

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

DR. ADOLFO DANIEL LOPEZ-MIERES	*	CIVIL NO.: 18-cv-1588
	*	
Plaintiff	*	RE: CIVIL RIGHTS ACTION
	*	
v.	*	JURY TRIAL REQUESTED
	*	
CARMEN YULIN CRUZ SOTO,	*	
IN HER OFFICIAL AND PERSONAL	*	
CAPACITY;	*	
MUNICIPALITY OF SAN JUAN;	*	
JANE DOE;	*	
INSURANCE COMPANIES X and Y	*	
	*	
Defendants	*	

COMPLAINT

TO THE HONORABLE COURT:

COMES NOW, Plaintiff, Dr. Adolfo Daniel López-Mieres (hereinafter Dr. López-Mieres) represented by his undersigned attorney, Francisco M. López-Romo and respectfully States and Prays as follows:

I. JURISDICTION

1. Jurisdiction is invoked under 28 U.S.C. § 1331. This action arises under the U.S. Constitution and laws of the United States of America.
2. This Court has jurisdiction over Plaintiff's causes of action for Defendant's violations of Plaintiff's Constitutional rights under the First (1st) Amendment and the Fourteenth (14th) Amendment Clauses, and its Rights and Privileges, and for Defendants' illegal acts, all in violation of Plaintiff's protected rights under the Civil Rights Laws of the United States of America.
3. Pendent jurisdiction is invoked under 28 U.S.C. § 1367 for the causes of action being invoked under the Constitution of the Commonwealth of Puerto Rico.

4. Pendent jurisdiction is also sought by Plaintiff, Dr. López-Mieres, for his causes of action under Articles 1802 and 1803 of the Puerto Rico Civil Code, (31 L.P.R.A. Sections 5141 and 5142), and for his other causes of actions that have resulted from the discriminatory acts that were jointly committed by Defendants, as are defined and protected under the Civil Rights Laws of Puerto Rico.
5. Venue is appropriate in this Court pursuant to 28 U.S.C. § 1391, as this action is brought in the judicial district in which all Defendants are residents or are located and in which all the retaliatory actions against Plaintiff, Dr. López-Mieres occurred.
6. Plaintiff, Dr. López-Mieres hereby respectfully demands trial by jury.

II. PARTIES TO THIS ACTION

7. Plaintiff, Dr. López-Mieres is of legal age, is domiciled and resident of San Juan, Puerto Rico.
8. Defendant, Carmen Yulín Cruz Soto (hereinafter “Cruz Soto”), is of legal age and is the mayor of Defendant, the Municipality of San Juan since January of 2013. Defendant, Cruz Soto is sued in her personal capacity and in her official capacity as the chief executive officer of Defendant, the Municipality of San Juan.
9. Defendant, the Municipality of San Juan is a juridical person, whose powers are set forth in the “Autonomous Municipalities Act of Puerto Rico”, in Act Number 81 of August 30, 1991, 21 L.P.R.A. § 4001, *et seq.*
10. Defendant “Jane Doe” is the fictitious name being used to designate any and all other Defendants, whose identities are unknown at the time of the filing, who may be liable to Plaintiff for their participation or involvement in the acts or omissions pleaded herein and whose identities have not been established as of the date of filing of this Complaint.

11. Defendants, Insurance Companies X and Y are entities with legal capacity to sue and be sued, which were organized and/or exist under the laws of the Commonwealth of Puerto Rico or any other states. Their identities are unknown at the time of the filing of this Complaint and are made parties to the same because at the time of the occurrence of the events that gave rise to this cause of action, were the insurers of any of the Defendants to this action, having coverage for the eventuality of the prosecution of a claim such as the present one, after issuing insurance policies binding said insurance companies to provide coverage to any of the parties liable for the damages alleged herein.
12. Plaintiff, Dr. Adolfo Daniel López-Mieres is a medical physician who is board-certified in Internal Medicine.
13. On July 1st, 1998, Plaintiff, Dr. López-Mieres started as a resident of the Internal Medicine Program of the Municipal Hospital of San Juan, and he graduated from the Internal Medicine program in 2001.
14. On May 27th, 2003, Plaintiff, Dr. López-Mieres was appointed as an "Attending Physician" at the Department of Internal Medicine of Defendant, the Municipal Hospital of San Juan and he was assigned to supervise the medical residents of the Internal Medicine program and he was rotating in the Emergency Room and in other external clinics.
15. On May 31, 2016, Dr. López-Mieres official position was re-classified and he was then appointed as the Medical Director of the Emergency Room of Defendant, the Municipal Hospital of San Juan, at the direct request of Defendant, Cruz Soto, who was then acting as the Mayor of Defendant, the Municipality of San Juan.
16. In this action, Plaintiff, Dr. López-Mieres brings to the Court's attention that Defendant, Cruz Soto, while she was acting in her individual capacity and in her official capacity as the Mayor of Defendant, the Municipality of San Juan, did intentionally attempt to cause severe

damages to the professional reputation of this excellent physician. As the direct result of said illegal acts, Plaintiff, Dr. López-Mieres shall be awarded sufficient and adequate compensation for all the economic losses and for his moral damages, including for his mental suffering and other emotional anguish, that Plaintiff, Dr. López-Mieres has already suffered, and shall continue to suffer, as the result of Defendant, Cruz Soto' gross negligence and other illegal acts that were committed by her, all in violation of Plaintiff's First Amendment and Fourteenth Amendment Rights. Defendant's illegal acts did constitute slander and/or defamation and were directed against the excellent professional reputation of Plaintiff, Dr. López-Mieres.

17. On July 1st, 1998, Plaintiff, Dr. López-Mieres was initially admitted as a medical resident, at the Internal Medicine Program of the Municipal Hospital of San Juan, where he successfully completed and graduated from the Internal Medicine program in 2001.
18. On May 27th, 2003, Plaintiff, Dr. López-Mieres was named an "Attending Physician" of the Department of Internal Medicine of the Municipal Hospital of San Juan.
19. Since then, Plaintiff, Dr. López-Mieres had supervised the medical residents of the Internal Medicine program, and Plaintiff, Dr. López-Mieres provided his medical services at the Emergency Room and other external clinics.
20. On May 31st, 2016, Plaintiff, Dr. López-Mieres was re-classified and was then appointed as the Medical Director of the Emergency Room for Adults of the Municipal Hospital of San Juan, at the request of Defendant Cruz Soto, while said Defendant was acting as the Mayor of Defendant, the Municipality of San Juan.
21. Sometime during the year 2017, Plaintiff, Dr. López-Mieres was consulted at the Municipal Hospital of San Juan regarding the case of a female patient.

22. During said initial medical consultation, Plaintiff, Dr. López-Mieres observed that the patient's deteriorating health condition was the result of the patient's extreme and morbid obesity. This patient was not able to move around and her life was being spent resting in an armchair.
23. During the patient's stay at the Emergency Room, the patient's huge, deformed abdomen was examined by Plaintiff, Dr. López-Mieres, while he was performing her physical examination, and the patient's huge abdominal area was presenting as if this patient had previously inserted a complete melon inside her belly. Her fat seemed as if it was coming out near the center of her abdomen and her condition had made it very difficult for this patient to be able to breathe, and this extreme obesity condition was causing lots of discomfort to this patient. Plaintiff, Dr. López-Mieres had estimated that this patient's weight was in excess of six hundred fifty (650) pounds.
24. In view of the patient's extreme overweight condition, Plaintiff, Dr. López-Mieres then informed this patient while she was under his medical care and upon completing his consultation services, that the Hospital's CT Scan could not be used to perform the examination services while she would remain under the care of the Municipal Hospital of San Juan, or at the Puerto Rico's medical Center, known as "ASEM", since all the available CT Scans equipments had the maximum permissible weight limits of not more than three hundred fifty (350) pounds, so Plaintiff, Dr. López-Mieres advised to this patient that was being evaluated by him, that it would probably be necessary to look for other places that could carry out such CT Scan studies. Plaintiff, Dr. López-Mieres mentioned to his patient that as another option that had been previously used in other similar cases, for other patients that had presented with similar conditions of extreme obesity, that these studies could be performed using the CT-Scan facilities that were available at the hippodrome.

25. At all relevant times, Plaintiff, Dr. López-Mieres was acting in his usual and very professional demeanor. Plaintiff, Dr. López-Mieres was not making any judgment against this patient and there were no indications that his use of said language had been offensive to anyone or that it may have been hurtful to this patient.
26. There is no controversy of the fact that the San Juan Municipal Hospital's CT Scan had not been designed to withstand the excessive weight that was being presented by this patient.
27. No measurements were taken of the width of the patient's shoulders or of her hips since the biggest obstacle was the abnormal size of her abdomen and her excessive overweight condition.
28. The protrusion of fat that flowed from this patient's abdomen, which was the other great obstacle for this patient being able to enter any regular-sized machine, was not the reason for any additional conversation on that occasion.
29. This patient was later admitted for hospitalization, under the care of other medical residents that were practicing under the hospital's internal medicine service, and eventually, surgeon Dr. Iglesias proceeded to extract over one hundred (100) pounds of fat from the patient's abdominal area, and the patient was eventually successfully discharged from the care of this hospital.
30. The relevant facts that gave rise to this complaint all began on August 21st, 2017, and all these events took place at the Municipal Hospital of San Juan. Said illegal acts were continued during the very next day, that is, on August 22nd, 2017, and later at an Assembly that was called in by Defendant Cruz Soto, while she was acting as the Mayor of Defendant, the Municipality of San Juan Defendant. All the Medical Faculty was ordered to be present at this Assembly at the Municipal Hospital of San Juan.

31. On August 21st, 2017, Plaintiff, Dr. López-Mieres had previously met on that date with Mr. Cabrera, who was the Executive Director Municipal Hospital of San Juan. The meeting had been held since Plaintiff, Dr. López-Mieres had been requested by his medical staff to convey in very clear terms all the discontent that the medical faculty of the San Juan Municipal Hospital had at said time, that was the result of the sudden termination of employment of then Medical Director, Dr. José H. Martínez, who was also the Director of the Hospital's Endocrinology Program. The impression at said time was that his dismissal was placing all the medical residency programs at risk.
32. The result of that previous meeting was that on August 21st, 2017, and around 10:00 pm, Defendant, Cruz Soto initiated her telephone call to contact Plaintiff, Dr. López-Mieres. During said telephone conversation, Defendant, Cruz Soto stated that she was going to impose "the most severe sanctions" against Plaintiff, Dr. López-Mieres, for having said, several months before, "that since this was an extremely obese patient" (her weight was over 650 pounds), "that she might need to have her abdomen CT Scan being performed at the race track". Defendant, Cruz Soto stated that this statement had showed Plaintiff, Dr. López-Mieres' "great lack of respect."
33. During said telephone conversation, Defendant, Cruz Soto' tone of voice became very hostile. Defendant, Cruz Soto then stated that she was also ordering Plaintiff, Dr. López-Mieres to "leave the area immediately".
34. Defendant, Cruz Soto also told Plaintiff, Dr. López-Mieres that she was going to fire him since in her opinion, Plaintiff, Dr. López-Mieres' "had shown great lack of respect for this patient."

35. At said time, Plaintiff, Dr. López-Mieres replied to Defendant, Cruz Soto that Dr. López-Mieres could not immediately leave the premises since he was the only doctor on duty at that time, "and you can not leave all these patients" without any "screener."
36. Minutes later, Plaintiff, Dr. López-Mieres then received a text message that had been sent from Defendant, Cruz Soto' cellular phone number that stated that he was being "immediately dismissed from all his duties in the Municipal Hospital and that after his shift he had to leave the area".
37. Subsequently, Defendant, Cruz Soto made publicly, slanderous and defamatory statements against Plaintiff, Dr. López-Mieres, while she was acting in her official capacity as the Mayor of Defendant, the Municipality of San Juan although she knew that these statements were false.
38. As the elected Mayor of San Juan, Defendant, Cruz Soto is not allowed to commit any of her negligent acts and/or any of her intentional acts, including issuing her public defamatory statements.
39. The Mayor of San Juan has shown that she has not been properly trained by Defendant, the Municipality of San Juan as to help protect and to show any respect toward her fellow U.S. citizens.
40. Defendant, the Municipality of San Juan has already failed in its obligation to help protect all of its employees from the arbitrary and despotic acts of this very erratic executive officer who is continuously violating its employees' human and universal rights.
41. On August 23rd, 2017, Marta Vera Ramírez, Esq., Director of the Office of Human Resources Office of Defendant, the Municipality of San Juan, drafted the letter that was directed to Plaintiff, Dr. López-Mieres, that in its pertinent part, reads as follows: "On behalf of the Nominating Authority, in the exercise of the legal faculty that has been delegated to

me by means of Executive Order No.: MSJ-032 of August 23, 2013 and by virtue of Article 11.012 (a) of Law No.: 81 of August 30, 1991, amended and of Article 4.08 Section (c) and 4.12 of the Rules of Conduct and Disciplinary Measures of the Municipality of San Juan, charges you with the intention of dismissing you from your position as the Medical Administrator of the Municipal Hospital of San Juan...You are summoned to appear on August 30, 2017, at 3:00 p.m. to the Office of Human Resources and Labor Relations Administration, located at 8th Floor of the Municipal Tower, Chardon Street, Hato Rey before the designated Examining Officer and expose the reasons, if any, not to dismiss you...The infringement committed by you is not a mere administrative slip. Your conduct is grave and such seriousness which we have determined in a preventive manner and to have with Article 11.012 (a) of Act No. 81 of August 30, 1991, as amended, and Article 4.12 of the Rules of Conduct and Disciplinary Measures of the Municipality of San Juan, to summarily suspend you from employment until the disciplinary process ends. This determination will not affect your salary as an employee, which you will continue to receive.”

42. On or about September 15th, 2017 at the General Assembly, the Mayor of San Juan publicly manifested other completely unfounded imputations of alleged unethical, illegal and immoral conduct allegedly incurred and against Plaintiff, Dr. López-Mieres, for the mere fact of having warned to this obese patient about the possible need of having to use other facilities outside this Hospital to be able to perform her tomographic studies.
43. All of these completely false statements and very unreasonable expressions were actually recorded and have been transcribed, so there should not be any doubt that Defendant, Cruz Soto did commit the facts that are being imputed against her in this action.

44. Whether Defendant, Defendant, Cruz Soto did any of these illegal acts, because of her obvious ignorance, or were the result of specific intent of causing damage to Plaintiff, shall be proven at trial.
45. During the Assembly of all the Medical Staff, Defendant, Cruz Soto stated as follows:

“Believe me, it is an extraordinary network of information. If you say it, someone will repeat it. If you do, someone will say it. If you try to hide it, someone will share what you tried to hide. Today at noon, Dr. Martin summoned a faculty meeting to discuss two decisions that I made. I have every right in law to take them and when one speaks without knowing or speaking comfortably, they hurt other human beings. So, as they say in the United States "(...) what became, became".

...

So imagine my surprise when the patient's attorney tells me that he's coming to bring a patient to the municipal hospital and the doctors are in the emergency room talking and talking and talking. And that she goes into the emergency room - as people do not recognize her physically - and she asks the doctors, can I sit here ?, next to them in the "counter", they say "yes, sit down". So, my first question is, what kind of security do we have in this hospital? That someone can enter like Pedro through his house until the "counter" where the doctors and the doctors are and the doctors and the doctors say "sit down", I say the ones who were there, they are not all, "yes, sit down". She says that she gave them a chance to see if they reacted. When they did not react, "look, I'm the patient's attorney."

...

So the patient's attorney keeps telling me that that patient is hospitalized and a nurse arrives, the one we are placing was a woman, who will not work here when we place her. Without knowing who she is, believing that she is familiar with the patient, she gives him some gloves and says "look to see if you bathe her, because you will not pretend that I'm going to hump my back with the weight of that woman, right?" Because I was a morbidly obese patient. He says it ... he may have said it to "Chucho forked", but he told the patient's attorney. And the patient's attorney in his work, talks to a doctor, with Dr. Lopez Mieres. With my personal doctor in this hospital.

And Dr. Lopez Mieres tells him "where only one can send that lady to get a test", I do not remember now if it was an MRI and CT Scan, it was at the Hippodrome. And I said "look, solicitor, you forgive me, but that's not the Municipal Hospital that I know". Well, I'm going to talk to Dr. Lopez Mieres. Allow me, please, to speak with the doctor and locate the nurse. I had the vice-mayor of the city on the line and Dr. Lopez Mieres said yes, he had said that to the patient's attorney. True or false Doctor Ramos?

MALE VOICE: That's true.

MRS. CARMEN YULIN CRUZ: She told me more, she told me "it's more, I do not know why she gets upset because that's how we handle morbid obesity patients in the Municipal Hospital. Well, as long as I'm the Mayor, anyone who treats a patient like an animal cannot be at the Municipal Hospital of San Juan. And I did the only worthy thing that could be done, with pain in my soul I dismissed him in the moment. And that is my doctor in this hospital. Raise your hand the one who believes that telling anyone to send a patient from this hospital to the Hippodrome to get an exam is correct. So that he leaves now. In the CDT of Rio Piedras there is a laboratory machine that says "speeches". And I asked, "Does that say speeches?" And I, before seeing that, because these machines are capable of making laboratories for people and animals. And it said "animals", "dog, cat, horse, rabbit"

...

But you, they believe that I am going to send a sample of the animal shelter to the CDT of Rio Piedras. That conversation on the phone, almost at the edge of 11:00 at night, revealed other things in the emergency room. "Dr. Lopez told me that he had a lot of work, that he could not take care of me, after he told me about the Hippodrome and I told him, look, doctor, well, I have to start tomorrow or on Wednesday I will be summoned to start an investigation" "Well, let me know, because I have a lot of work, because there are no doctors here." And I said "wait, you're the emergency room director and there are no doctors, well, you did not plan well the handling of the emergency room." He replied "that's the way it is". True or false, doctor (...)?

MALE VOICE: It is true.

MRS. CARMEN YULIN CRUZ: He is a doctor in economics, not a doctor in ... Well, I am worried. I said "Wait, he's leaving, God knows if at 11:00 at night, there's no doctor." I called ... I called, the nurse Juan Rivera Dávila answered me, very diligent. I said, "Look, I want to know what doctor is now at 11:00, the "attending". "This is the Mayor, I do not know how to say." "Well, you can search." At the moment the phone does "pam" [noise] and they hang it like that "tack". Well, I was caught and called again. Another person answered me and I said: "Is Juan?" "Part?" Because I do not know what happens to the people in the emergency room of this hospital, who can not answer "Municipal Hospital, emergency room, he or she speaks to you." No, it's "emergency room."

Yes, you go, but if I am looking for my son at 2:00 in the morning and I do not know in what emergency room he is, and they told me he was in the Municipal Hospital, "Who do I speak with?", "Who do you want to talk to?" "Goodnight. Who do I talk to? "" Who do you want to talk to?" "Well, look, the Mayor speaks to you." "Oh! Mayor, excuse me. "No, no, excuse me, it's not because I'm the Mayor, you have to treat people well, it's because they're people. And this is the incident. "During the shift change, Mr. Rivera receives the call from Mrs. Carmen Yulin, in reference to which doctor comes in turn from 11:00 to 7:00.

My action was to notify Dr. López Mieres." Of course he does not know that I just fired Dr. Lopez Mieres, because that did not concern anyone. But as here the gossip abounds. This is the hospital ... you go up from one floor to another - and I've done it - I said something in the emergency room and when I get to the fourth floor the story is different. I have done it. "My action was to notify Dr. López Mieres, asking who was on duty. The action taken by Dr. Lopez Mieres was the following and he hung up the phone without answering it. The doctor left the area without saying anything else. Signed Juan Rivera Dávila. " So probably the gossip was that the Mayor called here and did not like how they answered and the doctor hung up the phone and she threw it away. Because as the Mayor is so impetuous, which would not say of a man, but as we are women, we are impetuous. If we were men we would have the "bodrogos" well placed. The day I arrived here ... Is there someone from pediatrics? Doctors of pediatrics? You who have the stethoscope on. When you ask for a CBC of a baby that has just been born, you can presume me as someone who does not medicine, that is because you are looking for something. Is not it? And you should need the CBC fast, right. How?

...

MRS. CARMEN YULIN: So when they are summoned to faculty meetings, to question the Mayor's decisions about Dr. López Mieres and Dr. Chenar Martínez, know that the Mayor has what it is for the benefit and welfare of you, in the first instance. And that the motivations of those who are quoting them, is also saving their own skin. Because they are being subject to disciplinary actions for not performing their job as they have to do. That they did not tell you. If while I am Mayor, I will arrive at the hospital at 3:00 in the morning. While I am Mayor, people are not going to be treated like animals. While I am Mayor, the nurses and nurses will not be treated as less. And to doctors and doctors, they will not be treated as less. Your name I forgot. No, hers

...

MRS. CARMEN YULIN CRUZ: As they hear it... That is, already that is stipulated. If you think that is not important, then I wonder if you should be in this hospital. No one is obligated to work here. Human beings always have a choice. But while you work here, they will treat you with dignity. And my job is to make sure that happens with all human beings. Be a person with morbid obesity, be a person abandoned in your home, be a person who enters here to have plastic surgery. I am transparent. There are things, doctors and doctors, that do not they can say publicly. That does not mean that we do not handle them. Be careful who takes them to drink in the river, because the water may be infected. And you can be an extraordinary human being, I believe that Dr. Lopez Mieres is. He can be a great doctor, I believe that Dr. Lopez Mieres is. But he commits an unforgivable mistake and my job as Mayor, is to look over my personal considerations and make the decisions that are good for the greatest number of people. I want someone to raise their hand and tell me if you would get a call from the patient's attorney saying that a facility doctor that you are ultimately responsible tells a patient with morbid obesity and tells you there is to take her to the Hippodrome to do an exam. If you believe that a simple letter of disciplinary

action ... And admit it, the doctor. I did not take the word of the attorney, I called the doctor. A simple letter of do not do it again, was enough....So Dr. Martín called a meeting about an emergency situation to discuss what was happening with Dr. Chenar Martínez and the doctor ... what happened with Dr. López Mieres. Here it is...So my request to the medical faculty, is that when they have questions about decisions that I make, ask me, I gladly meet with all of you and give you all the details. I greatly regret the attempt to make this meeting behind my back to question my decisions, which I have the power to take...

FEMALE VOICE: I have never heard it.

MALE VOICE: No, it's that I wanted to clarify something. (...) of the technical part of the MRI, (...) that can not, people (...) obese, can not be used and was used in a derogatory way, because, you mean a person to send it to the Hippodrome, well, that's a derogatory way, but ...

MRS. CARMEN YULIN CRUZ: Tell me in what way it is correct to tell someone that he has to go to the Hippodrome, that he is not derogatory, doctor.

MALE VOICE: What we do not want to infer is ...

MRS. CARMEN YULIN CRUZ: Let me clarify, because maybe you do not know. The patient's attorney found that San Juan MRI and San Patricio MRI accept people with morbid obesity.

MALE VOICE: That is the part that one has to give oneself to the task of ...

MRS. CARMEN YULIN CRUZ: Clear. If you want to do your job, but if you want to tap right away, and send it to (...). There is no way you can tell a person that he has to go to the Hippodrome and that he is not derogatory. I mean, there's someone here, someone else besides the doctor who thinks there's a way to say that so it does not sound insulting. He who believes it comes to see me after the ..., whoever sees it, comes to see me after the meeting, because he certainly has to plant his flowers in another garden, this is not the place for you. If you try to justify that, this is not the place for you. Not while I'm Mayor. He has every right to believe it, and there will be other hospitals where he allows you, doctor, to tell him he has to go to the Hippodrome. There's no way that does not sound derogatory. There is a way, well, whoever believes that, and I see (...) I gladly attend to them and find another garden where they can plant their flowers. This is not the garden. I appreciate your courage, but if you understand that, this is not the place for you.

MALE VOICE: I'm not saying that ...

MRS. CARMEN YULIN CRUZ: Doctor, you're walking a fine line. You tell me. Be careful that is the State Insurance Fund, which is not in very good condition to enter the patient, all the kids were taken away. We're.

FEMALE VOICE: Yes, we are.

MRS. CARMEN YULIN CRUZ: Good afternoon.”

46. On December 20th, 2017, Marta Vera Ramírez, Esq., as the Director of “Oficina de Administración de Recursos Humanos y Relaciones Laborales” of Defendant, the Municipality of San Juan drafted another letter, directed to Plaintiff, Dr. López-Mieres, that in its pertinent parts reads as follows:

“By communication of August 23, 2017, we notified you of the intention to dismiss you from your position as the Medical Administrator of the Municipal Hospital of San Juan. We impute to you to having exhibited a deviant character to the values and principles of rectitude, moral and public ethics that we must observe those that we work in the municipal public sector. This, by admitting to the mayor, Hon. Carmen Yulín Cruz Soto, that you told the Patients’ Prosecutor in relation to a patient with morbid obesity who could only do a study like "taking her to the Hippodrome. You had the opportunity to present your version in an informal administrative hearing before the Examining Officer, Anibelle Sloan Altieri, Esq. which was held on August 30, 2017. In her report the Examining Officer corroborated that you incurred the following disciplinary infractions:...

The charges against you were confirmed by the admission you made to the Mayor, put into question your performance as a municipal public servant and detract from the principles of rectitude, moral and public ethics that we must be observed by those who work in the municipal public sector.

I conclude that you did not present any evidence to refute the charges against you. Your expression towards the patient of morbid obesity, "as one can only do a study is taking it to a Hippodrome", of its face is offensive, mocking and denigrating which I will not condone.

Therefore, on behalf of the Nominating Authority, in the exercise of the legal faculty that has been delegated to me by Executive Order No.: MSJ-046 of September 9, 2013 and by virtue of the provisions of Article 11.012 of the Law No.: 81 supra and of Article 4.09 of the Regulation of Conduct and Disciplinary Measures of the Municipality of San Juan, I notify you that effective as of December 20, 2017, you are dismissed from your position as Medical Administrator of the Municipal Hospital of San Juan."

III. CAUSES OF ACTION

47. The allegations contained in the preceding paragraphs are adopted by reference as these may be applicable, and as if fully reproduced herein.
48. At all times, material to this complaint, Defendants acted under color of the statutes, regulations, customs, usage and ordinances of the Commonwealth of Puerto Rico and of the Municipality of San Juan.
49. Defendants, in concert, intentionally, maliciously or with deliberate indifference and callous disregard of Plaintiff's rights, and discharged Plaintiff, Dr. López-Mieres in retaliation for the public comment he made as citizen addressing matters of public concern.
50. The charges against Plaintiff, Dr. López-Mieres are not only untrue, but do not support a discharge and the sole reason for his discharge was in retaliation for his previous comments protesting the dismissal of his fellow employee, while Plaintiff was acting as a concerned citizen and while he was addressing matters of public concern, for being an attending physician at the Defendant, the Municipality of San Juan's Municipal Hospital.
51. Defendants, while acting in concert, intentionally, maliciously or with deliberate indifference and callous disregard of Plaintiff's rights, deprived Plaintiff, Dr. López-Mieres of his right to free speech, freedom of association, due process of law and equal protection under the laws, rights that are protected by the First and Fourteenth Amendments of the Constitution of the United States of America, and any other constitutional clause that protects Plaintiff the fact of this case.
52. All of the Defendants are responsible for the damages caused because of their retaliatory conduct pursuant to Title 42 U.S.C. § 1983.
53. Defendants, while acting in concert, intentionally, maliciously or with deliberate indifference and callous disregard of Plaintiff's rights, conspired to deprive Plaintiff, Dr. López-Mieres of

his constitutional rights. Therefore, all Defendants are jointly and severally responsible to the Plaintiff, Dr. López-Mieres for the damages caused because of their illegal actions under Title 42 U.S.C. § 1985.

54. Defendants, in concert, intentionally, maliciously or with deliberate indifference and callous disregard of Plaintiff's rights, deprived Plaintiff, Dr. López-Mieres of his right to free speech, freedom of association, due process of law and equal protection under the law protected by Article II, §§ 1,4, 6 and 7 of the Constitution of the Commonwealth of Puerto Rico.
55. All of the Defendants, by the acts described above, intentionally and/or negligently, have caused damages to the Plaintiff, Dr. López-Mieres for which they are all responsible to him under Articles 1802 and 1803 of the Civil Code of Puerto Rico, 31 L.P.R.A. §§ 5141 and 5142, which govern general tort actions.
56. All of the Defendants, by the acts described above, intentionally and/or negligently, have caused damages to the Plaintiff Dr. López-Mieres for which they are all responsible to him under Law No. 426 of Nov 7th, 2000, 1 L.P.R.A. § 601 et seq., which provides a cause of action for any public employee retaliated against for denouncing illegal acts.
57. All of the Defendants, by the acts described above, intentionally and/or negligently, have caused damages to the Plaintiff Dr. López-Mieres for which they are all responsible to him under Law No. 14 of April 11th, 2001, which provides a cause of action for any person retaliated against for denouncing acts of governmental corruption.
58. All of the Defendants, by the acts described above, intentionally and/or negligently, have caused damages to the Plaintiff Dr. López-Mieres for which they are all responsible to him under Law No. 115 of December 20th, 1991, also known as "Ley de Represalias", which provides a cause of action for any employee retaliated against by the employer for filing a complaint before an administrative agency.

59. All of the Defendants, by the acts described above, violated Articles 11.004, 11.010, 11.012 of the “Autonomous Municipalities Act, Law No. 81 of August 30, 1991, 21 L.P.R.A. §§ 4554, 4560, 4562, which govern the statutory scheme for all the personnel transactions in the Municipalities.
60. Defendant, Municipality of San Juan is totally responsible for the illegal action of its officers.
61. The individual Defendant is liable in her personal capacity for her own illegal acts and she is also responsible for all Plaintiff’s damages, economic loss, suffering and mental anguish, and any physical and/or mental health detriment experienced by him.
62. As a result, of Defendants willful and unlawful conduct, Plaintiff, Dr. López-Mieres has suffered and is suffering mental anguish, loss of employment, economic loss, impairment of professional reputation, personal humiliation and indignity, embarrassment, fear, and anxiety.
63. Defendants’ retaliatory actions are the proximate cause of efficient cause of Plaintiff’s damages.
64. Plaintiff, Dr. López-Mieres’ damages, economic loss, mental suffering, and emotional anguish are estimated as of this date for compensation purposes, in not less than Five Hundred Dollars (\$500,000). The damages suffered by Plaintiff, Dr. López-Mieres increase day by day until the conditions caused by Defendants persist.
65. As a result of these facts, Plaintiff, Dr. López-Mieres has suffered damages that are reasonably estimated to be in the sum of Five Hundred Thousand Dollars (\$500,000), even though this sum of monies does not fully compensate for all the pain, suffering and anguish that Defendant currently feels, which have caused that, as a consequence of these incidents, his family peace and well being have been altered in an irremediable way.

IV. PRAYER

66. Plaintiff, Dr. Adolfo D. López-Mieres respectfully requests from this Honorable Court that:
- A. Plaintiff, Dr. López-Mieres' right to a jury trial be fully protected.
 - B. Declare that the conduct of Defendants was in violation of law and order the Defendants to stop and to cease all retaliatory acts, and to reinstate Plaintiff, Dr. López-Mieres to his position and duties in his employment in the Municipality of San Juan
 - C. Award to Plaintiff, Dr. López-Mieres all the damages to which he is entitled, including but not limited to, back pay, front pay, monetary and compensatory damages, damages for pain and suffering and liquidated damages, which are estimated in the sum of Five Hundred Thousand Dollars (\$500,000).
 - D. Award to Plaintiff, Dr. López-Mieres, such punitive damages for the intentional and retaliatory acts of Defendants.
 - E. Award to Plaintiff, Dr. López-Mieres reasonable attorney's fees, pursuant to Title 42 U.S.C. § 1988.
 - F. Award to Plaintiff, Dr. López-Mieres pre-judgment and post-judgment interests.
 - G. Award to Plaintiff, Dr. López-Mieres costs incurred and any other litigation related expenses.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, this 21st day of August, 2018.

s/
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