

UNITED STATES SENATE
COMMITTEE ON THE JUDICIARY

QUESTIONNAIRE FOR JUDICIAL NOMINEES

PUBLIC

1. **Name**: State full name (include any former names used).

Silvia Luisa Carreño-Coll

2. **Position**: State the position for which you have been nominated.

United States District Judge for the District of Puerto Rico

3. **Address**: List current office address. If city and state of residence differs from your place of employment, please list the city and state where you currently reside.

Office: United States District Court for the District of Puerto Rico
150 Carlos Chardón Avenue
San Juan, Puerto Rico 00918

Residence: Guaynabo, Puerto Rico

4. **Birthplace**: State year and place of birth.

1963; Santo Domingo, Dominican Republic

5. **Education**: List in reverse chronological order each college, law school, or any other institution of higher education attended and indicate for each the dates of attendance, whether a degree was received, and the date each degree was received.

1983 – 1986, University of Puerto Rico School of Law; J.D. (*cum laude*), 1986

1980 – 1983, Emerson College; B.A. (*cum laude*), 1983

1979 – 1980, University of Puerto Rico; no degree

6. **Employment Record**: List in reverse chronological order all governmental agencies, business or professional corporations, companies, firms, or other enterprises, partnerships, institutions or organizations, non-profit or otherwise, with which you have been affiliated as an officer, director, partner, proprietor, or employee since graduation from college, whether or not you received payment for your services. Include the name and address of the employer and job title or description.

2011 – present
United States District Court for the District of Puerto Rico
150 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
United States Magistrate Judge

1995 – 2011
United States Environmental Protection Agency
Caribbean Environmental Protection Division
Office of Regional Counsel
1492 Ponce de León Avenue, Suite 201
San Juan, Puerto Rico 00907
Associate Regional Counsel

1989 – 1995
United States Attorney's Office for the District of Puerto Rico
350 Carlos Chardón Avenue, Suite 1201
San Juan, Puerto Rico 00918
Assistant United States Attorney

1986 – 1989
Puerto Rico Department of Justice
Federal Litigation Division
Olimpo Street
San Juan, Puerto Rico 00907
Attorney

1984 – 1986
Ramírez & Ramírez Law Offices
115 Eleanor Roosevelt Avenue
San Juan, Puerto Rico 00918
Student Law Clerk

7. **Military Service and Draft Status:** Identify any service in the U.S. Military, including dates of service, branch of service, rank or rate, serial number (if different from social security number) and type of discharge received, and whether you have registered for selective service.

I have not served in the military. I was not required to register for selective service.

8. **Honors and Awards:** List any scholarships, fellowships, honorary degrees, academic or professional honors, honorary society memberships, military awards, and any other special recognition for outstanding service or achievement.

Dedication and Commitment to the Conservation of Natural Resources, Fish and Wildlife Service Recognition for Continued Support (2010)

Bronze Medal for Commendable Service, Environmental Protection Agency, for the Jimenez Creek Contamination Case (2008)

Outstanding Achievement in the Service of the United States Government New York Federal Executive Board, for the Puerto Rico Department of Education Asbestos Case (2006)

Certificate of Commendation for Outstanding Performance, United States Department of Justice, in Support of the Activities of the Environment and Natural Resources Division (2006)

Bronze Medal for Commendable Service, Environmental Protection Agency, for Outstanding Efforts to Reduce Environmental Stressors on Children's Health in Puerto Rico (2006)

Silver Medal for Superior Service, Environmental Protection Agency, for Exceptional Contribution to Reduce Discharge of Pollutants into Commonwealth of Puerto Rico Waters (2005)

Certificate of Commendation for Outstanding Performance, United States Department of Justice, in Support of the Activities of the Environment and Natural Resources Division (2004)

Bronze Medal for Commendable Service, Environmental Protection Agency, for non-Puerto Rico Aqueduct and Sewer Authority Safe Drinking Water Act Community Cases (2004)

Bronze Medal for Commendable Service, Environmental Protection Agency, for Outstanding Teamwork in Acquiring Access to the J&G Site for Purposes of Implementing a Lead Removal Action (2001)

Toxic Avenger Award, Environmental Protection Agency, for expanding the definition of release under the Comprehensive Environmental Response, Compensation, and Liability Act in the Puerto Rico Aqueduct and Sewer Authority Litigation (2000)

Regional Administrator's Team Award, Environmental Protection Agency, for Enforcement Activities Carried Out in Response to Releases and Violations of Emergency Response Requirements During and After Hurricane Georges (1999)

Certificate of Award for Sustained Superior Performance, Environmental Protection Agency (1998)

Outstanding Performance Rating for Noteworthy Contribution and Special Achievement, Environmental Protection Agency (1998)

Certificate of Award for Sustained Superior Performance, Environmental Protection Agency (1997)

Outstanding Performance Rating for Noteworthy Contribution and Special Achievement, Environmental Protection Agency (1997)

Certificate of Award for Sustained Superior Performance, Environmental Protection Agency (1996)

Outstanding Performance Rating for Noteworthy Contribution and Special Achievement, Environmental Protection Agency (1996)

Certificate of Appreciation for Noteworthy Contribution, Fish and Wildlife Service (1993)

Recognition for Outstanding Commitment to the Conservation of Our Natural Resources, Fish and Wildlife Service, Division of Law Enforcement (1993)

Commissioner's Special Citation for Exemplary Representation in the District Court for the District of Puerto Rico in a Medical Device Case, Food and Drug Administration (1993)

Gold Key Honor Society (1982 – 1983)

9. **Bar Associations:** List all bar associations or legal or judicial-related committees, selection panels or conferences of which you are or have been a member and give the titles and dates of any offices which you have held in such groups.

Federal Bar Association (2011 – present)

Puerto Rico Bar (Colegio de Abogados) (1987 – 2010)

10. **Bar and Court Admission:**

- a. List the date(s) you were admitted to the bar of any state and any lapses in membership. Please explain the reason for any lapse in membership.

Puerto Rico, 1987

There have been no lapses in membership.

- b. List all courts in which you have been admitted to practice, including dates of admission and any lapses in membership. Please explain the reason for any lapse in membership. Give the same information for administrative bodies that require special admission to practice.

United States Court of Appeals for the First Circuit, 1987
United States District Court for the District of Puerto Rico, 1987

There have been no lapses in membership.

11. **Memberships:**

- a. List all professional, business, fraternal, scholarly, civic, charitable, or other organizations, other than those listed in response to Questions 9 or 10 to which you belong, or to which you have belonged, since graduation from law school. Provide dates of membership or participation and indicate any office you held. Include clubs, working groups, advisory or editorial boards, panels, committees, conferences, or publications.

Common Cause for Paws
President and Founding Member (2012 – present)

- b. The American Bar Association's Commentary to its Code of Judicial Conduct states that it is inappropriate for a judge to hold membership in any organization that invidiously discriminates on the basis of race, sex, or religion, or national origin. Indicate whether any of these organizations listed in response to 11a above currently discriminate or formerly discriminated on the basis of race, sex, religion or national origin either through formal membership requirements or the practical implementation of membership policies. If so, describe any action you have taken to change these policies and practices.

To the best of my knowledge, this organization does not discriminate, currently or formerly, on the basis of race, sex, religion or national origin, either through formal membership requirements or the practical implementation of membership policies.

12. **Published Writings and Public Statements:**

- a. List the titles, publishers, and dates of books, articles, reports, letters to the editor, editorial pieces, or other published material you have written or edited, including material published only on the Internet. Supply four (4) copies of all published material to the Committee.

None.

- b. Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of on behalf of any bar association, committee, conference, or organization of which you were or are a member. If you do not have a copy of a report, memorandum or policy statement, give the name and address of the organization that issued it, the date of the document, and

a summary of its subject matter.

None.

- c. Supply four (4) copies of any testimony, official statements or other communications relating, in whole or in part, to matters of public policy or legal interpretation, that you have issued or provided or that others presented on your behalf to public bodies or public officials.

None.

- d. Supply four (4) copies, transcripts or recordings of all speeches or talks delivered by you, including commencement speeches, remarks, lectures, panel discussions, conferences, political speeches, and question-and-answer sessions. Include the date and place where they were delivered, and readily available press reports about the speech or talk. If you do not have a copy of the speech or a transcript or recording of your remarks, give the name and address of the group before whom the speech was given, the date of the speech, and a summary of its subject matter. If you did not speak from a prepared text, furnish a copy of any outline or notes from which you spoke.

During my tenure as a United States Magistrate Judge I have presided over 20 Naturalization Ceremonies in the United States District Court for the District of Puerto Rico. These ceremonies are not recorded or transcribed. I use a generic script at every ceremony and then modify my remarks based on the participation of the new citizens. Copy supplied.

August 2, 2019: Speaker, Visit to the Courthouse by Participants of the Federal Bureau of Investigations' Youth Academy, San Juan, Puerto Rico. We engaged in a question and answer session. I have no notes, transcript, or recording. The address of the Federal Bureau of Investigation is 935 Pennsylvania Avenue, N.W., Washington, D.C. 20535.

August 1, 2019: Speaker, Visit to the Courthouse of South American Judges, as part of the Office of Overseas Prosecutorial Development Assistance and Training of the United States Department of Justice, San Juan, Puerto Rico. I spoke to them about the effective management of caseloads. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530

July 8, 2019: Visit to the Courthouse by Participants of the Federal Bureau of Investigations' Teen Academy, San Juan, Puerto Rico. We engaged in a question and answer session. I have no notes, transcript, or recording. The address of the Federal Bureau of Investigation is 935 Pennsylvania Avenue, N.W., Washington, D.C. 20535.

July 3, 2019: Panelist, Ethical Considerations and the Role of Law Clerk, United States District Court for the District of Puerto Rico, San Juan, Puerto Rico. I was part of a panel with Honorable Aida Delgado-Colón and Honorable Gustavo A. Gelpí, Chief Judge of the United States District Court for the District of Puerto Rico, to summer intern law clerks. I have no notes, transcript, or recording. The address of the United States District Court for the District of Puerto Rico is 150 Carlos Chardón Avenue, San Juan, Puerto Rico 00918.

June 18, 2019: Speaker, Criminal Proceedings, Summer Program, United States Probation Office, San Juan, Puerto Rico. I summarized for the students the criminal process in the federal system. I have no notes, transcript, or recording. The address of the Office of Probation and Pretrial Services, Administrative Office of the United States Courts, is 1 Columbus Circle, N.E., Washington, D.C. 20002.

May 9, 2019: Speaker, Visit to the Courthouse by Students from National University College, San Juan, Puerto Rico. I spoke to them about the role of magistrate judges. I have no notes, transcript, or recording. The address of National University College is Calle Manuel Pérez Avilés, Arecibo, Puerto Rico 00612.

June 5 – 7, 2018: Panelist, Role of the Factfinder in the Criminal Justice System, Office of Overseas Prosecutorial Development Assistance and Training, Department of Justice, Mexico City, Mexico. Copy supplied.

May 8, 2018: Speaker, Visit to the Courthouse by Students from the Interamerican University School of Law, San Juan, Puerto Rico. I talked about the role of magistrate judges and the judiciary. I have no notes, transcript, or recording. The address of the Interamerican University of Puerto Rico is 351 Calle Galileo, San Juan, Puerto Rico 00927.

March 1, 2018: Panelist, Cybercrimes, Homeland Security Investigations, United States Department of Homeland Security, María Reina Academy, Rio Piedras, Puerto Rico. I spoke to the students about the definitions of cyberbullying, child pornography, and other cybercrimes. I have no notes, transcript, or recording. The address of the Department of Homeland Security is 3801 Nebraska Avenue, N.W., Washington, D.C. 20016.

August 4, 2017: Speaker, Visit to the Courthouse of South American Judges, as part of the Office of Overseas Prosecutorial Development Assistance and Training of the United States Department of Justice. I spoke to them about the role of magistrate judges and the Judicial Branch. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

March 22, 2017: Instructor, Investigations Citizens' Academy, Homeland

Security Investigations, United States Department of Homeland Security, San Juan, Puerto Rico. At the end of the program the citizens visit the courthouse and participate in a moot initial appearance, detention hearing and the presentation of a case in its initial stages. I have no notes, transcript, or recording. The address of the Department of Homeland Security is 3801 Nebraska Avenue, N.W., Washington, D.C. 20016.

March 10, 2016: Instructor, Investigations Citizens' Academy, United States Department of Homeland Security. At the end of the program the citizens visit the courthouse and participate in a moot initial appearance, detention hearing and the presentation of a case in its initial stages. I have no notes, transcript, or recording. The address of the Department of Homeland Security is 3801 Nebraska Avenue, N.W., Washington, D.C. 20016.

August 26, 2015: Speaker, Colegio Marista, Outreach Program of the United States Probation Office, Guaynabo, Puerto Rico. A United States probation officer and I spoke to the student body about cybercrimes and the responsible use of social media. I have no notes, transcript, or recording. The address of the Office of Probation and Pretrial Services, Administrative Office of the United States Courts, is 1 Columbus Circle, N.E., Washington, D.C. 20002.

June 29, 2015: Speaker, Visit to the Courthouse of South American Judges, as part of the Office of Overseas Prosecutorial Development Assistance and Training of the United States Department of Justice, San Juan, Puerto Rico. I spoke to them about the role of magistrate judges. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

May 11, 2015: Speaker, Central American Wildlife Enforcement Workshop, United States Department of the Interior, Dominican Republic. Copy supplied.

June 24, 2015: Speaker, Visit to the Courthouse by Students from Programa Enlace of the University of Puerto Rico, San Juan, Puerto Rico. I spoke to them about the role of magistrate judges and the judiciary. I have no notes, transcript, or recording. The address of the University of Puerto Rico Law School is 7 Avenida Universidad, Suite 701, San Juan, Puerto Rico 00925.

March 27, 2015: Speaker, Visit to the Courthouse by Students from Carlos Beltran Baseball Academy, San Juan, Puerto Rico. I spoke to them about the role of magistrate judges and the judiciary. I have no notes, transcript, or recording. The address of the Carlos Beltran Baseball Academy is PR Road 6642, Km. 2.0, Florida, Puerto Rico 00650.

March 3, 2015: Panelist, Current Practice of Maritime Law, Federal Bar Association Admiralty Law Section and Puerto Rico Chapter, San Juan, Puerto Rico. Copy supplied.

October 4, 2014: Speaker, Visit to the Courthouse by University of Puerto Rico School of Law Students, San Juan, Puerto Rico. I talked to them about the role of magistrate judges and the judiciary. I have no notes, transcript, or recording. The address of the University of Puerto Rico Law School is 7 Avenida Universidad, Suite 701, San Juan, Puerto Rico 00925.

June 3, 2014: Speaker, Central American Wildlife Enforcement Workshop, United States Department of the Interior, Panama City, Panama. Copy supplied.

October 18, 2013: Speaker, Visit to the Courthouse of South American Judges, as part of the Office of Overseas Prosecutorial Development Assistance and Training of the United States Department of Justice, San Juan, Puerto Rico. I spoke to them about the role of magistrate judges. I have no notes, transcript, or recording. The address of the Department of Justice is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

March 15, 2013: Speaker, Visit to the Courthouse of Students from the Interamerican University Criminal Justice Program, San Juan, Puerto Rico. I spoke in a question and answer format to the students about the judiciary. I have no notes, transcript, or recording. The address of the Interamerican University of Puerto Rico is 351 Calle Galileo, San Juan, Puerto Rico 00927.

December 6, 2012: Judge, Moot Court, University of Puerto Rico School of Law, San Juan, Puerto Rico. I presided over the moot court and gave feedback to the students regarding their participation. I have no notes, transcript, or recording. The address of the University of Puerto Rico Law School is 7 Avenida Universidad, Suite 701, San Juan, Puerto Rico 00925.

November 29, 2012: Speaker, University of Puerto Rico, San Juan, Puerto Rico. I was invited with other federal judges to motivate law students to take the Federal Bar Examination in the District of Puerto Rico after graduation. I have no notes, transcript, or recording. The address of the University of Puerto Rico Law School is 7 Avenida Universidad, Suite 701, San Juan, Puerto Rico 00925.

September 13, 2012: Panelist: Reflections on a Career as a Government Attorney and Life on the Federal Bench, Federal Bar Association, San Juan, Puerto Rico. District Judge Gustavo A. Gelpí and I spoke and conducted a question and answer session on our experience. I have no notes, transcript, or recording. The address of the Federal Bar Association, Puerto Rico, is 1225 Ponce de León Avenue, San Juan, Puerto Rico 00907.

May 9, 2012: Speaker, Visit to the Courthouse by Students of American Military Academy, San Juan, Puerto Rico. I addressed the group regarding the role of the magistrate judges and criminal proceedings. I have no notes, transcript, or recording. The address of American Military Academy is Carretera 177 (Avenida

Lomas Verdes), km. 6.8, Guaynabo, Puerto Rico 00969.

April 30, 2012: Speaker, Visit to the Courthouse by Students from María Reina Academy, San Juan, Puerto Rico. I spoke about the role of magistrate judges. I have no notes, transcript, or recording. The address of María Reina Academy is 1879 Avenida Glasgow, San Juan, Puerto Rico 00921.

April 25, 2012: Speaker, Visit to the Courthouse by Senior Students of American Military Academy, San Juan, Puerto Rico. I addressed the group regarding the role of the magistrate judges and criminal proceedings. I have no notes, transcript, or recording. The address of American Military Academy is Carretera 177 (Avenida Lomas Verdes), km. 6.8, Guaynabo, Puerto Rico 00969.

March 23, 2012: Speaker, Visit to the United States Border Patrol Officers, Aguadilla, Puerto Rico. I spoke about the role of magistrate judges during preliminary proceedings. I have no notes, transcript, or recording. The address of the United States Border Patrol, United States Customs and Border Protection, is 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229.

February 10, 2012: Speaker, Visit to the Courthouse by the Boy Scouts of America, San Juan, Puerto Rico. I addressed the group regarding the role of the magistrate judges and criminal proceedings. I have no notes, transcript, or recording. Press report supplied. The address of the Boy Scouts of America is Post Office Box 152079, Irving, Texas 75015.

September 16, 2011: Speaker, Investiture Ceremony for Silvia L. Carreño-Coll, United States Magistrate Judge for the District of Puerto Rico, San Juan, Puerto Rico. Copy supplied.

- e. List all interviews you have given to newspapers, magazines or other publications, or radio or television stations, providing the dates of these interviews and four (4) copies of the clips or transcripts of these interviews where they are available to you.

Melissa Correa Velázquez, "*Causa Común por los Animales*," El Vocero, Dec. 25, 2018. Copy supplied.

"*Privilegio bien Ganado*," El Vocero, Oct. 9, 2011

Limarys Suárez Torres, "*Juramenta Carreño-Coll como Magistrado Federal*," El Nuevo Día, Sep. 17, 2011. Copy supplied.

13. **Judicial Office:** State (chronologically) any judicial offices you have held, including positions as an administrative law judge, whether such position was elected or appointed, and a description of the jurisdiction of each such court.

From September 11, 2011, to the present, I have served as a full-time United States Magistrate Judge. I handle criminal and civil matters in accordance with 28 U.S.C. § 636, and other duties as authorized by the District of Puerto Rico Local Rule 159. I preside over jury and non-jury trials. I have handled complex evidentiary issues, including patent infringement *Markman* hearings; *Daubert* hearings, and *Franks* hearings, among others. I regularly conduct initial scheduling conferences, settlement conferences and mediations in civil cases and initial appearances, arraignments, bail hearings, suppression hearings, *Foster* hearings, and *Nebbia* hearings in criminal cases. I conducted a foreign national transfer hearing in Venezuela and have written multiple reports and recommendations and opinions and orders on a myriad of issues, some of which have been published.

- a. Approximately how many cases have you presided over that have gone to verdict or judgment?

I have presided over 15 cases that have gone to verdict or judgment from 2011 to the present.

- i. Of these, approximately what percent were:

jury trials:	67 %
bench trials:	33 % [total 100%]
civil proceedings:	93 %
criminal proceedings:	7 % [total 100%]

- b. Provide citations for all opinions you have written, including concurrences and dissents.

From September 11, 2011, to July 31, 2019, the court's case management electronic filing system (CM/ECF) reports that I have entered 3,118 orders in civil cases, 195 reports and recommendations in civil cases, 1,356 orders on miscellaneous matters, 25,976 orders in criminal cases, and 1,714 reports and recommendations in criminal cases. From September 11, 2011, to September 16, 2019, a Westlaw search identifies 219 cases and Lexis identifies 497 cases. These numbers include reported and unreported opinions and orders. Copies of those search results are attached as Appendix 13(b).

- c. For each of the 10 most significant cases over which you presided, provide: (1) a capsule summary of the nature the case; (2) the outcome of the case; (3) the name and contact information for counsel who had a significant role in the trial of the case; and (3) the citation of the case (if reported) or the docket number and a copy of the opinion or judgment (if not reported).

1. *Quiles-Velar v. Ox Bodies, Inc.*, No. CV-12-1780, 2015 WL 898255 (D.P.R.), *aff'd*, 823 F.3d 712 (1st Cir. 2016)

I sat on this case on diversity jurisdiction for an action filed by the surviving family members of a victim of a car crash. They sued Ox Bodies, designers and manufacturers of an underride guard of a truck, and the Municipality of San Juan for parking the truck in the shoulder of a street. The jury trial lasted three weeks with expert testimony on product liability and accident reconstruction. The verdict was in favor of the plaintiffs with a \$6 million award. The core of the legal issue on appeal was the apportionment of damages and the issue of solidarity among the joint tortfeasors. The Court of Appeals for the First Circuit certified the matter to the Supreme Court of Puerto Rico, which issued an opinion interpreting the Civil Code statute in accordance with my rulings. The verdict was affirmed, as was my order regarding post-judgment apportionment issues.

Counsel for Plaintiff:

Francisco E. Colón-Ramirez
Colon Ramirez LLC
Post Office Box 361920
San Juan, Puerto Rico 00936
(939) 389-6062

Counsel for Defendants:

David W. Roman
Ubarri & Roman Law Office
Post Office Box 79564
Carolina, Puerto Rico 00984
(787) 945-5900

2. *Suero-Algarin, et al. v. HIMA San Pablo Caguas, et al.*, No. CV-14-1508 (D.P.R.)

This medical malpractice suit, tried before a jury, involved complex evidentiary issues regarding the expert witnesses. The verdict was returned in favor of the plaintiffs. A special verdict form was prepared for the jury to apportion damages among the defendants. The case is pending appeal and raises issues of apportionment of damages among the joint tortfeasors and whether the court of appeals may modify the allocation of damages by a jury based on vicarious liability imposed on the hospital for the actions of its agents. Judgment supplied.

Counsel for Plaintiff:

Pedro F. Soler-Muñiz
1357 Ashford Avenue
Private Mailbox Number 106
San Juan, Puerto Rico 00907
(787) 774-6522

Counsel for Defendants:

Roberto E. Ruíz-Comas
RC Law and Litigation Services PSC
Doral Bank Building, Suite 801
33 Resolución Street
San Juan, Puerto Rico 00920
(787) 507-4950

3. *Santiago-Ramos, et al. v. Autoridad de Energía Eléctrica de Puerto Rico*, No. CV-11-1987, 2015 WL 846750 (D.P.R. Feb. 26, 2015), *adopted* 2015 WL 1416745 (D.P.R. Mar. 27, 2015), *aff'd* 834 F.3d 103 (1st Cir. 2016)

Plaintiffs filed this class action on behalf of approximately 1.5 million residents of Puerto Rico who are customers of the defendant. They claimed that the defendant's subsidies to municipalities violate the Takings Clause of the United States Constitution, and deprive plaintiffs of their rights in violation of procedural due process. On referral by the presiding judge, I issued a report and recommendation for summary disposition of the action finding that the plaintiffs did not identify a valid property interest, and therefore lacked standing. The presiding judge adopted the report and recommendation. Plaintiffs appealed and the Court of Appeals for the First Circuit affirmed.

Counsel for Plaintiffs:

Luis R. Rivera-Rodríguez
Luis Rafael Rivera Law Office
Capital Center Building, Suite 401
239 Arterial Hostos
San Juan, Puerto Rico 00918
(787) 763-1780

Counsel for Defendant:

Fernando J. Fornaris-Fernández
Cancio, Nadal, Rivera & Díaz
Post Office Box 364966
San Juan, Puerto Rico 00936
(787) 767-9625

4. *Colón Velázquez v. Medtronic, Inc.*, No. CV-13-1569 (D.P.R.)

This was an age discrimination action tried before a jury in a trial that lasted three weeks. The case presented discovery issues including allegations of spoliation that I ruled upon by way of orders *in limine*. The jury rendered a verdict for defendant. The plaintiff appealed but later moved for voluntary dismissal. Judgment supplied.

Counsel for Plaintiff:

Juan R. González-Muñoz

González Muñoz Law Offices, P.S.C.
Post Office Box 9024055
San Juan, Puerto Rico 00902
(787) 766-5052

Counsel for Defendant:

Gregory T. Usera
Usera, Figueroa & Giner, P.S.C.
Post Office Box 9022487
San Juan, Puerto Rico 00902
(787) 725-3741

5. *Caro Bonet, et al. v. Lotus Management LLC. et al.*, No. CV-15-2106
(D.P.R.)

This case was originally scheduled to be tried before a colleague magistrate judge who suffered a back injury on the eve of trial. I was asked by the chief judge to preside over the case because the parties had traveled from out of town and were already in the jurisdiction. I prepared over the weekend and presided over the four-day trial. It involved a breach of contract that caused damages to plaintiffs. The jury ruled in favor of the plaintiffs. No appeal was taken. Judgment supplied.

Counsel for Plaintiffs:

John E. Mudd
John E. Mudd Law Office
Post Office Box 194134
San Juan, Puerto Rico 00919
(787) 413-1673

Counsel for Defendants:

Michelle Pirallo-Di Cristina
Michelle Pirallo-Di Cristina Law Offices
Post Office Box 192321
San Juan, Puerto Rico 00919
(787) 777-3377

6. *Correa-Zayas v. Miranda Menchaca, et al.*, No. CV-15-1585 (D.P.R.)

Plaintiff filed an action for damages suffered when defendants' dog, while being walked by defendants' minor daughter, bit plaintiff in the face, causing him severe injuries. Because I was sitting on diversity, I had to apply the Puerto Rico Civil Code and jurisprudence regarding the parents' vicarious liability for both their daughter's and the dog's actions. The jury ruled in favor of the plaintiff. The biggest challenge this case presented was the interpretation of the statutes to properly prepare a verdict form in agreement with the rule of law. No appeal was

taken. Judgment supplied.

Counsel for Plaintiff:

Judith Berkan
Berkan & Méndez
O'Neill Street G-11
San Juan, Puerto Rico 00918
(787) 764-0814

Counsel for Defendants:

Jose J. Lamas-Rivera
Andreu & Sagardia Law Office
261 Domenech Avenue
San Juan, Puerto Rico 00918
(787) 754-1777

7. *García Feliciano v. United States*, No. CV-12-1959, 101 F. Supp. 3d 142 (D.P.R. 2015)

This was a Federal Tort Claim Act action against the United States. The plaintiff, brought to the U.S. Courthouse for sentencing, restrained in handcuffs and leg irons and under the custody of the U.S. Marshals Service, tripped and fell going down the stairs. After a one-day bench trial I ruled in favor of the United States, finding that the discretionary function exception to the FTCA barred the plaintiff's claims. No appeal was taken.

Counsel for the plaintiff:

Vladimir Mihailovich-Nikolich
86 White Cap Lane
Newport Beach, California 92657
(787) 299-2360

Counsel for the United States:

Lisa E. Bhatia-Gautier
United States Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 766-5656

8. *De Freitas-Vidal et al. v. St. Paul Fire and Marine Insurance Co. et al.*, No. CV-10-1360 (D.P.R.)

Plaintiff filed this action on behalf of herself and her minor daughter for the damages they suffered as a result of defendants' negligence when the girl was born. The case presented a large exposure for the hospital, doctors, nurses and the

insurance companies since the minor is completely impaired. After a series of settlement conferences, an agreement was reached, dispositive of all matters asserted in the complaint, that provided for structured payments that will cover the expenses for the minor's care during her lifespan. I retained jurisdiction to enforce the terms of the settlement. Judgment supplied.

Counsel for Plaintiffs:

Luis G. Martínez-Llorens
1225 Ponce de León Avenue
VIG Tower, Suite 1406
San Juan, Puerto Rico 00907
(787) 725-1012

Counsel for Defendants:

Doris Quiñones-Tridas
Quinoñes-Tridas Law Office, PSC
33 Resolución Street, Suite 802
San Juan, Puerto Rico 00920
(787) 977-2410

9. *Guy Barlow, et al. v. United States*, No. CV-09-2046 (D.P.R.)

A Federal Tort Claims Act action was instituted by the plaintiff and his wife for damages suffered while he was imprisoned. After a delicate urological surgery, the plaintiff was returned to the Metropolitan Detention Center to continue serving his 24-month sentence. Contrary to medical orders, the plaintiff was not administered antibiotics, was not taken to the medical ward, and was not changed from the upper bunk of his cell. Because of these actions, plaintiff's wound opened and became infected, requiring a second surgery that rendered the plaintiff mutilated and impotent. After a two-day bench trial, I ruled in favor of plaintiffs, finding the United States' defense that plaintiff was malingering and causing his own injuries for profit was not plausible. An appeal was not taken. Judgment supplied.

Counsel for Plaintiff:

Michelle Annet Ramos-Jiménez
Luis Rafael Rivera Law Office
Capital Center, South Tower, Office 401
239 Arterial Hostos
San Juan, Puerto Rico 00918
(787) 763-1780

Counsel for the United States:

Rebecca Vargas-Vera
United States Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201

350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 766-5656

10. *United States v. Raymar Lucena-Rivera*, No. CR-12-733 (D.P.R.)

The defendant, while serving a 17-year sentence for money laundering associated with drug trafficking, was found in possession of three cellular phones and two SIM cards in his prison cell. He was charged with possession of contraband in prison. After some procedural issues, including a mistrial, a bench trial was held and the defendant was found guilty and sentenced to two months to be served consecutive to his sentence, and a fine was imposed because defendant had the means to pay the fine even in prison. An appeal was filed and later voluntarily dismissed. Judgment supplied.

Counsel for the United States:

Michael C. Bagge
United States Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 766-5656

Counsel for the Defendant:

Peter Díaz-Santiago
Private Mailbox Number 301
220 Manuel Domenech Avenue
San Juan, Puerto Rico 00918
(787) 414-3214

- d. For each of the 10 most significant opinions you have written, provide: (1) citations for those decisions that were published; (2) a copy of those decisions that were not published; and (3) the names and contact information for the attorneys who played a significant role in the case.

1. *Kenyon, et al. v. González del Rio*, No. CV-14-1516 (D.P.R.), Opinion and Order at Docket 243 pending appeal. Copy supplied.

Counsel for Plaintiffs:

Steven Brill
Sullivan & Brill, LLP
115 Broadway, 17th Floor
New York, New York 10006
(212) 566-1000

Counsel for Defendants:

Igor Domínguez-Pérez
Igor J. Domínguez Law Office
VIG Tower Suite 1105
1225 Ponce de León Avenue
San Juan, Puerto Rico 00907
(787) 250-0220

2. *Valdes, et al. v. United States*, No. CV-13-1606 (D.P.R.), 2015 U.S. Dist. LEXIS 31425, 2015 WL 1133137 (D.P.R. 2015), 657 F. App'x 3 (1st Cir. 2016).

Counsel for Plaintiffs:
Benjamin Morales-Del-Valle
Morales Morales Law Offices
Town Park Urbanization
A-1 Marginal Street 181
San Juan, Puerto Rico 00924
(787) 755-1570

Counsel for the United States:
Lisa E. Bhatia-Gautier
United States Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 766-5656

3. *United States v. Cordero-Rosario*, No. CR-11-556 (D.P.R.), Report and Recommendation at Docket No. 191, adopted by the Presiding District Judge at Docket No. 212, 252 F. Supp. 3d 79 (D.P.R. 2017)

Counsel for the United States:
Cristina Caraballo-Colón
U.S Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 766-5656

Counsel for Defendant:
Jose L. Nieto-Mingo
Nieto Mingo Law Offices
District View Plaza, Suite 301
644 Fernández Juncos Avenue
San Juan, Puerto Rico 00907
(787) 520-6064

4. *García-García et al. v. Costco Wholesale Corp.*, No. CV-14-1727, 2016 U.S. Dist. LEXIS 154455 (D.P.R. Nov. 7, 2016), *aff'd* 878 F. 3d 411 (1st Cir. 2017)

Counsel for Plaintiffs:

Jose G. Fagot-Díaz
Fagot Law Office
166 Presidente Ramírez Street, Apartment 2
Baldrich Urbanization
San Juan, Puerto Rico 00918
(787) 763-1351

Counsel for Defendant:

Vicente J. Antonetti
Goldman Antonetti & Córdova
Post Office Box 70364
San Juan, Puerto Rico 00936
(787) 759-4112

5. *EON Corp, IP Holdings, LLC v. AT&T Mobility LLC*, No. CV-11-1555 (D.P.R.), Report and Recommendation at Docket No. 120, adopted in part and rejected in part in Order at Docket No.157, 879 F. Supp. 2d 194 (D.P.R. 2012). Copy of Report and Recommendation supplied.

Counsel for Plaintiff:

Ian E. Cohen
Reed & Scardino LLP
301 Congress Avenue, Suite 1250
Austin, Texas 78701
(512) 474-2449

Counsel for Defendant:

Thomas W. Sankey
Duane Morris LLP
1330 Post Oak Boulevard, Suite 800
Houston, Texas 77056
(713) 402-3924

6. *Delgado, et al. v. Dorado Health, et al.*, No. CV-14-1735 (D.P.R.), Report and Recommendation on a *Daubert* expert witness exclusion issue at Docket No. 244 and Order adopting the Report and Recommendation at Docket No. 245. Copies supplied.

Attorney for Plaintiffs:

David C. Indiano-Vicic
Indiano & Williams, PSC

207 Del Parque Street, Third Floor
San Juan, Puerto Rico 00912
(787) 641-4545

Attorney for Defendants:

Michael C. McCall
Law Office of Michael C. McCall
Post Office Box 362634
San Juan, Puerto Rico 00936
(787) 232-4530

7. *United States v. López-Fernández et al.*, No. CR-14-156 (D.P.R.), Report and Recommendation at Docket No. 130. Copy supplied.

Counsel for the United States:

Daynelle María Alvarez-Lora
United States Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 282-1817

Counsel for defendants:

Peter Díaz-Santiago
Private Mailbox Number 301
220 Manuel Domenech Avenue
San Juan, Puerto Rico 00918
(787) 414-3214

8. *Grasis v. Win Access, Inc.*, No. CV-13-1226, 2017 WL 8950420 (D.P.R. Mar. 8, 2017), *adopted in part* 2017 WL 1187487 (D.P.R. Mar. 30, 2017).

Counsel for Plaintiffs:

Ricardo F. Casellas
Casellas, Alcover & Burgos PSC
Post Office Box 364924
San Juan, Puerto Rico 00936
(787) 756-1400

Counsel for Defendants

Ian P. Carvajal-Zarabozo
Saldana, Carvajal & Vélez-Rivé, PSC
166 Constitución Avenue
San Juan, Puerto Rico 00901
(787) 289-9250

9. *United States v. Arroyo-Medina*, No. CR-15-83 (D.P.R.), Report and Recommendation at Docket No. 31 and Order adopted at Docket No. 63. Copies supplied.

Counsel for the United States:

Daynelle María Alvarez-Lora
United States Attorney's Office, District of Puerto Rico
Torre Chardón, Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 282-1817

Counsel for Defendant:

Leonardo M. Aldridge
601 Del Parque Street, 7th Floor
San Juan, Puerto Rico 00909
(787) 370-9024

10. *Jiménez-Jiménez v. International Hospitality Group, Inc.*, No. CV-15-1461 (D.P.R.), Opinion and Order at Docket No. 86. Copy supplied.

Counsel for Plaintiff:

Manuel Duran-Rodríguez
Manuel Duran Law Office
1139 Américo Miranda Avenue
San Juan, Puerto Rico 00921
(787) 781-7373

Counsel for Defendant:

Robert A. Fleming
B5 Calle Tabonuco
Suite 216 Private Mailbox 275
Guaynabo, Puerto Rico 00968-3029
(787) 661-1994

e. Provide a list of all cases in which certiorari was requested or granted.

I have not identified any case in which certiorari was requested or granted.

f. Provide a brief summary of and citations for all of your opinions where your decisions were reversed by a reviewing court or where your judgment was affirmed with significant criticism of your substantive or procedural rulings. If any of the opinions listed were not officially reported, provide copies of the opinions.

1. *Alejandro-Ortiz, et al. v. Puerto Rico Elec. Power Auth.*, No. CV-10-1320,

908 F. Supp. 2d 290 (D.P.R. 2012), *rev'd in part* 756 F. 3d 23 (1st Cir. 2014)

Action for damages by a maintenance employee, his wife, and children when a low-hanging electric cable caused the plaintiff to suffer damages that rendered him disabled. The jury rendered a verdict in plaintiffs' favor. On appeal the Court of Appeals for the First Circuit reversed in part, vacated in part, and remanded on the issue of tolling of the plaintiff's wife's cause of action. I reviewed the judgment in accordance with the First Circuit's mandate.

2. *Grasis v. Win Access, Inc.*, No. CV-13-1226, 2017 WL 8950420 (D.P.R. Mar. 8, 2017), *adopted in part* 2017 WL 1187487 (D.P.R. Mar. 30, 2017)

The presiding judge adopted in part and rejected in part the Report and Recommendation at Docket Nos. 387 and 404. He rejected the portion pertaining to the insurance company's obligation to provide representation to the insured.

3. *United States v. Ortiz-Rijos*, No. CR-11-0276 (D.P.R.)

The presiding judge referred the matter for a preliminary hearing on revocation of supervised release for the defendant's failure to complete hours of unpaid community service. I issued a Report and Recommendation that the term of supervised release be extended to allow the defendant the opportunity to complete the hours. The recommendation was made considering the joint request of the parties. The presiding judge disagreed, rejected my recommendation, finding that it was outside the scope of the referral. Copies supplied.

- g. Provide a description of the number and percentage of your decisions in which you issued an unpublished opinion and the manner in which those unpublished opinions are filed and/or stored.

Unless an order is sealed, all opinions, orders, and reports and recommendations are available through PACER and the Court's CM/ECF system, and as selected are released to the public through such databases as Westlaw and LexisNexis. I have not issued unpublished orders or indicated that orders are not for publication.

- h. Provide citations for significant opinions on federal or state constitutional issues, together with the citation to appellate court rulings on such opinions. If any of the opinions listed were not officially reported, provide copies of the opinions.

As a United States Magistrate Judge, I handle many cases that raise constitutional claims, particularly, prisoner's *habeas* petitions under 28 U.S.C. §§ 2254 and 2255; claims under *Johnson v. United States*, 135 S. Ct. 2551 (2015), and the residual clause of the Armed Career Criminal Act. I also make the preliminary screening for the retroactive application of Amendment 782 to Policy Statement § 1B1.10(d). None of these, however, can be deemed significant opinions. The only significant opinion that I have written regarding a constitutional issue can be

found at *United States v. Cordero-Rosario*, No. CR-11-556, 2018 WL 8798610 (D.P.R. 2018).

- i. Provide citations to all cases in which you sat by designation on a federal court of appeals, including a brief summary of any opinions you authored, whether majority, dissenting, or concurring, and any dissenting opinions you joined.

I have not sat by designation on a federal court of appeals.

14. **Recusal:** If you are or have been a judge, identify the basis by which you have assessed the necessity or propriety of recusal (If your court employs an “automatic” recusal system by which you may be recused without your knowledge, please include a general description of that system.) Provide a list of any cases, motions or matters that have come before you in which a litigant or party has requested that you recuse yourself due to an asserted conflict of interest or in which you have recused yourself *sua sponte*. Identify each such case, and for each provide the following information:

- a. whether your recusal was requested by a motion or other suggestion by a litigant or a party to the proceeding or by any other person or interested party; or if you recused yourself *sua sponte*;
- b. a brief description of the asserted conflict of interest or other ground for recusal;
- c. the procedure you followed in determining whether or not to recuse yourself;
- d. your reason for recusing or declining to recuse yourself, including any action taken to remove the real, apparent or asserted conflict of interest or to cure any other ground for recusal.

As a United States Magistrate Judge, I follow the Code of Conduct for United States Judges. The Clerk of Court in the District of Puerto Rico maintains a list of conflicts for each judge. The automated system identifies potential conflicts and prompts an order of recusal in any case in which I have a financial conflict of interest; cases in which I have intervened as an attorney; or cases in which I have a personal conflict based on the parties or attorneys. I regularly review and update this list.

In the following cases I recused myself *sua sponte* because I worked on the matters as an attorney:

Marrero Rolón v. Autoridad de Energía Eléctrica, No. CV- 15-1167 (D.P.R.)

Southwire Co., et al., v. Ramallo Brothers Printing Inc., No. CV-03-1100 (D.P.R.)

In the following case I recused myself *sua sponte* because I had a conflict based

on familiarity with the attorney for one of the parties:

Silma Gautier v. Brennan, No. CV-17-2275 (D.P.R.)

In the following case I recused myself *sua sponte* because I had a conflict based on the plaintiff, who had threatened and stalked me and my staff after I dismissed a previous case he had filed *pro se*:

Pablo Enrique Rosado Sánchez v. Banco Santander Puerto Rico, No. CV-17-2169 (D.P.R.)

In the following case the defendant requested my recusal, making accusations after I ordered him committed for a mental competency evaluation. I did not find the recusal was warranted since the request was based on delusional statements made by someone who at present has been evaluated for mental competency in a federal institution:

United States v. Adam Strege, No. CR-19-1000 (D.P.R.), No. 19-1628 (1st Cir. 2019)

15. Public Office, Political Activities and Affiliations:

- a. List chronologically any public offices you have held, other than judicial offices, including the terms of service and whether such positions were elected or appointed. If appointed, please include the name of the individual who appointed you. Also, state chronologically any unsuccessful candidacies you have had for elective office or unsuccessful nominations for appointed office.

None.

- b. List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities.

None.

16. Legal Career: Answer each part separately.

- a. Describe chronologically your law practice and legal experience after graduation from law school including:
- i. whether you served as clerk to a judge, and if so, the name of the judge, the court and the dates of the period you were a clerk;

I did not serve as a clerk to a judge.

- ii. whether you practiced alone, and if so, the addresses and dates;

I have never practiced alone.

- iii. the dates, names and addresses of law firms or offices, companies or governmental agencies with which you have been affiliated, and the nature of your affiliation with each.

1984 – 1986
Ramírez & Ramírez Law Offices
115 Eleanor Roosevelt Avenue
San Juan, Puerto Rico 00918
Student Law Clerk

1986 – 1989
Puerto Rico Department of Justice
Federal Litigation Division
Olimpo Street
San Juan, Puerto Rico 00907
Attorney

1989 – 1995
United States Attorney's Office for the District of Puerto Rico
350 Carlos Chardón Avenue, Suite 1201
San Juan, Puerto Rico 00918
Assistant United States Attorney

1995 – 2011
United States Environmental Protection Agency
Caribbean Environmental Protection Division
Office of Regional Counsel
1492 Ponce de León Avenue, Suite 201
San Juan, Puerto Rico 00907
Associate Regional Counsel

- iv. whether you served as a mediator or arbitrator in alternative dispute resolution proceedings and, if so, a description of the 10 most significant matters with which you were involved in that capacity.

I have never served as a mediator or arbitrator.

b. Describe:

- i. the general character of your law practice and indicate by date when its

character has changed over the years.

The general character of my law practice has not changed in the sense that it has always been in public service. I was an attorney in the Federal Litigation Division of the Puerto Rico Department of Justice, where I mostly defended police officers and other government officials in 42 U.S.C. § 1983 cases and other actions against the government of Puerto Rico. In 1989 I was extended an offer to join the United States Attorney's Office for the District of Puerto Rico. In that office's Civil Division I defended Federal Officers from *Bivens* actions and defended the United States from tort actions. I also was assigned to prosecute civil actions filed by the United States to enforce environmental statutes. In the Criminal Division I was tasked with prosecuting all federal offenses, including narcotics, violent crimes, fraud, immigration, and environmental statutes. I also did appellate work as part of my duties. In 1995 I went to work for the U. S. Environmental Protection Agency, where I was tasked with enforcing environmental statutes via administrative, civil and criminal actions. I worked closely with the United States Department of Justice, the United States Attorney's Office for the District of Puerto Rico, and I was designated a Special Assistant United States Attorney for the prosecution of some cases.

- ii. your typical clients and the areas at each period of your legal career, if any, in which you have specialized.

From 1986 to 1989, when I worked for the Federal Litigation Division of the Puerto Rico Department of Justice, my client was the Government of Puerto Rico, its agencies and employees. From 1989 to 2011, when I worked for the United States Attorney's Office and the Environmental Protection Agency, my client was the United States, its agencies, officers, and employees.

- c. Describe the percentage of your practice that has been in litigation and whether you appeared in court frequently, occasionally, or not at all. If the frequency of your appearances in court varied, describe such variance, providing dates.

As an Assistant United States Attorney my appearances in Court were constant with a heavy caseload that entailed jury trials, bench trials and other hearings. As an Environmental Protection Agency Attorney and Special Assistant United States Attorney, the appearances were less frequent, and I had administrative litigation before the Environmental Protection Agency's Administrative Law Judges.

- i. Indicate the percentage of your practice in:
 - 1. federal courts: 60%
 - 2. state courts of record: 0%

- 3. other courts: 0 %
- 4. administrative agencies: 40 %

ii. Indicate the percentage of your practice in:

- 1. civil proceedings: 60 %
- 2. criminal proceedings: 40 %

- d. State the number of cases in courts of record, including cases before administrative law judges, you tried to verdict, judgment or final decision (rather than settled), indicating whether you were sole counsel, chief counsel, or associate counsel.

During my prejudicial career I tried approximately 18 cases to verdict or judgment. I was lead counsel in all of them except the first 4 cases that I tried in the Puerto Rico Department of Justice in which I was co-counsel.

i. What percentage of these trials were:

- 1. jury: 80 %
- 2. non-jury: 20 %

- e. Describe your practice, if any, before the Supreme Court of the United States. Supply four (4) copies of any briefs, amicus or otherwise, and, if applicable, any oral argument transcripts before the Supreme Court in connection with your practice.

I have not practiced before the Supreme Court of the United States.

17. **Litigation:** Describe the ten (10) most significant litigated matters which you personally handled, whether or not you were the attorney of record. Give the citations, if the cases were reported, and the docket number and date if unreported. Give a capsule summary of the substance of each case. Identify the party or parties whom you represented; describe in detail the nature of your participation in the litigation and the final disposition of the case. Also state as to each case:

- a. the date of representation;
- b. the name of the court and the name of the judge or judges before whom the case was litigated; and
- c. the individual name, addresses, and telephone numbers of co-counsel and of principal counsel for each of the other parties.

- 1. *United States v. 789 Cases of Latex Surgeon's Gloves*, 799 F. Supp. 1275 (D.P.R. 1992)

This case was an *in-rem* action against surgical devices manufactured in non-compliance with good manufacturing practices pursuant to the Food, Drug and Cosmetic Act. The manufacturer intervened, requesting the return of the lot, which was valued at over \$2 million. The United States had a heightened interest in this *in rem* action since the manufacturer had contracts with the Department of Defense. After a bench trial that extended over the course of a few months, the district court issued an opinion and order declaring the surgical devices adulterated and subject to forfeiture and destruction.

Date of representation: 1991 – 1992

Presiding Judge: Hon. Jaime Pieras, Jr.

Co-counsel:

Annamarie Kempic
Deputy Chief Counsel for Litigation
Food and Drug Administration
10903 New Hampshire Avenue
Silver Spring, Maryland 20993
(301) 796-8636

Opposing counsel:

Harry Anduze Montañó
1454 Fernandez Juncos Avenue
San Juan, Puerto Rico 00909
(787) 723-7171

2. *David Vega Mena v. United States*, 990 F.2d 684 (1st Cir. 1993)

Plaintiff, a security guard employed by a private company, was injured on the job at a United States naval station in Puerto Rico. He brought this negligence action against the United States after he collected benefits under Puerto Rico's workers' compensation system. I was the Assistant United States Attorney representing the United States and moved the court for summary disposition. The United States District Court for the District of Puerto Rico granted summary judgment in favor of the United States, finding that it was appellant's "statutory employer" and thus immune from suit under the Puerto Rico Workmen's Compensation Act. I also handled the appeal and argued the case before the Court of Appeals for the First Circuit, which affirmed the grant of summary judgment.

Date of representation: 1992 – 1993

Presiding Judges: Hon. Juan R. Torruella, Hon. Levin Campbell, Hon. Walter J. Skinner (sitting by designation from the District Court of Massachusetts)

Opposing counsel:

Eli B. Arroyo

Post Office Box 366829
San Juan, Puerto Rico 00936
(787) 753-1767

3. *United States v. Members of the State of Luis Boothby*, 16 F.3d 19 (1st Cir. 1994)

I was the Assistant United States Attorney representing the United States Corps of Engineers in an action to remove floating structures that constituted obstructions to navigation under the Rivers and Harbors Act. The owners argued the structures were houseboats, therefore eluding the jurisdiction of the Corps. After a bench trial, the Court issued an opinion declaring the structures unseaworthy and obstructions to navigation. I was also responsible for the appeal and argued before the Court of Appeals for the First Circuit, which affirmed the District Court.

Date of representation: 1993 – 1994

Presiding judges: Hon. Jose A. Fusté, District Judge; Hon. Bruce M. Selya, Hugh H. Bownes, Conrad K. Cyr, Circuit Judges

Opposing Counsel:

Jose Enrique Colón Santana
Bufete Colón & Román
315 Coll y Toste Avenue
San Juan, Puerto Rico 00918
(787) 763-4111

4. *Torres-González, et al. v. Sargento Benito, et al.*, 27 F.3d 554 (1st Cir. 1994)

Torres-González, his wife, and his children brought an action against the state and federal officers arresting him pursuant to a drug charge. Torres González was acquitted and claimed that the agents were unnecessarily rough during the arrest, and that his wife and children were scared as a result of the intervention. I moved for summary disposition of the suit based on uncontested facts that showed that the alleged conduct did not rise to constitutional violations. I was also responsible for the appeal and argument of the case. The Court of Appeals for the First Circuit affirmed the judgment.

Date of representation: 1993 – 1994

Presiding Judges: Hon. Raymond L. Acosta, District Judge; Hon. Stephen Breyer, Hon. Juan R. Torruella, Hon. Michael Boudin, Circuit Judges

Co-Counsel:

Vanessa Ramírez
Then Assistant Solicitor General, Puerto Rico Department of Justice
To the best of my knowledge Ms. Ramírez retired

Opposing Counsel:

Frederic Chardón Dubos
Highway Carrier 3 Box 9551
Moca, Puerto Rico 00676
(939) 717-6923

5. *United States v. Alexis Javier Angueira*, 951 F.2d 12 (1st Cir. 1991)

Fourteen defendants appealed their misdemeanor convictions for violations of the Migratory Bird Treaty Act for hunting white winged doves over a baited field. They were found guilty after a bench trial and appealed. I was also responsible for the appeal and argument, and the Court of Appeals for the First Circuit affirmed the fourteen convictions.

Date of representation: 1990 – 1991

Presiding Judges: Hon. Juan M. Pérez Giménez, District Judge; Hon. Juan R. Torruella, Hon. Bruce M. Selya, Hon. Francis J. Boyle (sitting by designation from the District of Rhode Island), Circuit Judges

Opposing Counsel:

Luis F. Abreu Elías
70 Mayaguez Street
San Juan, Puerto Rico 00917
(787) 751-4941

6. *United States v. Reynaldo Vázquez Rivera*, 83 F.3d 542 (1st Cir. 1996)

Defendant Vázquez Rivera was convicted of carjacking and sentenced to 25 years. I was precluded from presenting the evidence of the rape because it did not constitute an element of the offense of carjacking. On appeal, Vázquez argued that the enhancement of 10 years for causing serious bodily injury was not warranted since no evidence was presented that the rape caused her serious bodily harm. The case was remanded for resentencing. Shortly after this case, Congress enacted the Carjacking Correction Act of 1996, Pub. L. 104-217, which became effective on October 1, 1996, to rectify the First Circuit's interpretation of the term "serious bodily injury" so as to include any conduct constituting sexual abuse.

Date of representation: 1994 – 1995

Presiding Judge: Hon. Juan M. Pérez Giménez

Opposing Counsel:

Gustavo A. Gelpí,
Chief Judge for the District of Puerto Rico
United States Courthouse

150 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 772-3102

7. *United States v. J&G 24, et al.*, 478 F.3d 28 (1st Cir. 2007)

J&G 24 was found liable for \$4.1 million for the hazardous substance removal action conducted at the site they contaminated with acetone and styrene as part of their fiberglass manufacturing activities. After a nine-day bench trial the court imposed the payment of civil penalties and the costs of the clean-up. I was the Special Assistant United States Attorney assigned to the litigation of the case. The defendants appealed, and the Court of Appeals for the First Circuit affirmed the Judgment.

Date of representation: 2004 – 2005

Presiding Judge: Hon. Raymond L. Acosta

Co-counsel:

Elizabeth Yu
Senior Counsel
U. S. Department of Justice
Environmental Enforcement Section
Post Office Box 7611
Ben Franklin Station
Washington, D.C. 20044
(202) 514-2277

Opposing counsel:

Benjamin Ortíz-Belaval
Mr. Ortíz-Belaval is deceased

8. *United States v. Jorge Ortíz-Romany*, Case CR-06-24 (D.P.R.)

To avoid collection from the judgment of \$4.1 million imposed on defendant in *United States v. J&G 24*, 478 F. 3d 28 (1st Cir. 2007), defendant Ortíz-Romany filed for bankruptcy and moved to stay the collection proceedings. The Bankruptcy Court Trustee denounced underreporting of the assets by Mr. Ortíz-Romany. A federal grand jury returned a four-count indictment against Ortíz-Romany, who then alleged incompetence to stand trial. After spending three months in a federal institution he was declared incompetent. The criminal case was dismissed without prejudice, but the United States collected the judgment of the civil case since the bankruptcy filing was dismissed.

Dates of representation: 2006 – 2008

Presiding Judge: Hon. José A. Fuste

Co-counsel:

Hon. Edward A. Godoy
United States Bankruptcy Court
José V. Toledo Federal Building and United States Courthouse
300 Recinto Sur Street
San Juan, Puerto Rico 00901
(787) 290-6080

Opposing Counsel:

José F. Aguayo
San Alfonso Avenue 1333
Altamesa, Puerto Rico 00921
(787) 765-0814

9. *United States v. Braulio Agosto, et al.*, 617 F. 3d 541 (1st Cir. 2010)

Braulio Agosto, Juan Agosto and Braulio Agosto Motors Inc., were indicted for violations of the Clean Water Act for intentional discharges of raw sewage from a housing development into the Espiritu Santo River, a source of potable water. I was the Special Assistant United States Attorney assigned to the prosecution. Defendant Juan Agosto pled and was sentenced to one year of imprisonment. Braulio Agosto and the Corporation went to trial and were convicted on all counts. The First Circuit remanded for new trial based on a Sixth Amendment violation because the judge closed an over-packed courtroom to additional spectators.

Dates of representation: 2005 – 2006

Presiding Judges: Hon. Jeffrey R. Howard, Hon. Juan R. Torruella, Hon. Kermit V. Lipez

Co-counsel:

Desiree Laborde Sanfiorenzo
United States Attorney's Office
District of Puerto Rico
Torre Chardón Suite 1201
350 Carlos Chardón Avenue
San Juan, Puerto Rico 00918
(787) 766-5656

Opposing Counsel:

Francisco Rebollo-Casalduc
Francisco Rebollo Casalduc Law Office
Post Office Box 195571
San Juan, Puerto Rico 00919
(787) 765-0505

10. *United States v. Puerto Rico Aqueduct and Sewer Authority*, No. CR-06-202

(D.P.R.).

PRASA was indicted and pled guilty to 15 counts of violations of the Clean Water Act. The Court sentenced the defendant to \$9 million in fines and to complete capital improvements to its system, for a cost of not less than \$109 million.

Date of representation: 2004 – 2007

Presiding Judge: Hon. Juan M. Pérez-Giménez

Co-counsel:

Howard Stewart
Senior Counsel
U. S. Department of Justice
Environmental Enforcement Section
Post Office Box 7611
Ben Franklin Station
Washington, D.C. 20044
(202) 305-5743

Opposing counsel:

Edwin Donald Elliott
Willkie, Farr & Gallagher LLP
1875 K Street, N.W.
Washington, D.C. 20006
(202) 303-1120

18. **Legal Activities:** Describe the most significant legal activities you have pursued, including significant litigation which did not progress to trial or legal matters that did not involve litigation. Describe fully the nature of your participation in these activities. List any client(s) or organization(s) for whom you performed lobbying activities and describe the lobbying activities you performed on behalf of such client(s) or organizations(s). (Note: As to any facts requested in this question, please omit any information protected by the attorney-client privilege.)

I am a designated member for the District of Puerto Rico Federal Bar Examination Committee, serving since 2011 to the present. I am entrusted with drafting evidence questions which are then discussed, calibrated, and included in the federal bar exam for our district.

I have never engaged in lobbying activities.

19. **Teaching:** What courses have you taught? For each course, state the title, the institution at which you taught the course, the years in which you taught the course, and describe briefly the subject matter of the course and the major topics taught. If you have a syllabus of each course, provide four (4) copies to the committee.

I have been teaching a one-credit seminar, Federal Practice and Evidence, during the spring semesters at the University of Puerto Rico School of Law for the years 2017, 2018, and 2019. I am using a syllabus prepared by District of Puerto Rico Chief Judge Gustavo A. Gelpí. Copy supplied.

20. **Deferred Income/ Future Benefits:** List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, former employers, clients or customers. Describe the arrangements you have made to be compensated in the future for any financial or business interest.

The only future benefits I expect to receive are from my federal retirement plan and from a mutual funds IRA account.

21. **Outside Commitments During Court Service:** Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the court? If so, explain.

I do not have any plans, commitments, or agreements to pursue outside employment. However, I hope that I will be able to continue teaching a law school course, *ad honorem*, as I have been doing, and to the extent that my judicial duties would permit.

22. **Sources of Income:** List sources and amounts of all income received during the calendar year preceding your nomination and for the current calendar year, including all salaries, fees, dividends, interest, gifts, rents, royalties, licensing fees, honoraria, and other items exceeding \$500 or more (if you prefer to do so, copies of the financial disclosure report, required by the Ethics in Government Act of 1978, may be substituted here).

When my nomination is formally submitted to the Senate, I will file my mandated Financial Disclosure Report and will supply a copy to this Committee.

23. **Statement of Net Worth:** Please complete the attached financial net worth statement in detail (add schedules as called for).

Please see attached Net Worth Statement.

24. **Potential Conflicts of Interest:**

- a. Identify the family members or other persons, parties, categories of litigation, and financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

As a United States Magistrate Judge, I follow the Code of Conduct for United

States Judges. At present, the Clerk of Court in our district maintains an updated, automated conflict screening system which identifies potential conflicts. I regularly review and update this list. If confirmed, I will continue this practice of reviewing the list and would also continue recusing myself in any matter involving a family member, close friend, and my own financial interests. I will also evaluate matters that would give rise to an appearance of conflict to determine if appropriate action or recusal is warranted.

- b. Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.

If confirmed, I will carefully review and address any real or potential conflicts by reference to 28 U.S.C. § 455, Canon 3 of the Code of Conduct for United States Judges, and all other laws, rules, and practices governing such circumstances.

25. **Pro Bono Work:** An ethical consideration under Canon 2 of the American Bar Association's Code of Professional Responsibility calls for "every lawyer, regardless of professional prominence or professional workload, to find some time to participate in serving the disadvantaged." Describe what you have done to fulfill these responsibilities, listing specific instances and the amount of time devoted to each.

As an Assistant United States Attorney and Associate Regional Counsel for the Environmental Protection Agency, I was prohibited from practicing law outside of government service. However, I enforced the Environmental Justice Act in the handling of all enforcement matters at the Environmental Protection Agency. Because deprived communities with the lowest income and fewest academic opportunities were suffering disproportionate pollution and environmental impacts, enforcement efforts were a priority for those areas. It is of significance that after the prosecution of *United States v. Puerto Rico Electric Power Authority*, No. CR-98-127, ambient air quality in the town of Cataño improved considerably.

As a Magistrate Judge I participate in court educational outreach events like moot court, litigation competitions, students' visits and Homeland Security Citizen's Academy.

26. **Selection Process:**

- a. Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and the interviews in which you participated). Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, please include that process in your description, as well as whether the commission recommended your nomination. List the dates of all interviews or communications you had with the White House staff or the Justice Department regarding this nomination. Do not include any contacts with Federal Bureau of Investigation personnel concerning your nomination.

To the best of my knowledge, there is no selection commission in Puerto Rico to recommend candidates for judicial selection.

On August of 2018, I was contacted by the Resident Commissioner of Puerto Rico, the Honorable Jennifer González, asking if I was interested in submitting my *curriculum vitae* to be considered for a judicial vacancy in the District of Puerto Rico. We met briefly, and I submitted my *curriculum vitae* by e-mail.

On May 20, 2019, I was invited to a judicial interview in Washington, D.C., and I was interviewed on May 28, 2019, by three members of the White House Counsel's Office and one representative from the Department of Justice, Office of Legal Policy. On July 10, 2019, I received an e-mail from the Office of Legal Policy with forms and instructions on how to fulfill the nomination process. Since then I have been in contact with the White House Counsel's Office and the Department of Justice, Office of Legal Policy. On August 28, 2019, the President announced his intent to nominate me.

- b. Has anyone involved in the process of selecting you as a judicial nominee discussed with you any currently pending or specific case, legal issue or question in a manner that could reasonably be interpreted as seeking any express or implied assurances concerning your position on such case, issue, or question? If so, explain fully.

No.