



3. The law was amended on April 6, 2020, to include a second fake news provision, 25 L.P.R.A. § 3654(f), which prohibits any person from transmitting by any means, through any social network or mass media, false information with the intention of creating confusion, panic or collective public hysteria, regarding any proclamation or order issued by the Governor or any other official of the Government.

4. 25 L.P.R.A. §§ 3654(a) and (f) (the Challenged Provisions) violate the constitutional rights to free speech, a free press, and due process. First, the Challenged Provisions violate the First Amendment because they are substantially overbroad. For instance, they do not require the government to establish that the defendant acted with a specific intent to cause confusion, panic, or collective public hysteria.



8. Ms. Rodríguez Cotto's coverage of the use of misogynistic language and descriptions of violence against women in a Telegram chat between Governor Ricardo Rosselló and his aides sparked island-wide protests that led to Governor Rosselló's resignation. Her reporting has been picked up by media outlets across the world, including *The New York Times*, *The Guardian*, *Vice*, *MTV*, *Christian Science Monitor*, and many others.

9. Ms. Rodríguez Cotto is a resident of Guaynabo, Puerto Rico.

10. Plaintiff Rafelli González Cotto is an independent journalist with over 10 years of experience in print, magazines, radio, TV and digital media in Puerto Rico. He is also a lawyer and notary public. He has worked with several newspapers on the island, including *El Nuevo Día*, *Caribbean Business* and *CB en Español*, where he was the Digital Editor. Subsequently, he was appointed as the Digital Executive Editor at Latin Media House, a publishing house, where he directed the electronic platforms of six publications, two newspapers and four magazines, for approximately three years.

11. In 2017, while serving as the Digital Editor for *Caribbean Business* and *CB en Español*, Mr. González Cotto participated in the publication of several digital stories about the Whitefish Energy scandal. Those stories revealed that the Puerto Rico Electric Power Authority (PREPA) entered into a contract with a private company with limited experience and only two registered employees, instead of requesting cooperation through the mutual assistance program of the American Public Power Association. *Id.* Notably, the contract was awarded to the private company without the company having requested cooperation through the mutual assistance program of the American Public Power Association. *Id.* The contract was subsequently canceled at the request of then-Governor Ricardo Rosselló.

12. Mr. González Cotto is a resident of Bayamón, Puerto Rico

13. Defendant Wanda Vázquez Garced is the Governor of Puerto Rico. As Puerto Rico's first female Governor, she is the highest-ranking elected official in the Commonwealth. She is sued in her official capacity. Const., Art. IV, § 4.

14. Defendant Dennise N. Longo Quiñones is the Secretary of Justice for Puerto Rico. As the head of the Department of Justice and the chief law enforcement officer for Puerto Rico, she is sued in her official capacity. 3 L.P.R.A. § 292. Secretary Longo Quiñones is sued in her official capacity.

15. Defendant Pedro Janer is the Secretary of Public Security. He is charged with overseeing the Department of Public Security and its constituent bureaus. 25 L.P.R.A. § 3505. He is also charged with establishing and implementing public policy with regard to all matters of security, emergency, disasters, and criminal investigation. *Id.* He is sued in his official capacity.

16. Defendant Henry Escalera is the Commissioner of the Puerto Rico Police Bureau. He is charged with overseeing the Puerto Rico Police Bureau. 25 L.P.R.A. § 3534. He is sued in his official capacity.

## **JURISDICTION AND VENUE**

17. This action arises under the First and Fourteenth Amendments to the U.S. Constitution and 42 U.S.C. § 1983. This Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1343.

18. Declaratory relief is authorized by 28 U.S.C. §§ 2201 and 2202.

19. Venue in the District of Puerto Rico is based on 28 U.S.C. § 1391(b).





31. Second, Law 35-2020 makes it a crime to transmit or allow [another person] to transmit, by any means, through any social network or mass media, false information with the intention of creating confusion, panic or collective public hysteria, regarding any proclamation or executive order decreeing a state of emergency or disaster or curfew. The provision further states that the offense may be charged if the dissemination of false information results in damages to the public treasury, or to third parties, or public or private property, that exceed ten thousand (10,000) dollars, or when the conduct results in



Plaintiffs, about the danger of being prosecuted for speech about

ground that it violated the First Amendment. *Mangual v. Rotger-Sabat*, 317 F.3d 45 (1st Cir. 2003).

41. O u0Tqf t¶i wgl "Eqwqau"gzr gtlgpeg'y kj "yj g'r tqugewkqpu'w'pf gt' 'yj g now-defunct criminal defamation law demonstrated to her the danger of allowing the government to prosecute speech that it deems to be false.

42. In 2017, Ms. Rodríguez Cotto reported on the inadequacy of the responses by the U.S. and Puerto Rico governments to the widespread devastation left by Hurricane Maria. Local officials, including then-Governor Ricardo Rosselló, repeatedly failed to provide credible information about the scale of the impact of the hurricane, claiming for months that the death toll was a few dozen, when in reality it was more than a thousand.

43. During an on-air interview, Ms. Rodríguez Cotto challenged then-Chief of Staff Ramón Rosario about the implausibility of the official death toll, and he responded by accusing her of exaggerating. Immediately following that interview, Ms. Rodríguez Cotto received thousands of messages via social media, many of them racist and misogynistic. Shortly yj gtgchgt."O u0Tqf t¶i wgl "Eqwqau"j qwug'y cu'dtqmgp'lpvq'w'pf gt'uwur lekqwu'ektewo ucpegu."yj qwi j " nothing of value was taken. The online bullying of Ms. Rodríguez Cotto continued for months afterward. Ultimately, however, the Puerto Rican government acknowledged that the official death toll of 64 was inaccurate, and that the revised death toll was 1,427.

44. Mr. González Cotto recently idgpwllgf "c"uko krt'r tqdngo "y kj "yj g'i qxgtpo gpwau" case fatality measurement for the COVID-19 public health emergency. In a news article published in *NotiCel*. Mr. González Cotto revealed that the case fatality rate published by the Health Department was not calculated in accordance with generally accepted practices, resulting

in a significant underestimation of the fatality rate. Half an hour after the article was published, the Health Department removed the information from its website.

45. Mr. González Cotto has published numerous other articles about the COVID-19 pandemic revealing that certain companies with close ties to Governor Vázquez and the New Progressive Party received



**CAUSES OF ACTION**

**Count I ó**

59. The Due Process Clause of the Fourteenth Amendment prohibits laws that are unconstitutionally vague.

60. The Challenged Provisions are unconstitutionally vague, both on their face and as applied to Plaintiffs.

61. The Challenged Provisions fail to provide adequate notice about what speech is criminalized. For example, it is entirely unclear what 25 L.P.R.A. § 3654(a) means when it

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## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully requests that this Court :

A. Declare that 25 L.P.R.A. §§ 3654(a) and (f) violate the First and Fourteenth Amendments to the United States Constitution, both on their face and as applied to Plaintiffs;

B. Permanently restrain and enjoin Defendants, including all of Defendants' subordinates and other persons in active concert or participation with Defendants, from enforcing all of 25 L.P.R.A. §§ 3654(a) and (f), both on their face and as applied to Plaintiffs;

C. Preliminarily restrain and enjoin Defendants, including all of Defendants' subordinates and other persons in active concert or participation with Defendants, from enforcing

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