

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

**CONSEJO DE SALUD DE LA PLAYA DE
PONCE, INC., et al.,**

Plaintiffs,

v.

RAFAEL RODRIGUEZ MERCADO, et al.,

Defendants.

CASE NO. 06-1260 (GAG)

ORDER

The Court orders the joinder of the Commonwealth of Puerto Rico to Case No. 18-1045. Plaintiff filed this new case to avoid procedural hurdles and challenge the Medicaid wrap-around statute. On February 20, 2018, the Court ordered the Commonwealth to inform the Court (1) if it maintains its position argued in the captioned case, (2) if it will participate in the new case filed, and (3) if it considered itself an indispensable party under Rule 19 of the Federal Rules of Civil Procedure. (Docket No. 1398). The Commonwealth indicated that (1) its “position in the new constitutional challenge filed remains unchanged,” and (2) it would participate in the new action. (Docket No. 1399 ¶¶ 4-5). But it also answered that (3) Puerto Rico was not an “indispensable party” under Rule 19. Id. ¶ 6. In its response, the Commonwealth assumed that Puerto Rico was a “required party,” but concluded it was not an “indispensable party simply because it is feasible to join the Commonwealth Defendants.” Id. ¶ 12. The Court holds that, although not indispensable, the Commonwealth is a required party whose joinder is feasible and therefore joins the Commonwealth as a plaintiff in Case No. 18-1045.

Rule 19 states that a required party must be joined if feasible. It defines a required party as “[a] person who is subject to service of process and whose joinder will not deprive the court of subject-matter

1 jurisdiction” and satisfies one of two requirements. FED. R. CIV. P. 19(a)(1). First is whether “in that
2 person's absence, the court cannot accord complete relief among existing parties.” Id. 19(a)(1)(A). And
3 second is whether:

4 that person claims an interest relating to the subject of the action and is so situated that
disposing of the action in the person's absence may:

5 (i) as a practical matter impair or impede the person's ability to protect the interest; or

6 (ii) leave an existing party subject to a substantial risk of incurring double, multiple, or
otherwise inconsistent obligations because of the interest.

7 Id. 19(a)(1)(B).

8 Furthermore, Rule 19 demands that “[i]f a person has not been joined as required, the [C]ourt must order
9 that the person be made a party. A person who refuses to join as a plaintiff may be made either a defendant
10 or, in a proper case, an involuntary plaintiff.” Id. 19(a)(2).

11 As the Commonwealth stated, “if Consejo were to prevail, the residents of Puerto Rico and the
12 Commonwealth Defendants would benefit from better services in the Medicaid Program and receive equal
13 treatment under the Laws of the United States.” (Docket No. 1399 ¶ 10). Joining the Commonwealth would
14 not deprive the Court of subject-matter jurisdiction because the case arises from a federal question. Failure
15 to join the Commonwealth could impair its ability to protect its interest in equal treatment and enhanced
16 services under the Medicaid Program. It could affect other programs where Puerto Rico suffers from
17 unequal treatment as well. As stated in the Court’s order at Docket No. 1398, the Commonwealth did not
18 participate in the cases of Harris v. Rosario, 446 U.S. 651 (1980), and Califano v. Torres, 435 U.S. 1 (1978),
19 which validated discriminatory practices—ultimately to the Commonwealth’s extreme detriment.
20 Therefore, the Court orders the joinder of the Commonwealth of Puerto Rico to Case No. 18-1045 as a co-
plaintiff. Copy of this order shall be filed in Case No. 18-1045.

21 **SO ORDERED.**

22 In San Juan, Puerto Rico this 4th day of April, 2018.

23 *s/ Gustavo A. Gelpí*
GUSTAVO A. GELPI
24 United States District Judge