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**IN THE SUPREME COURT OF PUERTO RICO
COURTROOM II**

Josean Toucet, et als

Respondent

V.

Carlos W. Santiago, et als

Petitioner

No. AC-2020-0051

Panel Chamber formed by Associate Judge Mr. Martínez-Torres as President, Associate Judge Mr. Kolthoff-Caraballo, Associate Judge Mr. Feliberti-Cintron, and Associate Judge Mr. Colón-Pérez.

RULING

San Juan, Puerto Rico, on January 15th of 2021.

The first Motion for Reconsideration filed by Petitioner being thus addressed, same is *Denied*.

Agreed to by the Court and certified by the Clerk of the Supreme Court.

[SEAL]
Commonwealth of
Puerto Rico
General Court of
Justice
Supreme Court

(Sgd.)
Jose Ignacio Campos Pérez
Supreme Court Clerk

IN THE SUPREME COURT OF PUERTO RICO

Josean Toucet, et als.

Appellees

v.

Carlos W. Santiago, et als.

Petitioners

No. AC-2020-051

Certiorari

RESOLUTION

In San Juan, Puerto Rico this February 26, 2021.

Having examined the *Second Motion for Reconsideration to the Honorable Court* filed by the petitioners, nothing to provide for Mandate in the case was notified on February 8th, 2021.

It was so agreed by the Court and certified by the Clerk of the Supreme Court.

Sgd./(Illegible)
José Ignacio Campos-Pérez
Clerk of the Supreme Court

COMMONWEALTH OF PUERTO RICO
GENERAL COURT OF JUSTICE
SUPREME COURT

TOUCET, JOSEAN ET AL
RESPONDENT

Vs.

SANTIAGO, CARLOS W. ET AL
APPELLANT

CASE NUMBER – AC-2020-0051

ORIGINAL – J DP2009-0338

APPEALS - KLAN201900983

CIVIL APPEALS

CIVIL ACTION OR CRIME

SANTIAGO, CARLOS W. ET AL
TORRE DE ORO CONDO APT. 2175
808 LUIS A FERRE BLVD.
PONCE PR 00717

NOTIFICATION

CERTIFIED THAT IN REGARDS TO THE SECOND MOTION FOR
RECONSIDERATION THE COURT RENDERED THE ATTACHED RULING:

VARELA ORTIZ, LUIS, ESQ.
licenciadovarelaortiz@gmail.com

ESQ. CLERK PUERTO RICO SUPREME COURT
notificacionesTSPR@gmail.com

IN SAN JUAN, PUERTO RICO ON MARCH 03 OF 2021.

JOSE IGNACIO CAMPOS-PEREZ, ESQ.
SUPREME COURT CLERK

For: Sgd/ MILKA Y. ORTEGA-CORTIJO
DEPUTY CLERK

IN THE SUPREME COURT OF PUERTO RICO

Josean Toucet, et als

Respondent

V.

Carlos W. Santiago, et als

Petitioner

No. AC-2020-0051

Panel Chamber composed of Presiding Judge Oronoz-Rodríguez, Associate Judge Mrs. Pabón-Charneco, and Associate Judge Mr. Feliberti-Cintrón.

RULING

In San Juan, Puerto Rico on October 16th of 2020.

The *Appellate Allegation* submitted by the Petitioner having been addressed, same is received as *Certiorari*, and is ***Denied***.

Agreed to by the Court and certified by the Clerk of the Supreme Court.

(Sgd.)

José Ignacio Campos Pérez

Supreme Court Clerk

[SEAL]

Commonwealth of Puerto Rico
General Court of Justice
Supreme Court

COMMONWEALTH OF PUERTO RICO
APPEALS COURT
PANEL II

JOSEAN TOUCET ET ALS. Respondent v. CARLOS W. SANTIAGO ET ALS. Appellant	 KLAN201900983 	Writ of Appeal from the Trial Court, Ponce Superior Court Case No. JDP2009-0338 Subject: Torts
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Panel composed by its President, Judge Ramón Torres, Judge Rivera-Marchand, and Judge Jiménez Velázquez.¹

Rivera-Marchand, Presenting Judge.

J U D G M E N T

In San Juan, Puerto Rico on July 15th of 2020.

Comes before us Mr. **Carlos W. Santiago-Rivera** (appellant or mister Santiago-Rivera), *pro se*, and requests that *Judgment* rendered on August 21st of 2019 by the Trial Court, Ponce Superior Court (TC, or primary forum), be revoked. In stated ruling, the initial forum Granted the complaint regarding torts due to malicious persecution, submitted by 17 residents of Penuelas, Puerto Rico.² Let us now proceed.

¹ Judge Nelida Jimenez-Velazquez was appointed through administrative order TA-2020-049, substituting in for Judge Gretchen Coll-Marti, as result of her retirement from the judiciary.

² Prior to the trial in full having concluded, Jaime Ruberte-Santiago, Jose L.Toucet-Santiago, and Miguel Duprey-Castro desisted from their claim against Santiago-Rivera, wherefore, plaintiff party was formed by the following college students: Luis Touce-Quinones, Miguel Duprey-Martinez,

I.

A group of college students and some of their parents, all residing in Rio Sol Development in Penuelas, filed the captioned case against their neighbor, Mr. Santiago-Rivera and his mother, Mrs. Josefina Rivera-Estrada³ for alleged malicious persecution, and requested remedies under the governance of Article 1802 of the Civil Code, 31 LPRA Sect. 5141, for presumptive tort-feasible damages suffered by all as a consequence of culpable actions by the appellant. As appears within the docket file, the appellant's house is different than all others, having its bedroom in said house's front, which makes same more prone to noises from the street, or from the adjoining residences.⁴ In condensed summary, respondents propounded in their complaint that they were harassed, defamed and persecuted by the filing of

Raymond Burgos-Quinones, Yamilette Burgos-Quinones, Anette Garcia-Rivera, Hector Garcia-Rivera, Jaime Ruberte-Figueroa, as well as some of their parents, to wit: Awilda Quinones-Roman (mother of Josean Toucet-Quinones), Mirna Martinez-Aviles (mother of Miguel Dupre-Martinez), Raymond Burgos-Santiago (father of Yamilette and of Raymond Burgos-Quinones), Aileen Quinones-Vega (mother of Yamilette and of Raymond Burgos-Quinones), Hector Garcia-Ferrer (father of Anette and Hector Garcia-Rivera), Mayra Rivera-Rodriguez (mother of Anette and Hector Garcia-Rivera), and Isabel Figueroa-Robles (mother of Jaime Ruberte-Figueroa).

Identification number

SEN2020

³ Plaintiff did not, in view of the passing of co-defendant Mrs. Rivera-Estrada, request substitution of party and desisted from their claim.

⁴ See *Ruling* issued on May 19th of 2019 in case JEQ2009-104, and JEQ2009-037.

complaints and judicial actions for alleged unnecessary noises, which were dismissed in full by the TC.⁵ **After several incidences of a procedural nature**, including an amendment to the complaint, denial of several dispositive motions, among others, the primary forum then held a trial in full on June 21st, 22nd and 24th of 2016, and on March 27th and 28th of 2017. The following persons testified for plaintiffs: Josean Toucet-Quiñones, Hector Garcia-Rivera, Raymond Burgos-Santiago, Miguel Duprey-Martinez, Awilda Quiñones-Roman, Mayra J. Rivera-Rodriguez, Raymond Burgos-Quiñones, Annette Marie Garcia-Rivera, Hector Garcia-Ferrer, Mirna Martinez-Aviles, Aileen Quiñones-Vega and Isabel Figueroa-Robles.⁶ Defendant did not present any evidence whatsoever.

The documentary and testimonial evidence having been thus evaluated, the Trial Court then issued 103 determinations of fact, among which we point out the following:

1. Josean, Miguel, Raymon, Yamilette, Anette, Hector and Jaime lived within the same development, grew up together, knew each other since their youth, and frequently gathered at some of the residences of any of them, during evenings.
2. Said youngsters would gather to watch sports events and socialize or hear music, spend time together or to simply have talks. They would gather at house balconies, and at times on the sidewalks in front of their residences.
3. Regardless of whichever house the youngsters gathered at, there was at all times at least one adult present at the residence. The parents of the young person at the residence where stated youths met would offer

⁵ Complaints number Q2008-063, Q2008-3-057=3875, QJEQ2008-104, and JEQ2009-037, and Civil Case Number JPE2009-0374 (and the remedies pertaining to the latter, KLAN20090873 and MC-2009-41).

⁶ The plaintiffs waived presentation of testimony by Antonio Torres and Joicette E. Grana-Hernandez.

them snacks, and allowed them to watch TV, hear music, play domino and any other alternatives which would foster that they remain at their residences, for purposes of keeping them under supervision. This would provide them safety and tranquility.

4. The police always arrived whenever the youngsters gathered. The police would come by almost every week-end and, occasionally, on weekdays. Those youths who studied in the Metro area were not there weekdays. On one occasion, at least 4 patrol cars showed up. Notwithstanding, once Mr. Santiago moved out from the development, complaints ceased, and the police stopped coming by.

5. The police presence began when the youths, by then college students, met for sports events. Prior to that, defendants were the sort of neighbors who would exchange food from window to window.

6. The police would interrogate the youngsters whenever they arrived. They felt intimidated by the police, and did not understand the reason for their intervention.

7. All of the plaintiffs began to feel uncomfortable, due to the continuous presence of the police.

8. On one occasion while the youngsters were watching a boxing match at Raymond's house, Mrs. Rivera called to tell them to lower the TV (volume), since she was unable to sleep. Attending to her request, defendants closed the door of their home, and switched the air conditioner on.

9. Mrs. Rivera filed complaint number Q 2008-063, under purview of Law 140, against Josean Toucet, Raymond Burgos, Yamilette Burgos, Hector Garcia, Jimmy Ruberte and Miguel a/k/a Miguelito, alleging unnecessary noises, and which was held at the Penuelas Courthouse. On August 11th of 2008, a Ruling was rendered denying stated complaint.

10. Mrs. Rivera and Mr. Santiago prompted a criminal action in Complaint No. Q2008-3-057-3875, for alleged breach of Article 2 of Law 131, and Article 247 of the Penal Code (Breach of Peace), against youngster Josean Luis Toucet-Quinones. A ruling of no probable cause was rendered on November 13th of 2008 at Penuelas Municipal Court. Noise and breach of peace had been alleged in said cases.

11. On November 13th of 2008, Mrs. Rivera and Mr. Santiago filed complaint number JEQ2008-104 against Josean Toucet, Jimmy Ruberte, Miguelito Duprey, Nety Garcia, Jinette and Raymond Burgos, in Penuelas Court, alleging unnecessary noises and disturbances. Honorable Judge Imghard del Toro Morales ordered that the parties be summoned.

12. Mr. Santiago placed them under surveillance and recorded the plaintiffs on several occasions.

13. Mr. Santiago entered the Facebook and My Space pages for some of the plaintiffs, using the name and image of a 19-year-old female, and sent a message which was accepted by all of the former.
14. The police and Environmental Quality Board appeared to go and measure noise levels, without the defendants being able to prevail in their claim regarding excessive noise.
15. Case JEQ2008-104 [...] was referred to mediation [...] and reassigned under number JDOPM2008104.
16. On April 14th of 2009, defendants Rivera and Santiago filed complaint number JEQ2009-037 against Josean Toucet Quiñones and Raymond Cesar Burgos.
17. In complaint number JEQ 2009-037, Mr. Santiago referred to the respondents as "charlatans".
18. After holding the hearing on April 23rd of 2009, the Court issued a Ruling dismissing complaint JEQ2008-104 and JEQ2009-037, since the allegations could not be proven. [...] Neither were allegations of unnecessary noises and breach of peace proven either, and copy of the notice in the case file was docketed on May 19th of 2017.
19. On Tuesday, May 26th of 2009, Mr. Santiago filed a Complaint at Ponce Superior Court, requesting an injunction remedy against Raymond Burgos, Jimmy Ruberte, Josean Toucet, Miguelito Duprey, Nety Garcia and Jinette, regarding the allegations which gave rise to complaints JEQ2008-104 and JEQ2009-037. At same they requested to cease and desist all unnecessary noises after 10:00 p. m. at night in all of Street Number 2 at Rio Sol development in Penuelas.
20. On June 1st of 2009, a Judgment was rendered dismissing the complaint in case number JPE2009-0374. The following was provided for therein: The Municipal Court adjudicated the dispute with regards to the alleged facts. The court lacks jurisdiction, wherefore, the request is thus denied.
21. On June 11th of 2009, Mrs. Rivera and Mr. Santiago filed Complaint No. 2009-3-057-02015, alleging unnecessary and outrageous noises at residence B-4 of C street, Rio Sol development.
22. Mr. Santiago appealed the Sentence rendered in case JPE2009-0374 before the Appeals Court, remedy number KLAN 2009-0873.
23. On July 3rd, 2009, the Appeals Court rendered Judgment upon dismissing the writ filed by Mr. Santiago.
24. Mr. Santiago appealed the ruling by the appeals court in case KLAN 2009-0873, to the Supreme Court.
25. On September 11th of 2009, the Supreme Court Denied the remedy filed by Mr. Santiago.
26. The actions by defendants affected wholesome living conditions, and prompted that the youngsters (college plaintiffs) choose to exit from the safe and controlled environment within their parents home, and go

out to spend their time in the town of Penuelas. Stated actions by said youngsters created anxiety and uneasiness among the parents.

27. The actions and allegations by defendants affected the reputation of stated youths within the community and the town of Penuelas. They were identified, both downtown and at places of worship (churches), as delinquents and people of ill repute, in spite of defendants not prevailing in any of the cases.

28. Mrs. Mirna Martinez-Aviles suffered from nervousness upon seeing her son's anguish when he was summoned to Court. She felt greatly worried with regards to how her son would react in view of pressure from the defendants.

29. Mrs. Isabel Figueroa-Robes (sic.) felt bad, due to the bad reputation which the situation created by defendants had established with regards to her family, and in a manner such that she was forced to request a transfer to Guayanilla, from her job location in Penuelas,

30. Mr. Hector Garcia Ferrer never was present during the incidents whenever the police arrived. Nevertheless, the situation created by the defendants gave her anxiety to a point such that she lost several nights of sleep.

31. Mr. Raymond Burgos-Santiago felt quite emotionally affected by the bad reputation which was being imputed upon his sons among friends in the town of Penuelas and due to defendant's actions.

32. Mrs. Awilda Quiñones-Roman came over on several occasions from San German, where she resided at to Penuelas, whenever she was advised that the police was intervening with the youngsters.

33. Mrs. Awilda Quiñones-Roman felt anxious, anguished and ashamed, due to the proceedings which her son was being subjected to by defendants.

34. Mrs. Mayra Rivera-Rodriguez felt shocked by the situation. Defendant's actions made her anxious, and prompted some sleepless nights.

35. Youngster Josean Luis Toucet-Quñones was summoned on several occasions to the above stated proceedings.

36. Being exposed to a proceeding made him anxious. He felt that he should not invite anyone into his home, celebrate any birthdays nor watch games or boxing matches quietly without the pressure of noticing the police arrive.

37. The proceedings to which Josean was subjected to affected his performance as a student and as an athlete. He missed classes on not less than 5 occasions, due to the procedures filed by defendants.

38. Annette appeared at court only once. She never spoke to the police directly. However, she felt uncomfortable due to the frequency with which they intervened with them, since she deemed that they were doing nothing wrong.

39. Yamilette would be afraid each time the police arrived. She went to the court once. She felt harassed by the police's continuous presence.

40. Jaime's studies were affected due to his continued appearances at Court. He had to effect adjustments with his teachers, retake tests and subjects covered in class. He felt worried, frustrated and uncomfortable by having to provide explanations for his absences, specially to his basketball trainer.

41. Jaime would turn anguished by seeing his parents worried. Jaime did not understand what was happening, and that was why he felt anguished and harassed.

42. Hector's studies regressed due to court visits. He, at that time, deemed that courts were for delinquents, and the process prompted him to become anxious. He did not understand the situation.

43. Miguel felt uncomfortable, nervous and anguished by the worries which the judicial proceedings raised by the defendants imposed on his parents.

44. Raymond felt persecuted by the police's continued intervention, and very uncomfortable with the judicial proceedings prompted by the defendants.

Based on the above, the judge of facts Granted the *Amended Complaint* filed on September 28th of 2009. He concluded that malicious persecution alleged against the defendant had been incepted. He ruled that Mr. Santiago-Rivera acted in bad faith by raising numerous judicial proceedings (civil plus a criminal one), which failed to advance on, and precipitated tort-feasible damages to plaintiffs. That is why compensation was ordered for damages suffered therein, plus the payment of attorney fees due to recklessness, plus litigation costs.

In compliance with current rules for evaluating damages, the Trial Court weighed that which was ruled upon in *Fonseca v. Oyola* 77 DPR 525 (1954). In *Fonseca* the Supreme Court ruled that compensation was proper for proven malicious persecution, and ordered payment of \$400 for torts suffered therein. Taking into consideration the above, the initial forum in the instant case applied the

corresponding formula to determine the value of said amount, to the present one, by using the dollar's purchase value as a reference point and concluded that such amount today would be \$2,559.04. Notwithstanding, it estimated that stated amount is unreasonable since different than the case in Fonseca (which dealt with eviction proceedings), in the captioned case, plaintiffs were intervened by the police and faced civil judicial proceedings, as well as having a criminal one also initiated. Based on this theory, the Trial Court ordered payment on favor of all plaintiffs at almost **six times** the amount granted with regards to the corresponding calculation as same ruled in Fonseca, resulting in the following sums:

Order of the payment for the sum of \$15,000.00 to each one of the three co-plaintiffs, Josean Luis Toucet-Quñones, Hector Garcia-Rivera and Jaime Ruberte-Figueroa, due to anxiety, worries, annoyances, and anguish suffered due to the repetitive complaints to the police, and complaints filed against them by defendant, and for losing classes as result of the unjustified judicial proceedings by him filed. The Trial Court did not make any particular differentiation between these three co-plaintiffs and the rest.

A payment of \$10,000.00 was ordered for each one of co-plaintiffs Miguel Duprey Martinez, Raymond Burgos Quiñones, Yamilette Burgos Quiñones and Anette Garcia Rivera, as result of anxiety, anguish and discomforts suffered due to the recurring complaints to the police plus suits filed against them by the plaintiff. The Trial Court did not make any particular differentiation between these four co-plaintiffs and the rest.

For the seven co-plaintiff parents Awilda Quiñones Roman, Mirna Martinez Aviles, Ray Burgos Santiago, Aileen Quiñones Vega, Hector Garcia Ferrer, May Rivera Rodriguez and to Isabel Figueroa Robles, he ordered a payment of \$2,500.00 to each for worry, anxiety and anguish suffered for the situation their children were going through **as a result of the filing of litigation against their children.** Moreover, it imposed payment of \$15,000.00 in attorney fees, plus expenses and costs incurred.

Disagreeing, appellant appealed to this *Curiam*, and imputed commission of the following errors on the initial forum:

1. The Honorable Trial Court erred by GRANTING the judgment. Said judgment fails to mention in its ruling the confession regarding unnecessary noises and scandals admitted to by plaintiff Josean Toucet.
2. Error: In the proceedings: At the hearing held on August 23rd of 2008. In the complaint: filed by the People of Puerto Rico against him as Exhibit XXII. Defendant Carlos W. Santiago appeared with the police officer, and plaintiff Josean Toucet with his attorney. The agent left the courtroom without the hearing having ended, and the defendant was at disadvantage in view of the judicial proceeding. Such negligent actions by the State prompted that defendant Mr. Carlos W. Santiago be unable to file his complaint on appeal, due to lack of a police officer or district attorney present in the courtroom at the moment of the judicial ruling.
3. Error in the proceedings. In discovery in the interrogatory portion, I was given 64 written questions by plaintiff's attorneys, all of these false and whimsical, which I had to answer without presence of my counsel. Same is unjustified unequal treatment, since the defendant, by law, has to be accompanied by counsel at all times.
4. Error: in the proceedings: At the Trial Court, Penuelas Part (Municipal Court). Plaintiff Josean Toucet was judged on April 23rd of 2009 for the same facts, according to the court's ruling EXHIBIT XXVIII. These proceedings were totally unlawful since both rulings relate to the same case.

Appellant in his writ filed Pro Se, explained that he deemed that the criteria for a case of malicious persecution had not be proven. Among the reasons identified,

he propounded that damages claimed were “highly speculative and improper”, that there existed no moral damages since all claimants admitted that they had not suffered damages for their lives continued their normal course, they studied, had good grades, graduated and are working, and suffered no damages whatsoever. He argued that plaintiffs lied under oath. He sustained that no evidence was presented to determine where the calls to the police had originated from.

With regards to the jurisprudence used for evaluating damages, appellant argued that the case of *Fonseca v. Oyola, above*, did not apply in the case before us. He pointed out that from the testimony by co-plaintiff Josean Toucet arises an admission of facts, as alleged by appellant. He indicated that Toucet was making unnecessary noises and scandals after 12:00 a.m. Last, he emphasized that his appeal was based on strict law and equal protection under the law.

The respondent appeared and through his allegations objected to appellant’s claim. since he deemed that the initial forum correctly applied its analysis and weighing of the evidence. In view of same, and having the benefit of writs by the parties, the original docket file and the re-recording of the proceedings, we are now in a position to pass ruling.

II.

A. Extra-contractual (Tort) Liability

Our legal system grants a cause of action under torts to whomever suffers damages due to culpable and negligent actions or omissions of others. *Gonzalez Caban v. JR Seafood*, 199 DPR 234 (2017). For such cause of action to advance,

plaintiff must establish: (1) that they suffered a damage; (2) due to a culpable or negligent action or omission; and (3) the existence of an adequate causative relation between stated action or omission, and the damage caused therein. *Id.* Also see Art. 1802 of the Civil Code, *supra*. It befalls upon the party requesting indemnity, the duty to establish all elements in the cause of action for torts by preponderance of the evidence. *SLG Colon-Rivas v. ELA*, 196 DPR 855 (2016). Doctrine has defined damages as “any material or moral undermining caused and counter to any legal standard, suffered by a person and for which another is liable for.” *Sagardia de Jesus v. Hosp. Aux. Mutuo*, 177 DPR 484 (2009).⁷ Our legal system acknowledges the existence of two types of damages. *Rivera v. S.L.G. Diaz*, 165 DPR 408, 428 (2005).⁸ On one hand we have special damages, -known as physical, patrimonial, pecuniary or financial torts-, which are any losses affecting tangible assets. Such damages allow for financial valuation since same directly impact the aggrieved party’s heritage. *Id.*⁹ On the other hand there exist so-called moral damages, which are inflicted upon the beliefs, feelings, dignity, social esteem and physical or mental health of the aggrieved party. *Id.* Moral torts is a comprehensive concept which covers from physical or bodily

⁷ Quoting J. Santos-Briz, *Civil Law Treatise*, Barcelona, Bosch Ed., 2003, T. III, page 457; *Ramirez Ferrer v. Conagra Foods Puerto Rico Inc.*, 175 DPR 799 (2009); *Garcia Pagan v. Shiley Caribbean*, 122 DPR 193, 205-206 (1988).

⁸ Quoting *Cintron Adorno v. Gomez*, 147 DPR 576, 587 (1999).

⁹ Quoting J. Santos-Briz, *Torts Law*, Privater Law Journal Ed., Madrid, Spain, 1963, page 120.

pain, to mental anguish, up to bodily injury or harm. *Sagardia de Jesus v. Hospital*, above, pages 500-501.

B. Malicious persecution

[M]alicious persecution or unjustified use of legal procedures, constitutes malicious filing lacking cause of a probable action for any criminal or civil proceeding against a person, and which produces a damage on that person. *Garcia v. E.L.A.*, 163 DPR 800, 810 (2005). Being malice an essential element of malicious persecution, our legal system categorizes same as a torts action prompted by an intentional tort-feasible conduct under Article 1802 of the Civil Code, *supra*. [The Supreme Court] has reaffirmed on multiple occasions, the general doctrine that in our jurisdiction existence of an action for torts as the result of a civil litigation, is not acknowledged. *Id.* [It has] nevertheless acknowledged, that a person may file a torts action for malicious persecution whenever the facts of the case reveal extreme circumstances in which the plaintiff is accosted through unjustified civil or criminal litigation, maliciously submitted therein. *Id.*¹⁰ [It has] been established that for any action of such type to be thus successful, the following requirements would need to be complied with:

1. That a civil action was initiated or criminal proceedings promoted by the defendant, or on his insistence.
2. That the action or cause ends favorably for the plaintiff.
3. That same was promoted maliciously and without there existing any probable cause.
4. That plaintiff suffered torts and damages as result of it. *Id.*

¹⁰ Bold and hyphens omitted.

As we observe, “one of the four elements of malicious persecution is that the defendant was reported by the defendant”. *Rodriguez v. Waterman Dock Co.*, 78 DPR 738, 741 (1955). [A] whimsical accusation based on bad faith and lacking reasonable grounds, would serve as an ingredient for a malicious persecution (cause of) action. *Jimenez v. Sanchez*, 76 DPR 370, 377 (1954).

C. Assessment of Evidence during the Appellate stage and Calculation of Damages

The task of adjudicating credibility and of determining what actually occurred shall in greater measure depend upon of the judge’s exposure to the evidence presented which includes, among other factors, observing the witness’s behavior while rendering testimony, and hearing his voice. *Gomez Marquez v. Periodico El Oriental, Inc.*, 2020 TSPR 3, ruling of January 14th, 2020.¹¹ Thus, that appellate courts do not intervene in weighing in on the evidence, adjudication of credibility and determinations of fact carried out by trial courts, unless it is proven that the judge acted prompted by passion, prejudice or partiality, or that a manifest error was incurred into. *Id.* Whenever the allegation is one pf passion, prejudice or of partiality (then) appellate forums must initially verify whether the trial court judge complied with his function of adjudicating in an impartial manner, since only then can we rely upon his or her determinations of facts. *Id.* On the opposite, a manifest error occurs whenever from an analysis of the totality of the evidence, the appeals court is convinced that an error was committed, even if there was evidence that sustains the

¹¹ Quoting *Davila-Nieves v. Melendez-Marin*, 187 DPR 750, 771 (2013). Quotation marks omitted.

conclusions of fact by the Court. *Id.* This standard of review restricts our faculty to substitute the criterion by the initial forum as to scenarios in which, from the admitted evidence, there do not exist sufficient grounds to support their ruling. *Id.* Differences in legal criteria do not reach such standard. *Id.*

Insofar as actions regarding torts [it has] been acknowledged that the judicial task of estimating and valuing damages is difficult and harrowing. since there does not exist any computer system which allows one to arrive at an exact result under which all of parties are pleased and delighted. *Santiago Montanez v. Fresenius Medical*, 195 DPR 476, 490 (2016). That is why [the Supreme Court has established] that the appellate courts must not intervene in valuating of damages that is carried out by the initial forum, except when the amount thus granted results to be ridiculously low, or insanely high. *Id.* Such being so, since stated exercise of valuating damages involves a certain degree of speculation and subjective elements, such as discretion and a sense of justice and human awareness, by whoever judges the facts. *Id.* [T]o evaluate if the compensation granted by the Trial Court was ridiculously low or insanely high, we have to examine the evidence brought before this forum, and the amounts granted in similar cases previously resolved. *Id.*, page 491. In that sense, we concluded that indemnities granted in prior cases constitute a point of initiation, and a useful reference for passing judgment regarding the concessions then granted by the primary forum. *Id.* In any case, such compensations granted in previous cases need to be adjusted to their current values. *Id.*

III.

In the instant recourse before us, appellant argued that the criteria established for a malicious persecution case had not been met. Moreover, he questioned the damages granted to respondents, since he deemed that the case of *Fonseca v. Oyola*, above, did not apply to this case, wherefore, he pleaded that valuation of the stated damages be addressed as a matter of Law.

As we have observed, the primary forum Granted the complaint in the captioned case, since it deemed that the elements for a torts action for malicious persecution had concurred. The stated cause of action was formed into two groups. On one hand appears a group of seven youths who alleged to have suffered damages as a result of the constant police interventions and complaints/judicial actions initiated by their neighbor, the appellant herein. On the other side, seven parents of stated youths joined the complaint, as a result of the malicious persecution which their children had suffered. The judge of facts concluded that the respondents suffered damages since they were harassed, defamed and persecuted through the filing of complaints and judicial actions for unnecessary noises, by the appellant, which were at the time totally dismissed by the initial forum.

As these are numerous plaintiffs with different particularities, we need to do a precise, careful and detached evaluation regarding each plaintiff, their allegations, proven facts which correspond to each one in an individual manner, as to then correctly apply the legal rule. The efficacy of a judgment rests upon a comfortable evaluation of stated applicable rules, to the cause of action due to malicious persecution. In view of that, and after executing our analysis and complying with all

the above, we conclude that it is proper to partially modify the appealed ruling, and to revoke a part of same.

Although facts of the case are not in controversy, and that factual determinations arose as specified in the ruling by the initial forum, the Trial Court (TC) impinged on the applicability of the Law; wherefore, that our participation becomes proper insofar as modification of the appealed judgment. As we shall later propound in detail, the elements for a cause of action of malicious persecution did not arise with respect to several of the respondents (one of the youths, and all of the parents who formed part of the group of plaintiffs), wherefore we must dismiss the cause of action with respect to these. Likewise, in accordance to what shall be indicated, although the Trial Court correctly used the precedent in *Fonseca v. Oyola*, *above*, the granting of nearly six times the damages granted in stated case was not justified, for which we must thus order modification of the amounts granted for such effects to the respondents. We therefore explain.

From determinations of fact properly, as formulated by the Trial Court, it arises that the requirements to successfully initiate a litigation dealing with malicious persecution were complied with with respect to **some** of the plaintiffs/respondents. Same, since some of the respondents herein were not the subject of any criminal or civil action whatsoever. We shall, for purposes of illustrating our analysis, present a detailed list below of plaintiffs/ respondents who appeared as parties in the complaints/judicial proceedings, identified by numbers and initiated by Mr. Santiago-Rivera, to wit:

1. Josean Toucet-Quñones
 - a. Q-2008-063.
 - b. Q-2008-3-057-3875 (criminal)
 - c. Q-JEQ-2008-104
 - d. JEQ-2009-037
 - e. JPE-2009-0374
 - f. 2009-3-057-02015
 2. Raymond Burgos-Santiago:
 - a. Q-2008-063
 - b. Q-JEQ-2008-104
 - c. JEQ-2009-037
 - d. JPE-2009-0374
 3. Jaime Ruberte-Figueroa
 - a. JPE-2009-0374
 - b. Q-JEQ-2008-104
 - c. c.JPE-2009-0374
 4. Miguel Duprey-Martinez
 - a. Q-2008-063
 - b. Q-JEQ-2008-104
 - c. JPE-2009-0374
 5. Yamilette Burgos-Quñones
 - a. Q-2008-063
 6. Hector Garcia-Rivera
 - a. Q-2008-063
-

From a reading of the determinations of fact and the above indicated list, it becomes evident that respondent parents and one of the respondent youths –Anette Garcia-Rivera-were not accused and neither do they appear as defendants or respondents in any of the complaints presented by the appellant. As it arises from the above, the TC, upon granting identical damages to all plaintiffs, ordered compensation for damages not solely to the youths subject of the action filed by appellant, rather, it ordered that those who do not appear as parties in any case be indemnified. Those were Anette Garcia Rivera and plaintiff parents Awilda Quiñones Roman, Mayra J. Rivera Rodriguez, Raymond Burgos Quiñones, Annette Marie

Garcia Rivera, Hector Garcia Ferrer, Mirna Martinez Aviles, Aileen Quiñones Vega and Isabel Figueroa Robles.

The ruling with regards to the parents and Anette Garcia-Rivera runs counter to one of the requirements for any malicious persecution action: that certain civil or criminal action has been filed against them. That is, some of the respondents were not subject to any criminal or action for malicious persecution whatsoever, and not proceed in their favor. Allowing such an indemnity would run counter to the rule reaffirmed by the Supreme Court, to the effects that our jurisdiction does not acknowledge existence of a torts action as a result of the filing of a legal action.¹² Therefore, the Trial Court erred by granting damages for malicious persecution in favor of Anette Garcia Rivera, and respondent parents therein.

The above now overcome, it is proper to address the cause of action filed by the rest of the respondents. As we had advanced before, they, to prevail in their cause of action for malicious persecution, must prove that: (1) a civil action or a criminal procedure had been initiated and promoted against them by Mr. Santiago Rivera; (2) the action or cause concluded favorably for the respondents; (3) same was advanced maliciously and without the existence of probable cause, and (4) that respondents suffered torts and damages as a result.

¹² It arises from the allegations in the *Amended Complaint* that the torts action promoted by respondents was filed under governance of the malicious persecution doctrine. See, allegations #60 and #61, Appendix, page 152.

The record file thus evaluated, we conclude that respondents Josean Toucet Quiñones, Raymond Burgos Santiago, Jaime Ruberte Figueroa, Miguel Duprey Martinez, Yamilette Burgos Quiñones and Hector Garcia Rivera proved and prevailed in their cause of action. We rule that Mr. Santiago Rivera failed to demonstrate that the initial forum had acted prompted by passion, prejudice, partiality or by manifest error as to evidence which it had for its consideration, to the effect of ruling that such malicious persecution was committed, and that it was proper to indemnify respondent youths, Therefore, it results that we defer to the adjudication of credibility and the determinations of facts executed by the Trial Court.

In spite of the above, a seasoned analysis of the evidence presented at the initial forum and from the filed in the docket record, persuades us to intervene and change such amounts granted therein as to the effects of indemnifying the respondents. It is for this reason that from the facts proven thus arise certain differences between respondents which merit a review in valuation of damages which was granted to them as a matter of Law. In accordance with what we had stated above, the Trial Court ordered that Mr. Santiago Rivera pay the following sums:

- a. Josean Toucet Quiñones - \$15,000.00
- b. Hector Garcia Rivera - \$15,000.00
- c. Jaime Ruberte Figueroa - \$15,000.00
- d. Miguel Duprey Martinez - \$10,000.00
- e. Raymond Burgos Santiago - \$10,000.00
- f. Yamilette Burgos Quiñones - \$10,000.00¹³

¹³ On this occasion we shall only refer to the respondent youths, since our previous decision with regards to Anette and respondent parents makes the mentioning of the latter, unmerited.

Moreover, it imposed payment of \$15,000.00 in attorney fees, plus incurred costs and expenses. As we had indicated, it becomes evident from the determinations of facts by the Trial Court itself, that there were significant differences in the circumstances of all respondent youths, which merited greater attention and differentiation in the granting of damages, in accordance to what is established within our legal standards.

First of all, the Trial Court emphasized the fact that appellant filed a criminal action to differentiate the instant case from *Fonseca v. Oyola, above*. Nevertheless, stated penal action was solely presented against Josean Toucet Quiñones, and the primary forum attributed the alleged aggravating facts over two other co-plaintiffs. On the other hand, aside from being submitted to a criminal action, Josean was a defendant in six different civil proceedings. Jaime, in turn, was subjected to three, and Hector was accused in only one. In spite of this, the primary forum granted the same amounts of damages to Josean, Jaime and Hector, (\$15,000.00). Likewise, the Trial Court ordered compensation for Yamilette, who was a defendant on one single occasion (just as was Hector) in the amount of \$10,000.00. It is thus noteworthy that Raymond, a defendant on four occasions, received the same amount as Yamilette did (\$10,000.00). All the above demonstrates a lack of consistency and reasonableness within those compensations granted by the initial forum, meriting that we intervene therein.

As we noticed, and different than what the appellant argued in his recourse before us, the Trial Court complied by identifying the precedent in *Fonseca v. Oyola*,

above, as persuasive for compensation in a cause of action for tort-feasible damages and malicious persecution. Notwithstanding, same had an effect over its applicability to the facts, upon multiplying the amounts to a point that this resulted as an extremely high remedy, which is not in tune with the facts proven for the majority of the respondent youths.

On the other hand, the Court differentiated the case of *Fonseca v. Oyola, above*, from the captioned one, since on stated occasion that case dealt with matters of eviction, whereas in the captioned case, respondents were confronted by the police and faced civil judicial proceedings, as well as the filing of a criminal one. In quoted case, the Supreme Court stated:

The court deems that the persistent and contumacious attitude in which defendant Oyola had been filing eviction actions against the now plaintiff, as to later desist from same or fail to appear, or as result of continuous threats which he raised, forcing lady plaintiff Fonseca to **vacate the premises, wherefore her business suffered harm, as well as her health becoming affected** according to her statements, and we grant credibility to her testimony; she turned nervous, went through many unpleasant moments, suffering displeasure to a point such that she dropped weight from 140 to 90 pounds.¹⁴

In the captioned case it was of a particular importance that the initial forum do a calculation of damages, by adjusting the present value of the amount granted in the case of *Fonseca v. Oyola, above*. Notwithstanding, the sentencing court granted respondents certain sums for torts which resulted to be extremely high, thus detaching itself from its own determinations of facts. Based on the record file before us, we rule that it was appropriate to differentiate and segregate compensations

¹⁴ *Fonseca v. Oyola, supra*, page 527. Our bold lettering.

granted therein among respondent youths and it was not appropriate to increase the amount for damages - thus ignoring what was ruled in *Fonseca v. Oyola*, whereby the Supreme Court granted an amount which taken to present values, is equivalent to \$2,559- and to the point of granting six-fold stated damages as were granted in the first one, without actual grounds or any precedent whatsoever.

Thus, then, in compliance with what is established within the above discussed rule, it is appropriate to modify those compensations granted, in the following manner: \$2,559 for Raymond Burgos-Quñones, Jaime Ruberte-Figueroa, Miguel Duprey-Martinez, Yamilette Burgos-Quñones and Hector Garcia-Rivera¹⁵; and to double the amount in favor of Josean Luis Toucet-Quñones, since he was the subject of the majority of the complaints, including one criminal proceeding.

With respect to the remaining indications of errors, mister Santiago Rivera has not placed us in a position to conclude as a reviewing forum, that there were any violations of due process of law. The appellant was represented by counsel during the proceedings at the Trial Court, and presented no evidence in his favor, wherefore our intervention is not proper regarding imposition of attorney fees, by the initial forum.

IV.

Due to the indicated grounds, we modify the *Judgment* issued by the Trial Court to the effect that the amounts which Mr. Santiago-Rivera must pay, be as follows: \$2,559 to respondents Raymond Burgos-Quñones, Jaime Ruberte-Figueroa,

¹⁵ This sum corresponds to the amount granted in the precedent of *Fonseca v. Oyola*, above, used by the primary forum and updated to current values.

Miguel Duprey-Martinez, Yamilette Burgos-Quñones and Hector Garcia-Rivera; and \$5,118 to Josean Luis Toucet Quiñones. We partially revoke the judgment for Anette Garcia-Rivera and the seven co-plaintiff parents, Awilda Quiñones-Roman, Mirna Martinez-Aviles, Raymond Burgos-Santiago, Aileen Quiñones Vega, Hector Garcia-Ferrer, Mayra Rivera-Rodriguez, and Isabel Figueroa-Robles. So modified, the judgment is thus confirmed.

Judge Ramos-Torres dissented, since he deems that valuation for damages thus granted is excessive within the context of the facts.

Notify forthwith.

Agreed to and mandated by the Court and so certified by the Clerk for the Court of Appeals.

(Signed)

Atty. Lilia M. Oquendo-Solis

Court Clerk

Commonwealth of Puerto Rico
GENERAL COURT OF JUSTICE
Court of First Instance
(Superior, Municipal) Part of
District Subsection of
Peñuelas

- ☐ No continuance sheet
☐ Includes continuance sheet

POLICE CLAIM NO.
08305703875

ACCUSATION

Date: August 23, 2008

Related Claim: D-423

FILED BY THE PEOPLE OF PUERTO RICO VERSUS:

Name: Josean Toucet	Alias: n/a	Date of Birth: 01-26-1989	Place: Ponce	Sex: M
SS: 597-22-1844	Address: Urb. Rio Sol Calle 2 B-4 Peñuelas			
Driver's Lic.: n/a	Description:			

Public Service Commission: [] Operator [] Concessionaire
Authorization No.

For the offense of: LAW 131 (UNNECESSARY NOISE)	Crime:	Misdemeanor: x
Made at: Urb. Rio Sol Calle B-#5 Peñuelas P.R.		
Date: August 23, 2008		

The aforementioned defendant, JOSEAN L. TOUCET QUINONES, there and Illegally, maliciously, voluntarily and criminally on the date, time and place indicated above violated the provisions of Law 131 (Unnecessary noise) consisting in shouting loudly disturbing the peace and tranquility of the prejudiced party herein, MR. CARLOS SANTIAGO RIVERA.

FACT CONTRARY TO LAW

Filed through: ☐ Personal knowledge ☒ Information and belief
(Handwritten): Agent José Rodríguez Román #20302
Agent José Rodríguez Román #20300 Peñuelas Police Station Agent 20302

Name and signature of Accusing Party Address
Position/Occupation

Sworn to and Subscribed before me, in Peñuelas, P.R., this November 13, 2008 at 11:00 A.M.

Hearing scheduled for _____, 19____ ☐ Preliminary Hearing

☐ Arraignment ☐ Trial

☐ Superior Part of _____ ☐ District Subsection of _____

Preliminary Hearing Conference: _____ Handwritten: Imghael del Toro
Morales

Name & Signature of Judge or Secretary

Name of Witness	Age	Address & Phone No.	Examination of Witnesses			
			Personal Knowledge		Information & Belief	
			Under oath	Affidavit	Under oath	Affidavit
Carlos Santiago Rivera	52	Peñuelas	x			
Josefina Rivera Estrada	74	Peñuelas	x			

INFORMATION ON THE ACCUSED:

- ☐ Appeared through summons ☐ Was given legal caution
☐ Was accompanied by Atty. Núñez/ Bar Member # _____
☐ Attorney ☐ Relative ☐ Other

■ DETERMINATION OF THE JUDGE: ■ No probable cause determined _____

☐ Dismissed due to: ☐ Lack of interest of Accusers _____ ☐ Probable cause
determined ☐ Summons

☐ Without conditions ☐ The following conditions were imposed related to
custody of the accused, conduct, employment, place of living, travel, relations
with victims or witnesses, firearms, in-take of alcohol or drugs, medical or
psychiatric treatment, delivery of personal documents and other (Art. 4, Law
39-Jne-1986)

CONDITIONS

☐ In attendance and considered the following nonverbal evidence _____
☐ The accused is hereby forewarned that he/she is duly summoned and that if not in
attendance the case may be entertained in the accused's absence. He/she is also
hereby forewarned that a violation of these conditions will imply probable cause for
failure to appear.

■ It is ordered that a copy of this document be personally delivered to the accused.

Date: 11/13/08

Imghael del Toro Morales
Name & Signature of Judge

[Round WET SEAL]
Commonwealth of Puerto Rico
GENERAL COURT OF JUSTICE
Trial Court (Superior, Municipal) Part of
District Sub-section for Peñuelas

Commonwealth of Puerto Rico
GENERAL COURT OF JUSTICE
 Court of First Instance
 (Superior, Municipal) Part of
 District Subsection of
 Peñuelas

- ☐ No continuance sheet
☐ Includes continuance sheet

POLICE CLAIM NO.
 08305703875

ACCUSATION

Date: August 23, 2008

Related Claim: D-423

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SS: 597-22-1844	Address: Urb. Rio Sol Calle 2 B-4 Peñuelas			
Driver's Lic.: n/a	Description:			

Public Service Commission: [] Operator [] Concessionaire
 Authorization No.

For the offense of: LAW 131 (UNNECESSARY NOISE)	Crime:	Misdemeanor: x
Made at: Urb. Rio Sol Calle B-#5 Peñuelas P.R.		
Date: August 23, 2008		

The aforementioned defendant, JOSEAN L. TOUCET QUINONES, there and Illegally, maliciously, voluntarily and criminally on the date, time and place indicated above violated the provisions of Law 131 (Unnecessary noise) consisting IN shouting loudly disturbing the peace and tranquility of the prejudiced herein MR. CARLOS SANTIAGO RIVERA.

FACT CONTRARY TO LAW

Filed by: ☐ Personal knowledge ☒ Information and belief
 Handwritten: Agent José Rodríguez Román #20302
Agent José Rodríguez Román #20300 Peñuelas Police Station Agent 20302

Name and signature of Accuser Address
 Position/Occupation

Sworn to and Subscribed before me, in Peñuelas, P.R., this November 13, 2008 at 11:00 A.M.

Hearing scheduled for _____, 19____ ☐ Preliminary Hearing

☐ Arraignment ☐ Trial

☐ Superior Part of _____

☐ District Subsection of _____

Preliminary Hearing Conference: _____ Handwritten: Imghael del Toro Morales

Name & Signature of Judge or Secretary

Name of Witness	Age	Address & Phone No.	Examination of Witnesses			
			Personal Knowledge		Information & Belief	
			Under oath	Affidavit	Under oath	Affidavit
Carlos Santiago Rivera	52	Peñuelas	x			
Josefina Rivera Estrada	74	Peñuelas	x			

INFORMATION ON THE ACCUSED:

- ☐ Appeared through summons ☐ Was given legal caution
☐ Was accompanied by Atty. Núñez/ Bar Member # _____
☐ Attorney ☐ Relative ☐ Other

- DETERMINATION OF THE JUDGE: ■ No probable cause determined _____
☐ Dismissed due to: ☐ Lack of interest of Accusers _____ ☐ Probable cause determined ☐ Summons
☐ Without conditions ☐ The following conditions were imposed related to custody of the accused, conduct, employment, place of living, travel, relations with victims or witnesses, firearms, in-take of alcohol or drugs, medical or psychiatric treatment, delivery of personal documents and other (Art. 4, Law 39-Jne-1986)

CONDITIONS

- ☐ In attendance and considered the following nonverbal evidence

☐ The accused is hereby forewarned that he/she is duly summoned and that if not in attendance the case may be entertained in the accused's absence. He/she is also hereby forewarned that a violation of these conditions will imply probable cause for failure to appear.
■ It is ordered that a copy of this document be personally delivered to the accused.

Date: 11/13/08

Imghael del Toro Morales
Name & Signature of Judge

[Round WET SEAL] Commonwealth of Puerto Rico
GENERAL COURT OF JUSTICE
Court of First Instance (Superior, Municipal) Part of
District Subsection of Peñuelas

THE COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
PONCE JUDICIAL CENTER
SUPERIOR COURT

JOSEAN TOUCET EL AT
Plaintiffs

CIVIL NO.: J DP2009-0338

COURTROOM - 605

Vs.

SUBJECT: TORTS

CARLOS W. SANTIAGO ET AL
Defendants

J U D G M E N T

The instant case originated on June 29th of 2009 through the filing of a **Complaint** for torts against Mr. Carlos W. Santiago-Rivera and Mrs. Josefina Rivera Estrada. In summary, it was alleged in same that youths Josean Toucet-Quinones, Miguel Duprey-Martinez, Raymond Burgos-Quinones, Yamilette Burgos-Quinones, Anette Garcia-Rivera, Hector Garcia-Rivera and Jaime Ruberte-Figueroa had been defamed and harassed by the defendants through frequent telephone calls to the Puerto Rico Police Department, filing of complaints, and unjustified judicial actions¹⁶, alleging that they were making unnecessary noises.¹⁷

On August 17th, 2009, the Defendant, after requesting an additional time period for answering said complaint, filed a **Motion requesting Dismissal and/or Elimination of Allegations**. He alleged that in the complaint, no facts are adduced to justify granting of any

¹⁶ Judicial action include: (1) Complaints Nos. Q2008-063, JQE2008-104 and JEQ2009-037 in reference to Law 40, filed at the Penuelas Municipal Court, which were dismissed; (2) Civil No. JPE2009-0374 regarding injunction and filed at Ponce Superior Court, dismissed due to lack of jurisdiction; (3) Case KLAN200900873, appeal filed at the Appeals Court, dismissed, due to lack of jurisdiction; (4) Case No. MC-2009-41, appeal filed at the Supreme Court, denied. Attached jointly with the complaint were various documents relating to stated complaints and judicial proceedings.

¹⁷ Included as plaintiffs, in addition to the seven (7) youths identified above, were the parents for each one of them.

remedy to be granted whatsoever; that no required malice for proceeding with the action was adduced to; that no actual damage exists; that there exists no active legitimacy by plaintiffs, and that plaintiffs do not like the defendants and have felt displeased about the complaints which defendants have legitimately filed due to the actual noises they have produced, and which have not been resolved among themselves as neighbors.

On September 28th of 2009, plaintiffs filed an Amended Complaint, and attached additional documents. On October 14th of 2009, defendant filed a **Second Motion Requesting Dismissal and/or Elimination of Allegations**, in which he repeated the same arguments raised in the writ dated August 17th of 2009. On October 30th of 2009, plaintiffs filed a **Motion Opposing Request for Dismissal**, alleging that there indeed existed allegations regarding specific actions effected individually and jointly by the defendants and, moreover, that the complaint contained the necessary elements for torts claim due to malicious persecution. The Court issued an **Order** dated November 3rd of 2009, and notified on November 13th of 2009, denying the motion for dismissal.

On March 15th of 2010, defendant filed a “**Third Motion Requesting Dismissal and/or Elimination of Allegations**”, reaffirming that which was alleged in the previously filed requests for dismissal. Meanwhile, on April 21th of 2010, plaintiffs filed a “**Motion Opposing Request for Dismissal (Third)**”. The Court, on May 17th of 2010 and notified on June 4th of 2010, issued a Ruling denying the request for dismissal and/or elimination of allegations.

Defendant filed, on August 20th of 2010, his **Answer to Complaint**, denying the allegations in the complaint and alleging that there was no malice or unlawful intention as to defendant's actions. They raised, as affirmative defenses, that plaintiffs had incurred in unnecessary and excessive noises at their community, thus annoying defendants; that there does

not exist any causal relationship between damages allegedly suffered by the 17 plaintiffs, and that the defendants had acted within the prerogatives granted to them by law, among others.

Captioned parties filed on September 22nd of 2010, a **Report Regarding Management of the Case**, under governance of Rule 37.1 of Civil Procedure. On May 26th of 2011, defendant, after several procedural incidents regarding discovery of evidence, filed a **Motion Requesting Summary Judgment** under grounds that there existed no malice or intent by defendants, since in their own belief, they were actually disrupted in their domestic tranquility. Notwithstanding, insofar as to the facts, about which no controversy thus exists, it was indicated that the incidents regarding calls to the Puerto Rico Police Force were stipulated to, as well as the appearances before assorted Puerto Rican justice forums, solely remaining the controversy regarding the element of intent and/or malice filed by plaintiffs against defendants. On June 28th of 2011, plaintiff party filed a **Motion Opposing Summary Judgment**, alleging non-breach on the provisions of Rule 36.3 for Civil Procedure, and that the defendant brought forth, “ad verbatim”, the same grounds from their previous three motions for dismissal. On August 9th of 2011 and notified on August 12th of 2011, the Court issued a Ruling denying the motion for summary judgment filed by defendants, since it deemed as necessary that a trial be held, since there existed controversies under dispute regarding subjective elements, of intent, mental purposes or negligence

The **Preliminary Report Between Attorneys** was filed by the parties on June 10th of 2011; same was discussed and accepted by the Court during the hearing on June 20th of 2011. The defendant, *Pro Se*, on May 16th of 2012, filed a **Motion Requesting Summary Judgment**. On June 18th of 2012, plaintiffs filed a **Motion Opposing Summary Judgment & Other Measures**. On July 2th of 2012, the Court issued a Ruling denying the motion requesting summary judgment

filed **Pro Se** by the defendant.¹⁸ The Court decreed it: “[s]ubstantially similar to the Motion Requesting Summary Judgment filed by attorney Alexandra Rosario-Morell on May 26th of 2011. Therefore, the Court having ruled upon same on August 9th of 2011, declares same as Denied”.

On July 18th of 2012, Mr. Santiago Rivera filed an Informative Motion, **Pro Se**, in which he notified the passing of Mrs. Josefina Rivera-Estrada (defendant), on date of July 11th of 2012, attaching the pertinent death certificate.¹⁹

On August 17th of 2012, Mr. Santiago Rivera filed Pro Se, a “**Second Motion Requesting Summary Judgment**”. In summary, he alleged in same that he lacked expert evidence to prove all alleged damages suffered. Plaintiffs requested he be exempted from having to raise arguments on same. “[f]or it being so frivolous and incorrect under law”, requesting that measures and sanctions be imposed upon Mr. Santiago-Rivera.²⁰

On December 20th of 2012, a **Conference Regarding Status of the Proceedings** was held. The Court accepted the defendant's new legal representative and instructed that the motion for summary judgment submitted Pro Se be supplemented, or to inform whether same would be withdrawn. In turn, plaintiff's legal counsel stated their intention not to include the heirs of the deceased defendant into the litigation, and that they would desisting from their claim against Mrs. Josefina Rivera-Estrada. The court granted a time period to file the motion.

Plaintiffs, precisely on January 15th of 2013, filed an **Informative & Desist Motion**, reporting that they would not amend the complaint to include the Successors of Josefina Estrada-Rivera and, thus, would desist from stated cause of action. The case continued solely against

¹⁸ Notified of July 17th of 2012

¹⁹ Mr. Santiago Rivera, in a subsequent writ dated October 25th of 2012, reported that the heirs of principal Josefina Rivera-Estrada were Carlos Santiago Rivera (defendant), Eric Santiago-Rivera, and Edgardo Santiago-Rivera. On November 7th of 2012, defendant Mr. Carlos Santiago-Rivera submitted addresses for all of the heirs.

²⁰ See **Informative Motion and Request for Remedies** filed on October 3rd of 2012.

defendant Carlos W. Santiago-Rivera. Thus, on January 18th of 2013, the Court granted a motion to desist filed by plaintiffs, rendering a **Partial Judgment** without prejudice as to the Estate of Josefina Rivera-Estrada.

On January 17th of 2013, through his legal representative, filed a **Motion for Summary Judgment**, reaffirming his argument that as to prove the alleged emotional damages suffered, medical or expert evidence would have to be required, which the plaintiffs lacked therein. Therefore, he sustained that since plaintiffs had no means to prove damages, it was proper to dismiss the complaint. On February 15th of 2013, plaintiffs filed a **Motion Opposing Summary Judgment**, indicating it was still to be determined if there existed malice by defendants, and the extent and amount of damages to be granted. On April 2nd of 2013, the Court issued a **Ruling** denying defendant's request for summary judgment. In stated ruling the court stated among other things, that *"it must still determine if the facts agreed to by the parties were by malice and intent to harm the plaintiffs. Moreover, damages suffered by plaintiffs have to be determined, if any, as well as defendant's recklessness, if any."*

On April 18th of 2013, Mr. Santiago Rivera, in spite of having legal counsel at the time, filed *Pro Se*, a writ titled **"Third Motion Requesting Summary Judgment"**. In essence, restating the argument that plaintiffs lacked medical evidence or expert testimony to prove alleged damages suffered. On May 8th of 2013, plaintiffs filed a **Motion Regarding a Third Request for Summary Judgment**, and requested that Mr. Santiago-Rivera be ordered to cease from filing Pro Se writs while having legal representation, and that monetary sanctions be imposed. Through Order dated July 9th of 2013, the Court clarified it did not dispose over the motion for summary judgment filed by Mr. Santiago-Rivera, since he had legal representation.

On December 6th of 2013, through his legal counsel, Mr. Santiago-Rivera again filed a **Motion for Summary Judgment**, restating the argument that plaintiffs lacked sufficient admissible evidence to prove damages. Notwithstanding, stated writ was summarily denied by the Court on January 8th of 2014, through an **Order**. Same, under governance of Rule 36.3 of Civil Procedure, and the case law in **Zapata v. JF Montalvo**, 189 DPR 414 (2013).

Mr. Santiago, unsatisfied with stated order filed *Pro Se* on January 28th of 2014 at the Appellate Court, an “**Appellate Allegation to the Honorable Court**”. On May 13th of 2014, the Appeals Court issued a Ruling ordering the Trial Court to remand to it all original files in the instant case. The Appeals Court rendered **Judgment** on November 20th of 2014, confirming the Ruling by a flat-out denial of the request for summary judgment, and in turn, imposed a sanction of \$250.00 in attorney fees against Mr. Santiago-Rivera.

Displeased, Mr. Santiago-Rivera filed a writ of *Certiorari* to the Supreme Court. The defendant's request was Denied on February 20th of 2015, for not complying with Supreme Court Regulations. Likewise denied was a request for reconsideration filed *Pro Se* by Mr. Santiago Rivera before stated Court.

On January 25th of 2016, Mr. Santiago Rivera again filed a *Pro Se* “**Motion for Summary Judgment to the Honorable Court**”, raising the same arguments from previous writs, in that plaintiffs did not suffer damages, and that neither had they any evidence to prove the supposed damages which they alleged. On February 23rd of 2016, the Court issued an Order stating: “Tardy. See Rule 36.1”.

Things being as they are, on March 3rd of 2016, Mr. Santiago Rivera filed a “**Motion for Dismissal to the Honorable Court**”, *Pro Se*, in which in essence he again refiled an argument

identical to those in previous motions. On March 7th of 2016, the Court denied stated motion through immediate dismissal.

On March 16th of 2016, Mr. Santiago Rivera filed a **Writ of Certiorari** to the Court of Appeals. On April 20th of 2016, the Appellate Court rendered Ruling denying such issuance. M. Santiago-Rivera appealed stated ruling to the Puerto Rico Supreme Court, which was *denied*.

Hearing in full began on June 21st of 2016. In stated hearing it was informed that attorney Jaime Ruberte as well as Mr. Jose L. Toucet Santiago, would desist from their cause of action against Mr. Santiago Rivera. Same was not opposed by defendant. On that same date, the Court issued its corresponding Partial Judgment, decreeing same as desisted, docketing stated cause of action by plaintiffs Jaime Ruberte-Santiago and Jose L. Toucet-Santiago, with prejudice, against defendant. Hearing in full was continued on June 22nd of 2016. Plaintiffs informed that cause of action by Mr. Miguel Duprey Castro against the plaintiff would be dismissed. Moreover, testimony by Hector Garcia Rivera and Raymond Burgos-Santiago was taken, who were duly cross-examined therein. The Court, on that same date, issued Partial Judgment decreeing dismissal and docketing of the cause of action with prejudice, by Miguel Duprey-Castro against defendant.

On June 24th of 2016 during continuation of said hearing, testimony was taken from Miguel Duprey Martinez, Awilda Quinones-Roman and Mayra J. Rivera-Rodriguez, who were duly cross-examined. Plaintiffs informed that witnesses Antonio Torres and Joicette E. Granas-Hernandez would not be used, and who were made available to defendant.

Continuation of the hearing in full was held on March 27th of 2017. Testimonies from Raymond Burgos-Quñones; Annette Marie García-Rivera; Hector García-Ferrer; Myrna Martínez-Avilés; and Aileen Quñones-Vega, who were duly cross-examined. Meanwhile the following day, March 28th of 2017, testimony was taken from Isabel Figueroa-Robles, who was

also cross-examined by defendant. Plaintiffs submitted their case. Defendant requested a dismissal due to insufficiency of the non-suit evidence, under Rule 39.2(c) of Civil Procedure. We heard arguments by the parties, and the Court *Denied* the request for dismissal submitted by defendant. In view of that, defendant informed that it would not submit evidence, and submitted its case. The Court granted the parties a period of twenty (20) days to file a memorandum of case-law.

On May 22nd of 2017, defendant submitted a **Memorandum of Case-law**, whereas plaintiffs did the same on May 26th of 2017, the case thus submitted for consideration by the Court.

All documentary and testimonial evidence submitted by the parties thus having been examined and weighed, and the credibility provided us through stated testimony, this Court formulates the following:

DETERMINATIONS OF FACTS

1. On the date of the facts, Josean Luis Touchet Quinones, hereinafter Josean, was a minor, single, a college student at Universidad del Este, with physical and postal address at Rio Sol Dev., #B-4, 2nd Street, Peñuelas, Puerto Rico 00624. He resided there with his grandmother, Mrs. Iris Roman. Today he is of legal age, a Chef, and resides in the State of Florida, USA.
2. Mr. Jose L. Toucet Santiago is of legal age, married, an employee, and residing at Quebrada Ceiba Ward, Parcelas Caracoles 1, Toucet Farm, Lot-1, Peñuelas, Puerto Rico 00624. his postal address is C-19, 5th Street, Rio Sol Dev. He is the father of Josean Toucet Quinones.
3. Mrs. Awilda Quinones Roman is of legal age, married, employed in Yauco, with physical address at Guama Ward, Road 362, Km. 5.9, interior, San German; and postal address: HC01 Guama Ward, Box 8912, San German, PR 00683. She is the mother of

4. On the date of the events, Miguel Duprey Martínez, hereinafter Miguel, was a minor, single, a college student at Interamerican University, with physical and postal address at Rio Sol Dev., E-1, 5th Street, Peñuelas, Puerto Rico, 00624. He resides there with his family.
5. Mr. Miguel Duprey Castro is of legal age, married, retired with physical and postal address at Rio Sol Dev., #E-1, 5th Street, Penuelas, Puerto Rico 00624, and is the father of Miguel Duprey Martinez.
6. Mrs. Mirna Martínez Avilés is of legal age, married, housewife, physical and postal address at Rio Sol Dev., #E-1, 5th Street, Peñuelas, Puerto Rico 00624. She is the mother of Miguel Duprey Martinez.
7. On the date of the events, Raymond Burgos Quñones, hereinafter Raymond, was a minor, single, a college student at Pontificia Universidad Católica de Puerto Rico and resides at Rio Sol Dev., #B-6, 2nd Street, Peñuelas, Puerto Rico with postal address being: #816 Muñoz Rivera Street, Peñuelas, Puerto Rico 00624. He resides there with his family.
8. On the date of the events Yamilette Burgos Quinones, hereinafter Yamilette, was a minor, single, a college student, and residing at Rio Sol Dev., #B-6, 2nd Street, Peñuelas, Puerto Rico, postal address being: # 816 Munoz Rivera Street, Penuelas, Puerto Rico 00624.
9. Mr. Raymond Burgos Santiago is of legal age, married, a businessman and residing at Rio Sol Dev., #B-6. 2nd Street 2, Peñuelas, Puerto Rico, postal address being: #816 Munoz Rivera Street, Peñuelas, Puerto Rico. He is the father of Raymond Burgos

10. Mrs. Aileen Quiñones-Vega is of legal age, married, a businesswoman and residing at Rio Sol Dev., #B-6, 2nd Street, Peñuelas, Puerto Rico, postal address being: #816 Munoz Rivera Street, Penuelas, Puerto Rico 00624, the mother of Raymond C. Burgos-Quinones and of Yamillette Burgos-Quinones.
11. On the date of the events, Anette García Rivera, hereinafter Anette, was a minor, single, a college student at Pontificia Universidad Católica de Puerto Rico, having a physical and postal address at Rio Sol Dev., #B-10, 2nd Street, Peñuelas, Puerto Rico 00624. She resides there with her family.
12. On the date of the events, Héctor García Rivera hereinafter Héctor, was a minor, single, a college student at Pontificia Universidad Católica de Puerto Rico, having a physical and postal address at Rio Sol Dev., #B-10, 2nd Street, Peñuelas, Puerto Rico 00624. He resides there with his family.
13. Mr. Héctor García Ferrer is of legal age, married, a policeman, having a physical and postal address at Rio Sol Dev., #B-10, 2nd Street, Peñuelas, Puerto Rico 00624. He is the father of Hector Garcia Rivera and of Anette Garcia Rivera.
14. Mrs. Mayra Rivera Rodríguez is of legal age, married, a teacher having physical and postal address at Rio Sol Dev., #B-10, 2nd Street 2, Peñuelas, Puerto Rico 00624. She is the mother of Héctor García Rivera and of Anette Garcia Rivera.
15. On the date of the events, Jaime Ruberte Figueroa, hereinafter Jaime, was a minor, single, a college student at Universidad del Turabo, and residing at Rio Sol Dev., #C-7, 2nd Street, Penuelas, Puerto Rico, having a postal address of PO Box 601, Penuelas, Puerto Rico 00624.

16. Mrs. Isabel M. Figueroa-Robles is of legal age, married, a nurse and residing at Rio Sol Dev., #C-7, 2nd Street, Penuelas, Puerto Rico, postal address being: PO Box 601, Penuelas, Puerto Rico 00624. She is the mother of Jaime Ruberte Figueroa.
17. Mr. Jaime Ruberte-Santiago is of legal age, married, an attorney and residing at Rio Sol Dev., #C-7, 2nd Street, Penuelas, Puerto Rico, postal address being: PO Box 601, Penuelas, Puerto Rico 00624. He is the father of Jaime Ruberte Figueroa.
18. Carlos W. Santiago-Rivera is of legal age, single, and employee, son of Josefina Rivera-Estrada and, by the date of the events, was residing at Rio Sol Dev., #B-5, 2nd Street, Penuelas, Puerto Rico, hereinafter, Mr. Santiago.
19. Josefina Rivera-Estrada (RIP) is the mother Mr. Santiago, of legal age, single, retired, and on the date of the events was a resident of Rio Sol Dev., #B-5, 2nd Street, Penuelas, Puerto Rico, hereinafter, Mrs. Rivera. Mrs. Rivera was a cancer patient.
20. Josean, Miguel, Raymond, Yamilette, Anette, Hector and Jaime lived within the same development, grew up together, knew each other since adolescence, and would frequently congregate at night at the residence of any one of them.
21. The youths would meet to watch sports, socialize, and listen to music, spend time or simply chat. They would meet at house balconies and at times, on sidewalks facing their homes.
22. Regardless of the home in which the youths met, there was always, at minimum, one adult present at such residence. Parents at the residence where the youths met would give them snacks, allowed them to watch TV, listen to music, play dominoes, or any other alternative so they remained at home, for purposes of keeping them under supervision. This provided them with peace and safety.

23. The police always arrived when the youths met. The police would come by almost every weekend, and occasionally on weekdays. Youths who studied in the metro area were never there on weekdays. On one occasion, up to 4 patrol units arrived. Nevertheless, complaints ceased, and police stopped arriving, as soon as Mr. Santiago moved out of the development.
24. Police presence began when the youths, in college by then, met for sports events. Prior to that, defendants were the sort of neighbors who would exchange food, window-to-window.
25. Once, police arrived when the youths were exchanging gifts at one of the residences.
26. The police would question the youth upon arrival. These felt intimidated by the Police, and did not understand the reason for their interventions.
27. All plaintiffs began to feel uncomfortable due to the continuous police presence.
28. On one occasion while the youths were watching a boxing match at Raymond's home, Mrs. Rivera called them to lower their TV, since she was not able to sleep. Heeding her call, defendants closed the door to the residence, and switched on the air conditioner.
29. Mrs. Rivera was a friend of co-plaintiff Aileen Quinones-Vega.
30. Mrs. Mayra Rivera-Rodriguez is a cousin to Mr. Santiago.
31. Mr. Santiago stared-down the youths, failing in his attempts to provoke or incite them.
32. Mrs. Rivera would refer to such youths as "bandits".
33. Co-defendants never spoke with Mrs. Isabel Figueroa-Robles or address any of the controversies extra-judicially.
34. Mrs. Rivera filed complaint number Q2008-063 under Law 140, against Josean Toucet,

Raymond Burgos, Yamilette Burgos, Hector Garcia, Jimmy Ruberte and Migue a/k/a

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- Miguelito, alleging unnecessary noises, which was heard at the Penuelas Court. Ruling was issued on August 11th, denying the complaint.
35. Mrs. Rivera and Mr. Santiago filed legal action. Complaint No. Q2008-3-057-3875 for alleged violation of Article 2 of Law 131, and of Article 247 of the Penal Code (Disturbance of the Peace), against youth Josean Luis Toucet-Quinones. On November 13th of 2008, the Penuelas Municipal Court issued a ruling of no probable cause. They alleged disturbance of the peace and noises in these cases.
 36. Mrs. Rivera and Mr. Santiago filed Complaint No. JEQ2008-104 on November 13th of 2008 at Penuelas Municipal Court alleging unnecessary noises and uproar against Josean Toucet, Jimmy Ruberte, Miguelito Duprey, Nety Garcia, Jinette, and Raymond Burgos. Honorable Judge Imghard del Toro-Morales ordered the parties be summoned.
 37. Mr. Santiago had surveillance as to record and did record plaintiffs on several occasions.
 38. Mr. Santiago entered My Space and Facebook pages of some plaintiffs under a name and image of a 19-year-old-girl, thus posting a message which was accepted by these.
 39. The Police and the Environmental Quality Board appeared as to measure noise levels, defendants did not prevail as to their claim regarding excessive noises.
 40. Case JEQ-2008-104 was scheduled for December 2nd of 2008 and re-scheduled for December 16th of 2008. Same was referred over for mediation on stated date.
 41. Case JEQ2008-104 was re-scheduled for March 31st of 2009.
 42. Case JEQ-2008-104 was reassigned by the Court under number JDOPM-2008-104.
 43. On April 14th of 2009, defendants Mrs. Rivera and Mr. Santiago filed complaint

number JEQ2009-037 against Jocean Toucet-Quinones and Raymond Cesar Burgos.

44. In Complaint No. JEQ2009-037, Mr. Santiago referred to respondents as “buffoons”.
45. After holding the hearing on April 23rd of 2009, the Court issued a Ruling, dismissing complaints JEQ2008-104 and JEQ2009-037, since same failed to find the allegations as proven after evaluating the totality of testimony as rendered, plus the demeanor of the witnesses. Neither were allegations regarding breach of peace and unnecessary noises proven, copy of said notice in the instant case filed therein on May 18th of 2009.
46. Monday, May 25th of 2009, was a holiday.
47. On Tuesday, May 26th of 2009, Mr. Santiago filed a Complaint at the Ponce Superior Court, requesting a remedial injunction in case JPE2009-0374, against youths Raymond Burgos, Jimmy Ruberte, Josean Toucet. Miguelito Duprey, Nety Garcia, and Jinette, regarding the allegations which gave rise to complaints JEQ2008-104 and JEQ2009-037. In same they requested a cease and desist of unnecessary noises after 10:00 p.m. In the evening in all of Street number 2 of Rio Sol Development of Penuelas.
48. On June 1st of 2009, Judgment was entered dismissing complaint in case number JPE-2009-0374. Same said as follows: *“The Municipal Court adjudicated the controversy relating to the alleged facts. The Court lacks jurisdiction, thus, said request is denied.”*
49. On June 11th of 2009, Mrs. Rivera and Mr. Santiago filed Complaint number 2009-3-057-02015, alleging scandalous noise in house B-4 at C Street, at Rio Sol Development.
50. Mr. Santiago appealed the Judgment issued in case JPE2009-0374 before the Appeals Court, appeal number KLAN 2009-0873.,
51. Mr. Santiago provided several attachments in stated writ. Among these was complaint JEQ2009-037 from the Penuelas Municipal Court. Within the writ to the Appeals

Court, he erased the word “buffoon” and substituted it for the word *youth*.

52. On July 3rd of 2009, Appeals Court passed Judgment, denying petition by Mr. Santiago.
53. On July 10th of 2009, Mr. Santiago posed reconsideration of the Appeals Court's ruling.
54. The Appeals Court on August 4th and notified on August 6th of 2009, issued a DENIED to the request for reconsideration.
55. Mr. Santiago appealed the Appeals Court's ruling to the Supreme Court, KLAN 2009-0873.
56. The Puerto Rico Supreme Court DENIED the appeal by Mr. Santiago on September 11th, 2009.
57. Mr. Santiago testified in one proceeding at Penuelas Court, that he would call in Police.
58. The incidents related to police intervention extended beyond proceedings filed by defendants at the Court. Same continued during these youths' whole college life period.
59. Defendants affected daily life for said youths, and a right to safely meet with peers.
60. Defendants created a hostile environment in their neighborhood, without existing any just cause for same.
61. Actions by defendants affected a safe co-existence, and prompted the youths (college students) to leave the safe and controlled environment of their parents' homes and go spend time together outside the town of Penuelas. Such actions by the youths created anxiety and lack of tranquility for their parents (plaintiffs).
62. The actions and imputations by defendants affected the reputations of said youths within the community and town of Penuelas. Both in downtown and at gathering spots (churches), these (youths) were identified as persons of ill repute and as delinquents, in spite of defendants not having ever prevailed in any one of their cases.

63. Mrs. Mirna Martinez-Aviles felt bad and nervous upon noticing her son's anguish when called to Court. She felt worried of how her son would react under defendant's pressure.
64. Mrs. Isabel Figueroa-Robles felt bad due to the negative reputation that the situation created by defendants was bearing upon her family, to an extent that she was forced to request a transfer her work-place from Penuelas to Guayanilla.
65. Mr. Hector Garcia-Ferrer never had been present during said incidents whenever police arrived. Notwithstanding, the situation prompted by defendants caused him anxiety, to the point that he lost several nights sleep.
66. Mr. Raymond Burgos-Santiago felt very emotionally affected by the ill reputation being leveled against his children as result of to the defendant's action, upon those who knew them within the town of Penuelas.
67. Mrs. Awilda Quinones-Roman drove to Penuelas on several occasions from her home town of San German, whenever she was told that police intervened with the youths.
68. Mrs. Awilda Quinones-Roman felt anxious, anguished and ashamed by the proceedings that her son was being subjected to by defendants.
69. Mrs. Mayra Rivera-Rodriguez was surprised by said situation. Defendant's actions produced her anxiety and z few sleepless nights.
70. Youth Luis Toucet-Quinones was summoned several times to the above proceedings.
71. Exposure to stated proceedings caused him anxiety. He felt he could not invite anyone to his home, to not celebrate birthdays, unable to watch any games or boxing matches quietly and without the pressure of having the police arrive.
72. The process to which Josean was subjected to affected his performance as a student and as an athlete. He missed classes on 5 occasions due to proceedings filed by

defendants.

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73. Anette went to court just once. She never spoke directly to police. However, she felt discomfort due to the frequency that they intervened with them since she deemed that they were not doing anything wrong.
 74. Yamilette became fearful every time police arrived. She went to court once. She felt harassed due to a continuous police presence.
 75. Jaime's studies were affected due to his court appearances. He had to make adjustments with teachers, and reschedule tests and subjects covered in class. He felt worried, frustrated, and uncomfortable by having to give explanations for his absences, in particular to his basketball coach.
 76. Jaime became anguished upon seeing his parents worry. Jaime did not understand what was happening, and that is why he felt anguished and harassed.
 77. Hector lagged in his studies as a result of the Court attendance. He deemed at the time that Courts were for delinquents, and the process raised his anxiety. He was unable to get the situation out of his head.
 78. Miguel felt uncomfortable, nervous, and anguished by the worry that the judicial proceedings prompted by defendants generated on his parents. He did not understand the proceedings and felt anguished.
 79. Raymond felt persecuted due to the continuous police interventions, and very uncomfortable with the judicial proceedings prompted by defendants.
 80. The break-down of those residing in the streets of the development on the date of the events are as follows:
 - a. A retired lady of approximately 75 years of age lived alone at house B-1 at 2nd

Street of the development.

- b. A disabled approximately 60-year-old man lives at B-2, 2nd Street of the development.
- c. A married couple, both around age 60, live at house B-3, 2nd Street of the development.
- d. Plaintiff Josean Toucet, who was studying to be a "Chef" at the "Universidad del Este" in Carolina, and his 67-year-old grandmother, Mrs. Iris Roman, live at house B-4 of 2nd Street in the Development.
- e. defendants lived in residence B-5 on 2nd Street of the Development.
- f. Mr. Raymond Burgos Santiago, his wife, Mrs. Aileen Quiñones Vega along with their children Raymond C. Burgos Quiñones and Yamilette Burgos Quiñones, and Mrs. Genoveva Vega, mother of doña Aileen and grandmother of the youngsters, who is 86 years old, live at house B-6 at 2nd Street of the development.
- g. A married couple over 60 years of age live with their teenage daughter, and on the date of the events when lawsuit was filed, their granddaughter, then 6 years old, also lived at house B-7 at 2nd Street of the development. Defendants would call the woman in this family to lower the volume of her TV, because the noise from her residence bothered them.
- h. A married couple of over 70 years of age, both retired, live at house B-8 on 2nd Street of the development, by the date of the events for which lawsuit was filed.
- i. A relatively young couple, who have small children aged approximately 7 and 5, live at house B-9 on 2nd Street of the development.
- j. Plaintiffs, Hector García-Ferrer, a member of the Puerto Rico Police for 25 years

and retired from the National Guard, his wife Mayra Rivera-Rodríguez, a teacher at Head Start, his daughter Marian García-Rivera, Anette García-Rivera and Héctor

García-Rivera, live at house B-10 on 2nd Street of the development.

- k. A retired woman of approximately aged 60, lives at house B-11 on 2nd Street of the development and is also raising a baby there.
- l. A married couple who owns a security company, live at house B12 on 2nd Street of the development.
- m. Homes from Block C are located in front of Block B, on 2nd street.
- n. A couple of people over 60 years old lives at house C-1 at 2nd Street of the development. They are both retired, and he is a seriously ill handicapped person.
- o. A married couple with underage children lives at house C-2 on 2nd Street of the development.
- p. Mrs. Ivette Gelpi, aged 73, lives at house C-3 on 2nd Street of the development, and by the date when the complaint was filed, lived with her 95-year-old mother, who subsequently passed away.
- q. A married couple, approximately 60 years of age and both retired, live at house C-4 on 2nd Street of the development.
- r. A married couple over 60 years of age live at house C-5 of 2nd Street at the development.
- s. A married couple over 50 years of age live at house C-6 on 2nd Street of the development, both full-time workers. She works rotating shifts.
- t. Plaintiffs Jaime Ruberte-Santiago, and his wife Mrs. Isabel M. Figueroa Robles, a graduate nurse plus her children, plaintiff Jaime Ruberte-Figueroa and his daughter

Isabel R. Ruberte-Figueroa live at house C-7 on 2nd street of the development.

- u. A married couple made up of retired people in which the husband is disabled lives at house C-8 on 2nd Street of the development.
- v. A married couple formed by a retired nurse who cares for her young granddaughter, and her retired husband who, by date when complaint was filed, was Commissioner for the Penuelas Municipal Police, and living at house C-9, 2nd Street of the development, last house on stated street.
- w. Youth Miguel Duprey-Martinez lives with his family at house E-1.

CONCLUSIONS IN LAW

I. The Torts Action for Malicious Persecution

Our Civil Code controls liability for acts or omissions which cause a damage. Civil extra-contractual liability within the Puerto Rico legal system, derives from Article 1802 of the Puerto Rico Civil Code, which provides as follows: “[w]homever due to action or omission causes harm to another, through negligence or guilt, becomes obligated to repair the damage caused”. 31 LPRA Sect. 5141. See SLG Pagan-Renta v. Walgreens, 190 DPR 251 (2014); Nieves-Diaz v. Gonzalez Massas, 178 DPR 820, 843 (2010). The Supreme Court has been emphatic when same has indicated that for there to exist liability under this reasoning, it is necessary: (i) that there exist a tort; (ii) a negligent or culpable action or omission; (iii) a causal relationship between the damage and the culpable or negligent conduct. Nieves-Diaz v. Gonzalez Massas, *supra*; Lopez v. Porrata-Doria, 169 DPR 135, 150 (2006); Pons v. Engebretson, 160 DPR 347, 354 (2003).

On the other hand, in what is pertinent herein, a malicious persecution or unjustified use of legal proceedings arises whenever a person has suffered damages and torts, as an immediate result of a civil or criminal action which has been established against them. Garcia v. ELA, 163 DPR

defendants initiated and instigated not only one, but moreover, a series of complaints with the police plus legal proceedings against plaintiffs herein. Once the defendant moved out of the neighborhood, all complaints against the plaintiff youths ended, and furthermore, the police stopped coming over.

The second proven element is that all of the actions ended in a manner favorable for the plaintiff youths. Although defendant propounded that he called the police and went to the Courts of Justice since in his opinion, the noises were real, the truth is that the merits of the legal proceedings initiated by the defendant were favorably adjudicated for plaintiffs on all occasions. In spite of that, defendant has insisted on re-litigating before different judicial forums the same controversies that had been adjudicated at the Penuelas Court.²⁴ This clearly demonstrates defendant's attitude of contempt. His persistence in continuing to litigate the same controversy is a clear demonstration of deliberated, intentional, and malicious conduct. It results evident that legal actions filed against the plaintiffs were made maliciously without there existing probable cause, and in evident abuse of Law, thus complying with the third requisite for the cause of action.

Insofar as the last element required for cause of action to be met, we deem that the determinations of fact performed by this Court, based on the credibility which the witnesses in this case merited, sustain the conclusion that plaintiffs suffered damages, and that stated damages were prompted by actions from Mr. Rivera-Santiago. Although no evidence regarding special damages was presented, it arises from the testimony of the young plaintiffs, that these did suffer mental anguish due to the shame, discomfort and worries derived from the defendant's culpable actions. Some of the youths had to skip classes and make special arrangements to appear in court to defend themselves from the unfounded complaints by the defendant. Insofar as damages claimed by other

²⁴ Exhibits 4, 8 and 9 by plaintiff, Ruling, dated April 23rd of 2009, notified on May 19th of 2009; Complaint filed on May 26th of 2009, and Judgment dated June 1st of 2009.

defendants, to wit, the parents of these youths did, in essence, all testified regarding the fear, lack of peace, anxiety and worry prompted by defendant's situation with each one of their children, and because of the legal proceedings to which they have been subjected to. Truly, the anxiety and mental suffering arise naturally and directly from an unfounded malicious persecution. **Fonseca v. Oyola**, *supra*.

It was established, in accordance with the proven facts, that the motive for these complaints was unjustified and in the majority of cases without grounds whatsoever, prompting an intentional, malicious, and forcing in a continuous manner that parties had to appear on several occasions at agencies and the court to elucidate the complaints as filed. It is our opinion that defendant's conduct perfectly adapts to the definition of extreme circumstances prompted by the Supreme Court in the case of **Fonseca v. Oyola**, *supra*, to grant a torts action for malicious persecution due to a civil action. Therefore, we conclude that the actions by Mr. Santiago-Rivera give rise to the imposition of liability under the wide provisions of Art. 1802 of the Civil Code, 31 LPRA §5141, and the imposition of attorney fees for extreme recklessness, evidenced in the litigation of this case.

It now is incumbent upon us, based upon evidence presented, to fairly calculate the damages suffered by plaintiffs. The Supreme Court has acknowledged that the judicial tasks of estimating and valuing damages result to be a difficult and anguishing one, since there does not exist any calculating system which allows one to arrive at an exact result with which all parties are satisfied and content. **Santiago Montanez v. Fresenius Medical Care et al.**, *supra*; **Rodriguez et al v. Hospital et al.**, 186 DPR 889 (2012).

We are aware that cases which grant torts for this cause of action are infrequent. We did not find any related facts in prior cases which apply to the evidence presented. Notwithstanding,

800, 810 (2005); Pares v. Ruiz, 19 DPR 342 (1913).²¹ The system deems that an essential element of this idea is malice, wherefore, it is deemed that an action which gives rise to a malicious persecution is an “intentional tortious conduct”. Therefore, it results that those remedies which may be granted to a plaintiff are estimated within the torts action under governance of Art. 1802 of the Puerto Rico Civil Code, *supra*.

It is important to indicate that this concept is a known exception, since the Supreme Court sustained that prevailing doctrine does not allow for adjudication of damages through filing of a civil suit. Gimenez Alvarez v. Silen-Maldonado, 131 DPR 91, 96 (1992), Commonwealth Loan Corp. v. Garcia, 96 DPR 773 (1968); Berrios v. International Gen. Electric, 88 DPR 109 (1963). It is not, in turn, a cause of action favored by the system. Raldiris v. Levitt & Sons of P.R., Inc., 103 DPR 778, 781 (1975). Therefore, due to the exceptional nature of this doctrine, our highest judicial forum has highlighted the core elements which allow for filing and adjudication of same.

Stated action is proper when a subject has followed “*all legal formalities required but who 'perverts' or 'corrupts' them by acting maliciously and without probable cause of action*”. Toro Rivera v. ELA, 194 DPR 393, 408 (2015). Insofar then that for a plaintiff to advance any cause of action resulting from a malicious persecution, he has to comply with the following requirements: (1) that the defendant has submitted a civil cause of action against plaintiff, or initiated a criminal procedure; (2) that said cause resulted favorably for the plaintiff; (3) that same was pursued maliciously and without existence of probable cause; (4) that the plaintiff suffered tort-feasible damages as result of same. Toro Rivera v. ELA, *supra*, pages 408-409; Parrilla v. Ranger American of PR, *supra*, pages 272-273 (1993); Ayala v. San Juan Racing Corp., 112 DPR 804, 812 (1982); Fonseca v. Oyola, 77 DPR 525, 528 (1954).

²¹ This cause of action was acknowledged by the Supreme Court in Pares v. Ruiz, 19 DPR 342 (1913), and ratified in Jimenez v. Sanchez, 60 DPR 417 (1942).

It is proper to point out that in these cases, be it a civil or criminal case, the element of malice *is not* presumed. In that sense, and complying with the element of malice, something more than a mere intent by defendant to initiate a civil or criminal process against the plaintiff, needs to be established. H. Brau del Toro, *Los Daños y Perjuicios Extracontractuales en Puerto Rico*, 2nd ed., San Juan, JTS Publs. 1986, at page 112. It has to be determined that the accusation was: (1) whimsical, and (2) lacked reasonable grounds. Jimenez v. Sanchez, 76 DPR 370, 377 (1954). If the statement regards a reasonable belief, then no civil liability may be imputed on the defendant. Id.; Ocasio v. Alcalde Mun. de Maunabo, 121 DPR 37, 60 (1988). Thus plaintiff has to prove that defendant acted in bad faith, lacked probable cause, plus had a deliberate purpose of causing ravage and damage. Parrilla v. Ranger American of PR, *supra*; Gimenez Alvarez v. Silen Maldonado, *supra*, page 96; Raldiris v. Levitt and Sons of P.R., Inc., *supra*, page 782 (1975). The Puerto Rico Supreme Court has provided, as to these particulars, that to prevail in a cause of action due to malicious persecution, it needs to be proven that the “*defendant maliciously and actively instigated initiation of the process and that it was not the authorities who, based on their own evaluation of the facts, decided to prosecute the plaintiff*”. Id., page 781; Toro Rivera v. ELA, *supra*, page 409.

Last, plaintiff needs to establish that there exists a causal relationship between the defendant's conduct of maliciously accusing him, and those damages suffered. It results necessary to prove that the efficient cause of the prejudice thus suffered was the malicious initiation of the legal means against him Escoda v. Hull Dobbs Co. of PR, 100 DPR 305, 308 (1971).

II. VALUATION OF DAMAGES

Damages, under guidance of Article 1802, *supra*, may be moral or material. Cintron Adorno v. Gomez, 147 DPR 576 (1999). Due to same, and although calculation of moral damages

lacks, *per se*, a numerical equivalent, since same are intangible damages such as mental anguish and suffering, same may be monetarily compensated. Garcia Pagan v. Shilley Caribbean, 122 DPR 193 (1988).

Mental anguish and suffering serve the purpose of indemnifying pain and physical suffering and mental anguish which a person suffers as result of a culpable or negligent action. Elba A.B.M. v. U.P.R., *supra*, and Acosta & Rodas, Inc., v. PRAICO, 112 DPR 583 (1982). The difficulty in evaluating damages is greater with respect to compensation for anguish and mental suffering, since these are intangible. Several tort categories are included within said concept, such as emotional damage, anxiety, loss of affection and other similar damages of an intangible nature. A. Amadeo Murga, El Valor de los Daños en la Responsabilidad Civil, Volume I, Esmaco Editors, 1997, pages 220 and subsequent.

Valuation of damages is a function as important a decision if same should or should not be indemnified. Granting insufficient or ridiculously low amounts as result of damages suffered result of anti-juridical actions, bears a practical effect of lessening civil liability to which stated actions has to be subjected to. A. Amaedeo Murga El Valor de los Daños en la Responsabilidad Civil, 2nd Ed., Spain, JB Bosch Editor, 2012, page 19. To the contrary, any excessive valuation bears a punitive effect alien to our juridical system. The courts, to have the civil system comply with its ends, needs to seek a more reasonable proportionality between the damage prompted, and the indemnification thus granted. *Id.*

The Supreme Court has repeatedly acknowledged that the judicial task of estimating and valuing damages results to be anguishing and difficult, since there does not exist a calculation system allowing for one to reach an exact result in which all parties are satisfied and content. Santiago Montanez v. Fresenius Medical Care et al., 195 DPR 476 (2016); Rodriguez et al v.

Hospital et al., 186 DPR 889, (2012); Herrera, Rivera v. SLG Ramirez Vicens, 179 DPR 774, 784 (2010); Urrutia v. A.A.A., 103 DPR 643 (1975). Stated valuation always entails a certain degree of speculation. Nevertheless, the right to be compensated cannot be simply defeated by a speculative nature which, in some measure, a calculation of damages entails. Odriozola v. S. Cosmetic Dist. Corp., 116 DPR 485 (1985).

According to the opinion of the Supreme Court in Santiago Montanez v. Fresenius Medical Care et al., *supra*, and Rodriguez Et Al v. Hospital Et Al, *supra*; Herrera, Rivera v. SLG Ramirez Vicens, *supra*. It is indicated that after a comparative exercise is effected, it is then proper to examine the particular circumstances of the case.

III. ATTORNEY'S FEES DUE TO RECKLESSNESS

Imposition of attorney fees is discretionary. Notwithstanding, whenever a party has proceeded recklessly the court must then impose, within the judgment, payment of an amount for attorney fees. Such recklessness therefore decided, then granting of attorney then becomes mandatory. Vega v. Luna Torres, 126 DPR 370 (1990). To said effects, Rule 44.1 of Civil Procedure, 32 LPRA App. V, R. 44.1(d) controls imposing of attorney fees as follows, in its pertinent part:

In case that any party or their attorney has proceeded either recklessly or frivolously, the court must impose within its judgment to whomever so responsible, payment of an amount in concept of attorney fees, which the court deems as proper for stated conduct. [...]

Recklessness is not defined within above quoted rule; however, the Supreme Court has stated that “recklessness is an attitude which projects itself over the proceedings, and which affects a proper functioning, and the administration of justice”. Jarra Corp. v. Axxis Corp. 155 DPR 764 (2001). Likewise, our highest forum has indicated that imposition of attorney fees for recklessness “pursues punishment upon those litigants who force other persons to incur into

unnecessary expenses by filing frivolous litigation, or unnecessarily prolonging those already filed". (Our emphasis) **Oliveras, Inc. v. Universal Ins. Co.**, 141 DPR 900, 935 (1996); **Elba A.B.M. v. U.P.R.**, 125 DPR 294 (1990); **Fernandez v. San Juan Cement Co., Inc.**, 118 DPR 713 (1987). Stated in another manner, conduct which merits imposing the payment of attorney fees is that one "*which makes necessary a litigation that could have been avoided, which unnecessarily extends same, or requires that the other party carry out unnecessary steps.*" **Blas v. Hosp. Guadalupe**, 146 DPR 267, 335 (1998).

It has been repeatedly ruled that the decision regarding recklessness exclusively depends on, if the Magistrate who presided over the proceedings arrives at a conclusion as to whether the party or its attorney, acted in a reckless or whimsical manner, or not. **Ramos Baez v. Bossolo Lopez**, 143 DPR 567, 571 (1997); **CNA Casualty of P.R. v. Torres-Diaz**, 141 DPR 27, 43 (1996); **Miranda v. E.L.A.**, 137 DPR 700, 719 (1994); **Revlon v. Las Americas Trust Co.**, 135 DPR 363 (1994). Now, although the decision regarding recklessness rests upon the Judge's sane discretion, once he or she determines the existence of same, "*the judgment for attorney fees becomes mandatory*". **Fernandez v. San Juan Cement Co., Inc.**, 118 DPR 713, 717 (1987). Stated imposition of attorney fees as a sanction towards reckless conduct pursues to dissuade against unnecessary litigation and to promote transactions, by punishing that litigant whose persistence, contempt, and insistence on a frivolous and groundless attitude, forces the other party to incur into expenses and bother which a litigation entail. **Blas v. Hosp. Guadalupe**, *supra*, **Torres Ortiz v. E.L.A.**, 136 DPR 556, 565 (1994); **Mendez v. Moreales**, 142 DPR 26, 40 (1996).

We shall therefore proceed in accordance with the above stated substantive and procedural system, to adjudicate the complaint posed for our consideration.

Captioned complaint was based upon a claim for torts due to alleged malicious persecution and abuse of law. Plaintiffs alleged that defendant, Mr. Santiago, in a frequent and unfounded manner, would phone Puerto Rico Police agents, so that they intervene with plaintiff youths and that, moreover, he initiated legal actions geared towards defaming and harassing them.²² Furthermore, that defendant prompted filing of numerous unjustified complaints and judicial litigation against these youths. Defendant denied all the allegations against him.

We must recall that actions for abuse of rights and malicious persecution bear the following common requirements: that the current defendant was who instigated the previous litigation; that stated litigation ended favorably for the current plaintiff; that the prior action was filed without probable cause and with malice; that same resulted in damages. The above indicated interpretative jurisprudence is clear-cut when affirming that for the sole fact of reporting commission of a crime to authorities, no liability needs to be imposed upon the defendant; rather, that it must be demonstrated that the process was initiated by said party actively and maliciously. **Parrilla Baez v. Airport Catering Services**, *supra*, page 273; **Raldiris v. Levitt & Sons of P.R., Inc.**, *supra*. Wherefore defendant bears the burden of proving the element of malice under factual grounds, and not through simple vague allegations or mere conclusions in law. **Toro Rivera et als v. ELA**, *supra*.

In the instant case, the Court has determined the facts which evidence the existence of four elements which a cause for malicious persecution requires. The first proven element is the initiation of civil procedures against all of plaintiff youths, Josean Luis Toucet-Quinones, Miguel Duprey-Martinez, Raymond Burgos-Quinones, Yamilette Burgos-Quinones, Anette Garcia-

²² In accordance with what we propounded in the procedural tract portion, included within the complaint were Mr. Santiago Rivera, as well as his mother, Mrs. Josefina Rivera-Estrada (RIP). Mrs. Rivera-Estrada passed away during the course of the litigation. The Court eventually issued a Partial Judgment dated January 19th of 2013, dismissing the cause of action against the estate, without prejudice. In view of this, Mr. Santiago-Rivera remained as the sole defendant.

Rivera, Hector Garcia-Rivera, and Jaime Ruberte-Figueroa, as well as the initiation of a criminal proceeding against youth plaintiff Josean Luis Toucet-Quinones. ~~Precisely during the years 2008 and 2009, defendant filed the following~~ complaints and judicial actions against plaintiffs:

- a) Complaint No. Q2008-063 under guidance of Law 140, against Josean Toucet, Raymond Burgos, Yamilette Burgos, Hector Garcia, Jimmy Ruberte and Miguel a/k/a Miguelito.
- b) Complaint No. Q2008-3-057-3875 against youth Josean Luis Toucet-Quinones for alleged violation of Law 131, and Art. 247 of the Penal Code, and 2 reports dated November 13th of 2008, against Josean Toucet, under Law 131 and Article 247 of the Penal Code.
- c) Complaint No. JEQ2008-104 against Josean Toucet, Jimmy Ruberte, Miguelito Duprey, Nety Garcia, Jinette, Raymond Burgos, for alleged unnecessary noises and disorder.
- d) Complaint No. JEQ2009-037 against Raymond Burgos, Jimmy Ruberte, Josean Toucet, and Raymond Cesar Burgos.
- e) Complaint No. JPE2009-0374 against Raymond Burgos, Jimmy Ruberte, Josean Toucet, Miguelito Duprey, Nety Garcia and Jinette, requesting a cease and desist for unnecessary noises after 10:00 p.m. at night in all of 2ND street of Rio Sol development in Penuelas.
- f) Complaint No. 2009-3-057-02015, alleging unnecessary noises at residence B-4 on 2nd street, Rio Sol Dev., Penuelas.

Furthermore, in accordance with the above determinations of fact stated, it surfaces that police would always arrive whenever the youths met. Precisely from the Ruling issued on April 23rd of 2009 from Municipal Judge Edwin Flores-Selles, admitted as documentary evidence, it arises that the herein complainants, Mr. Santiago-Rivera and Mrs. Rivera-Estrada, “[...] **have filed more than ten complaints to the police for unnecessary noises and disturbance of peace. [...]**” and that “[t]he police has seen the youths peacefully gathered, either watching TV, playing dominoes or conversing”.²³ Likewise, on one occasion both the Police as well as the Environmental Quality Board appeared at the neighborhood as to measure the alleged noise (level), and plaintiffs were not able to prevail in their claims regarding excessive noise. To wit, then the

²³ Exhibit 4 by Plaintiffs, Ruling dated April 23rd of 2009, notified on May 19th of 2009.

in compliance with the directive from our highest judicial forum, we did use the legal precedent in the case of Fonseca v. Oyola, 77 DPR 525 (1954), whereby the Supreme Court, for the first time, granted compensation as result of malicious persecution, through a civil action. On stated occasion, defendant filed several complaints for eviction against plaintiff, forcing her to pay a higher rental contract, and to intimidate and force her to vacate the apartment rented to her. The malicious persecution consisted in having unsuccessfully sued the tenant on 3 occasions alleging non-payment. As arises from the Court's opinion, plaintiff was harmed in her business and her health was affected since, as she so testified, she turned nervous and went through a lot of bad moments. The trial court ruled in favor of plaintiff and awarded her the sum of \$400 for torts as suffered, (legal) costs plus \$100 for attorney fees, which was subsequently confirmed by the Supreme Court. Upon projecting stated sum to the present, the result obtained is **\$2,559.04**, which constitutes a current value of the amount awarded in the legal precedent identified herein. Stated amount results to be unreasonable for compensation of the plaintiffs.

Unlike in the case of Fonseca v. Oyola, above, the herein plaintiffs were approached by police on numerous occasions due to the constant complaints filed and for phone calls made by defendant and, moreover, have had to appear at several unjustified judicial proceedings. In considering the particular circumstances of the instant case, we deem it reasonable to make adjustments in accordance with the testimony and evidence presented, and grant for torts and damages suffered the following stated sums.

1. **\$15,000.00** to each one of co-plaintiffs Josean Luis Toucet-Quinones, Hector Garcia-Rivera and Jaime Ruberte-Figueroa, for anxiety, worries, annoyance and anguish suffered due to the recurring grievances to the Police and complaints filed against them by the defendant, and having to miss classes as a result of the

unjustified legal proceedings by him filed.

2. ~~\$10,000.00 for each one of co-plaintiffs, Miguel Duprey-Martinez, Raymond~~

Burgos Quinones, Yamilette Burgos-Quinones and Anette Garcia-Rivera, due to the anxiety, worry and anguish suffered from the recurring grievances made to police, and the complaints filed against them by defendant.

3. \$2,500.00 each for co-defendants Awilda Quinones-Roman, Mirna Martinez-Aviles, Raymond Burgos-Santiago, Aileen Quinones-Vega, Hector Garcia-Ferrer, Mayra Rivera-Rodriguez and Isabel Figueroa-Robles, for the worry, anxiety and anguish suffered, due to the situation which their children were going through.

Pursuant to the above stated this Court enters Judgment *GRANTING* the Amended Complaint filed on September 28th of 2009. Consequently, defendant is ordered to pay plaintiffs the above stated sums for torts and damage suffered. Moreover, and considering the recklessness evidenced during litigation as may be verified in the instant case file, the sum of **\$15,000.00** is imposed on Mr. Carlos W. Santiago-Rivera for attorney fees, plus costs and expenses incurred during the litigation, sums which shall accrue interest at a rate of 6.5% percent a year from the date when complaint was filed, and up to its full and complete disbursement.

REGISTER AND NOTIFY FORTHWITH.

In Ponce, Puerto Rico, this 21st of August, 2019.

FRANCISCO J. ROSADO COLOMER

(Sgd.)

Superior (Court) Judge

CERTIFICATION

CERTIFIED: That the attached document(s) is (are) true and correct translation(s) of the original document(s) from Spanish into English.

Moreover, that I am a Federally Certified Court Interpreter & Translator for the Administrative Office of the U. S. Courts within the active list of Certified Interpreters and Translators at the U.S. District Court, for the District of Puerto Rico.

Carlos T. Ravelo
AOUSC Certification # 95-063



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