

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

JAMES PETER CONLAN

Plaintiff

vs

THE MID-ATLANTIC REGION
COMMISSION ON HIGHER
EDUCATION, d/b/a the Middle States
Association of Colleges and Schools
and the Middle States Commission on
Higher Education (MSCHE); JOHN
DOE, insurer of MSCHE; RICHARD
ROE, insurer; ASOCIACION
PUERTORRIQUEÑA DE
PROFESORES UNIVERSITARIOS,
INC., a/k/a APPU; HERMANDAD DE
EMPLEADOS EXENTOS
NO DOCENTES DE LA
UNIVERSIDAD DE PUERTO RICO,
d/b/a HEEND; UNION
TRABAJADORES INDUSTRIALES DE
PUERTO RICO, d/b/a STUPR,
d/b/a Sindicato de Trabajadores UPR,
d/b/a Sindicato de Trabajadores de
la UPR; UNION BONAFIDE DE
OFICIALES DE SEGURIDAD UPR,
a/k/a UBOS; ORGANIZACION DE
PROFESORES UNIVERSITARIOS;
GENERAL STUDENT COUNCIL of
the UPR, Río Piedras Campus;
GUILLERMO GUASP, President of the
UPR General Student Council;
UNIVERSITY OF PUERTO RICO
(UPR); UNIVERSITY OF PUERTO
RICO BOARD OF GOVERNORS,
a/k/a Junta de Gobierno UPR,
composed by its members Dr. Jorge L.
Sánchez-Colón, Dr. Carlos
Pérez-Díaz, Dr. Gloria Butrón-Castelli,
Dr. Juan B. Aponte-Vázquez,
Mr. Harold E. Soto-Fortuño,
Dr. Edgard Resto-Rodríguez,
Mr. Dennis Hickey-Rivera, Hon. Rafael
Román-Meléndez (member ex officio),
Fernando San Miguel-Lloveras, Esq.,
Dr. Ana María García-Blanco, Rafael
Escalera-Rodríguez, Esq., Juan
Acosta-Reboyras and Mr. Christian
Arvelo-Forteza (Student Member);

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DR. UROYOAN R. WALKER-RAMOS,
President of the UPR; DR. CARLOS
SEVERINO, Chancellor of the UPR,
Río Piedras Campus; FULANO DE
TAL, INC., insurer of the UPR;
FULANA DE TAL, INC., insurer of the
UPR Board of Governors;
HON. ALEJANDRO
GARCIA-PADILLA, Governor of the
Commonwealth of Puerto Rico;
HON. CESAR MIRANDA, Secretary of
Justice of the Commonwealth of
Puerto Rico
Defendants

ORDER

Before the Court is defendant Mid-Atlantic Region Commission on Higher Education, d/b/a the Middle States Association of Colleges and Schools, and the Middle States Commission on Higher Education’s (collectively, the “MSCHE defendants”) Motion to Dismiss Under Fed. R. Civ. P. 8 (**d.e. 28**), which is joined by defendants University of Puerto Rico, Uroyoán Walker-Ramos, Jorge L. Sánchez-Colón, Rafael Escalera, Juan B. Aponte-Vázquez, Ana M. García-Blanco, Gloria Bultrón-Castelli, Harold E. Soto-Fortuño, Carlos Pérez-Díaz, Christian Arvelo-Forteza, Edgard Resto-Rodríguez, Juan Acosta-Reboyras, and Fernando San Miguel-Lloveras (**d.e. 31**), by defendants Asociación Puertorriqueña de Profesores Universitarios, Inc. (APPU) and Hermandad de Empleados Exentos No Docentes (HEEND) (**d.e. 35**), by defendants Hon. Alejandro García-Padilla, Governor of Puerto Rico, and Hon. César Miranda-Rodríguez, Secretary of the Puerto Rico Department of Justice (**d.e. 41**), by defendants Unión de Trabajadores Industriales, d/b/a Sindicato de Trabajadores de la Universidad

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de Puerto Rico (UTI) (**d.e. 43**), by defendant Rafael Román Meléndez (**d.e. 44**) and by defendant Guillermo Guasp-Pérez (**d.e. 52**). Also before the Court is plaintiff's Opposition (d.e. 39). For the reasons set forth below, defendants' motions are GRANTED and this Amended Complaint (**d.e. 15**) is DISMISSED in its entirety.

INTRODUCTION

"[A] short and plain statement of the claim showing that the pleader is entitled to relief," Fed. R. Civ. P. 8(a)(2), is about as clear as any federal rule can be. Yet somehow plaintiff's displeasure with student demonstrations on the University of Puerto Rico, Río Piedras campus (UPR-RP), has triggered a 161-page complaint, with another 160 pages of exhibits, involving twenty-eight defendants, seeking relief under the civil, criminal, foreign, domestic, ancient and modern laws, from RICO to False Light Invasion of Privacy, to the Travel Act, the All Writs Act, the Magna Carta and centuries-old Statutes of the Realm of the Kingdom of England. All the motions to dismiss allege that the amended complaint fails to meet the basic pleading standard of Federal Rule of Civil Procedure 8(a).

PLEADING STANDARD

Under Federal Rule of Civil Procedure 8, a complaint must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." Fed. R. Civ. P. 8(a)(2). Each allegation within the complaint "must be simple, concise, and direct." Fed. R. Civ. P. 8(d)(1). "The complaint must give the defendant adequate notice of what the plaintiff's claim is and the grounds of that claim." Swierkiewicz v. Sorema N.A., 534 U.S. 506, 512 (2002). The

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complaint must contain more than “labels and conclusions” or a “formulaic recitation of the elements of a cause of action.” Bell Atlantic Corp. v. Twombly, 550 U.S. 544, 555 (2007). Detailed factual allegations are not required, but the complaint must state “sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face.” Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009) (internal citations and quotations omitted). The allegations must be sufficient to “raise a right to relief above the speculative level.” Twombly, 550 U.S. at 555. “While the 12(b)(6) standard does not require that [a] [p]laintiff establish a prima facie case in [his] complaint, the elements of each alleged cause of action help to determine whether [the][p]laintiff has set forth a plausible claim.” Khalik v. United Air Lines, 671 F.3d 1188, 1192 (10th Cir. 2012). Where a complaint fails to sufficiently plead a plausible claim for relief, the complaint may be dismissed. Fed. R. Civ. P. 12(b)(6).

ANALYSIS

Plaintiff James Peter Conlan states that he is a “51 year-old unmarried tenured full professor of English in the College of Humanities at the Río Piedras Campus of the University of Puerto Rico, titled in and in continuous possession of Freehold.” (d.e. 15, p. 10). The following serve as examples that illustrate the overall incomprehensible narrative and convoluted allegations which ultimately do not state a plausible claim against any particular defendant, whether it be the University of Puerto Rico (UPR) itself, its Board of Governors individually sued, the Student Council of the UPR-Rio Piedras campus, trade unions or the Middle States Association of Colleges. His Amended Complaint is a loose and disorganized set of contrived allegations which attempt to pin a general conspiracy theory upon the “alienor” UPR and “alienees” such as

professors, workers unions and students to bar plaintiff access and “deforced [him] and others of their rights of ingress and egress to the campus common.” Allegation 20. He makes reference to what appears to be students’ strikes occurring in October 2004, Spring semester 2005, October 2009 and 2010, November and December 2010, April 2014 and March 2016, in which he claims “the deforcement by feoffe student-clients” of the UPR-Rio Piedras campus to close the campus and impede his rights to ingress and to egress from the campus commons. See allegations 16 through 22. At allegation 17, he claims that

. . . the UPR alienated the campus commons of the UPR, Rio Piedras Campus, to alienees APPU, OPU, HEEND, STUPR, UBOS, and the UPR-RP General Student Council, acting in concert as the Coordinating Security Board (*Junta Coordinadora de Seguridad*) (JCS); and, under color of a Policy of Nonconfrontation, disseised demandant of his rights of ingress and egress to the campus commons at the alienees’ will and pleasure.

Other examples of this type of allegations dwell on the same theme that concentered action taken to alienate the UPR campus common to the full control of what he calls the “alienees,” generally imputing unlawful actions to all defendants, thereby causing him damages itemized at allegation 23:

23. PRESUMED DAMAGES suffered by demandant include damages by reason of . . .

(a) Uncertainty as to the conclusion of the semester results in an increase in cost of plane tickets to travel amounting to a much as \$200 per semester;

(b) extension of the teaching semester results in damages owing to (i) change orders, estimated at \$500 per academic calendar change; (ii) resolution of student problems arising from change orders, estimated at \$500 per semester; and (iii) 1/60 of salary for every additional day that demandant is required to teach;

(c) closing and rescheduling necessarily restricts time to do research, an opportunity cost calculated at hourly cost of research by a scholar with demandant’s level of education for each 8-hour day the campus is closed, plus 4-hours research for each

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additional day that demandant was not expecting to teach and was required to.

Although at page 2 the jurisdiction is invoked under Article III of the Constitution of the United States and federal question, plaintiff requests that the Court

issue a WRIT OF ASSIZE OF NOVEL DISSEISIN to direct the U.S. Marshal BOTH to take possession of the campus commons of the University of Puerto Rico, Rio Piedras Campus, AND to convene an assize or jury of twelve good persons to restore seisin of DEMANDANT'S servitude in the campus commons of the UPR, Rio Piedras Campus, and to award simple damages pursuant the Assize of Northampton, 22 Henry II, c. 9 & 10; Statute of Merton, 20 Henry III, c. 3, Statute of Merton, 20 Henry III, c. 4, as it informs Stat. of Westminster 2, 13 Ed. I, c. 25, Stat. Westminster 2, 13 Ed. I, c. 30; to award DOUBLE DAMAGES against disseisor pursuant to 1 Richard II, c. 9 or disseisor and/or feoffees pursuant to 4 Henry IV, c. 7, when disseisor has collusively enfeoffed multiple anonymous feoffees to deforce disseisee and thereby impede his possessory remedy; And to award TREBLE DAMAGES pursuant to 8 Henry VI, c. 9, to disseisee disseised by forcible entry or held out by use of force that pursuant to 11 Henry VI, c. 3, may be enforced against Disseisors or their feoffees, AND TO AWARD DEMANDANT COSTS AND FEES, pursuant to Statute of Gloucester, 6 Edw. I, c. 1.

Amended Complaint, pp 2-3.

At pages 19 through 21, he cites the statutes in support of the "writ of assize," all of which refer to English law, such as the Statute of Merton, Statute of Westminster and the Magna Carta, which "prohibits the Assize of Novel Disseisin from adjudicating outside of the shire or county in which disseisin occurs." Amended Complaint, p. 19.

Under subsection V, "Applicable Norms", when discussing the Writ of Assize of Nuisance, plaintiff cites 9 Coke Reports 53, 6 Richard 2, Stat 1. C. 3, which "allows Writs of Nuisance to be issued, at the election of the plaintiff, either in the nature of old times used, or else in the nature of the Assizes determinable before the Kings justices of either bench or before Justices of

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Assise in the county” (Amended Complaint, at p. 32) and at page 3 requested that the Court

issue a WRIT OF ASSIZE OF NUISANCE pursuant to Common law, supplemented by Statute of Westminster 2, 13 Edward I, c. 24, and 6 Richard Stat. 1, c. 3, and 11 Henry VI, c. 3, to direct the U.S. Marshal BOTH to take possession of the University of Puerto Rico, Rio Piedras Campus, AND to convene an assize or jury of twelve good persons BOTH to abate the NUISANCE erected in the campus commons by alienees, defined in law as a PUBLIC NUISANCE in the holding in UPR v. LABORDE, 2010 TSPR 225, 180 DPR 253 (2010), and Law 3 of 4 February 2011, and the Sherman Act, not exempted by the Clayton Act, AND EQUALLY A PRIVATE NUISANCE PER SE, interposed in the campus commons between DEMANDANT and ingress and egress to his freehold, ousting demandant from the full enjoyment of his freehold . . . , AND TO AWARD DAMAGES TO DEMANDANT OWING TO THE HARMS CAUSED BY THIS NUISANCE against the defendant that levied the nuisance or the tenant to whom that nuisance was transferred that impaired his free ingress into the campus commons and those of the students he was charged to teach.

Amended Complaint, pp. 3-4.

The Amended Complaint then sets forth RICO equitable relief against alienees and alienor UPR, the UPR Governing Board, the Governor of the Commonwealth of Puerto Rico, the President of the UPR and the Chancellor of the UPR-RP campus. The RICO conspiracies charged at pages 5-7 do not set forth any concrete acts on the part of any of the defendants. Rather, there are citations of cases for extortion as defined by the Hobbs Act and references to cases involving criminal conspiracies in general. There is no factual basis whatsoever for the conspiracy allegations in this case. The same holds for the claims at page 8, item 8 on civil rights violations and under item 9 on state law claims.

Given the pervasive pleading flaws of the Amended Complaint, the Court finds that there is no possibility of crossing the line from conceivable to plausible and, therefore, defendants’ motions to dismiss (**d.e. 28, d.e. 31,**

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d.e. 35, d.e. 41, d.e. 43, d.e. 44 and d.e. 52) are GRANTED and plaintiff's Amended Complaint is DISMISSED in its entirety as to all defendants, with prejudice. Plaintiff's request for a hearing to seek guidance on law to frame his RICO actions (d.e. 39, p. 16) is DENIED.

Judgment shall be entered accordingly.

SO ORDERED.

At San Juan, Puerto Rico, on August 12, 2016.

S/CARMEN CONSUELO CEREZO
United States District Judge