

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

MADELINE M. GARCÍA, IRIS N.  
BIDOT, LAURA MOLINA, AND  
RAFAEL MIRANDA-VÁZQUEZ,

Plaintiffs

vs.

MUNICIPALITY OF VEGA ALTA;  
HON. JOSE M. COLÓN GARCÍA, in  
his personal and official capacity as  
Mayor of the Municipality of Vega Alta,  
VÍCTOR M. REY DE LA CRUZ, in his  
personal capacity as former  
Commissioner of the Muncipal police of  
the Municipality of Vega Alta,

Defendants

CIVIL NO. 06- 1302 (PG)

GENDER DISCRIMINATION AND  
RETALIATION

TRIAL BY JURY

**INTERVENER COMPLAINT**

TO THE HONORABLE COURT:

PLAINTIFFS, through the undersigned attorneys, very respectfully state and pray:

**NATURE OF THE ACTION AND JURISDICTION**

1. The instant action is brought pursuant to Title VII, 42 U.S.C. sections 2000e et seq; the Civil Rights Act of 1991, 42 U.S.C. sections 1981a, 1983 and 1988; Puerto Rico Law No. 100 of June 30, 1959, as amended; Puerto Rico Law No. 69 of July 6, 1985; and Puerto Rico Law No. 115 of December 20, 1991, to seek redress for defendants' sex discrimination and retaliation against plaintiffs, Madeline M. García (hereinafter referred to as "García"), Iris N. Bidot (hereinafter referred to as "Bidot"), and Laura Molina (hereinafter referred to as "Molina"), while in the course of their employment relationship; and to seek redress for defendants' retaliation against

plaintiff, Rafael Miranda Vázquez (hereinafter referred to as "Miranda"), while in the course of his employment relationship. Plaintiffs seek the following relief: injunctive relief in the nature of a permanent order to defendants to cease and desist of any further discriminatory conduct; an award of compensatory, double and punitive damages, costs and reasonable attorneys fees.

2. This Court has original jurisdiction to entertain this action pursuant to Section 706 of the Civil Rights Act (42 U.S.C. 2000e-5); 28 U.S.C. 1331 and 1343(4). Its supplemental jurisdiction is also invoked pursuant to 28 U.S.C. 1367 to hear the Commonwealth law claims because these are so related to claims in the action within such original jurisdiction that they form part of the same case and controversy under Article III of the United States Constitution.

3. Venue is proper in this district pursuant to 28 U.S.C. 1391 (b)(1) and (2).

#### **ADMINISTRATIVE PROCEEDINGS**

4. Plaintiffs filed several administrative charges against defendant before the Equal Employment Opportunity Commission (EEOC), alleging gender discrimination and retaliation.

5. After investigating the charges, the EEOC reached a finding of probable cause to believe that violations of Title VII had occurred. After conciliation efforts to resolve the charges were unsuccessful, the EEOC referred them to the United States Department of Justice.

6. On March 21<sup>st</sup>, 2006, the United States of America filed a complaint against the Municipality of Vega Alta, Civil Action No. 06-1302 (PG), Docket No. 1, on behalf of

García, Bidot, and Molina based on their charges of gender discrimination, and on behalf of Miranda, based on his charge of retaliation.

7. Pursuant to Section 706(f) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sec.2000e-5, appearing plaintiffs intervene in the instant action to join the United States of America in pursuing the claims of García, Bidot and Molina based on their charges of gender discrimination, and the claim of Miranda based on his charge of retaliation, against the Municipality of Vega Alta, and against the additional co-defendants included in the instant intervenor complaint.

8. Pursuant to Section 706(f) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. Sec.2000e-5, appearing plaintiffs also intervene in the instant action to include the claims of co-plaintiffs García, Bidot and Molina, against codefendants, based on their charges of retaliation filed before the EEOC, and which are not being pursued by the United States of America as well as claims of retaliation pursuant to the local law provisions invoked by them in the instant intervenor complaint.

### **THE PARTIES**

9. Plaintiff, García is a resident of Vega Alta, Puerto Rico, and began working for the Municipal Police of the Municipality of Vega Alta in August 1992. She is currently working as a municipal officer.

10. Plaintiff, Bidot is a resident of Vega Alta, Puerto Rico, and began working for the Municipal Police of the Municipality of Vega Alta in the year 2000. She is currently working as a municipal officer.

11. Plaintiff, Molina, is a resident of Vega Alta, Puerto Rico, and began working for the Municipal Police of the Municipality of Vega Alta in April, 1996. She is currently working as a municipal officer.

12. Plaintiff, Miranda is a resident of Vega Alta, Puerto Rico, and began working as municipal officer for the Municipal Police of the Municipality of Vega Alta in January, 2000, until July 15, 2004, date in which he was constructively discharged from his position of municipal officer.

13. The Municipality of Vega Alta, (hereinafter referred to as “defendant” or “the Municipality”), was and is plaintiffs’ employer. Defendant is a “person” and an “employer” within the meaning of 42 U.S.C. Sec. 2000e(a) and (b) and within the meaning of all the legal provisions of Puerto Rico law upon which plaintiffs predicate their claims for relief.

14. Defendant Hon. José M. Colón García, (hereinafter referred to as “Colón” or “the Mayor”) has been at all times relevant to the complaint, the Mayor of the Municipality of Vega Alta.

15. The Mayor was ultimately responsible and the highest authority regarding the hiring, training, supervision, discipline, control, evaluation and conduct of his subordinates.

16. At all times relevant the Mayor acted under color of law and pursuant to his authority as Mayor of Vega Alta. He is an “employer” within the meaning of all the legal provisions of Puerto Rico law upon which plaintiffs predicate their claims for relief.

17. The Mayor is being sued in his personal and in his official capacity.

18. Co-defendant, Víctor M. Rey De la Cruz (hereinafter referred to as “Rey”) was the former Commissioner of the Municipal Police of the Municipality, and was plaintiffs’ immediate supervisor at all times relevant herein. He is being sued in his personal capacity. Rey is an “employer” within the meaning of all the legal provisions of Puerto Rico law upon which plaintiffs predicate their claims for relief.

19. At all times relevant, Rey acted under color of law and pursuant to official authority.

### **RELEVANT FACTS**

20. Plaintiffs repeat and reallege each and every preceding allegation as if fully set herein.

21. Plaintiffs began working as municipal officers of the Municipality between the years 1996 and 2000.

22. For the past three election terms, Colón has been elected as Mayor of the Municipality. He is currently occupying said position.

23. All plaintiffs are career employees of the Municipality of Vega Alta.

24. On June 2, 2003, Colón appointed Rey as Police Commissioner of the Municipal Police of Vega Alta.

25. Prior to his appointment, plaintiffs had always performed their duties in a satisfactory manner, and had obtained positive marks during their personnel evaluations.

26. Shortly after his appointment as Police Commissioner, Rey began a campaign agenda to discriminate against the female officers at the Municipal Police of Vega Alta.

27. Following his appointment, co-plaintiffs García, Bidot and Molina were the subjects of gender based discriminatory remarks by Rey. These were denigrating comments toward women.

28. Rey began sidelining them. They were ordered by Rey to refrain from carrying out duties inherent to their positions, such as: supervision of subordinates, driving patrol cars and police motorcycles, working at the Maritime Tourist-Unit, and conducting investigations, among others, because he claimed that these were tasks that only male officers could perform.

29. Rey openly stated that he did not want women working at the Municipal Police.

30. As a result, co-plaintiffs García, Bidot, and Molina, filed charges of gender discrimination before the Equal Employment Opportunity Commission.

31. As part of the investigation conducted by the EEOC, in August of 2003, co-plaintiff Miranda, a fellow male co-worker of plaintiffs, was called in as witness and provided testimony in favor of García, Bidot, and Molina, corroborating their allegations of gender discrimination on behalf of Rey.

32. Miranda witnessed Rey's denigrating remarks towards women within the municipal police force, including co-plaintiffs, and received specific instructions from Rey to exclude female officers from driving patrol cars and motorcycles.

33. Miranda informed Rey, who was also his immediate supervisor, about the testimony he had provided before the EEOC.

34. Days later, Miranda was removed from his supervisory shifts and related duties, which he had been performing since at least November, 2002.

35. Miranda was also transferred out from the Maritime -Tourist Unit, for which he had sought special training and several certifications in order to be qualified and appointed to that unit. He was assigned to the municipal headquarters in town, where he was sidelined.

36. Miranda was replaced at the Maritime Unit by other less experienced officers who did not have the necessary training and certifications.

37. In light of these circumstances and the retaliatory conduct he was being subjected to, Miranda requested from Rey a recommendation letter to be transferred to the Municipal Police of the Municipality of Dorado. The same was denied by Rey without any valid justification.

38. Furthermore, Rey began to constantly threaten Miranda with suspension and/or termination.

39. The situation at work deteriorated to such an extent that it became intolerable and Miranda was left with no other alternative than to resign.

40. Miranda's resignation was the proximate result of defendants' discriminatory and retaliatory conduct.

41. As a proximate result of having filed charges before the EEOC, co-plaintiff's García, Bidot, and Molina, were also subjected to retaliatory conduct on behalf of defendants.

42. Accordingly, new charges for retaliation were filed by co-plaintiffs García, Bidot, and Molina before the EEOC.

43. Some of the retaliatory measures to which they were subjected to by defendants were: the inordinate assignment of clerical duties, or to “plantón” status at isolated and remote locations, without being allowed to drive to such locations in patrol cars or their own personal vehicles; they were assigned to foot patrol on locations, such as the town plaza, for long periods of time without being allowed to use the nearby sanitary services; and, receiving negative performance evaluations.

44. Defendants’ conduct was in retaliation for plaintiffs’ attempt to assert their federal and local protected rights to be free from gender based discrimination and retaliation at their place of work.

45. Plaintiffs sent several letters to the Mayor informing him of the discriminatory and retaliatory conduct they were being subjected to by Rey. None of these communications were answered.

46. Despite being aware of the illegal conduct that was taking place, the Mayor failed and refused to take remedial action to eradicate the discriminatory treatment to which plaintiffs were being subjected. Colón was aware of Rey’s discriminatory tactics but failed to take any effective action to insure that it ceased. Colón condoned Rey’s discriminatory conduct and permitted it to become the policy, custom and usage at the municipality’s police force.

47. As a result of defendants’ unlawful conduct plaintiffs have suffered severe and substantial emotional damages for which they have had to seek and receive psychological treatment.



48. Defendants are jointly and severally liable for all damages caused to plaintiffs.

#### **FIRST CAUSE OF ACTION**

49. Plaintiffs repeat and reallege each and every preceding allegation as if fully set herein.

50. Defendants' conduct constitutes gender based discrimination against plaintiffs, García, Bidot and Molina, in violation of Title VII's and the Civil Rights Act of 1991's mandate to eradicate from the workplace any type of discrimination on the basis of sex. Defendants are liable to plaintiffs for all damages caused as a proximate result of their discriminatory conduct.

56. The actions and omissions of the Mayor and the Police Commissioner, were the custom and usage of the Municipal Police and, thus the Municipality of Vega Alta is jointly liable to plaintiffs for all of the damages suffered by them.

57. All defendants are jointly and severally liable to plaintiffs.

#### **SECOND CAUSE OF ACTION**

58. Plaintiffs repeat and re-allege each and every preceding allegation as if fully set herein.

59. Defendants' conduct constitutes a violation of Local Laws No. 100 of June 30, 1959, as amended, and Law No. 69, of July 6 1985, which prohibit discrimination in the workplace on the basis of sex.

60. As a result of defendant's conduct, plaintiff has suffered damages for which defendants are fully liable. Under the above cited statutes, defendants are liable

for double the damages suffered by plaintiffs as a result of defendants' unlawful conduct.

### **THIRD CAUSE OF ACTION**

61. Plaintiffs repeat and re-allege each and every preceding allegation as if fully set herein.

62. Plaintiffs, García, Bidot, and Molina, were subjected to unlawful conduct by defendants in retaliation for having opposed unlawful conduct under Local Law No.69 and Local Law No. 115.

63. As a result of this retaliatory conduct, co-plaintiff, Miranda, was constructively discharged from his employment.

64. Under Local Law No. 115, defendants are liable to plaintiffs for double the damages proximately caused as a result of their retaliatory conduct.

### **FOURTH CAUSE OF ACTION**

65. Plaintiffs repeat and reallege each and every preceding allegation as fully set herein.

66. The individual defendants' conduct constitutes a callous disregard and deliberate indifference to the federally protected rights of plaintiffs.

67. The individual defendants are liable to plaintiffs for punitive damages.

### **TRIAL BY JURY**

68. Plaintiffs demand that the instant action be tried before a jury.

WHEREFORE, premises considered, plaintiffs pray from this Honorable Court for the following relief:

1. An order directed at Defendants to cease and desist of any further discriminatory treatment and retaliation against plaintiffs;
2. Back pay, together with interest, for co-plaintiff Miranda;
3. Lost benefits both, past and future, for co-plaintiff Miranda;
4. Compensatory damages in an amount not less than \$500,000.00, for each plaintiff, for a total not less than \$2,000,000.00.
5. Punitive damages under Title VII and 42 U.S.C. 1983 and 1988 in an amount equal to \$300,000.00 for each plaintiff;
6. Double compensatory damages pursuant to Law No. 69, and Law No.115;
7. Costs and reasonable attorneys fees; and;
8. Any other relief which this Court may deem just and proper.

**RESPECTFULLY SUBMITTED.**

In San Juan Puerto Rico this 19<sup>th</sup> day of July, 2006.

I HEREBY CERTIFY that on this same date this document was filed electronically through the CM/ECF system which will send notification to the parties to their registered email addresses.

**GONZÁLEZ MUÑOZ & VICÉNS SÁNCHEZ**

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