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3 **IN THE UNITED STATES DISTRICT COURT**  
4 **DISTRICT OF PUERTO RICO**  
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7 JUAN E. MILANES )  
8 )  
9 )

10 Plaintiff [s], )

11 VS. )

12 ROSA EMILIA RODRIGUEZ-VELEZ, in her )

13 personal capacity and as acting United States )

14 Attorney; )

15 AND )

16 THE UNITED STATES OF AMERICA )  
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**Case No.:** 09-cv-1108

**SECOND AMENDED  
COMPLAINT FOR DAMAGES  
AND INJUNCTIVE RELIEF  
DEMAND FO JURY TRIAL  
REQUESTED**

21 **COMPLAINT**

22 Plaintiff sues defendant[s] in chancery of this Court. In support the appearing party states and  
23 prays as follows:  
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25 **GENERAL ALLEGATIONS**

- 26 1. Plaintiff is a former Assistant United States Attorney. The plaintiff is *sui juris* and as a  
27 male, of Cuban American origin was hired by the United States of America, Department  
28 of Justice, and Office of the United States Attorney for the District of Puerto Rico.

- 1 2. Plaintiff was transferred from the United States Department of Justice, Executive office  
2 of the of the United States Attorneys, in Washington DC, where he served as an  
3 Assistant Director managing the agency’s Equal Employment Opportunity Staff and  
4 brought to the District of Puerto Rico as an Assistant United States Attorney, by the then  
5 United States Attorney Mr. H. S. Garcia. The plaintiff had worked for the United States  
6 government since September 30<sup>th</sup> 1996 and has served in a number of government  
7 positions, including Trial Attorney; Attorney-Advisor to the Assistant Secretary for Fair  
8 Housing and Equal Opportunity (FHEO) at HUD; Acting Director of Enforcement for  
9 FHEO at HUD; Training Instructor for the Office of Overseas Prosecutorial  
10 Development, Assistance and Training (OPDAT) in Colombia and the Dominican  
11 Republic; and Special Assistant U.S. Attorney for the District of Puerto Rico (one-year  
12 detail).
- 13 3. As part his employment benefits, plaintiff, as an employee hired from the Continental  
14 U.S. (hereinafter, “CONUS employee”) was eligible to have the U.S. Department of  
15 Justice provide primary and secondary schooling to his dependents. The United States  
16 Attorney General acting through an Attorney General’s Order had determined that  
17 schooling for personnel stationed outside of the United States (Puerto Rico) would be  
18 available given that in Puerto Rico the Department of Justice has found that Puerto Rico  
19 Public Schools lack appropriate English education. The objective of the policy is to  
20 provide similar education to that which is offered in the Continental United States. This  
21 benefit was provided by way of the Antilles School at Fort Buchanan, in Puerto Rico.  
22 Pursuant to the Attorney General’s Order, active at the time plaintiff was transferred,  
23 only the Deputy Attorney General had the delegated authority from the Attorney General  
24 to determine how and when federal funds for this employment benefit were to be  
25 provided.
- 26 4. Defendant Rosa Emilia Rodriguez-Velez is the acting United States Attorney for the  
27 District of Puerto Rico. Defendant Rosa Emilia Rodriguez-Velez was never confirmed  
28 by the Senate as the United States Attorney. Upon the failure of the Senate confirmation,

1 the judges in the District of Puerto Rico appointed her interim United States Attorney for  
2 the District of Puerto Rico. All the acts and events complained in the complaint occurred  
3 by defendant Rosa Emilia Rodriguez-Velez was acting interim upon the discretion of the  
4 judges of the District of Puerto Rico and the United States Department of Justice.

5 5. The United States of America is a Republican form of Government, organized by  
6 Declaration of Independence and Constitution in 1776.

7 6. From her inception, as United States Attorney for the for the District of Puerto Rico,  
8 defendant Rosa Emilia Rodriguez Velez formed a “Girls Club” and provided an  
9 employment benefit that violated the stated public policy of the U.S. Department of  
10 Justice for providing educational assistance to employees hired from the United States.  
11 The manner and means by which defendant Rosa Emilia Rodriguez-Velez discharged  
12 her supervisory position was violative of the must fundamental policies enacted by  
13 congress under the Civil Rights Act of 1964 and as expressed by President Barack  
14 Obama that: *“the God-given promise that all are equal, all are free and all deserve a  
15 chance to pursue their full measure of happiness<sup>1</sup>”*.

#### 16 **SPECIFIC ALLEGATIONS**

17 7. All conditions before filing the instant complaint have been satisfied, waived, rescinded,  
18 or excused. The plaintiff filed an EEO complaint on April 11, 2008, #USA-2008-0017  
19 and on June 5<sup>th</sup> 2008 complaint #USA-2008-00228. The complaints were amended and  
20 consolidated for investigation purposes on July 21, 2008. Over One Hundred and Eighty  
21 days (180) have lapsed since the filing of the last amended complaint. On January 28<sup>th</sup>  
22 2009 the complainant informed the Agency of his election to proceed before a court of  
23 competent jurisdiction.

24 8. At all times relevant to the complaint defendant Rosa Emilia Rodriguez-Velez  
25 organized, formed and maintained a “Girls Club” in violation of Title VII of the Civil  
26 Rights Acts of 1964 to provide Antilles schooling to the members of the “Girls Club”  
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<sup>1</sup> President Barack Obama's inaugural address Tue Jan 20, 5:04 pm ET

1 who needed the benefit. The members of the “Girls Club” included -as relevant to the  
2 complaint at bar- Ms. Sealed named AUSA [2], Administrative Officer Ms. Sealed  
3 named [3] [non lawyer]; Ms. Sealed named, AUSA [4]; and Ms. Sealed named, AUSA  
4 [5] chief of the Narcotics Unit. All of the aforementioned members of the “Girls Club”  
5 receive the Antilles School with the exception of Ms. Sealed named , AUSA [5] who has  
6 no dependent children to attend the school.

7 9. When hired initially by then United States Attorney. Mr. H. S. Garcia, Plaintiff Juan E.  
8 Milanés, AUSA was announced as returning to the white collar unit of the office, where  
9 he would have worked with AUSA Nereida Melendez, Deputy Chief of the White Collar  
10 Section, who had in the past provided excellent work reviews to AUSA Juan E. Milanés  
11 at a time when he worked in Puerto Rico on a Department of Justice detail. Upon his  
12 arrival at the office, however, Plaintiff was re-assigned to the Narcotics Unit by the new  
13 Acting U.S. Attorney, Rosa Emilia Rodríguez-Velez.

14 10. By August, 2006, plaintiff requested and obtained from the Acting U.S. Attorney, Rosa  
15 Emilia Rodríguez-Velez, the employment benefit of schooling for his two minor  
16 dependent children at Fort Buchanan. By October, 2006, defendant Rosa Emilia  
17 Rodríguez-Velez hired her personal friend, Ms. Sealed name AUSA [5], and promoted  
18 her to Deputy Chief of the Narcotics Unit. Beginning in October, 2006, Ms. Sealed name  
19 AUSA [5] engaged in micro-managing the attorneys in her unit. Ms. Sealed name AUSA  
20 [5] would interrupt work hours for unnecessary meetings and administrative matters  
21 when the case load mandated the litigation of cases. At the time of the events, the  
22 narcotic unit was comprised of Ms. Judith Vargas, AUSA, who transferred to the  
23 Appellate Division and then resigned, Ms. Lynn Doble, AUSA who transferred to the  
24 Immigration unit, and then resigned, leaving Mr. Timothy Hennwood, AUSA; Mr. Scott  
25 Anderson, AUSA; and plaintiff to handle the remaining case load. After plaintiff  
26 complained to the Criminal Chief, Jose Ruiz, about Ms. Sealed name AUSA [5]  
27 management style creating a hostile work environment, Ms. Mercado and U.S. Attorney  
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1 Rosa Emilia Rodriguez-Velez, in concert with others, engaged in a pattern and practice  
2 of recurring retaliation against the plaintiff.

3 11. In January, 2007 plaintiff requested a transfer from the narcotics unit due to the fact Ms.  
4 Sealed name AUSA [5] had become confrontational with plaintiff, after plaintiff had  
5 complained about Ms. Sealed name AUSA [5] supervisory practices. Plaintiff asked for  
6 a transfer from AUSA Jose Ruiz, Chief of the Criminal Division, because AUSA Ms.  
7 Sealed name AUSA [5] management style had become unbearable and was affecting the  
8 performance of plaintiff. Management then deemed the transfer request as being a  
9 request for reasonable accommodation based upon a “perceived disability” and requested  
10 that plaintiff obtain medical records to support his request for a transfer. Shortly  
11 thereafter, Ms. Sealed name AUSA [5] began a campaign of retaliation against the  
12 plaintiff in response to his reasonable accommodations request. From January, 2007  
13 until March, 2008, Ms. Sealed name AUSA [5] engaged in the creation of a Hostile  
14 Work Environment by dumping the oldest, most complex and weakest narcotics cases on  
15 plaintiff’s caseload; repeatedly filing or threatening to file frivolous disciplinary actions  
16 against plaintiff; refusing to meet with plaintiff to transfer his Narcotics cases to other  
17 AUSAs after his eventual transfer out of the Narcotics Unit; and continuously attempting  
18 to sabotage plaintiff’s trial work and other office work in the U.S. Attorney’s office.

19 12. After the 2006-07 school year ended for plaintiff’s minor children, defendant Rosa  
20 Emilia Rodriguez-Velez decided not to renew plaintiff’s employment benefit of  
21 providing schooling to his children, however, she continued to provide the benefit to her  
22 female friends, the members of the “Girls Club” in the Executive Suite, particularly, Ms.  
23 Sealed name AUSA [3], Ms. Sealed name AUSA [2], First Assistant U.S. Attorney, and  
24 Ms. Sealed name AUSA [4], Special Assistant to the U.S. Attorney.

25 13. On or about July 27, 2007, plaintiff complained to defendant Rosa Emilia Rodriguez-  
26 Velez about the unfair and unlawful discriminative policy of placing her female friends’  
27 children in the Antilles School System over CONUS-hired employees and he requested  
28 that his children continue in the program. The request for continue this employment

1 benefit was denied by defendant Rosa Emilia Rodriguez-Velez, who stated that the  
2 reason for the denial was based upon the office's budgetary constraints.

3 14. On or about October 23, 2007, Plaintiff learned that the U.S. Attorney had provided false  
4 information regarding the reason for the denial of his employment benefit. Specifically,  
5 he learned that the office budget was not under constraint and that the office had made a  
6 significant purchase of new equipment, including blackberry PDA devices for all  
7 Assistant U.S. Attorneys and new flat screen televisions for the reception area.

8 15. Shortly after plaintiff discovered defendant Rosa Emilia Rodriguez-Velez deception, he  
9 wrote an email communication directly to her and requested the immediate reinstatement  
10 of his children in the Antilles School System. The response to this email request was  
11 then forwarded to FAUSA Dominguez to deliver the denial to the plaintiff; however,  
12 FAUSA Dominguez clearly identifies the USA as the deciding official for the denial of  
13 the reinstatement of plaintiff's minor children into the Antilles School System.

14 16. Subsequently, plaintiff requested the written policy in the Office of the U.S. Attorney  
15 for the Antilles School program. The request was made and denied by First Assistant  
16 Maria Dominguez, who in a written statement affirmed that there was no written policy.

17 17. On or about January 17, 2008, through a series of official inter-office electronic  
18 communication, First Assistant, Maria Dominguez agreed that there was no written  
19 policy in the office and that the decision to take the dependent children out of the  
20 Antilles school had been made by U.S. Attorney. In support, Ms. Maria Dominguez  
21 stated the "the decision to phase out the Antilles program was based on a series of  
22 meetings where USA Rodriguez decided to phase out the program for new employees".  
23 This non written policy as applied to plaintiff is discriminatory and retaliatory. The  
24 policy also violates the Attorney General's Order, which at all times material hereto only  
25 delegated authority for such decisions to the "Deputy Attorney General" and, in August,  
26 2007 re-delegated authority to the Assistant Attorney General for Administration; not the  
27 U.S. Attorney. It is through this unwritten executive suite decision that the "Girls Club"  
28 receives the employment benefit at the expense of the male, Cuban-American plaintiff.

1 The non-written policy and the phase-out policy is both disparate treatment and  
2 maintains a disparate impact, providing the “Girls Club” with an employment benefit in  
3 a disparate manner and with a disparate impact upon non-members of the “Girls Club”.

4 18. On or about December 3, 2007, defendant- Rosa Emilia Rodriguez-Velez took sides in a  
5 domestic dispute between plaintiff and his wife. Defendant Rodriguez-Velez contacted  
6 plaintiff’s direct supervisor and illegally dispatched the Federal Bureau of Investigation  
7 (FBI) to the house dwelling where plaintiff resided with his family and had the supervisor  
8 and the FBI to direct plaintiff to leave his residence. The act of requiring and ejecting the  
9 plaintiff from his dwellings house, where his dependent children lived, was an  
10 unconstitutional act of unreasonable search and seizure, a taking of his right to remain in  
11 the dwelling house, where he was the authorized tenant, and maintained a right of  
12 possession superior to that of the other spouse.

13 19. When plaintiff confronted defendant Rosa Emilia Rodriguez-Velez with the  
14 unconstitutional act, defendant Rosa Emilia Rodriguez-Velez retaliated again and had  
15 plaintiff’s supervisor serve plaintiff with a copy of the United States Attorney Office  
16 Press Policy Manual to deter plaintiff from going to the press regarding her actions and  
17 that of the FBI.

18 20. After confronting the discriminatory and retaliatory practices of defendant Rosa Emilia  
19 Rodriguez-Velez, plaintiff filed a complaint with the Department of Justice. On or about  
20 December 4, 2007, plaintiff complained to Ken Melson, Director of Executive office of  
21 the United States fearing further retaliation by defendant Rosa Emilia Rodriguez-Velez.

22 21. In January, 2008, plaintiff learned that he was being sued by a criminal defense attorney  
23 regarding matters directly related to plaintiff’s work (Zeno v. Fuste, et. al). Plaintiff  
24 immediately requested DOJ representation in the frivolous law suit filed in the District  
25 of Maryland. Defendant Rodriguez-Velez intentionally refused to answer plaintiff’s  
26 request for representation until a new Amended Complaint was filed in the same law suit  
27 naming defendant Rodriguez-Velez and two other AUSA’s. Whereas plaintiff was made  
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1 to wait six weeks for an answer, the request for representation for herself and the two  
2 other AUSA's was made within one week of the discovery of the new law suit.

3 22. When it was obvious to plaintiff that the discriminatory practices against males and  
4 Cuban American would not cease under the current administration of USA Rodriguez-  
5 Velez, plaintiff sought and obtained an overseas assignment through the Criminal  
6 Division's Overseas Prosecutorial Development, Assistance and Training Office  
7 (OPDAT). The overseas duty assignment was to be a Resident Legal Advisor in the new  
8 Embassy establish by the United States in Kosovo. Plaintiff was interviewed, screened,  
9 vetted and accepted into the program. On April 4, 2008, plaintiff was scheduled to  
10 commence his State Department training. The employment benefits included, in relevant  
11 part, Foreign Transfer allowance, Temporary Quarters Allowance, Housing Allowance  
12 [housing leased through the Embassy], Basic Salary, Post Allowance pay, Danger pay  
13 [20%], Post Hardship Differential Pay [20%], rest and recuperation travel, Home leave,  
14 Annual leave, Sick leave, Cost of living Pay [15%]. Plaintiff's last day in the U.S.  
15 Attorney's Office was scheduled to be April 2, 2008 and he was scheduled to be on  
16 travel beginning on April 3, 2008.

17 23. On or about April 2, 2008, at approximately 5:00 p.m., within 30 minutes of plaintiff  
18 departing the office for the last time, defendant U.S. Attorney Rosa Emilia Rodriguez-  
19 Velez retaliated against plaintiff by having him served with a written reprimand  
20 regarding a meeting he had with his wife on March 12, 2008. Plaintiff was forced to  
21 stay in the office to respond to the allegations set forth in the reprimand and asked his  
22 supervisor, AUSA Jose Ruiz, to reconsider. AUSA Ruiz initially responded that it "was  
23 not his call." And later stated, "He would see what he could do." On the following day,  
24 AUSA Ruiz informed plaintiff that the reprimand would not be rescinded and plaintiff  
25 left the office.

26 24. On April 10, 2008, plaintiff was called to a meeting with the Director of EOUSA, Ken  
27 Melson, and informed that the overseas assignment to Kosovo was being retracted  
28 because U.S. Attorney Rodriguez-Velez had made allegations that plaintiff had

1 threatened her. Plaintiff was then placed on administrative leave pending an  
2 investigation.

3 25. To respond and defend against defendant Rodriguez-Velez's defamation, plaintiff  
4 requested copies of the electronic files, and records, security tapes, access card system  
5 logs. Plaintiff identified evidence in the possession of the Department of Justice that  
6 would show that the retaliation against the plaintiff was *Malum Is Se*, vindictive,  
7 discriminatory and to cover up defendant Rodriguez-Velez illegal acts. To protect  
8 management and further conceal the truth, the General Counsel's Office for the  
9 Executive Office for U.S. Attorneys denied access to the requested exculpatory records.  
10 As a result of EOUSA's conspiracy to protect the management of the U.S. Attorney's  
11 Office and conceal the truth, the plaintiff was constructively discharged when he was  
12 forced to resign his position as Assistant U.S. Attorney under protest on June 27, 2008.

13 26. The date of the EEOC complaint is dated April 11, 2008 and bears complaint # USA-  
14 2008-00174. A second complaint was filed on June 5<sup>th</sup> 2008 No. USA-200800174. On  
15 July 21<sup>st</sup> 2007 the complaints were consolidated and accepted, including a final  
16 amendment to include the claim of constructive discharge. No final decision was ever  
17 obtained from any administrative body.

#### 18 JURISDICTION AND VENUE

19 27. The court has original jurisdiction based on Federal question 28 U.S.C. § 1331; Title  
20 VII of the Civil Rights Acts as codified under 42 U.S.C § 2000 et seq.; and under the  
21 federally created cause of action under the U.S. Supreme Court created cause of action in  
22 [\*Biven v Six Unknown Agents of the Federal Bureau of Investigation 403 U.S. 388 \(1971\)\*](#)

23 28. Venue lies in this district, as the facts and occurrences took place in the District of  
24 Puerto Rico; All acts events occurred in the Commonwealth of Puerto Rico.

#### 25 COUNT I

#### 26 VIOLATION OF CIVIL RIGHTS ON THE ALLOCATION OF THE ANTILLES

#### 27 SCHOOL PROGRAM

28 29. The plaintiff avers and reavers all preceding paragraphs and further states and prays:

1 30. Defendants acted with disparate treatment with respect to providing the “Girls Club” the  
2 employment benefit of the Antilles School program, benefiting the members of the  
3 “Girls Club” over the plaintiff who had equal right to attend the school.

4 31. Section 703 of the Civil Rights Act of 1964, [42 U.S.C.S. 2000e](#) (Title VII), proscribes  
5 employer discrimination on the basis of race, color, religion, sex or national origin.  
6 There are two legal theories are available for employees seeking redress for  
7 discriminatory practices: disparate treatment and disparate impact. The disparate  
8 treatment theory allows plaintiffs to obtain redress for employment practices exhibiting  
9 invidious discriminatory intent. By contrast, disparate impact seeks to redress the effects  
10 of facially neutral practices that result in the disproportionate exclusion of members of  
11 the protected class. Title VII proscribes not only overt discrimination but also practices  
12 that are fair in form but discriminatory in operation. The plaintiff alleges in the instant  
13 complaint and cause of action that the defendants’ action support both legal theories. The  
14 “Girls Club” practices are disparate treatment, as against plaintiff and other similarly  
15 situated males; and have a disparate impact upon the plaintiff and others similarly  
16 situated males, by denying a benefit that only members of the “Girls Club” receive.

17 **COUNT II**  
18 **RETALIATORY EMPLOYMENT ACTION**  
19 **IN VIOLATION OF TITLE VII, ADA, and REHAB. ACT**

20 32. The plaintiff avers and reavers all preceding paragraphs and further state and pray:

21 33. Since February 2007 the plaintiff was involved in a protected activity with EEOC  
22 complaint. As against sealed “Girls Club” member # 5 discriminatory practices.

23 34. Defendant discriminated against plaintiff by perceiving a Reasonable Accommodation  
24 request based on ‘depression’ due to the discriminatory practices of sealed member #5.  
25 This perceived disability was an attempt top concealed the malignant, and *malum*  
26 practices of “Girls Club” member # 5.

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**COUNT III  
HOSTILE WORK ENVIRONMENT**

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35. The plaintiff avers and reavers all preceding paragraphs and further state and pray:

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36. “Girls Club” member # 5 discriminated against plaintiff by *inter alias* creating a hostile work environment by filing frivolous disciplinary actions and unsigned letters of reprimand when none was due. and failing to submit representation letter to a civil action by a local member of the bar Mr. Alexander Zeno” who had file an action in the District of Maryland, when in fact and in truth the office had sent a letter of representation for defendant Rosa Emilia Rodriguez-Velez and the “Judges” members of the U.S. District Court.

**COUNT III  
HOSTILE WORK ENVIRONMENT**

37. The plaintiff avers and reavers all preceding paragraphs and further state and pray:

38. By failing to submit representation letter to a civil action by a local member of the bar Mr. Alexander Zeno” who had file an action in the District of Maryland, against defendant, the United States Attorney and all the District Judges in the District of Puerto Rico, when in fact and in truth the office had sent a letter of representation for defendant Rosa Emilia Rodriguez-Velez and the “Judges” members of the U.S. District Court, leaving the plaintiff without any legal representation in the District of Maryland.

**COUNT IV  
RETALIATORY REMOVAL FROM OVERSEAS ASSIGNMENT**

39. The plaintiff avers and reavers all preceding paragraphs and further state and pray:

40. Defendant discriminated against plaintiff by initiating disciplinary actions and having plaintiff removed from the overseas assignment through the Criminal Division’s Overseas Prosecutorial Development, Assistance and Training Office (OPDAT). The overseas duty assignment was to be a Resident Legal Advisor in the new Embassy

1 establish by the United States in Kosovo. Plaintiff was interviewed, screened, vetted and  
2 accepted into the program. On April 4, 2008, plaintiff was scheduled to commence his  
3 State Department training and was removed from the program because of the  
4 discriminatory practices of defendants.

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6 **COUNT V**  
7 **RETALIATORY CONSTRUCTIVE DISCHARGE**

8 41. The plaintiff avers and reavers all preceding paragraphs and further state and pray:

9 42. The defendant retaliated against plaintiff who was in a protected activity of an EEOC  
10 complaint by causing Criminal Division Employee on Overseas Duty Station  
11 Assignment to be canceled after the plaintiff had completed the State Department  
12 Security training. Subsequently, defendant fabricated a charge and specification that was  
13 based upon false information and denied plaintiff the discovery to support the improper  
14 termination from federal employment.

15 43. Plaintiff will prove -as prima facie claim of retaliation under [42 U.S.C.S. § 2000e-3\(a\)](#)-  
16 and demonstrate -by a preponderance of the reliable evidence- that (1) he engaged in a  
17 protected activity as an employee, (2) he was subsequently discharged from  
18 employment, and (3) there was a causal connection between the protected activity and  
19 the discharge. [T]he federal government and its Agencies are liable for retaliation, even  
20 though the statutory language extending Title VII coverage to federal employees, accord  
21 [42 U.S.C.S. § 2000e-16](#), does not specifically create a cause of action for retaliation.

22 44. The plaintiff in the instant case was involved in a protected activity of raising his  
23 constitutionally protected right to received an employment benefit which was available  
24 through an Attorney General's Order and which had been previously granted to him. The  
25 employment benefit was taken away by the defendants, to benefit the members of the  
26 "Girls Club" who are in fact closer in gender to defendant Rosa Emilia Rodriguez-Velez.  
27 The plaintiff suffered employment action when he was terminated from his employment  
28 and removed from the Kosovo detail, and permanently terminated from employment.

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**COUNT VI**  
**BIVENS ACTION AGAINST INDIVIDUAL DEFENDANT**

45. The plaintiff avers and reavers all preceding paragraphs and further state and pray:

46. Under *Bivens*, a person may sue a federal official in his or her individual capacity for damages arising out of a constitutional violation committed under color of federal law. The United States Supreme Court has further established that the victims of a constitutional violation by a federal agent have a right to recover damages against the official in federal court despite the absence of any statute conferring such a right. [\*Molina-Acosta v. Martinez\*, 392 F. Supp. 2d 210 \(D.P.R. 2005\)](#).

47. This count is against the individual defendant –Rosa Emilia Rodriguez-Velez- for violations of the plaintiff constitutional rights when acting under the color of law defendant -Rosa Emilia Rodriguez-Velez- mandated, and in fact had plaintiff removed from his personal domicile where he was a possessor of the dwelling. Defendant personally called the FBI to intervene in a domestic dispute of spouses when in fact and in truth the FBI and the office of the U.S. Attorney had no jurisdiction over a domestic dispute involving spouses and which originated –in part- by the defendants’ discriminatory practices over the Antilles School Program, and the preferential treat given to the “Girls Club” members. Defendant Rosa Emilia Rodriguez-Velez actions against the intrusion of the plaintiff’s rights, in his dwelling house, and against his personal life and those of his children, were not within the her federal employment as a United States Attorney, nor were the acts adjudicative functions of a federal prosecutor intimately associated with the judicial phase of the criminal process.

48. The removal of plaintiff from his domicile was a Government taking by Rosa Emilia Rodriguez-Velez -under the color- maintaining that she –Rosa Emilia Rodriguez-Velez- the supreme authority in the District of Puerto Rico. The acts violated plaintiff’s rights to unreasonable search and seizures; it was a taking within the meaning of the Fifth Amendment, a violation of plaintiff rights to due process of law, as well as a retaliatory

1 employment action. Defendant Rosa Emilia Rodriguez-Velez continued the patterned of  
2 discrimination and constitutional violations against plaintiff until the April 2008 by  
3 falsely accusing labeling him a moderate risk of security, when in fact and in truth such  
4 labeling was false and constituted an unconstitutional failure of the equal protection and  
5 freedom of speech.

6 49. *Bivens* actions, being creatures of federal common law, have no established statutory  
7 limitations period; however, in analogous situations involving suits against state officials  
8 based on similar conduct, adjudicated under [42 U.S.C.S. § 1983](#), it has long been settled  
9 that federal courts should apply the statute of limitations of the most closely analogous  
10 state cause of action. In actions under [§ 1983](#) federal courts are to borrow the state law  
11 limitations period for personal injury claims. The First Circuit has repeatedly held that  
12 for claims arising in Puerto Rico in cases pursuant to the Civil Rights Act, including [§](#)  
13 [1983](#), the analogous and relevant statute of limitations is that which is applicable to tort  
14 actions pursuant to Title [31 LPR Section 5298\(2\)](#), which establishes a period of one  
15 year from the time the aggrieved person had knowledge thereof. This action is being  
16 filed before the on year statute of limitations. This action is filed before the one year  
17 statute of limitations.

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19 **WHEREFORE**, Plaintiff respectfully requests:

- 20 a. Pursuant to compensatory damages in an amount not less than Three Hundred Thousand  
21 Dollars (\$300,000.00) or the statutory cap designated by statute.
- 22 b. Consequential damages in form of, lost employment benefit in the Antilles School  
23 program (\$34,000.00 per year) past wages and benefits losses (Back pay estimated at  
24 \$248,000 per year), Future pay or reinstatement to his previous employment, or other  
25 overseas detail, or according to proof.
- 26 c: Award of pre-judgment interest, attorney's fees, and litigation costs under the civil rights  
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1 Attorney fees act 42 U.S.C § 1988.

2 d: A preliminary injunction requiring the office of the U.S. Attorney to place plaintiff's  
3 children in the employment benefit equal to other employees receiving the benefit.  
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5 e: Any other relief deem appropriate and fair.  
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10 Respectfully submitted,

11 *S/Lorenzo J. Palomares Starbuck*

12 Lorenzo J. Palomares Starbuck, Esq.

13 USDC No. 218017

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21 **Counsel for Plaintiff**  
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**SEALED NAMES EXHIBIT HAVE BEEN FILED SEPARATELY**

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