

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

ADA MERCEDES CONDE VIDAL and
IVONNE ÁLVAREZ VÉLEZ; MARITZA
LÓPEZ AVILÉS and IRIS DELIA RIVERA
RIVERA; JOSÉ A. TORRUELLAS IGLESIAS
and THOMAS J. ROBINSON; ZULMA
OLIVERAS VEGA and YOLANDA ARROYO
PIZARRO; JOHANNE VÉLEZ GARCÍA and
FAVIOLA MELÉNDEZ RODRÍGUEZ; and
PUERTO RICO PARA TOD@S,

Plaintiffs,

v.

ALEJANDRO J. GARCÍA PADILLA, in his
official capacity as Governor of the
Commonwealth of Puerto Rico; ANA RÍUS
ARMENDÁRIZ, in her official capacity as
Secretary of the Health Department of the
Commonwealth of Puerto Rico; WANDA
LLOVET DÍAZ, in her official capacity as
Director of the Commonwealth of Puerto Rico
Registrar of Vital Records; and JUAN C.
ZARAGOSA GÓMEZ, in his official capacity as
Director of the Treasury in Puerto Rico,

Defendants.

Civil Action No. 3:14-cv-01253-PG

JOINT MOTION FOR ENTRY OF JUDGMENT

In light of the decision by the United States Supreme Court in *Obergefell v. Hodges*, 576 U.S. ___, 2015 U.S. LEXIS 4250 (2015), and the judgment of the United States Court of Appeals for the First Circuit in this matter stating that Puerto Rico’s Marriage Ban “is unconstitutional,” Dkt. 62, Plaintiffs Ada M. Conde Vidal and Ivonne Álvarez Vélez, by and through their attorney; Plaintiffs Maritza López Avilés and Iris Delia Rivera Rivera, José A. Torruellas Iglesias and Thomas J. Robinson, Zulma Oliveras Vega and Yolanda Arroyo Pizarro,

Johanne Vélez García and Faviola Meléndez Rodríguez, and the organization Puerto Rico Para Tod@s, by and through their attorneys (collectively “Plaintiffs”); and Defendants Alejandro García Padilla, in his official capacity as Governor of the Commonwealth of Puerto Rico; Ana Ríos Armendáriz, in her official capacity as Secretary of the Health Department of the Commonwealth of Puerto Rico; Wanda Llovet Díaz, in her official capacity as Director of the Commonwealth of Puerto Rico Registrar of Vital Records; and Juan C. Zaragosa Gómez, in his official capacity as Director of the Treasury in Puerto Rico, by and through their attorneys, respectfully move this Court to enter the enclosed proposed judgment in favor of Plaintiffs.

WHEREFORE, in light of *Obergefell v. Hodges* and the judgment of the Court of Appeals for the First Circuit, the parties hereby jointly move this Court to enter the enclosed proposed judgment in favor of Plaintiffs.

Dated: July 16, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Omar Gonzalez-Pagan, an attorney, certify that on July 16, 2015, I served upon counsel for all parties by electronically filing the foregoing with the Clerk of the Court using the CM/ECF system.

/s/ Omar Gonzalez-Pagan _____
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Defendants.

Civil Action No. 3:14-cv-01253-PG

[PROPOSED] JUDGMENT

1. *Whereas*, on June 25, 2014, Plaintiffs Ada Conde Vidal and Ivonne Álvarez Vélez; Maritza López Avilés and Iris Delia Rivera Rivera; José A. Torruellas Iglesias and Thomas J. Robinson; Zulma Oliveras Vega and Yolanda Arroyo Pizarro; Johanne Vélez García and Faviola Meléndez Rodríguez; and the organization Puerto Rico Para Tod@s (collectively “Plaintiffs”) filed an Amended Complaint against Defendants Alejandro García Padilla, in his official capacity as Governor of the Commonwealth of Puerto Rico; Ana Ríus Armendáriz, in

her official capacity as Secretary of the Health Department of the Commonwealth of Puerto Rico; Wanda Llovet Díaz, in her official capacity as Director of the Commonwealth of Puerto Rico Registrar of Vital Records; and Melba Acosta Febo, in her official capacity as Director of the Treasury in Puerto Rico;¹

2. *Whereas*, the Complaint sought, *inter alia*,

- a. A declaratory judgment that the provisions of and enforcement by Defendants of Article 68 of the Civil Code of Puerto Rico, P.R. Laws Ann. tit. 31, §221, and other laws of the Commonwealth of Puerto Rico that (1) prohibit lesbian, gay, bisexual, and transgender (LGBT) people from marrying, or enjoying the same rights and responsibilities of marriage enjoyed by different-sex couples, or (2) deny recognition of valid marriages of LGBT people entered into in another jurisdiction violate Plaintiffs' rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment of the United States Constitution and may not be enforced against Plaintiffs or any other LGBT people;
- b. A permanent injunction enjoining enforcement by Defendants, and their officers, employees, agents, and all other individuals under their supervision, direction, or control, and all persons acting in concert or participation with any of them, of Article 68 of the Civil Code of Puerto Rico, P.R. Laws Ann. tit. 31, §221, and other laws of the Commonwealth of Puerto Rico that exclude

¹ Subsequent to the filing of the Amended Complaint, Defendant Acosta Febo left her position as Director of the Treasury and was replaced in that role by Juan C. Zaragoza Gómez, as of November 13, 2014. Per Federal Rule of Civil Procedure 25(d), Defendant Zaragoza Gómez's substitution is automatic. This substitution was also made by the First Circuit. *See* Order of Court, *Conde-Vidal v. Rius-Armendariz*, No. 14-2184 (1st Cir. Dec. 15, 2014).

LGBT people from marriage or refuse recognition to the marriages of LGBT people validly married in another jurisdiction; and

- c. A permanent injunction requiring Defendants, in their official capacities, and their officers, employees, agents, and all other individuals under their supervision, direction, or control, and all persons acting in concert or participation with any of them, to permit issuance of marriage licenses to same-sex couples to marry, pursuant to the same restrictions and limitations applicable to different-sex couples' freedom to marry, and to recognize marriages validly entered into by Plaintiffs and all other LGBT people;

3. *Whereas*, on March 20, 2015, Defendants filed a brief with the United States Court of Appeals for the First Circuit agreeing with Plaintiffs that: (1) classifications based on sexual orientation are subject to heightened scrutiny under the Equal Protection Clause of the Fourteenth Amendment; (2) LGBT people possess the same fundamental right to marry as any other person; and (3) Puerto Rico's Marriage Ban impermissibly burdens Plaintiffs' rights under the Due Process and Equal Protection Clauses of the Fourteenth Amendment;

4. *Whereas*, on June 26, 2015, the United States Supreme Court held "that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty," *Obergefell v. Hodges*, 576 U.S. ____, 2015 U.S. LEXIS 4250, *41-42 (2015);

5. *Whereas*, on July 8, 2015, the United States Court of Appeals for the First Circuit issued its Judgment vacating the district court's prior dismissal of the case at bar, remanding the matter for further proceedings in light of *Obergefell v. Hodges*, and stating that Puerto Rico's

marriage ban is unconstitutional, Judgment, *Conde-Vidal v. Rius-Armendariz*, No. 14-2184 (1st Cir. July 8, 2015);

6. *Whereas*, in light of the foregoing, Defendants consent to a declaratory judgment and permanent injunction in Plaintiffs' favor;

7. *Whereas*, the parties to this litigation desire to effect a settlement of the issues raised by the Amended Complaint and subsequent proceedings without the necessity of further litigation, and therefore consent to entry of the following final and binding judgment as dispositive of all issues raised in this case; and

8. *Whereas*, the parties intend the following Judgment to benefit all LGBT people and same-sex couples in Puerto Rico and to be binding for purposes of issue preclusion and claim preclusion in all future actions, including through non-mutual offensive collateral estoppel.

Accordingly, it is hereby ordered, adjudged, and decreed:

1. Article 68 of the Civil Code of Puerto Rico, P.R. Laws Ann. tit. 31, §221, and other laws of the Commonwealth of Puerto Rico that prohibit same-sex couples from marrying, or enjoying the same rights and responsibilities of marriage enjoyed by different-sex couples, violates the Fourteenth Amendment of the United States Constitution and may not be enforced against Plaintiffs or any other same-sex couple;

2. Article 68 of the Civil Code of Puerto Rico, P.R. Laws Ann. tit. 31, §221, and other laws of the Commonwealth of Puerto Rico that deny recognition to the marriages of LGBT people who have validly married under the law of another jurisdiction violate the Fourteenth Amendment of the United States Constitution and may not be enforced against Plaintiffs or any other LGBT persons;

3. Defendants, in their official capacities, and their successors, officers, employees, agents, and all other individuals under their supervision, direction, or control, and all persons acting in concert or participation with any of them are permanently enjoined from enforcing Article 68 of the Civil Code of Puerto Rico, P.R. Laws Ann. tit. 31, §221, and other laws of the Commonwealth of Puerto Rico that prohibit same-sex couples from marrying;

4. Defendants, in their official capacities, and their successors, officers, employees, agents, and all other individuals under Defendants' supervision, direction, or control, and all persons acting in concert or participation with any Defendants are permanently enjoined from enforcing Article 68 of the Civil Code of Puerto Rico, P.R. Laws Ann. tit. 31, §221, and other laws of the Commonwealth of Puerto Rico that deny recognition to the marriages of Plaintiffs and other LGBT people who are validly married under the law of another jurisdiction;

5. Defendants, in their official capacities, and their successors, officers, employees, agents, and all other individuals under Defendants' supervision, direction, or control, and all persons acting in concert or participation with any Defendant must, upon submission of a complete application for a marriage license that complies with all relevant provisions of Puerto Rico law except those purporting to prohibit LGBT people from marrying, provide marriage licenses to Plaintiffs Maritza López Avilés and Iris Rivera Rivera; Yolanda Arroyo Pizarro and Zulma Oliveras Vega; and any otherwise eligible LGBT people; and

6. Defendants, in their official capacities, and their successors, officers, employees, agents, and all other individuals under Defendants' supervision, direction, or control, and all persons acting in concert or participation with any Defendant must recognize the marriages of Plaintiffs José A. Torruellas Iglesias and Thomas J. Robinson; Johanne Vélez García and Faviola Meléndez Rodríguez; Ada Conde Vidal and Ivonne Álvarez Vélez; and all other LGBT people

who have validly married under the law of another jurisdiction as valid and enforceable under Puerto Rico law.

San Juan, Puerto Rico, this ____ day of July 2015.

United States District Judge