

No. 20-303

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**In the Supreme Court of the United States**

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UNITED STATES OF AMERICA, PETITIONER

*v.*

JOSE LUIS VAELLO-MADERO

---

*ON WRITS OF CERTIORARI  
TO THE UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT*

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**JOINT APPENDIX**

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PETITION FOR A WRIT OF CERTIORARI FILED: SEPT. 4, 2020  
CERTIORARI GRANTED: MAR. 1, 2021

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UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

Docket No. 19-1390

UNITED STATES OF AMERICA, PLAINTIFF-APPELLANT

*v.*

JOSE L. VAELLO-MADERO, DEFENDANT-APPELLEE

DOCKET ENTRIES

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**DATE PROCEEDINGS**

5/3/19 CIVIL CASE docketed. Notice of appeal (doc. #101) filed by Appellant US. Appearance form, Docketing Statement, and Transcript Report/Order form due 05/17/2019. [19-1390] (GRC)

\* \* \* \* \*

5/22/19 DOCKETING statement filed by Appellant US. Certificate of service dated 05/22/2019. [19-1390] (LM)

\* \* \* \* \*

7/2/19 APPELLANT'S BRIEF filed by Appellant US. Certificate of service dated 07/02/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 07/09/2019. Brief due 08/01/2019 for APPELLEE Jose L. Vaello-Madero. [19-1390] (AMM)

\* \* \* \* \*

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**DATE PROCEEDINGS**

7/11/19 JOINT APPENDIX filed by Appellant US. Number of volumes: 1. Number of copies: 5. Certificate of service dated 07/02/2019. [19-1390] (GRC)

\* \* \* \* \*

8/5/19 APPELLEE'S BRIEF filed by Appellee Jose L. Vaello-Madero. Certificate of service dated 08/01/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 08/12/2019. Reply brief due 08/22/2019 for APPELLANT United States. [19-1390] (AMM)

\* \* \* \* \*

8/15/19 AMICUS CURIAE BRIEF filed by Amicus Curiae Virgin Islands Bar Association in support of Appellee. Certificate of service dated 08/08/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 08/22/2019. [19-1390] (GRC)

\* \* \* \* \*

8/16/19 AMICUS CURIAE BRIEF filed by Amicus Curiae Commonwealth of Puerto Rico. Certificate of service dated 08/08/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 08/23/2019. [19-1390] (TS)

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**DATE PROCEEDINGS**

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\* \* \* \* \*

9/20/19 AMICUS CURIAE BRIEF filed by Amicus Curiae Jenniffer A. Gonzalez-Colon in support of Appellee. Certificate of service dated 08/15/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 09/24/2019. [19-1390]. CLERK'S NOTE: Docket entry was edited to replace an attachment. (GRC)

\* \* \* \* \*

9/24/19 REPLY BRIEF filed by Appellant US. Certificate of service dated 09/23/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 10/01/2019. [19-1390] (LIM)

\* \* \* \* \*

9/30/19 AMICUS CURIAE BRIEF filed by Movant Gregorio Igartua-de la Rosa. Certificate of service dated 09/23/2019. Nine paper copies identical to that of the electronically filed brief must be submitted so that they are received by the court on or before 10/03/2019. [19-1390] (GRC)

\* \* \* \* \*

11/4/19 CASE argued. Panel: Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Ap-

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**DATE PROCEEDINGS**

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- pellate Judge and Rogeriee Thompson, Appellate Judge. Arguing attorneys: Michael Shih for US and Hermann Ferre for Jose L. Vaello-Madero. [19-1390] (DJT)
- 4/10/20 OPINION issued by Jeffrey R. Howard, Chief Appellate Judge; Juan R. Torruella, Appellate Judge and Rogeriee Thompson, Appellate Judge. Published. [19-1390] (GRC)
- 4/10/20 JUDGMENT entered: This cause came on to be heard on appeal from the United States District Court for the District of Puerto Rico and was argued by counsel. Upon consideration whereof, it is now here ordered, adjudged and decreed as follows: The judgment of the district court is affirmed. [19-1390] (GRC)
- \* \* \* \* \*
- 6/1/20 MANDATE issued. [19-1390] (MNH)

\* \* \* \* \*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO  
(SAN JUAN)

---

Case No. 3:17cv2133

UNITED STATE OF AMERICA, PLAINTIFF

*v.*

JOSE L. VAELLO-MADERO, DEFENDANT

---

**DOCKET ENTRIES**

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
| 8/25/17     | 1                        | COMPLAINT against Jose L. Vaello-Madero, filed by United States of America. Service due by 11/27/2017, (Attachments: # 1 Exhibit Certification of Extract From Records, # 2 Civil Cover Sheet, # 3 Category Sheet) (Martorani-Dale, David) Modified on 4/6/2018 to add restriction to exhibit #1 as per counsel request by phone. Motion to Restrict will follow (gmm). (Entered: 08/25/2017) |
|             |                          | * * * * *   |
| 8/31/17     | 3                        | * * * WITHDRAWN AS PER D.E. # 37 ORDER * * * STIPULATION for  |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | Consent Judgment by United States of America. (Martorani-Dale, David) Modified on 5/15/2018 (gmm). (Entered: 08/31/2017)  |
| 10/5/17     | 4                        | ORDER re 3 Stipulation filed by United States of America. The Court notes that defendant Vaello-Madero appears pro se, and in said capacity has entered into a stipulation. It is the Court's practice, to the extent possible, to appoint pro bono counsel to represent pro se litigants. In fact, the Court has a pro bono roster of experienced attorneys. Accordingly, defendant shall on or before November 8, 2017, advise the Court if he would like pro bono representation, and, if so, submit the corresponding forms, which the Clerk of Court shall provide to him along with copy of this order. Motion due by 11/8/2017. Signed by Judge Gustavo A. Gelpi on 10/5/2017. (PJH) (Entered: 10/05/2017) |
| 10/17/17    | 5                        | Order appointing counsel. See PDF. Signed by Judge  |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | Gustavo A. Gelpi on 10/17/17.<br>(PJH) (Entered: 10/17/2017)  |
|             |                          | * * * * *   |
| 2/1/18      | 17                       | ANSWER to 1 Complaint with<br>Jury Demand filed by John W.<br>Ferre-Crossley on behalf of<br>Defendant Jose L. Vaello-<br>Madero. (Ferre-Crossley,<br>John) (Entered: 02/01/2018)   |
|             |                          | * * * * *   |
| 2/1/18      | 19                       | MOTION to Withdraw Stipula-<br>tion for Consent Judgment by<br>Jose L. Vaello-Madero (Attach-<br>ments: # 1 Supplement, # 2<br>Supplement, # 3 Supplement,<br># 4 Text of Proposed Order)<br>(Ferre-Crossley, John) Modi-<br>fied on 2/2/2018 to correct<br>event (ram). (Entered:<br>02/01/2018) |
|             |                          | * * * * *   |
| 3/14/18     | 23                       | NOTICE of Voluntary Dismissal<br>Without Prejudice and Re-<br>sponse to Defendant's Motion<br>to Withdraw Stipulation by<br>United States of America (At-<br>tachments: # 1 Exhibit No-<br>tice of Planned Action, # 2 Ex-<br>hibit Notice of Change in Pay-<br>ment, # 3 Exhibit Declaration     |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | of Raymond Eagan) (Martorani-Dale, David) (Entered: 03/14/2018)   |
|             |                          | * * * * *   |
| 4/4/18      | 25                       | RESPONSE in Opposition to Motion for Voluntary Dismissal Without Prejudice filed by Jose L. Vaello-Madero Re: 23 Notice of Voluntary Dismissal, filed by United States of America, 24 Order filed by Jose L. Vaello-Madero. (Attachments: # 1 Text of Proposed Order) (Ferre-Crossley, John) (Entered: 04/04/2018)  |
|             |                          | * * * * *   |
| 4/27/18     | 32                       | REPLY to Response to Motion in Opposition filed by Vaello-Madero at Docket 25 filed by United States of America Re: 26 MOTION for Leave to File Document in Reply to Vaello-Madero's Response in Opposition MOTION for Extension of Time until April 27, 2018 to File Response/Reply to Vaello-Madero's Response in Opposition as to 25 Response in Opposition to Motion, filed by Jose L. Vaello-Madero filed by |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>   |
|-------------|--------------------------|--|
|             |                          | United States of America filed by United States of America. (Martorani-Dale, David) (Entered: 04/27/2018)  |
|             |                          | * * * * *  |
| 5/2/18      | 35                       | SURREPLY to Reply to Opposition to Request for Voluntary Dismissal Without Prejudice filed by Jose L. Vaello-Madero filed by Jose L. Vaello-Madero. (Ferre-Crossley, John) (Entered: 05/02/2018)   |
| 5/14/18     | 36                       | OPINION AND ORDER re 23 Notice of Voluntary Dismissal, filed by United States of America: DENIED. Signed by Judge Gustavo A. Gelpi on 5/14/18. (PJH) (Main Document 36 replaced on 5/14/2018 as per Chambers request) (gmm). (Entered: 05/14/2018) |
| 5/14/18     | 37                       | ORDER: Granting 19 Motion to Withdraw Document. Signed by Judge Gustavo A. Gelpi on 5/14/18. (PJH) (Entered: 05/14/2018)   |
|             |                          | * * * * *  |
| 8/10/18     | 57                       | MOTION for Summary Judgment and Incorporated Memorandum of Law filed by John   |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | W. Ferre-Crossley on behalf of Jose L. Vaello-Madero Suggestions in Opposition to Summary Judgment due by 8/24/2018. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Attachments: # 1 Supplement Statement of Undisputed Material Facts) (Ferre-Crossley, John) (Entered: 08/10/2018)  |
|             |                          | * * * * *   |
| 10/10/18    | 59                       | Cross MOTION for Summary Judgment filed by Daniel Riess on behalf of United States of America Suggestions in Opposition to Summary Judgment due by 10/24/2018. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Attachments: # 1 Memorandum of Law, # 2 Statement of Undisputed Material Facts) (Riess, Daniel) (Entered: 10/10/2018) |
| 10/10/18    | 60                       | RESPONSE in Opposition to Motion filed by United States of America Re: 57 MOTION for Summary Judgment and   |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | Incorporated Memorandum of Law filed by Jose L. Vaello-Madero filed by United States of America. (Attachments: # 1 Response to Statement of Facts) (Riess, Daniel) (Entered: 10/10/2018)  |
| 10/17/18    | 61                       | Amicus Curiae APPEARANCE entered by Gregorio Igartua-De-La-Rosa on behalf of Gregorio Igartua-de-la-Rosa. (Attachments: # 1 Appendix II) (Igartua-De-La-Rosa, Gregorio) (Entered: 10/17/2018)                                   |
| 10/17/18    | 62                       | ORDER: The request to appear as Amicus Curiae at Docket 61 is granted, and the brief submitted by Gregorio Igartua shall be made part of the record. Signed by Judge Gustavo A. Gelpi on 10/17/2018. (LE) (Entered: 10/17/2018) |
|             |                          | * * * * *   |
| 10/18/18    | 66                       | MEMORANDUM in Opposition filed by United States of America Re: 61 Amicus Curiae Appearance filed by Gregorio Igartua-de-la-Rosa filed by United States of America. (Riess, Daniel) (Entered: 10/18/2018)                        |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | * * * * *   |
| 10/24/18    | 68                       | RESPONSE in Opposition to Motion for Summary Judgment and Reply Brief in Support of Defendant's Motion for Summary Judgment filed by Jose L. Vaello-Madero Re: 59 Cross MOTION for Summary Judgment filed by United States of America, 60 Response in Opposition to Motion, filed by United States of America, 57 MOTION for Summary Judgment and Incorporated Memorandum of Law filed by Jose L. Vaello-Madero filed by Jose L. Vaello-Madero. (Ferrecrossley, John) (Entered: 10/24/2018) |
|             |                          | * * * * *   |
| 11/7/18     | 76                       | Amicus BRIEF filed by Commonwealth of Puerto Rico filed by Commonwealth of Puerto Rico. (Penagaricano-Brown, Susana) Modified on 11/26/2018 to edit docket title(gmm). (Entered: 11/07/2018)  |
| 11/7/18     | 77                       | REPLY to Response to Motion filed by United States of America Re: 59 Cross MOTION for   |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>   |
|-------------|--------------------------|--|
|             |                          | Summary Judgment filed by United States of America filed by United States of America. (Riess, Daniel) (Entered: 11/07/2018)  |
| 11/7/18     | 78                       | BRIEF of Amicus Curiae by Resident Commissioner of Puerto Rico. (Ferraiuoli-Hornedo, Veronica) (Entered: 11/07/2018)   |
|             |                          | * * * * *  |
| 11/21/18    | 80                       | MEMORANDUM in Opposition filed by United States of America Re: 76 Amicus Brief filed by Commonwealth of Puerto Rico filed by United States of America. (Riess, Daniel) Modified on 11/26/2018 to edit docket text (gmm). (Entered: 11/21/2018) |
| 11/21/18    | 81                       | BRIEF AMICUS CURIAE by Noguerras Nicolas. (Noguerras-Cartagena, Nicolas) (Entered: 11/21/2018)   |
|             |                          | * * * * *  |
| 12/20/18    | 86                       | Minute Entry for proceedings held before Judge Gustavo A. Gelpi: Oral Arguments held on 12/20/2018. Arguments heard on behalf of the parties.  |

| DATE    | DOCKET<br>NUMBER | PROCEEDINGS   |
|---------|------------------|---|
|         |                  | Simultaneous supplemental briefs due by 1/14/2019. Ruling to be issued after briefs are filed. (Court Reporter Evilys Carrion.) (sc) (Entered: 12/28/2018)  |
|         |                  | * * * * *   |
| 1/14/19 | 88               | Transcript of Civil Hearing held on 12/20/2018, before Judge Gustavo A. Gelpi. Court Reporter/Transcriber Evilys E Carrion, Telephone number 787.772.3377. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be available electronically to the public without redaction after 90 calendar days. The policy is located at <a href="http://www.prd.uscourts.gov">www.prd.uscourts.gov</a> . Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
|             |                          | that date it may be obtained through PACER.. Redaction Request due 2/4/2019. Redacted Transcript Deadline set for 2/14/2019. Release of Transcript Restriction set for 4/15/2019. (eec) (Entered: 01/14/2019)   |
|             |                          | * * * * *   |
| 1/28/19     | 94                       | Supplemental Motion in Support re: 57 MOTION for Summary Judgment and Incorporated Memorandum of Law filed by John W. Ferre-Crossley on behalf of Jose L. Vaello-Madero Responses due by 2/11/2019. NOTE: Pursuant to FRCP 6(a) an additional three days does not apply to service done electronically. (Related document(s) 57) (Ferre-Crossley, John) Modified on 2/15/2019 to remove restriction as per 100 Order (gmm). (Entered: 01/28/2019) |
|             |                          | * * * * *   |
| 2/1/19      | 96                       | BRIEF (Supplemental) by United States of America. (Riess, Daniel) (Entered: 02/01/2019)   |

| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>  |
|-------------|--------------------------|---|
| 2/4/19      | 97                       | OPINION AND ORDER:<br>Granting 57 motion for summary judgment; Denying 59 motion for summary judgment. Signed by Judge Gustavo A. Gelpi on 2/4/2019. (AGF) (Main Document 97 replaced on 2/4/2019 to correct date in PDF) (gmm). Modified on 2/4/2019 to edit title(gmm). Modified on 4/5/2019 to correct Document Type as per Chamber's request (gmm). (Entered: 02/04/2019) |
| 2/4/19      | 98                       | JUDGMENT is hereby entered DISMISSING the instant action in favor of defendant Jose Luis Vaello-Madero. This case is closed. Signed by Judge Gustavo A. Gelpi on 2/4/2019. (AGF) (Main Document 98 replaced on 2/4/2019 to correct date in PDF) (gmm). (Entered: 02/04/2019)  |
|             |                          | * * * * *   |
| 4/3/19      | 101                      | NOTICE OF APPEAL as to 98 Judgment, 97 Opinion and Order on Motion for Summary Judgment,,, by United States of America. NOTICE TO COUNSEL: Counsel should   |

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| <b>DATE</b> | <b>DOCKET<br/>NUMBER</b> | <b>PROCEEDINGS</b>   |
|-------------|--------------------------|--|
|             |                          | register for a First Circuit CM/ECF Appellate Filer Account at <a href="http://pacer.psc.uscourts.gov/cmecf/">http://pacer.psc.uscourts.gov/cmecf/</a> . Counsel should also review the First Circuit requirements for electronic filing by visiting the CM/ECF Information section at <a href="http://www.ca1.uscourts.gov/efiling.htm">http://www.ca1.uscourts.gov/efiling.htm</a> (Riess, Daniel) Modified on 4/17/2019 to add text (xi). (Entered: 04/03/2019) |

\* \* \* \* \*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

---

CIVIL NO.:

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

JOSE LUIS VAELLO-MADERO, DEFENDANT

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Filed: Aug. 25, 2017

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**COMPLAINT**

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**TO THE HONORABLE COURT:**

**COMES NOW** Plaintiff, the United States of America, by and through its undersigned attorneys, and very respectfully STATES, ALLEGES and PRAYS:

**NATURE OF THE ACTION**

1. Jurisdiction of this action is conferred on this Court by 28 U.S.C. § 1345 and 42 U.S.C. § 408(a)(4).
2. Defendant in this case, Jose Luis Vaello Madero, is a Social Security Administration (SSA) Title XVI Supplemental Security Income (SSI) disability beneficiary. SSI is a Federal income supplement program funded by general tax revenues (not Social Security taxes), and you must be a U.S. resident, which excludes Puerto Rico.
3. Defendant currently resides at Barrio Las Carreras, Solar 1, Mediana Alta 1, Loiza, PR 00772.

4. After Jose Luis Vaello Madero moved to Puerto Rico on July 2013, he failed to notify the Social Security Administration of this move. This caused the Social Security Administration to continue making payments to the defendant who misappropriated Social Security benefits and payments from July, 2013 until August 8, 2016. See Certification dated July 19, 2017, and attached as Exhibit A.

5. The total amount of Social Security Title XVI benefits illegally cashed by the defendant amounts to the sum of \$28,081.00. See Exhibit A.

**WHEREFORE**, the United States of America, respectfully requests from this Honorable Court a judgment against the defendant, Mr. Jose Luis Vaello Madero, in the principal amount of \$28,081.00, plus interest at the legal rate from the date of judgment as provided by law until final payment. The United States of America also requests costs and attorney fees or the 10% surcharge imposed by law if plaintiff needs to utilize the remedies provided under subchapters B or C of the Federal Debt Collection Procedures Act of 1990, 28 U.S.C 3011.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this 25th day of August, 2017.

**Rosa Emilia Rodríguez-Velez**  
United States Attorney

/s/ **DAVID O. MARTORANI-DALE**  
**DAVID O. MARTORANI-DALE**  
Assistant United States Attorney  
USDC-PR No.: 226004

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EXHIBIT A

**SOCIAL SECURITY****CERTIFICATION OF EXTRACT FROM RECORDS**

Pursuant to the provisions of Title 42, United States Code, Section 3505, and the authority vested in me by 45 F.R.47245-46, I hereby certify that I have legal custody of certain records, documents, and other information established and maintained by the Social Security Administration, pursuant to Title 42, United States Code, Section 405, and that the annexed is a true extract from such records in my custody as aforesaid. I further certify that all signatures of Administration officials of the annexed document (s) are genuine and made pursuant to the signers' official capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the seal of the Social Security Administration to be affixed this 19th day of July 2017

/s/ EMMANUEL FERNANDEZ  
EMMANUEL FERNANDEZ  
Deputy Director  
Center for Disability and Program Support

SOCIAL SECURITY ADMINISTRATION  
BALTIMORE MD 21235-0001



SOCIAL SECURITY

Office of the Regional Commissioner  
26 Federal Plaza, Room 4060  
New York, NY 10278  
July 19, 2017

Jorge Santaella  
Special Agent  
525 Roosevelt Ave., Torre de Plaza,  
Suite 1204  
San Juan, PR 00918

Dear Sir/Madam:

Re: Jose L.Vaello Madero  
SSN: 583-54-1431  
OIG OI File No.: SJN1600053G

This certified letter is in response to a request from Jorge Santaella, Special Agent, SSA/OIG, for an extract of T16 SSA payments made to Jose L.Vaello Madero from July 1, 2013 to August 8, 2016.

Mr. Vaello Madero's Supplemental Security Income payment amounts from July 1, 2013 to August 8, 2016 are provided as a separate attachment.

Questions concerning this response may be directed to Ms. Johnson of the Center for Disability and Program Support at 212-264-7193.

Sincerely yours,

/s/ EMMANUEL FERNANDEZ  
EMMANUEL FERNANDEZ  
Deputy Director  
Center for Disability and Program Support

**Breakdown of Payments for JOSE LUIS VAELLO,  
MADERO from 7/2013 to 8/2016.**

| <b>Month</b> | <b>Pay-<br/>ment</b> | <b>Month</b> | <b>Pay-<br/>ment</b> | <b>Month</b> | <b>Pay-<br/>ment</b> |
|--------------|----------------------|--------------|----------------------|--------------|----------------------|
| 07/2013      | \$797.00             | 08/2014      | \$808.00             | 09/2015      | \$733.00             |
| 08/2013      | \$797.00             | 09/2014      | \$808.00             | 10/2015      | \$733.00             |
| 09/2013      | \$797.00             | 10/2014      | \$721.00             | 11/2015      | \$733.00             |
| 10/2013      | \$797.00             | 11/2014      | \$721.00             | 12/2015      | \$733.00             |
| 11/2013      | \$797.00             | 12/2014      | \$721.00             | 01/2016      | \$733.00             |
| 12/2013      | \$797.00             | 01/2015      | \$733.00             | 02/2016      | \$733.00             |
| 01/2014      | \$808.00             | 02/2015      | \$733.00             | 03/2016      | \$733.00             |
| 02/2014      | \$808.00             | 03/2015      | \$733.00             | 04/2016      | \$733.00             |
| 03/2014      | \$808.00             | 04/2015      | \$733.00             | 05/2016      | \$733.00             |
| 04/2014      | \$808.00             | 05/2015      | \$733.00             | 06/2016      | \$733.00             |
| 05/2014      | \$808.00             | 06/2015      | \$733.00             | 07/2016      | \$733.00             |
| 06/2014      | \$808.00             | 07/2015      | \$733.00             | 08/2016      | \$733.00             |
| 07/2014      | \$808.00             | 08/2015      | \$733.00             |              |                      |

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

---

CIVIL NO.: 17-2133 (GAG)

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

JOSE LUIS VAELLO-MADERO, DEFENDANT

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Filed: Aug. 31, 2017

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**COLLECTION OF PENALTY**

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**STIPULATION FOR CONSENT JUDGMENT**

The Plaintiff, United States of America, has filed a civil action for collection of penalty against Defendant Jose Luis Vaello Madero, in relation to Social Security overpayments that were unlawfully collected and/or resulted in the collection by the defendant.

**IT IS STIPULATED AND AGREED** by the parties in this case, the United States and Defendant Jose Luis Vaello Madero, that judgment be entered as follows:

1. [J.L.V.] Defendant Jose Luis Vaello Madero confesses and acknowledges that he unlawfully collected the Title XVI Social Security benefits after moving to Puerto Rico and failed to notify the Social Security Administration.
2. [J.L.V.] Defendant received a total undue collection of \$28,080.00 for Social Security benefits.

3. [J.L.V.] Defendant requests and consents that judgment is entered against him for the sum of \$28,081.00, plus interest at the legal rate from the entry of judgment, until paid in full and costs, in accordance with the terms and conditions set forth in this stipulation.
4. [J.L.V.] Defendant agrees to pay the United States of America the sum of \$28,08.00, as follows:
  - a. [J.L.V.] Defendant will make monthly installments payments of \$100.00, starting on September 1, 2017, to be credited to the account of Jose Luis Vaello Madero, with social security number xxx-xx-1431, until final payment of the owed amounts.
  - b. [J.L.V.] Defendant agrees that copy of the Judgment by Consent entered by the Court be delivered to the Social Security Administration.
  - c. [J.L.V.] Defendant may pay larger installments or pay the entire unpaid balance of the judgment amount in advance, without penalty.
  - d. [J.L.V.] Should defendants' payment status become delinquent thirty (30) days or more, the entire unpaid balance of the judgment amount shall become immediately due and payable, with interest at the legal rate from the date of entry of the Judgment by Consent, immediately without further notice to the defendant.

- e. [J.L.V.] In the event defendants' payment status becomes delinquent fifteen (15) days or more in payment of any installments due here under, plaintiff shall seek judicial enforcement of this Judgment by Consent.
5. [J.L.V.] The Court shall retain jurisdiction over this action in order to enforce this Judgment by Consent.
6. [J.L.V.] Defendant agrees to provide all available financial information that plaintiff may request at any time after the entry of the judgment until the stipulated amount is paid in full.
7. [J.L.V.] Defendant consents that once Judgment is entered, Plaintiff may proceed to record said judgment at the Property Registration Office, to create a judgment lien or any other lien upon any real estate properties that the defendant may own, or in which the defendant may have an undivided common ownership with other properties, or a participation in ownership.
8. [J.L.V.] In the event the Plaintiff has to seek remedies before this Honorable Court for Execution of Judgment, Plaintiff will be entitled to recover, in addition to the amount owed, a 10% surcharge imposed by law under 28 U.S.C. § 3011.
9. [J.L.V.] Defendant is aware of the fact that this Stipulation for Consent Judgment will become an integral part of the judgment to be entered by the Court.
10. [J.L.V.] Defendant acknowledges that he was informed of his right to retain counsel, and fully

aware of this fact, has waived that right and enters into this agreement.

11. [J.L.V.] Defendant, with his signature, certifies he can read and understand English, understands the document, is aware of the implications, consequences of rights and concessions made, and, as such, has entered into this agreement freely and voluntarily, without any degree of duress or compulsion.

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**WHEREFORE**, the United States of America and Defendant Jose Luis Vaello Madero, respectfully request this Honorable Court to approve this stipulation and enter Judgment accordingly.

**RESPECTFULLY SUBMITTED.**

In San Juan, Puerto Rico, this [30] of Aug., 2017.

/s/ JOSE LUIS VAELLO MADERO  
JOSE LUIS VAELLO MADERO  
Defendant

**Rosa Emilia Rodríguez-Vélez**  
United States Attorney

/s/ JORGE SANTAELLA  
JORGE SANTAELLA

/s/ DAVID O. MARTORANI-DALE  
DAVID O. MARTORANI-DALE  
Assistant United States Attorney  
USDC-PR No.: 226004  
Torre Chardon, Suite 1201  
350 Chardon Street  
San Juan, PR 00918  
Telephone: 787-766-5656  
Fax: 787-766-6219  
Email: [david.o.martorani@usdoj.gov](mailto:david.o.martorani@usdoj.gov)

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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CASE NO. 17-2133 (GAG)

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

JOSE LUIS VAELLO MADERO, DEFENDANT

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Filed: Oct. 17, 2017

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**ORDER APPOINTING COUNSEL**

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In light of the aftermath of Hurricanes Irma and María, the Court hereby takes the initiative of appointing pro bono counsel to Mr. Vaello-Madero and appoints attorney Hermann Ferré from the New York firm Curtis, Mallet-Prevost, Colt & Mosle, LLP. His contact information is [hferre@curtis.com](mailto:hferre@curtis.com), 212-696-8871 and 101 Park Ave, NY, NY 10178.

Counsel Ferré shall file with this Court the requisite pro hac vice motion, however, the fee shall be waived. In addition other counsel from his firm may also appear pro hac vice under the same conditions. See L.Cv.R. 83a(f).

As local counsel the Court appoints attorney John W. Ferré-Crossley, who is a member of the bar of this court in good standing. Both he and counsel Hermann Ferré have accepted this pro hac vice appointment. Counsel shall meet with their client as soon as conditions permit and inform the Court on or before December 15, 2017 as

to any pertinent matter. This period may be extended if warranted.

**SO ORDERED.**

In San Juan, Puerto Rico this 17th day of Oct., 2017.

/s/ GUSTAVO A. GELPÍ  
GUSTAVO A. GELPI  
United States District Judge

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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Case No. 17-2133 (GAG)

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

JOSE LUIS VAELLO-MADERO, DEFENDANT

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Filed: Feb. 1, 2018

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**JOSE LUIS VAELLO-MADERO'S ANSWER AND  
AFFIRMATIVE DEFENSES TO PLAINTIFF'S  
COMPLAINT**

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Jose Luis Vaello-Madero, by his undersigned attorneys, files his answer and affirmative defenses to Plaintiff United States of America's Complaint (the "Complaint"), and states as follows:

**ANSWER**

1. Paragraph 1 of the Complaint does not require a response from Mr. Vaello-Madero.
2. Paragraph 2 of the Complaint does not require a response from Mr. Vaello-Madero.
3. Mr. Vaello-Madero admits the allegation in paragraph 3 of the Complaint.
4. Mr. Vaello-Madero admits that he moved to Puerto Rico in July 2013, but denies the remainder of the allegations in paragraph 4 of the Complaint.

5. Mr. Vaello-Madero admits that the Social Security Administration (“SSA”) paid the amount of \$28,081.00 in Social Security Title XVI disability benefits for the period July 2013 to August 2016, but denies the remainder of the allegations in paragraph 5 of the Complaint.

#### **BACKGROUND OF THE CASE**

6. Between 1985 and 2013, Mr. Vaello-Madero was a resident of New York.

7. While residing in New York and experiencing severe health problems, Mr. Vaello-Madero applied for Social Security Title XVI Supplemental Security Income (“SSI”) disability benefits with the assistance of a non-profit organization.

8. Mr. Vaello-Madero received his SSI disability payments through direct deposit into a New York bank account opened with the assistance of the same non-profit organization that had helped Mr. Vaello-Madero with his SSI application.

9. On July 6, 2013, Mr. Vaello-Madero moved to Loiza, Puerto Rico to help care for his wife, who had previously moved to Loiza due to her own health issues. He continued to receive SSI disability payments through direct deposit into his New York bank account.

10. In June 2016, approximately one month before his 62nd birthday, Mr. Vaello-Madero applied to receive Title II social security benefits. He was assisted in his application by an SSA employee at the SSA office in Carolina, Puerto Rico.

11. The SSA employee noted that Mr. Vaello-Madero was already in SSA’s beneficiary database and asked

Mr. Vaello-Madero if he was a resident of New York. After confirming that he no longer lived in New York, he was told that in order to be able to receive his Title II social security benefits he could no longer receive SSI disability payments. He was asked to sign a few forms so as to finalize his application.

12. Mr. Vaello-Madero was not aware at the time of his move that moving to Puerto Rico would affect his ability to receive SSI disability benefits.

13. Mr. Vaello-Madero received his last SSI disability payment in August 2016.

#### **FIRST AFFIRMATIVE DEFENSE**

14. Plaintiff has asserted 42 U.S.C. § 408(a)(4) as one of the bases of jurisdiction for this action. 42 U.S.C. § 408(a)(4) requires an intent to fraudulently secure payment when no payment is authorized under the Social Security Act. Plaintiff has failed to allege specific intent to defraud by Mr. Vaello-Madero.

#### **SECOND AFFIRMATIVE DEFENSE**

15. A violation under 42 U.S.C. § 408(a)(4) is a felony, potentially resulting in imprisonment of up to five years. Any prosecution under 42 U.S.C. § 408(a)(4) can only be instituted after presentment or indictment by a Grand Jury, which has not occurred here. To the extent Plaintiff's action is a proceeding under 42 U.S.C. § 408(a)(4), Plaintiff has violated Mr. Vaello-Madero's due process rights under the United States Constitution.

#### **THIRD AFFIRMATIVE DEFENSE**

16. To the extent that Title XVI of the Social Security Act denies residents of Puerto Rico the right to receive the federally funded portion of SSI benefits to the same

extent as residents of the United States (defined in Section 1614(e) of the Social Security Act as “the 50 states and the District of Columbia”), it is unconstitutional as a violation of the equal protection guarantee of the due process clause of the Fifth Amendment to the United States Constitution.

**ADDITIONAL AFFIRMATIVE DEFENSES**

17. Mr. Vaello-Madero reserves the right to interpose any and all additional affirmative defenses to the Complaint as may be revealed through discovery.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant Jose Luis Vaello-Madero respectfully seeks judgment:

A. Dismissing with prejudice the claim asserted against Mr. Vaello-Madero;

B. Declaring that Title XVI of the Social Security Act is unconstitutional to the extent it denies residents of Puerto Rico the same participation in the SSI program as residents of the United States (as defined in Section 1614(e));

C. Reinstating Mr. Vaello-Madero’s SSI benefits, and granting him benefits retroactive to the date of termination; and

D. Granting such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Mr. Vaello-Madero hereby demands a trial by jury in this matter.

Date: Feb. 1, 2018

Respectfully submitted,

/s/ JOHN W. FERRÉ-CROSSLEY  
JOHN W. FERRÉ-CROSSLEY  
USDC-PR No. 227703  
johnferre@gmail.com

Hermann Ferré (admitted *pro hac vice*)  
hferre@curtis.com  
Juan Perla (admitted *pro hac vice*)  
jperla@curtis.com  
Robert Groot (admitted *pro hac vice*)  
rgroot@curtis.com

CURTIS, MALLETT-PREVOST,  
COLT & MOSLE LLP  
101 Park Avenue  
New York, New York 10178-0061  
Tel: (212) 696-6000  
Fax: (212) 697-1559

*Counsel for Defendant*  
*Jose-Luis Vaello Madero*

English translation

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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Case No. 17-2133 (GAG)

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

JOSE LUIS VAELLO-MADERO, DEFENDANT

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**DECLARATION OF JOSE LUIS VAELLO-MADERO**

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I, Jose Luis Vaello-Madero, declare under penalty of perjury:

1. That I am submitting this declaration in support of the Motion to Withdraw the Stipulation for Consent Judgment filed concurrently herewith.

2. That my native language is Spanish. I have only a limited understanding of English and do not speak it fluently.

3. That, on August 30, 2017, I signed the Stipulation for Consent Judgment filed on August 31, 2017 (the “Stipulation”).

4. That, at that time, I was not represented by counsel. I did not understand the terms and conditions of the Stipulation or the legal implications and consequences of accepting responsibility for “unlawfully” collecting SSI disability benefits. Nor was I aware of my right to trial on this issue or the burden of proof required of the Government.

5. That, on October 17, 2017, this Court appointed *pro bono* counsel to represent me in this action. Now that I have been advised by counsel, I understand the legal significance of the Stipulation. I declare that I did not intend to consent to the Stipulation's terms and conditions and I no longer consent to the entry of judgment as contemplated therein.

In San Juan, Puerto Rico the 25th of Jan., 2018

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Jose Luis Vaello-Madero

Social Security Administration  
Supplemental Security Income  
Notice of Planned Action

SOCIAL SECURITY  
5829 65 INF AVE RM 201  
ESCORIAL SHOPPING CTR  
CAROLINA PR 00987  
Date: July 27, 2016  
Claim Number: [REDACTED]-1431 DI

A31 16S1897E98627  
JOSE LUIS VAELLO MADERO  
[REDACTED]  
LOIZA PR 00772

We plan to lower your monthly Supplemental Security Income (SSI) payment from \$773.00 to \$0.00 beginning September 2016. The amount will change because you are outside the United States (U.S.).

We are also changing the amounts you were due for August 2014 through August 2016. Your amounts changed for the following reasons:

- You were outside of the United States (U.S.) for August 2014 through August 2016.
- You lived in a different State for August 2014 through September 2014.

**Your Payments Will Be Changed As follows:**

| From           | Through    | Amount<br>Due Each Month |
|----------------|------------|--------------------------|
| August 1, 2014 | Continuing | \$0.00                   |

**Information Used In Making The Decision**

You cannot receive SSI for any month you are outside of the U.S. for 30 days in a row or more.

If you are outside of the U.S. for 30 days in a row or more, you must be back in the U.S. for 30 days in a row before you can receive SSI again.

We consider the U.S. to be the 50 States of the U.S., the District of Columbia, and the Northern Mariana Islands.

You have been outside the U.S. for at least 30 days in a row. As a result, you cannot receive SSI for August 2014 on.

**You Can Review The Information in Your Case**

The decisions in this letter are based on the law and information in our records. You have a right to review and get copies of the information in our records that we used to make the decisions explained in this letter. You also have a right to review and copy the laws, regulations, and policy statements used in deciding your case. To do so, please contact us. Our telephone number and address are shown under the heading "If You Have Questions".

**Things You Should Know**

- We may be in touch with you later about any payments we previously made.
- We will send any decision about your benefits under other Social Security programs in a separate letter.
- We have made a new decision on your case. It replaces all earlier decisions for the above periods.

- If at any time in the future you think you qualify for payment, please contact us immediately about filing a new application. The earliest month for which we can pay you is the month after you file a new application.

**If You Disagree**

If you disagree with this decision, you have the right to appeal. A person who did not make the first decision will decide the appeal. We call this appeal a reconsideration. When you appeal, we review your entire case, even the parts with which you agree. We consider any new facts we have and then make a new decision. The new decision could be more favorable, less favorable, or the same as the one you already have.

**Time To File An Appeal**

- You have 60 days to file an appeal in writing.
- The 60 days start the day after you receive this letter. We assume you received this letter 5 days after the date on the letter.
- You must have a good reason for waiting more than 60 days to file an appeal.

**Appeal In 10 Days To Keep Receiving The Same Payment**

If we receive your written appeal within 10 days, your payment amount will not change until we decide your case.

- The 10 days start the day after you received this letter.
- If you lose your appeal, you might have to pay back some or all of this money.

However, even if you appeal within 10 days, we may stop your payment in September 2016 if both of the following are true:

- Our new decision is the same as the one you appealed, and
- We send or give you a letter with our new decision in time to stop the payment.

### **How To Appeal**

You can file an appeal with any Social Security office. You must request the appeal in writing. Please use our “Request for Reconsideration” form, SSA-561-U2, which is available on our website at [www.socialsecurity.gov](http://www.socialsecurity.gov) on the Internet. You can also contact us by phone, by mail, or come into the office to obtain the form. If you need assistance, we can help you fill out the form.

There are 3 types of appeals. In most cases, you can choose the one you want.

- Case Review: You will not meet with the person who decides your case. You have a right to review the facts in your file. You can give us more facts to add to your file. Then we will decide your case again. This is the only kind of appeal you can have for a medical decision.
- Informal Conference: You will talk with the person who decides your case either in person or over the phone. You can tell that person why you disagree with our decision. If you meet with us in person, it may help your case. You have a right to review the facts in your file. You can give us more facts to add to your file. You can have other

people help explain your case. Then we will decide your case again.

- **Formal Conference:** This is a meeting like an informal conference. The difference is we can require people to come to help prove you are right. We can require them to bring important papers about your case, even if they do not want to help you. You can question these people at your meeting. Then we will decide your case again.

### **If You Want Help With Your Appeal**

You may choose to have a representative help you. We will work with this person just as we would work with you. If you decide to have a representative, you should find one quickly so that person can start preparing your case.

Many representatives charge a fee only if you receive benefits. Others may represent you for free. Usually, your representative may not charge a fee unless we approve it. Your local Social Security office can give you a list of groups that can help you find a representative.

If you get a representative, you or that person must notify us in writing. You may use our Form SSA-1696-U4 Appointment of Representative. Any local Social Security office can give you this form.

### **Suspect Social Security Fraud?**

Please visit <http://oig.ssa.gov/r> or call the Inspector General's Fraud Hotline at 1-800-269-0271 (TTY 1-866-501-2101).

**If You Have Questions**

If you have any questions, please:

- Visit our website at [www.socialsecurity.gov](http://www.socialsecurity.gov) to find general information about SSI;
- Visit our website at [www.socialsecurity.gov/SSI](http://www.socialsecurity.gov/SSI) rules/to find the law and regulations about SSI eligibility and payments;
- Call us toll-free at 1-800-772-1213 or call your local office at 866-890-6094. We can answer most questions over the phone. If you are deaf or hard of hearing, our toll-free TTY number is 1-800-325-0778; or
- Write or visit any Social Security office. If you plan to visit an office, you may call ahead to make an appointment. The office that serves your area is located at:

SOCIAL SECURITY  
ESCORIAL SHOPPING CTR  
5829 65 INF AVE RM 201  
CAROLINA PR 00987

Please have this letter with you if you call or visit an office. If you write, please include a copy of the first page of this letter. It will help us answer your questions. We are busiest early in the week and early in the month. If your business can wait, it is best to call or visit at other times.

***Social Security Administration***

Social Security Administration  
**Supplemental Security Income**  
Notice of Change in Payment

SOCIAL SECURITY  
5829 65 INF AVE RM 201  
ESCORIAL SHOPPING CTR  
CAROLINA PR 00987  
Date: Aug. 15, 2016  
Claim Number: [REDACTED]-1431 DI

A31 16S1897E98627  
JOSE LUIS VAELLO MADERO  
[REDACTED]  
LOIZA PR 00772

Your current monthly Supplemental Security Income (SSI) payment is \$0.00 for September 2016.

We are changing the amounts you were due for August 2013 through July 2014. Your amounts changed for the following reasons:

- You were outside of the United States (U.S.) for August 2013 through July 2014.
- You lived in a different State for August 2013 through July 2014.

**Your Payments Will Be Changed As follows:**

| From           | Through       | Amount<br>Due Each Month |
|----------------|---------------|--------------------------|
| August 1, 2013 | July 31, 2014 | \$0.00                   |

**Information Used In Making The Decision**

You cannot receive SSI for any month you are outside of the U.S. for 30 days in a row or more.

If you are outside of the U.S. for 30 days in a row or more, you must be back in the U.S. for 30 days in a row before you can receive SSI again.

We consider the U.S. to be the 50 States of the U.S., the District of Columbia, and the Northern Mariana Islands.

You have been outside the U.S. for at least 30 days in a row. As a result, you cannot receive SSI for August 2013 through July 2014.

#### **You Can Review The Information in Your Case**

The decisions in this letter are based on the law and information in our records. You have a right to review and get copies of the information in our records that we used to make the decisions explained in this letter. You also have a right to review and copy the laws, regulations, and policy statements used in deciding your case. To do so, please contact us. Our telephone number and address are shown under the heading "If You Have Questions".

#### **Things You Should Know**

- We may be in touch with you later about any payments we previously made.
- We will send any decision about your benefits under other Social Security programs in a separate letter.
- We have made a new decision on your case. It replaces all earlier decisions for the above period.

#### **If You Disagree**

If you disagree with this decision, you have the right to appeal. A person who has not seen your case will

look at it. We call this appeal a hearing. When you appeal, we review your entire case, even the parts with which you agree. We consider any new facts we have and then make a new decision. The new decision could be more favorable, less favorable, or the same as the one you already have.

**Time To File An Appeal**

- You have 60 days to request a hearing in writing.
- The 60 days start the day after you receive this letter. We assume you received this letter 5 days after the date on the letter.
- You must have a good reason for waiting more than 60 days to request a hearing.

**How To Appeal**

You can file an appeal with any Social Security office. You must request the appeal in writing. Please use our “Request for Hearing” form, HA-501-U5, which is available on our website at [www.socialsecurity.gov](http://www.socialsecurity.gov) on the Internet. You can also contact us by phone, by mail, or come into the office to obtain the form. If you need assistance, we can help you fill out the form.

**How A Hearing Works**

If you ask for a hearing, we will send your case to an Administrative Law Judge (ALJ). The ALJ will mail you a letter at least 20 days before the hearing to tell you the date, time, and place of the hearing. The letter will explain the law in your case and tell you what the ALJ has to decide. Since the ALJ will review all the facts in your case, it is important that you give us any new facts as soon as you can.

The hearing is your chance to tell the ALJ why you disagree with the decision in your case. You can give the ALJ new evidence and bring people to help explain your case. The ALJ also can require people to bring important papers to your hearing and give facts about your case. You can question these people at your hearing.

**It Is Important To Go To The Hearing**

We will ask if you want to go to the hearing in person. If you say you want to go, you should attend. If for any reason you can't go, please contact the ALJ as soon as possible before the hearing and explain why. The ALJ will reschedule the hearing if you have a good reason. If you do not come to the hearing after telling us you will be there, we may dismiss your appeal. You will not be able to appeal further. You should know that being there may help the ALJ decide your case.

**If You Want Help With Your Appeal**

You may choose to have a representative help you. We will work with this person just as we would work with you. If you decide to have a representative, you should find one quickly so that person can start preparing your case.

Many representatives charge a fee only if you receive benefits. Others may represent you for free. Usually, your representative may not charge a fee unless we approve it. Your local Social Security office can give a list of groups that can help you find a representative.

If you get a representative, you or that person must notify us in writing. You may use our Form SSA-

1696-U4 Appointment of Representative. Any local Social Security office can give you this form.

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**If You Have Questions**

If you have any questions, please:

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- Visit our website at [www.socialsecurity.gov/SSIRules/](http://www.socialsecurity.gov/SSIRules/) to find the law and regulations about SSI eligibility and payments;
- Call us toll-free at 1-800-772-1213 or call your local office at 866-890-6094. We can answer most questions over the phone. If you are deaf or hard of hearing, our toll-free TTY number is 1-800-325-0778; or
- Write or visit any Social Security office. If you plan to visit an office, you may call ahead to make an appointment. The office that serves your area is located at:

SOCIAL SECURITY  
ESCORIAL SHOPPING CTR  
5829 65 INF AVE RM 201  
CAROLINA PR 00987

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month. If your business can wait, it is best to call or visit at other times.

*Social Security Administration*

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

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CIVIL CASE No. 17-2133 (GAG)

UNITED STATES OF AMERICA, PLAINTIFF

*v.*

JOSE LUIS VAELLO-MADERO, DEFENDANT

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**DECLARATION OF RAYMOND EGAN, ASSISTANT  
REGIONAL COMMISSIONER FOR MANAGEMENT  
AND OPERATIONS SUPPORT**

**NEW YORK REGIONAL OFFICE  
SOCIAL SECURITY ADMINISTRATION**

---

I, Raymond Egan, Region II, Social Security Administration (SSA), declare and state as follows:

1. As the Assistant Regional Commissioner for Management and Operations Support, I oversee the staff of the Management and Operations Support for Region II of SSA. A review of the Defendant's Social Security record shows the following:
2. On July 27, 2016, SSA issued a Notice of Planned Action stating that SSA planned to lower the Defendant's monthly Supplemental Security Income (SSI) payment from \$733.00 to \$0.00 beginning September 2016 because the Defendant was outside of the United States. The Notice also advised that SSA was changing the monthly benefit amounts that the Defendant was due for the period of August 2014 through Au-

gust 2016 to \$0.00 because the Defendant was outside of the United States during this period. The Notice further advised that the Defendant had 60 days to file an appeal in writing. See Exhibit A.

3. On August 15, 2016, SSA sent the Defendant a Notice of Change in Payment , advising the Defendant that SSA was changing the monthly benefit amounts that he was due for the period of August 1, 2013 through July 31, 2014 to \$0.00 because the Defendant was outside of the United States during this period. The Notice also advised that the Defendant had 60 days to request a hearing in writing. See Exhibit B.
4. A diligent review of the Defendant's Social Security record does not show that the Defendant filed any appeal or hearing request in writing with the agency, with respect to either Notice.
5. A diligent review of the Defendant's Social Security record confirms that SSA did not send the Defendant a Notice of Overpayment advising that he had accrued an overpayment of SSI benefits, in connection with the benefit reductions described above.

In accordance with 28 U.S.C § 1746, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed Mar. 13, 2018

/s/ RAYMOND EGAN  
RAYMOND EGAN