

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

DANIELA ARROYO GONZÁLEZ; VICTORIA RODRÍGUEZ ROLDÁN; J.G.; and PUERTO RICO PARA TOD@S,

Plaintiffs,

v.

RICARDO ROSSELLÓ NEVARES, in his official capacity as Governor of the Commonwealth of Puerto Rico; RAFAEL RODRÍGUEZ MERCADO, in his official capacity as Secretary of the Department of Health of the Commonwealth of Puerto Rico; and WANDA LLOVET DÍAZ, in her official capacity as Director of the Division of Demographic Registry and Vital Statistics of the Commonwealth of Puerto Rico,

Defendants.

Civil No. 3:17-cv-01457-CCC

**AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

Plaintiffs Daniela Arroyo González; Victoria Rodríguez Roldán; J.G.¹ (collectively, “Individual Plaintiffs”); and Puerto Rico Para Tod@s (together with the “Individual Plaintiffs,” the “Plaintiffs”), by and through their attorneys, file this Complaint for Declaratory and Injunctive Relief against Defendants Ricardo Rosselló Nevares, in his official capacity as Governor of the Commonwealth of Puerto Rico; Rafael Rodríguez Mercado, in his official capacity as Secretary of the Department of Health of the Commonwealth of Puerto Rico; and Wanda Llovet Díaz, in her official capacity as Director of the Registry of Vital Records and Statistics of the Commonwealth of Puerto Rico (collectively, “Defendants”), and respectfully allege as follows:

¹ Plaintiff J.G. has filed a motion to proceed using his initials, rather than his full name, in order to protect his privacy regarding his transgender status and his medical condition and treatment.

INTRODUCTION

1. Plaintiffs are transgender persons born in Puerto Rico and an organization that represents lesbian, gay, bisexual, and transgender (“LGBT”) people and their families in their struggle for social inclusion, equality, and fairness in Puerto Rico. Some Individual Plaintiffs reside in Puerto Rico, while others live in the continental United States, as described below.

2. Individual Plaintiffs and transgender members of Puerto Rico Para Tod@s wish to correct their respective Puerto Rico birth certificates to accurately reflect who they are, consistent with their gender identities. Plaintiffs further wish to have such corrections reflected by the issuance of new birth certificates, and specifically not by amendment with a strike-out line through the information on their original birth certificates. Plaintiffs are barred, however, from correcting the gender marker on their birth certificates, let alone in a manner that does not disclose their transgender status, under the practices and policies of the Commonwealth of Puerto Rico (hereinafter the “Birth Certificate Policy”).

3. Possessing accurate identification documents, like birth certificates, that reflect a person’s genuine, real-world self and that are consistent with a person’s gender identity—a person’s core internal sense of their own gender—is essential to basic social and economic functioning in our society. A birth certificate is a critical and ubiquitous identification document used in many settings to verify an individual’s identity. Access to employment, education, housing, health care, banking, travel, and government services all hinge on having appropriate and accurate personal documentation that reflects a person’s true identity. Not only are birth certificates themselves commonly used for such purposes, but they are also required for obtaining other essential identification documents.

4. For most transgender people, the gender marker on their original birth certificate is inaccurate because they were assigned the incorrect sex at birth. Correcting the gender marker on their birth certificate is thus critically important for transgender people in order to have identification documents that accurately and correctly reflect who they are. Few things are as essential to one's personhood as being able to correctly and accurately identify one's gender to the world.

5. Individual Plaintiffs and transgender members of Puerto Rico Para Tod@s wish to correct their Puerto Rico birth certificates to accurately reflect their sex. Individual Plaintiffs and transgender members of Puerto Rico Para Tod@s were assigned at birth a particular sex on their birth certificates that is incorrect and is inconsistent with their gender identity. Non-transgender (i.e., cisgender) people born in Puerto Rico receive a birth certificate that accurately reflects their sex, while transgender people alone are barred from having an accurate birth certificate that is consistent with their gender identity.

6. The Commonwealth of Puerto Rico (sometimes referred to herein as simply the "Commonwealth") categorically refuses to correct the gender markers on transgender persons' birth certificates to accurately reflect their sex in a manner that is consistent with their gender identity, regardless of what steps such persons have taken to live in a manner consistent with their gender identity. Such an absolute bar stands in sharp contrast to the approach of the overwhelming majority of jurisdictions in the United States, nearly all of which allow transgender persons to correct the gender marker on their birth certificates to match their gender identity and accurately reflect their sex. Indeed, this categorical bar is also inconsistent with Puerto Rico's own practice of permitting transgender persons to correct the gender marker on their driver's licenses to match their gender identity.

7. Puerto Rico's policy categorically barring transgender people from correcting the gender marker on their birth certificates establishes a barrier to the full engagement in society by transgender people and subjects transgender people to invasions of privacy, prejudice, discrimination, humiliation, harassment, stigma, and even violence. For transgender people who suffer from gender dysphoria, being denied the ability to correct the gender marker on their birth certificates interferes with their medical treatment and may increase their dysphoria and distress.

8. The United States Constitution guarantees all persons equal dignity, the equal protection of the laws, fundamental rights of liberty and privacy, freedom of expression, and freedom from compelled speech. Those constitutional guarantees protect personal decisions central to individual dignity and personal autonomy, including intimate decisions that define personal identity, such as a person's gender identity. Puerto Rico's refusal to provide accurate birth certificates to transgender people that are consistent with their gender identity violates these federal constitutional guarantees.

9. There is no compelling, important, or even legitimate governmental justification to support Puerto Rico's refusal to provide transgender people with accurate birth certificates matching their gender identity.

JURISDICTION AND VENUE

10. This action arises under 42 U.S.C. §§ 1983 and 1988 to redress the deprivation under color of state or territorial law of rights secured by the United States Constitution.

11. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under the laws and the Constitution of the United States.

12. Venue is proper in this Court under 28 U.S.C. § 1391(b) because all Defendants reside within the District of Puerto Rico, Defendants reside and have offices within the District of Puerto Rico, and/or a substantial part of the events that gave rise to Plaintiffs' claims occurred, and will continue to occur, within the District of Puerto Rico.

13. This Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, and 28 U.S.C. §§ 2201 and 2202.

14. This Court has personal jurisdiction over Defendants because they are domiciled in the Commonwealth and/or have otherwise made and established contacts with the District of Puerto Rico sufficient to permit the exercise of personal jurisdiction over them.

PARTIES

A. The Plaintiffs

Plaintiff Daniela Arroyo González

15. Plaintiff Daniela Arroyo González (“Ms. Arroyo”) is an 18-year-old woman who was born in Arecibo, Puerto Rico and currently resides in Moca, Puerto Rico. She is transgender. Ms. Arroyo wishes to correct her Puerto Rico birth certificate, which currently indicates her sex as male, to accurately reflect her sex as female, as determined by her gender identity.

Plaintiff Victoria Rodríguez Roldán

16. Plaintiff Victoria Rodríguez-Roldán (“Ms. Rodríguez-Roldán”) is a 28-year-old woman who was born in Río Piedras, Puerto Rico and currently resides in the District of Columbia. She is transgender. Ms. Rodríguez-Roldán wishes to correct her Puerto Rico birth certificate, which currently indicates her sex as male, to accurately reflect her sex as female, as determined by her gender identity.

Plaintiff J.G.

17. Plaintiff J.G. is a 25-year-old man who was born in and currently resides in Puerto Rico. He is transgender. J.G. wishes to correct his Puerto Rico birth certificate, which currently indicates his sex as female, to accurately reflect his sex as male, as determined by his gender identity.

Puerto Rico Para Tod@s

18. Plaintiff Puerto Rico Para Tod@s is a leading organization advocating for the equality and dignity of LGBT people and their families in the Commonwealth of Puerto Rico. It has members throughout the Commonwealth and works collaboratively to secure, protect, and defend the equal civil rights and welfare of LGBT people in the Commonwealth. Many transgender members of Puerto Rico Para Tod@s, including Plaintiff Daniela Arroyo González, wish to correct their Puerto Rico birth certificates to accurately reflect their gender identity.

B. The Defendants

19. Defendant Ricardo Rosselló Nevares (“Gov. Rosselló Nevares”) is sued in his official capacity as Governor of the Commonwealth of Puerto Rico. In his capacity as governor, Gov. Roselló Nevares executes the laws of the Commonwealth, including the Vital Statistics Registry Act of Puerto Rico (hereinafter the “Vital Statistics Registry Act”), and supervises the official conduct of all executive and ministerial officers who implement and enforce the Vital Statistics Registry Act. Gov. Roselló Nevares has knowingly encouraged, condoned, and acquiesced in the acts barring Plaintiffs from living consistently with their gender identity, including correcting the gender marker on their birth certificates. Gov. Roselló Nevares is a person within the meaning of 42 U.S.C. § 1983 and has acted under color of state or territorial law at all times relevant to this Complaint.

20. Defendant Rafael Rodríguez Mercado (“Secretary Rodríguez Mercado”) is sued in his official capacity as Secretary of the Department of Health of the Commonwealth of Puerto Rico. Pursuant to 24 L.P.R.A. § 1231, Secretary Rodríguez Mercado’s duties include, among others, “prepar[ing], caus[ing] to be printed, and furnish[ing] to the keepers of the Registers, all books, printed matter and forms to be used for the registration of births . . . occurring or taking place in the Commonwealth of Puerto Rico.” Further, pursuant to 24 L.P.R.A. § 1231, Secretary Rodríguez Mercado “prepare[s] and distribute[s] such detailed instruction . . . as may be necessary for the uniform application [of the Vital Statistics Registry Act].” Secretary Rodríguez Mercado also supervises and manages the Commonwealth’s Director of the Division of Demographic Registry and Vital Statistics, Defendant Wanda Llovet Díaz. Secretary Rodríguez Mercado ensures compliance in all of these functions with the relevant Commonwealth laws, including those that bar transgender persons born in Puerto Rico from correcting the gender markers on their birth certificates. Secretary Rodríguez Mercado is a person within the meaning of 42 U.S.C. § 1983 and has acted under color of state or territorial law at all times relevant to this Complaint.

21. Defendant Wanda Llovet Díaz (“Ms. Llovet Díaz”) is sued in her official capacity as the Director of the Division of Demographic Registry and Vital Statistics of the Commonwealth (hereinafter the “Demographic Registry”). In her official capacity, pursuant to 24 L.P.R.A. § 1071, Ms. Llovet Díaz is “in charge of all matters connected with the registration of births, marriages and deaths which may occur or take place in Puerto Rico.” Ms. Llovet Díaz also ensures compliance in all of these functions with the relevant Commonwealth laws, including those that bar transgender persons born in Puerto Rico from correcting the gender markers on their birth certificates. Ms. Llovet Díaz is a person within the meaning of 42 U.S.C. § 1983 and has acted under color of state or territorial law at all times relevant to this Complaint.

STATEMENT OF FACTS

Sex, Gender Identity, and Gender Dysphoria

22. A person has multiple sex-related characteristics, including hormones, external and internal morphological features, external and internal reproductive organs, chromosomes, and gender identity. These characteristics may not always be in alignment.

23. The phrase “sex assigned at birth” refers to the sex recorded on a person’s birth certificate at the time of birth. Typically, a person is assigned a sex on their birth certificate solely on the basis of the appearance of external reproductive organs at the time of birth. Other sex-related characteristics (such as a person’s chromosomal makeup and gender identity, for example) are typically not assessed or considered at the time of birth.

24. Gender identity—a person’s core internal sense of their own gender—is the primary factor in determining a person’s sex. Every person has a gender identity. There is a medical consensus that gender identity is innate and that efforts to change a person’s gender identity are unethical and harmful to a person’s health and well-being.

25. Although there is no one definitive factor that determines gender identity, biological factors, including sexual differentiation in the brain, have a role in gender identity development.

26. Gender identity is the primary factor in establishing a person’s sex. While external reproductive organs are but one of a number of sex-related characteristics that can make up a person’s sex, external reproductive organs are not always determinative of a person’s sex.

27. Transgender persons are people whose gender identity diverges from the sex they were assigned at birth. A transgender man’s sex is male (even though he was assigned the sex of

female at birth) and a transgender woman's sex is female (even though she was assigned the sex of male at birth).

28. Cisgender persons are people whose gender identity aligns with the sex they were assigned at birth. A cisgender man's sex is male (and was assigned the sex of male at birth) and a cisgender woman's sex is female (and was assigned the sex of female at birth).

29. Gender identity and transgender status are inextricably linked to one's sex and are sex-related characteristics.

30. Although gender identity is often established in early childhood, a transgender person may begin to manifest a gender identity inconsistent with their sex assigned at birth at any time from early childhood through adulthood. Publicly asserting a gender identity different from one's sex assigned at birth is a deeply personal step for transgender people. Often, although not always, taking such steps is made in consultation with family, medical and health care providers, and others.

31. The incongruence between a transgender person's gender identity and sex assigned at birth can sometimes be associated with gender dysphoria. Gender dysphoria is a serious medical condition recognized in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders, Fifth Ed. (2013) ("DSM-V"), and by the other leading medical and mental health professional groups, including the American Medical Association and the American Psychological Association.

32. Gender dysphoria refers to clinically significant distress that can result when a person's gender identity differs from the person's sex assigned at birth. If left untreated, gender dysphoria may result in psychological distress, anxiety, depression, and suicidal ideation or even self-harm.

33. Treatment of gender dysphoria is usually provided pursuant to the Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, published by the World Professional Association of Transgender Health (“WPATH”).

34. Medical treatment for gender dysphoria must be individualized and tailored to the medical needs of each patient.

35. These treatments do not change a transgender person’s sex, which is already determined by their gender identity. Attempts to change a person’s gender identity in order to bring it into alignment with the person’s sex assigned at birth are not only unsuccessful but also dangerous, risking psychological harm and even suicide.

36. By contrast, treatments for gender dysphoria align the transgender person’s body and lived experience with the person’s true sex. Among the steps that transgender people take to treat their gender dysphoria are: (1) social transition; (2) hormone therapy; and/or (3) gender-affirming surgery.

37. Social transition entails a transgender person living in accordance with the person’s gender identity. For example, for a transgender woman, social transition can include, among others, changing her first name to a name typically associated with women, no longer using male pronouns, changing her identity documents to indicate a female gender, wearing clothing and adopting grooming habits stereotypically associated with women, and otherwise living as a woman in all aspects of life.

38. Social transition requires that a transgender woman or a transgender man be recognized, respectively, as a woman or a man, respectively, and treated the same as all other women or men, respectively, by family members, coworkers, and others in the community.

39. Social transition is an important aspect of transition for a transgender person.

40. Living in a manner consistent with one's gender identity is critical to the health and well-being of all transgender people.

41. Living in a manner consistent with one's gender identity is also a key aspect of treatment for gender dysphoria for those who suffer from it.

42. Hormone therapy involves taking hormones typically associated with one's gender identity and other hormonal medications for the purpose of synchronizing one's secondary sex characteristics with one's gender identity. Hormone therapy can have significant masculinizing or feminizing effects, and help bring the body into alignment with a person's true sex.

43. Gender-affirming surgery includes various surgical procedures that transgender persons may undertake to bring their body into alignment with their gender identity, such as genital surgery or chest reconstruction surgery. Whether surgery is medically necessary or even appropriate, however, depends on the person. Many transgender persons never undergo gender-affirming surgery. For some, surgery is not medically necessary, while for others, it may be unsafe. Unfortunately, even for some for whom the surgery is medically necessary, they may still not be able to attain it because they are limited by financial resources, lack of insurance coverage, provider availability, and other barriers to accessing health care.

44. Not every person suffering from gender dysphoria undergoes the same treatment. From a medical and scientific perspective, there is no basis for refusing to acknowledge a transgender person's true sex based on whether that person has undergone surgery or any other medical treatment.

The Need for Accurate Birth Certificates Matching One's Gender Identity

45. A person's birth certificate is a trusted and essential government-issued document that serves as proof of a person's identity. For this reason, the government makes a copy of a birth

certificate available to the person reflected on the birth certificate, rather than merely reserving it for the government's own use.

46. The use of birth certificates to demonstrate identity is ubiquitous in our society. Birth certificates are commonly used in a wide variety of contexts and are one of the primary ways of proving age and citizenship. In the ordinary course of life, a birth certificate is often either required directly by employers and educational institutions for enrollment, or at a minimum, is required as a prerequisite to securing other important identification documents (such as driver's licenses, social security cards, passports, and other government identification documents), that could be accepted as a substitute.

47. Birth certificates are also commonly used in determining eligibility for enrolling in government programs. On information and belief, in Puerto Rico, birth certificates are used to apply for nutritional, health care, and housing assistance, among other services.

48. Because of these and other instances in which a birth certificate serves as proof of identity or citizenship, every person needs a birth certificate that accurately reflects their identity.

49. For transgender people, however, the gender marker originally placed on their birth certificate is inaccurate because it is based on assumptions usually made solely upon viewing the person's external reproductive organs at the time of their birth, without taking into consideration other relevant factors that determine a person's sex, including their gender identity.

50. A person's gender identity is the most important determinant of a person's sex.

51. In order to have an accurate birth certificate, a transgender person must be able to correct their birth certificate to list their true sex according to their gender identity.

52. For transgender people, being forced to use an inaccurate birth certificate that does not accurately reflect their sex and is inconsistent with their gender identity subjects them to harm,

including invasions of privacy, prejudice, discrimination, humiliation, harassment, stigma, and even violence.

53. Being forced to use a birth certificate that inaccurately reflects a person's sex and is inconsistent with a person's gender identity repeatedly risks disclosure of that person's transgender status, gender identity, and even medical treatment, which constitute deeply personal and sensitive information over which a transgender person has a reasonable expectation of privacy, and disclosure of which can jeopardize a person's safety and risk bodily harm.

54. Being forced to use a birth certificate that inaccurately reflects a person's sex and is inconsistent with a person's gender identity repeatedly risks disclosure of that person's transgender status and gender identity, which can jeopardize an individual's safety and risk bodily harm upon disclosure.

55. Denying transgender persons the means to correct a birth certificate to accurately reflect their sex can force these persons to disclose private information in contexts where it would otherwise remain undisclosed (such as when seeking employment or voting), regardless of whether a person's transgender status may otherwise be known by others (for example, by friends or family).

56. Transgender persons denied an accurate birth certificate are deprived of significant control over the circumstances surrounding disclosure of their transgender status, including when, where, how, and to whom their transgender status is disclosed.

57. As a result of being forced to use identification documents that are inconsistent with who they are, transgender persons face high levels of discrimination (including being denied service or asked to leave public accommodations, workplaces, or housing), harassment, and violence.

58. More generally, not having accurate identity documents can be a barrier to full engagement in society for transgender people. Transgender people experience substantial discrimination and harassment in a wide variety of settings, including in employment, education, public accommodations, health care, housing, and interactions with the government, including with law enforcement. Transgender persons are also disproportionately targeted for hate crimes in the United States and abroad, and particularly in Puerto Rico. These realities make the involuntary disclosure of a person's transgender status particularly harmful and dangerous.

59. The Commonwealth's Department of Transportation and Public Works permits transgender people to correct the gender marker on their driver's licenses so that the licenses accurately reflect their sex, as determined by their gender identity, even absent a changed birth certificate.

60. In many U.S. states, however, birth certificates are among the few documents accepted to correct the gender marker on a person's driver's license. In several states, a corrected birth certificate is necessary for correcting the gender marker on a driver's license. Thus, Puerto Rico's Birth Certificate Policy prevents people who were born in Puerto Rico and are now living in these jurisdictions from correcting the gender marker on their licenses.

61. Furthermore, denying transgender persons accurate birth certificates undermines rather than serves the purpose of verifying that a transgender person is, in fact, the same person reflected on that person's birth certificate. For example, a transgender man who has taken steps to bring his body and lived experience into alignment with his true sex and gender identity will correctly be perceived as male by others. Forcing that man to use a birth certificate that inaccurately states that he is female will cause others to question whether he is the same person

reflected on the birth certificate, exposing him to invasions of privacy, prejudice, discrimination, humiliation, harassment, stigma, and even violence.

62. Correcting one's birth certificate to match one's true sex, as determined by one's gender identity, is also an important aspect of the social transition process.

63. The government's refusal to provide transgender persons with a birth certificate that matches their gender identity constitutes a stigmatizing refusal to acknowledge their gender, which is particularly harmful given that a birth certificate is the quintessential identity document. This refusal deprives Plaintiffs of their equal dignity.

Puerto Rico's Birth Certificate Policy

64. Under the Vital Statistics Registry Act, the Commonwealth's Division of Demographic Registry and Vital Statistics is in charge of all matters connected with the registration of the births that take place in Puerto Rico. The Division of Demographic Registry and Vital Statistics exercises responsibility for registration, issuance, correction, and changes to Puerto Rico birth certificates.

65. Under the Vital Statistics Registry Act, all birth certificates must include, *inter alia*, the place of birth of a newborn, the place of residence of the newborn, the given name and surnames of the child, the date of birth, the names of the child's parents, and the sex of the newborn. It is the practice and policy of the Commonwealth to determine the sex of newborns, for purposes of their birth certificates, based solely on external reproductive organs.

66. Recognizing that the information in a birth certificate may sometimes be inaccurate or need updating, the Vital Statistics Registry Act and the regulations promulgated and enforced by Defendants permit the correction of errors and updating of birth certificate records.

67. For example, pursuant to 24 L.P.R.A. § 1231, any omissions or defects appearing

on any birth certificate before being registered and filed may be corrected by Defendants, and any corrections, additions, or amendments after a birth certificate has been registered and filed may be made pursuant to a court order. Changes, additions, or modifications of a name or surname can also be made pursuant to court order.

68. In addition, under 24 L.P.R.A. § 1136, following the adoption of a child, a birth certificate reflecting only the names of the adoptive parents must be substituted for the original registered birth certificate. The original registration certificate of the birth of the adoptee, the decision of the court, and other documents are kept in a sealed envelope and are considered highly confidential documents.

69. No specific statute or regulation prohibits the correction of the gender marker on a birth certificate in order to accurately reflect the sex of a transgender person. Nonetheless, the Supreme Court of Puerto Rico held in *Ex parte Delgado*, 165 D.P.R. 170 (2005), that the Vital Statistics Registry Act enforced by Defendants did not permit transgender people to correct the gender markers on their birth certificates.

70. As such, Defendants enforce a policy and practice that categorically prohibits transgender persons born in Puerto Rico from correcting the gender marker on their birth certificates to accurately reflect their sex, consistent with their gender identity, specifically without the inclusion of revision history that reasonably discloses one's transgender status.

71. Puerto Rico's Birth Certificate Policy stands in sharp contrast to the approach taken in nearly every U.S. state, which permit transgender persons to correct the gender markers on their birth certificates to accurately reflect their sex and match their gender identity. These states typically do not require that transgender persons undergo particular medical procedures, such as surgery, in order to correct the gender marker on their birth certificates.

72. Puerto Rico's Birth Certificate Policy also stands in stark contrast with the Commonwealth's own policy permitting transgender people to correct the gender marker on their driver's licenses to accurately reflect their sex, as determined by their gender identity. Pursuant to Executive Order No. 2015-29, the Commonwealth's Department of Transportation and Public Works permits transgender people to correct the gender marker on their driver's licenses so that the licenses accurately reflect their sex, as determined by their gender identity. The Commonwealth's Department of Transportation and Public Works also does not require that transgender persons have any particular form of medical procedure, such as surgery, in order to correct the gender marker on their driver's licenses. Such practice is consistent with mainstream medical organizations, which oppose requiring surgery in order for transgender persons to correct their identity documents.

73. Puerto Rico's Birth Certificate Policy is not supported by any compelling, important, or even legitimate government interest.

74. The Birth Certificate Policy lacks any necessary, narrowly-tailored, substantial or even rational relationship to any valid government interest, and it is not the least restrictive means of achieving any valid government interest.

75. The Birth Certificate Policy is maintained and motivated by animus toward transgender persons, including to the extent that it rests upon any actual or asserted statutory barriers to providing transgender persons with birth certificates that accurately reflect their sex and are consistent with their gender identity.

Plaintiffs' Lives and Experiences

Plaintiff Daniela Arroyo González

76. Plaintiff Daniela Arroyo González is an 18-year-old woman who was born in Arecibo, Puerto Rico and who currently resides in Moca, Puerto Rico. Ms. Arroyo is a high school senior who wishes to correct her birth certificate, which currently indicates that her sex is male, to accurately reflect her sex as female, as determined by her gender identity. After graduating high school, Ms. Arroyo plans to attend college in Puerto Rico and study psychology.

77. Ms. Arroyo is transgender. She was designated “male” on her birth certificate. Throughout her childhood and early adolescence, she experienced profound discomfort with being assumed to be a boy by others.

78. As early as around the age of 3 years old, Ms. Arroyo knew and felt that she was a girl. Growing up, she was interested in toys and activities that were stereotypically associated with girls and she dressed and acted in typically feminine manners.

79. Ms. Arroyo was raised as a boy and pushed into dressing and acting “like a boy.” Although she never questioned that she was a girl, she began asking herself questions like “why is my body different [from other girls]?” and “why do I have to act differently than who I am?”

80. Despite social pressures and the discomfort and distress she felt by being assumed to be a boy, Ms. Arroyo knew that she was a girl. And as a young girl, Ms. Arroyo remembers telling her family that she was indeed a girl.

81. Ms. Arroyo remembers the shame and discomfort she felt when she graduated from the ninth grade and was called by the name she was given at birth, one which was typically associated with the male sex she was incorrectly assigned at birth.

82. Around the age of 14 years old, Ms. Arroyo told her mother that she was transgender.

83. After she and her mother educated themselves, and with the support of her family, at the age of 14 years old, Ms. Arroyo began to socially and medically transition in order to align her lived experience and body characteristics with her gender identity.

84. In 2013, Ms. Arroyo was diagnosed with gender dysphoria. In consultation with her medical and mental health professionals, in 2016, Ms. Arroyo began to undergo medically necessary hormone therapy to relieve her gender dysphoria and to bring her body into alignment with her gender identity. The steps she has taken in her transition have brought Ms. Arroyo's outside appearance into alignment with her female identity so that the general public sees her as the woman she is.

85. In addition to undergoing medically necessary treatment for her gender dysphoria, Ms. Arroyo has sought to align her whole lived experience with her gender identity.

86. As she started aligning her lived experience with her true self, Ms. Arroyo faced discrimination and harassment in school.

87. As she started her sophomore year, Ms. Arroyo began wearing a female uniform to her high school, Escuela Superior Catalina Morales de Flores.

88. However, her high school denied her the ability to use the restroom consistent with her female gender identity. As a result, fearing for her safety and well-being, Ms. Arroyo was forced to exit school every time she needed to use a bathroom, and used the bathrooms in a private establishment across the street.

89. In 2016, after three years of prolonged and dogged advocacy by Ms. Arroyo, her school finally stopped forcing her to use the boys' restroom. Nonetheless, the school still

unlawfully denies Ms. Arroyo the ability to use the restroom consistent with her female gender identity, in part, because Puerto Rico's Birth Certificate Policy prohibits her from correcting the gender marker on her birth certificate.

90. In addition, cognizant of how transgender people, particularly transgender youth, regularly suffer discrimination, violence, and harassment in Puerto Rico, and based in part on her own experiences, in 2015 Ms. Arroyo co-founded, along with Raymond Rohena Pérez, the Puerto Rico Trans Youth Coalition, an organization dedicated to providing a safe haven and network for transgender youth in Puerto Rico. The Puerto Rico Trans Youth Coalition currently includes more than 200 participants.

91. In February 2017, Ms. Arroyo legally changed her name from the typically male name she was given at birth to her current typically female name.

92. In March 2017, Ms. Arroyo began the process to correct the name and gender marker on her identity documents, including her driver's license, Social Security records, and birth certificate, so that her identity documents would accurately reflect her identity and sex as female.

93. Ms. Arroyo has sought to correct both her name and the gender marker on her birth certificate. Though she has applied to correct her name on her birth certificate following her legal name change, she has been advised she cannot correct the gender marker on her birth certificate as a result of Puerto Rico's Birth Certificate Policy.

94. As a result, Ms. Arroyo's birth certificate and her other identification documents are inconsistent.

95. Because she turned 18 years old after the November 2016 elections, Ms. Arroyo has not had an opportunity to vote.

96. Ms. Arroyo is aware of several instances in which transgender people have been denied voter identification cards that accurately reflect their identity because they were unable to correct the sex on their birth certificates. Upon information and belief, in order to vote in primary and general elections in Puerto Rico, voters must present their voter identification cards at the voting polls. Issuing a voter registration card that does not accurately reflect the holder's sex forces transgender persons to disclose their transgender status in order to vote.

97. As a result, Puerto Rico's Birth Certificate Policy substantially burdens the right to vote of transgender persons.

98. Ms. Arroyo is stigmatized and harmed by Puerto Rico's Birth Certificate Policy. Ms. Arroyo needs her identity documents to be congruent with the woman that she is, and Ms. Arroyo believes that her identity should be recognized and respected by the Commonwealth.

99. Ms. Arroyo reasonably fears that possessing a birth certificate that fails to accurately reflect her sex, as determined by her gender identity, increases the chances that she will be subjected to an invasion of privacy, prejudice, discrimination, harassment, humiliation, or violence.

100. As a result of Puerto Rico's Birth Certificate Policy, Ms. Arroyo's current Puerto Rico birth certificate reflects the sex she was incorrectly assigned at birth, erroneously stating that she is male.

101. Being denied a birth certificate that accurately reflects her sex, as determined by her gender identity, is psychologically and emotionally harmful to Ms. Arroyo, who is faced with the persistent reminder that the Commonwealth of Puerto Rico does not respect her for who she is and does not recognize her personhood. Ms. Arroyo remains in reasonable fear of what may happen as a result of having to present her birth certificate. Puerto Rico's Birth Certificate Policy

subjects Ms. Arroyo to potential physical harm, particularly as a young transgender woman residing in Puerto Rico.

Plaintiff Victoria Rodríguez-Roldán

102. Plaintiff Victoria Rodríguez-Roldán is a 28-year-old woman who was born in Río Piedras, Puerto Rico and who currently resides in the District of Columbia. Ms. Rodríguez-Roldán wishes to correct her Puerto Rico birth certificate, which currently indicates that her sex is male, to accurately reflect her sex as female, as determined by her gender identity.

103. Ms. Rodríguez-Roldán is transgender. She was designated “male” on her birth certificate. Although she was raised as a boy, Ms. Rodríguez-Roldán played with stereotypically feminine toys and engaged in stereotypically feminine activities as a child.

104. Because Ms. Rodríguez-Roldán was perceived as a boy, when she displayed feminine traits, her peers harassed and violently assaulted her for behaving differently from other children who were assigned “male” at birth. She remembers learning that her feminine behavior was bad and something about which we was supposed to be ashamed. Indeed, in response to the bullying she was experiencing, adults entrusted with her care would simply encourage her to be and act “normal,” as if she was at fault for the harassment she was experiencing.

105. It was not until Ms. Rodríguez-Roldán was 14 years old that she encountered the term transgender. She was then able to understand the reason for her discomfort and distress growing up and to understand her identity as transgender. At that time, she confided in one of her cousins, but otherwise kept her gender identity a secret for fear that she would be rejected by her family, friends, and community.

106. On Ms. Rodríguez-Roldán’s first day of college at the University of Puerto Rico – Río Piedras in 2007, when she was 18 years old, she began to slowly tell friends and others she

trusted that she is transgender.

107. Around the same time, in 2007, Ms. Rodríguez-Roldán's medical provider diagnosed her with gender dysphoria. She then began to undergo medically-necessary hormone therapy to relieve her gender dysphoria and to bring her body into alignment with her gender identity. The steps she has taken in her transition have brought Ms. Rodríguez-Roldán's outside physical appearance into alignment with her female identity so that the general public sees her as the woman she is.

108. Ms. Rodríguez-Roldán has also taken steps to align her entire lived experience with her female gender identity.

109. Beginning in her sophomore year in college, Ms. Rodríguez-Roldán made ad hoc arrangements for herself to prevent herself from being "outed" or "misgendered" because she had not yet obtained a legal name change. For example, she informed her college professors of her chosen name, Victoria, prior to the start of a course so that her name would be correct for roll call and in order to prevent disclosure of her transgender status to students she might not know or confide in.

110. In 2011, while she was a student at the University of Maine School of Law, Ms. Rodríguez-Roldán legally changed her name to her typically female chosen name, and acquired a driver's license with her legal name and corrected gender marker. Thereafter, Ms. Rodríguez-Roldán also changed her name and gender marker on her social security records and on her U.S. passport.

111. However, Ms. Rodríguez-Roldán's birth certificate still incorrectly identifies her gender as male, despite her being a woman and despite the gender marker on her other government identification documents correctly identifying her as female.

112. Because of Puerto Rico's Birth Certificate Policy, Ms. Rodríguez-Roldán is prohibited from correcting the gender marker on her birth certificate, and she thus has considered it futile to attempt to correct her birth certificate. As a result, Ms. Rodríguez-Roldán's birth certificate and her other identification documents are inconsistent.

113. Ms. Rodríguez-Roldán has dedicated her professional life to eradicating discrimination and fighting for social justice in various capacities, including working for the United States Department of Labor's Civil Rights Center and currently as an advocate for transgender individuals in her job at a non-profit organization.

114. Ms. Rodríguez-Roldán is personally aware of the high incidence of violence and harassment directed at transgender persons as well as the high rates of employment and housing discrimination faced by transgender persons. She reasonably fears that possessing a birth certificate that fails to match her gender identity increases the chances that she will be subjected to invasions of privacy, prejudice, discrimination, distress, harassment, or violence, and she has taken steps to try to reduce those risks.

115. Ms. Rodríguez-Roldán is harmed by Puerto Rico's Birth Certificate Policy. She needs her identity documents to be congruent with the woman that she is and believes that her gender identity should be recognized and respected by the Commonwealth.

116. Ms. Rodríguez-Roldán reasonably fears that possessing a birth certificate that fails to accurately reflect her sex, as determined by her gender identity, increases the chances that she will be subjected to discrimination, harassment, or violence.

117. For example, while she was attending law school in Maine, Ms. Rodríguez-Roldán regularly traveled between Maine and Puerto Rico. Because Puerto Rico at the time did not permit transgender people to have driver's licenses accurately reflecting their true sex—as it still refuses

to permit with regard to birth certificates—and her identification documents were inconsistent with who she is, Ms. Rodríguez-Roldán was constantly misgendered by others as she traveled, causing her distress and humiliation.

118. As a result of Defendants’ Birth Certificate Policy, Ms. Rodríguez-Roldán’s current Puerto Rico birth certificate reflects the sex she was incorrectly assigned at birth solely based on external reproductive organs, erroneously stating that she is male.

119. Being denied a birth certificate that accurately reflects her sex, as determined by her gender identity, is psychologically and emotionally harmful to Ms. Rodríguez-Roldán, who is faced with the persistent reminder that the Commonwealth of Puerto Rico does not respect her for who she is and does not recognize her personhood. Ms. Rodríguez-Roldán remains in reasonable fear of what may happen as a result of having to present her birth certificate. Puerto Rico’s Birth Certificate Policy subjects Ms. Rodríguez-Roldán to potential physical harm, particularly as a transgender woman of color living in the District of Columbia area, which has high rates of violence against transgender women like herself.

Plaintiff J.G.

120. J.G. is a 25-year-old man who was born and raised in the greater San Juan, Puerto Rico metropolitan area. Plaintiff J.G. wishes to correct his Puerto Rico birth certificate, which currently indicates that his sex is female, to accurately reflect his sex as male, as determined by his gender identity. J.G. completed his undergraduate studies and currently works in sales and marketing for a private company in Puerto Rico.

121. J.G. is transgender. He was designated “female” on his birth certificate. Throughout his childhood and adolescence, he experienced profound discomfort with being assumed to be a girl by others.

122. As early as the age of 4 years old, J.G. knew he was different from the other children assigned the sex of female at birth. Ever since he was a young child, J.G. was interested in toys and activities that are typically associated with boys, and J.G. would wear stereotypically masculine clothes.

123. Throughout his childhood and adolescence, J.G. experienced profound discomfort at being seen as a girl by others. Because J.G. did not identify with girls and was not considered one of the boys, J.G. had a solitary life as a child and had trouble socializing with children his own age.

124. As he grew up, J.G. identified more closely with the male sex and even more regularly wore stereotypically masculine clothes. Being seen and treated as a girl caused J.G. great distress.

125. By the time he was approximately 23 years old, J.G. had learned language to identify his experience as transgender and was able to understand the reason for his discomfort and distress growing up. J.G. was a man who had incorrectly been designated the sex of female at birth.

126. Thereafter, in 2015, J.G. began to socially and medically transition in order to align his lived experience and body characteristics with his gender identity. Since then, J.G. has lived as his true self—a man—in all aspects of his life.

127. That same year, J.G. told his family that he was transgender. His parents, siblings, and other relatives expressed their support at the time and continue to this day to support him and treat him as the man he is.

128. In 2015, J.G. was diagnosed with gender dysphoria. In consultation with his medical and mental health professionals, J.G. began to undergo medically necessary hormone

therapy to relieve his gender dysphoria and bring his body into alignment with his gender identity. The steps he has taken in his transition have brought J.G.'s outside appearance into alignment with his male identity so that the general public and community see him as the man he is.

129. Indeed, J.G.'s transgender status is not publicly known, including not being known by his current employer or co-workers.

130. J.G. has sought to align his lived experience with his gender identity.

131. In early 2016, J.G. legally changed his name to a name stereotypically associated with men.

132. Following his legal name change, J.G. sought to update the name and correct the gender marker on his personal identity documents.

133. J.G. updated his name and corrected his gender marker on his Puerto Rico driver's license in accordance with the policy and practice of the Commonwealth's Department of Transportation and Public Works. He also corrected his Social Security records.

134. J.G. also attempted to correct his Puerto Rico birth certificate, which currently indicates that his sex is female, to accurately reflect his sex as male, as determined by his gender identity. Following his legal name change, J.G. sought to correct both his name and the gender marker on his birth certificate. However, as a result of Puerto Rico's Birth Certificate Policy, J.G. was only able to correct his name on his birth certificate and was not able to correct the gender marker on his birth certificate.

135. Accordingly, J.G.'s current birth certificate fails to accurately reflect who he is.

136. Having a birth certificate that incorrectly identifies J.G. as female is a significant barrier to his ability to function successfully as a man in seeking employment and gaining access to other private and public services, entitlements, and benefits.

137. For example, although this did not occur with his current employer, while J.G. was looking for employment, he was asked by employers to provide his birth certificate to human resources after he had applied for a job. Because his birth certificate inaccurately states that he is female, J.G. has been asked about the discrepancy between the gender marker on his birth certificate, his other identification documents, and his presentation as a man. Such occurrences have led to his being “outed” and disclosure of his status as a transgender man, as well as invasion of privacy, prejudice, discrimination, distress, embarrassment and humiliation.

138. In April 2016, J.G. sought to update the name and correct the gender marker on his Puerto Rico voter identification card. J.G. was able to update the name but was not allowed to correct the gender marker on his on voter identification card. The staff at the local board of registration requested his birth certificate in order to make the corrections. The presentation of his inaccurate birth certificate led not only to distress, embarrassment and humiliation, but also resulted in J.G.’s voter identification card not accurately reflecting his sex, further exposing him to invasion of privacy, prejudice, discrimination, distress, embarrassment, and humiliation.

139. Upon information and belief, in order to vote in primary and general elections in Puerto Rico, voters must present their voter identification cards at the voting polls. Because J.G.’s voter identification card inaccurately states that he is female, the presentation of the voter identification card discloses J.G.’s transgender status. As a result, Puerto Rico’s Birth Certificate Policy substantially burdens the right to vote of transgender persons. Indeed, in order to prevent such disclosure, J.G. did not vote in the 2016 elections.

140. Further, being forced to show an identity document that identifies him as female puts J.G. at significant risk of embarrassment and possible violence. It is psychologically and emotionally harmful for J.G. to have a government-issued birth certificate that states incorrectly

that he is female.

141. J.G. is aware of the high incidence of violence and harassment directed at transgender persons in Puerto Rico as well as the high rates of unemployment and housing discrimination faced by transgender persons in Puerto Rico.

142. J.G. reasonably fears that possessing a birth certificate that fails to accurately reflect his sex, as determined by his gender identity, increases the chances that he will be subjected to invasion of privacy, prejudice, discrimination, distress, harassment, or violence, and he has taken steps to try to reduce those risks, including refraining from exercising his right to vote.

143. As a result of Puerto Rico's Birth Certificate Policy, J.G.'s current Puerto Rico birth certificate reflects the sex he was incorrectly assigned at birth, solely based on external reproductive organs, erroneously stating that he is female.

144. Being denied a birth certificate that accurately reflects his sex, as determined by his gender identity, is psychologically and emotionally harmful to J.G., who is faced with the persistent reminder that the Commonwealth of Puerto Rico does not respect him for who he is and does not recognize his personhood. J.G. remains in reasonable fear of what may happen as a result of having to present his birth certificate. Puerto Rico's Birth Certificate Policy also subjects J.G. to potential physical harm, particularly as a transgender man residing in Puerto Rico.

Puerto Rico Para Tod@s

145. Plaintiff Puerto Rico Para Tod@s is a non-profit organization incorporated in the Commonwealth of Puerto Rico. It is one of the leading organizations advocating for the equality and dignity of LGBT people and their families in Puerto Rico. It has members throughout the Commonwealth and works collaboratively to secure, protect, and defend the equal civil rights and welfare of LGBT people in the Commonwealth.

146. Puerto Rico Para Tod@s is governed by a board of directors, of which Plaintiff Daniela Arroyo González is a member. Puerto Rico Para Tod@s's board and membership includes transgender persons who were born or reside within the Commonwealth of Puerto Rico.

147. As part of its advocacy efforts, Puerto Rico Para Tod@s issues communications, engages in public education, advocates, and plans events in support of the rights, equality, and dignity of LGBT people in Puerto Rico. The promotion, achievement, and protection of the civil rights of transgender people in Puerto Rico is a priority for Puerto Rico Para Tod@s. As such, Puerto Rico Para Tod@s has called for the ability of transgender persons born in Puerto Rico to correct the gender marker on their birth certificates and has successfully advocated for the ability of transgender persons to correct the gender marker on their Puerto Rico driver's licenses.

148. As a result of Puerto Rico's Birth Certificate Policy, transgender members of Puerto Rico Para Tod@s born in Puerto Rico have birth certificates that reflect the sex they were incorrectly assigned at birth.

149. Transgender members of Puerto Rico Para Tod@s, including Ms. Arroyo, wish to correct their Puerto Rico birth certificates to accurately reflect their gender identity.

150. Being denied birth certificates that accurately reflects their sex, as determined by their gender identity, is psychologically and emotionally harmful to transgender members of Puerto Rico Para Tod@s, who are faced with the persistent reminder that the Commonwealth of Puerto Rico does not respect them for who they are and does not recognize their personhoods, and who remain in reasonable fear of what may happen as a result of having to present their birth certificates. Puerto Rico's Birth Certificate Policy also subjects transgender members of Puerto Rico Para Tod@s to potential physical harm, particularly in Puerto Rico, where there is a high incidence of violence and hate crimes against transgender people.

Puerto Rico's Birth Certificate Policy Harms Plaintiffs.

151. The Birth Certificate Policy violates the fundamental right to privacy of the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s by forcing the disclosure of highly personal and sensitive information, such as their transgender status and medical condition, to others whom the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s might not trust or wish to know such information.

152. The forced disclosure of the transgender status of the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s impermissibly exposes them to prejudice, discrimination, distress, harassment, and violence. Concerns that are even more acute for transgender people, like J.G. and transgender members of Puerto Rico Para Tod@s, who live in Puerto Rico, where transgender people face large amounts of violence and stigma.

153. Moreover, transgender people, whether or not they suffer from gender dysphoria, are harmed when they are prevented from taking steps to align their lived experience with their true sex, as determined by their gender identity. The bar to having identification documents, such as a birth certificate, that reflect a transgender person's true sex not only stigmatizes them, but also inhibits their ability to self-define and express their identity.

154. By enforcing the Birth Certificate Policy, Defendants deny transgender people born in Puerto Rico, including the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, their equality and dignity because, unlike cisgender people born in Puerto Rico, transgender persons born in Puerto Rico are deprived of a birth certificate that accurately reflects who they are.

155. In addition, as a result of the Birth Certificate Policy, the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s are also deprived of a quintessential identity

document that accurately reflects who they are, thereby infringing on their fundamental liberty interest in self-definition and autonomy in their person and identity.

156. By enforcing the Birth Certificate Policy, Defendants compel the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s to possess, and, because of its ubiquitous nature, use a form of identification that inaccurately reflects who they are. As such, Defendants actions compel the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s to express an identity contrary to who they are.

157. At all times relevant hereto, Defendants' administration and enforcement of the Birth Certificate Policy are actions under color of state or territorial law.

158. Plaintiffs have been, and continue to be, injured by Defendants' conduct.

159. Plaintiffs state all of the causes of action herein against all Defendants in their official capacities for purposes of seeking declaratory and injunctive relief, and challenge Puerto Rico's Birth Certificate Policy both facially and as applied to them, in order to remedy the violation of their constitutional rights.

CAUSES OF ACTION

COUNT I – DEPRIVATION OF EQUAL PROTECTION IN VIOLATION OF THE FOURTEENTH AMENDMENT OF THE UNITED STATES CONSTITUTION 42 U.S.C. § 1983

160. Plaintiffs hereby incorporate by reference and reallege all of the preceding paragraphs of this Complaint as though fully set forth herein.

161. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV, § 1. Puerto Rico is subject to the equal protection guarantee.

162. Under the Equal Protection Clause of the Fourteenth Amendment, discrimination based on sex—including gender, gender identity, transgender status and nonconformity with sex-based or gender-based stereotypes—as well as discrimination based on transgender status, is presumptively unconstitutional and subject to heightened scrutiny.

163. Puerto Rico’s Birth Certificate Policy facially and intentionally discriminates against the Individual Plaintiffs, the transgender members of Puerto Rico Para Tod@s, and other transgender persons based on sex-related considerations. The sex that the government lists on a person’s birth certificate is a government classification of a person’s sex. In the case of transgender individuals, like the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, however, this classification reflects a sex contrary to their true sex, as determined by their gender identity, causing harm as a result.

164. Puerto Rico’s Birth Certificate Policy treats transgender persons, including the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, differently than cisgender persons who are similarly situated.

165. Under Puerto Rico’s Birth Certificate Policy, cisgender persons can have birth certificates that accurately reflect their sex and that are consistent with their gender identity, but transgender persons, like the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, are deprived of birth certificates that accurately reflect their sex and that are consistent with their gender identity.

166. Puerto Rico’s Birth Certificate Policy facially and intentionally discriminates on the basis of transgender status by depriving the Individual Plaintiffs, the transgender members of Puerto Rico Para Tod@s, and other transgender people who were born in Puerto Rico—and them alone—of a birth certificate that accurately reflects their sex and that is consistent with their gender

identity. Moreover, Puerto Rico's practice of showing a strike-out line through a correction for the corrections it allows, as delineated in 24 L.P.R.A. § 1231, is similarly violative of the Fourteenth Amendment, because, to the extent it applies to transgender individuals, this practice would disclose a person's transgender status on the face of the birth certificate.

167. Because Puerto Rico's Birth Certificate Policy deprives transgender persons born in Puerto Rico, including the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, of their right to equal dignity, liberty, and autonomy by stigmatizing them and branding them as second-class citizens, it denies transgender persons born in Puerto Rico of the equal protection of the laws, in violation of the Equal Protection Clause of the Fourteenth Amendment.

168. Accordingly, Defendants are liable for their violation of the Fourteenth Amendment rights of the Individual Plaintiffs and of the transgender members of Puerto Rico Para Tod@s under 42 U.S.C. § 1983, and Plaintiffs are entitled to declaratory and injunctive relief against Defendants declaring Puerto Rico's Birth Certificate Policy unconstitutional and enjoining its enforcement.

Discrimination Based on Transgender Status Warrants Heightened Scrutiny.

169. Transgender persons have suffered a long history of extreme discrimination in Puerto Rico and across the country, and continue to suffer such discrimination at present.

170. Transgender persons are a discrete and insular group and lack the political power to protect their rights through the legislative process. Transgender persons have largely been unable to secure explicit local, state, and federal protections to safeguard them against, and provide remedies for, discrimination.

171. A person's transgender status bears no relation to a person's ability to contribute to society.

172. Gender identity is a core, defining trait and is so fundamental to one's identity and conscience that a person cannot be required to abandon it as a condition of equal treatment.

173. Gender identity generally is fixed at an early age and is highly resistant to change through intervention.

174. For the foregoing reasons, discrimination based on gender identity and transgender status is entitled to heightened scrutiny under the equal protection clause of the Fourteenth Amendment, and Plaintiffs are entitled to relief against Defendants on that basis as well.

**COUNT II – DEPRIVATION OF DUE PROCESS
IN VIOLATION OF THE FOURTEENTH AMENDMENT
OF THE UNITED STATES CONSTITUTION
42 U.S.C. § 1983**

175. Plaintiffs hereby incorporate by reference and reallege paragraphs 1-159 of this Complaint as though fully set forth herein.

176. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. Amend. XIV, § 1. Puerto Rico is subject to the Due Process Clause.

177. The Due Process Clause of the Fourteenth Amendment places limitations on state action that deprives individuals of life, liberty, or property.

178. The substantive protections of the Due Process Clause, as well as other constitutional provisions, give rise to a right to privacy, protecting information that is highly personal and intimate, which includes information that could lead to bodily harm upon disclosure.

179. Forced disclosure of transgender status violates the fundamental right to privacy of the Individual Plaintiffs and of the transgender members of Puerto Rico Para Tod@s. The fact that a person is transgender constitutes highly personal and intimate information. A reasonable person would find the involuntary disclosure of one's transgender status to be deeply intrusive.

180. The involuntary disclosure of one's transgender status can also cause significant harm, including placing one's personal safety and bodily integrity in jeopardy. This harm burdens and interferes with the ability of transgender persons to live in a manner consistent with their gender identity in all aspects of life, including where doing so is medically necessary.

181. Puerto Rico's Birth Certificate Policy violates transgender persons' rights to privacy by causing disclosure of their transgender status and by depriving them of significant control over the circumstances around such disclosure. Moreover, Puerto Rico's practice of showing a strike-out line for the corrections it allows, as delineated in 24 L.P.R.A. § 1231, is similarly violative of the Fourteenth Amendment, because to the extent it applies to transgender individuals, this practice would disclose a person's transgender status on the face of the birth certificate.

182. There are no adequate safeguards to prevent the harm caused by the involuntary disclosure of one's transgender status. For example, a person may need to disclose his or her birth certificate directly to third parties, without any of the privacy safeguards that may exist where the government discloses information to third parties.

183. The substantive protections of the Due Process Clause also protect the right of every person to the possession and control of their own person, and to define and express their identity. These protections extend to personal decisions central to individual dignity and personal autonomy, including intimate decisions that define personal identity, including a person's sex.

184. The fundamental protections of an individual's autonomy forbid the state from interfering with the right of a transgender person to self-determination with regard to his or her gender identity and to live in accordance with that identity. Such a decision is among the most intimate imaginable, relating to matters that all people are uniquely positioned to understand and define for themselves.

185. When the government denies recognition of a transgender person's true sex, it is necessarily imposing significant harms on that person. The government's refusal to recognize a person's sex not only denies a transgender person equal dignity and respect by undermining, indeed denying, their very identity and existence, but it also authorizes and invites other public and private entities to similarly discriminate and deny recognition.

186. By enforcing Puerto Rico's Birth Certificate Policy, Defendants unduly burden and unconstitutionally interfere with the fundamental right to autonomy in one's person and identity that all transgender persons born in Puerto Rico have, including the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s.

187. There is no compelling, or even important or legitimate, interest in the government causing transgender persons to involuntarily disclose their transgender status to third parties every time they present their birth certificate to such persons, and there is no compelling interest in the government interfering with the rights of transgender persons to self-definition and autonomy in one's person and identity.

188. Accordingly, Defendants are liable for their violation of Plaintiffs' Fourteenth Amendment rights under 42 U.S.C. § 1983, and Plaintiffs are entitled to declaratory and injunctive relief against Defendants declaring Puerto Rico's Birth Certificate Policy unconstitutional and enjoining its enforcement.

**COUNT III – ABRIDGEMENT OF FREE SPEECH
IN VIOLATION OF THE FIRST AMENDMENT
OF THE UNITED STATES CONSTITUTION
42 U.S.C. § 1983**

189. Plaintiffs hereby incorporate by reference and reallege paragraphs 1-159 of this Complaint as though fully set forth herein.

190. The First Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983 and applicable to the states through the Fourteenth Amendment, provides that a state “shall make no law . . . abridging the freedom of speech.” Puerto Rico is subject to the First Amendment.

191. The freedom of speech protected by the First Amendment is multifaceted. The First Amendment prevents the government from prohibiting speech, as well as from telling individuals what they must say. Compelled statements are equally proscribed by the First Amendment. A claim of compelled speech requires speech to which the speaker objects that is compelled by some governmental action.

192. By forcing transgender persons to identify themselves through their birth certificate with a sex that was incorrectly assigned to them at birth, Puerto Rico’s Birth Certificate Policy violates the First Amendment by compelling transgender individuals, like the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, to identify with a sex and identity inconsistent with who they are. The Birth Certificate Policy also prevents transgender persons, like the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, from accurately expressing their identity.

193. Similarly, by forcing transgender people to disclose through their birth certificate private, sensitive, and personal information about their transgender status, gender identity, or medical condition, Puerto Rico’ Birth Certificate Policy violates the First Amendment by

compelling transgender persons, like the Individual Plaintiffs and the transgender members of Puerto Rico Para Tod@s, to disclose private, sensitive, and personal information that they may not want to be publicly known or that may expose them to an invasion of privacy, prejudice, discrimination, harassment, distress, humiliation, and violence.

194. There is no compelling, important, or even legitimate interest in the government compelling transgender persons to identify with a sex and identity that was incorrectly assigned to them at birth, nor is there a compelling, important, or even legitimate interest in the government forcing transgender persons to involuntarily disclose their transgender status to third parties whenever they present third parties with their inaccurate birth certificates.

195. Moreover, Puerto Rico's Birth Certificate Policy of showing a strike-out line for the corrections it allows, pursuant to 24 L.P.R.A. § 1231, is similarly violative of the First Amendment, because, to the extent it applies to transgender individuals, this practice would disclose a person's transgender status on the face of the birth certificate.

196. Accordingly, Defendants are liable for their violation of the First Amendment rights of the Individual Plaintiffs and of the transgender members of Puerto Rico Para Tod@s under 42 U.S.C. § 1983, and Plaintiffs are entitled to declaratory and injunctive relief against Defendants declaring Puerto Rico's Birth Certificate Policy unconstitutional and enjoining its enforcement.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that the Court enter Judgment in their favor and against Defendants on all claims as follows:

- a. Enter a declaratory judgment that the actions of Defendants complained of herein, including the enforcement of Puerto Rico's Birth Certificate Policy, are in violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution; the Due Process Clause of

the Fourteenth Amendment to the United States Constitution; and the Free Speech Clause of the First Amendment to the United States Constitution;

- b. Permanently enjoin Defendants, their agents, employees, representatives, and successors, and any other person acting directly or indirectly in concert with them, from enforcing Puerto Rico's Birth Certificate Policy, including from refusing to provide birth certificates to transgender persons that accurately reflect their sex, consistent with their gender identity;
- c. Order Defendants, their agents, employees, representatives, and successors, and any other person acting directly or indirectly in concert with them, to permit transgender persons born in Puerto Rico to correct their birth certificates to accurately reflect their true sex, consistent with their gender identity, in accordance with the practice delineated in 24 L.P.R.A. § 1136, and without adhering to the practice delineated in 24 L.P.R.A. § 1231 of using a strike-out line to change one's name, or otherwise including any information that would disclose a person's transgender status on the face of the birth certificate;
- d. Order Defendants to immediately issue corrected birth certificates to Plaintiffs Daniela Arroyo González, Victoria Rodríguez-Roldán, and J.G. accurately reflecting their true sex, consistent with their gender identity, in accordance with the practice delineated in 24 L.P.R.A. § 1136, and without adhering to the practice delineated in 24 L.P.R.A. § 1231 of using a strike-out line to change one's name, or otherwise including any information that

would disclose a person's transgender status on the face of the birth certificate;

- e. Award Plaintiffs the costs and disbursements of this action, including reasonable attorneys' fees; and
- f. Grant such other and further relief in favor of Plaintiffs as this Court deems just, equitable and proper.

Dated this 10th day of April, 2017.

Respectfully submitted,

/s/ Celina Romany-Siaca

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