

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

**MILAGROS DEL PILAR LÓPEZ-VARGAS,  
JOSÉ RAFAEL LÓPEZ-VARGAS and  
MIGUEL ANGEL LÓPEZ-VARGAS AS  
REPRESENTATIVES OF THE ESTATE  
OF JUANITA VARGAS-RIVERA AND IN  
THEIR PERSONAL CAPACITIES,**

Plaintiffs,

v.

**DOCTORS' CENTER HOSPITAL  
BAYAMÓN, INC.; GRUPO DE  
EMERGENICAS VRC, CSP; DR. ANDRÉS  
ÁVILA-GONZÁLEZ, HIS SPOUSE AND THE  
CONJUGAL LEGAL PARTNERSHIP  
CONSTITUTED BY THEM; PUERTO RICO  
MEDICAL DEFENSE INSURANCE  
COMPANY; SINDICATO DE  
ASEGURADORES PARA LA SUSCRIPCIÓN  
CONJUNTA DE SEGURO DE  
RESPONSABILIDAD PROFESIONAL  
MÉDICO-HOSPITALARIA; CONTINENTAL  
INSURANCE COMPANY; DALE  
UNDERWRITING PARTNERS NATIONAL &  
FIRE MARINE; UNKOWN  
CORPORATIONS X, Y & Z; and UNKOWN  
INSURANCE COMPANIES A, B, & C,**

Defendants,

**The MEMBERS OF THE ESTATE OF  
JESÚS LÓPEZ-VARGAS,**

Indispensable Party with Interest.

Civil No. 21-1284

Re.: EMTALA; TORT; MEDICAL  
MALPRACTICE; HOSPITAL  
LIABILITY

**JURY TRIAL REQUESTED**

**COMPLAINT**

**TO THE HONORABLE COURT:**

COME NOW plaintiffs Milagros Del Pilar López-Vargas (“Milagros”), José Rafael López-Vargas (“José”) and Miguel Angel López-Vargas (“Miguel”), and

together referred to hereinafter as the “López-Vargas Family” or the “Plaintiffs”, through the undersigned attorney, and respectfully state and pray as follows:

### **I. INTRODUCTION**

1. In this suit, the López-Vargas Family seek redress for all the damages caused by those who negligently let their matriarch die, Mrs. Juanita Vargas Rivera (“Juanita” or “Mrs. Vargas-Rivera”).

2. The legal predicates for the suit are the Emergency Medical Treatment and Labor Act (“EMTALA”) as well as Puerto Rico’s general tort statute.

3. The EMTALA violations set forth in the Complaint are based on failure to screen, as required by the statute.

4. The general tort claims arise from a myriad of negligent deviations from the applicable standard of medical care in the emergency room setting.

### **II. JURISDICTION AND VENUE**

5. The jurisdiction of the Court is predicated on the existence of a federal question jurisdiction pursuant to the provisions of 28 U.S.C. § 1331, as there are claims and allegations predicated on EMTALA, 42 U.S.C. §1395dd.

6. The Honorable Court also has supplemental jurisdiction over the general tort claims filed against the co-defendants pursuant to the provisions of 28 U.S.C. § 1367.

7. Pursuant to 28 U.S.C. § 1391 (b)(2) and 42 U.S.C. §1395dd, venue is proper in this Honorable Court, as the covered hospital for EMTALA purposes is located within this District.

### III. THE PARTIES

8. Mrs. Vargas-Rivera was the single mother of Milagros, José and Miguel López-Vargas.

9. Mr. Vargas-Rivera's husband and father to Milagros, José and Miguel, died seven years ago.

10. Mrs. Vargas-Rivera also had a fourth child, Jesús López-Vargas ("Jesús"), who died on February 6<sup>th</sup>, 2017.

11. Upon information and belief, at the time Jesús died, he was married and had two children, whose identity and whereabouts are unknown to plaintiffs for which reason they are included as nominal parties.

12. Milagros and José López-Vargas are citizens of Bayamón, Puerto Rico.

13. Miguel López-Vargas is a citizen of the State of New York.

14. Due to financial constraints, when the events alleged in the Complaint happened, Mrs. Vargas-Rivera was a beneficiary of "La Reforma", Puerto Rico's public health insurance.

15. Co-defendant **Doctor's Center Hospital Bayamón, Inc.** ("the Hospital") is a for profit corporation organized under the laws of the Commonwealth of Puerto Rico. According to information available at the Puerto Rico State Department website, the Hospital's principal place of business and headquarters are located at the following address: Calle J#9, Urb. Hermanas Dávila, Bayamón, Puerto Rico, 00960.

16. Doctor's Center Hospital Bayamón, Inc. is part of a conglomerate of for-profit private hospitals and health care institutions with facilities in Puerto Rico.

17. On June 18, 2020, the Hospital was a covered entity under the provisions of the EMTALA.

18. On June 18, 2020, nurse Brenda P. Contreras-Irizarry (“Ms. Contreras-Irizarry”) was an employee of the Hospital.

19. In June 2020, the provisions of the Puerto Rico Health Department Regulation Number 117 (“Reglamento del Secretario de Salud Núm. 117 para Reglamentar el Licenciamiento, Operación y Mantenimiento de los Hospitales en el Estado Libre Asociado de Puerto Rico”) promulgated on December 21, 2004 (“Regulation No. 117”) applied to the Hospital, as more fully alleged hereinafter.

20. Co-defendant **Grupo de Emergencias VRC, CSP** (“GEVRC”) is a for profit corporation organized under the laws of the Commonwealth of Puerto Rico. According to information available at the Puerto Rico State Department website, the Hospital’s principal place of business and headquarters are located at the following address: Calle Amatista # 5, Bucare, Guaynabo, PR, 00969.

21. At all times alleged herein, GEVRC was the corporate entity in charge of the administration and operation of the Hospital’s Emergency Room.

22. GEVRC’s duties for the administration and operation of the Emergency Room on June 18, 2020, were assigned by the Hospital.

23. In June 2020, Regulation No. 117 applied to GEVRC, as more fully alleged hereinafter.

24. On June 18, 2020, Dr. Victor J. Rivera Cruz was the owner, President and Director of GEVRC.

25. On June 18, 2020, Dr. Victor J. Rivera Cruz was also the Hospital’s Emergency Department Director.

26. Co-defendant **Dr. Andrés Ávila-González** (“Dr. Ávila”) is a general medicine physician who was on duty at the Hospital on June 18, 2020, and the healthcare professional in charge of Mrs. Vargas-Rivera at the Hospital’s Emergency Room.

27. When the events that give rise to this suit occurred, Dr. Ávila was an employee of GEVRC and/or the Hospital, its subcontractor and/or had medical privileges there.

28. Upon information and belief, Dr. Ávila has settled at least one other medical malpractice suit filed against him with similarities to the instant action.

29. Dr. Ávila’s conjugal partnership, constituted between Dr. Ávila and his spouse, is liable for the damages caused by Dr. Ávila while engaging in those activities which benefited the conjugal partnership.

30. Co-defendant **Puerto Rico Medical Defense Insurance Company** (“PRMDIC”) is an insurance company organized pursuant to the laws of the Commonwealth of Puerto Rico which, who at all material times alleged herein, was the primary and/or excess liability insurer of GEVRC and had issued and in force one or more policies insuring the claims referred to herein and is directly liable to the plaintiffs for the damages claimed.

31. Co-defendant **Sindicato de Aseguradores Para la Suscripción Conjunta de Seguro de Responsabilidad Profesional Médico-Hospitalaria** (“SIMED”) is an insurance company organized pursuant to the laws of the Commonwealth of Puerto Rico which, who at all material times alleged herein, was the primary and/or excess liability insurer of Dr. Ávila and/or some of the other defendants

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