

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

<p>ASOCIACIÓN DE PERIODISTAS DE PUERTO RICO (Puerto Rico Journalists Association); OVERSEAS PRESS CLUB OF PUERTO RICO; NORMANDO VALENTIN; VICTOR SANCHEZ; JOEL LAGO ROMAN; COSSETTE DONALDS BROWN; VICTOR FERNANDEZ; ANNETTE ALVAREZ; each in their individual capacity and on behalf of their respective Conjugal Partnerships comprised by them and their respective spouses</p> <p>Plaintiffs</p> <p>v.</p> <p>ROBERT MUELLER, in his official capacity as Director of the Federal Bureau of Investigation and TEN UNKNOWN AGENTS OF THE FEDERAL BUREAU OF INVESTIGATION, Agent KEITH BYER, AGENT LUIS FRATICELLI, AGENT JOSE FIGUEROA SANCHA, each individually and in their official capacities, and on behalf of their respective Conjugal Partnerships comprised by them and their respective spouses</p> <p>Defendants</p>	<p>Civil Action No. 06-1931(SAF)</p> <p>Jury Trial Demanded</p> <p align="right"> <small>RECEIVED & FILED 2006 SEP 20 AM 9 17 U.S. DISTRICT COURT SAN JUAN, P.R.</small> </p>
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COMPLAINT AND JURY DEMAND

I. INTRODUCTION

1. On February 10, 2006, federal agents physically assaulted a group of 20 or more reporters who were assembled outside a private condominium complex located in the Rio Piedras sector of San Juan, Puerto Rico. The reporters and their camera crews were there to cover a high-profile FBI raid on the home of a person who is believed to be a political activist

and labor leader associated with the “Puerto Rican Independence Movement.” The physical force used by the agents was excessive and was deployed without justification or provocation.

2. The federal agents deliberately targeted members of the media in an attempt to prevent them from filming and reporting on the events described in this complaint. The agents attacked journalists who were simply doing their jobs and carrying out their First Amendment right and responsibility to convey the news. This is not a situation where a few agents went awry based on a perceived threat to their security; it was part of a carefully planned and well-organized security apparatus that was established by the FBI in connection with the politically-charged raid of the home of a prominent political activist associated with the Puerto Rican Independence Movement. Those in charge of the raid directed the attack on the media or were deliberately indifferent to the rights of the media.

3. The FBI has targeted the “Puerto Rican Independence Movement” and nationalist political organizations and leaders in Puerto Rico as part of a decades old campaign to discredit and disrupt the Pro Independence movement. The Bureau’s past and continuing actions are intensely newsworthy, widely reported and important to the citizens of Puerto Rico. The plaintiff journalists and organizations intend to aggressively cover this ongoing investigation and to report on raids like the one described in this complaint and the one several months earlier that led to the death of Pro Independence leader Filiberto Ojeda-Rios. Absent reforms in the FBI’s policies and procedures for ensuring that media members can exercise their right to cover this and other politically-charged investigations, plaintiffs are likely to suffer further injury as a result of the actions of the FBI.

4. As a result of the defendants’ actions a number of the reporters were injured and required medical care. The defendants’ actions interfered with the plaintiffs’ right to report on

public events and constituted excessive force. The defendants' action violated the First and Fourth Amendments of the United States Constitution.

5. Plaintiffs bring this lawsuit to protect their right to lawfully cover breaking news events involving the FBI without threat of violence or intimidation. Plaintiffs seek a declaration that the interference with their First Amendment right to report live on those events is unconstitutional. They also seek an injunction prohibiting FBI personnel from taking any actions which interfere with the exercise of those rights. Additionally, because of the excessiveness of the force used by the federal authorities, plaintiffs seek damages against the individual named and unnamed FBI agents.

II. JURISDICTION AND VENUE

6. This case is brought directly under the First Amendment and Fourth Amendments of the United States Constitution against officers of the United States Government, pursuant to 28 U.S.C. § 1331 and §1346 (a)(2). This action is authorized and instituted pursuant to *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971).

7. The practices alleged herein to be unlawful were committed within the jurisdiction of the United States District Court for Puerto Rico. Venue is proper in this Court pursuant to 28 U.S.C. § 1391.

III. PARTIES

PLAINTIFFS

8. Normando Valentin is an award-winning reporter for Televiscentro (Puerto Rico channel 4) and was present at the events described in this complaint. While reporting on the events described herein, he was pushed, punched and maced directly in the face by federal

agents. He was injured by the defendants' actions and required treatment at a local hospital for his injuries.

9. Victor Sanchez is a cameraman for Televiscentro (Puerto Rico channel 4) and was present at the events described in this complaint. While filming the events described herein, he was pushed, punched and maced directly in the face by federal agents. He was injured by the defendants' and was treated at a local hospital for his injuries.

10. Joel Lago Roman is a reporter for Radio Puerto Rico (WIAC), an all talk and news radio station, and was present at the events described in this complaint. While reporting on the events described herein, he was thrown to the ground by federal agents, struck with a police club and maced directly in the face. He was taken by ambulance to the local hospital for treatment of his injuries

11. Cossette Donalds Brown is a is an award-winning reporter for Univisión Radio (WKAQ) and was present at the events described in this complaint. While reporting on the events described herein, she was violently pushed through the security gate by federal agents and maced. She was given medical attention on the scene for the injuries caused by the use of mace.

12. Victor Fernandez is an award-winning cameraman for Univisión TV (Puerto Rico Channel 11) and was present at the events described in this complaint. During the events described herein, he was maced directly in the face while filming the actions of the federal agents from behind a fence that separates the condominiums outer common grounds from the public sidewalk. Plaintiff Victor Fernandez was treated at a local emergency room for his injuries.

13. Annette Alvarez is an award-winning reporter for TUTV (Puerto Rico Channel 6), a government owned Public Broadcast Station, and was present at the events described in this

complaint. Among her achievements, she has received various EMMY awards and other awards from several prestigious press organizations. While reporting on the events described herein, plaintiff Annette Alvarez was pushed by federal agents through the fenced area of the condominium and maced. She was given medical attention on the scene for the injuries caused by the use of mace.

14. The “Asociación de Periodistas de Puerto Rico (ASPPRO)”, is an organization dedicated to excellence in journalism and to the betterment of the practice of journalism and related fields. The ASPPRO lobbies for and defends the need for open records, access to information and open meetings, and promotes freedom of expression. The ASPPRO has appeared in court proceedings and important governmental and legislative sessions on behalf of its membership. The ASPPRO appears on behalf its membership, which is composed of journalists, photographers, and camerapersons.

15. The Overseas Press Club of Puerto Rico (OPC) is an organization dedicated to excellence in journalism and the improvement of the practice of journalism and related fields. The OPC lobbies for and defends open records, access to information and open meetings, and promotes freedom expression. The OPC appears on behalf of its membership, which is composed of journalists, photographers, and camerapersons.

16. All of the plaintiffs are residents of Puerto Rico.

DEFENDANTS

17. Robert Mueller: Robert Mueller is the Director of the Federal Bureau of Investigation, the agency responsible for the actions and policies that led to the events described in this complaint. On information and belief, at all times mentioned herein, the individual federal agents described below were acting pursuant to authority delegated or conferred by

Director Mueller and, in doing or failing to do the things complained of, were acting within the scope of that authority and pursuant to the official policy and practice of the FBI. Director Mueller is sued in his official capacity for injunctive relief only.

18. Agent Keith Byer: Agent Byer is an agent with the Federal Bureau of Investigation. He participated in the police action that prevented the plaintiffs from reporting on the events described herein. Agent Byer pushed, punched and clubbed one or more of the plaintiffs during the events described herein.

19. Luis Fraticelli: Agent Fraticelli is the director of the FBI field office in San Juan. He was the officer in charge during the incident described in this complaint. On information and belief, Agent Fraticelli participated in or directed the constitutional violations alleged herein, or knew of the violations and failed to act to prevent them.

20. Jose Figueroa Sancha: Agent Sancha is the deputy director of the FBI field office in San Juan. He was the second in command during the incidents described in this complaint. On information and belief, Agent Sancha participated in or directed the constitutional violations alleged herein, or knew of the violations and failed to act to prevent them.

21. Plaintiffs are informed and believe that unknown Defendants 1 through 10 are agents and/or supervisory agents of the FBI and were at all relevant times acting in the course and scope of their employment. Upon information and belief, each of Unknown Defendants 1 through 10 participated in or directed the constitutional violations alleged herein, or knew of the violations and failed to act to prevent them. The true names of these Defendants are unknown to Plaintiffs. In due course, Plaintiffs will amend this complaint to identify these Defendants' true names when Plaintiffs have ascertained them.

22. All the defendants FBI agents are sued in their official capacities for declaratory and injunctive relief, and in their individual capacities for purposes of plaintiffs' claim for damages.

IV. FACTUAL ALLEGATIONS

23. On February 10, 2006, at approximately 10:00 AM, more than a dozen agents from the Federal Bureau of Investigation raided the condominium apartment of Lilian Laboy, a prominent political activist believed to be associated with the movement for Puerto Rican independence.

24. Ms. Laboy's apartment is located on an upper floor of a high-rise building located at 444 Calle De Diego in the Rio Piedras sector of San Juan, Puerto Rico, in a residential neighborhood near the University of Puerto Rico. The apartment building is gated and access is limited to residents and guests.

25. The agents were at the condominium to execute a search warrant and spent more than four hours searching the premises. They seized a computer and many boxes of papers.

26. Ms. Laboy was home alone when the agents arrived but was not allowed to remain in the apartment while the search proceeded.

27. As word of the FBI raid spread, radio and television crews from the major stations began to arrive at the scene. In total there were approximately 20 reporters and camerapersons present.

28. During the next four hours the media crews waited outside the gate waiting for an official statement from an FBI spokesperson. During the interim, they interviewed building residents who were freely coming and going.

29. At no time did the FBI agents or other law enforcement agents establish a perimeter or police line that restricted access to the building. Neither the entrance nor the lobby of the building was secured in any way by the presence of law enforcement agents.

30. At no time did the FBI agents or other law enforcement agents establish a staging area for the press or provide any instructions limiting their activities or movement.

31. The failure to establish a perimeter or police line is inconsistent with standard FBI policy.

32. At approximately 12:00 PM a Department of Homeland Security helicopter landed on an adjacent field and 8 to 10 heavily armed agents arrived on the scene. The agents brushed aside the reporter's questions and ran into the building to assist in the search.

33. Despite the arrival of these additional agents, nothing was done to establish a perimeter or otherwise secure the building.

34. At approximately 2:00 PM, Ms. Laboy's daughter conferred with their attorneys in the building lobby and just outside the lobby. At least one reporter entered the lobby and interviewed Ms. Laboy and her daughter and attorney without incident or interference by the FBI.

35. After a short period, Ms. Laboy and her attorneys stepped outside the lobby to speak with the main body of reporters who were permitted through the gate by the condominium's private security guard. They were invited in by Ms. Laboy and were lawfully on the premises. The FBI agent on the scene instructed the security guard that individuals could come and go onto the building premises while the search was proceeding.

36. This interview proceeded without incident or interference by the FBI.

37. While this interview was in progress, federal agents began to exit the building carrying boxes of seized materials and loading them in their cars.

38. The reporters and camera crews immediately turned their attention to the federal agents and sought to get a statement from the agent in charge.

39. The press did nothing to interfere with the duties of the agents. They approached the agents for a statement in a manner consistent with media practices in the absence of a security perimeter.

40. Instead of providing a statement or establishing a briefing, defendant agents intentionally acted to prevent the reporters and camera crews from filming the events described in this complaint or interviewing the agents about those events. The agents pushed the reporters aside and intentionally interfered with the gathering of information and news. The agents began violently pushing the reporters back toward the condominium's security gate while simultaneously trying to prevent the camera crews from filming the incident.

41. Some of the reporters were able to safely retreat through the condominium's security gate. But others were trapped in the crowded space of the narrow security gate. As they fell to the ground or against each other, the agents grabbed and threw other reporters into the pile and used excessive and unnecessary force to remove them.

42. Some of the reporters were pushed to the ground by defendant agents. Others were punched, kicked and jabbed with or struck by nightsticks. One or more defendant officers maliciously started to spray mace directly into the faces of the reporters as they struggled to get back through the gate.

43. Defendant Officers violently knocked aside Microphones and cameras in an attempt to prevent the event from being recorded. At least one reporter's recorder was knocked to the ground and intentionally stomped on by an agent.

44. Another cameraman was maced directly in the face by defendant officer to prevent him from filming – even though he was behind the condominium's security fence.

45. Another cameraman who had stepped back to film the violence was violently grabbed and thrown into the body of reporters in an attempt to prevent him from capturing the events on film.

46. The use of force was deployed without provocation or justification, and was excessive.

47. The use of force was intentionally deployed to prevent the plaintiffs from filming the events described herein.

48. As a result of the agent actions, the plaintiffs required medical attention for injuries caused by the chemical agents and by the excessive physical force used by the agents.

V. CAUSE OF ACTION AND RELIEF

49. Plaintiffs hereby incorporate all preceding paragraphs of this Complaint as though fully alleged herein.

50. The actions of the Defendants set forth above violated Plaintiffs' right to freedom of speech guaranteed by the First Amendment of the United States Constitution.

51. The actions of the Defendants set forth above violated Plaintiffs' right to freedom of the press guaranteed by the First Amendment of the United States Constitution.

52. The actions of the Defendants set forth above constitute excessive force and violated Plaintiffs' rights guaranteed by the Fourth Amendment of the United States Constitution.

53. Defendants, at all times relevant to this complaint, acted under color of federal law.

54. Defendants actions caused plaintiffs physical harm and emotional suffering. The practice complained of herein adversely affects plaintiffs reporters' ability to conduct their work and comply with their obligations as reporters, impinging not only on their First Amendment rights but also the right of the citizenry to be informed.

55. The conduct complained of has a chilling effect on plaintiffs' right to gather information and report the news, which limits access to information.

56. The conduct complained of limits the right of the citizenry to be informed, and adversely affects plaintiffs' press organizations and their members.

VI. PRAYER FOR RELIEF

Plaintiffs request the following relief from the court:

A. That the court issue a declaratory judgment declaring that the defendants' actions violate the First and Fourth Amendments of the United States Constitution;

B. That the court issue injunctive relief prohibiting the defendant's use of the aforementioned force during future media coverage of FBI actions;

C. That the court issue an injunction requiring the FBI to develop policies and procedures that will ensure that members of the media are able to exercise their constitutional rights, free from unwarranted attacks and other interference from the FBI, to report on FBI raids;

D. That the court award compensatory and general damages against all Defendants and each of them for Plaintiffs, in an amount to be determined according to proof, as a remedy for physical injuries and mental and emotional distress, and discomfort that Plaintiffs have incurred;

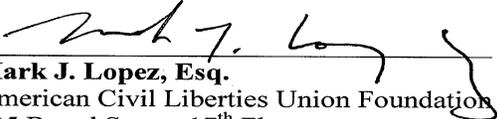
E. That the court award exemplary and punitive damages against all Defendants in an amount to be determined at trial, in light of Defendants' willful, wanton, and malicious acts that were done with conscious disregard and deliberate indifference to the Plaintiffs' civil rights;

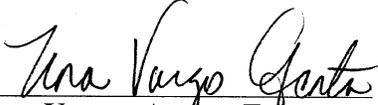
F. That the court award Plaintiffs their costs, expenses, and reasonable attorneys' fees;

G. That the court grant such other and further relief as the Court may deem just and proper.

PLAINTIFFS DEMAND A JURY TRIAL ON ALL ISSUES SO TRIABLE.

Respectfully submitted on this 20th day of September, 2006.


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