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**ORDER DENYING REVIEW,
SUPREME COURT OF PUERTO RICO
(APRIL 19, 2024)**

IN THE SUPREME COURT OF PUERTO RICO
CHAMBER II

ENRIQUE VÁZQUEZ QUINTANA,

Petitioner,

v.

SUNC. HERMENEGILDO MARTÍNEZ
REMIGIO/TCC HERMENEGILDO MARTÍNEZ,

Respondents.

CC-2024-0079

Courtroom composed of
Chief Judge Oronoz Rodríguez, Associate Judge Mrs.
Pabón Charneco, Associate Judge Mr. Rivera García,
and Associate Judge Mr. Estrella Martínez.

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JUDGMENT

In San Juan, Puerto Rico, on April 19, 2024.
Regarding the petition for review presented by the
petitioner, it is denied. The Court has decided this,
and it is certified by the Secretary of the Supreme

/s/ Javier O. Sepúlveda Rodríguez
Secretario del Tribunal Supremoss

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**OPINION AFFIRMING,
PUERTO RICO COURT OF APPEALS
(JANUARY 16, 2024)**

PUERTO RICO COURT OF APPEALS

ENRIQUE VASZQUEZ QUINTANA,

Appellant,

v.

SUNC. HERMENEGILQO MARTINEZ REMIGIO
/TCC HERMENEGILQO MARTINEZ,

Appellee.

KLAN202301057

Civil. No. BY2023CV04533

Subject: Nullity of Judgment

Appeal from the Court of First Instance,
Superior Chamber of Bayamón.

Panel composed of its president,
Judge Hernández Sánchez, Judge Romero García
and Judge Martínez Cordero.

Hernandez Sanchez:, Reporting Judge

JUDGMENT

In San Juan, Puerto Rico, January 16, 2024.

On November 27, 2023, Mr. Enrique Vazquez Quintana (Mr. Vazquez or appellant) I appeared before us through an appeal and requested the review of a *Resolution and Sentencing* that was issued and notified on October 25, 2023 for the Court of First Instance, Superior Court of Bayamon (TPI). Including the aforementioned opinion, the CFI, *Motu proprio* dismissed with prejudice the suit to release the *Judgment* submitted by the petitioner under Rule 49.2 of Civil Procedure, 32 LPRA Ap. V., R. 49.2.

For the purposes that we will expose below, ***We confirm*** the appealed opinion.

I

On August 15, 2023, Mr. Vázquez presented a *Request for Relief of Judgment*. In it, it indicated that on October 28, 2011, the CFI issued a *Judgment*¹ in Case No.KDP2001-1213 against him ordering him to compensate Mrs. Isabel Montañez Ortiz (Mrs. Montañez) and Mr. Hermenegildo Martínez Remigio (jointly, Martínez-Montañez couple) amount of \$284,000.00 for damages suffered as a result of an alleged medical malpractice. Explained that in the aforementioned case, the spouses Martinez-Montanez hired a medical expert who testified that the thyroid and parathyroid operation performed by the petitioner on Mrs. Montañez had been the proximate cause for the latter to suffer from memory loss and dementia. In light of the above, he maintained that three (3) months ago A new evidence arose that established that it was impossible for an

¹ See pa.gs. 3-5 of the appendix to the appeal.

operation of the thyroid and parathyroid to cause dementia and/or the Alzheimer's disease. Thus, it affirmed that the Medical Licensure and Medical Disciplines emitted a Resolution exonerating him from all guilt because there is no relationship of any kind between hypocalcemia and the dementia Including the Alzheimer's disease. To this end, it requested that the Complaint be declared A Cause and that the *Judgment* issued on October 28, 2011, in Case No. KDP2001-1213 under Rule 49 of Civil Procedure, *supra*, in order to vindicate his good name, prestige and credibility.

In response, on September 5, 2023, the CFI issued an *Order* that was notified on September 6, 2023, in which it granted a period of ten (10) days to the appellant to show cause why the Complaint filed against the appellant should not be dismissed. tenor with Rule 1.2 (5) of Civil Procedure, 32 LPRA Ap. V, R.10.2(5).² It pointed out that the. appellant was aware that the evidence. submitted, namely, the Administrative Resolution of the Medical Licensure and Medical Disciplines Medica, was not enough to overturn the judicial adjudication made in Case No. KDP2001-1213.

Thus, on. September 18, 2023, Mr. Vázquez presented a *Motion. in compliance with the Order* in which he reiterated the approaches he set forth in his *Request for Relief of Judgment*.³ In addition, it argued that the Judgment handed down in Case No. KDP2001-1213 was contrary to what the Board of Licentiate and Medical Disciplines resolved and,

² *id.*, p. 9.

³ *id.*, pa.gs. Verses 10-13.

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therefore, constituted a failure of justice. This since, according to him, the cause of a disease that today had no certain cause by medical practitioners who are experts in the field. He reiterated that scientifically it was impossible that one surgery of thyroid and parathyroid causes Alzheimer's in a patient. In view of the above, I requested that the Claim not be dismissed *under* the Rule 10.2(5) of Civil Procedure, *supra*, and reaffirming⁶ in requesting relief of sentence *to the* MA; Rule 49.2 of Civil Procedure, *supra*.

Having evaluated the arguments of the appellant, on 25 December! October 2023, the ICC issued and notified a *Judgment and Resolution* in which he resolved the following⁴:

The Court, *motu proprio*, precedes the dismissal with prejudice rec; Rule 49.2 of Civil Procedure, 32 LPRA Ap. V, R. 49.2, since the aforementioned rule does not provide among its sections, for a party, within a case closed with the final and final judgment, confirmed by the Supreme Court of Puerto Rico (CC-12-982), may proceed to request the substitution of the adjudication (ruling) made by the Court of First Instance, with expert evidence favorable to its position, in addition to the used during the trial by the plaintiff, in the manner of your; the opinion of an instrumentality of the administrative channel (Board of Licensing and Medical Discipline of Puerto Rico). We are not in the case of a new test situation not available at the time of the trial was seen on its merits, at least.

⁴ *id.*, pa.gs. 1-2.

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The plaintiff requests that the judgment issued in KDP2001-1213 by the exculpatory Resolution issued in the administrative channel be set aside and replaced by the one reached by the Court. Such a claim is not in accordance with the law and is not possible under Rule 49.2 of Civil Procedure. This inextricably implies the reopening of the controversy that was then heard before the Court of First Instance, *García Colón, et al. v. Suen. Gonzalez*, 178 DPR 527 (2010), *Olmeda Nazario v. Suero Jimenez*, 123DPR 294 (1989).

Dissatisfied with this opinion, on November 27, 2023, Mr. Vázquez filed the appeal and formulates the following statement of error:

The Court of First Instance erred in dismissing the lawsuit with prejudice on the grounds that the Relief of Judgment presented is res judicata; without: having guaranteed due process of law to the plaintiff.

Having heard the appeal, we issued a *Resolution* granting the appellee until December 27, 2023, to file its opposition to the appeal. Once the time limit for doing so has expired, the appellant does not submit its response to the appeal of epigraph. Consequently, we declare the present appeal perfected and being in a position to resolve, we proceed to do so.

II

Rule 49.2 of Civil Procedure, *supra*, provides that procedural mechanism available to request the Court of First Instance for relief of the effects of a judgment. *García Colón et al. v. Suen. Gonzal z*, 178 DPR 527,

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539 (2010). Specifically, the aforementioned Rule provides as follows:

- (a) By means of a motion and under those conditions that are fair, the court may relieve a party or his or her legal representative of a judgment, order, or proceeding for the following reasons: error, inarventliness, excusable surprise, surprise or negligence.
- (b) discovery of essential evidence which, despite due diligence, could not have been discovered in time to request a new trial in accordance with Rule 48;
- (c) fraud (including what has hitherto been called. “intrinsic” and: also called “extrinsic”), false representation or other conduct improper of an adverse party;
- (d) nullity of the judgment;
- (e) the judgment has been satisfied, waived, or complied with, or the previous judgment on which it was based has been reversed or otherwise set aside, or it would be inequitable for the judgment to continue in effect, or
- (f) any other reason justifying the granting of a remedy against the effects of a judgment. (Emphasis supplied).

[...]

In order for the relief of judgment to proceed under the aforementioned rule, “it is necessary that the petitioner adduce, at least, one of the reasons listed in that rule for such relief.” *id.*, p. 540. In addition, **a motion based on the above-mentioned Rule must be fine well-founded**, since it is known that the

opinions issued by Our courts enjoy a presumption of validity and correctness. (Emphasis added) *Cortes Piñeiro v. Succession A. Cortes*, 83 DPR 685, 690 (1961). It should be noted that, as a general rule, such action must be exercised within six (6) months following the filing and notification of the judgment. *HRS Erase, Inc. v. Centro Medico del Turabo, Inc.*, 205 DPR 689, 698 (2020). However, by way of exception, such a rule yields when it is a case of a judgment that is null and void. *id.* It should be understood, “if a judgment is null and void, the party promoting a motion for relief of judgment is not limited for the six-month term set forth.” *id.*, p. 699.

In view of the above, it should be specified that, regardless of the existence of one of the grounds set out in the regulation, relieving a party of the effects of a Judgment is a discretionary decision, except in cases of nullity or when the judgment has been satisfied. *Rivera v. Algarin*, 159 DPR 482, 490 (2003). To this end, if a judgment is null and void, there is no margin of discretion, and it is mandatory to annul the judgment. *García Colón et al v Sucn. Gonzalez*, *supra*, p. 543. This, “regardless of the merits that the defense or the claim of the defendant may have.” *Id.*, pags, 543-544. It is considered that A judgment is null and void when it is issued it broke the due process of law. *Id.*, pag. 543.

III

In his only pointing of error, Mr. Vázquez ; argued that the CFI erred in dismissing his *Claim for Relief of Judgment* with prejudice on the understanding that the release of judgment constituted *res judicata* and without having guaranteed him due process of law. He is not right. Lets see.

In his *Application for Relief of Judgment*, the appellant argued that the ICC issued a *Judgment* against him on October 28, 2011 in case No. KDP2001-1213 in which it determined that the thyroid and parathyroid surgery performed on the lady Montañez was the proximate cause for the latter to suffer from memory loss and dementia. Thus, he argued that, for the reason above, the TPI ordered him to compensate the Martínez-Montañez couple in the amount of \$284,000.00 for economic damages; and moral for said medical malpractice. Without However, he argued that the aforementioned Judgment under Rule 49.2 of Civil Procedure, *supra*, since the Medical Licensure and Medical Disciplines had issued a Resolution exonerating him of all guilt. Finally, he expressed that his only purpose of this was not to use the mechanism of release of sentence so that the Martínez-Montañez couple would return him the money he had to compensate them, but he wanted to vindicate his good name, prestige and credibility.

Under the foregoing law, in order for relief to proceed under Rule 49.2 of Civil Procedure, *supra*, the petitioner must adduce at least one of the reasons listed in the rule for such relief and, in addition, must file a well-founded motion. *García Colón et al. v. Dream. González*, *supra*, p. 540; *Cortes Piñeiro v. Succession A. Cortes*, *supra*, pag. 690. Volume we can observe, the appellant in his *Request for Relief of Judgment* did not specify⁶ under which element the release of judgment was invoked. In addition, it should be noted that said *Lawsuit for Relief of Judgment* was filed twelve (12) years after the Judgment was filed and notified. That said, the six (6) month period provided by law for filing the relief of judgment had already elapsed.

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We are aware that, if a judgment is null and void, the party promoting the motion for relief of judgment is not limited by the aforementioned term. However, as we mentioned above, in the present case it was not even specified⁶ under which element such relief was invoked. The appellant limited himself to stating that the Judgment that was handed down on **October 28, 2011** since he wanted to vindicate his good name, prestige and credibility in accordance with the Resolution issued by the Medical Licensure Medical Disciplines allegedly exonerating him of all guilt.

As the CFI very well resolved, **the Motion for Relief of Judgment filed by the appellant under Rule 10.2 (5) of Civil Procedure**, *supra*, *must be dismissed with prejudice*, since Rule 4Q.2 of Civil Procedure, *supra*, does not provide among its sections for a party, within a case that already contains a final and final Judgment that is confirmed.⁶ by the Supreme Court of Puerto Rico, may request the substitution of the award on the grounds of being able to vindicate its good name, prestige and credibility in accordance with a Resolution issued by the Board of Directors of Puerto Rico. Bachelor's Degrees and Medical Disciplines.

IV

For the Fundamentals set out above, ***Affirm*** The appealed opinion.

It was agreed and confirmed by the Court and certified by the Registrar of the Court of Appeals.

/s/ Leda. Lilia M. Oquendo Solis
Clerk of the Court of Appeals

App.12a

**OPINION AND JUDGMENT,
PUERTO RICO SUPERIOR COURT, BAYAMÓN
(OCTOBER 25, 2023)**

COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
SUPERIOR COURT OF BAYAMÓN

ENRIQUE VAZQUEZ QUINTANA,

Plaintiff,

v.

SUCCESSION OF HERMENEGILDO MARTÍNEZ
REMIGIO TICIC AS HERMENEGILDO MARTÍNEZ
COMPOSED BY LUIS MARTÍNEZ MALDONADO,
HERMENEGILDO MARTÍNEZ MONTAÑEZ,
MILITZA ISABEL MARTÍNEZ MONTAÑEZ,
MARÍA ANTO AND OTHER,

Defendant.

Case No.: BY2023CV04533

Room: Room 504

About: NULLITY OF SENTENCE

Before: Jalme J Fuster ZALDUONDO, Judge.

THE COURT, *MOTU PROPRIO*, PROCEEDS TO
DISMISS WITH PREJUDICE THE APPEAL FILED
BY THE PLAINTIFF OF EPIGRAPHE, BASED ON
RULE 49.2 OF CIVIL PROCEDURE, 32 LPRA, Ap. V,

R-49.2, SINCE THE AFOREMENTIONED RULE DOES NOT PROVIDE AMONG ITS ACAPTES, FOR A PARTY, WITHIN A CASE CLOSED WITH A FINAL AND FINAL JUDGMENT, CONFIRMED BY THE SUPREME COURT OF PUERTO RICO (CC-12-982), MAY PROCEED TO REQUEST THE SUBSTITUTION OF THE AWARD (JUDGMENT) MADE BY THE COURT OF FIRST INSTANCE, WITH EXPERT EVIDENCE

FAVORABLE TO ITS POSITION, IN ADDITION TO THAT USED DURING THE TRIAL BY THE PLAINTIFF, IN THE FORM OF AN OPINION OF AN INSTRUMENTALITY OF THE ADMINISTRATIVE CHANNEL (LICENSING BOARD AND MEDICAL DISCIPLINE OF PUERTO RICO). WE ARE NOT IN PROCEEDINGS IN THE FACE OF A SITUATION OF NEW EVIDENCE NOT AVAILABLE AT THE TIME OF THE TRIAL IN ITS MERITS, EVEN. THE PLAINTIFF REQUESTS THAT ANNUL THE JUDGMENT ISSUED IN KDP2001-1213 BY THE EXCULPATORY RESOLUTION ISSUED IN THE CHANNEL AND BE REPLACED BY THE ONE ARRIVED BY THE COURT. SUCH A CLAIM IS NOT IN ACCORDANCE WITH THE LAW AND NOT POSSIBLE UNDER RULE 49.2 OF CIVIL PROCEDURE THIS INEXORABLY IMPLIES THE OPENING OF THE CIVIL LAW. AGAIN, OF THE CONTROVERSY THAT WAS AIRED AT THAT TIME BEFORE THE COURT OF FIRST INSTANCE, GARCIA COLON ET AL V. SUCN. GONZALEZ, 178 DPR 527 (2010), *OLMEDA NAZARIO V. SUERO JIMENEZ*, 123 DPR 294 (1989).

App.14a

Be notified.

Bayamón, Puerto Rico, today, October 25, 2023.

/s/ Jalme J Fuster Zaldondo

Name and Signature of the Judge

**DECISION,
PUERTO RICO BOARD OF LICENSING AND
MEDICAL DISCIPLINE
(APRIL 20, 2023)**

DEPARTMENT OF HEALTH
PUERTO RICO BOARD OF LICENSING AND
MEDICAL DISCIPLINE
OFFICE OF REGULATION AND CERTIFICATION OF
PROFESSIONALS
HEALTH AND MEDICAL LICENSING AND DISCIPLINE
BOARD OF PUERTO RICO

IN RE: DR. ENRIQUE VÁZQUEZ QUINTANA,
LICENSE NO. 2577
Q-JLDM-2021-138
GENERAL SURGERY

Subject: MEDICAL NEGLIGENCE

In January 2016, the Board received a report from the National Practitioner Data Bank reporting a payment of the Triple S-Propiedad policy belonging to Dr. Enrique Vázquez Quintana in case CC-12-982 of the Supreme Court of Puerto Rico.

In case CC-12-982, the Supreme Court of Puerto Rico affirmed the judgment of the trial court and the appellate court, awarding the plaintiffs the amount of \$280,000.00 in damages, plus \$52,983.31 in post-judgment interest of 4.25%, and \$20,947.86 (with a reduction of \$10,000) in costs and legal fees. The total amount

App.16a

of the judgment was \$343,931.17. Payment was made without admission of negligence.

The patient (a 53-year-old female) was referred to Dr. Vázquez Quintana and other physicians for definitive treatment of hyperparathyroidism. Treatment of her condition included surgery, which was performed by Dr. Vázquez Quintana on July 6, 2000. The patient was informed of the possible risks and complications.

The patient alleged that Dr. Vazquez Quintana deviated from the standard of care by removing three normal parathyroid glands, two of which were normal, and leaving her with only one gland with deficient blood supply. It was also alleged that the patient developed hypoparathyroidism.

DESCRIPTION OF THE PROCEDURE PERFORMED:

The surgery was performed to remove the left lobe of the thyroid gland and three parathyroid glands, one of which (top right) showed histopathological changes consistent with adenoma (noncancerous tumor) while the other two were normal. The patient developed postoperative hypoparathyroidism that has been treated with calcium and vitamin D. The test performed on the patient showed hypocalcemia, hyperphosphatemia and low levels of parathyroid hormone.

GROUND'S OF THE CLAIM:

The plaintiff patient's expert alleged that as a result of the surgery the patient was left with permanent symptomatic hypocalcemia that requires daily calcium and vitamin D intake, frequent medical visits and blood tests to monitor her calcium levels. That complication was the result of overly aggressive surgery

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in the form of a near-total parathyroidectomy, which left the patient with a parathyroid with an inadequate blood supply to maintain normal calcium levels.

On the other hand, Dr. Vázquez Quintana's expert maintains that, although unfortunately that patient developed postoperative hypoparathyroidism, the surgery itself was clearly indicated and this is a recognized complication of the procedure. The patient was aware of this complication and decided to proceed with the operation because the primary hyperparathyroidism left untreated for a long time could have resulted in serious health complications for her, including kidney stones and osteoporosis. Dr. Vazquez Quintana followed the accepted standard of care in his handling of the patient's case. In addition, calcium intake is recommended for any older woman 40 years old. In conclusion, the patient did not result in harm from the Dr. Vázquez Quintana intervention.

The Investigative Hearing was held on January 10, 2023, by the Investigating Officer, Lcdo. Carlos José Sánchez Pagán.

After studying the case file and holding the investigative hearing, it is necessary to conclude that the removal of the patient's normal lower parathyroid was an unavoidable uncertainty that is within the concept of the "inherent risk" of parathyroidectomy and lobectomy. Medicine is the science of uncertainty and the art of probability" William Osler. Surgery was indicated according to the clinical picture presented by the patient since the parathyroids were not removed unnecessarily. Therefore, **IT IS RECOMMENDED TO FILE WITH PREJUDICE.**

CONCLUSION

The report submitted by the Investigating Officer was discussed on its merits by the Board at the Regular Meeting held on January 10, 2023. This is how the Puerto Rico Medical Licensing and Discipline Board resolved DETERMINING THE ARCHIVE WITH PREJUDICE OF THE PRESENT COMPLAINT.

You are advised that Article 27 of Law No. 139 of August 1, 2008, provides that after a Resolution is issued, the adversely affected party may first request the Board to reconsider the Resolution, within ten (10) days of its notification. Once the reconsideration has been resolved, if it is adverse, it may appeal to the Circuit Court of Appeals, in an appeal for review within a period of thirty (30) days after being notified of it. For the purposes of the provisions herein, the Board shall be considered an interested party in the process of review of its decisions.

THE PUERTO RICO BOARD OF LICENSING AND MEDICAL DISCIPLINE signs in San Juan, Puerto Rico today, April 20, 2023.

/s/ Dr. Ramón Méndez-Sexto
President

/s/ Dr. Jose J. Fuentes Inquanzo
Secretary

I CERTIFY: That, today, April 21, 2023, I sent the original of this document to DR. ENRIQUE VAZQUEZ QUINTANA through his Legal Representative, LCDO. RUBEN T. NIGAGLIONI, e-mail rtn@nigaglioniaw.com so that the doctor can be notified of the Board's determination.

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/s/ Carmen L. Alamo Del Valle
Secretaria Legal
PO Box 13969
San Juan, P.R. 00908-3969
Tel: (787) 765-2929, Ext. 6641
Email: carmen.alamo@salud.pr.gov

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**ORDER DENYING SECOND MOTION
FOR RECONSIDERATION,
SUPREME COURT OF PUERTO RICO
(MAY 17, 2024)**

IN THE SUPREME COURT OF PUERTO RICO
CHAMBER I

ENRIQUE VÁZQUEZ QUINTANA,

Petitioner,

v.

SUNC. HERMENEGILDO MARTÍNEZ
REMIGIO/TCC HERMENEGILDO MARTÍNEZ,

Respondents.

CC-2024-0079

Courtroom composed of
Chief Judge Oronoz Rodríguez, Associate Judge Mrs.
Pabón Charneco, Associate Judge Mr. Rivera García,
and Associate Judge Mr. Estrella Martínez.

RESOLUTION

In San Juan, Puerto Rico, on May 17, 2024.
Regarding the second motion for reconsideration
presented to the Supreme Court by the petitioner, it
is denied. The petitioner must adhere to the decision
made by this Court.

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The Court has decided this, and it is certified by
the Secretary of the Supreme Court.

/s/ Javier O. Sepúlveda Rodríguez

Secretario del ss

Tribunal Supremo

App.22a

**APPELLANT SECOND MOTION FOR
RECONSIDERATION, SUPREME COURT OF
PUERTO RICO
(APRIL 23, 2024)**

COMMONWEALTH OF PUERTO RICO
SUPREME COURT OF PUERTO RICO
SAN JUAN, PUERTO RICO

DR. ENRIQUE VÁZQUEZ QUINTANA,

Appellant,

v.

ISABEL MONTAÑEZ ORTIZ AND/OR THE
ESTATE OF ISABEL MONTAÑEZ ORTIZ
COMPOSED OF A, B, C SO CALLED BY
IGNORANCE AND THE SUCCESSION OF
HERMENEGILDO MARTÍNEZ REMIGIO T/C/C
HERMENEGILDO MARTÍNEZ COMPOSED OF
LUIS MARTÍNEZ MALDONADO,
HERMENEGILDO MARTÍNEZ MONTAÑEZ,
MILITZA ISABEL MARTÍNEZ MONTAÑEZ,
MARÍA ANTONIA MARTÍNEZ MONTAÑEZ,
JULIO MARTÍNEZ MONTAÑEZ, CARMEN
NOELIA MARTÍNEZ MONTAÑEZ, CARMEN
NOEMÍ MARTÍNEZ MONTAÑEZ AND ISABEL
LUISA MONTAÑEZ ORTIZ,

Defendants.

CASO KNOB.: CC-2024-0079

On: Second Reconsideration About: Release of
Sentence

SECOND RECONSIDERATION BEFORE THE
SUPREME COURT

Dr. Enrique Vázquez Quintana appears, in his own right due to the impossibility of obtaining a lawyer to represent him. Dr. Vázquez Quintana respectfully presents his arguments regarding the No Ha Lugar notified by email on Monday, April 22, 2024. The judgment, initially issued on October 28, 2011 and finalized on December 18, 2015, has been the subject of our request for annulment, based on the Resolution issued by the Board of Licensing and Medical Disciplines.

It is crucial to note that the Board of Medical Licensing and Disciplines, the government entity in charge of certifying and licensing physicians in the country, is analogous to the Supreme Court in terms of the practice of medicine, and its resolution should be considered as an authority on the subject. However, the Hon. Judge Jaime Fuster Zalduondo of the Bayamón ICC dismissed the case against me on a brief page with capital letters. It is known that the use of capital letters in computers means that the judge is yelling. I wonder, why is the judge yelling? Who are you afraid of? Judge Fuster Zalduondo dismissed the case against me and did not allow me to summon the defendants or conduct a hearing that would clearly violate my civil rights. It reports that the new evidence was not presented at trial, a totally erroneous expression since the Resolution of the Board of Licentiatees and Medical Disciplines always occurs after the judgment is paid in a medical lawsuit. We

went to the Court of Appeal and the panel of judges has refused to overturn a ruling that, in our view, is clearly erroneous and contrary to current scientific knowledge.

We filed a petition for certiorari with this Honorable Supreme Court requesting that the Judgment of this court of December 18, 2015, be set aside and that the credibility and prestige of this servant be restored to my patients and colleagues. Attorney Pedro Rivera Sabater refused to represent me before the Supreme Court for fear of being sued with an ethics complaint. It is detrimental and pitiful that the injured are deprived of legal representation for fear of reprisals from the judiciary. That implies that lawyers believe judges can make decisions based on bias or retaliate not based on evidence and justice. However, lawyers defend judges, defend those who punish them, an act of masochism or Stockholm syndrome.

FOR YOUR UNDERSTANDING, HERE IS A SUMMARY OF THE ORIGINAL CASE:

On June 20, 2000, I operated on a patient who had a nodule in the left lobe of the thyroid and elevated blood calcium (hyperparathyroidism). As a sequel of the operation resulted with low calcium, an inherent complication of this type of operation, it occurs in 3-5% of cases and has nothing to do with the experience of the surgeon. By that time, I had operated on more than 10,000 thyroid patients and more than 750 parathyroid patients. The patient had depression prior to surgery and was being treated by a psychiatrist. Depression is one of the first symptoms of Alzheimer's disease. The husband and patient sued me in 2001 for low calcium. The case took ten years before reaching the San Juan ICC. Six judges passed and the case was

not resolved. The case reached the San Juan Court of First Instance in 2011 and was decided on October 28, 2011. The patient's husband testified that his wife was forgetful, that she was going to burn down the house, that she mistreated the grandchildren when they visited them, that she could not attend church because she forgot the hymns, that they could not go dancing or to the casino, that sexual intimacy was less than once a month, who took her to the CDT in Levittown and was told she had Alzheimer's and started on Aricept and Namenda, drugs that are used exclusively to treat Alzheimer's disease. AN AMERICAN EXPERT, OTOLARYNGOLOGIST, TESTIFIED THAT THE LOW CALCIUM THAT RESULTED FROM MY OPERATION CAUSED DEMENTIA IN THE PATIENT. My lawyer asked him if he had scientific evidence to back up his testimony and he replied that he didn't. I didn't have it because there is no such evidence in medical literature. My expert, an endocrinologist who graduated from the UPR School of Medicine and trained at Yale and was funded by NIH, testified that an abrupt drop in calcium can cause disorientation or transient memory loss, calcium and vitamin D are given, and the symptoms are corrected and do not lead to any dementia. That's the scientific reality. The case was decided on October 28, 2011. The ICC judge fined me \$280,000 to pay to the couple and \$284,000 for recklessness because the case took ten years from the lawsuit to the ICC, the inefficiency of the system blamed me. During the trial, the plaintiff's attorney asked me if I had sued a lawyer. That question was not pertinent to the case, my lawyer did not object, so he replied that I had sued a lawyer who filed a frivolous lawsuit against me. I won the lawsuit, the court ruled that I should be compen-

sated in the amount of \$184,000 for economic and moral damages. That created animosity from Judge Gloria M. Soto Burgos. She was suspended indefinitely from her legal practice.

I went to the Court of Appeals and in a document riddled with errors, that court upheld the ICC and fined me \$6,000 alleging that the appeal was frivolous. That judgment was filed on September 28, 2012. I went to the Supreme Court and in a 5-4 vote the Supreme Court justices ruled that I caused dementia in the patient but that it was not Alzheimer's. That's an extraordinary degree of sophistication because even neurologists don't have that degree of expertise. Voting against me were President Liana Fiol Matta, Mayte Oronoz Rodríguez, Anabelle Rodríguez Rodríguez, Erick Kolthoff Caraballo and Roberto Feliberti Cintrón. Four other justices dissented but did not write their opinions. Faced with that outrage, I became depressed, needed antidepressants, and was admitted to the Pan-American psychiatric hospital in Cidra, PR. in February 2016.

I couldn't get a lawyer to represent me, so I sued seven judges from the local court system and the U.S. expert in the Federal Court of San Juan. The Honorable Judge Jay Garcia Gregory dismissed the case with prejudice in favor of the American expert, I went to the Court of Appeals in Boston, and he sent us to reach a settlement. We went to the Ochoa Building before the Honorable Judge Charles Cordero and the American had to agree to compensate me for a confidential amount but less than the \$170,000 that I had to pay to Triple-S Seguros for the excess of my policy. Judge Garcia Gregory then dismissed the case in favor of one local appellate judge and then dismissed the

case in favor of the other six judges. I appealed to the Court of Appeals in Boston and after a long time, that court with a single word affirmed upheld the decisions of Judge Garcia Gregory. I then went to the Federal Supreme Court, they assigned a number to the case, but then they told me that they rejected it. I filed a Petition of Rehearing, but on August 21, 2022, the legal Clerk informed me that they refused to hear the case. All that remains is for me to be served with justice. The lawyer refused to pay the fine and was re-instated lying to the Supreme Court. Their restitution is a charade. I complained by letter about this irregularity to the presiding judge, Maite Oronoz, but since judges cannot be written to, an assistant informed me that the restitution of Lcda. Gladys E. Guemarez Santiago was final and firm. We can think that if that is the type of lawyer that the Administration of the Honorable Judge Oronoz allows to practice in our country, Puerto Rico is destined to fail.

The decision of the Supreme Court that concludes that this server caused dementia to a patient is a Machiavellian Judgment since it does not accumulate jurisprudence, it is not an opinion. It's made exclusively for me, I'm the only surgeon on the planet who causes dementia in operations. That is a judicial aberration, tantamount to prevarication in the Napoleonic legal system. That is a failure of justice. The Supreme Court turned a scientific lie into a legal truth by means of a judicial aberration. Judge Anabelle Rodriguez Rodriguez's mother died at the age of 84 from Alzheimer's disease. In a collegiate body, Judge Rodriguez Rodriguez was morally obligated to guide the other members of the Court about this disease. He did just the opposite, he cast his vote against me, stating that

this server caused dementia to a patient. There is a genetic or hereditary relationship that is currently being investigated. The three courts of justice in Puerto Rico were vicious against me, imposing extraordinary punishments that violate Article 8 of the U.S. Constitution. The Supreme Court has made me the laughingstock of the medical profession and all of Puerto Rico. During my professional life I operated on lawyers, judges, judges' wives, I never refused to medically treat these professionals. But today a lawyer, Luis F. Abreu Elías, whom I operated on several years ago, sent me an e-mail in which he told me: "Hook the gloves on with Alzheimer's, you achieved a miracle, you caused an impossible Alzheimer's. Only a God has that power. Goodbye, Dios Vázquez Quintana, or see you later."

On a personal level: my first wife and mother of six died of Alzheimer's after eleven years of illness. My second wife suffers from the first symptoms of Alzheimer's disease and in her madness, she tells me that I gave her Alzheimer's. On top of that family tragedy, the Supreme Court squeezes it in my head that I caused dementia in one of my patients. MAKTUB is an Arabic word that means, It Is Written. Whoever my wife was, she would have Alzheimer's, but I can't understand the treachery of the Supreme Court, I didn't even suspect it.

I still wonder, what was the damage I caused to the judiciary of the country, to deserve this punishment? What I can think of is that neither lawyers nor judges can conceive of a doctor prevailing in a lawsuit against a lawyer. I ask the honorable judges; how many doctors have won a lawsuit against a lawyer? I think I've been the only one and I've paid for it in spades.

In the Supreme Court's No Ha Lugar of March 12, 2024, only four judges are mentioned and one, Hon. Judge Pabón Charneco, did not participate. This document confirms the brotherhood behavior of the country's judiciary. Presiding Judge Maite Oronoz voted in favor of the No Has Place, consistent with her 2015 vote that caused dementia in a patient. However, Hon. Luis Estrella Martínez dissented in 2015 and now refuses to see the case and correct a blunder by his colleagues. Likewise, the Honorable Judge Rivera García recused himself in 2015 and now refuses to correct the error of his colleagues.

Four other justices voted on the No to the First Motion for Reconsideration. The group is chaired by Judge Martínez Torres, who dissented from the December 2015 ruling. Now join the brotherhood of wise judges in medicine. Judges Kolthoff Caraballo and Feliberti Cintrón are consistent in their vote to continue running me over. Judge Colon Perez was not on the Supreme Court in 2015, but now he joins as another savant in medicine. The discrepancy in the judges' decisions confirms their brotherhood. The judges of the Supreme Court take turns in their decisions to continue the abuse and humiliation against me. Supreme Court justices continue to abuse their power against a citizen who has served his people well. I operated on lawyers, judges, judges' wives and others and never refused to offer my medical services. I spent 40 years of my life at the UPR School of Medicine educating medical students and general surgeons. I served in the military including a stint in the Republic of Vietnam where I acquired a few illnesses from exposure to Agent Orange. Some of you patriots, you weren't even stupid. I understand that you are

suffering from hubris syndrome, a psychiatric disorder characterized by arrogance, arrogance and arrogance. But that disease is cured at the age of 70, when they retire, they are no longer honorable.

Pope Francis decreed that during the month of May 2013 prayers should be prayed—"Let those who administer justice always act with integrity and an upright conscience." Dedicating a month to praying for the moral integrity and upright conscience of judges cannot go unnoticed, particularly since such intentions do not refer to the role of other servants of the state.

Professor Erwin Chemerinsky had already coined the term Juridocrasia, synonymous with brotherhood. With a terse No Place, the Supreme Court refuses to correct its error. The rulings of the Puerto Rico Supreme Court are not set in stone. The Federal Supreme Court has overturned 241 decisions of the court itself from 1837 to 2020. The last was *Roe v. Wade*.

In the Federal Court of San Juan, there is a history of reversing sentences. In 1969, students at the Rio Piedras Campus protested ROTC and conscription. Student Edwin Feliciano Grafals was charged with refusing to enroll in military service and was brought before Judge Hiram R. Cancio Vilella, who sentenced him to one year in prison. Lawyers for student Feliciano Grafals appealed to the First Circuit in Boston. Judge Cancio Vilella requested permission to reconsider his own sentence. Judge Cancio overturned his sentence, imposed an hour in jail and closed the case. Judge Cancio had the courage to overturn his own decision, which contained no error on his part. A similar action on the part of this Supreme Court would be more than

honorable. This Supreme Court mistakenly imposed on the shoulders of this servant who only followed the best practice of medicine. That ruling is contrary to current scientific knowledge. The reversal of that sentence before the public would provide an increase in admiration and respect for our highest court. When this story concludes, I'll have to say, as the criminal Cool Hand Luke said in the movie to the guard before his execution—"What we've had here is a lack of communication." That is so because what the Supreme Court did to me was an execution, not physical but moral, emotional and economic. The Supreme Court's ruling against me belongs to a Place of Fame of injustice. When the law fails, we all lose.

The Board of Medical Licensing and Disciplines is the medical expert, the branch of the executive branch that licenses physicians, evaluates their behavior, fines them, or removes them from the practice of medicine. But you, honorable judges, pretend to know more medicine than doctors, but the incredible thing is that you know nothing about medicine. As you cry out for deference, the executive branch deserves the same deference from the honorable judges of the nation's judicial system. Their performance makes no sense. This refusal by the courts to consider the evidence presented, in favor of upholding a judgment that contradicts established medical practice, constitutes a violation of the right to a fair and just trial. In addition, by dismissing the importance of the documentation provided by the Board of Licensure and Medical Disciplines, the right to equality and non-discrimination is being ignored, as it is an entity equivalent to the Supreme Court in the medical field.

Likewise, by attributing to this servant the responsibility of causing dementia to a patient without conclusive evidence, his reputation and dignity are being seriously affected. This action constitutes a violation of the right to protection of the reputation and dignity of the individual. No one should be singled out, charged, and convicted without clear and convincing evidence!

In addition, the ruling issued by the Supreme Court has generated undue repercussions in medical practice, by including Alzheimer's disease among the possible complications of thyroid and parathyroid operations, contradicting the scientific evidence presented. This situation requires a meticulous and detailed review to rectify the damage done to Puerto Rico's medical system.

The causes of dementias are unknown. We need a serious and detailed review to fix this mess and prevent more people from getting confused!

Ultimately, the refusal to consider the relevant documentation and the insistence on upholding a judgment based on incorrect premises constitutes a violation of the right to freedom of expression and access to justice. This court, as the highest judicial body in the country, has a responsibility to ensure that the fundamental rights of all citizens are respected and that sentences are issued based on solid evidence and impartial justice.

In summary, we urge this Honorable Supreme Court to carefully review this case, considering the aforementioned civil rights violations and rectifying any injustice that may have been committed. The integrity of Puerto Rico's judicial and medical system

is at stake, and it is essential to restore trust in both areas.

This honorable Supreme Court has been vicious against me and continues to run me over for having prevailed against a lawyer who filed a frivolous lawsuit against me. The actions of this Supreme Court are an abuse of power against a citizen who has served his country well. His sentence of December 13, 2015, is a gross error that a reasonable person can interpret as a crime of prevarication. Prevarication is a crime when a judge or court issues a sentence or resolution knowing that such sentence is unjust and contrary to the law and is done with the intention of punishing or humiliating a citizen who comes to court seeking justice. Such action is an expression of abuse of power on the part of the judicial authority. The judge is supposed to decide according to what is fair and not because of extraneous considerations such as prejudice, retaliation, or with the intention of providing unusual or excessive punishment. If the decision is contrary to the scientific knowledge of the time and yet a sentence is handed down that harms an ordinary citizen, judicial malfeasance is incurred. Therefore, we request this high court to annul the judgment issued on December 18, 2015, in which it is indicated that this server caused dementia to a patient after a thyroid and parathyroid operation.

Respectfully subdued,

Enrique Vázquez-Quintana MD, FACS

April 23, 2024

**APPELLANT MOTION FOR
RECONSIDERATION,
SUPREME COURT OF PUERTO RICO
(MARCH 21, 2024)**

COMMONWEALTH OF PUERTO RICO
SUPREME COURT OF PUERTO RICO
SAN JUAN, PUERTO RICO

DR. ENRIQUE VÁZQUEZ QUINTANA,

Appellant,

v.

ISABEL MONTAÑEZ ORTIZ AND/OR THE
ESTATE OF ISABEL MONTAÑEZ ORTIZ
COMPOSED OF A, B, C SO CALLED BY
IGNORANCE AND THE SUCCESSION OF
HERMENEGILDO MARTÍNEZ REMIGIO T/C/C
HERMENEGILDO MARTÍNEZ COMPOSED OF
LUIS MARTÍNEZ MALDONADO,
HERMENEGILDO MARTÍNEZ MONTAÑEZ,
MILITZA ISABEL MARTÍNEZ MONTAÑEZ,
MARÍA ANTONIA MARTÍNEZ MONTAÑEZ,
JULIO MARTÍNEZ MONTAÑEZ, CARMEN
NOELIA MARTÍNEZ MONTAÑEZ, CARMEN
NOEMÍ MARTÍNEZ MONTAÑEZ AND ISABEL
LUISA MONTAÑEZ ORTIZ; AND TRIPLE S
INSURANCE AGENCY,

Defendants.

Case No. ____

Reconsideration About: Release of Sentence

RECONSIDERATION BEFORE THE SUPREME COURT

Dr. Enrique Vázquez Quintana appears in his own right due to the impossibility of obtaining a lawyer to represent him. Dr. Vázquez Quintana respectfully presents his arguments regarding the judgment issued by the Court of First Instance (TPI) and confirmed by the Court of Appeals, which was ratified by the Honorable Supreme Court of Puerto Rico. The judgment, initially issued on October 28, 2011, and finalized on December 18, 2015, has been the subject of our request for annulment, based on the Resolution issued by the Board of Licensure and Medical Disciplines, No. 2023-70 of April 20, 202300.

It is crucial to note that the Board of Medical Licensing and Disciplines, the government entity in charge of certifying and licensing physicians in the country, is analogous to the Supreme Court in terms of the practice of medicine, and its resolution should be considered as an authority on the subject. However, the Hon. Judge Jaime Fuster Zalduondo of the Bayamón ICC dismissed the case against me on a brief page with capital letters. It is known that the use of capital letters in computers means that the judge is yelling. I wonder, why is the judge yelling? Who are you afraid of? Judge Fuster Zalduondo dismissed the case against me and did not allow me to summon the defendants or conduct an evidentiary hearing, in clear violation of my civil rights. It reports that the new evidence was not presented at trial, a totally erroneous expression since the Resolution of the Board of Licenses and Medical Disciplines always occurs after the sentence is paid in medico-legal cases. We went to the Court of Appeal and the panel of judges has refused to

overturn a ruling that, in our view, is clearly erroneous and contrary to current scientific knowledge.

We filed a petition for certiorari with this Honorable Supreme Court requesting that the Judgment of this court of December 18, 2015, be set aside and that the credibility and prestige of this servant be restored to my patients and colleagues. The lawyer who represented me at the level of the Court of First Instance and the Court of Appeal ceased to hold office and notified the court accordingly. I understand that you want to avoid the Supreme Court imposing an ethics complaint on you. It is detrimental and pitiful that the injured are deprived of legal representation for fear of reprisals from the judiciary. That implies that lawyers believe judges can make decisions based on bias or retaliate not based on evidence and justice. However, lawyers defend judges, defend those who punish them, an act of masochism or Stockholm syndrome.

FOR YOUR UNDERSTANDING, HERE IS A SUMMARY OF THE ORIGINAL CASE:

On June 20, 2000, I operated on a patient who had a nodule in the left lobe of the thyroid and elevated blood calcium (hyperparathyroidism). As a sequel of the operation resulted with low calcium, an inherent complication of this type of operation, it occurs in 3-5% of cases and has nothing to do with the experience of the surgeon. By that time, I had operated on more than 10,000 thyroid patients and more than 750 parathyroid patients. The patient had depression prior to surgery and was being treated by a psychiatrist. Depression is one of the first symptoms of Alzheimer's disease. It is known that when the first symptoms of Alzheimer's disease are detected, the disease has already been with the patient for 5, 10, 15,

20 and even 30 years. The husband and patient sued me in 2001 for low calcium. The case took ten years before reaching the San Juan ICC. Six judges passed and the case was not resolved. The case reached the San Juan Court of First Instance in 2011 and was decided on October 28, 2011. The patient's husband testified that his wife was forgetful, that she was going to burn down the house, that she mistreated the grandchildren when they visited them, that she could not attend church because she forgot the hymns, that they could not go dancing or to the casino, that sexual intimacy was less than once a month, who took her to the CDT in Levittown and was told she had Alzheimer's and started on Aricept and Namenda, drugs that are used exclusively to treat Alzheimer's disease. AN AMERICAN EXPERT, OTOLARYNGOLOGIST, TESTIFIED THAT THE LOW CALCIUM THAT RESULTED FROM MY OPERATION CAUSED DEMENTIA IN THE PATIENT. My lawyer asked him if he had scientific evidence to back up his testimony and he replied that he didn't. I didn't have it because there is no such evidence in medical literature. My expert, an endocrinologist who graduated from the UPR School of Medicine and trained at Yale and was funded by NIH, testified that an abrupt drop in calcium can cause disorientation or transient memory loss, calcium and vitamin D are given, and the symptoms are corrected and do not lead to any dementia. That's the scientific reality. The case was decided on October 28, 2011. The ICC judge fined me \$280,000 to pay to the couple and \$284,000 for recklessness because the case took ten years from the lawsuit to the ICC, the inefficiency of the system blamed me. During the trial, the plaintiff's attorney asked me if I had sued a lawyer. That question was not pertinent to the case, my

lawyer did not object, so I replied that I had sued a lawyer who filed a frivolous lawsuit against me. I won the lawsuit, the court ruled that I should be compensated in the amount of \$184,000 for economic and moral damages. That created animosity from Judge Gloria M. Soto Burgos toward me. Gladys E. Guemarez Santiago was suspended indefinitely from her law practice.

I went to the Court of Appeals and in a document riddled with errors, that court upheld the ICC and fined me \$6,000 alleging that the appeal was frivolous. That judgment was filed on September 28, 2012. I went to the Supreme Court and in a 5-4 vote the Supreme Court justices ruled that I caused dementia in the patient but that it was not Alzheimer's. That's an extraordinary degree of sophistication because even neurologists don't have that degree of expertise. Voting against me were President Liana Fiol Matta, Maite Oronoz Rodríguez, Anabelle Rodríguez Rodríguez, Erick Kolthoff Caraballo and Roberto Feliberti Cintrón. Four other justices dissented but did not write their opinions. Faced with that outrage, I became depressed, needed antidepressants, and was admitted to the Pan-American psychiatric hospital in Cidra, PR. in February 2016.

I couldn't get a lawyer to represent me, so I sued seven judges from the local court system and the U.S. expert in the Federal Court of San Juan. The Honorable Judge Jay Garcia Gregory dismissed the case with prejudice in favor of the American expert, I went to the Court of Appeals in Boston, and he sent us to reach a settlement. We went to the Ochoa Building before the Honorable Judge Charles Cordero and the American had to agree to compensate me for a confi-

dential amount but less than the \$170,000 that I had to pay to Triple-S Seguros for the excess of my policy. Judge Garcia Gregory then dismissed the case in favor of one local appellate judge and then dismissed the case in favor of the other six judges. I appealed to the Court of Appeals in Boston and after a long time, that court with a single word affirmed upheld the decisions of Judge Garcia Gregory. I then went to the Federal Supreme Court, they assigned a number to the case, but then they told me that they rejected it. I filed a Petition of Rehearing, but on August 21, 2022, the legal Clerk informed me that they refused to hear the case. All that remains is for me to be served with justice. The lawyer refused to pay the fine and was reinstated lying to the Supreme Court. Their restitution is a charade. I complained in a letter about this irregularity to the presiding judge, Maite Oronoz, but since you can't write to judges, an assistant told me that the restitution of Lcda. Gladys E. Guemarez Santiago was final and firm. We may think that if that is the type of lawyer that the Administration of the Honorable Judge Oronoz Rodríguez allows to practice in our country, Puerto Rico is destined to fail.

The decision of the Supreme Court that concludes that this server caused dementia to a patient is a Machiavellian Judgment since it does not accumulate jurisprudence, it is not an opinion. It's made exclusively for me, I'm the only surgeon on the planet who causes dementia in operations. No other surgeon will be accused of causing insanity, that case is never going to be replicated so that the judges can correct their mistake. That is a judicial aberration, tantamount to prevarication in the Napoleonic legal system. That is a failure of justice. The Supreme Court turned a scientific

lie into a legal truth by means of a judicial aberration. Judge Anabelle Rodríguez Rodríguez's mother died at the age of 84 from Alzheimer's disease, there is a genetic or hereditary component to that disease that is currently being studied. In a collegiate body, Judge Rodríguez Rodríguez was morally, ethically and legally obligated to guide the other members of the Court on this disease. He did just the opposite, he cast his vote against me, stating that this server caused dementia to a patient. The three courts of justice in Puerto Rico were vicious against me, imposing extraordinary punishments that violate Article 8 of the U.S. Constitution. The Supreme Court has made me the laughing-stock of the medical profession and all of Puerto Rico. During my professional life I operated on lawyers, judges, judges' wives; I never refused to medically treat those professionals. But today a lawyer, Luis F. Abreu Elías, whom I operated on several years ago, sent me an e-mail in which he says: "Hook the gloves on with Alzheimer's, you achieved a miracle, you caused Alzheimer's, something impossible. Only a God has that power. Goodbye, Dios Vázquez Quintana, or see you later."

On a personal level: my first wife and mother of six died of Alzheimer's after eleven years of illness. I wrote a book about Alzheimer's called Who Are You? and I made a film with the same title that was shown in April 2028. My second wife suffers from the first symptoms of Alzheimer's disease and in her disorientation, she tells me that I gave her Alzheimer's. On top of that family tragedy, the Supreme Court squeezed it in my head that I caused dementia in one of my patients. MAK'TUB is an Arabic word that means, It Is Written. Whoever my wife was, she would have

Alzheimer's, but I can't understand the treachery of the Supreme Court, I didn't even suspect it. Each human being burdens the present or their future with a different sorrow that takes away their happiness.

I still wonder, what was the damage I caused to the judiciary of the country, to deserve this punishment? What I can think of is that neither lawyers nor judges can conceive of a doctor prevailing in a lawsuit against a lawyer. I ask the honorable judges; how many doctors have won a lawsuit against a lawyer? I think I've been the only one and I've paid for it in spades.

The Supreme Court's March 12, 2024, decided not to accept the case. zentions only four justices and they only voted for No Place. The Honorable Judge Pabón Charneco did not participate. This document confirms the brotherhood behavior of the country's judiciary. Presiding Judge Maite Oronoz voted in favor of the no case No Has Place, consistent with her 2015 vote that caused dementia in a patient. However, Hon. Luis Estrella Martínez dissented in 2015 and now refuses to see the case and correct a blunder by his colleagues. Likewise, the Honorable Judge Rivera García recused himself in 2015 and is currently unable to correct the errors of his colleagues. The discrepancy in the judges' decisions confirms their brotherhood. Professor Erwin Chemerinsky had already coined the term Juridocrasia, synonymous with brotherhood.

Likewise, the Puerto Rican Judiciary Association, presided over by my friend Carlos Augusto Salgado Scharz, has its regulations secret, they are not known by the citizens. The Honorable Judge Antonio Negrón García indicated that this Association is unconstitutional.

With a terse No Place, the Supreme Court refuses to correct its error. The rulings of the Puerto Rico Supreme Court are not set in stone. The Federal Supreme Court has overturned 241 decisions of the court itself from 1837 to 2020. The last was *Roe v Wade*.

In the Federal Court of San Juan, there is a history of reversing sentences. In 1969, students at the Rio Piedras Campus protested ROTC and conscription. Student Edwin Feliciano Grafals was charged with refusing to enroll in military service and was brought before Judge Hiram R. Cancio Vilella, who sentenced him to one year in prison. Lawyers for student Feliciano Grafals appealed to the First Circuit in Boston. Judge Cancio Vilella requested permission to reconsider his own sentence. Judge Cancio overturned his sentence, imposed an hour in jail and closed the case. Judge Cancio had the courage to overturn his own decision, which contained no error on his part. A similar action on the part of this Supreme Court would be more than honorable. This Supreme Court wrongly placed an undue burden on this servant's shoulders while I was only following the best practice of medicine. That ruling is contrary to current scientific knowledge. The reversal of that sentence before the public would provide an increase in admiration and respect for our highest court. When this story concludes, I'll have to say, as the criminal Cool Hand Luke said in the movie to the guard before his execution—"What we've had here is a lack of communication." That is so because what the Supreme Court did to me was an execution, not physical but moral, emotional and economic. The Supreme Court's ruling against me belongs to a Place of Fame of Injustice. When the law fails, we all lose.

Imagine you're playing a game of soccer, and you have a referee who is supposed to make fair and final decisions, right? Now, think of a team of coaches who are experts in the rules of the game, just like the referee. But it turns out that instead of trusting what the coaches say about a play, the referee keeps making an incorrect call over and over again, even though the coaches know what they're saying! That's a bit like what's happening here. The Board of Medical Licensing and Disciplines is like those coaches, experts in the rules of medicine. But the courts, such as the Bayamón ICC and the Court of Appeals, are moving forward with a decision that contradicts what the Board says, even though the Board knows what it is saying and should be considered an authority on the subject! It's as if the referee of the football game completely ignores the expert coaches and makes his own wrong decisions over and over again. That just doesn't make sense!

This refusal by the courts to consider the evidence presented, in favor of upholding a judgment that contradicts established medical practice, constitutes a violation of the right to a fair and just trial. In addition, by dismissing the importance of the documentation provided by the Board of Licensure and Medical Disciplines, the right to equality and non-discrimination, as it is an entity equivalent to the Supreme Court in the medical field.

Likewise, by attributing to myself the responsibility of causing dementia to a patient without conclusive evidence, his reputation and dignity are being seriously affected. This action constitutes a violation of the right to protection of the reputation and dignity of the individual.

Imagine you're at a party and someone says that Dr. Vázquez Quintana is responsible for driving all the guests crazy. But wait a minute! There is no proof of that at all! It's as if someone accused the dog of hiding the socks without having any evidence. It's totally insane and a low blow to this server's reputation! No one should be singled out, charged, and convicted without clear and convincing evidence!

In addition, the ruling issued by the Supreme Court has generated undue repercussions in medical practice, by including Alzheimer's disease among the possible complications of thyroid and parathyroid operations, contradicting the scientific evidence presented. This situation requires a meticulous and detailed review to rectify the damage done to Puerto Rico's medical system.

Now, suppose someone says that eating chocolate causes you to become a superhero. It's totally absurd and doesn't make sense! Similarly, the Supreme Court is doing something similar by including Alzheimer's disease as a possible complication of thyroid and parathyroid operations, despite scientific evidence to the contrary! It's like they're inventing a new rule in the game, but a rule that has no basis in reality! The causes of dementia are unknown. We need a serious and detailed review to fix this mess and prevent more people from getting confused!

Ultimately, the refusal to consider the relevant documentation and the insistence on upholding a judgment based on incorrect premises constitutes a violation of the right to freedom of expression and access to justice. This court, as the highest judicial body in the country, has a responsibility to ensure that the fundamental rights of all citizens are respected and

that sentences are issued based on solid evidence and impartial justice.

Likewise, this court, as the ultimate “judge” in the judicial system, has a responsibility to ensure that everyone has the right to express themselves and access justice, no matter what documents or arguments they present!

In summary, we urge this Honorable Supreme Court to carefully review this case, considering the aforementioned civil rights violations and rectifying any injustice that may have been committed.

In summary, we fervently call on this Supreme Court to submit this case for detailed review with the utmost diligence and scrutiny, considering the flagrant violations of civil rights exposed and correcting any wrongs perpetrated. Safeguarding the integrity of both Puerto Rico’s judicial and medical systems hangs in the balance, and it is imperative to restore trust in both areas through fair and equitable rectifying actions.

The repercussions of misguided decisions in medical practice can act as a catalyst to divert our medical graduates to other international destinations. Let’s envision a future where this trend is consolidated: a country devoid of competent medical professionals. Such a scenario could trigger an unprecedented public health crisis, leaving the population helpless and deprived of adequate medical care. It is imperative to recognize that the brain drain of medical talent poses a latent threat to the well-being and health of our society.

It is well known that the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico

expressly protects the fundamental right to privacy and dignity of individuals. Art. II, Secs. 1 and 8, Const. E.L.A., L.P.R.A., Vol. 1, 1999 ed., pp. 257, 301. [4] On previous occasions, we have stated that this is a right of personality, which enjoys the highest protection under our Constitution and empowers its holder to prevent or limit the intervention of third parties, be they private individuals or public authorities – against the will of the subject. *López Tristani v. Maldonado Carrero*, res. September 8, 2006, 2006 T.S.P.R. 143; *Castro Cotto v. Tiendas Pitusa, Inc.*, 159 D.P.R. 650 (2003).

Given the primacy and scope of this fundamental right, we have recognized that the protection of the private operates *ex proprio vigore* and can be enforced between private persons, thus exempting them from the requirement of state action necessary to activate the constitutional rights of citizens. *López Tristani v. Maldonado Carrero*, *supra*; *López Rivera v. E.L.A.*, res. July 11, 2005, T.S.P.R. 102; *Cotto v. Pitusa Stores, Inc.*, *supra*, p. 658; *Vega Rodriguez v. Telefónica de P.R.*, *supra*, p. 600-01 (2002); *Arroyo v. Rattan Specialties*, 117 D.P.R. 35, 64 (1986); *Colón v. Romero Barceló*, *supra*, p. 575. Such protection is necessary not only to achieve adequate social or collective peace, but also to achieve a minimum quality of human life, by keeping a redoubt of it out of the reach of third parties. *López Tristani v. Maldonado Carrero*, *supra*; *Arroyo v. Rattan Specialties*, *supra*, p. 62. That is why the right to privacy can be asserted through a claim for damages under Article 1802 of the Civil Code of Puerto Rico, *supra*, in such a way that the injured party can be compensated for the damages caused by violating the duty not to interfere with the private life of others. See

Castro Cotto v. Tiendas Pitusa, Inc., supra, p. 659; *Soc. de Gananciales v. Royal Bank de P.R., supra*, pp. 201-202, citing *Colón v. Romero Barceló, supra*.

Castán proposes that the protection of the image manifests itself as a form or derivation of the protection of honor. J. Castán Tobeñas, *Los derechos de la personality, Revista General de Legislación y Jurisprudencia*, Vol. XXV, 1952, p. 56. Therefore, the aforementioned right is violated only when its publicity or dissemination causes an injury or offense to the personality, without necessarily interfering with the privacy of the subject. According to Castán, this doctrinal norm has been adopted in the legal system of several civil society countries. [5]

In his celebrated and influential article on privacy, Dean Prosser demonstrated that "privacy" is an umbrella term that includes four different causes of action that give rise to the imposition of tort liability. W. L. Prosser, *Privacy*, 48 Cal. L. Rev. 383 (1960). These include, namely, the protection of the individual against undue intrusion into his or her privacy; the prohibition of revealing or disclosing private and intimate aspects of the person, causing embarrassment and humiliation as a result of their publication; and responsibility for distorting and misrepresenting the individual's individual characteristics, publicly taking their positions or pronouncements out of context without any justification.

Based on the legal grounds set forth above, the impact on the privacy and reputation of Dr. Vázquez Quintana is evident and worrying. The Bill of Rights of the Constitution of the Commonwealth of Puerto Rico provides explicit protection to the fundamental right to privacy and dignity of individuals, considering

it a fundamental pillar of society. This protection, which enjoys the highest constitutional consideration, not only protects against state intervention, but also operates between private individuals.

Current jurisprudence establishes that the right to privacy can be asserted both in state actions and in lawsuits between private persons, thus providing an indispensable safeguard to preserve the quality of human life and maintain a space of respect and dignity beyond the reach of third parties. In the case of Dr. Vázquez Quintana, the violation of his privacy and reputation translates into a flagrant violation of his fundamental rights, since he is unjustifiably attributed the responsibility of causing dementia to a patient, without conclusive evidence to support such an assertion.

It is crucial to note that the protection of the image is a derivation of the protection of honor, and its violation is configured when the publicity or dissemination of information causes an injury or offense to the personality of the affected individual. In this regard, the unjustified defamation of Dr. Vázquez Quintana not only violates his privacy, but also undermines his reputation and dignity as a medical professional, which can have devastating consequences for his career and personal well-being.

In summary, the violation of Dr. Vázquez Quintana's rights to privacy and reputation constitutes a serious affront to his dignity and an attack on the fundamental principles of justice and equity. It is imperative that immediate measures be taken to repair the damage caused and to ensure the comprehensive protection of their fundamental rights within

the framework of a rule of law that promotes human dignity and respect for the privacy of all its citizens.

It is well known that the Bill of Rights of the Constitution of the Commonwealth of Puerto Rico expressly protects the fundamental right to privacy and dignity of individuals. Art. II, Secs. 1 and 8, Const. E.L.A., L.P.R.A., Vol. 1, 1999 ed., pp. 257, 301. [4] On previous occasions, we have stated that this is a right of personality, which enjoys the highest protection under our Constitution and empowers its holder to prevent or limit the intervention of third parties – whether private or public authorities – against the will of the subject. *López Tristani v. Maldonado Carrero*, res. September 8, 2006, 2006 T.S.P.R. 143; *Castro Cotto v. Tiendas Pitusa, Inc.*, 159 D.P.R. 650 (2003).

Castán proposes that the protection of the image manifests itself as a form or derivation of the protection of honor. J. Castán Tobeñas, *Los derechos de la personalidad*, *Revista General de Legislación y Jurisprudencia*, Vol. XXV, 1952, p. 56. Therefore, the aforementioned right is violated only when its publicity or dissemination causes an injury or offense to the personality, without necessarily interfering with the privacy of the subject. According to Castán, this doctrinal norm has been adopted in the legal system of several civil society countries. [5]

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Based on the legal grounds set forth above, the impact on the privacy and reputation of Dr. Vázquez Quintana is evident and worrying. The Bill of Rights of the Constitution of the Commonwealth of Puerto Rico provides explicit protection to the fundamental right to privacy and dignity of individuals, considering it a fundamental pillar of society. This protection, which enjoys the highest constitutional consideration, not only protects against state intervention, but also operates between private individuals.

Current jurisprudence establishes that the right to privacy can be asserted both in state actions and in lawsuits between private persons, thus providing an indispensable safeguard to preserve the quality of human life and maintain a space of respect and dignity beyond the reach of third parties. In the case of Dr. Vázquez Quintana, the violation of his privacy and reputation translates into a flagrant violation of his fundamental rights, since he is unjustifiably attributed the responsibility of causing dementia to a patient, without conclusive evidence to support such an assertion. It is crucial to note that the protection of the image is a derivation of the protection of honor, and its violation is configured when the publicity or dissemination of information causes an injury or offense to the personality of the affected individual. In this regard, the unjustified defamation of Dr. Vázquez Quintana not only violates his privacy, but also

undermines his reputation and dignity as a medical professional, which can have devastating consequences for his career and personal well-being.

In summary, the violation of Dr. Vázquez Quintana's rights to privacy and reputation constitutes a serious affront to his dignity and an attack on the fundamental principles of justice and equity. It is imperative that immediate measures be taken to repair the damage caused and to ensure the comprehensive protection of their fundamental rights within the framework of a rule of law that promotes human dignity and respect for the privacy of all its citizens. This aberrant sentence does the most damage to the prestige, credibility, and trust of the people before the highest judicial forum in the country.

Therefore, we request this high court to annul the judgment issued on December 18, 2015 in which it is indicated that this server caused dementia to a patient after a thyroid and parathyroid operation.

Respectfully subdued,

Enrique Vázquez-Quintana MD, FACS

March 20, 2024

The following scientific documents are included that confirm that Dr. Vázquez Quintana's actions were correct:

1. Board of Licensing and Medical Disciplines Resolution No. 2023-70 exonerating me from all blame.

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2. Document from the American Surgeon General stating that all women over 50 years of age should take calcium and vitamin D to avoid osteoporosis.

3. A document from the American Alzheimer Research Foundation stating that there is no causal relationship between low calcium and Alzheimer's disease.

4. Letter sent by Triple-S Seguros to the National Practitioner Data Bank informing that I did not cause harm to the patient.

5. Letter from the renowned neurologist Dr. José Carlo in which he indicates that the causes of dementia are unknown.

**PLAINTIFF MOTION FOR RELEASE OF
SENTENCE, FILED IN COURT OF FIRST
INSTANCE, BAYAMON CHAMBER
(SEPTEMBER 18, 2023)**

COMMONWEALTH OF PUERTO RICO
COURT OF FIRST INSTANCE
BAYAMÓN CHAMBER

DR. ENRIQUE VÁZQUEZ QUINTANA,

Plaintiff,

v.

ISABEL MONTAÑEZ ORTIZ AND/OR THE
SUCCESSION BY ISABEL MONTAÑEZ ORTIZ
COMPOSED BY A, B, C SO CALLED BY
IGNORANCE, ET ALS,

Defendants.

Case No. ____

About: Release of Sentence

TO THE HONORABLE TRIBUNAL:

Dr. Enrique Vázquez Quintana ("the plaintiff") appears through his undersigned legal representation and who very respectfully EXPOSES, ALLEGES and REQUESTS:

1. On September 6, 2023, the Court of First Instance ordered the plaintiff to state the reason why

the present case should not be dismissed under rule 10.2 (5) on the grounds that the evidence submitted is not sufficient to set aside the judicial award.

2. On the subject, Rule 10.2 of the Rules of Civil Procedure provides that:

Any factual or legal defense to a claim shall be set forth in the responsive pleading, except that, at the option of the party pleading, the following defenses may be made by a duly substantiated motion- (5) failing to state a claim justifying the grant of relief.

3. On the subject, the Supreme Court established in the case of *El Día Inc. v. Municipality of Guaynabo*, 187 DPR 811 (2013) the following:

Rule 10.2 of Civil Procedure, 32 L.P.R.A. Ap. V, allows a defendant or counterclaimant to apply to the court to dismiss the claim against him on the ground that the action does not state a claim justifying the granting of a remedy. To this end, in order to rule on a motion to dismiss, the courts must take the allegations contained in the complaint as true and consider them in the manner most favorable to the plaintiff... Dismissal is not admissible unless it is inferred with certainty that the claimant is not entitled to any remedy under any state of fact which can be proved in support of his claim.

4. That is, in order to rule on a dismissal under Rule 10.2 (5) of the Rules of Civil Procedure, 32 L.P.R.A. Ap III R. 10.2, the Court must take all the allegations contained in the application as true and

consider them in the manner most favorable to the claimant.

5. In the present case, the plaintiff requests relief from the Judgment handed down by the Court of First Instance in relation to the case of *Isabel Montañez Ortiz Et als v. Enrique Vázquez Quintana, Et als*, Case Number K DP2001-1213, since new evidence emerged that proves and evidence that the operation performed by the plaintiff could not have caused Alzheimer's disease in Mrs. Isabel Montañez Ortiz.

6. In fact, part of the evidence to be presented by the plaintiff in the present case will show that the Judgment handed down by the Court was issued as a direct consequence of illusory testimony by Dr. Stephen A. Falk related to a medical-surgical treatment of the thyroid and parathyroid that said doctor erroneously associated with "Alzheimer's" disease.

7. In April 2023, the Puerto Rico Board of Licensing and Medical Disciplines issued a Resolution exonerating the plaintiff of all blame, since there is no causal relationship between the operation that the plaintiff performed on Isabel Montañez Ortiz and the "Alzheimer's" disease that the latter began to suffer from after the operation.

8. It should be noted that the Puerto Rico Board of Licensing and Medical Disciplines is the highest forum in relation to medicine in Puerto Rico and is the entity in charge of ensuring the licensing of doctors who provide services in Puerto Rico.

9. The decision issued by the Board of Licensing and Medical Disciplines of Puerto Rico ratifies the communication sent by Andrew Gordon of the American

Health Assistance Foundation, who clarified the following on November 9, 2012, at the 4:25pm:

There is no evidence that hypocalcemia causes Alzheimer's disease.

(Emphasis ours).

10. Likewise, the decision of the Board of Licensing and Medical Disciplines of Puerto Rico is in line with the writing prepared by Dr. José R. Carlo, who is a professor of neurology at the University of Puerto Rico School of Medicine and who Nov 23, 2021, wrote the following:

Regarding the matter "if a decreased Calcium level (as hypoparathyroidism) can cause Alzheimer's disease"; there is no scientific evidence that Low Calcium or hypoparathyroidism can cause the degenerative neurological condition of Alzheimer's disease. Alzheimer's disease is a degenerative neurological condition with a defined pathology which results in progressive dementia. There is no scientific evidence that Alzheimer's disease is caused, or is the result of, Low Calcium as in hypoparathyroidism. (Emphasis ours).

11. The Judgment that the plaintiff requests for relief, establishes the cause of the illness of "Alzheimer's", a fact that scientifically does not exist today, since the scientists are still studying the aforementioned disease in order to achieve a cure for it.

12. In fact, the aforementioned Judgment is contrary to what was established by the Licensing Board and Medical Disciplines of Puerto Rico which, as we

mentioned earlier, is the maximum forum of medicine in Puerto Rico.

13. In other words, to keep the aforementioned Judgment in force would constitute a failure of justice, since that the cause of a disease that today does not have a certain cause by medical practitioners who are experts in the matter.

14. Justice seeks to ensure that the parties are treated fairly and equally in the legal process, and if the erroneous sentence is found to have been based on false evidence or perjury, review and possible annulment of the judgment may be considered essential to preserve the integrity of the judicial system and avoid a failure of the Justice.

15. As we mentioned before, scientifically it is impossible for a Surgery of thyroid and parathyroid cause Alzheimer's disease in a patient.

16. In view of the foregoing, the plaintiff requests that this Court not dismiss the under Rule 10.2(5) above and reaffirms that it requests the Relief of Judgment Rendered Under Rule 49.2 of the Rules of Appeal Civil Procedure, 32 L.P.R.A. Ap III R. 49.2, which does not limit the power of a court to hear an independent lawsuit for the nullity of a judgment for the purpose of relieving a party of a judgment.

FOR ALL THESE REASONS, we respectfully request this Honorable Tribunal to take cognizance of all the above; declare the present lawsuit admissible; and to issue any other pronouncement that may be appropriate in law.

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In San Juan, Puerto Rico today, September 18,
2023.

RESPECTFULLY SUBMITTED.

/s/ LCDO. Pedro A. Rivera Sabater

RIJA 18055

P.O. Box 2103

Trujillo Alto, P.R. 00977

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**APPELLANT MOTION FOR RELIEF OF
JUDGMENT, FILED IN THE
PUERTO RICO COURT OF APPEALS,
BAYAMÓN JUDICIAL REGION
(NOVEMBER 24, 2022)**

COMMONWEALTH OF PUERTO RICO
COURT OF APPEALS
BAYAMÓN JUDICIAL REGION

DR. ENRIQUE VÁZQUEZ QUINTANA,

Appellant,

v.

ISABEL MONTANEZ ORTIZ AND/OR
THE SUCESSION OF ISABEL
MONTANEZ ORTIZ COMPOSED OF
A, B, C ASf NAMED BY
IGNORANCE AND THE SUCCESSION
OF HERMENEGILDO MARTíNEZ
REMIGIO T/C/C HERMENEGILDO
MARTíNEZ COMPOSED OF LUIS
MARTíNEZ MALDONADO,
HERMENEGILDO MARTINEZ
MONTANEZ, MILITZA ISABEL
MARTíNEZ MONTANEZ, MARíA
ANTONIA MARTINEZ MONTANEZ,
JULIO MARTíNEZ MONTANEZ,
CARMEN NOELIA MARTINEZ
MONTANEZ, CARMEN NOEMI
MARTINEZ MONTANEZ AND ISABEL
LUISA MONTANEZ ORTIZ,

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Appellees.

TA NO.:__

CIVIL NO.: BY2023CV04533

Regards: Relief of Judgment

APPEAL

NATURE: APPEAL

SUBJECT MATTER: RELEASE OF JUDGMENT

ISSUES: RELEASE OF SENTENCE AND DUE
PROCESS OF LAW

APPEAL: WITH

THE HONORABLE COURT OF APPEALS:

APPEARANCE BY Mr. Enrique Vázquez Quintana ("the appellant"), through his undersigned legal representation and who very respectfully **EXPOSES** and **REQUESTS**:

I. Jurisdiction and Competence:

This Honorable Court has jurisdiction and competence to hear the present appeal, by virtue of Articles 4.002 and 4.006(a) of the Commonwealth Judiciary Act Puerto Rico, 2003, 4 L.P.R.A. sec. 24; Rule 52.2(a) of the Rules of Civil Procedure, 32 L.P.R.A. Rev. III (Suppl. 2009) and Rule 13 of the Rules of Procedure of this Honorable Court of Appeals, 4 L.P.R.A. Ap. XXII-A.

II. Resolution and Judgment Whose Review is Requested:

On 25 October 2023, the Court of First Instance It issued a Resolution and Judgment in which it dismissed the prejudiced to the present case, on the understanding that the petition to the Rule 49.2 is not compatible with exculpatory evidence submitted to the consideration of the Court.

The appellant respectfully differs from the Resolution and Judgment issued by the Court of First Instance, since there is now new evidence that it challenges in its totality of what was established by Judgment. In turn, the appellant only seeks to clear his good name; that is, their prestige and credibility in the eyes of their patients and colleagues.

III. List of Procedural and Material Facts of the Case

1. Dr. Enrique Vázquez Quintana, the appellant, is a natural person with a physical and postal address Urb. El Remanso, F-15 Corriente St. San Juan, P.R. 00926-6108; and with telephone number 787-462-0658.

2. Mrs. Isabel Montañez Ortiz and the Succession of Hermenegildo Martinez! Remigio T/C/C as Hermenegildo Martinez composed by Luis Martinez Maldonado, Hermenegildo Martinez Montanez, Mil-itza Isabel Martinez Montañez, Maria Antonia Martinez Montanez, Julio Matinez Montañez, Carmen Noelia Martinez Montañez, Carmen Noemí Martinez Montañez, and his widow, Isabel Luisa Montañez Ortiz with last known address: Urb. Santa Juanita, Thames Street, DPS, Bayamon, P.R. 00956-5320.

3. The Court of First Instance entered a judgment against the appellant on October 28, 2011, ordering the appellant to pay to the co-defendants, Isabel Montanez Ortiz and Hermenegildo Martinez Remigio, the amount of \$284,000.00 per an alleged medical malpractice to rescind the alleged damages economic and moral' in relation to the case of *Isabel Montañez Ortiz, et al. v. Enrique Vázquez Quintana, et als*, Case Number K DP2001-1213.

4. Specifically, in 2000, the appellant operated in the thyroid and parathyroid is to Mrs. Isabel Montanez Ortiz following all the parameters required by medicine.

5. After the operation, the appellant suffered from dementia and Alzheimer's disease.

6. Ms. Isabel Montañez Ortiz and Mr. Hermenegildo Martínez Remigio hired the medical expert, Mr. Steven A. Falk, who testified that the thyroid operation and parathyroid test carried out by the appellant that resulted in hypocalcemia (calcium b, garlic) had been the proximate cause for the appellant suffered from memory loss and dementia. Dr. Falk indicated that he had no scientific evidence to support his testimony.

7. The foregoing, despite the fact that the appellant complied with the with all the procedures required prior to carrying out the aforementioned operation.

8. Race three (3) months new evidence emerged that establishes that it is impossible for thyroid and parathyroid surgery may cause dementia and/or Alzheimer's disease.

9. Specifically, the Board of Licentiates and Medical Disciplines issued a Resolution exonerating the appellant, Dr. Enrique Vázquez Quintana, of all

guilt in the case of Mrs. Isabel Montañez Ortiz and determined that thyroid surgery and parathyroid test carried out by the appellant did not keep any type of relationship with the low calcium in the blood and the emergence of "Alzheimer's" suffered by the appellant.

10. The Board of Licensure and Medical Disciplines is the government entity that licenses, disciplines, and evaluates, suspends physicians from their practice.

11. Likewise, there is no causal relationship between hypocalcemia and dementias, including "Alzheimers."

12. The appellant does not want the Court to order the co-defendants to return the money paid with this Release of Judgment; but that their good name, prestige and credibility are vindicated.

13. The appellant, Dr. Enrique Vázquez Quintana, has He served our country well performing more than 15,000 operations and participated in the education of thousands of physicians and surgical residents at the Medical Sciences Campus School of Medicine.

14. Therefore, under Rule 49.2 of the Rules of Civil Procedure 32 L.P.R.A. Ap III R. 49.2, it is requested that this Honorable Court declare the present application admissible; and therefore, under the protection of the new evidence obtained by the Board of Licensure and Medical Disciplines of Puerto Rico, annul the Judgment handed down in the case of *Isabel Montañez Ortiz, Et als v. Enrique Vázquez Quintana, Et als*, Case Number K DP2001-1213 vindicating the good name, prestige and credibility of the appellant.

IV. Signaling of Error.Es

FIRST MISTAKE

i. "The Honorable Court of First Instance erred in dismissing the claim, with prejudice to the understanding that the Relief of Judgment presented is res judicata; without having guaranteed the plaintiff due process of law."

V. Discussion of Mistakes Made

PRIMER ERROR

Rule 49.2 of the Rules of Civil Procedure, 32 L.P.R.A. AP II R. 49. 2 establishes that:

By a motion and under such conditions as are just, the court may relieve a party or his or her legal representative of a judgment, order, or proceeding by the following reasons:

- (a) error inadvertence, surprise excusable negligence;
- (b) discovery of essential evidence that, in spite of due diligence, could not have been discovered in time to apply for a new trial in accordance with Rule 48;
- (c) fraud (even the one that has been called "intrinsic" and also called "extrinsic"), false representation or other improper conduct of an adverse party;
- (d) null and void the sentence;
- (e) the judgment has been satisfied, waived, or complied with, or the previous judgment on

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which it was based has been revoked or otherwise set aside, or it would be inequitable for the judgment to continue in force, or

- (f) any other reason that justifies the granting of a remedy against the effects of a judgment. The provisions of this rule shall not apply to judgments entered in divorce suits, unless the motion is based on reasons (c) or (d).

The motion shall be filed within reasonable ground, but in no event later than six (6) months after the judgment or order has been entered or the proceeding has been completed. A motion under this Rule 49.2 shall not affect the purpose of a judgment or suspend its effects. This rule does not limit the court's power to:

- (1) to hear an independent lawsuit for the purpose of relieving a party of a judgment, an order, or a proceeding;
- (2) grant a remedy to a party who has not actually been served, and
- (3) to set aside a judgment on the grounds of fraud to the court.

While an appeal or writ of certiorari of a final resolution is pending In proceedings of voluntary jurisdiction, the appellate court may not grant any relief under this rule, unless with the permission of the appellate court. Once the appellate court renders judgment, no remedy may be granted under this rule which is inconsistent with the order, unless prior permission is obtained

from the appellate court. In both cases, the motion for relief must always be filed with the appealed court within the aforementioned period, and if the latter determines that it would be willing to grant the remedy, it will then be brought before the court of appeal to request the aforementioned permission.

On the subject, the Supreme Court established in the case of *Vega v. Emp. Tito Castro Inc.*, 152 DPR 79, (2000) that a motion under Regulation 49. 2 must be interpreted liberally, however, this does not mean that it is a master key to reopen on a whim a lawsuit already adjudicated and set aside a correctly issued judgment. In addition, the Supreme Court established in the case of *Pagan v. Mayor of Municipality of Catano*, 143 DPR 314 (1997) the following: "Error as a justification for the granting of relief, refers to that of the party, thus excluding judicial error."

In the present case, on 28 October 2011, the Court of First Instance Judgment Against the Plaintiff in Relation to the Case of *Isabel Montañez Ortiz, et al. v. Enrique Vázquez Quintana, et als*, Case Number: K DP2001-1213, convicting the plaintiff to pay the amount of \$284,000.00. Said payment of the Judgment was paid in full. In other words, the appellant fully complied with the Judgment issued by the Court.

The judgment handed down in the aforementioned case was based on the opinion of the expert, Steven A. Falk, who was the expert of Mrs. Isabel Montanez Ortiz and was the one who reported under illusory oath that the thyroid and parathyroid operation carried out by the plaintiff resulted in Hypocalcemia (low calcium) had been the proximate cause for the plaintiff to suffer from memory loss and dementia. In

turn, expert witness Steven A. Falk reported that the operation performed by the appellant had caused Alzheimer's disease in the co-defendant, Isabel Montañez Ortiz.

It should be noted that, in another lawsuit filed by the appellant against the expert, Steven A. Falk, for the incompetence incurred by the expert in providing the illusory information reported above; the expert, Steven A. Falk, reached a settlement with the appellant compensating the appellant financially.

That is, with the request for relief of judgment presented By the 1st ape, say This party requests that the Judgment be revoked issued for the purpose of vindicating the good name, prestige and credibility of the appellant. The foregoing, based on the new evidence that was obtained through the Resolution issued in the case *In Re: Dr. Enrique Vázquez Quintana*, Case No.: Resolution 2023-70, where on April 20, 2023, the Licensing Board and The Medical Discipline of Puerto Rico dismissed the complaint of medical malpractice filed by the defendant against the appellant.

It is worth noting that the Licensing Board and Medical Discipline is the highest administrative forum that is called upon to watch over the ethics of doctors in Puerto Rico and is the administrative forum that has the expertise required to determine if a doctor in Puerto Rico has failed to comply with the ethics that govern their profession

That is to say, the Board of Licensing and Medical Discipline analyzed the medical part claimed in the case that *Isabel Montañez Ortiz, et al. v. Enrique Vázquez Quintana, et al.*, Case Number: K DP2001-1213 and determined that the appellant acted correctly;

that is, he did not commit medical malpractice in operating on Mrs. Isabel Montañez Ortiz's thyroid.

In relation to the Resolution issued by the Board of Medical Licensing and Discipline, which is an administrative forum, the Supreme Court of Puerto Rico established in the case of *the Commissioner of Insurance of Puerto Rico v. Triple-S Health Inc.*, 191PR 536 (214), that:

In the administrative law recognizes that The opinions of administrative bodies deserve the greatest judicial deference. These processes are covered by a presumption of regularity and correctness. Citations omitted.

In the present case, the highest medical forum relieved of responsibility to the appellant after analyzing the present case. The only thing that remains to vindicate the good name and prestige of the appellant is for the Court of First Instance to revoke the judgment handed down; without ordering the economic return that it was given to Isabel Montañez Ortiz and Hermenegildo Martínez Remigio.

In view of this, it is requested that this Court of Appeals revoke the Resolution and Judgment issued and order the continuation of the proceedings; that is, that the corresponding summons be issued.

VI. Request for Relief

For these facts and legal grounds, it is very respectfully requested that this Honorable Court of Appeals declare the present appeal ADMISSIBLE; refer the present case back to the Court of First Instance; that the Court of First Instance be ordered

to issue the relevant summonses; and issue any other pronouncement that is appropriate in law.

VII. Notification to the Parties

I CERTIFY that I send a true and exact copy of this Appeal by certified mail with acknowledgment of receipt to:

(i) the Court of First Instance, Fajardo Chamber, by submission to SUMAC; and (ii) to ISABEL MONTAÑEZ ORTIZ AND to THE ISABEL MONTAÑEZ ORTIZ SUCESION COMPOSED OF A, B, C SO CALLED DUE TO IGNORANCE AND THE SUCCESSION OF HERMENEGILDO MARTÍNEZ REMIGIO T/C/C HERMENEGILDO MARTÍNEZ COMPOSED OF LUIS MARTÍNEZ MALDONADO, HERMENEGILDO MARTÍNEZ MONTAÑEZ, MILITZA ISABEL MARTÍNEZ MONTAÑEZ, MARÍA ANTONIA MARTÍNEZ MONTAÑEZ, JULIO MARTÍNEZ MONTANEZ, CARMEN NOELIA MARTINEZ MONTANEZ, CARMEN NOEMI MARTINEZ MONTANEZ and ISABEL LUISA MONTANEZ ORTIZ to the address Urb. Santa Juanita, Calle Tamesis, DPS, Bayamon, P.R. 00956-5320.

In Trujillo Alto, Puerto Rico Today

November 24, 2022.

/s/ Pedro A. Rivera Sabater Ledo.
RUA 18055
P.O. Box 2103
Trujillo Alto, P.R. 00977
Tel. 939-266-2575
l do.pedrorivera@gmail.com

**APPELLANT'S MOTION FOR
RELEASE OF SENTENCE FILED IN THE
SUPREME COURT OF PUERTO RICO
(FEBRUARY 13, 2024)**

IN THE SUPREME COURT OF PUERTO RICO

DR. ENRIQUE VÁZQUEZ QUINTANA,
Appellant,

v.

ISABEL MONTANEZ ORTTZ Y/O LA SUCESION
DE ISABEL MONTANEZ ORTIZ COMPUESTA
POR A, B, C ASÍ DENOMINADA POR
DESCONOCIMIENTO Y LA SUCESIÓN
DE HERMENEGILDO MARTÍNEZ REMIGIO T/C/C
HERMENEGILDO MARTÍNEZ COMPUESTA POR
LUIS MARTÍNEZ MALDONADO,
HERMENEGILDO MARTÍNEZ MONTAÑEZ,
MILITZA ISABEL MARTÍNEZ MONTAÑEZ,
MARÍA ANTONIA MARTÍNEZ MONTAÑEZ,
JULIO MARTÍNEZ MONTAÑEZ, CARMEN
NOELIA MARTÍNEZ MONTAÑEZ, CARMEN
NOEMÍ MARTÍNEZ MONTAÑEZ Y ISABEL
LUISA MONTAÑEZ ORTIZ,
Appellees.

TS NÚM.: ____
TA NÚM.: KLAN202301057
CIVIL NÚM.: BY2023CV04533

About: Relief of Sentence

CERTIORARI

Nature: Certiorari

Subject: Release of Judgment

Affair: Release of Sentence and Due Law Process

CERTIORARI

TO THE HONORABLE COURT SUPREME:

Dr. Enrique Vázquez Quintana APPEARS ("the Appellant or party appealing "), by his own right, who subscribe and who very respectfully STATES and REQUESTS:

I. Jurisdiction and Purview

This Honorable Court has jurisdiction and purview to understand the present resource, in virtue of the Article 3.002, subsection (d) of the law of the Judiciary;¹ and Rule 20(A)(3) of the Regulations of the Supreme Court of Puerto Rico.

II. Judgment Whose Revision Is Requested

On 17 January 2024, Court of Appeals confirmed the determination of the Court of First Instance Judgment which dismissed with prejudice the case without allowing to submit summons, having reasons for the decision required under Rule 49.2 of the Rules of Civil Procedure, I don't know provides between its sections so that a part, within a case that already has a Judgment final and firm that was confirmed by the Court Supreme Court of Puerto Rico, may request replacement of the award under the foundation of

¹ 4 LPRA App. XXIII Ord. XII

power vindicate his good name, prestige and credibility according to a Resolution issued by the Board of Licenses and Medical Disciplines.

The appellant disagree very Respectfully of the judgment dictated, already that the appellant opted by include only the Resolution emanated from the Board of Licensure and Medical Disciplines, considering that said document was sufficient to invalidate the Judgment uttered by the three courts of justice between 2011 and 2015, which showed an error incompatible with the current knowledge scientists; forks a fact scientific and proven from which you can take judicial knowledge that there is no none type of causal link between a thyroid and parathyroid operation; and Alzheimer 's disease.

III. Relationship of Facts Procedural and Materials of the Case

1. The Dr. Enrique Vazquez Quintana, the appellant, is a person natural with physical and postal address, Urb. El Remanso, F-15 Corriente St. San Juan, PR 00926-6108; and with number of phone 787-462-0658.

2. Mrs. Isabel Montañez Ortiz and the Estate of Hermenegildo Martínez Remigio T/C/C as Hermenegildo Martínez composed by Luis Martínez Maldonado, Hermenegildo Martínez Montañez, Militza Isabel Martínez Montañez, María Antonia Martínez Montañez, Julio Martínez Montañez, Carmen Noelia Martínez Montañez, Carmen Noemí Martínez Montañez, and her widow, Isabel Luisa Montañez Ortiz with last address known: Urb. Santa Juanita, Calle Támesis, DP5, Bayamón, PR 00956-5320.

3. The Court of First Instance dictated Judgment against the appellant on October 28, 2011, in which ordered the appellant to pay in favor of the codefendants, Isabel Montañez Ortiz and Hermenegildo Martínez Remigio the amount of \$280,000.00 per alleged inexperience medical to terminate the alleged damage economic and moral in relation to the case *Isabel Montañez Ortiz, Et Als v. Enrique Vázquez Quintana, Et Als*, Case Number K DP2001-1213.

4. In specific, in the year 2000, the appellant operated the thyroid and parathyroid to the Mrs. Isabel Montanez Ortiz Following all the parameters required by medicine.

5. Posterior to the operation, the appellant suffered of dementia and Alzheimer's disease.

6. Mrs. Isabel Montañez Ortiz and Mr. Hermenegildo Martínez Remigio hired an expert doctor, Mr. Steven A. Falk who testified that allegedly the operation the thyroid and parathyroid carried out by the appellant resulted in hypocalcemia (low calcium), which had been the cause next for that the patient suffered from memory loss and dementia. Dr. Falk indicated that he had no evidence scientific to support his testimony.

7. The above, despite the fact that the appellant fully complied with all the procedures required prior to making the aforementioned operation.

8. Three (3) months ago arose new evidence that establishes that it is impossible for an operation of the thyroid and parathyroid can cause dementia and/or the disease "Alzheimer's."

9. Specifically, the Licence and Medical Disciplines Board issued a Resolution, #2023-70 exonerating the appellant, Dr. Enrique Vázquez Quintana, of any wrongdoing in the case of Mrs. Isabel Montañez Ortiz and determined that the thyroid and parathyroid operation carried out by the appellant did not have any relationship with the dementia disease and Alzheimer's disease that the respondent suffers from.

10. The Medical Licence and Disciplines Board is the government entity that grants the license, evaluates, disciplines and suspends doctors from their practice.

11. Likewise, there is no causal relationship between the hypocalcemia and the dementias, including the disease of "Alzheimer's".

12. The appellant is not interested that the Court orders the co-defendants to return the money paid with present Release of Judgment; but that his good name, prestige and credibility be vindicated.

13. The appellant, Dr. Enrique Vázquez Quintana, has served well our country doing more than 15,000 operations and participated in the education of thousands of doctors and surgery residents in the School of *Medicine of the Medical Sciences Campus of the University of Puerto Rico*.

14. Therefore, under Rule 49.2 of the Rules of Civil Procedure 32 LPRA Ap III R. 49.2, it is requested that this Honorable Court declare the present lawsuit and; by hence, by reason of the new evidence obtained by part of the Board of Medicine, vacate the Judgment dictated in the case *Isabel Montañez Ortiz, Et al v. Enrique Vázquez Quintana, Et Als*, Case Number

KDP2001-1213 and reclaiming the good name, prestige and credibility of the appellant.

15. On January 17, 2024, the Court of Appeals issued a sentence confirming the opinion of the Court of First Instance.

16. On February 12, 2024, Squire Pedro A. Rivera Sabater presented a Motion of Relief in this case, claiming that he culminated the work for which the subscriber hired him!!

IV. Errors Designated

FIRST ERROR

“Err the Honorable Court of Appeals in confirming the determination of the Court of First Instance; and therefore, confirmed the dismissal of the suit of the case with prejudice by understanding that the Release of Judgment presented is not applicable under Rule 10.2 of the Rules of Civil Procedure; without having guaranteed a due process of law to the party appellant ”

V. Discussion of the Mistakes Tasks

The twenty of June of 2000, the appellant operated a patient of thyroid and parathyroid (high calcium) which resulted in low calcium. That is a complication inherent to that kind of operation, occurs in 3-5% of the cases and has nothing to do with the experience of surgeon. By that time, the appellant had operated more than 10,000 of thyroids and more than 750 of parathyroid patients.

The patient had depression before surgery and was treated with a psychiatrist. Depression is one of

the first symptoms of Alzheimer's disease. The husband and the patient sued the appellant in 2001 by the low calcium. The case took ten years before arriving at the TPI of San Juan. Six judges passed without solving the case. The case was decided on October 28, 2011.

During the referred case, the husband of the patient testified that his wife was forgetful, who was going to burn down the house, she mistreated their grandchildren when they visited, that they could not attend church since she forgot the hymns, they could not go to dance or to the casino, the sexual intimacy was less once a month. He took her to the Levittown CDT and they told him that he had Alzheimer's and they started her in Aricept and Namenda; medications that are used exclusively for the treatment of the disease of Alzheimer's.

Subsequently, a witness from the United States testified that the low calcium, which allegedly resulted from the operation made by the subscriber, caused dementia to the patient; but he said he had no scientific evidence to support his testimony. He had no evidence because there is no scientific evidence in the medical literature to support his testimony.

The appellant's expert in the referred case, who was an endocrinologist trained in Yale and with grants from NIH, testified that a low abrupt drop of calcium can cause disorientation or transient loss of memory. By giving calcium and Vitamin D the symptoms are corrected and no one goes on to develop dementia. That is the real scientific truth. The case for which the Release of Judgment is solicited was decided on October 28, 2011. The judge of the Court of First Instance placed a fine to the appellant of \$280,000 to pay to the couple

and \$284,000 per temerity because the case took ten years from the suit until it arrived to the Court of First Instance; that is to say, the inefficiency of the system was blamed on the subscriber.

The appellant came to the Court of Appeals; and in a document plagued by errors, they ratified the Court of First Instance and imposed a fine of \$6,000 on the grounds that the appeal was frivolous. That Judgment was filed on September 28, 2012. Later, the subscriber went to Court Supreme and in a vote of 5-4 they ruled that I caused a dementia to the patient but it wasn't Alzheimer's. Faced with that attack the appellant became depressed, needed antidepressants and admission to a psychiatric hospital, the Pan American psychiatric hospital in Cidra, Puerto Rico in February 2016.

The appellant could not get a lawyer to represent him so in his own right sued seven judges of the local judicial system and the American expert surgical witness in the Federal Court of San Juan. The Hon. Judge Jay García Gregory dismissed the case with prejudice in favor of the American expert, so I was forced to go to the Boston Court of Appeals and this court ordered the parties to reach an agreement. This caused the parties to go to the Ochoa Building before the Hon. Judge Charles Cordero and the American witness had to accept to compensate me by a confidential amount, but less than the \$170,000.00 that I had to pay to Triple-S Insurance for the excess of my policy. Then Judge García Gregory dismissed the case in favor of a local appellate judge and then dismissed the case in favor of six other judges.

The appellant appealed to the Boston Court of Appeals and after a long time, that court with a single

word Affirmed ratified the decisions of the judge Garcia Gregory. Later, the subscriber went to the Federal Supreme Court, the case was assigned a number, but then they indicated that they rejected the resource. Despite submitting a "Petition of Rehearing", on August 21, 2022, the legal Clerk reported that they rejected to see the case. Apparently, I only have left the Celestial Court to make me justice and vindication for the mistakes incurred.

It's imperative highlight that the Licensure and Disciplines Board Medical bears the responsibility of the government to certify and authorize the practice of medical doctors in the country, it disciplines, sanctions and remove from practice some physicians. It is equivalent to the role of the Supreme Court regarding the legal practice in our nation.

However, unfortunately, the Court of First Instance of Bayamón, under the direction of the Honorable Judge Jaime Fuster Zalduondo, and then the Distinguished Judges Hernández Sánchez, Romero Garcia and Martinez Lamb of the Court of Appeals, have opted to dismiss with prejudice the relief of a judgment that, clearly, suffers from a flagrant legal error. This judicial error, which is equated to a prevarication, lacks support under any circumstance and contradicts openly the current scientific knowledge.

Appear very Respectfully Dr. Enrique Vázquez Quintana, again by Pro Se litigant, to introduce, our arguments with relation to the judgment issued by the Court of First Instance (TPI) 2011 case KDP 2001-1213 (806) and the Court of Appeal [KLAN Case 201-

200087 in the frame our application annulment of the judgment initially uttered by the TPI of Saint Juan on October 28, 2011. Bliss judgment was ratified by the Court of Appeal the 28th September 2012 and finally confirmed and declared as true by the Hon. Supreme Court of Puerto Rico on the 18th of December of 2015. (CC -2012-982).

The judicial decisions once they become final and firm, they are generally definitive and binding. However, if it can be demonstrated that a judgment is based on a significant scientific error, there are legal mechanisms that could allow the review or modification of that decision through a request for Relief Judgment. One of the roads possible could be the presentation of a motion or request for relief of Judgment to amend the mistake incurred, providing new scientific evidence that challenges the erroneous conclusion. Furthermore, in some legal systems they can interpose appeal resources or extraordinary judicial reviews if it is discovered that the judgment was based on information scientifically incorrect or outdated.

It is important to know that the review of a judgment based on scientific can be a complex process and is subject to laws and procedures specific to each jurisdiction. In any case, the presentation of new scientific evidence the same needs to be convincing and relevant to question the validity of the original conclusion. This implicit recognition of the non-infallibility of judges has generated a confrontation between the judiciary and the academy, especially between those conversant in practice of medicine.

The judgment issued and that we solicit to be relieved, by the Supreme Court has caused improper

repercussions, arriving even to affect the surgical scene, with surgeons including Alzheimer 's disease as a possible complication in operations of thyroid and parathyroid. This mistake requires a meticulous attention to rectify the damage caused to the integrity of the medical practice in Puerto Rico.

In this context, our petition aimed at the maximum judicial instance turns imperative to correct this mistake of great magnitude, given the severity of misunderstood. The injury in judgment in question demands a repair immediate, now that this suggests of manner incorrect that the low level of calcium resulting from an operation of thyroid and parathyroid could be the cause of the disease of Alzheimer's, generating a significant disturbance significant in the medical practice in Puerto Rico.

In accordance with Rule 49.2 of the Civil Procedure of Puerto Rico, the Court retains the authority to address a lawsuit independent with purpose of relieving a part of a judgment, order or procedure, including after elapsed the six months established by said rule [emphasis supplied], when the new evidence is obtained after the expiration of said term. Rule 49.2 of current civil procedures states, the following apply reasons:

- Error, inadvertence, surprise or excusable negligence.
- Discovery of evidence impossible to use, since it inevitably arises after the judgment.
- Fraud or false representation by part of the North American expert of the plaintiffs, accepted as true by the three courts of justice, who had to reach an agreement with

him appellant to withdraw from the case, even though the federal judge Hon. Jay García Gregory had dismissed the case with prejudice in his favor.

- The judgment has been satisfied, with the sanction paid economically and, above all, everything, with the impairment and humiliation of the appellant, a professional who has served diligently to our country.

The Supreme Court established in the *Vega* case *v. Emp. Tito Castro Inc.*, 152 DPR 79, (2000) that a motion under Rule 49.2 must be interpreted liberally, however, this does not mean that is a magic key to reopen by whim a lawsuit already awarded and throw aside a judgment correctly dictated. Besides, the Supreme Court established in the case of *Pagán v. Mayor of Municipality of Catano*, 143 DPR 314 (1997) it established: “ the mistake as justification to the concession of the relay, it refers to that of the party, excluding then the miscarriage of justice.”

In our presentation in the present case, in view of the Court of First Instance, Bayamón Chamber case BY [2023CV04533], we choose to include only the Resolution issued by the Medical Board, which was dictated on April 20, of 2023. This decision is based in the conviction that said document was sufficient to revoke the judgment issued by the three courts of justice between 2011 and 2015, which we consider wrong and in disagreement with the contemporary scientific knowledge.

Under the aegis of Rule 49.2 of the Civil Procedure of Puerto Rico, the judicial instance retains its prerogative to address a litigation independent

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with the noble purpose of exempt one of the parts of a judgment, order or procedure, even when it elapsed the lapse of six months stipulated by so respectable regulation. I emphasize the significance of pointing out that this comprehensive power extends to review a legal matter independent that the time has concluded.

Discussion of changes in the interpretation, review and the Judicial purpose of rectification:

- **Examine the Scientific Evidence:** The judge has to review the scientific evidence available and determine if the expert 's opinion is endorsed by research and knowledge scientifically established. If there are discrepancies, the judge can question the validity of the expert opinion. If the expert opinion does not comply with the legal or scientific standards, the judge can opt to exclude such evidence.

Within the current Justice System, despite the advances several classifications of imperfect situations exist that need to be resolved and how the scientific system evolve to improve:

1-Nullity of Judgment, by not summoning or the Court not acquiring Jurisdiction

2-Wrong Judgements

Wrong Judgment:

a. Wrong Judgments-convictions by crimes that they did not commit.

b. Erroneous Judgments -when induced to err when giving credibility to an expert witness who

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testifies an opinion contrary to the opinion of the science or either to the existing medical management.¹ The medical management is changing and evolves hand in hand with scientific research.

Example: In the decade of the 60's intravenous alcohol was used to stop premature contractions. Nowadays alcohol is known as the cause of the Fetal Alcoholism Syndrome and its use is completely contraindicated in pregnancy. Fetal Alcohol Syndrome (FAS) causes a set of physical and mental problems that can affect the fetus if the mother consume alcohol during the pregnancy. The alcohol goes through the placental barrier and can interfere with normal development of the fetus, especially during the first trimester of pregnancy. The FAS is the most serious form of the disorders related to the consumption of alcohol during the pregnancy and can cause long lasting effects on the child's health.

The doctors and the scientists challenge dogmas by means of research. If by research emerges new evidence, that is confirmable, the dogma is replaced by the new evidence. For example, a shot to the sigmoid entailed the carrying out a colostomy, that was a dogma. Since then, it has become the alternative to remove the sigmoid, wash the abdomen, give antibiotics, and do not perform a colostomy and when it was documented that the vast majority of patients recovered successfully, this eliminated the routine use of the colostomy. That's how science works.

Another example is the management of breast cancer in women. In the past, a biopsy of the breast tumor was taken and then a mastectomy was practiced. In the present day, after a biopsy, you are given chemotherapy, radiotherapy, and then you can

undergo a minor surgery and not a mastectomy. The results are better and mutilation is less. A dogma was eliminated and new form of treatment for breast tumors was accepted that is very beneficial for women.

The principal premise of the Innocence Project of Puerto Rico is to recognize that the system is not perfect and that the imperfections must be resolved to ensure the access to justice. According to the Innocence Project:

"We were not questioning necessarily the current legal system, the thing is underlying the legal system current still exist the erroneous convictions. [...] Unfortunately the law is not as advanced as the science", stated the coordinator of the project, Juan Carlos Vélez Santana."

Vélez Santana maintained that the Innocence Project helps that the students break with what is already established and recognize that in the system is operated by human beings that are imperfect.

"There are not any problem with that system recognizes their imperfections. [...] The first step to rehabilitation is to recognize the problem. But if the State does not recognize it, how can it resolve it ?" he questioned.

There have been cases documented with erroneous judgments in the United States, where people have been condemned by crimes they did not commit. These cases are usually the result of judicial errors, incorrect evidence or false testimonies. The legal system works to correct such mistakes to through of processes appeals and reviews.

The Innocence Project of Puerto Rico is a non-profit organization dedicated to exonerating people who have been condemned unfairly, generally through DNA tests. They work to identify and correct judicial mistakes, provide free legal assistance to individuals seeking to demonstrate their innocence. The organization advocates reforms in the legal system to prevent future injustices.

The new evidence in our case civil is equivalent to the new DNA proof in criminal cases. The Innocence Project has been involved in numerous cases where they have exonerated people who were unfairly condemned. Some notable examples in United States include:

- Kirk Bloodsworth DNA case: He was the first American sentenced to death who was exonerated thanks to DNA evidence.
- Central Park Five Case: The Innocence Project participated in overturning this case, where five youths were condemned unfairly for an attack in Central Park in the 1980s.
- Ryan Ferguson case: He was convicted by murder in 2005 and released in 2013 after new evidence demonstrated his innocence.

These are just a few examples, and the Innocence Project has worked in many other cases to ensure justice and the liberation of innocent people. In Puerto Rico, the Innocence Project has achieved the release of five innocents.

The injustice that surrounds us claims for a prompt repair, given that the Judgment of the Supreme Court of Puerto Rico hints in a misguided manner, that the operation of thyroid and parathyroid

could be a trigger of Alzheimer's disease, disturbing in a significant way the performance of the doctor. It is urgent to correct this error through a judicial petition presented before this highest court, attending the gravity of so pernicious misunderstanding.

The improper repercussions of the Judgment manifest in regrettable forms, with surgeons including Alzheimer 's disease among the possible complications of a thyroid and parathyroid operation in the operative consents. This nonsense demands a meticulous and exhaustive judicial attention to amend this violation of the integrity of the medical system of Puerto Rico.

Quoting the case *Santander v. Fajardo Farms Bank*, 141 DPR 237 (1996):

"POST-JUDGMENT PROCEEDINGS REMEDIES AGAINST JUDGMENTS OR RELIEF ORDERS IN GENERAL.

Rule 49.2 of Civil Procedure, 32 LPRA App. III, provides a mechanism for a part to request the relief of a judgment against it, provided that one of the causes is met over there listed and presented within a period of six (6) months of having recorded the judgment. This term is fatal in nature in its extinction action of the Law."

Rule 49.2 of Civil Procedure, 32 LPRA Ap. III, does not limit the power of a court to hear a lawsuit independent of nullity of judgment with the purpose to relieve one part of a judgment, an order or procedure, or granting a remedy to a part that was not located and on which the court did not acquire jurisdiction. This action independent in sentencing cases null is

permissible, since said judgments are non-existent and not are subject to the term extinct of six months willing in rule 49.2.

The Court may relieve in part or in whole a judgment, order or procedure by the following reasons: (a) mistake, inattention, surprise either or excusable negligence; (b) discovery of essential evidence that, despite a due diligence, no could to have been discovered on time for request a new judgment of agreement with Rule 48; (c) fraud (including which until now has been called "intrinsic" and the also called "extrinsic"), false representation or other conduct improper of an adverse part; (d) nullity of judgment; Puerto Rico Rules of Civil Procedure 76 (e) judgment has been satisfied, resigned or had complied with it, or the previous judgement on which it was founded has been revoked or otherwise left without effect, or not needed for judgment continue in force, or (f) any other reason that justifies the granting of a remedy against the effects of a judgment.

As we mentioned previously in the present case the Court of First Instance Chamber of Bayamón and the Court Appeal were wrong to reject the request of the appellant without allowing us to introduce evidence to prevent the court from granting a judgment independent of nullity of judgment before a part in that error occurred and fraud in the previous judgment and in which we present new evidence. This is why respectfully we come before this high judicial forum seeking for justice for the appellant.

The appellant is not the enemy of the judiciary, but he has always been in strict compliance with the law and what is correct. The Judiciary could be

supportive of the appellant, since the scientific facts are unique, and in this way justice will be done to the subscriber.

At our application before the Court of First Instance, Chamber of Bayamon we only included the Resolution issued by the Licensure and Disciplines Medical Board understanding that this document was sufficient to annul the Judgment that the three courts of Justice had issued from 2011 to 2015, which was wrong and at odds with the current scientific knowledge.

The Licencing and Medical Disciplines Board is the government entity that certifies and authorizes the doctors to practice in the country, which disciplines, fine or withdraws from the practice of their profession. It is the equivalent to the Supreme Court with respect to the practice of the lawyers in our country.

To expand our documentation We once again include the Resolution of the Licensure and Disciplines Medical Board (1) and we add the following documents:

1. Statement of the American Alzheimer's disease Foundation of November 2, 2014 in which it clearly indicates that there does not exist a Causal relationship between low calcium and Alzheimer's disease. (2) By that date the Lower Court and the Appeals Court had issued their decisions.

2. Document sent by Triple Yes Insurance to the National Practitioner Data Bank on January 4, 2016 (3) in which they indicated that low calcium is a complication inherent to that type of surgery and that

no damage resulted from the surgical intervention of the appellant, Dr. Vázquez Quintana.

3. Document of the North American Surgeon General (4) in which clearly indicates that all the ladies over 50 years must take calcium and Vitamin D to avoid osteoporosis.

The judgment of the Supreme Court has created a confrontation between the judiciary and the academy, who are those who know about the practice of medicine. The judgment has generated improper repercussions, such as surgeons including Alzheimer's disease among the possible complications of thyroid and parathyroid operations. This judgment entails a precise and meticulous attention to rectify the damage to integrity of the medical system of Puerto Rico. Our request to this high forum is imperative to correct this judicial misunderstanding.

The grievance in question requires an immediate repair since the ruling of the Supreme Court of Puerto Rico strongly incorrectly suggests that low calcium resulting from an operation of the thyroid and parathyroid could be the cause of the disease Alzheimer's, altering significantly the practice of the medicine In Puerto Rico.

By virtue of Rule 49.2 of the Civil Procedure of Puerto Rico, the court retains the authority to address an independent lawsuit with the purpose of relieving a part of a judgment, order or procedure, including elapsed the six months stipulated by this rule. I emphasize the importance the power this court has to review a lawsuit independent of the expiration of the mentioned term.

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In our case in the Rule 49.2 apply the following reasons:

- (a) Error, inadvertence, surprise or excusable negligence.
- (b) Discovery of evidence impossible to use previously since the new evidence occurs irremediably after the judgment.
- (c) Fraud or false representation of the American expert of the plaintiffs that the three courts of justice accepted as certain. That expert had to compromise with the appellant for get out of the case, although the federal judge, Hon. Jay García Gregory had dismissed the case with prejudice damage in his favor.
- (d) The judgment has been satisfied. The sanction was paid economically and more than anything with his discredit and humiliation of the appellant, a professional who has served our country.

In last instance what this Hon. Supreme Court, the highest judicial forum of our country have to solve is this question: If in our democracy a judicial forum of any level can to emit a judgment eliminating, refuting or ignoring what science and medical literature have established to be the best practice of medicine and replace it for a new paradigm that is totally false, incorrect and at odds with the current scientific knowledge?

That is an insult to the appellant, especially when there is a lack of personal knowledge about him and all the efforts he have made to reach a good reputation

in the medical community of Puerto Rico. Any a stranger in his court is a loser. For your professional improvement, the appellant recommends that you read *The Process* by Franz Kafka, who also was a lawyer. The last insult received by the appellant was in the Court of Appeals, who you dispossessed of his title of doctor and referring to him as Mr. Vázquez Quintana or Mr. Vazquez.

Dr. Enrique Vázquez Quintana born in the Clausells neighborhood of Ponce, study Baccalaureate in Sciences at the University of Puerto Rico. Rio Piedras Campus, completed his doctorate in Medicine in the School of Medicine of UPR, did an internship and five years of training in General Surgery. Served two years in the United States Army, was in the Vietnam War where he acquired several diseases by exposure to Agent Orange. Was director from the Department of Surgery and secretary of Health by a short time. He was for forty years in the academy educating students of medicine and general surgeons general for our country.

By the time of the lawsuit against him he had already performed more than 10,000 operations of the thyroid and about 750 patients of parathyroid. Among his patients there are lawyers, judges and wives of lawyers and wives of judges. However, for you, who do not know him, he is a loser. During the trial he was the most knowledgeable about dementia and Alzheimer's. Personally, he experienced the dementia at home, his first wife died of Alzheimer after eleven years of suffering, his second wife is presently suffering the dementia of Alzheimer. He wrote a book, *Who are you?* and performed a movie know that disease.

Maktub-is an Arabic word that means "it is written". It means that whoever the doctor 's wife was she will suffer from Alzheimer. On top of that, the Supreme Court sentenced that appellant, Dr. Enrique Vázquez Quintana, caused to one of his patients after a thyroid or parathyroid operation. He continuous to be a loser in the courts and what is worse without the right to rehabilitation.

The appellant is presumed to be innocent. In fact, the courts have indicated that the doctors act to help their patients. The rules of the Courts are inflexible and rigid. I quote of the case *Noriega v Governor*, 122DPR 650, 988, p. 654:

There is nothing more precious to a good man than his dignity and reputation in the community. If your illegal or immoral actions makes him meet in interdicted, will respond to his consciousness, to the most intimate beings and to all of its congeners. It will be, subject to criminal and civil sanctions that correspond. But if your dignity and reputation are affected by your own state by the mere fact of having exercised your fundamental rights, accordingly guaranteed in the Constitution, internally he has to own a channel suitable for repair of the faults to his dignity and honor.

According to our Constitution, the dignity of the human being is inviolable. Hon. Judge Trías Monge said: "Judicial discretion is not eradicable, although governable. Judicial anarchy must be avoided through subordination by the strict exercise of such discretion to rules and principles. The affront is bigger when we observe that the violation of these rights of our

represented, is committed by the proper judiciary system.

The judicial classification of errors can vary according to the legal system and jurisdiction. Generally, they are divided in errors of fact and errors of law. Factual errors involve facts wrongly interpreted or wrongs established during the judicial process, while the errors of law refers to incorrect interpretations or wrong application of the law. A judge who interprets incorrectly a treatment of thyroid and parathyroid surgery that is medically right, could be considered a factual error.

In this case, the judge's interpretation does not coincide with the medical knowledge established. This could have implications in the judicial decision and could be object of appeal based in errors of facts, so I Respectfully request that this Supreme Court accepts the present appeal of certiorari; revoke the Judgment of the Court of Appeals and of the Court of First instance; and order the return of the present case to the Court of First Instance for the continuation of the procedures in relation to Relief of the Judgment object of present Certiorari or relieve the Judgment according to require in the this suit presented.

VI. Appeal

For the facts and legal foundations presented respectfully request that this Honorable Supreme Court takes cognizance of all the above; revoke the Judgment of the Court of Appeals and the Court of First Instance; and order the return of the present case to the Court of First Instance for the continuation of the Procedures in relation to the Release of Judgment object of this Certiorari or relieve the

Judgment according as required in demand or issue any other appropriate remedy in right.

VII. Notification to The Parts

CERTIFICATE that I sent copy faithful and exact of present Resource Certiorari through mail certificate with acknowledgment of receipt to: (i) the Court of First Instance, Chamber of Fajardo through presentation to SUMAC; (ii) Court of Appeals through personal delivery; and (iii) to ISABEL MONTANEZ ORTIZ AND/OR THE SUCCESSION OF ISABEL MONTAÑEZ ORTIZ COMPOSITE PORA, B, ALMOST NAMED BY IGNORANCE AND THE SUCCESSION OF HERMENEGILDO MARTINEZ REMIGIO T/C/C HERMENEGILDO MARTINEZ COMPOSITE BY LUIS MARTINEZ MALDONADO, HERMENEGILDO MARTÍNEZ MONTAÑEZ, MILITZA ISABEL MARTINEZ MONTAÑEZ, MARÍA ANTONIA MARTÍNEZ MONTAÑEZ, JULIO MARTÍNEZ MONTANEZ, CARMEN NOELIA MARTINEZ MONTAÑEZ, CARMEN NOEMI MARTINEZ MONTAÑEZ AND ISABEL LUISA MONTAÑEZ ORTIZ to the address Urb. Santa Juanita, Calle Támesis, DPS, Bayamón, PR 00956-5320.

RESPECTFULLY SUBJECTED.

In San Juan, Puerto Rico, today 13 of February of 2024.

/s/ Dr. Enrique Vázquez Quintana
Urb. El Remanso, F-15

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Corriente St.,
San Juan, P.R. 00926-6108
evazquezmd@gmail.com
Tel. 787-462-0658

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**PLAINTIFF MOTION FOR
RECONSIDERATION OF JUDGMENT, FILED
IN THE COMMONWEALTH OF
PUERTO RICO COURT OF APPEALS
BAYAMÓN JUDICIAL REGION
(AUGUST 14, 2023)**

**COMMONWEALTH OF PUERTO RICO COURT OF
APPEALS BAYAMÓN JUDICIAL REGION**

DR. ENRIQUE VÁZQUEZ QUINTANA,
Plaintiff,

v.

**ISABEL MONT ORTIZ AND/OR THE
SUCCESSION-OF ISABEL MONTANEZ ORTIZ
COMPOSED BYA, B, C,D NAMED BY
IGNORANCE AND THE SUCCESSION OF
HERMENEGILDO MARTINEZ REMIGIO T/C/C
HERMENEGILDO MARTíNEZ COMPOSED BY
LUIS MARTINEZ MALDONADO,
HERMENEGILDO MARTINEZ MONTANEZ,
MILITZA ISABEL MARTINEZ MONTANEZ MARíA
ANTONIA MARTíNEZ MONTANEZ JULIO
MARTíNEZ MONTANEZ, CARMEN NOELIA
MARTíNEZ MONTANEZ, CARMEN NOEMI
MARTíNEZ MONTANEZ AND ! SABEL LUISA
MONTANEZ ORTIZ,**
Defendants.

TA NO.:__

CIVIL NO.: BY2023CV04533

ABOUT: RELEASE OF SENTENCE

APPLICATION FOR RELIEF OF JUDGMENT

TO THE HONORABLE TRIBUNAL:

APPEARS Dr. Enrique Vázquez Quintana ("the plaintiff") through his undersigned legal representation and who very respectfully EXPOSES, ALLEGES and REQUESTS:

I. Identification of Parties

1. Dr. Enrique Vazquez Quintana is a natural person with a physical and postal address Urb. El Remanso, F-15 Corrente St. San Juan, P.R. 00926-6108; and with telephone number 787-462-0658.

2. Mrs. Isabel Montanez Ortiz and the Estate of Hermenegildo Martinez Remigio T/C/C with Hermenegildo Martfhez composed of Luis Martinez Maldonado, Hermenegildo Martínez Montañez, Militza Isabel Martínez Montañez, Marfa Antonia Martínez Montañez, Julio Martínez Montañez, Carmen Noelia Martínez Montañez, Carmen Noemí Martínez Montañez, and his widow, Isabel Luisa Montañez Ortiz with last known address: Urb. Santa Juanita, Calle Tamesis, DPS, Bayamón, P.R. 009 6-5320.

II. Facts

3. The Court of First Instance issued a Judgment against the plaintiff on October 28, 2011, in which it ordered the plaintiff to pay in favor of the co-defendants, Isabel Montañez Ortiz and Hermenegildo Martínez Remigio the amount of \$284,000.00 for an alleged medical malpractice to rescind the alleged economic and moral damages in relation to to the case

of *Isabel Montañez Ortiz, EtA/s v. Enrique Vázquez Quintana, EtA/s*, Case Number K DP2001-1213.

4. Specifically the plaintiff operated on the thyroid and parathyroid of Mrs. Isabel Montanez Ortiz following all the parameters required by medicine.

5. After the operation, the plaintiff suffered from dementia and Alzheimer's disease.

6. Ms. Isabel Montañez Ortiz and Mr. Hermenegildo Martínez Remigio hired the medical expert, Mr. Steven A. Falk, who testified that the thyroid and parathyroid operation performed on the plaintiff who resulted in hypocalcemia (low calcium) had allegedly been the proximate cause for the plaintiff's memory loss and dementia. Dr. Falk indicated that he had no scientific evidence to support his testimony.

7. The foregoing, despite the fact that the plaintiff fully complied with all the procedures required prior to carrying out the aforementioned operation.

8. Three (3) months ago, new evidence emerged that establishes that it is impossible for thyroid and parathyroid surgery can cause dementia and/or Alzheimer's disease.

9. Specifically, the Puerto Rico Board of Medicine issued a resolution exonerating the errant, Dr. Enrique Vázquez Quintana of all guilt in the case of Mrs. Isabel Montañez Ortiz and determined that the thyroid and parathyroid operation performed on the plaintiff had no relation to the dementia disease and Alzheimer's disease from which the plaintiff suffers.

10. The Puerto Rico Medical Board is the government entity that licenses, evaluates, disciplines, and suspends physicians from their practice.

11. Finally, there is no causal relationship between hypocalcemia and dementias, including Alzheimer's disease.

12. The plaintiff does not want the Court to order the co-defendants to return the money paid with this Release of Judgment; Its good name, prestige and credibility must be vindicated.

13. The plaintiff, Dr. Enrique Vázquez Quintana has served our country well, he had done more than 15,000 surgeries and participated in the education of thousands of doctors and surgical residents at the Medical Sciences Campus School of Medicine.

14. In the meantime, under Rule 49.2 of the Rules of Civil Procedure 32 L.P.R.A. Ap III R. 49.2, it was requested that this Honorable Court declare the present lawsuit admissible; and therefore, in the light of the new evidence obtained by the Puerto Rico Medical Board, annul the Judgment issued in the case *Isabel Montañez Ortiz. et al. v. Enrique Vázquez Quintana, et als.* Case Number K DP2001-1213 vindicating the good name, prestige and credibility of the plaintiff.

FOR ALL THESE REASONS, we very respectfully request this Honorable Court to take cognizance of all the foregoing; to declare the present lawsuit admissible; and to issue any other pronouncement that may be appropriate in law.

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RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico August 14, 2023.

/s/ f/ LCDO. Pedro A. Rivera Sabater

RUA 18055

Q.O. Box 2103

Trujillo Alto, P.R. 00977

Phone: 939-266-2575

lcdo.pedrorivera@gmail.com

**NATIONAL PRACTITIONER DATA
MEDICAL DATA BANK –
DATABASE ENTRY, INITIAL ACTION BASIS
(JANUARY 4, 2016)**

NATIONAL PRACTITIONER DATA BANK

NPDB

P.O. Box 10832
Chantilly, VA 20153-0832

<http://www.npdb.hrsa.gov>

DCN: 5500000102655644

Process Date: 01/08/2016

Page: 1 of 4

VÁZQUEZ QUINTANA, ENRIQUE

For authorized use by:

TRIPLE S PROPIEDAD

NPDB NATIONAL PRACTITIONER DATA BANK
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VÁZQUEZ QUINTANA, ENRIQUE

TRIPLE S PROPIEDAD

**MEDICAL MALPRACTICE PAYMENT REPORT
INITIAL ACTION**

Date of Action:
01/04/2016

Initial Action
JUDGMENT

Basis for Initial Action
WRONG PROCEDURE OR TREATMENT

A. REPORTING ENTITY

Entity Name:
TRIPLE S PROPIEDAD

Address:

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PO BOX 70313
City, State, Zip:
SAN JUAN, PR 00936-8313
Name or Office:
CLARIBEL MARRERO
Title or Department:
LEGAL EXAMINER
Telephone:
(787) 707-7262
Entity Internal Report Reference:
1000170/ 01M2009
Type of Report:
INITIAL

**B. SUBJECT IDENTIFICATION
INFORMATION (INDIVIDUAL)**

Subject Name:
VAZQUEZ QUINTANA, ENRIQUE
Gender:
MALE
Date of Birth: 10/21/1937
Home Address:
F15 CALLE CORRIENTE
URB. EL REMANSO
SAN JUAN, PR 00926-6108
Deceased:
NO
Social Security Numbers (SSN):
***.**-9355
Professional School(s) & Year(s) of Graduation:
UNIVERSITY OF PUERTO RICO SCHOOL
OF MEDICINE (1962)
Occupation/Field of Licensure (Code):
PHYSICIAN (MD)

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State License Number, State of Licensure:
2577, PR
Drug Enforcement Administration Numbers:
AQ4859015 01247DM6

C. INFORMATION REPORTED

Date of Report:
01/08/2016
Relationship of Entity to This Practitioner:
INSURANCE COMPANY - PRIMARY
INSURER PAYMENTS BY THIS PAYER
FOR THIS PRACTITIONER
Amount of This Payment for This Practitioner:
\$343,931.17
Date of This Payment:
01/04/2016
This Payment Represents:
A SINGLE FINAL PAYMENT
Total Amount Paid or to Be Paid by This Payer
for This Practitioner:
\$343,931.17
Payment Result of:
JUDGMENT
Date of Judgment or Settlement, if Any:
06/11/2015
Court File Number:
CC-12-982

Description of Judgment or Settlement and Any Con-
ditions, including Terms of Payment:

PAYMENT WAS MADE WITHOUT ADMIS-
SION OF NEGLIGENCE. THE SUPREME
COURT OF P.R. CONFIRMED THE FIRST
INSTANCE COURT AND COURT OF
APPEALS JUDGMENT, AWARDING PLAIN-

TIFFS THE AMOUNT OF \$280,000.00 IN DAMAGES, PLUS \$52,983.31 OF POST JUDGMENT INTEREST OF 4.25% NOVEMBER 1, 2011 AT PRESENT, AND \$20,947.86 (WITH REDUCTION \$10,000) OF COSTS AND LEGAL FEES THE TOTAL AMOUNT OF JUDGMENT \$343,931.17

PAYMENTS BY THIS PAYER FOR OTHER PRACTITIONERS IN THIS CASE

Total Amount Paid or to Be Paid by This Payer for All Practitioners in This Case:
\$343,931.17

Number of Practitioners for Whom This Payer Has Paid or Will Pay in This Case:
1

PAYMENTS BY OTHERS FOR THIS PRACTITIONER

Has a State Guaranty Fund or State Excess Judgment Fund Made a Payment for This Practitioner in This Case, or Is Such a Payment Expected to Be Made?:
NO

Has a Self-Insured Organization and/or Other Insurance Company/Companies Made Payment(s) for This Practitioner in This Case, or Is/Are Such Payment(s) Expected to Be Made?:
NO

CLASSIFICATION OF ACT(S) OR OMISSION(S)

Patient's Age at Time of Initial Event
53 YEARS

Patient's Gender:

FEMALE

Patient Type:

INPATIENT

Description of the Medical Condition With Which the Patient Presented for Treatment:

PATIENT WAS REFERRED TO INSURED AND OTHER DOCTOR FOR DEFINITIVE TREATMENT OF HER PRIMARY HYPERPARATHYROIDISM. THE TREATMENT FOR HYPERPARATHYROIDISM INVOLVES SURGERY, WHICH WAS PERFORMED BY INSURED, ON JULY 16, 2000. PATIENT WAS INFORMED OF POSSIBLE RISKS AND COMPLICATIONS. IT IS ALLEGED THAT INSURED DEVIATED FROM THE STANDARD OF CARE BY REMOVING TWO NORMAL PARATHYROID GLANDS AND BY LEAVING THE PATIENT WITH ONLY ONE GLAND AND THAT SAID GLAND WAS LEFT WITH POOR BLOOD SUPPLY. IT IS ALSO ALLEGED THAT PATIENT DEVELOPED HYPOPARATHYROIDISM (LOW SERUM CALCIUM).

Description of the Procedure Performed:

SURGERY WAS PERFORMED TO REMOVE THE LEFT LOBE OF THE THYROID GLAND AND THREE PARATHYROID GLANDS, ONE OF WHICH (TOP RIGHT) SHOWED HISTOPATHOLOGICAL CHANGES COMPATIBLE WITH ADENOMA WHILE THE OTHER TWO WERE FOUND NORMAL. THE PATIENT DEVELOPED POSTOPERATIVE

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HYPOPARATHYROIDISM THAT HAS BEEN TREATED WITH CALCIUM AND VITAMIN D. THE PERMANENT DIAGNOSTIC TESTS SHOWED HYPOCALCEMIA, HYPERPHOSPHATEMIA, AND LOW LEVELS OF HORMONE PARATHYROID.

Nature of Allegation:

SURGERY RELATED (020)

Specific Allegation:

WRONG PROCEDURE OR TREATMENT (334)

Date of Event Associated With Allegation or Incident:

06/26/2000

Outcome:

MINOR PERMANENT INJURY (05)

Description of the Allegations and Injuries or Illnesses Upon Which the Action or Claim Was Based:

PLAINTIFFS EXPERT ALLEGES AS CONSEQUENCE OF SURGERY, PATIENT IS LEFT WITH PERMANENT, SYMPTOMATIC HYPOCALCEMIA REQUIRING DAILY TAKING OF CALCIUM AND VITAMIN D; FREQUENT DOCTORS VISITS AND BLOOD TESTS TO MONITOR HER CALCIUM LEVELS. THE PATIENT HYPOCALCEMIA CAN BE DIFFICULT TO TREAT IN ORDER TO RETURN HER TO NORMAL LEVELS OF CALCIUM. THIS COMPLICATION WAS THE RESULT OF OVERLY AGGRESSIVE SURGERY IN THE FORM OF NEAR TOTAL PARATHYROIDECTOMY (INTENTIONAL REMOVAL

OF 2 NORMAL PARATHYROID GLANDS AN ADENOMA) LEAVING PATIENT WITH ONE PARATHYROID GLAND WITH INADEQUATE BLOOD SUPPLY TO MAINTAIN NORMAL CALCIUM LEVELS. INSURED EXPERT WITNESS SUSTAINS THAT, ALTHOUGH, UNFORTUNATE THAT PATIENT DEVELOPED POST-OPERATIVE HYPOPARATHYROIDISM, THE SURGERY ITSELF WAS CLEARLY INDICATED AND THIS IS A RECOGNIZED COMPLICATION OF THE PROCEDURE. THE PATIENT WAS AWARE OF THIS COMPLICATION AND DECIDED TO PROCEED WITH THE OPERATION BECAUSE, LONGSTANDING UNTREATED PRIMARY HYPERPARATHYROIDISM COULD HAVE RESULTED IN SERIOUS HEALTH COMPLICATIONS FOR HER, INCLUDING KIDNEY STONES AND OSTEOPOROSIS. INSURED FOLLOWED ACCEPTED STANDARD OF CARE IN HIS MANAGEMENT OF PATIENT'S CASE. BESIDES, THE CONSUMPTION OF CALCIUM, THAT IS RECOMMENDED FOR ANY WOMEN ABOVE 40 YEARS OLD, NO DAMAGES RESULTED FROM THE INSURED INTERVENTION.

D. SUBJECT STATEMENT

If the subject identified in Section B of this report has submitted a statement, it appears in this section.

Date of Original Submission: 01/08/2016

Date of Most Recent Change: 01/08/2016

This report is maintained under the provisions of:
Title IV

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The information contained in this report is maintained by the National Practitioner Data Bank for restricted use under the provisions of Title IV of Public Law 99-660, as amended, and 45 CFR Part 60. All information is confidential and may be used only for the purpose for which it was disclosed. Disclosure or use of confidential information for other purposes is a violation of federal law. For additional information or clarification, contact the reporting entity identified in Section A.

**STATEMENT OF THE
AMERICAN COLLEGE OF SURGEONS
*THE PHYSICIAN ACTING
AS AN EXPERT WITNESS*
(APRIL 1, 2011)**



STATEMENTS

**Statement on the
Physician Acting as an
Expert Witness**

April 1, 2011

June 2000 issue of the Bulletin. This revised statement incorporates revisions recommended by the College's Central Judiciary Committee and was approved by the Board of Regents at its February 2011 meeting.

Physicians understand that they have an obligation to testify in court as expert witnesses on behalf of the plaintiff or defendant as appropriate. The physician who acts as an expert witness is one of the most important figures in malpractice litigation. In response to the need to define the recommended qualifications for the physician expert witness and the guidelines for his or her behavior, the Patient Safety and Profes-

sional Liability Committee of the American College of Surgeons has issued the following statement. Failure to comply with either the recommended qualifications for the physician who acts as an expert witness, or with the recommended guidelines for behavior of the physician acting as an expert witness, may constitute a violation of one or more of the *Bylaws* Of the American College of Surgeons.

Recommended Qualifications for the Physician Who Acts as an Expert Witness:

- The physician expert witness must have had a current, valid, and unrestricted state license to practice medicine at the time of the alleged occurrence.
- The physician expert witness should have been a diplomate of a specialty board recognized by the American Board of Medical Specialties at the time of the alleged occurrence and should be qualified by experience or demonstrated competence in the subject of the case.
- The specialty of the physician expert witness should be appropriate to the subject matter in the case.
- The physician expert witness who provides testimony for a plaintiff or a defendant in a case involving a specific surgical procedure (or procedures) should have held, at the time of the alleged occurrence, privileges to perform those same or similar procedures in a hospital accredited by The Joint Commission or the American Osteopathic Association.

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- The physician expert witness should be familiar with the standard of care provided at the time of the alleged occurrence and should have been actively involved in the clinical practice of the specialty or the subject matter of the case at the time of the alleged occurrence.
- The physician expert witness should be able to demonstrate evidence of continuing medical education relevant to the specialty or the subject matter of the case.
- The physician expert witness should be prepared to document the percentage of time that is involved in serving as an expert witness. In addition, the physician expert witness should be willing to disclose the amount of fees or compensation obtained for such activities and the total number of times he or she has testified for the plaintiff or defendant.

Recommended Guidelines for Behavior of the Physician Acting as an Expert Witness:

- Physicians have an obligation to testify in court as expert witnesses when appropriate. Physician expert witnesses are expected to be impartial and should not adopt a position as an advocate or partisan in the legal proceedings.
- The physician expert witness should review all the relevant medical information in the case and testify to its content fairly, honestly, and in a balanced manner. In addition, the

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physician expert witness may be called upon to draw an inference or an opinion based on the facts of the case. In doing so, the physician expert witness should apply the same standards of fairness and honesty.

- The physician expert witness should be prepared to distinguish between actual negligence (substandard medical care that results in harm) and an unfortunate medical outcome (recognized complications occurring as a result of medical uncertainty).
- The physician expert witness should review the standards of practice prevailing at the time and under the circumstances of the alleged occurrence.
- The physician expert witness should be prepared to state the basis of his or her testimony or opinion and whether it is based on personal experience, specific clinical references, evidence-based guidelines, or a generally accepted opinion in the specialty. The physician expert witness should be prepared to discuss important alternate methods and views.
- Compensation of the physician expert witness should be reasonable and commensurate with the time and effort given to preparing for deposition and court appearance. It is unethical for a physician expert witness to link compensation to the outcome of a case.
- The physician expert witness is ethically and legally obligated to tell the truth. Transcripts of depositions and courtroom testimony are

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public records and subject to independent peer reviews. Moreover, the physician expert witness should willingly provide transcripts and other documents pertaining to the expert testimony to independent peer review if requested by his or her professional organization. The physician expert witness should be aware that failure to provide truthful testimony exposes the physician expert witness to criminal prosecution for perjury, civil suits for negligence, and revocation or suspension of his or her professional license.

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633 N Saint Clair St.
Chicago, IL 60611-32

**LETTER FROM JOSE R. CARLO
(NOVEMBER 23, 2021)**

Jose R. Carlo, MD, FAAN
Neurology and Neuromuscular Diseases
400 Roosevelt Ave. Suite 402
San Juan, PR 00918

To Whom It May Concern

Regarding the matter "if a decreased Calcium level (as in hypoparathyroidism) can cause Alzheimer's disease"; there is no scientific evidence that low Calcium or hypoparathyroidism can cause the degenerative neurological condition of Alzheimer's disease.

Alzheimer's disease is a degenerative neurological condition with a defined pathology which results in a progressive dementia. There is no scientific evidence that Alzheimer's disease is caused, or is the result of, low Calcium as in hypoparathyroidism.

Sincerely,

/s Jose R. Carlo

Jose R. Carlo, MD, FAAN
Professor of Neurology
School of Medicine of the University of Puerto Rico
Fellow American Academy of Neurology
Fellow American Association of Neuromuscular and
Electrodiagnostic Medicine
Former member, Practice Committee of the

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Neuromuscular Section of the American Academy of
Neurology

**LETTER FROM JOSE R. CARLO
(OCTOBER 5, 2020)**

Jose R. Carlo, MD, FAAN
Neurology and Neuromuscular Diseases
400 Roosevelt Ave. Suite 402
San Juan, PR 00918
787-767-2248, Fax: 787-766-3219

To Whom It May Concern

I am writing in reference to the following question:
Can the condition of hypoparathyroidism originate, or
cause, a permanent dementia, or Alzheimer's disease?

Hypo-parathyroidism may give origin to transitory mental changes due to the metabolic abnormalities that this condition may cause. In other words, the hormonal abnormalities due to the condition of hypoparathyroidism, can cause a "metabolic encephalopathy" (a brain dysfunction due to alteration in metabolism) of a temporary nature. Such transient abnormalities in mental function may also occur in other hormonal disorders, like uncontrolled Diabetes or abnormal thyroid function. In such cases, including hypoparathyroidism, the hormonal abnormalities affecting brain function, *may mimic (imitate) a dementia temporarily* without causing or originating a permanent dementia. Cases of patients with hypoparathyroidism with altered mental functions simulating a dementia, are reversible, with the patient returning to a normal mental status once the metabolic disorder is treated.

By definition, a dementia, including the condition of Alzheimer's, is a degenerative cerebral condition of

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a permanent and progressive nature which affects cognitive functions. Alzheimer's disease still is a degenerative brain condition of unknown cause, and remains a progressive degenerative pathologic condition. Hypoparathyroidism does not originate a dementia, and specifically, does not cause Alzheimer's disease.

Sincerely,

/s/ Jose R. Carlo
Jose R. Carlo, MD, FAAN
Professor of Neurology
School of Medicine
University of Puerto Rico
jose.carlo@upr.edu



SUPREME COURT
PRESS