

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

KARLA MEDINA-VILARIÑO;

Plaintiff,

v.

JAIME PERELLÓ-BORRÁS, in his personal capacity and in his official capacity as SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; AILEEN FIGUEROA-VÁZQUEZ, in her personal capacity and in her official capacity as SECRETARY OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; XAVIER GONZÁLEZ-CALDERÓN, in his personal capacity and in his official capacity as ADMINISTRATOR OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; JOSÉ A. FUENTES-SERRANO, in his personal capacity and in his official capacity as HUMAN RESOURCES DIRECTOR OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; JANE DOE; and JOHN DOE,

Defendants.

Civil Action No: 13-1820

COMPLAINT

JURY TRIAL DEMANDED

CIVIL RIGHTS

DAMAGES

DECLARATORY RELIEF

INJUNCTIVE RELIEF

COMPLAINT

TO THE HONORABLE COURT:

Plaintiff KARLA MEDINA-VILARIÑO (“Plaintiff”), hereby file this Complaint for economic, compensatory and punitive damages, and for declaratory, injunctive and equitable relief, against Defendants JAIME PERELLÓ-BORRÁS, in his personal capacity and in his official capacity as SPEAKER OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; AILEEN FIGUEROA-VÁZQUEZ, in her personal capacity and in her official

capacity as SECRETARY OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; XAVIER GONZÁLEZ-CALDERÓN, in his personal capacity and in his official capacity as ADMINISTRATOR OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; JOSÉ A. FUENTES-SERRANO, in his personal capacity and in his official capacity as HUMAN RESOURCES DIRECTOR OF THE HOUSE OF REPRESENTATIVES OF THE COMMONWEALTH OF PUERTO RICO; JANE DOE; and JOHN DOE.

INTRODUCTION

1. This is a civil action filed by a former term employee of the House of Representatives of the Commonwealth of Puerto Rico (“House” or “House of Representatives”) affiliated to the New Progressive Party (“NPP”), who seek redress for blatant, politically motivated adverse employment actions taken against them in violation of federal and local law.

2. Plaintiff began working for the House of Representatives under a NPP administration. She held a term appointment which was consistently renewed. Plaintiff worked in a position and carried out functions for which political affiliation is not an appropriate requirement, and had never received a negative evaluation as to her work performance.

3. The General Election of 2012 caused a shift in political power in the Executive and Legislative branches of government in Puerto Rico from the NPP to the Popular Democratic Party (“PDP”). In the House of Representatives, the PDP gained a majority of the seats, and Jaime Perelló-Borrás - a named defendant in this civil action - was chosen by the PDP legislative caucus shortly after the General Elections as the next Speaker of the House of Representatives.

4. In December of 2012, approximately a month after the General Elections of 2012, the upcoming Speaker of the House of Representatives, Defendant Jaime Perelló-Borrás of the PDP

brazenly vowed to “clean house” and get rid of, as he put it, “...all of the son of the bitches NPP’ers in the Capitol.”

5. Defendant Perelló-Borrás wasted no time to make good on his promise. Together with co-Defendants, his first order of business once he assumed control of the administration was to systematically identify NPP affiliated employees and then orchestrate a massive purge of these employees from the House of Representatives. Plaintiff – who is affiliated with the NPP - fell victim to Defendants’ discriminatory scheme and her appointment was not renewed; she was not rehired and was never recalled back to work. Plaintiff was replaced in her positions shortly thereafter with a PDP-affiliated individual, who now perform the same duties and functions she had done previously.

6. As it can be logically inferred from such fact-pattern, and as noted in more detail below, the adverse employment actions executed by Defendants were motivated by Plaintiff’s political affiliation, participation and beliefs in favor of a political party other than the PDP, specifically the NPP. Had it not been for Plaintiff’s political affiliation, participation and beliefs, she would still be employed by the House of Representatives.

7. Plaintiff accordingly allege violations under the First Amendment of the United States Constitution, as well as under the laws and Constitution of the Commonwealth of Puerto Rico, in particular, Sections 1, 2, 4, 6 and 7 of Article II of the Puerto Rico Constitution and Puerto Rico’s Public Service Personnel laws; Law No. 131 of May 13, 1943, P.R. Laws Ann., Tit. 1, §13-19; and Articles 1802 and 1803 of the Civil Code, §5141-5142 of Title 31

JURISDICTION AND VENUE

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

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

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

11. A jury trial is demanded.

THE PARTIES

12. Plaintiff KARLA MEDINA-VILARIÑO ("Medina-Vilariño") had worked in the House of Representatives for over four (4) years – since September 2008. Defendants refused to renew Medina-Vilariño's appointment and rehire her after they assumed control of the House of Representatives on January 2013 because she had exercised her First Amendment rights and had engaged in activity protected by the First Amendment. Medina-Vilariño's last appointment at the House of Representatives was as an Executive Chef in the Café Parlor ("*Salón Café*") – working under the Office of the Sergeant of Arms – where she performed routine functions that have no impact on public policy. Party affiliation is not an appropriate requirement for such position. Medina-Vilariño is a citizen of the United States, is affiliated to the NPP, and currently resides in Carolina, Puerto Rico.

13. Defendant JAIME PERELLÓ-BORRÁS ("Perelló-Borrás") is the newly elected Speaker of the House of Representatives.

- a. As a result of the November 6, 2012 General Election, the PDP gained a majority of the seats in the House of Representatives.
- b. Immediately after the election, Perelló-Borrás became the frontrunner for the position of Speaker of the House of Representative, and was the only Representative

- nominated to occupy the position. On or about November 14, 2012, Governor Elect Alejandro García-Padilla announced that the PDP caucus in the House of Representatives elected Perelló-Borrás to become the next Speaker of the House.
- c. Perelló-Borrás was a Representative for the PDP from January 2, 2009 until December 31, 2012. As a result of the November 6, 2012 General Election, he was re-elected to the House of Representatives under the PDP insignia.
 - d. Perelló-Borrás was more recently sworn in as a Representative on January 2, 2013.
 - e. On January 14, 2013, Perelló-Borrás formally became the Speaker of the House.
 - f. As Speaker of the House of Representatives, Perelló-Borrás is the nominating authority of the House of Representatives and he participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
 - g. At all times relevant and material to this action, Perelló-Borrás has been a well-known member of the PDP that has occupied various positions under PDP administrations, including, among others: Special Aide to former PDP Mayor of Carolina, José Aponte de la Torres from 2001 to 2007; adviser in Municipal Affairs to former PDP Governor Aníbal Acevedo-Vilá from 2007 to 2008, and Representative from 2009 to 2012 and reelected for the 2013-2016 term.
 - h. At all times relevant and material hereto, Perelló-Borrás acted under color of state law.
 - i. Perelló-Borrás is sued in this action for declaratory, injunctive and monetary relief in both his personal capacity and in his official capacity as Speaker of the House of Representatives.

14. Defendant AILEEN FIGUEROA-VÁZQUEZ (“Figueroa-Vázquez”) is the Secretary of the House of Representatives.

- a. Figueroa-Vázquez was appointed to such position by Perelló-Borrás.
- b. Figueroa-Vázquez enjoys the full trust of and is loyal to Perelló-Borrás and the PDP.
- c. Figueroa-Vázquez is a well-known and loyal member of the PDP.
- d. Figueroa-Vázquez used to work as an advisor for former PDP Representative Eduardo Ferrer.
- e. As Secretary of the House of Representatives, Figueroa-Vázquez participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
- f. Figueroa-Vázquez is sued in this action for declaratory, injunctive and monetary relief in both her individual capacity and in her official capacity as Secretary of the House of Representatives.
- g. At all times relevant and material hereto, Figueroa-Vázquez acted under color of state law.

15. Defendant XAVIER GONZÁLEZ-CALDERÓN (“González-Calderón”) is the Administrator of the House of Representatives

- a. González-Calderón was appointed to such position by Perelló-Borrás.
- b. González-Calderón was also appointed Perelló-Borrás as the President of the incoming transition committee in the House of Representatives.
- c. González-Calderón enjoys the full trust of and is loyal to Perelló-Borrás and the PDP.
- d. González-Calderón is a well-known member of the PDP and held several high-ranking trust positions under the PDP administration of former Governor Sila M.

- Calderón-Serra, such as Auxiliary Secretary of Planning and Special Assistant of Federal Affairs for the Workforce Investment Board and Executive Director of the Human Resources and Occupational Development Council.
- e. As Administrator of the House of Representatives, González-Calderón participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.
 - f. González-Calderón is sued in this action for declaratory, injunctive and monetary relief in both his individual capacity and in his official capacity as Administrator of the House of Representatives
 - g. At all times relevant and material hereto, González-Calderón acted under color of state law.
16. Defendant JOSÉ A. FUENTES-SERRANO (“Fuentes-Serrano”) is the Human Resources Director of the Houses of Representatives.
- a. Fuentes-Serrano was appointed to such position by Perelló-Borrás.
 - b. Fuentes-Serrano enjoys the full trust of and is loyal to Perelló-Borrás and the PDP.
 - c. Fuentes-Serrano is a well-known and loyal member of the PDP.
 - d. Fuentes-Serrano worked in a trust position at La Fortaleza under the PDP administration of former Governor Aníbal Acevedo-Vilá.
 - e. As Human Resources Director of the Houses of Representatives, Fuentes-Serrano participated in, directed, executed, authorized and/or condoned the adverse employment actions giving rise to this Complaint.

f. Fuentes-Serrano is sued in this action for declaratory, injunctive and monetary relief in both his individual capacity and in his official capacity as Human Resources Director of the House of Representatives.

g. At all times relevant and material hereto, Fuentes-Serrano acted under color of state law.

17. Defendant JANE DOE is an individual defendant who works at the House of Representatives; whose name, identity and other personal circumstances are unknown at present. Defendant Jane Doe, however, directly and/or indirectly participated in, authorized or condoned and/or set in motion a series of events in connection with the non-renewal of Plaintiffs' appointments because of Plaintiffs' political affiliations participation, and beliefs. At all times relevant and material hereto, Defendant Jane Doe acted under color of state law.

18. Defendant JOHN DOE is an individual defendant who works at the House of Representatives; whose name, identity and other personal circumstances are unknown at present. Defendant John Doe, however, directly and/or indirectly participated in, authorized or condoned and/or set in motion a series of events in connection with the non-renewal of Plaintiffs' appointments because of Plaintiffs' political affiliations participation, and beliefs. At all times relevant and material hereto, Defendant John Doe acted under color of state law.

FACTUAL ALLEGATIONS¹

GENERAL ALLEGATIONS

The House of Representatives, Before and After the November 6, 2012 General Election

19. This case involves blatant acts of political discrimination in the aftermath of the November 2012 election by the current Speaker of the House of Representatives, Jaime Perelló-

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

Borrás of the PDP; Co- Defendants Figueroa-Vázquez, González-Calderón and Fuentes-Serrano, and upon information and belief, with other defendants whose names are not yet known, against a former employee of the House of Representatives affiliated with the NPP.

20. The seats at the House of Representatives of the Commonwealth of Puerto Rico are occupied by politicians that are primarily from two, competing political parties; the NPP and the PDP. Accordingly, the work environment is generally always politically charged and highly partisan, particularly in the weeks leading up to General Elections and in the months that follow such elections.

21. It is also a fairly small work place where employees constantly interact on a daily basis, and where politics is commonly discussed. As such, the political affiliations of employees are well-known. The Plaintiff worked in small work area within the House of Representatives.

22. Each new administration of the House of Representatives typically hires employees affiliated with and loyal to the political party that controls the majority of the seats in the House, making political affiliations known to all.

23. The NPP held the majority of seats and thus controlled the administration of the House of Representatives from January 2nd, 2005 until December 31st, 2012. The NPP also controlled the Executive Branch of the Commonwealth of Puerto Rico from January of 2009 until January of 2012.

24. The Plaintiff held a term appointment, which was continuously renewed. That is, until Defendants arrived and refused to renew Plaintiff's appointment soon after they assumed control of the administration of the House of Representatives.

25. The Plaintiffs had never received a negative evaluation of her work performance at the House of Representatives.

26. At all times relevant and material hereto, Plaintiff was a public employees whose position did not involve crafting, developing, or implementing public policy. Plaintiff's position was neither public-policy-making position, nor a position that required her to perform public-policy functions.

27. The Plaintiff did not have close propinquity to policy-making employees nor had access to politically sensitive information or confidential information related to public policy matters or the legislative process in the performance of their functions.

28. As such, political affiliation was not an appropriate requirement for Plaintiff's position.

29. The Plaintiff began working for the House of Representatives under a NPP administration.

30. Plaintiff have been affiliated to the NPP at all times relevant and material to this action—a fact known by all Defendants.

31. All of the Defendants knew, assumed, and/or perceived that the Plaintiff had voted for the NPP and for NPP candidates in the General Election of 2012.

32. It was of common knowledge in the House of Representatives (including by co-Defendants and their political-trust employees) that the Plaintiff avidly supported the NPP during the 2012 elections and that she was active during the NPP's electoral campaign.

33. At all times relevant and material hereto, House of Representative employees who do not associate with the PDP or who do not want to engage in politics were perceived, including by Defendants, as being avid supporters of a political party other than the PDP, particularly the NPP.

34. As in virtually all elections, the work environment in the House of Representatives was politically charged during the months prior to the General Election of 2012. Individuals –

including the Plaintiff – openly expressed their support for their respective candidates and their participation in political activities, events and campaigns.

35. NPP-affiliated individuals – including the Plaintiff – would also openly defend their political preferences, candidates and parties during discussions with individuals affiliated with opposing political parties, including those loyal to and of the political trust of Defendants and the PDP.

36. Co-Defendants, employees of Defendants’ political trust, and PDP-affiliated individuals ascended to or appointed to supervisory positions and employees of their political trust were active participants during these debates and/or personally witnessed NPP-affiliated – including the Plaintiff – debate in favor of the NPP. As a result, the political affiliations of such individuals – including the Plaintiff – were openly known, including by Defendants.

37. In the days leading up to the General Election of 2012, employees wore clothing and/or accessories with their respective party colors. In the months after the election, including the months of December 2012 and January 2013, PDP-affiliated employees proudly and frequently wore the PDP’s red and white colors to signal their loyalty to the PDP.

38. Perelló-Borrás and the other co-Defendants routinely saw Plaintiffs wearing campaign uniforms in or around the House of Representatives after work-hours or during weekends.

39. When NPP-affiliated employees – including the Plaintiff – worked on NPP political campaigns, they wore uniforms that were blue and white and had logos with the names of NPP candidates.

40. On November 6, 2012, a contentious General Election² was held in Puerto Rico.

² The November 6, 2012, “General Election” involved elections for all state-wide offices (the Governor, the Resident Commissioner, 11 Senators at large, 16 Senators by district, 11 Representatives at large, 40 Representatives by district), all municipal offices (78 Mayors and 78 Municipal Legislative Assemblies of between 9 and 33 members each) and a plebiscite whereby the people selected amongst acceptable status options.

41. As a result of that General Election, PDP gubernatorial candidate Alejandro Garcia-Padilla defeated the incumbent Governor at the time, Luis G. Fortuño-Burset of the NPP, who was running for reelection. The PDP also won the majority of the seats in the Senate and in the House of Representatives; vesting the PDP with control of both legislative bodies and the right to select their respective presidents from amongst the PDP delegations.

42. Thus the PDP is political party in power at this time, with full control of the Executive and Legislative Branches of government.

43. Within days after the General Election of 2012, the PDP legislative caucus selected Defendant Perelló-Borrás as the next Speaker of the House of Representatives of Puerto Rico.

44. Co-Defendants, and in particular Perelló-Borrás, have a long history with the PDP, and have held numerous high-ranking positions under PDP administrations and within the party itself.

45. Since 2000, Perelló-Borrás occupied positions associated with PDP leaders, such as advisor to the PDP Mayor of Carolina and Advisor to former PDP Governor Aníbal Acevedo-Vilá.

46. Perelló-Borrás was very much familiarized with the operations of the House of Representatives and the personnel administration in said legislative body. In 2009, he was elected as Representative at Large under the PDP insignia, acting as minority leader in several legislative commissions.

47. On or about November 16, 2012, a Transition Committee was established to provide for the orderly changeover of the administration of the House of Representatives from the NPP to the PDP. The incoming Transition Committee was composed of approximately eleven (11) individuals, all of which were affiliated with the PDP and loyal to Defendant Perelló-Borrás.

These individuals had access to all House of Representatives records, including personnel lists and employee information.

48. The incoming Transition Committee was specifically given access to a list of all House of Representative employees. The list had the dates that each employee began working for the House of Representatives.

49. PDP-affiliated members of the incoming Transition Committee received a list of all House of Representative employees that had the date each employee was hired. This list was shared with and reviewed by all Defendants. Perelló-Borrás and other co-Defendants were also given access to this information.

50. Perelló-Borrás and the other co-defendants were active participants during the transition process, with Perelló-Borrás at all times having oversight and the final say over the actions of the representatives of the incoming PDP administration.

51. Co-Defendants also compiled a list of employees whom they understood not to be affiliated with the PDP.

52. Upon information and belief, co-Defendants verified (and had authorized, condoned, or provided their agents and employees of their political trust) with the information gathered in the aforementioned lists for the purpose of engaging in political discrimination and retaliation against individuals such as Plaintiffs affiliated to a political party other than the PDP.

53. Co-Defendants, and in particular Perelló-Borrás, have unrestricted access to PDP information, personnel, resources, and documents within the possession custody and/or control of the PDP and/or its officers, employees, personnel and/or agents. In particular, they have access to electoral lists, donation records, volunteer lists, and other information showing PDP-affiliated voters and loyal PDP supporters.

54. Employees of the House of Representative that are affiliated to the PDP, including newly appointed PDP-affiliated Supervisors, co-Defendants themselves, and employees loyal to co-Defendants and the PDP, constantly made reference to a list of employees to be terminated on the basis of their political beliefs and affiliation during times relevant and material hereto, and specifically stated that Perelló-Borrás and the other co-Defendants were creating a list of all employees affiliated to political parties other than the PDP, in particular NPP-affiliated employees or those who were perceived by the Defendants as being affiliated to or having voted for the NPP.

55. NPP-affiliated employees saw supervisors and other PDP-affiliated House of Representative employees (some eventually promoted to high-level trust positions) with the list of NPP-affiliated employees.

56. Furthermore, upon information and belief, Defendants personally reviewed the House of Representative's personnel records, and compared these to PDP documents that identified PDP-affiliated electors. Upon information and belief, Defendants also directed, instructed or authorized others (whether directly or tacitly) to do this on their behalf, or otherwise gather information related to the political affiliations of all House of Representative employees, and to provide Defendants with this information, for the purpose of discriminating and or retaliating against them for being affiliated to a political party other than the PDP.

57. Individuals loyal to Perelló-Borrás – including individuals that ultimately substituted the Plaintiffs in their positions – were seen throughout the House of Representatives during the months of November and December of 2012.

58. During times relevant and material hereto, co-Defendants visited the different departments and offices in the House of Representatives, including Plaintiff's work-area. Upon

information and belief, this was done to identify individuals affiliated or perceived by Defendants as being affiliated to political parties other than the PDP and/or to verify where to accommodate future appointees loyal to Perelló-Borrás.

59. On some occasions, moreover, Defendants and/or their trust – or other PDP-affiliated employees acting pursuant to Defendants’ instructions and/or authorization – asked NPP-affiliated employees when and how they began working in the House of Representatives.

60. As soon as the PDP won the election, Defendants, their political-trust employees and House of Representative employees in general – acting pursuant to the instructions and authorization of Defendants – initiated a campaign to verify and/or gather information tending to show the political affiliation of those employees of the House of Representative that were not affiliated to the PDP, including Plaintiffs, for the purpose of discriminating and retaliating against them for having opposing political views and beliefs.

61. This was fairly easy to do, as many of them had participated in the entourages of NPP-affiliated candidates and would usually be seen in TV, heard on the radio, and seen in newspapers. Some NPP-affiliated employees even appeared in photos posted in the Facebook pages of NPP candidates and posted photos in their own non-private Facebook accounts, YouTube and other social media sites that anybody can easily access.

62. Upon information and belief, Defendants and their trust employees (acting pursuant to Defendants instructions) verified various news sources and Facebook accounts to determine political affiliations with the purpose of discriminating and/or retaliating against employees of the House of Representative – such as the Plaintiff – affiliated to a political party other than the PDP.

63. For example, a NPP-affiliated employee was advised by a co-worker to erase any political statement published in his Facebook page because “they were monitoring employees’ Facebook pages” in order to identify individuals affiliated to a political party other than the PDP, specifically NPP-affiliated workers.

64. Immediately after the November 2012 General Elections, PDP-affiliated employees – including Defendants and employees of their political trust – began a harassment campaign against individuals affiliated with or perceived to be affiliated with political parties other than the PDP. Such conduct remains to this day and has resulted in a chilling effect and has compromised Plaintiff’s First Amendment rights and her desire to engage in activities protected by the First Amendment.

65. After the elections, a PDP employee in another department started to make comments in the work area of one NPP-affiliated employee stating that the NPP employees were going to be terminated and that “not one NPP was going to be left”.

66. Another PDP employee stated “good, now I am going to see all the NPP’s that are going to be terminated.”

67. In another incident, one of co-Defendant Perelló-Borrás’ assistants told an NPP-affiliated employee that she was going to be terminated because she is related to a notorious NPP politician.

68. On one specific incident relevant and material to this action, Defendant Perelló-Borrás was walking around the Capitol Building. He is suddenly told something and stops; while looking at a well-known NPP-affiliated employee suddenly states something to the effect that “they should pick up and leave ... I am the one in charge here ... not a single NPP is going to stay ... I am going to clean the house.”

69. On numerous occasions PDP-affiliated individuals – including co-Defendants, their agents and employees of their political trust – were heard making comments in the House of Representatives, and in the Legislature in general, to the effect that the days of employees affiliated to political parties other than the PDP – in particular individuals affiliated to the NPP, including Plaintiffs – had their days numbered. Statements to the effect that the new administration needed Plaintiffs’ positions to accommodate “their people” or “persons whom they could trust” would usually follow these comments.

70. On another incident an individual affiliated to the NPP that was terminated from a position in the House approached Perelló-Borrás and tells him that she had just been terminated, that she had worked there for 14 years and is a single mother of two children. Defendant Perelló-Borrás responded “how much? Fourteen? We have not gotten rid of anybody with more than ten years.” He then asks for her information and, while pretending to write it down, told her he was going to help her. Perelló-Borrás, however, failed to help her; nothing happened.

71. The already highly charged political atmosphere in the different work areas became increasingly hostile in the weeks following the swearing in of the new House of Representative administration, and Perelló-Borrás as Speaker of the House of Representatives.

72. In fact, on the date of the swearing-in of the newly elected PDP-affiliated Governor of Puerto Rico, which took place in the Capitol Building, PDP-affiliated employees proudly wore and displayed the colors of the PDP.

73. All Defendants and other employees affiliated with the PDP saw the NPP-affiliated employees – including the Plaintiff – not wearing PDP colors. Defendants and other House of Representative employees of the PDP associated those who did not wear the colors of the PDP

with a political party other than the PDP. Eventually, such employees became targets of political discrimination and retaliation.

74. After the General Election of 2012, PDP-affiliated employees were celebrating and obviously happy and cheerful, while NPP-affiliated employees were not. Individuals who were not celebrating the victory of the PDP in the General Election or who were not happy and cheerful, such as the Plaintiff, were perceived by PDP affiliated employees, including by all Defendants, as being affiliated with a party different than the PDP; including by all Defendants who continuously roamed throughout the House of Representative, including Plaintiffs' work areas, and saw that Plaintiffs were not celebrating, but were rather discouraged and frustrated.

75. After the elections, the employees known to be PDP supporters were celebrating the PDP victory in the work areas. It went to the extreme that, on or about December 31, 2012, when the first group of NPP-affiliated employees' appointments was to expire, some PDP employees brought hors d'oeuvres and were openly celebrating their exit from the House of Representatives.

76. In another incident, some weeks after the elections, two (2) employees came to work wearing jackets with the campaign logo for co-Defendant Perelló-Borrás. They were not reprimanded for such conduct even though it is against the law and regulations to wear political propaganda in work areas.

77. In furtherance of the politically discriminatory scheme and consistent with their desire to discriminate and retaliate against the employees affiliated with the NPP – including the Plaintiff – Defendants stood idly by and took no action to stop such comments or discipline the PDP affiliated employees and/or supervisors who undertook politically motivated actions, harassment and mistreatment against the NPP-affiliated employees despite being well aware of such

conduct. Rather, Defendants allowed them to continue, promoted these, condoned them and/or authorized them with the purpose of discriminating and/or retaliating against employees – such as the Plaintiff – because of their political affiliation, participation and beliefs with regards to a political party other than the PDP.

78. In fact, co-Defendant Perelló-Borrás spent thousands of taxpayer funds remodeling his Presidential Office with red and white furniture, even purchasing and decorating a red and white Christmas tree.

79. On one specific occasion in or about mid-December, 2012, an individual was in the hall near the Human Resources Office of the Office of the Superintendent of the Capitol Building, and saw Perelló-Borrás, talking to a group of people. By then, it was well known that in a few weeks Perelló-Borrás would be the next Speaker of the House.

80. The individual could hear Perelló-Borrás openly state to the persons he was with that “I am not going to rest until I get rid of all the son of the bitches NPP’ers in the Capitol” (“*no voy a descansar hasta que bote a todos los hijos de puta PNP’s del Capitolio*”).

81. But this is not the only incident that shows Perelló-Borrás’ direct and indirect participation, involvement, intent, motivation and animus in politically motivated adverse employment actions.

82. It was well-known that Perelló-Borrás openly stated on various occasions during times and in places relevant and material to this action that: the budget of the House was “now for us”; he was going to “clean house”; no NPP was going to remain working there and he was going to “get rid of all of the NPP’ers”. Perelló-Borrás made these statements and other variances of the same on numerous occasions relevant and material to this action.

83. On numerous occasions during times relevant and material hereto, the Defendants also made disparaging political remarks against NPP-affiliated individuals and the prior NPP administration.

84. Defendants decided to further punish the NPP-affiliated employees – including the Plaintiff – because of their exercise of their First Amendment rights and their engagement in First Amendment protected activity. Defendants proceeded to systematically purge the House of Representatives of NPP-affiliated employees – including the Plaintiff – and fired, terminated, and/or determined not to renew their term appointments, or to hire, rehire or recall them upon the expiration of their appointments and their request to be rehired, simply because of their political affiliation, participation, activism and beliefs on behalf of a political party other than the PDP and their political involvement on behalf of candidates not affiliated with the PDP.

Politically Motivated Personnel Transactions in the House of Representatives

85. In accordance with the Constitution of the Commonwealth of Puerto Rico, the newly elected members of the House of Representatives were sworn-in on January 2, 2013.

86. Pursuant to Section 3.4 of the Regulation of the Puerto Rico House of Representatives, the Secretary of said Legislative body – Mr. Carlos Fajardo-Verdejo – assumed the position of Speaker of the House of Representatives on an interim basis (until Perelló-Borrás' formal swear-in on the first day of the legislative session). However, Perelló-Borrás exercised full authority over all House of Representatives administrative matters, including hiring and firing of employees, at all times relevant and material herein, either directly or through his transition committee.

87. The appointments of the House of Representatives personnel were discussed during the Transition Committee hearings. Members of the incoming committee asked when the

appointments would expire, while members of the outgoing committee requested the incoming members to identify the persons they wanted to stay in order to start the reappointment process.

88. Mr. William Díaz-Natal, who was a member of the incoming committee and later became co-Defendant Perelló-Borrás' Chief of Staff, stated that "this is an issue we will take to the Speaker and once we have his instructions we will communicate with [the outgoing committee]".

89. Accordingly, on December 27, 2012, co-defendant González-Calderón – acting as a representative of Perelló-Borrás' Transition Committee – sent a letter to Mr. Oriol Campos-Hernández – then Administrator of the House of Representatives – instructing him as to the House of Representative employees whose appointments would be renewed for thirty (30) additional days, effective from January 1, 2013 to January 31, 2013. The letter also instructed Mr. Campos-Hernández to notify the employees included in such lists of the extension of their appointments.

90. On December 28, 2012, Mr. Campos-Hernández wrote a response letter to co-Defendant González-Calderón asking who would be signing the extensions and the new appointments.

91. On December 31, 2012, co-Defendant González-Calderón answered Mr. Campos-Hernández's letter stating that he – Mr. Campos-Hernández – would be the one signing the extensions of the appointments for thirty (30) additional days.

92. Following the instructions given by co-Defendant González-Calderón, Mr. Campos-Hernández signed letters to all the employees, whose names were included in the lists provided by the latter, extending their appointments until January 31, 2013.

93. For those employees whose appointments were not to be extended, as instructed by co-Defendant González-Calderón to Mr. Campos-Hernández, their respective appointments expired

on December 31, 2012 and were not renewed after January 2, 2013. This is the case of Plaintiff Medina-Vilariño.

94. As early as January 2, 2013, co-Defendant González-Calderón requested Carlos Fajardo-Verdejo to delegate unto him the authorization to sign each and every appointment performed in the House of Representatives from that date on. After confirming that those were the instructions of co-Defendant Perelló-Borrás, Mr. Fajardo-Verdejo signed a letter authorizing the delegation.

95. Co-Defendant González Calderón made immediate use of the delegation he received approving close to fifty (50) new appointments between January 2, 2013 and January 14, 2013.

96. Perelló-Borrás and the new PDP representatives were sworn in on January 2, 2013, and Perelló-Borrás assumed the Speakership of the House of Representatives on January 14, 2013. Perelló-Borrás was also a duly elected representative before said date, and all other co-defendants worked in the House of Representatives and/or represented codefendant Perelló-Borrás in his Transition Committee.

97. Despite the fact that Plaintiffs appointments were not renewed under instructions by co-Defendant González-Calderón, acting as representative of Perelló-Borrás' Transition Committee, Perelló-Borrás is the nominating authority in the House of Representatives and approves, condones or disapproves—if not directly executes—all personnel decisions, including the decision to terminate the Plaintiff for political reasons. Put differently, co-Defendant González-Calderón acted as such because Perelló-Borrás so required or authorized it; Perelló-Borrás had ordered the mass firings of NPP-affiliated individuals – such as Plaintiff – and/or he had set in motion a series of events which he knew would culminate in mass firings.

98. Perelló-Borrás and the other co-Defendants either personally participated in the underlying dismissals, or directed other co-Defendants and other House of Representatives employees to dismiss as many NPP employees as possible. That is, Perelló-Borrás—and other co-Defendants—personally directed, condoned and/or approved Plaintiff's dismissals simply because of their political affiliations and/or set forth a series of events with the full knowledge and intent that these would result in political discrimination.

99. Defendants participated in the politically motivated non-renewals by, *inter alia*, directing, planning, ordering, executing, authorizing, condoning, encouraging, promoting and/or executing the non-renewals, failures to hire, rehire or recall, and harassment, and by otherwise participating in acts leading to such adverse employment actions.

100. The only reason for Plaintiff's dismissal was her political affiliation. As evinced by their words and actions, Perelló-Borrás and other co-Defendants were determined to clear the House of Representatives of NPP-affiliated employees for various reasons: to substitute them with PDP workers, for associating them with the NPP after a contentious election, and/or in retaliation for the exercise of their right to vote for and being loyal to an opposing political party.

101. The discriminatory scheme devised by the Defendants continued to unfold when shortly after Defendants dismissed and/or failed to renew NPP-affiliated employees' term appointments – including Plaintiff's – or rehire or recall them, Defendants replaced or substituted them in their positions, duties and functions with loyal PDP-affiliated individuals, many of whom had actively participated during the 2012 electoral campaign in favor of the PDP. Upon information and belief, none of these individuals worked in the House of Representatives by December of 2012. This evinces that their duties were needed for the proper operation of the House of

Representatives' affairs, that Defendants were aware of their political affiliations, and that the reason behind their terminations was political discrimination.

102. These individuals immediately substituted the NPP-affiliated employees – including Plaintiff's – in their positions duties and functions shortly after Defendants terminated them and/or refused to renew their appointments or hire, rehire or recall them.

103. The employees hired to substitute the NPP-affiliated employees – including the Plaintiff – were notable for their affiliation with the PDP, consisting of people who had served as electoral polling officers for the PDP and/or who were PDP militants.

104. Before he was appointed as Administrator of the House of Representatives, co-Defendant Fuentes-Serrano was interviewing new personnel for all sorts of administrative positions. Upon and information and belief, Co-Defendant Fuentes-Serrano interviewed individuals affiliated with the PDP who would eventually fill those positions.

105. No credible economic or cost savings rationale can be offered by Defendants for firing the NPP-affiliated employees – including the Plaintiff – nor can any valid reorganizational claim be asserted because they were substituted almost immediately and systematically with new, PDP-affiliated employees who then proceeded to perform the same duties and functions that they had competently handled before.

106. The discriminatory and retaliatory actions mentioned above — i.e. the termination and/or non-renewals of employment and/or the failures to hire, rehire and recall the Plaintiff – was because of the Plaintiff's political affiliation, her exercise of First Amendment rights, and her engagement in activities protected by the First Amendment — including the right to vote, the right to speak out on and participate in political and public policy matters and/or in political

campaigns on behalf of individual candidates who share their political beliefs or affiliations, and the right of political association.

107. Defendants not only acted individually to deprive Plaintiff of her Federal Constitutional rights, but they also acted in a joint and conspiratorial manner. Each Defendant also acted in furtherance of the pattern, practice and plan to terminate individuals affiliated or perceived as being affiliated with the NPP, and to substitute them with PDP-affiliated individuals, including the Plaintiff.

108. Defendants were directly involved in the refusal to renew Plaintiff's appointment, including by being the effective decision maker, executor, or a willful participant absent whom the adverse employment actions giving rise to this Complaint would not have occurred. All Defendants executed their actions while motivated by the Plaintiff's adverse political beliefs and because of their understanding the Plaintiff was of competing political persuasions.

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

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

111. The discriminatory and retaliatory political motive behind the adverse employment actions at issue may be also discerned by Defendants' hiring and firing practices.

SPECIFIC ALLEGATIONS AS TO THE PLAINTIFF

Plaintiff Karla Medina-Vilariño

112. Plaintiff Karla Medina-Vilariño ("Medina-Vilariño") is of legal age, a resident of Puerto Rico and a citizen of the United States of America.

113. Medina-Vilariño began working for the House of Representatives in September 2008. Her last appointment at the House of Representatives was as an Executive Chef in the Café Parlor ("*Salón Café*").

114. Party affiliation is not an appropriate requirement for Medina-Vilariño's position. At all times relevant and material hereto Medina-Vilariño was a public employee whose position was not a public-policy-making position, or one that required her to perform public-policy functions. Medina-Vilariño did not have access to politically sensitive information or confidential information related to public policy matters.

115. Medina-Vilariño engaged in functions of a routine nature that required manual competence and efficient performance, not political affiliation. Medina-Vilariño's principal duties were to oversee the operation of the Café Parlor, including the preparation of food, assignment of duties to the employees in the area, ordering supplies and such.

116. For the reasons set forth in this Complaint, all Defendants were aware that Medina-Vilariño is an active member of the NPP. It was of common knowledge in the workplace of the House of Representatives (and by Defendants themselves) that Medina-Vilariño avidly supported the NPP during the 2012 elections.

117. Moreover, Defendants also knew or assumed that Medina-Vilariño had voted for the NPP and candidates of the NPP for the House of Representatives in the 2012 General Elections.

118. Medina-Vilariño actively participated in NPP activities and with NPP candidates. She was a member of the Advance Team for former Speaker of the House of Representatives Jenniffer González-Colón.

119. Medina-Vilariño also worked as an NPP electoral polling officer.

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

121. Defendants dismissed³ Medina-Vilariño from her job without evaluating her job performance and efficiency.

122. At no time prior to her dismissal did the Defendants discipline Medina-Vilariño or issue a reprimand related to the performance of her duties.

123. Defendants hired someone to substitute for Medina-Vilariño after her dismissal. That person is a member and/or supporter of the PDP.

124. The reason for Medina-Vilariño's dismissal was because the Defendants knew that she belonged to – or otherwise perceived her to be a member of and/or affiliated to – a political party other than the PDP, specifically the NPP.

125. As a result of this dismissal, Defendants have deprived Medina-Vilariño of the income and benefits by which she sustained herself and her family; have subjected her to personal pain and suffering; and have punished her for the exercise of her civil rights by terminating her employment—all because she is not a member of or affiliated to the PDP, and is perceived by Defendants as not having voted for the PDP or its candidates.

³ The term dismissal, as used herein, shall be read to include termination, non-renewal of appointment, and failure to hire, rehire or recall.

CAUSES OF ACTION

I.

FIRST AMENDMENT VIOLATIONS

(POLITICAL DISCRIMINATION AND RETALIATION)

126. Plaintiff incorporate by reference all previous paragraphs in this Complaint.

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

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

129. As Defendants have done to the Plaintiff here, subjecting her to dismissals, terminations, denial of benefits, refusals to hire, rehire or recall, and/or to acts of harassment and work conditions inferior to the norm, constitute actionable adverse employment actions protected by the First Amendment.

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

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

132. Defendants' actions have caused a chilling effect on Plaintiff's First Amendment rights and her exercise of First Amendment protected activity.

II.

VIOLATIONS TO CONSTITUTION AND LAWS OF THE COMMONWEALTH OF PUERTO RICO

133. Plaintiff incorporate by reference all previous paragraphs in this Complaint.

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

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

PRAYER FOR RELIEF

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

1. That this Court determine and declare that the actions by all Defendants were in violation of the Constitution and laws of the United States and of Puerto Rico;
2. Compensatory damages and punitive damages in excess of \$1,500,000.00, comprised of the following amounts:
 - a. An amount in excess of \$1,000,000.00 in compensatory damages for the harm done to the Plaintiff due to the actions taken against her;

- b. Punitive damages in excess of \$500,000.00 due to the malicious and wanton nature of the violations alleged herein.
3. Equitable relief in the form of a permanent injunction ordering Defendants to reinstate Plaintiff to her position, with all corresponding privileges and benefits, and ordering Defendants to refrain from further engaging in adverse employment action on the basis of political affiliations and beliefs.
4. Attorneys' fees, costs and litigation expenses incurred in connection to this action pursuant to, *inter alia*, 42 U.S.C. §1988, and other applicable statutes.
5. All applicable interests, including pre- and post- judgment interest.
6. Jury Trial is demanded.
7. That the Court retain jurisdiction over this action in order to ensure compliance with any decree issued by this court;
8. Any such other and further relief as the Court may deem just and proper.

Respectfully submitted, this 28th day of October, 2013.

Attorneys for Plaintiffs

ALB Plaza, Suite 400
16 Las Cumbres Ave. (Road 199)
Guaynabo, P.R. 00969
Tel 787-474-5447
Fax 787-474-5451

/s/ Iván M. Castro-Ortiz
IVÁN M. CASTRO-ORTIZ
USDCPR No. 214703
Email – icastro@alblegal.net

/s/ Sheila Torres-Delgado
SHEILA TORRES-DELGADO
USDCPR No. 222706
Email – storres@alblegal.net