

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)

**Plaintiffs' Motion for Judicial Knowledge**

The plaintiffs, Zulay Rodriguez Velez, Yohama Gonzalez, Leila G. Ginorio Carrasquillo, and Julissa Piñero (collectively, "Plaintiffs") respectfully move this Court, under Federal Rule of Civil Procedure 201(b), to take judicial knowledge of the 60 facts set forth below.

This Court may take judicial knowledge "of a fact that is not subject to reasonable dispute because it (1) is generally known within the trial court's territorial jurisdiction; or (2) can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned." Fed. R. Evid. 201(b). Plaintiffs thus provide the following facts that comply with Rule 201(b):

1. According to CDC, as of September 28, 2021, Puerto Rico ranked 2<sup>nd</sup> within the US jurisdictions (Republic of Palau is ranked 1st) in "Doses Administered per 100k by State."<sup>1</sup>
2. Palau is a protectorate with a free-association agreement with the United States, not a U.S. territory as such, so Puerto Rico is 1st among U.S. states and territories.

3. According to CDC, as of September 28, 2021, it was reported that Puerto Rico ranked 2<sup>nd</sup> within U.S. jurisdictions (Palau is again #1) in “Percent of Total Pop Fully Vaccinated by State of Residency.”<sup>2</sup>
4. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, Puerto Rico had, of the eligible population, 78.1% fully vaccinated and 87% with one dose, while on August 16, 2021, when the EO 2021-058 became effective, Puerto Rico had 71.9% fully vaccinated and 82% with one dose, and on July 28, 2021, when the EO 2021-058 was announced, Puerto Rico had 69.8% fully vaccinated and 78.3% with one dose.<sup>3</sup>
5. According to the Puerto Rico Health Dept. COVID-19 dashboard, of the available population, from July 28, 2021, when the EO 2021-058 was announced, to September 28, 2021, a total of 8.5% were fully vaccinated and 8.9% received one dose and from August 16, 2021, when EO 2021-058 became effective, to September 28, 2021, a total of 5.9% were fully vaccinated and 4.9% received one dose.<sup>3</sup>
6. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, there are 360,332 people are 60-69 years old, 272,939 are 70-79 years old and 140,557 are 80+ years old), a total of 773,828, with at least one dose.<sup>3</sup>
7. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, the daily 7-day moving average of daily confirmed cases was 110 cases and of daily probable cases was 63 cases; there was 144 adult hospitalized and 49 ICU adult hospitalizations due to COVID-19 and 2,729 adult beds available and 199 ICU adult beds available. The 7-day moving average of deaths was 4.6.<sup>4,5,6</sup>

8. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, there are composed by age group as follows: in the 60-69 years old group, 147,954 males fully vaccinated, 162,005 males with at least one dose, and 19,396 males not vaccinated and 180,817 females fully vaccinated, 197,012 with at least one dose, and 19,737 not vaccinated. In the 70-79 years old group, 106,603 males are fully vaccinated, 116,860 males with one dose, and 20,181 not vaccinated and 141,948 females fully vaccinated, 155,735 with at least one dose, and 15,107 not vaccinated. In the 80+ years old group, 48,373 males fully vaccinated, 53,590 with at least one dose, and 18,935 not vaccinated and 77,472 females fully vaccinated, 86,791 with at least one dose, and 22,524 not vaccinated.<sup>3</sup>
9. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, among the 80+ years old, there have been 977 deaths (31%), among the 70-79 years old, 816 deaths (25.9%), and among the 60-69 years old, 608 deaths (19.3%) of the total 3,148 reported deaths related to COVID-19. At the same time, among the 59-50 years old, 445 deaths (14.1%); among the 40-49 years old, 195 deaths (6.2%); among the 30-39 years old, 72 deaths (2.3%); among the 20-29 years old, 28 deaths (0.9%); among the 10-19 years old, 5 deaths (0.2%), and among the 0-9 years old, 2 deaths (0.1%) have been reported. <sup>4</sup>
10. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, there was a reported accumulated total of 149,454 (PCR) confirmed cases and 31,548 (antigen) probable cases of COVID-19 in Puerto Rico.<sup>5</sup>
11. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, the reported accumulated total of confirmed cases (PCR tests) per age group, in Puerto Rico, were 4,515 cases (80+ years old), 8,259 cases (70-79 years old), 13,419 cases (60-69 years old),

21,052 cases (50-59 years old), 23,920 cases (40-49 years old), 24,532 cases (30-39 years old), 27,275 (20-29 years old), 15,465 cases (10-19 years old), and 9,834 cases (0-9 years old).<sup>5</sup> As of September 25, 2021, the reported accumulated total of probable cases (antigen tests) per age group, in Puerto Rico, were 1,078 cases (80+ years old), 1,434 cases (70-79 years old), 2,372 cases (60-69 years old), 3,598 cases (50-59 years old), 4,441 cases (40-49 years old), 4,832 cases (30-39 years old), 5,865 (20-29 years old), 4,041 cases (10-19 years old), and 3,613 cases (0-9 years old).<sup>5</sup>

12. According to “covidestim:COVID-19 nowcasting,” as of September 28, 2021, the Effective Transmission Rate ( $R_t$ ), was a record low for Puerto Rico of 0.64. On July 28, 2021, it was 1.40, on August 11, 2021, 5 days prior to EO 2021-058 going into effect, it was 0.98 and on August 16, 2021, when it went into effect, it was 0.88. “ $R_t$  is the average number of people that an individual infected on day  $t$  is expected to go on to infect. When  $R_t$  is above 1, we expect cases to increase in the near future. When  $R_t$  is below one, we expect cases to decrease in the near future.”<sup>20</sup>
13. According to CDC, as of September 28, 2021, Puerto Rico, with 49,131.79 “cumulative tests performed per 100K” is second to last (ahead only of the U.S. Virgin Islands), rank #49 of 50, of U.S. jurisdictions reported.<sup>8</sup>
14. According to the CDC, as of September 28, 2021, Puerto Rico, with 5,930.5 “# tests performed last 30 days per 100K” is sixth to last (ahead only of the U.S. Virgin Islands, Washington, Mississippi, Nebraska and Oklahoma), rank #45 of 50, of U.S. jurisdictions reported.<sup>9</sup>
15. According to the CDC, on “calculating SARS-CoV-2 laboratory test percent positivity”, “[it] can vary depending on the volume of testing and the population tested. A high NAAT percent

positivity occurs when many of the test results among those being tested and reported in a community are positive. This can mean the following: There are widespread infections in the community tested. Only those at greatest risk of infection within a community are being tested. There are reporting processes or delays that skew the results.”<sup>10</sup>

16. According to the Families First Coronavirus Response Act, which became public law No. 116-127 on March 18, 2020, under “Division F – Health Provisions, Sec. 6001. Coverage of Testing for COVID-19”, it states that “a group health plan and a health insurance issuer offering group or individual health insurance coverage...shall provide coverage, and shall not impose any cost sharing (including deductibles, copayments, and coinsurance) requirements or prior authorization or other medical management requirements, for the following items and services furnished during any portion of the emergency period...beginning on or after the date of the enactment of this Act:

(1) In vitro diagnostic products (as defined in section 809.3(a) of title 21, Code of Federal Regulations) for the detection of SARS-CoV-2 or the diagnosis of the virus that causes COVID-19 that are approved, cleared, or authorized under section 510(k), 513, 515 or 564 of the Federal Food, Drug, and Cosmetic Act, and the administration of such in vitro diagnostic products.

(2) Items and services furnished to an individual during health care provider office visits (which term in this paragraph includes in-person visits and telehealth visits), urgent care center visits, and emergency room visits that result in an order for or administration of an in vitro diagnostic product described in paragraph (1), but only to the extent such items and services relate to the furnishing or administration of such product or to the evaluation

of such individual for purposes of determining the need of such individual for such product.<sup>11</sup>

17. According to the Department of Health and Human Services (HHS), a system called “Community-Based Testing Sites was created” which provides “COVID-19 tests...available at no cost nationwide at health centers and select pharmacies. The Families First Coronavirus Response Act ensures that COVID-19 testing is free to anyone in the U.S., including the uninsured.”<sup>12</sup>

18. According to the office of U.S. Congresswoman Jennifer González-Colón, on January 7, 2021 it was reported that “Puerto Rico will receive \$183,823,862 to support COVID-19 test administration efforts.”<sup>13</sup>

19. According the Puerto Rico Health Department, on October 19, 2020, the Administrative Order #467 title “To clarify the requirement to obtain a prior medical order for the administration of tests to detect coronavirus (COVID-19) classified as “exempt” by the federal Food and Drug Administration (FDA, for its acronym in English) during the validity of the existing state of emergency” was signed by the Secretary of Health ordering that “the clinical laboratories of Puerto Rico that are duly licensed and certified, may perform COVID-19 **exempt tests** without the need for a prior medical order. This applies both to molecular exempt tests, as well as antigen-free tests that have the corresponding authorization from the FDA.” (Emphasis added.)<sup>14</sup>

20. The “El VOCERO” newspaper reported on September 2, 2021, that the “[Puerto Rico] Health Department limits covid-19 testing due to lack of supplies”. It reported that “The Secretary of Health, Carlos Mellado, admitted to EL VOCERO that the number of tests carried out in the

37 fixed centers, where people can perform them for free and obtain the result in a short time, have increased in recent weeks and they have had to start limiting them in some places. We had to limit tests to 175 because there is a national testing shortage. They are guaranteeing us a number of tests, but at least in the Health [Department] tent we limit it.”<sup>15</sup>

21. The “El VOCERO” newspaper reported, on September 7, 2021, that “Mayors’ Association warns of shortage of covid-19 antigen testing.” It reported that the president of the Mayors’ Association (“Asociación de Alcaldes”), Hon. Luis Javier Hernández, “made a claim to the Puerto Rico Health Department to activate an action plan under the apparent limitation of antigen tests of COVID-19 ON PENIS’.” It also reported that “the mayor of Isabela, Hon. Miguel Méndez Pérez, pointed out that the participants of the Vital Health Plan of his municipality are being charged \$30 for the Covid-19 antigen test, which results onerous.”<sup>16</sup>
22. The “El Nuevo Dia” newspaper reported on June 15, 2021, the first case of the COVID-19 Delta variant in Puerto Rico. <sup>17</sup>
23. According to the Puerto Rico Health Department COVID-19 dashboard, on November 23, 2020 we had the highest 7-day Moving Average (7dMA) of confirmed cases in 2020 with 847.9 confirmed cases. In 2021, the two highest 7dMA of confirmed cases have been April 17 with 827 confirmed cases and August 14 with 620 confirmed cases. <sup>5</sup>
24. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, on August 14, 2021, two days prior to EO 2021-058, the 7dMA of daily confirmed cases was 620 confirmed cases. On August 16, 2021 it was 603.1 confirmed cases, on August 31, 2021 was 454 confirmed cases, on September 12, 2021 was 283.7 confirmed cases and on September 27, 2021 was 110 confirmed cases. <sup>5</sup>

25. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, on August 14, 2021, two days prior to EO 2021-058, the 7dMA of daily probable cases was 331.9 probable cases. On August 16, 2021 it was 320.4 probable cases, on August 31, 2021 was 233.1 probable cases, on September 12, 2021 was 120.3 probable cases and on September 27, 2021 was 63.3 probable cases.<sup>5</sup>
26. According to the Puerto Rico Health Department COVID-19 dashboard, from July 1, 2020 to June 15, 2021, there were 120,596 accumulated confirmed cases and 2,067,307 accumulated molecular tests administered and, from June 16, after the Delta variant was first confirmed in Puerto Rico, to September 28, 2021, there were 26,750 accumulated confirmed cases and 528,272 accumulated molecular tests administered.<sup>5,18</sup>
27. According to the Puerto Rico Health Department COVID-19 dashboard, from July 1, 2020 to June 15, 2021, there were 16,855 accumulated probable cases and 1,221,309 accumulated antigen tests administered and, from June 16 to September 28, 2021, there were 14,695 accumulated probable cases and 932,410 accumulated antigen tests administered.<sup>5,18</sup> According to the Puerto Rico Health Department COVID-19 dashboard, from July 1, 2020 to June 15, 2021, there were 137,451 accumulated confirmed and probable cases and 3,288,616 accumulated molecular and antigen tests administered and, from June 16 to September 28, 2021, there were 41,445 accumulated confirmed and probable cases and 1,460,682 accumulated molecular and antigen tests administered.<sup>5,18</sup>
28. According to the CDC, Puerto Rico's "case rate per 100,000" reported as of September 28, 2021, were 5,660 for Puerto Rico and for states with similar populations, 10,916 for Connecticut, 13,586 for Nevada, 14,232 for Iowa, 15,717 for Utah and 16,340 for Arkansas.<sup>19</sup>



29. According to the CDC, on August 1, 2021, the 7-day moving average of daily “new admissions of patients with confirmed with COVID-19” in Puerto Rico was 15 new admissions. On August 16, 2021, it was 27 new admissions and on September 27, 2021 it was 6 new admissions.<sup>7</sup>
30. According to the CDC, on March 28, 2021, the 7-day moving average of daily “new admissions of patients with confirmed with COVID-19” was 20 new admissions, on April 27, 2021, it was 47 new admissions and on May 17, 2021 it was 16 new admissions.<sup>7</sup>
31. According to the CDC, on October 19, 2020, the 7-day moving average of daily “new admissions of patients with confirmed with COVID-19” was 17 new admissions, on November 10, 2020, it was 189 new admissions and on December 29, 2020, it was 25 new admissions.<sup>7</sup>
32. According to the CDC, as of September 27, 2021, the 7-day moving average of daily “new admissions of patients with confirmed with COVID-19” the highest it has been in August 2021 was August 21 with 33 new admissions. The highest it has been in 2021 was in April 27 with 47 new admissions and the highest it has been in 2020 was on November 10, with 189 new admissions.<sup>7</sup>
33. According to HealthData.gov, as of September 24, 2021, Puerto Rico’s “% change from previous week” on New Covid-19 Cases (Rate per 100,000) was -43%, New Covid-19 Deaths (Rate per 100,00) was -31%, Confirmed and Suspected New Covid-19 Hospital Admissions (Rate per 100 Beds) was -29, Confirm New Covid-19 Hospital Admissions (Rate per 100 beds) was -48%.<sup>22</sup>

34. The “El VOCERO” newspaper published, on August 16, 2021, an article titled “En estado de alerta los hospitales” that the president of the “Hospital Association of Puerto Rico,” Attorney Jaime Plá said, “The reality is that hospitals have not been able to recover and return to the censuses they had prior to the pandemic. Before, hospitals could be 100% and others had less. The normal average was between 77% and 82% occupancy. Now they are still at 60%, about 20% less.”<sup>34</sup>
35. According to the CDC, since January 21, 2020 to September 28, 2021, Puerto Rico has had 5,668 “case rate per 100,000”, listing it the 53rd of 58 U.S. states and territories (including New York City and the District of Columbia) reported.<sup>35</sup>
36. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, there was a total of 149,454 confirmed cases and 31,548 probable cases accumulated.<sup>5</sup> According to United States Census, Puerto Rico population in 2020 was 3,285,874.<sup>21</sup>
37. According to HealthData.gov, as of September 24, 2021, Puerto Rico’s Community Transmission Level is “Moderate Transmission.”<sup>22</sup>
38. According to the Office of the Governor Michelle Lujan Grisham (New Mexico), “Any New Mexican with access to online video-conferencing through Zoom can receive a test at home, self-administer the test with a virtual testing supervisor through a secure Zoom, and mail the sample back for laboratory processing, all free of charge.”<sup>23</sup>
39. According to the State of Hawai’I, Department of Human Resources Development, “the Department of Human Resources Development (DHRD) supports the intent of SB830 SD2 which requires DHRD to convene a working group of stakeholders to review and make recommendations on policies and procedures relating to telework and alternative work

schedules to address the caregiving responsibilities and other needs of state employees. It also requires DHRD to submit a report of its findings and recommendations, including any proposed legislation or specific budget requests, to the legislature no later than twenty days prior to the convening of the regular session of 2022. In addition, it requires departments to adopt DHRD's policies that permit state employees to telework while caregiving during the COVID-19 pandemic." <sup>24</sup>

40. The Federal News Network reported, on August 18, 2021, the following regarding teleworking, "In other words, unvaccinated employees and contractors who are teleworking do not need to travel to their work sites for the explicit purposes of getting tested. Unvaccinated employees and contractors who otherwise would work in-person but are teleworking or are on leave for a week don't need to be tested, the administration added.". Regarding paying for the test, it reported "Agencies are required to pay for COVID-19 testing, but not for tests taken by employees who believe they were potentially exposed outside of the workplace." It continued, "agencies can develop their own testing capabilities in-house, contract with an outside testing provider or sign an interagency agreement with another federal entity that has its own program, the administration said. Unvaccinated federal employees and contractors should be tested for COVID-19 on duty time, the task force said." In addition, regarding getting tested during working hours, it reported, "when a federal employee is required to be tested pursuant to an agency's testing program, the time the employee spends obtaining the test (including travel time) from a site preapproved by the agency is duty time," the FAQs read. "Thus, there is no need for the employee to take administrative leave for such time during the employee's basic tour of duty. An agency

should only authorize an employee to spend time obtaining a test during the employee's basic tour of duty hours and only for the amount of time necessary to obtain the test." If travel is required for testing, agencies should generally allow employees up to an hour, the administration said."<sup>25</sup>

41. According to the State of Minnesota, Management and Budget (HR/LR Policy #1446), "if the agency has a testing facility, then testing will be performed on site. If the agency does not have a testing facility, the agency may require staff to provide proof of both test submission and test results from a State testing facility or a non-State testing facility.". Regarding testing during working hours, it reported "the agency will determine testing dates which will occur at least weekly. Testing will occur during work hours and be considered work time."<sup>26</sup>
42. According to the State of Colorado, Division of Human Resources, state employees can select a "state supported testing site" and schedule their weekly appointment and "no state employee will be turned away".<sup>27</sup> In addition, "Q: Will state employees be paid for the time for testing and travel to and from the testing location? A: Travel to and from the testing location, including completing the test results is considered paid work time for non-exempt employees."<sup>28</sup>
43. According to the World Health Organization, "The number of hospital beds available in public and private hospitals. Hospital beds are regularly maintained and staffed for the accommodation and full-time care of a succession of inpatients and situated in wards or a part of a hospital where continuous medical care for inpatients is provided. The total number of such beds constitutes the normally available bed complement of the hospital."<sup>29</sup>

44. According to the HHS Protect Inpatient Dashboard, as of September 29, 2021, the overall Inpatient Bed Utilization in the United States is 76.96% and in Puerto Rico 59.04% and the overall Inpatient Beds In Use for Covid-19 in the United States is 10.93% and in Puerto Rico is 1.93%.<sup>30</sup>
45. The “Medicina y Salud Publica” digital paper, on November 12, 2021, published an article titled “They advocate for the elimination of the requirement for a referral in telemedicine service and the COVID-19 test,” that, “at the beginning of the pandemic during the month of March, it had been established that it was not a requirement to implement the referral to receive medical, laboratory, or medical services, radiology and hospital services. However, on October 9, the Puerto Rican government reported that it will be necessary and reestablishes the aforementioned requirement to be able to care for Vital Plan patients.”<sup>27</sup>
46. According to the Intelligencer (The New Yorker), on a report title “The Problem With the Positivity Rate”, dated December 7, 2020, it stated “Meanwhile, the positivity rate statistic is so inconsistently calculated and reported across U.S. states that the COVID Tracking Project, one of the nation’s trusted aggregators and reporters of coronavirus data and trends, doesn’t publish it, says Jessica Malaty Rivera, the science communication lead with the project. An October blog post co-authored by Malaty Rivera called positivity rate figures in the U.S. “a mess” and stated that she and her team “emphatically recommend against over-reliance” on it to justify changes in policy. COVID Tracking Project data collectors have noticed that states are including the results of less accurate, less expensive so-called antigen tests, which look for pieces of the virus, not the whole virus, instead of the results of widely used PCR tests for the entire virus, Malaty Rivera says. “For that reason, I feel especially pessimistic about the future

of this calculation,” Malaty Rivera says. “Because if we do see testing increase dramatically, it will be because of an influx in antigen testing. It really should just be PCR testing to determine this. And when we combine units, it’s going back to basic fractions, right? You don’t combine your apples and oranges when you’re doing a math equation.”<sup>32</sup>

47. According to the United States Census (v2019), the population 65 years and older is 21.3% of the overall population in Puerto Rico.<sup>36</sup> According to the Population Reference Bureau, as reported on March 16, 2021, under the article “Which U.S. States Have The Oldest Population”, the “States Ranked by Percent of Population Age 65 or Older, 2018” listed Maine as #1 with 20.6% of the population of its population 65 years or older.<sup>37</sup>
48. According to the CDC, the “death rate per 100,000”, “Since January 21, 2020” to September 29, 2021, listed Puerto Rico with 98 deaths, as number 48th of 58 listed states and territories (including New York City and the District of Columbia) that reported.<sup>38</sup>
49. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, Puerto Rico has a total of 3,148 accumulated deaths related to COVID since March 17, 2020.<sup>4</sup>
50. According to the CDC, when comparing trends across states and regions, for cumulative deaths per 100,000, as of September 28, 2021, Utah has 90.6 deaths, Puerto Rico has 98.6 deaths, Iowa has 205 deaths, Nevada has 230 deaths, Connecticut has 242 deaths and Arkansas has 253 deaths.<sup>39</sup>
51. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, the highest 7dMA of daily deaths in 2020 was on December 12, 2020 with 16.7 deaths,

and in 2021 was on September 1, 2021, which was was 14.1, followed by April 22, 2021 with 9.9 deaths. <sup>4</sup>

52. According to The Israeli Public Emergency Council For The Covid19 Crisis, “the implicit message that emerges from the existing discourse, suggesting that unvaccinated people, unlike vaccinated people, pose a risk to others, is actually most dangerous to the vaccinated persons themselves, as it fosters the illusion that vaccination protects against contagion, and thus encourages careless behaviors of vaccinated persons in public spaces shared with high-risk populations. Medicine is not only a science; it is also intertwined into the social, ethical and moral fabric. The right of society to protection prevails over the right of the individual to freedom only when there is a real danger (as is done in the case of violent psychotic patients, or in the very different case of prisoners). It is wrong to restrict a person’s liberty due to a remote potential risk (for example, the case of an AIDS patient, a person returning from a country with a high rate of tuberculosis or tropical diseases, or, to give a very different example, a released prisoner with a high chance of reoffending). We call for continued effort to persuade and make information accessible to members of the elderly population or those who are at high risk but have not yet been vaccinated with the first two doses. The choice of whether to get vaccinated should remain in the hands of every person, according to their understanding and values.” <sup>40</sup>

53. According to the scientific study “Rates of SARS-CoV-2 transmission and vaccination impact the fate of vaccine-resistant strains”, published on July 30, 2021, by Nature, “the emergence of vaccine-resistant strains may come too rapidly for current vaccine developments to alleviate the health, economic and social consequences of the pandemic.” In its discussion it

states “By contrast, a counterintuitive result of our analysis is that the highest risk of resistant strain establishment occurs when a large fraction of the population has already been vaccinated but the transmission is not controlled. Indeed, it seems likely that when a large fraction of the population is vaccinated, especially the high-risk fraction of the population (aged individuals and those with specific underlying conditions) policy makers and individuals will be driven to return to pre-pandemic guidelines<sup>59</sup> and behaviours conducive to a high rate of virus transmission<sup>60,61</sup>. However, the establishment of a resistant strain at that time may lead to serial rounds of resistant strain evolution with vaccine development playing catch up in the evolutionary arms race against novel strains.”<sup>41</sup>

54. According to the CDC, “Cycle threshold values were similar among specimens from patients who were fully vaccinated and those who were not. This might mean that the viral load of vaccinated and unvaccinated persons infected with SARS-CoV-2 is also similar.”<sup>42</sup>

55. According to the American Academy of Pediatrics, “among states reporting, children ranged from 1.6%-4.1% of their total cumulated hospitalizations, and 0.1%-2.0% of all their child COVID-19 cases resulted in hospitalization” and “among states reporting, children were 0.00%-0.27% of all COVID-19 deaths, and 7 states reported zero child deaths. In states reporting, 0.00%-0.03% of all child COVID-19 cases resulted in death.”<sup>43</sup>

56. Primera Hora reported on September 13, 2021, under the article titled “ICF delivers to Health a report that confirms that a five-year-old girl died of COVID-19” that “the minor, a resident of the southern area and who had a history of chronic asthma, died at an area hospital before receiving a diagnosis from an emergency room doctor.” Also stated, “this



[chronic asthma] is an underlying condition that aggravates the clinical picture in patients with COVID-19 disease.”<sup>44</sup>

57. According to Our World In Data, as of September 28, 2021, the top 11 countries in the world with the highest percentage of fully vaccinated population, among all its population, are Portugal with 84.93%, United Arab Emirates 82.16%, Spain 78.09%, Singapore 76.59, Denmark 75.05, Ireland 73.74%, Uruguay 73.67%, Chile 73.43%, China 70.78%, Canada 70.71%, Italy 67.57%.<sup>45</sup> Puerto Rico, as of September 28, 2021, has 2,223,734 people fully vaccinated with a population of 3,285,874, meaning it has 67.67% of its total population fully vaccinated.<sup>3,21</sup>
58. According to the National Vaccine Information Center, search results for the CDC VAERS system, it found 97 adverse event cases for pregnancy and breast feeding.<sup>46</sup>
59. Noticel reported, on September 29, 2021, under the news article title “Forensic Sciences has certified 140 deaths from Covid-19 since the pandemic began” that “the Institute of Forensic Sciences (ICF) confirmed today that in August they certified 15 cases of deaths from covid-19, which brings to 140 certified cases since the pandemic began. In that statistic, the cases of this month of September are not yet added, which has not yet ended, said Dr. María Conte Miller, director of the ICF today.”<sup>47</sup>
60. Noticel reported, on September 23, 2021, under the news article title “90% of public employees are inoculated against Covid-19” that “according to data collected from government entities, out of a total of 104,108 workers, 93,594 have the complete series of the vaccine.” It stated that “90% of the island's public employees are already inoculated against Covid-19, as reported this Thursday through a statement by the director of the Office of Administration and Transformation of Human Resources of the Government of Puerto Rico (Oatr), Zahira

Maldonado. She indicated that, according to data collected from government entities, of a total of 104,108 public employees, 93,594 have the complete series of the Covid-19 vaccine. With the first dose of the vaccine there are 6,498 employees, which corresponds to 6%. Likewise, the leader of Oatrh indicated that there are 3,467 unvaccinated employees, which represents 3%.”<sup>48</sup>

<sup>1</sup> CDC, *Total Dose Administered Rate per 100K (Data Table for COVID-19 Vaccinations in the United States)*, [https://covid.cdc.gov/covid-data-tracker/#vaccinations\\_vacc-total-admin-rate-total](https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total)

<sup>2</sup> CDC, *People Fully Vaccinated (Data Table for COVID-19 Vaccinations in the United States)*, [https://covid.cdc.gov/covid-data-tracker/#vaccinations\\_vacc-people-fully-percent-total](https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-people-fully-percent-total)

<sup>3</sup> Puerto Rico Health Department COVID-19 Dashboard, *Vacunacion*, <https://covid19datos.salud.gov.pr/#vacunacion>

<sup>4</sup> Puerto Rico Health Department COVID-19 Dashboard, *Defunciones*, <https://covid19datos.salud.gov.pr/#defunciones>

<sup>5</sup> Puerto Rico Health Department COVID-19 Dashboard, *Casos*, <https://covid19datos.salud.gov.pr/#casos>

<sup>6</sup> Puerto Rico Health Department COVID-19 Dashboard, *Sistema de Salud*, [https://covid19datos.salud.gov.pr/#sistemas\\_salud](https://covid19datos.salud.gov.pr/#sistemas_salud)

<sup>7</sup> CDC, *New Hospital Admissions*, <https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions>

<sup>8</sup> CDC, *Test (Data Table for Cumulative COVID-19 Nucleic Acid Amplification Tests (NAATs) Performed per 100k by State/Territory)*, [https://covid.cdc.gov/covid-data-tracker/#cases\\_testsper100k](https://covid.cdc.gov/covid-data-tracker/#cases_testsper100k)

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**Conclusion**

For the reasons stated, this Court should grant this motion and take judicial notice of the foregoing facts.

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