filed in Manhattan Federal Court (U.S.D.C., S.D.N.Y.)—a very "high verdict" court. In most of these, proctors (the attorneys) for the plaintiff (or libelant as the term used in maritime cases) were Golenbock & Komoroff, respected in New York as very capable personal injury (P.I.) attorneys. [Jerome Golenbock had been President of the New York State Trial Lawyers Association and was an excellent trial lawyer.][7]

Your writer was advised by my superior, Vernon Sims Jones, to file a "transfer" motion under 28 U.S.C. 1404(a) to try to transfer one of these maritime personal injury cases to the Puerto Rico Federal Court. Puerto Rico was then (correctly) perceived as a "low-verdict" or "low-exposure" jurisdiction. The transfer motion was filed. The motion was granted by the United States District Court (S.D.N.Y.) A libelant's proctor in the transferee jurisdiction was chosen by Golenbock & Komoroff. He was a young lawyer named Carlos Romero Barceló. Carlos later became governor of Puerto Rico.

The writer went to San Juan to meet attorney Carlos Romero Barceló. He had little or no, maritime or trial experience. He was very amiable and sociable and well-connected. He told me that Golenbock & Komoroff (in particular one "Harvey Nachman") had instructed him to file a "remand" motion–to re-transfer the case back to New York. At the meeting with Carlos Romero Barceló at the "Restaurante Mediterraneo" it was "suggested" he might want to consider keeping the case in the District Court of Puerto Rico. It might net him a reasonable fee; his injured longshoreman client would certainly obtain justice here (with Romero as his lawyer); and in the end both parties would be satisfied. Romero Barceló said he would consider that. The motion to remand was not filed. In due course, over a meal and a "*tardecita*"

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2 Guerrido held that P.R. longshoremen were allowed to sue a shipowner for on-the-job injuries suffered while unloading a vessel, pursuant to the P.R.W.A.C.A., 11 L.P.R.A. §31 and §32.

3 Hartzell, Fernández y Novas, Banco Popular, Old San Juan.

4 Protection and Indemnity (Insurance), or simply marine insurance.

5 Later appointed judge to the United States District Court for the district of Puerto Rico.

6 Later appointed judge to the United States District Court for the district of Puerto Rico.

7 The capability of a lawyer ought to be measured individually or personally—not on a firm-wide basis. Most of us (but not all clients) know this. I take a moment to note the difference between a "trial lawyer" and a paper "litigator" who sometimes piles up the paperwork to build a fee before deciding to settle a case.

Maritime Law...

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at Mediterraneo, Carlos Romero Barceló and the writer settled the case to everyone's satisfaction.

En esa época, there had not been any million-dollar verdicts in the U.S.A. or in Puerto Rico. That began to change: first in the Southern District of New York and later in the "Supreme Court New York", which is the trial court in New York. Then, in swift order, in the Brooklyn federal court, in Chicago, and in the U.S. courts, especially the west coast. In the 1970's, the "highest-exposure court" in the world became the United States Federal Court in the U.S. Virgin Islands (the time of the "Fountain Valley Golf Club" massacre). It was said (I did not say it) that "whitey" could not get an impartial jury in the Virgin Islands.[8]

The United States District Court in Puerto Rico gradually moved toward the high verdicts (perhaps I should write, the juries did). Much credit for this should be given to Nachman, Feldstein & Gelpí, a firm created by Harvey Nachman with Stanley Feldstein and Gustavo Gelpí. Gustavo Gelpí of San Juan, at this writing, is a well-known San Juan practitioner with McConnell-Valdés, and his son is a federal judge in Puerto Rico. This high-verdict trend paid off, ultimately, for Nachman, Feldstein and Gelpí in the Condado Ashford Avenue Hotel Dupont Fire case—about which today's readers need no reminder. (A "mass disaster" fire litigation case involving almost 100 dead and several hundred injuries.)

One of the most "notorious" cases of this *época* was the S.S. RUTH ANN. She was a World War II-vintage Liberty ship. [Most of those ships had been put in the laid-up or "mothball" fleets along the United States coasts]. The RUTH ANN had five hatches, each with a lower hold, upper "tween" deck and lower "tween" deck. The ship had been loaded with a cargo of potatoes and beans in a Great Lakes port. Those products usually were loaded in sacks, palletized, and stowed in piles. The RUTH ANN cargo, however, was simply dumped—as bulk cargo—into all the hatches, from main or upper deck to lower hold, port to starboard. Liberty ships had no reefer facilities worth mentioning. Most had steam, not electric, winches (that will tell you her vintage). Containerization, as yet, had not been invented. (Later, Puerto Rico would become a world-leader in moving cargo in vans.) "Break-bulk" cargo was becoming *passé*. The RUTH ANN steamed through the St. Lawrence Seaway and then south, bound for Havana, Cuba. Fidel Castro had just come into power in Cuba. Fidel was not a "favorite" of the President of the United States (that's a "*chiste*"). The President ordered an immediate EMBARGO of all merchant shipping into and out of Cuba. Since San Juan was the closest major deep-water port to Havana, the RUTH ANN tied up at one of piers 1-2-3 or 4 in Viejo San Juan.

The tropical sun in Puerto Rico went to work on the cargo. [If ever you have smelled one rotten potato in a hot kitchen, you may be able to imagine the stench around the piers in Old San Juan—some of you readers may recall that.] The mal-odor was not the worst part of it: the flies, mosquitoes and trillions of other insects were the major problems. Judge Clemente Ruiz-Nazario's desk and chambers in the nearby Post Office building were uninhabitable. The Post Office shut down. Business closed down. Viejo San Juan closed down. Finally—it took two weeks or so—Don Clemente Ruiz-Nazario "condemned" the RUTH ANN; ordered the Coast guard to tow her to the deepest part of the Atlantic; and sink her. It took the Coast Guard a long time to carry out the sinking. She had a double-hull of 3/4-inch steel.

One of the most lengthy marine cases in the United States District Court of Puerto Rico was the M/V ZOE COLOCOTRONI (456 F.Supp. 1327 (DPR 1978). A Greek tanker ran aground at Cabo Rojo (at the Bahia Sucia sector), Puerto Rico. The ship's captain ordered his crew to discharge the tanker's oil into the ocean in order to float the ship. He thought the trade winds would take the petrol toward South America. They didn't. The oil severely damaged mangroves in Bahia Sucia. Judge Torruella awarded very substantial damages after about 10-15 weeks of trial. Defense proctors were Vicente M. Ydrach, Alberto (Sonny) Santiago Villalonga and Dan Dougherty. On appeal the judgment by the First Circuit affirmed Judge Torruella on liability; but reversed and remanded on damages. The ship's captain was convicted (and his sea merchant marine qualification papers were taken away) following a trial in Piraeus, Greece. Nicolás ("Nick") Jiménez and William ("Billie") Graffam were the proctors for the Commonwealth—recovering damages "for the benefit of Puerto Rico." Later, José Antonio Fusté became a partner of the firm. He is now a U.S. District Judge in Puerto Rico.

Another interesting case: Harvey Nachman's "Sunday Night Queen" case, V*IUDA de DOMINGO CABALLERO REINA vs. M/V EVELYN and Bull Line*. Longshoreman Domingo Caballero was killed when he slipped and fell beneath the vessel's descending electric-powered cargo elevator. The trial was lengthy and attended by many spectators. Word had gotten around that Nachman, Feldstein & Gelpí had invested $10,000 to construct an exhibit made of wood and glass with tiny motors to simulate the ship's elevator. Under a "personal injury contingent retainer" it was viewed as quite remarkable that lawyers would invest such a sum for a penniless widow on a chance or gamble of winning!

Defense lawyers were Vicente M. Ydrach of Messrs. Hartzell, Fernández & Novas, and the writer. Harvey Nachman and his partners, Stanley Feldstein and Gustavo Gelpí won the case for their client. We (for the shipowners) lost to the plaintiff-libelant, but: (a) we reduced the amount of the judgment on motion; and (b) we were granted "judgment over against" the stevedore contractor, Fred Imbert, Inc.

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Aside from all that, and to conclude the M/V EVELYN case, is what the writer recalls above all else. The trial was held

8 This writer fell victim to this in a personal injury case brought by a ship's pilot against Cunard Line and its M/V Cunard Princess (*Lund v. Cunard*). The verdict was so high it was set aside on a motion for judgment *non obstante veredicto* (JNOV). At the scheduled new trial, the case was settled for the amount recommended by the District Judge.

Maritime Law...

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before a visiting judge[9], Judge Maris, of Boston's First Circuit Court of Appeals. He had a well-earned reputation as a national authority on "tort law." After all three parties "rested," we noticed that Judge Maris, in a hurried and worried manner, called a familiar court figure to the bench. That figure was Mr. Guillermo Gil Rivera, the Assistant U.S. Attorney of Puerto Rico. We learned later that Judge Maris did not know which ought to come next after all parties "rested"; the summations of counsel or the "charge" (the "instructions") to the jury. He was properly informed. As was said before, the widow-libelant won a very large jury verdict. The shipowner was given a verdict-over (indemnity) against the stevedore-contractor. On a J.N.O.V. motion the verdict was reduced, and judgment ordered to be entered "unless," etc. The case was settled and judgment entered as stipulated and decreed. No appeal.

Another interesting case: The first "non-criminal jury" case in Puerto Rico's history (Judge Clemente Ruiz-Nazario told us) was *Pablo Marrero vs. SS Kathryn*, in the mid-late 1950's. The libelant's (plaintiff's) attorney was Jerome Golenbock (Harvey Nachman had not yet moved to Puerto Rico). Lcdo. Rafael Fernández, the "head" of Hartzell, Fernández & Novas, was the Respondent's (defendant's) trial attorney. The writer would assist him. The writer had taken Pablo Marrero's examination before trial (E.B.T.), also known as deposition before trial. Marrero had denied "any and all previous injuries to any part of his body." His Puerto Rico District Court trial testimony on the first morning of his trial alleged a "ruptured disc" at L-5 and S-1. Dr. Anibal Lugo, the examining physician for the defense, had x-rays taken and analyzed by a radiologist-specialist. Doctor Lugo and the radiologist testified immediately after Marrero. Marrero, in the 1940's had sustained a ruptured disk precisely at L-5 and S-1. Judge Ruiz-Nazario ordered a brief recess. When the parties returned to Court, Mr. Golenbock announced, "Your Honor, the Libelant (i.e., the plaintiff) voluntarily dismisses this action." Thus ended Puerto Rico's first federal jury trial. The Golenbock firm, by then, thanks to the Guerrido case, had filed a large number of cases in Puerto Rico. He knew that he could not afford a future "clouded" by Mr. Marrero's untruthful testimony.

Puerto Rico's maritime-law status continued to grow until the 1972 Congressional Amendments to the Stateside Longshore Act was amended by the U.S. Congress. I'll term it the U.S.L.H.W.C.A.[10], 46 U.S. Code, 901 et seq. Puerto Rico had its own Worker's Compensation Act. (See footnote 1, ante.) Almost from the beginning of maritime litigation in Puerto Rico, the P.R. Supreme Court handed down decisions "tracking" U.S. decisional law. Maritime Law is largely judge-made law and *stare decisis*, although there is a surprising amount of legislature-made law and other codal law, both in Puerto Rico and the U.S.A.

Mientras tanto, prior to 1972, a large number of cases ("filings") had developed. That large number of cases brought into play several new (to this field) Puerto Rico attorneys, noteworthy among whom were (and still are) Nicolás ("Nick") Jiménez, William ("Billie") Graffam, Gustavo Gelpí, Sr., and Charles ("Charlie") A. Cordero. Nick Jiménez and William (Billie) Graffam formed a partnership with José Antonio Fusté. They became favored lawyers for Sea-Land Service (later taken over by P.R.M.M.I.–Puerto Rico's "own" shipping company). Billie Graffam is still a leading trial attorney in Puerto Rico with, among many other skills, specializing in maritime and transportation law. José Antonio Fusté, a very good lawyer, was appointed to the federal bench, served as Chief Judge of the U.S. District Court (P.R.), and is still a very active trial judge.

Gustavo A. Gelpí became a famous trial attorney with the law firm of Nachman, Feldstein and Gelpí of San Juan. His son, Gustavo ("Gus") Gelpí, Jr., is now a United States District Court Judge in Puerto Rico. Mr. Gelpí, Sr. is now with the firm of McConnell-Valdés.

Charles A. Cordero founded the law firm of Cordero, Miranda & Pinto. He had, as a client, American International Group (A.I.G.)—one of the world's largest insurers. A.I.G. insured many of Puerto Rico's stevedores and other waterfront or harbor employers (there are many such entities other than stevedores and steamship companies).

The build-up of cases prior to the 1972 Amendments to the LHWCA put Charlie Cordero in the "thick" of Puerto Rico's maritime litigation where he made a great name. He was later appointed Judge to the Puerto Rico's Court of Appeals.

On an overview, and to conclude, it would be fair to say (write) that the increase in the number of maritime federal cases in Puerto Rico had at least these "visible" results:

a. An increase in the number of federal judges in the U.S. District Court of Puerto Rico (and in the First Circuit).

b. An increase in the number of newspapers, in both Spanish and English that reported the federal court cases. (The public was made aware of "calendar congestion" when it became the subject of studies during the above-discussed time).

c. An increase in "trade publication," articles about Puerto Rico, e.g., *The American Lawyer*, and many others.

It is with some degree of pride, that the writer and the attorneys mentioned in this article, and others, were part of the legal maritime history of Puerto Rico.

About the Author

Daniel J. Dougherty was a member of the law firm of Kirlin, Campbell and Keating, which was a large New York City firm specializing in maritime-admiralty law. Attorney Dougherty, during the time period mentioned in this article, specialized in the defense of shipowners against personal injury claims filed by crew, passengers and harbor-workers. He called Puerto Rico his second home. He is now retired and lives in Staten Island, New York, with his wife of more than 50 years.

9 Visiting judges became common during winter months, beginning about 1958-1959. They came from "unheard" of places such as Utah and Maine.

10 U.S. Longshoreman and Harbor Worker's Compensation Act.

Noteworthies

By Jorge Mårquez
Contributors: Roberto Abesada-Aguet and Sergio Criado

AGUAYO v. NAPOLITANO
Civil No. 09-2113 (DRD)

Issue:
Whether the Federal Government's facially neutral employment practices constituted a disparate impact under Title VII of the Civil Rights Act of 1964.

Facts:
The Federal Emergency Management Agency (FEMA) established a call center in Puerto Rico to handle telephones of victims of natural disasters. The facility was temporarily closed due to concerns by FEMA administrators that the facility did not conform to a Fire and Life Safety Review. Prior to the temporary closure, FEMA management had expressed concerns as to the relevance of the Puerto Rico facility due to a decreased need for Spanish speaking employees. According to FEMA management, the call-volume from Spanish speakers was less than 10% of total calls received. As a result, FEMA management placed employees at the Puerto Rico facility on a rotational employment plan, where they would work and be paid for two weeks at a time in a four month period. Subsequently, FEMA decided to permanently close the facility.

Plaintiffs, all former employees of the FEMA facility in Puerto Rico, filed suit against FEMA, alleging disparate impact under Title VII (among other claims) for instituting the employee rotation plan and for closing the Puerto Rico facility. Specifically, the plaintiffs averred that FEMA's actions constituted a mere pre-text to discriminate against plaintiffs based on their Puerto Rican heritage. FEMA countered by alleging that their actions were a result of legitimate business concerns and needs.

Holding:
In a disparate impact case, the U.S. Supreme Court has recognized that an employer could undertake certain practices that were facially neutral but fell more harshly upon one group over another. Accordingly, plaintiffs need not show that the employer had a discriminatory animus when it undertook the business decision. Nevertheless, the U.S. Supreme Court established a three prong test that plaintiffs must meet in order to make out a prima facie case for disparate impact: (1) identify the challenged employment practice or policy, and pinpoint the defendant's use of it (2) demonstrate a disparate impact on a group characteristic . . . that falls within the protective ambit of Title VII; and (3) demonstrate a causal relationship between the identified practice and the disparate impact. Once the plaintiff has made this initial showing, the burden shifts on the defendant to debunk the plaintiff's evidence or show that the challenged practice responded to a business necessity or fits within a specific statutory exception. If the Defendant meets this burden, the onus shifts back to the plaintiff who must show that an alternative practice existed that would have less discriminatory effects.

The Court held that plaintiffs met their initial burden with the rotational employment plan and the closing of the Puerto Rico facility; no other employees at any of the three other stateside FEMA call centers were put on a rotational employment plan and no other facility had to be closed. Nevertheless, in all instances, the district court found that FEMA espoused a legitimate business necessity in undertaking the rotational employment plan and the closing of the Puerto Rico facility, as the call volume had dropped significantly and operations could be inexpensively moved to the other FEMA facilities. Accordingly, the district court found that plaintiffs could not substantiate their disparate impact claim and, thus, granted FEMA's summary judgment motion

Update:
When this *From the Bar* went to production, Plaintiffs had filed a motion for reconsideration under Rule 59(e) which was pending with the district court.

CATLIN (Syndicate 2003) AT LLOYD'S v. SAN JUAN TOWING & MARINE SERVICES, INC.
Civil Nos. 11-2093 (FAB), 11-2116 (FAB) 2013 WL 1944457

Issue:
Whether an insurance contract over a non-vessel can still be considered a maritime contract and, thus, grant the district court admiralty jurisdiction.

Facts:
Defendant filed a motion for summary judgment arguing that a floating drydock called the Perseverence was not a "vessel" for purposes of maritime law and, consequently, the district court lacked admiralty jurisdiction. Plaintiff, however, countered that the Perserverence was a vessel and that the district court had admiralty jurisdiction. Said motion for summary judgment was submitted to Magistrate Judge Marcos E. Lopez, who in his Report and Recommendation found that the Perseverence constituted a vessel. Notwithstanding the magistrate's report, defendant filed an objection, averring that a recent decision by the U.S. Supreme Court in Lozman v. City of Riviera Beach, 133 S. Ct. 735 (2013), precluded a finding that the Perseverence was a vessel. The district court agreed with defendant and

held that the Perseverence was not a vessel and that the court, thus, lacked admiralty jurisdiction.

Plaintiff subsequently filed a motion for reconsideration in which it argued that the district court had admiralty jurisdiction because the dispute was over a maritime insurance policy. Plaintiff contended that marine insurance policies are not just limited to vessels, but encompass a broader spectrum of maritime activity, such as covering losses for incidents related to maritime activity. In other words, plaintiff contended that admiralty jurisdiction could be invoked regardless of whether or not the Perseverence was a vessel. The defendant opposed said motion and argued that the insurance policy between the parties was not a maritime contract because the object of the contract – the Perseverence – was not a vessel. Defendant reasoned that if the structure object of the contract is not a vessel, then it cannot be a marine interest, which would render the policy as a non-marine insurance contract.

Holding:

First, the district court noted that the insurance policy met the basic elements of a maritime insurance contract since: (1) it was a contract for indemnity against loss to an insurable interest; (2) that is triggered by an accident or fortuity; and (3) that insures against a maritime peril. The Court came to this conclusion since the policy extends "Hull, protection & indemnity including Collision & Towers Liability, Marine General Liability including Ship Repairers Liability, Equipment" insurance to the *Perseverence*.

Second, the district court underscored that it also needed to assess whether the primary objective of the contract was related to the navigation, business or commerce of the sea. Just because a policy is labeled as a maritime insurance contract does not necessarily make it so. Generally, in order to find that an insurance policy constitutes a maritime contract, the interest insured and not merely the risk insured must be maritime in character. The district court, therefore, had to consider: (1) whether the Perseverence is a maritime interest; and (2) whether the interests insured against in the policy are maritime in nature. The district court found that the Perseverence met these two prongs since it was a drydock routinely engaged in the repair of vessels, which constitutes a traditional maritime activity. The court noted that case law precedent did not require it to determine whether the drydock itself was a vessel. Lastly, the district court found that the primary objective of the insurance policy was to provide insurance for the loss to the Perseverence, which – because of its role in the operation and maintenance of ships and other vessels – was maritime in nature. Accordingly, the district court concluded that the insurance policy was a maritime contract warranting admiralty jurisdiction and, consequently, vacated its judgment dismissing the case.

FARB v. PEREZ-RIERA
Civil No. 12-1772 (GAG)

Issue:

Whether plaintiff's notice of service furnished to defendant, which was made pursuant to Puerto Rico's Civil Procedure Rules, required notification of the Commonwealth's thirty (30) day term to respond or the twenty-one (21) day term contained in Federal Rule of Civil Procedure 12(a).

Facts:

Plaintiff filed a motion to serve defendant by publication. The court granted plaintiff's motion and indicated that plaintiff was to serve defendant by edict and publication as provided by Rule 4.6 of the Puerto Rico Rules of Civil Procedure, which is allowed under Federal Rule of Civil Procedure 4(e). Plaintiff filed a notice of service by publication and subsequently filed a motion for default entry against defendant.

Defendant moved to quash summons and to dismiss the complaint for insufficient service of process. Defendant argued that plaintiff improperly attempted to serve process by publication because he did not follow Puerto Rico law regarding edict and publication requirements. Specifically, defendant contended that plaintiff did not include a title, specify the type of action, and inform defendant of the correct time period to answer the complaint. However, only this last issue was in dispute.

Defendant averred that plaintiff failed to notify the correct time period to answer the complaint because the summons indicated the twenty-one (21) day period under the Federal Rule of Civil Procedure 12(a) and not the thirty (30) day term specified under Puerto Rico law.

Holding:

The district court noted that Rule 12(a) was amended to remove a clause that stated that summons made pursuant to Federal Rule of Civil Procedure 4(e) would be governed by the state law notification period. Accordingly, the court concluded in favor of plaintiff and stated that, even if defendant is served pursuant to a state law method of service, the federal forms of summons must be used. This means that the twenty-one (21) day period contained in Rule 12(a) governs.

However, because plaintiff failed to include title and specify the type of action in the edict and publication, the district court concluded that plaintiff did not properly serve defendant. Notwithstanding the aforesaid, the district court applied Federal Rule of Civil Procedure 4(m), which gives the district court discretion to examine whether "good cause" can be shown by plaintiff for the untimely service. Accordingly, the district court found no evidence that plaintiff acted in bad faith and did not dismiss the case; rather, it granted plaintiff an additional term of ten (10) days to correctly serve defendant.

Noteworthies

FONT-LLACER v. F.D.I.C. Civil No. 10-2086 (PG) (2013 WL 1191107)

Issues:
Whether double damages awarded under Puerto Rico Law No. 100 of June 30, 1959 ("Law 100") are preempted by the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA).

Facts:
Plaintiff sued her employer bank, R-G Premier Bank, under the Age Discrimination in Employment Act (ADEA), alleging that she was discriminated based on her age. Plaintiff included the Federal Deposit Insurance Company ("FDIC") since it was acting as receiver and Scotiabank of Puerto Rico ("Scotiabank") since it acquired R-G Premier's operations. Specifically, plaintiff pleaded supplemental state law claims of age discrimination under Law 100 (among others) and contended that Law 100 entitled her to double damages. The FDIC, however, riposted and contended that Law 100 was punitive and, thus, preempted by FIRREA, since the act bars penalties against the FDIC when it acts as a receiver.

Holding:
The district court noted that several sister courts had disallowed claims awarding treble damages under FIRREA, because these statutes were considered penalties. Under First Circuit precedent, however, it was recognized that Law 100's double compensation was not considered punitive in nature. Rather, Law 100 is considered compensatory or remedial in nature. Accordingly, the district court denied defendants' motion to dismiss the Law 100 claim.

FONT-LLACER v. F.D.I.C. Civil No. 10-2086 (PG) (2013 WL 1191107)

Issues:
Whether an alleged age discrimination claim against original employer can be imputed on co-defendants under the Doctrine of Successor Employer.

Facts:
Plaintiff sued her employer bank, R-G Premier Bank, under the Age Discrimination in Employment Act (ADEA), alleging that she was discriminated based on her age. Plaintiff included the Federal Deposit Insurance Company (FDIC) and Scotiabank of Puerto Rico (Scotiabank) as defendant parties under the Doctrine of Successor Employer. Specifically, plaintiff alleged that the FDIC was a successor since it was acting as R-G Premier Bank's receiver. In addition, plaintiff asserted that Scotiabank was the successor employer of R-G Premier Bank since Scotiabank acquired R-G Premier Bank's operations.

In moving to dismiss the claims, the FDIC alleged that it could not be sued under its corporate capacity since it was not a proper defendant to the case. Scotiabank moved to dismiss on grounds that it could not be considered a successor employer, as R-G Premier Bank had ceased to exist and its employees were terminated permanently, thus precluding imputed liability for any discriminatory conduct.

Holding:
First, the district court agreed with the defendant's contention that the FIDC was simply filling one of its dual roles as receiver of a failed bank and not under its typical corporate role. Accordingly, the district court dismissed the claim against the FDIC, concluding that the FDIC could not be held responsible for a failed bank's liabilities or the receivership's actions. With regards to Scotiabank, however, the district court concluded that it was not in a position to determine whether Scotiabank was the successor of the failed bank, since a factual record needed to be presented. Accordingly, it denied plaintiff's claim against Scotiabank without prejudice.

MAGRIZ-MARRERO v. UNION DE TRONQUISTAS DE PUERTO RICO Civil No. 10-1201 (ADC) (2013 WL 1223338)

Issue:
Whether reinstatement of all union related rights and privileges rendered plaintiffs' cause of action moot.

Whether local union's sanctions against members were performed in violation of the Labor Management Reporting and Disclosure Act (LMRDA)

Facts:
Plaintiffs were expelled from the local Union for a period of six years, were removed from their position as shop stewards, and were fined $10,000.00 each after they had participated in an opposition slate and strike in support of five union members that had been suspended and subsequently discharged by their employer, Coca Cola. No other union members were disciplined by the Union. Also, the Union did not enforce the $10,000.00 sanction, though it also gave no indication that it would not proceed with collection.

The strike had been approved at an assembly organized by union members, which plaintiffs attended. At the time, no Union agent, representative or official went to the Coca-Cola strike area, nor did any Union representative communicate with union members about the Union's position regarding the strike. Furthermore, no Union representative told

plaintiffs that the strike was not authorized by the Union or that plaintiffs could be subject to any disciplinary action for supporting or participating in the strike.

In a separate but related action, the U.S. Secretary of Labor filed suit against the Union based on claims that election violations affected the outcome of one of the Union's elections. The parties in that case reached a settlement where the Union would conduct a new election in 2011. Both plaintiffs moved the district court to issue a preliminary injunction, so they could be reinstated and in good standing in order to run for a position in the Union's 2011 elections. The district court granted plaintiffs' preliminary injunction.

In the present action, plaintiffs moved for summary judgment against defendants, arguing that the Union's actions against them contravened sections 101(a)(1) and (2) and 609 of the LMRDA. Defendants denied the claims and also moved the court to render the action moot due to plaintiffs' full reinstatement into the union.

Holding:

Mootness issue:

Generally, courts cannot adjudicate cases when the issue presented no longer exists or when the parties lack a legally cognizable interest in the outcome of a care or controversy. If the aforementioned conditions arise, the court is obliged to dismiss the action. However, an exception exists when they are "capable of repetition, yet evade review." Particularly, labor law cases dealing with both free speech and mootness issues are given broad interpretations since limitations on free speech can have a chilling effect on the exercise of these free speech rights.

Here, defendant argued that plaintiffs' claims became moot once the Union's 2011 election was held and the district court entered a preliminary injunction. In other words, defendant contended that plaintiffs had been reinstated with all attendant rights. However, the district court noted that plaintiffs could be subjected to the same actions by the Union if they ever chose to run in a future election. Such actions would have a chilling effect upon plaintiffs' free speech rights, as well as those of other union members. Moreover, the fact that the $10,000.00 was never revoked by the Union placed a burden over plaintiffs that could create a chilling effect. Accordingly, the district court found that the present case fell within the category of cases "capable of repetition yet evading review."

LMRDA claim

Section 101(a)(1) and (2) of the LMRDA are intended to ensure that unions use democratic processes and grants union members equal rights of association and expression. This includes the rights and privileges to nominate and vote for candidates. Furthermore, section 609 prohibits labor organization from disciplining any of its members in retaliation for the exercise of freedom of speech rights, which include association and expression.

In the instant case, the district court found that plaintiffs adequately support their motion for summary judgment since they showed that their participation in an opposition slate and the subsequent disciplinary action taken against them violated sections 101(a)(1) and (2) and 609 of the LMRDA. The court underscored that no other union members were disciplined even though they partook in the assembly and strikes organized against Coca Cola. The facts showed that this disparate treatment of union members was predicated on plaintiffs' participation in an opposition slate. Accordingly, the district court granted plaintiffs' motion for summary judgment.

RIOS v. MUNICIPALITY OF GUAYNABO
Civil No. 10-1293 (SEC)

Issues:

What is the applicable legal standard for a high-level municipal officer that is considered to be the municipality's proxy or alter ego for purposes of imputing automatic employer liability in a sexual harassment claim brought under Title VII of the Civil Rights Act of 1964.

Whether the First Circuit's decision in Fantini v. Salem State Coll., 557 F.3d 22 (1st Cir. 2009), tacitly overruled an exception to the no-individual liability rule under Title VII, and, thus, precludes attachment of individual liability against the defendant who was directly responsible for the sexual harassment conduct.

Facts:

A Municipality of Guaynabo employee filed an internal administrative complaint, claiming that between January and August, 2009, the Police Commissioner, who was one of her supervisors, had made numerous sexual innuendos and advances to her. As a result thereof, the employee averred that the Commissioner had created a hostile work environment and referenced his position as head of the municipal police department in order to pressure her to succumb to his sexual advances. The municipal employee rejected the Commissioner's advances on all occasions.

The day before the internal complaint was filed, the Police Commissioner ordered an agent to investigate whether the municipal employee was improperly using official vehicles for personal use. The agent went to monitor the employee on two separate days and found no improper conduct. The municipal employee was never informed of this investigation

and only found out after another police officer informed her about it.

Several days after the filing of the internal administrative complaint, the Commissioner tendered a letter of resignation to the Mayor of Guaynabo. However, the Mayor refused to accept the resignation letter and ordered the Commissioner to take vacation leave until the employee's sexual harassment allegations had been investigated. Also, pursuant to the Municipality's applicable policy against sexual harassment in the workplace, the Mayor instructed the Commissioner in writing not to have any contact with the employee at her work premises. Nevertheless, the Commissioner violated the Mayor's orders by visiting the employee's workplace, for which he was swiftly reprimanded.

After several months, an administrative hearing was held in which an investigative officer rendered a report concluding that the Commissioner had not sexually harassed the employee, but that he should be sanctioned for failing to comply with the provisional measure that had forbidden him from contacting her. Once the investigation concluded, the Mayor accepted the Commissioner's resignation and made no determination regarding the violation. Several months after the resignation became effective, the municipal employee filed suit under Title VII of the Civil Rights Act of 1964 against both the Commissioner and the Municipality, alleging i) that she had been i) sexually harassed by the Commissioner; and ii) retaliated against for engaging in protected conduct (i.e. the filing of the formal administrative complaint). The employee also averred that the Municipality was automatically liable for the Commissioner's action under the alter-ego theory.

Initially, the district court applied both the alter-ego doctrine and the Faragher-Ellerth affirmative defense when disposing of the Municipality's Rule 12(b)(6) motion. The municipal employee requested reconsideration on grounds that a finding that the Commissioner was the Municipality's alter-ego would preclude application of the Faragher-Ellerth defense. The district court agreed with the municipal employee insofar the Faragher-Ellerth defense is unavailable when the defendant's official is an alter-ego of the employer. Nevertheless, the district court set aside the holding that the Commissioner was the Municipality's alter-ego and concluded that such a determination could not be made at the pleading's stage pursuant to the rigorous six-prong test established in Arroyo Rodriguez v. Econo Supermarket, 48 F.Supp.2d 94 (D.P.R. 1999).

In this case, however, the District Court admitted that it had mistakenly applied the stringent rule espoused in the Econo case, and underscored that the defendant's nature as a public entity complicated the application of the alter-ego doctrine. The court reasoned that no individual could ever be "identical" to a government entity, as the structure and reach of public sector employers are unlike those of a private corporation (e.g. the owner and president of a small company who serves as its sole manager). Nevertheless, the particular facts of this case demonstrated that the Police Commissioner's ranking and employment functions were of such a high level, that a reasonable jury could find that the co-defendant was an alter-ego of the municipality.

PRINCE v. HOSPITAL HIMA SAN PABLO-CAGUAS
Civil No. 12-1221 (PG)
(2013 WL 1840578)

Issue:

Whether controversies regarding forum selection clauses are considered to be procedural issues that preclude the applicability of substantive state law limiting their enforceability.

Facts:

Plaintiff was flown from Roy Lester Schneider Hospital in St. Thomas, U.S. Virgin Islands, to HIMA San Pablo Caguas ("HIMA") in Puerto Rico because the hospital in St. Thomas did not have the necessary medical equipment to attend plaintiff's medical conditions, which included pre-term labor. Plaintiff arrived at the hospital and, given her medical condition, promptly signed various admission papers without reading their content. The admission papers contained a forum selection clause stipulating that the patient agreed that any legal action resulting from any act or omission in the treatment and/or services rendered at HIMA would be tried at the Puerto Rico Court of First Instance, to the exclusion of any other forum. On the basis of this clause, defendant moved to dismiss the case.

Plaintiff responded to the motion to dismiss and averred that she was unable to read the documents because she was "livid" at the time of admission and because they were legal documents and not typical admission papers. Plaintiff also added that the forum selection clause was in violation of Regulation 7617 of the Patient's Advocate Office, which prohibits a health care provider from including as part of informed consent forms to be signed by a patient, legal clauses not related to the patient's condition or treatment. The defendant countered and claimed that the applicability of the forum selection clause is a procedural issue and, as a result, Regulation No. 7616 was not binding as a matter of federal law.

Holding:

The district court recognized that the District of Puerto Rico generally follows federal common law and enforced forum selection clauses due to the lack of conflict between both

regarding enforceability of forum-selection clauses, which follows that forum clauses control absent a strong showing that it be set aside. On the other hand, the district court underscored that the U.S. Supreme Court has stated that one reason for declaring a forum clause unenforceable is if it infringes upon a strong public policy of the forum in which the suit is brought. Accordingly, the district court highlighted that the Puerto Rico Supreme Court recognized the validity of Regulation No. 7616 and that the First Circuit has underscored that regulation No. 7616 is evidence of Puerto Rico public policy.

Given that the suit was filed as a diversity claim, the district court applied Puerto Rico's substantive law and found that the forum selection clause was unenforceable because, in addition to the facts of the case, to hold otherwise would disregard a strong Puerto Rico public policy. Accordingly, the district court denied the defendant's motion to dismiss.

RODRIGUEZ-BORGES v. LUGO-MENDER Civil No. 12-1171 (SEC) (2013 WL 14497317)

Issues:

Whether the U.S. Supreme Court's decision in Richardson-Merrel, Inc. v. Koller, 472 U.S. 424 (1985), finding that disqualification orders in civil cases are not final and, thus, un-appealable, is extensive to disqualifications entered in an Adversary Proceedings in Bankruptcy Court.

Facts:

Former wife and creditor of the debtor filed an appeal from an Adversary Proceeding, in which the Bankruptcy Court granted the Chapter 7 Trustee's request to disqualify the debtor's legal representation due to an alleged conflict of interest.

The supposed conflict of interest arouse from a state court proceeding, in which debtor was imposed child support payments for a child that he had with Creditor. Creditor and debtor agreed to liquidate the conjugal partnership and divide the assets between the two of them. By virtue of this agreement, creditor obtained a property located in San Juan, while debtor received two promissory notes as guarantee of payment for debtor's participation over the San Juan property.

Months later, debtor filed a voluntary Chapter 7 petition under the Bankruptcy Code. The creditor and former wife, in turn, filed a state court case requesting the division and liquidation of the conjugal funds allegedly withheld and misappropriated by debtor. The Trustee, however, moved to stay the state court proceeding pending the bankruptcy claims. Subsequently, the Trustee commenced an adversary proceeding against the debtor for collection and turnover of property of debtor's estate, the basis of which were the two aforementioned promissory notes.

The former wife and creditor filed a motion in the bankruptcy proceeding requesting a lift of the automatic stay for the state court case. The Trustee promptly requested that the creditor's attorney be disqualified from the adversary proceeding, contending legal counsel had a conflict of interest since it would represent the creditor individually in the adversary proceeding, while also representing the minor's interest in the bankruptcy estate "by attempting to collect, enforce and obtain a declaration of non-discharge of a claimed domestic support obligation . . . against Debtor's estate." In other words, the successful collection of the promissory notes by Trustee would be adverse to the former wife's claim, but would also be beneficial to the estate's other creditors (the minor) whom was under legal custody of creditor and former wife.

The Bankruptcy Court agreed with the Trustee's contention that the creditor's legal counsel would be in conflict of interest since she would defend both the interests of a creditor and debtor in the bankruptcy estate. The creditor and former wife filed an appeal of the district court's order disqualifying her legal representation.

The Trustee challenged the district court's jurisdiction to review the order disqualifying creditor's legal counsel, averring that the bankruptcy order was interlocutory and, thus, unreviewable pursuant to 28 U.S.C. § 158(a). The creditor countered that the disqualification order constituted a "final order" reviewable as of right by the district court.

Holding:

The district court agreed that "final orders" are reviewable as a matter of right pursuant to 28 U.S.C. § 158(a) but interlocutory orders fall under the discretion of the court. A decision is considered final if it "ends the litigation on the merits and leaves nothing for the court to do but execute judgment." In contrast, interlocutory orders "only decide some intervening matter pertaining to the cause, and . . . requires further steps to be taken in order to enable the court to adjudicate the cause on the merits." However, and as the district court underscores, bankruptcy proceedings are particular to civil cases insofar they involve numerous controversies that may have slight differences between each other. As a result, "finality" is given a more flexible interpretation in bankruptcy. Accordingly, "orders in bankruptcy cases may be immediately appealed if they finally dispose of all the issues pertaining to a discrete dispute within a larger case." The district court had to determine whether this flexibility on the "finality" determination in the bankruptcy context was extensive to disqualification orders, an issue that – according to the district court – has not been conclusively addressed by the First Circuit.

The district court referenced Richardson-Merrel, Inc. v. Koller, 472 U.S. 424 (1985) in which the Supreme Court expressly forbid interlocutory appeals of disqualification orders. The First Circuit, in turn, also recognized the Supreme Court's mandate precluding appeals of interlocutory disqualification orders. These decisions, however, arose in the civil suit context, which did not make their applicability to the case automatically apparent. Nonetheless, the district court saw no reason to depart from the line of reasoning in Koller and added that the First Circuit in In re Rivera-Torres, 432 F.3d 20 (1st Cir. 2005), made it clear that similarities between adversary proceedings in bankruptcy and an ordinary civil action were so significant, that the standards regarding finality in civil actions should track the ones standards to be applied in bankruptcy judgments. Accordingly, the district court found that the disqualification order entered in an adversary proceeding under bankruptcy, should be provided the same treatment provided in the civil suit context.

The district court reasoned that the central issue of the adversary proceeding – the collection and turnover of property of the estate – remains with the bankruptcy court, hence the disqualification order could not be considered final because the flexibility of the finality rule allowed in bankruptcy cases is limited to circumstances in which the appealed order disposes of all the issues pertaining to the discrete dispute within the larger case. Accordingly, the district court dismissed the appeal for want of jurisdiction

RODRIGUEZ-SALGADO v. SOMOZA-COLOMBANI Civil No. 11-2159 (JAG) 2013 WL 1403263

Issue:

Whether the complaint meets Fed. R. Civ. Pro. 12(b)(6)'s plausibility standard by asserting a causal connection between defendants purported actions under color of state law and the fact that the Puerto Rico government did not properly follow Law 7 procedures when it terminated plaintiffs from employment.

Facts:

Two government employees brought suit under 42 U.S.C. § 1983, alleging that the former Attorney General of Puerto Rico deprived them of their First Amendment and Due Process rights pursuant to the notorious Law 7 initiatives. The complaint also included claims against the former Attorney general in his personal capacity. Defendants thereafter filed a motion to dismiss, averring that plaintiffs' complaint was time-barred. Additionally, defendants moved the Court to abstain under the *Colorado River Doctrine*.

Holding:

The district court first concluded that the personal claims against the Attorney General could not rest solely on the defendant's position of authority and that the complaint failed to show how the Attorney General was personally involved in the alleged constitutional violation. Second, the district court found that Rule 7(b) of the Local Rules for the District of Puerto Rico was controlling in the instant case, since plaintiffs never opposed defendants' request that the district court abstain under the *Colorado River doctrine*. In other words, the district court underscored that litigants who fail to oppose a motion in the District of Puerto Rico authorizes the presiding district judge to summarily grant the unopposed motion insofar the result does not clearly offend equity. The district court concluded that the *Colorado River doctrine* applied because defendants informed the district court that parallel and substantially similar cases had been filed in state court (which was currently pending appeal). Accordingly, the district court did not believe that abstaining would offend principles of equity and, thus, granted the motions to dismiss.

TOLEDO-COLON v. PUERTO RICO Civil No. 10-2217 (GAG) (2013 WL 1365897)

Issues:

Whether plaintiff's invocation of Fifth Amendment privilege against self-incrimination during deposition testimony prejudiced defendant's right to a fair proceeding.

Facts:

A vocational rehabilitation recipient sued the government of Puerto Rico and other agencies and officials because they allegedly denied his request for computer assistive equipment, which was to be used as a result of plaintiff's "Avoidant Personal Disorder" medical condition.

During plaintiff's deposition, defendant allegedly threatened to prosecute plaintiff for fraud because plaintiff refused to answer over 130 questions regarding his contracts with a municipality, his tax returns, and alleged loss of income. Plaintiff's counsel claimed Fifth Amendment privilege on behalf of plaintiff during the deposition and, as a result, plaintiff did not testify on the aforementioned matters

Defendants averred that plaintiff's exercise of his Fifth Amendment privilege prejudiced the case and barred them from effectively organizing their defense, thus meriting dismissal.

Holding:
The district court underscored that one party's assertion of his or her constitutional right should not impede another party's right to a fair proceeding. The court noted, however, that dismissal of the claim was not always the proper course of action.

In *Serafino v. Hasbro, Inc.,* 82 F.3d 515 (1st Cir. 1996), the First Circuit espoused several elements to consider prior to dismissing an action after a Fifth Amendment privilege claim, which are: (1) the importance of the information to a defendant's defense; (2) whether there is an effective substitute for the information; and (3) whether there are alternative remedies to dismissal.

In considering all the aforementioned prongs, the district court found that failing to answer the 130 questions related to his alleged economic loss would significantly prejudice the defendant's right to a fair proceeding and that attaining such information through alternative means would be unduly burdensome. The district court subsequently evaluated whether it could apply an alternative remedy. Accordingly, it cited U.S. Supreme Court precedent that allowed adverse inferences to be drawn in civil actions against parties who refuse to testify on Fifth Amendment grounds. The court, thus, denied defendants' motion to dismiss since it could apply an adverse inference against plaintiff in future proceedings in order to mitigate disadvantages to the defendants from Fifth Amendment invocations.

U.S. v. CASEY
Civil No. 05-277 (ADC)
(2013 WL 936244)

Issue:
Whether expert witness's testimony regarding ballistics had to be limited by the court.

Facts:
During trial, defendant moved the court to limit the testimony of the government's firearm expert based upon several sister court opinions that restricted ballistics evidence substantiated upon two studies conducted by the National Academy of Science (2008 NAS Report and the 2009 NAS Report). The court held a Daubert hearing to discuss the firearm expert's credentials and the methodology employed to conclude that the firearm recovered at the defendant's residence was the actual weapon that had fired a projectile recovered at an adjacent parking lot.

The government filed a written opposition to defendant's motion and refuted defendant's reliance on the NAS Reports. Additionally, the government provided a sworn statement of Dr. John E. Rolph (Dr. Rolph), Chairman of the Report on Ballistic Imagining, which provided background information on the 2008 NAS Report. Said statement explained that the purpose of the 2008 NAS report was not to pass judgment upon the admissibility of ballistics evidence in legal proceedings, but rather analyze the feasibility of creating a ballistics data base. Furthermore, the affidavit explicitly stated that the question of legal admissibility "was explicitly ruled out of [his committee's] charge" and that the committee "did not actually evaluate the fundamental assumptions of firearms and toolmark identification that underlay many courts' allowance of ballistics and firearm expert testimony."

Holding:
The Court noted that the defendant did not challenge the expert witness's qualifications, methodology or analysis. The scope of defendant's evidentiary objections was limited to the firearm expert's conclusion that the firearm at defendant's home is the one from which the recovered projectile was fired. The court reviewed three district court cases cited by the defendant that had limited expert witness testimony regarding concerns arising from the reliability of the AFTE Theory of Identification expressed in the 2008 NAS Report. It found that Dr. Rolph's statements substantially debilitated the portions of the 2008 NAS Report upon which defendant and the sister courts relied. Moreover, said affidavit illegitimated defendant's objection, since his expert witness had employed the AFTE Theory.

Accordingly, the district court refused to follow the findings of its sister courts and found that the government's expert witness could testify without any qualifications as to his degree of certainty that the recovered ballistic was shot from the gun seized at defendant's residence. The court, thus, denied defendant's oral motion to limit the firearm expert's testimony.

U.S. v. PUERTO RICO
Civil No. 12-2039 (GAG)
(2013 WL 453050)

Issues:
Whether the district court could accept a settlement agreement between the U.S. government and the Puerto Rico government containing reform initiatives to modernize and professionalize the Puerto Rico police force, without including a proposed budget.

Whether 42 U.S.C. § 14141 applies to Puerto Rico.

Facts:
The U.S. Government sued Puerto Rico because of an alleged pattern of unlawful conduct (violations of the First and Fourteenth Amendments, among others) attributed to members of the Puerto Rico Police Department. Both parties entered into an agreement to modernize and professionalize

the Puerto Rico police force in order to address various claims of abuse that had been attributed to the agency. This agreement included provisions to monitor the compliance of the Puerto Rico Police Department with the terms and conditions contained therein.

Holding:
The district court was concerned that the failure to include a proposed budget would hinder the successful implementation of the agreement. The district court underscored Puerto Rico's dire financial condition and noted that it is ultimately Puerto Rico's bicameral Legislative Assembly that will have to include earmarks for the expenses proposed in the settlement agreement. Accordingly, if the agreement were approved and effectuated in 2013, the court reasoned that well-estimated financial projections would have to be presented to the Legislative Assembly. The district court, therefore, held that it could not approve the settlement agreement until the parties discussed and addressed the budget matters.

Lastly, the district court held that 42 U.S.C. § 14141 applied to Puerto Rico just like to any other state of the Union since courts in Puerto Rico are charged with protecting the constitutional guarantees contained in the U.S. Constitution. The district court cited U.S. Supreme Court precedent that states "although Puerto Rico is not a State in the federal union, it ... seem[s] to have become a State within a common and accepted meaning of the word." Thus, the district court found that 42 U.S.C. § 14141 applied to Puerto Rico. The district court, however, was emphatic in that Puerto Rico must adhere equally to the standards expected of many states in the Union, yet it does not have the same economic capacity. The acute difference in economic power implies a higher likelihood for the government of Puerto Rico to remiss on its obligations. Accordingly, a proposed budget would help ameliorate concerns arising from compliance expectations.

U.S. v. CANDELARIO-SANTANA
Civil No. 09-427 (JAF)
2013 WL 987797

Issue:
Whether the U.S. government's issuance of a subpoena to a witness that required him to testify at a pre-trial interview violated Rule 17 of the Federal Rules of Criminal Procedures.

Facts:
Over twenty officers visited the residence of a defense alibi witness' during the course of an operation in a public housing project (which was unrelated to the underlying criminal case), informing him that he had to appear at the U.S. Attorney's Office for a pretrial interview. During the exchange, the alibi witness spoke by phone with a member of the Joint F.B.I. Puerto Rico Police Task Force, who claimed to be reading from a court-issued subpoena. No subpoena was ever read to the witness, though a subpoena had been prepared. The court noted that the issuing of such subpoenas for pretrial purposes had occurred on multiple occasions prior to this incident and scheduled a hearing to review all subpoenas that had been issued in the case.

At the hearing, the U.S. Government attempted to explain its behavior, citing a number of excuses. The district court, however, found none of the excuses satisfactory.

Holding:
The district court expounded that subpoenas are cloaked with a substantial delegation of authority that must not be abused. The court underscored that Rule 17(a) permits subpoenas "only to compel attendance at formal proceedings such as hearings and trials" and not to compel witnesses to attend ex-parte interviews. Issuing subpoenas to compel witnesses to attend pre-trial interviews is considered to be not only highly improper, but also an abuse of power. The Court found that the abuse in the instant case was more extensive and egregious than any similar case that the Puerto Rico District Court had addressed in the past.

Having determined the severity of the conduct, the district court proceeded to deliberate whether the abuse caused material prejudice to the defense. In sum, the district court found that no material prejudice occurred and that the defense did not claim that the abuse prejudiced them in any manner. Nevertheless, the Court found that the lack of prejudice did not preclude the imposition of sanctions. Accordingly, the district court ordered the U.S. Government to draft a written protocol delineating the process by which Rule 17 subpoenas are to be prepared, issued, and returned. In addition, the Court disqualified the Assistant U.S. Attorney from the case and referred the misconduct to the Department of Justice Office of Professional Responsibility in order to investigate whether the type of abuse surrounding the subpoena issues has been a routine occurrence. Lastly, the court ordered the government to disclose all Jencks and Giglio material no later than seventy-two hours prior to opening statements, which modified the original order requiring such disclosure seventy-two hours before each respective witness is called to testify.

Clerk's Tidings

By: Frances Ríos de Morán, Esq.

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

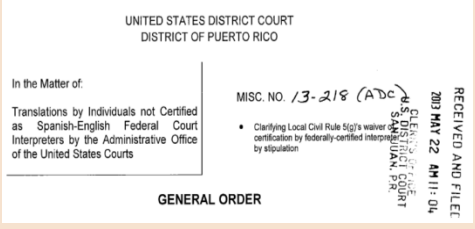
This is a section with news items, notices, and general information from the Clerk's Office in the U.S. District Court for the District of Puerto Rico, as part of a joint effort with the FBA to keep the Bar appraised of events and provide a better, expedited service to its members. As part of this effort, 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.

Nominee to the Bench of the U.S. District Court for the District of Puerto Rico

On June 26, 2013, The White House issued a Press Release announcing that President Obama nominated Pedro A. Delgado-Hernández to fill the judicial vacancy in our District. Mr. Delgado-Hernández received his J.D. magna cum laude in 1983 from the University of Puerto Rico School of Law. Besides his vast experience in civil litigation in both state and federal court, as a judge on the Puerto Rico Court of Appeals, and a solicitor general, he served as a law clerk to the Honorable Juan R. Torruella, first on the U.S. District Court for the District of Puerto Rico and then on the U.S. Court of Appeals for the First Circuit.

Translations by Individuals not Certified as Federal Court Interpreters

On May 22, 2013, Chief Judge Aida M. Delgado-Colón entered a General Order in Miscellaneous Case No. 13-218(ADC), to clarify Local Civil Rule 5(g), which requires that "[a]ll documents not in the English language which are presented or filed, whether as evidence or otherwise, [ ] be accompanied by a certified translation into English prepared by an interpreter certified by the Administrative Office of the United States Courts." The L.Cv.R. 5(g) further states that, "[c]ertification by a federally-certified interpreter may be waived upon stipulation by all parties."



UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO

In the Matter of:

Translations by Individuals not Certified as Spanish-English Federal Court Interpreters by the Administrative Office of the United States Courts

MISC. NO. 13-218 (ADC)

- Clarifying Local Civil Rule 5(g)'s waiver certification by federally-certified interpreter by stipulation

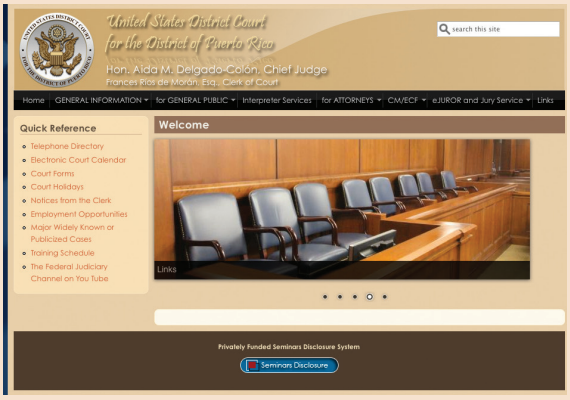
RECEIVED AND FILED
2013 MAY 22 AM 11:04
CLERK'S OFFICE
U.S. DISTRICT COURT
SAN JUAN, P.R.

GENERAL ORDER

The Court recognizes that, for a variety of reasons, the parties may decide to waive the certification and submit translations into English by qualified, yet not federally-certified, translators. However, it is vital that the parties exercise the utmost care so that any stipulation to waive such certification be straight-forward. The Court will continue its strict enforcement of the certification requirement.

http://www.prd.uscourts.gov/sites/default/files/documents/88/General Order re Local Civil Rule 5(g) Non-Cert Translations of Docs 05222013.pdf

Visit our "New" Website



The programmers at the Clerk's Office Systems Department have revamped the Court's website. The website is now more attractive and the information published has been revised and streamlined to provide a better experience to all visiting members of the bar and the public. Although most of the vast amount of work in the website's design and development framework, processes, and management is invisible to the plain eye, it is full of information which is up-to-date, practical, and responsive to our visitors' needs.

Go to: http://www.prd.uscourts.gov

Clerk's Tidings

District Bar Examination

On April 13, 2013, the Court administered the District Court Examination (DCE) to 308 applicants. The results yielded 101 successful applicants for a 33 percent overall pass rate. As of July 16, 2013, a total of 99 attorneys have been admitted to practice in the District of Puerto Rico during calendar year 2013 (including attorneys who passed the DCE in previous years, as well as other admissions).

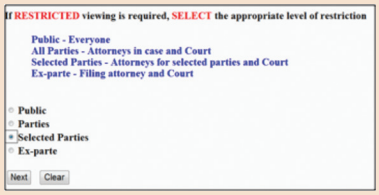
The next DCE will be administered on Saturday, November 2, 2013, from 8:00 a.m. to 12 Noon, at the Inter-American University School of Law. The deadline to apply is Wednesday, October 23, 2013, at 4:45 p.m. For more informaiton, go to: http://www.prd.uscourts.gov/?q=federal-bar-examination-information

Federal Rulemaking

The following amendments were transmitted by the Supreme Court to Congress, to take effect on December 1, 2013, unless Congress enacts legislation to reject, modify, or defer them, to govern proceedings thereafter commenced and, insofar as just and practicable, all proceedings then pending:

- Appellate Rules 13, 14, 24, 28, and 28.1, and Form 4
- Bankruptcy Rules 1007(b)(7), 4004(c)(1), 5009(b), 9006(d), 9013, and 9014
- Civil Rules 37 and 45
- Criminal Rule 11
- Evidence Rule 803(10)

Important Reminder Concerning Restricted Filings



We remind all members of the bar that, earlier this year, Chief Judge Aida M. Delgado-Colón entered Standing Order No. 9, Miscellaneous No. 03-149(ADC). Pursuant to this Standing Order, all restricted filings (parties, selected parties, ex parte) must be accompanied by a separately filed "Motion to Restrict" which requests permission to restrict access and identifies the level of restriction sought and the interest to be protected. The "Motion to Restrict" is a public document and will remain open to public inspection. The document for which restriction is sought shall be filed separately using the restriction level sought. Do not file the document as an attachment to the public motion. By order of the Court, the separately filed document will retain the restriction level or the restriction level shall be removed or modified accordingly.

Except for totally "sealed" cases, only the restricted documents themselves are protected from unauthorized viewing. The docket entry remains public. Members of the bar are reminded to exercise caution in the wording of the docket entry and in selecting the CM/ECF event. For information, go to http://www.prd.uscourts.gov/sites/default/files/documents/108/FINAL_Standing_Order_No._9(03-mc-149_dkt_13_-_01_30_2013).pdf

Frequently Asked Question: What is the difference between my CM/ECF and PACER passwords?

The Clerk's Office staff has received numerous telephone calls requesting login assistance from members of the bar who are attempting to login to CM/ECF using their PACER passwords. CM/ECF and PACER are separate accounts, and passwords are not interchangeable.

Case Management CM / ECF Electronic Case Files

CM/ECF is a comprehensive case management system that allows courts to maintain electronic case files and offer electronic filing over the Internet. As case documents are filed, the information is immediately available electronically through the Internet. In order to electronically file court documents and to receive e-mail notices of filed documents as the attorney of record in a case, you must be admitted to practice before the Court and be registered to file electronically. Each court assigns the filing login for filing privileges in the CM/ECF system.

PACER PUBLIC ACCESS TO COURT ELECTRONIC RECORDS

The document within an email notification is accessed by a hyperlink. This hyperlink takes you to the PACER site, which will allow the first viewing to be free. After the first viewing, a charge to view the document will be incurred. A PACER account provides search only access and works in all federal appellate, bankruptcy, and district courts. The PACER **viewing account** is separate from the CM/ECF **filing account** although a PACER account is required for document viewing access in all federal courts.

In its July 2013 Newsletter, PACER announced that, in the coming months, improvements to the PACER system will include the addition of a self-service login retrieval and password reset feature. Once this feature is in place, all PACER accounts will be required to have a valid email address, security question/answer, and a date of birth on file. We suggest that you verify that your PACER account contains the required information. The Clerk's Office staff does not provide PACER support. If you need assistance, contact the PACER Service Center at (800)676-6856, or by email at pacer@psc.uscourts.gov.

FBA's Federal Bar Review Course

The United States District Court for the District of Puerto Rico offers a Federal Bar Examination twice a year, typically during the first Saturday of April and the first Saturday of October or November. This year, the next Bar Examination shall take place on November 2, 2013. Applicants must file their application on or before Wednesday, October 23, 2013 at 4:45 p.m. Any application sent by mail must be postmarked by Friday, October 11, 2103. For more information, see, http://www.prd.uscourts.gov/?q=federal-bar-examination-information


United States District Court
for the District of Puerto Rico
Hon. Aida M. Delgado-Colón, Chief Judge
Frances Ríos de Morán, Esq., Clerk of Court

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for ATTORNEYS > Bar Examination >

Federal Bar Examination Information

Public Notice

Notice is given that the **FEDERAL BAR EXAMINATION** will be offered on **Saturday, November 2, 2013** from 8:00 a.m. to 12:00 noon, at the Theater of the Inter-American University of Puerto Rico School of Law, Tres Monjitas Industrial Park, 170 Federico Costa St., Hato Rey, PR 00918-1303. Click **here** for a map.

The examination consists of eight (8) separate subject areas to be tested :

Subject Area	Percentage	Questions
Federal Civil Procedure	16%	8
Federal Evidence	16%	8
Federal Jurisdiction and Venue	16%	8
Federal Criminal Procedure *(Includes the subject of Sentencing Guidelines. Applicants must be familiar with the ruling in United States v. Booker, 543 U.S. 220, 125 S.Ct. 738, 160 L.Ed.2d 621(2005) and progeny from the 1st Circuit Court of Appeals).*	12%	6
Local Rules	12%	6
Federal Appellate Procedure	10%	5
Bankruptcy, including the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 and the Bankruptcy Rules.	10%	5
Ethics	8%	4
TOTAL		50

Each year, twice a year, the Puerto Rico Chapter of the Federal Bar Association administers an in-person preparatory course for the Bar Exam. The FBA's course is composed of eight sessions, each dealing with one of the eight topics of inquiry of the exam (Evidence, Federal Civil Procedure, Federal Criminal Procedure, Bankruptcy, Federal Appellate Procedure, Local Rules, Ethics, Federal Jurisdiction). The classes are scheduled twice a week on Mondays to Thursdays (no classes on Fridays or the weekends) and they start at 7 pm and last until 10 p.m. The course is typically held at the Sacred Heart University (USC) in Santurce. Our classes are taught by seasoned federal practitioners, each with abundant hands-on experience in their respective areas of practice.

The Puerto Rico Chapter of the Federal Bar Association (FBA) would like to acknowledge the participation and invaluable assistance of the following persons in the FBA's Federal Bar Review Course.

Raúl Arias, Esq.
McConnell Valdés LLC

Antonio A. Arias Larcada
McConnell Valdés LLC

Manuel Fernández Bared
Toro, Colón, Mullet, Rivera & Sifre, PSC

Ricardo Casellas
Casellas Alcover & Burgos, PSC

Seth A. Erbe
Indiano & Williams, PSC

Magdamari Dávila Vallecillo
Fiddler, González & Rodríguez PSC

Roberto A. Cámara Fuertes,
Fiddler, González & Rodríguez PSC

Assistant U.S. Attorney Maritza González
U.S. Attorney's Office for the District of PR

Rica López de Alós
McConnell Valdés LLC

Joanna Matos, Esq
O'Neill & Borges

Manuel Pietrantoni
O'Neill & Borges

Hon. Daniel R. Domínguez
Senior Judge
U.S. District Court for the District of Puerto Rico

Jorge Soltero Palés, Esq.
Staff Attorney Bar Admissions
U.S. District Court for the District of Puerto Rico

For more information or to enroll for the November term,
call Roberto A. Cámara-Fuertes, Esq. or Magdamari Dávila at (787) 759-3220.

Board of Directors

FTB Publicity & Publications Committee

The publication of *From The Bar* is possible thanks to the collaboration of the Chapter's Publicity & Publications Committee and valuable contributions from different members and friends of the Chapter including the work of our graphic artist, Gina Robles-Villalba. If you would like to advertise in our Newsletter or submit an article or other information for consideration to be published in one of our upcoming editions, please contact a member of the committee:

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