

**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' Reply to Defendant's Opposition to Their Motion for Judicial Knowledge

The plaintiffs, Zulay Rodriguez Velez, Yohama Gonzalez, Leila G. Ginorio Carrasquillo, and Julissa Piñero (collectively, "Plaintiffs") respectfully replies to the defendant's Opposition (ECF No. 111) to Plaintiffs' Motion for Judicial Knowledge. ECF No. 92.

Most of Defendant's objections stem from the fact that the numbers for vaccination rates, cases, hospitalizations, and deaths change every day and therefore the link does not reflect the exact numbers that Plaintiffs stated in their Motion for Judicial Knowledge. Other objections only reflect that the CDC's, the Puerto Rico government's, and other cited websites, require some interaction to obtain the numbers as presented in Plaintiff's Motion for Judicial Knowledge.

Note that Defendant did not really challenge the accuracy of the numbers presented in the cited websites for September 28, 2021; they merely challenged that the information now present in the links provided has changed, as it does every day. But Defendant should have been able to challenge the accuracy of the numbers provided which were obtained from government sources. More so, given that their two experts are officers of the Department of Health, which is the source of most of the information and statistics presented in Plaintiff's Motion for Judicial Knowledge.

Therefore, if the government really wanted to challenge the accuracy of the statistics provided therein, they could have submitted their own proposed statistics along with the sources to back-up their challenges. But they didn't. To avoid any doubt, however, Plaintiffs are providing **print screens in the Appendixes** with the data shown in the cited sources **as of September 28, 2021** or as of **October 8, 2021** as explained in paragraphs 9 and 44 below. Data with an asterisk (*) means the following: As vaccination, cases, and deaths reported under the Puerto Rico Health Department Dashboard and other sources have a lagging in reporting, it appears that new data was entered in future dates corresponding to dates reported in the past which caused a slight immaterial difference in the original number reported.

Plaintiffs reply to the defendant's opposition to each challenged fact, *seriatim*.

1. The Data is correct as presented in Appendix 1. The link does reflect the information as stated in the Motion for Judicial Knowledge, except that today the numbers are different because more people get vaccinated each day. But Puerto Rico's ranking is still the same. *See* CDC, COVID-19 Vaccinations in the United States available at https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-total-admin-rate-total, scrolling down, pressing the link that reads: *Data Table for COVID-19 Vaccinations in the United States*, and sorting for the metric: Doses Administered per 100k by State where Administered. *See* Appendix 1 for a print screen of the CDC website (as of September 28, 2021) showing the rankings after following the above-mentioned steps.
2. Data correct as presented in Appendix 2. *See* CDC, COVID-19 Vaccinations in the United States (View: People, Show: Fully Vaccinated, Metric: % of the Population, Population: Total Population), *Data Table for COVID-19 Vaccinations in the United States | Percent of Total*

Pop Fully Vaccinated by State of Residence, https://covid.cdc.gov/covid-data-tracker/#vaccinations_vacc-people-fully-percent-total

3. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, Puerto Rico had, of the eligible population, 79%* fully vaccinated and 87.5%* with one dose (Appendix 3A), while on August 16, 2021, when the EO 2021-058 became effective, Puerto Rico had 72.3%* fully vaccinated and 82.2%* with one dose (Appendix 3B), and on July 28, 2021, when the EO 2021-058 was announced, Puerto Rico had 70.2%* fully vaccinated and 78.5%* with one dose (Appendix 3C).
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 8.9%* were fully vaccinated and 9.2%* received one dose (Appendix 4A) and from August 16, 2021, when EO 2021-058 became effective, to September 28, 2021, a total of 6.8%* were fully vaccinated and 5.6%* received one dose (Appendix 4B). *See* Puerto Rico Health Department COVID-19 Dashboard, *Vacunacion*, <https://covid19datos.salud.gov.pr/#vacunacion>
6. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, there are 362,440* people are 60-69 years old, 275,073* are 70-79 years old and 141,746* are 80+ years old). These amounts went added, totaled 779,259 people that are 60 years or older, with at least one dose. (Appendix 5). *See* Puerto Rico Health Department COVID-19 Dashboard, *Vacunacion*, <https://covid19datos.salud.gov.pr/#vacunacion>
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 117* cases and of daily probable cases was 69* cases (Appendix 6A) *See* Puerto Rico Health Department COVID-19 Dashboard, *Casos*, <https://covid19datos.salud.gov.pr/#casos>. The 7-day moving average of

deaths was 5.6*. (Appendix 6B). See Puerto Rico Health Department COVID-19 Dashboard, *Defunciones*, <https://covid19datos.salud.gov.pr/#defunciones>. For adult hospitalizations, ICU adult hospitalizations, adult beds available and ICU adult beds available, data is correct, refer to “Dataset_sistemas_salud” cells B:536, G:536, E:536 and J:536, downloaded from <https://covid19datos.salud.gov.pr/>, Datos, Dataset: Sistemas de Salud.

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, 150,088* males fully vaccinated, 163,512* males with at least one dose (Appendix 7A), and 17,889* males not vaccinated (Appendix 7B) and 183,553* females fully vaccinated, 199,796* with at least one dose (Appendix 7A), and 17,866* not vaccinated (Appendix 7B). In the 70-79 years old group, 108,256* males are fully vaccinated, 118,386* males with one dose (Appendix 7C), and 20,181* not vaccinated (Appendix 7B) and 141,948* females fully vaccinated, 155,735* with at least one dose (Appendix 7C), and 15,107* not vaccinated (Appendix 7B). In the 80+ years old group, 49,131* males fully vaccinated, 54,353* with at least one dose (Appendix 7D), and 18,172* not vaccinated (Appendix 7E) and 78,761* females fully vaccinated, 87,988* with at least one dose (Appendix 7D), and 21,327* not vaccinated (Appendix 7E).
9. According to the Puerto Rico Health Dept. COVID-19 dashboard on October 8, 2021, as of September 28, 2021, among the 80+ years old, there have been 979* deaths (31%), among the 70-79 years old, 819* deaths (25.9%), and among the 60-69 years old, 610* 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, 197¹ deaths (6.2%); among the 30-39 years old, 73¹ 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.

For ages 59-50 years old, 20-29 years old, 10-19 years old and 0-9 years old, data is correct.

Refer to Appendix 7A, 7B, 7C, 7D, 7E and 7F.

10. According to the Puerto Rico Health Dept. COVID-19 dashboard, as of September 28, 2021, there was a reported accumulated total of 149,718* (PCR) confirmed cases and 31,628* (antigen) probable cases of COVID-19 in Puerto Rico. (Appendix 6A).
11. Data is correct as per “Dataset_casos”, downloaded from <https://covid19datos.salud.gov.pr/>, Datos, Dataset: Casos.
12. According to “covidestim:COVID-19 nowcasting”, the Effective Transmission Rate (Rt) for Puerto Rico was 0.75* on September 28, 2021, all other data is correct. Refer to Appendix 9. See covidestim | COVID-19 nowcasting, *Effective reproduction rate (Rt)* (Puerto Rico), <https://covidestim.org/>
13. Data is correct as presented on Appendix 10.
14. Data is correct as shown on Appendix 11.
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 847.6* confirmed cases. All other data is correct as presented on Appendix 12.
24. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, the 7dMA of daily confirmed cases on September 12, 2021 was 284.4* confirmed cases and on September 27, 2021 was 131.4* confirmed cases. All other data is correct as shown in Appendix 13. See Puerto Rico Health Department COVID-19 Dashboard, *Casos (Confirmados)*, <https://covid19datos.salud.gov.pr/#casos>
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 331.4* probable cases. On August 16, 2021 it was 319.9* probable cases, on September 12, 2021 was 120.4* probable cases and on September 27, 2021 was 62.3* probable cases.

All other data is correct as presented Appendix 14A, 14B and 14C.

26. According to the Puerto Rico Health Department COVID-19 dashboard, from July 1, 2020 to June 15, 2021, there were 120,590* accumulated confirmed cases and 2,067,324* accumulated molecular tests administered (Appendix 15A) and, from June 16, after the Delta variant was first confirmed in Puerto Rico, to September 28, 2021, there were 27,023* accumulated confirmed cases and 539,673* accumulated molecular tests administered. (Appendix 15B). See Puerto Rico Health Department COVID-19 Dashboard, *Casos (Confirmados)*, <https://covid19datos.salud.gov.pr/#casos>; *Pruebas (Moleculares)*, <https://covid19datos.salud.gov.pr/#pruebas>
27. According to the Puerto Rico Health Department COVID-19 dashboard, from July 1, 2020 to June 15, 2021, there were 16,853* accumulated probable cases and 1,222,046* accumulated antigen tests administered (Appendix 16A) and, from June 16 to September 28, 2021, there were 14,771* accumulated probable cases and 958,488* accumulated antigen tests administered (Appendix 16B). From July 1, 2020 to June 15, 2021, there were 137,443* accumulated confirmed and probable cases and 3,289,370 accumulated molecular and antigen tests administered (Appendix 16C) and, from June 16 to September 28, 2021, there were 41,794* accumulated confirmed and probable cases and 1,498,161* accumulated molecular and antigen tests administered (Appendix 16D). See Puerto Rico Health Department COVID-19 Dashboard, *Casos (Probables)*, <https://covid19datos.salud.gov.pr/#casos>; *Pruebas (Antigeno)*, <https://covid19datos.salud.gov.pr/#pruebas>

28. Data is correct as presented in Appendix 17. *See* CDC, Cases, Deaths and Testing (View: Cases, Time Period: Since Jan 21, 2020, Metric: Rate per 100,000), *Data Table for Case Rate by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#cases_casesper100k
29. Data is correct as presented in Appendix 18A and 18B. *See* CDC, New Hospital Admissions (By Jurisdiction, Select Jurisdiction: Puerto Rico), <https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions>
30. Data is correct as presented in Appendix 19A and 19B. *See* CDC, New Hospital Admissions (By Jurisdiction, Select Jurisdiction: Puerto Rico), <https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions>
31. Data is correct as presented in Appendix 20A and 20B. *See* CDC, New Hospital Admissions (By Jurisdiction, Select Jurisdiction: Puerto Rico), <https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions>
32. Data is correct as presented in Appendix 18A, 18B, 19A, 19B, 20A and 20B. *See* CDC, New Hospital Admissions (By Jurisdiction, Select Jurisdiction: Puerto Rico), <https://covid.cdc.gov/covid-data-tracker/#new-hospital-admissions>
33. Data is correct as per Appendix 21. *See* HealthData.gov, COVID-19 State Profile Report - Puerto Rico (09.24.2021), <https://healthdata.gov/Community/COVID-19-State-Profile-Report-Puerto-Rico/dfc5-i6nj>
35. Data is correct as per Appendix 22. *See* CDC, Cases, Deaths and Testing (View: Cases, Time Period: Since Jan 21, 2020, Metric: Rate per 100,000), *Data Table for Case Rate by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#cases_casesper100k
36. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, there was a total of 149,719* confirmed cases and 31,625* probable cases accumulated.

- (Appendix 23). See Puerto Rico Health Department COVID-19 Dashboard, *Casos (Confirmados, Probables)*, <https://covid19datos.salud.gov.pr/#casos>
42. The information is accurate as presented in Appendix 24. See State of Colorado, Division of Human Resources, *COVID-19 Personnel and Procurement Information (COVID-19 Serial Testing)*, <https://dhr.colorado.gov/covid-19-personnel-and-procurement-information>
44. The data for the reported date, September 29, 2021, is no longer available. The updated data as of October 8, 2021, according to the HHS Protect Inpatient Dashboard is as follows: Overall Inpatient Beds in Use in the United States is 77.87% and in Puerto Rico 61.85% and the overall Inpatient Beds In Use for Covid-19 in the United States is 8.76% and in Puerto Rico is 1.42%. Refer to Appendix 25. See HHS, *HHS Protect Inpatient Bed Dashboard*, <https://protect-public.hhs.gov/pages/hospital-utilization>
45. The information is accurate. See Medicina y Salud Publica, *Abogan para que se elimine requisito de referido en servicio de telemedicina y la prueba de COVID-19*, <https://medicinaysaludpublica.com/noticias/administracion-y-gerencia-medicina/abogan-para-que-se-elimine-requisito-de-referido-en-servicio-de-telemedicina-y-la-prueba-de-covid-19/7244>
48. Data is correct as per Appendix 26. See CDC, Cases, Deaths and Testing (View: Deaths, Time Period: Since Jan 21, 2020, Metric: Rate per 100,000), *Data Table for Death Rate by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#cases_deathsper100k
49. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, Puerto Rico has a total of 3,187* accumulated deaths related to COVID since March 17, 2020. See Puerto Rico Health Department COVID-19 Dashboard, *Defunciones*, <https://covid19datos.salud.gov.pr/#defunciones>

50. According to the CDC, when comparing across states and regions, for death rate per 100,000, as of September 29, 2021, Utah has 90* deaths, Puerto Rico has 98* deaths, Iowa has 205 deaths, Nevada has 229* deaths, Connecticut has 241* deaths and Arkansas has 253 deaths. Refer to Appendix 26. See CDC, Cases, Deaths and Testing (View: Deaths, Time Period: Since Jan 21, 2020, Metric: Rate per 100,000), *Data Table for Death Rate by State/Territory*, https://covid.cdc.gov/covid-data-tracker/#cases_deathsper100k
51. According to the Puerto Rico Health Department COVID-19 dashboard, as of September 28, 2021, the highest 7dMA of daily deaths in 2021 was on September 1, 2021, which was 14.3*. Refer to Appendix 28. See Puerto Rico Health Department COVID-19 Dashboard, *Defunciones*, <https://covid19datos.salud.gov.pr/#defunciones>
52. The information is accurate. See The Israeli Public Emergency Council for the Covid19 Crisis, *Position Paper - The Science And The Ethics Regarding The Risk Posed By Non-Vaccinated Individuals*, <https://pecc-il.org/docs/position-paperthe-science-and-the-ethics-regarding-the-risk-posed-by-non-vaccinated-individuals/>
54. The information is accurate. See CDC, *MMWR Outbreak of SARS-CoV-2 Infections, Including COVID-19 Vaccine Breakthrough Infections, Associated with Large Public Gatherings — Barnstable County, Massachusetts, July 2021*, <https://www.cdc.gov/mmwr/volumes/70/wr/mm7031e2.htm>
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 85.21%* (September 27, 2021), United Arab Emirates 82.16%, Spain 78.23%*, Singapore 76.77%*, Denmark 75.08%*, Ireland 73.74%, Uruguay 73.67%, Chile 73.58%*, China 72.56%*, Canada 70.61%*, Italy 67.59%* (Appendix 29A). Puerto Rico, as of

September 28, 2021, has 2,249,752* people fully vaccinated with a population of 3,285,874 (Appendix 29B). Dividing 2,249,752 by 3,285,874 means that Puerto Rico, as of September 28, 2021 has 68.46% of its total population fully vaccinated. *See Our World in Data, Coronavirus (COVID-19) Vaccinations, (Metric: People fully vaccinated), Share of People fully vaccinated Against Covid-19, <https://ourworldindata.org/covid-vaccinations>; Puerto Rico Health Department COVID-19 Dashboard, *Vacunacion*, <https://covid19datos.salud.gov.pr/#vacunacion>*

Conclusion

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

Dated: October 12, 2021

Respectfully submitted,

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