

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

MYRNA COLÓN MARRERO, ET AL

*Plaintiffs*

v.

HÉCTOR CONTY PÉREZ, ET AL

*Defendants*

CIVIL NO. 12-1749 (CCC)

RESPONSE TO “MOTION FOR EMERGENCY ORDER”

COMES NOW defendant Edwin Mundo-Rios, as Electoral Commissioner of the New Progressive Party (“NPP”), through the undersigned counsel and respectfully **ALLEGE and PRAY:**

1. Today, plaintiffs filed a motion requesting the urgent intervention of this Honorable Court, where they pretend to obtain the preliminary injunctive order that this Honorable Court denied and the denial the United States Court of Appeal for the First Circuit affirmed.

2. In their motion, plaintiffs pretend to induce this Honorable Court to act contrary to the decision of the United States Court of Appeal for the First Circuit, when it confirmed this Court’s denial of their request for preliminary injunction and their right to be counted as eligible voters in the 2012 elections.

3. Plaintiffs’ proposed order asks this Honorable Court to issue the remedy that was denied to them, a mandatory preliminary injunction that changes the *status quo* regarding the treatment of inactive voters under the Puerto Rico Election Laws. The motion asks that any inactive voter that chooses to vote on Election Day on November 6, 2012, be counted for purposes of the electoral result, precisely the remedy they failed to obtain by way of a preliminary injunction.

4. Moreover, without having this case certified by this Court as a Class Action under Rule 23 of the Fed R Civ P, plaintiffs are asking for a remedy that extends beyond them. They ask that all inactive voters be allowed to vote and be counted.

5. At this moment, plaintiffs' right to be considered eligible voters under federal law remains an unresolved issue before this Court, pending adjudication after all the parties have had their right to be heard on the matter, something plaintiffs intend to induce this Court to deny us if their motion were to be granted.

6. How are the inactive voters' list used or how are the votes of inactive voters treated if any of them cast a vote on Election day is a matter to be decided under the Commonwealth's laws and this Honorable Court should refrain from intervening at this stage.

7. Additionally, as we write this motion, the issue as to whether the inactive voters' lists are to be used or not on Election Day and how, if in any way, is being considered by the Commonwealth's Courts. In fact, the same newspaper report plaintiffs allude to in their motion indicates that the NPP Electoral Commissioner has asked that the Puerto Rico Supreme Court accept the case by way of certification.

8. Evidently this Honorable Court's intervention on this issue at this moment is unwarranted.

**WHEREFORE**, defendant Edwin Mundo-Rios, as Electoral Commissioner of the New Progressive Party ("NPP") respectfully request the Court to deny plaintiffs' "Motion for Emergency Order."

**I HEREBY CERTIFY** that on this same date this document was filed electronically through the CM/ECF system which will send notification to the parties to their registered email addresses.

Respectfully submitted in Guaynabo, Puerto Rico, this November 1, 2012.

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*S/Claudio Aliff-Ortiz*

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