

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

LUIS CAMACHO ORTIZ,

Plaintiff,

vs.

**MUNICIPIO DE SAN JUAN;
CARMEN YULIN CRUZ, in her
official and personal capacities,
MARTA VERA RAMIREZ, in
her personal and official capacities,
CARMEN SERRANO, in her
personal and official capacities,
GUILLERMO CALIXTO
RODRIGUEZ, in his personal and
official capacities, JOHN DOE,
JANE DOE and their respective
conjugal partnerships, individuals
whose identities are currently
unknown, INSURANCE
COMPANY ABC,
CORPORATION DEF, entities
whose identities are currently
unknown,**

Defendants.

CASE NO.

**COMPLAINT AND DEMAND FOR
JURY TRIAL 42 U.S.C. § 1983**

I. NATURE OF THE ACTION

1. This is a 1983 action based on Defendants' retaliation against Plaintiff for exercising his First Amendment rights. Plaintiff invokes the Court's pendent jurisdiction to plead local civil rights and tort claims.

PARTIES

2. Plaintiff Luis Camacho residing in Gurabo, Puerto Rico, who is covered by the statutes invoked herein.

3. Defendant Carmen Yulin Cruz is the mayor of San Juan. She is sued in her official capacity for injunctive relief and in her personal capacity for money damages.

4. Defendant Marta Vera Ramirez is the Director of the Human Resources officer for the Municipality of San Juan. She is sued in her official capacity for injunctive relief and in her personal capacity for money damages.

5. Defendant Carmen Serrano is the Director of the Municipality of San Juan's press office. She is sued in her official capacity for injunctive relief and in her personal capacity for money damages.

6. Defendant Guillermo Calixto Rodriguez was the police commissioner of the Municipality of San Juan at the times the events set forth in the Complaint occurred. He is sued in his official capacity for injunctive relief and in his personal capacity for money damages.

7. Defendants John Doe and Jane Doe and their respective conjugal partnerships are individuals who are currently unknown who may be liable for the allegations set forth in this Complaint.

8. Defendant Insurance Company ABC is an entity the identity of which is currently unknown, which may be liable to Mr. Camacho for the allegations set forth in this Complaint.

9. Defendant Corporation DEF is an entity the identity of which is currently unknown, which may be liable to Mr. Camacho for the allegations set forth in this Complaint.

II. JURISDICTION AND VENUE

10. This Court has subject matter jurisdiction over the federal cause of action under 42 U.S.C. §1983 and under the Puerto Rico causes of action pursuant to its pendent jurisdiction to her the claims as the Defendants' violations of Puerto Rico's Laws 100 and 115 and Articles 1802 and 1803 of the Puerto Rico Civil Code.

11. Venue is proper in this District because the acts giving rise to Plaintiffs' claims occurred in this District, and because Defendants reside in this District.

III. FACTS

12. Luis Camacho Ortiz began working for the Police Force of the Municipio de San Juan in 1998.

13. In 2012, the municipality promoted Mr. Camacho to sergeant.

14. In addition to his work on the police force, Sergeant Camacho operated a webpage called tusnoticiaspr.com.

15. In October 2015, Defendants Vera and Serrano drafted a report dated October 20, 2015 detailing all of the articles published on tusnoticias.com that the Defendants understood harmed the image of Mayor Cruz.

16. Defendant Cruz instructed Defendants Vera and Serrano to draft that memorandum.

17. The memorandum is not on official stationery and lacks the control number that documents from the municipality are required to have.

18. Mr. Camacho never wrote a single article about the San Juan Municipal Police Force.

19. tusnoticias's webmaster, Manuel Gonzalez, wrote all the articles about the San Juan Municipal Police Force based on information sent to the website or received by other means.

20. No article tusnoticias.com published contained information that Mr. Camacho learned from his work as a sergeant in the San Juan Municipal Police.

21. The memorandum does not mention the articles published by tusnoticias.com that showed Mayor Cruz in a positive light.

22. Defendant Vera testified falsely at an administrative hearing held at Comision de Investigacion Procesamiento y Apelacion (CIPA), stating that Mr. Camacho had appeared at a press conference held by Mayor Cruz when the municipality opened a new precinct in Rio Piedras.

23. On information and belief Defendant Vera made that statement in order to prove her allegation that Mr. Camacho was working as a journalist.

24. There is no rule or regulation that precludes a municipal police officer from working as a journalist.

25. The memorandum stated that Mr. Camacho had reported that the municipality was stealing electricity and that the delinquency on Calle Universidad was out of control despite the complaints of residents, among other matters.

26. The memorandum concedes that none of the articles cited are signed by Mr. Camacho or mention his name.

27. Nonetheless, Defendant Vera accuses Mr. Camacho of calumny, libel or defamation, using offensive, improper, and denigrating language, and conduct that is harmful, immoral, or disorderly in detriment of the San Juan Municipal Police Force.

28. The memorandum does not mention the First Amendment, the right of free speech enshrined in the Puerto Rico Constitution or Law 115, Puerto Rico's law prohibiting retaliation for whistleblowing.

29. Defendant Vera is an attorney.

30. Mr. Camacho never received notice of the October 20, 2015 memorandum.

31. Defendant Serrano in her role as Director of the San Juan Press Office, used her media contacts to investigate Mr. Camacho.

32. Defendant Serrano called Raymond Ferrer, who was then the Deputy Commissioner of the San Juan Municipal Police, on various occasions instructing him to fire Mr. Camacho whenever Mr. Camacho published information that showed the mayor and/or the municipality in a negative light.

33. Mr. Ferrer informed Defendant Serrano that there was no legal basis to fire Mr. Camacho based on articles published in tusnoticias.com.

34. Defendant Calixto instructed Inspector Heriberto Pagan Concepcion to stop assigning overtime work to Mr. Camacho, according to information learned by Plaintiff in September 2018 as the result of a conversation with former Deputy Director, now Captain Raymond Ferrer.

35. On January 20, 2016 Deputy Director Ferrer gave Defendant Calixto a report with communication number DPSP-OC-C-2016-12.

36. That report should have led to a formal investigation, but on information and belief, no such investigation ever occurred.

37. All Defendants used their positions with the municipal to instruct Mr. Camacho's superiors to have Mr. Camacho's actions monitored.

38. On July 4, 2016 a baby drowned on the grounds of Casa Cuna San Juan, a home for babies who have been removed from their parents' custody.

39. Mayor Cruz claimed that the swimming pool was not authorized on the building's grounds and fired three line employees.

40. On July 6, 2016 tusnoticias.com published photographs of not one, but three inflatable pools on the Casa Cuna grounds.

41. On July 8, 2016 tusnoticias.com published a copy of a document from the San Juan municipality ordering water to fill an inflatable pool.

42. The document was signed by the Deputy Director of Emergency Management of San Juan and mentions cleaning and filling two pools with water.

43. After tusnoticias.com published those two articles, the Municipality of San Juan ordered Sergeant Camacho to use up all his vacation and sick leave.

44. Mr. Camacho traveled to Cleveland, Ohio during this time.

45. On August 15, 2016, when Mr. Camacho was out of town Deputy Director Ferrer notified him that charges had been filed against Mr. Camacho and informed him that he would be notified of the charges based on a complaint as to Mr. Camacho's negligence on June 17 and 20, 2016.

46. Mr. Camacho received the notice on August 24, 2016, but he was never notified to provide his version of events.

47. On June 25, 2017, Mr. Camacho, exhausted by Defendants' constant harassment, presented his resignation to the San Juan Municipal Police Force.

48. The resignation was a constructive dismissal because Defendants were precluding Mr. Camacho from doing his job.

49. Deputy Director Ferrer recommended that the police force accept the resignation.

50. Deputy Director Ferrer knew Mr. Camacho as a responsible employee, who knew his job, and was disciplined.

51. On July 3, 2017, the San Juan Municipal Police rejected Mr. Camacho's resignation and fired him.

52. The dismissal was based on a letter dated May 10, 2017, which Mr. Camacho did not receive until after his dismissal.

53. The letter lists letters that tunoticias.com published about San Juan.

54. The letter cites Mr. Camacho's press credentials as evidence that his work as journalist interfered with his work as a police officer, even though journalists who work part time and free lance are entitled to press credentials, according to the very regulation cited by defendants as being incompatible with his work as a police officer.

55. The letter also cited Mr. Camacho for not observing the law; not having exemplary conduct; and not keeping matters related to his job confidential.

56. Mr. Camacho never revealed confidential matters relating to his job.

57. Letter accuses Mr. Camacho of calumny, libel, or defamation, none of which Mr. Camacho committed.

58. The letter mentions a hearing scheduled for May 18, 2017, but Mr. Camacho did not receive the letter until after that date.

59. Mr. Camacho did not learn of the information about Captain Ferrer's involvement in the case, including Defendants Vera and Serrano's involvement and the order to deprive Mr. Camacho of overtime until September 2018.

60. Mr. Camacho's counsel sent notices of his intent to sue the defendants whose conduct he did know of in a timely fashion to interrupt the relevant statutes of limitation.

IV. LEGAL CLAIMS

COUNT I: 42 U.S.C. § 1983

61. Plaintiff hereby incorporates by reference the preceding paragraphs as though fully set forth herein.

62. Defendants deprived Mr. Camacho of his property without due process of law by firing him without affording him with an opportunity to be heard or notice of the charges against him before his dismissal.

63. Defendants violated Mr. Camacho's First Amendment rights by firing him for owning tusnoticias.com, which published information that was and is of public importance without violating his obligation to keep work matters confidential.

64. Mr. Camacho is entitled to be compensated for the harm caused to him by Defendants; punitive damages against Defendants to assure that they do not behave this way in the future; reinstatement and back wages; and injunctive relief carefully tailored to insure that the Municipio de San Juan does not continue to violate its employees' constitutional rights.

65. Mr. Camacho estimates his damages to amount to not less than \$1,000,000 to compensate him for his lost overtime, lost wages, emotional harm, punitive damages, attorneys' fees and costs pursuant to 42 U.S.C. §1988.

COUNT II: VIOLATION OF PUERTO RICO'S LAW 100

66. Plaintiff hereby incorporates by reference the preceding paragraphs as though fully set forth herein.

67. Defendants also violated Section 4 of the Article II of Puerto Rico's Constitution and discriminated against Mr. Camacho for exercising his right to freedom of expression.

68. Plaintiffs and the putative class members seek actual damages, injunctive and declaratory relief, attorneys' fees, costs, and any other just and proper relief available under the laws of the Commonwealth of Puerto Rico.

COUNT III: VIOLATION OF PUERTO RICO'S LAW 115

69. Plaintiff hereby incorporates by reference the preceding paragraphs as though fully set forth herein.

70. Law 115 prohibits an employer and the employer's agents from dismissing, threatening, or discriminating against an employee for reporting the employer's illegal conduct, which Defendants here did.

71. Law 115 provides for compensation for emotional harm, back wages and fringe benefits as well as attorneys' fees and expense.

72. Under Law 115 compensation for emotional harm and back wages and fringe benefits is doubled.

73. Mr. Camacho calculates his damages under Law 115 to be no less than \$2 million.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs and the putative class members respectfully request that the Court enter judgment in their favor and against Defendants as follows:

- A. Enjoining the Municipality of San Juan from discriminating against its employees based on their exercise of their First Amendment rights;
- B. Reinstating Mr. Camacho;
- C. Awarding damages in an amount to be established at trial;
- D. Awarding attorneys' fees and costs, and other relief;
- E. Granting such other and further relief as to this Court may seem just and proper.

VI. JURY DEMAND

Plaintiff requests that all issues herein shall be tried to a jury.

July 13, 2019

Respectfully submitted,

BECKER VISSEPÓ, PSC

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