

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

ZULAY RODRIGUEZ VELEZ, ET AL.,

Plaintiffs,

v.

HON. PEDRO R. PIERLUISI URRUTIA,
IN HIS OFFICIAL CAPACITY AS
GOVERNOR OF THE
COMMONWEALTH OF PUERTO RICO,

Defendant.

Civil No. 21-1366 (PAD)

**Amended¹ Motion in Compliance with Order Requesting Plaintiffs to Set Forth
Their Facial and As-Applied Challenges**

The plaintiffs, Zulay Rodriguez Velez, Yohama Gonzalez, Leila G. Ginorio Carrasquillo, and Julissa Piñero (collectively, "Plaintiffs") respectfully comply with this Court's order, during the September 10, 2021 status conference, that Plaintiffs explain which claims are facial attacks, and which are as applied to each plaintiff. For ease of comprehension, Plaintiffs will discuss each claim in turn.

• **RFRA Claims**

The RFRA claims have three components. The first two—the unnecessary religious affidavit or, in the alternative, the pastor or spiritual's leader under-penalty-of-perjury affidavits are facial challenges to EO 58.

¹ The amendment is the substitution of Plaintiff Gonzalez for Plaintiff Rodríguez in the RFRA and substantive due process as-applied challenges.

The third component, whether EO 58 provides the least restrictive means to further its goal, are both facial and as-applied challenges. The challenge is facial because the executive order does not provide the least restrictive means for anyone who qualifies for a religious exemption. The challenge is as-applied to Plaintiffs Rodriguez, Ginorio, and Piñero, who can work remotely.

- **Substantive Due Process**

The claims under the Substantive Due Process Clause of the Fourteenth Amendment are both facial and as applied challenges. The challenge is facial because EO 058 does not consider less intrusive means for any government employee who chooses not to get vaccinated. And the challenge is as-applied to Plaintiffs Rodriguez, Ginorio, and Piñero, because the least restrictive means for them would be to allow them to work remotely, and the government has not even articulated a reason for not allowing them to do so.

- **Procedural Due Process**

These claims are both facial and as applied. The claims are facial because each Plaintiff has a property right in his or her job protected by the Due Process Clause of the Fourteenth Amendment and because the EO doesn't provide a process for requesting less-burdensome options. The claims are as-applied because each Plaintiff may have different circumstances, with different possible accommodations, such as working remotely or having free, government-provided testing.

- **EUA Statute**

The EUA Statute claims are a facial challenge.

- **Supplemental Claims**

The pendent claims under the Puerto Rico Constitution are all facial challenges to the EO 58.

Conclusion

For the reasons stated, this Court should note this motion and deem its order complied with.

Dated: September 20, 2021

Respectfully submitted,

<p>B&D LLC</p> <p><i>/s/José R. Dávila-Acevedo</i> José R. Dávila-Acevedo jose@bdlawpr.com USDCPR No. 231511 1519 Ponce de Leon Ave. Ste. 501 San Juan, PR 00909 787-931-0941</p>	<p>Puerto Rico Institute for Economic Liberty</p> <p><i>/s/ Arturo V. Bauermeister</i> Arturo V. Bauermeister bauermeistera@ilepr.org USDCPR No. 302604 P.O. Box 363232 San Juan, PR 00936-3232 Tel: 787.721.5290 Fax: 787.721.5938</p>
	<p>Ilya Shapiro D.C. Bar. No. 489100 (admitted <i>pro hac vice</i>) 1000 Mass. Ave. NW Washington, DC 20001 202-577-1134</p>

Counsel for Plaintiff