

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

LOURDES M. PÉREZ

Plaintiff,

v.

HOSTERÍA DEL MAR, INC., HOSTERÍA  
DEL MAR, DOES I-X, DOE-ROE  
CONJUGAL PARTNERSHIPS I-X, & ABC  
INSURANCE COMPANIES,

Defendants.

Civil No.: 14-1858 ( )

RE: TORT ACTION FOR NEGLIGENCE  
PURSUANT TO ARTICLES 1802 & 1803,  
31 P.R. Laws Ann. §§ 5141 & 5142.

**JURY TRIAL DEMANDED**

**COMPLAINT**

**TO THE HONORABLE COURT:**

**APPEAR NOW** Plaintiff Lourdes M. Pérez (hereinafter, “Plaintiff”) through the undersigned counsel, and hereby **STATE, ALLEGE** and **REQUEST:**

**JURISDICTIONAL BASIS**

1. This case is based upon diversity jurisdiction under 28 U.S.C. § 1332.
2. Plaintiff is a citizen of and resides in the state of Connecticut.
3. All Defendants are citizens of Puerto Rico or a state other than Connecticut and the matter in controversy exceeds SEVENTY FIVE THOUSAND DOLLARS (\$75,000.00), exclusive of interest and costs, thus vesting jurisdiction on this Honorable Court pursuant to 28 U.S.C. § 1332.
4. Venue is proper in the district of Puerto Rico pursuant to 28 U.S.C. § 1391, since the events or omissions that give rise to this claim occurred in this district.

**THE PARTIES**

5. Plaintiff **LOURDES M. PÉREZ** (hereinafter, “Mrs. Pérez”) is of legal age, married, and a citizen and resident of the state of Connecticut.
6. Defendant **HOSTERÍA DEL MAR, INC.**, is a Puerto Rico corporation with its corporate headquarters in Puerto Rico, which owns, operates and or manages the hotel, resort, property, restaurants and facilities known as **HOSTERÍA DEL MAR** in San Juan, Puerto Rico.
7. Defendants **DOES I-X** are individuals, corporations, or entities that are citizens of Puerto Rico or a state other than Connecticut who are unknown and are jointly and severally liable for Plaintiffs’ damages.
8. Defendants **DOE-ROE CONJUGAL PARTNERSHIPS I-X** are unknown conjugal partnerships comprised of the individual defendants and their respective spouse.
9. Defendants **ABC INSURANCE COMPANIES** are corporations organized or operating under the laws of the Commonwealth of Puerto Rico, which insured one or more defendants for the damages claimed herein.

**GENERAL ALLEGATIONS**

10. During the month of December 2013, Mrs. Lourdes M. Pérez and her husband, Alexis Pérez, stayed at Hostería del Mar, located in San Juan, Puerto Rico.
11. Hostería del Mar has an uncovered indoor patio.
12. When it rains, the indoor patio and nearby areas get wet and/or flooded with rainwater.
13. On or about December 5, 2013, it had been heavily raining and the Hostería del Mar Puerto Rico’s indoor patio and adjacent areas of the patio were extremely wet.

14. On or about the December 5, 2013, Mrs. Pérez was descending a flight of stairs inside Hostería del Mar, which is located close to the uncovered indoor patio.
15. The flight of stairs where the incident took place is the only set available for guests who want or need to reach the first level of the building.
16. There were no signs of any kind indicating that there was a dangerous condition on or near the flight of stairs where the incident took place.
17. The stairs did not have anti-slip grips or non-skid tape installed.
18. The tiles are improper because they are exposed to the exterior and subject to the elements.
19. As a result of the dangerous conditions, Mrs. Pérez slipped and fell, injuring her neck and back, upper left shoulder and left arm.
20. Mrs. Pérez reported the incident to a manager, who took a written statement.
21. After the fall, Mrs. Pérez began to feel extreme pain and discomfort.
22. Upon return to her home state, Mrs. Pérez underwent a lumbar spine examination.
23. Upon further examination, she was diagnosed with a torn rotator cuff on her left shoulder, a bilateral tear in her left bicep, and a cervical stenosis of spinal canal.
24. Mrs. Pérez is being treated with corticosteroid injections to manage her pain and has been attending physical therapy for her injuries.
25. Mrs. Pérez is also suffering from a tingling and numbness sensation in three fingers, which is associated with the cervical stenosis of spinal canal.
26. Surgery has been strongly recommended as treatment of her shoulder and bicep injuries.
27. Mrs. Pérez's surgical intervention has been scheduled for December 2014.

**FIRST CAUSE OF ACTION:**  
**NEGLIGENCE OF HOSTERÍA DEL MAR PUERTO RICO**

28. The allegations contained above are incorporated by reference as if again fully set forth.
29. Hostería del Mar (Hereinafter, “Hostería”) through the various acts or omissions of its employees, representatives, directors, sub-contractors, licensees, or agents, caused damages to Mrs. Pérez through fault or negligence in violation of Articles 1802 and 1803 of the Puerto Rico Civil Code, 31 P.R. Laws Ann. §§ 5141 & 5142.
30. Hostería, through its employees, representatives, directors, sub-contractors, licensees, or agents, failed to provide a safe property free from dangerous conditions or defects.
31. Hostería, through its employees, representatives, directors, sub-contractors, licensees, or agents, failed to ensure no rainwater covered the walking areas inside the hotel, which allowed for an extremely perilous condition to exist, and as a result caused damages to Mrs. Pérez.
32. Hostería, through its employees, representatives, directors, sub-contractors, licensees, or agents, knew or should have known that Hostería contained a dangerous condition on or about December 5, 2013, where the rainwater inundated the premises.
33. Hostería, through its employees, representatives, directors, sub-contractors, licensees, or agents, breached their duty to Mrs. Pérez by failing to properly design, inspect, maintain or otherwise keep the location free from dangerous conditions and free from wet flooring.
34. Hostería, through its employees, representatives, directors, sub-contractors, licensees, or agents, breached their duty to Mrs. Pérez by failing to clean, dry, identify, warn guests of the conditions or otherwise provide for proper drainage and/or safeguards where Mrs. Pérez was injured.

35. Hostería, through its employees, representatives, directors, sub-contractors, licensees, or agents, breached their duty to Mrs. Pérez by failing to install anti-slip grip on the stairs where Mrs. Pérez was injured.

**SECOND CAUSE OF ACTION:**  
**ABC INSURANCE COMPANIES**

36. The allegations contained above are incorporated by reference as if again fully set forth.

37. Defendant ABC Insurance Companies was, at the time herein pertinent, authorized to do business as such in Puerto Rico.

38. Defendants ABC Insurance Companies issued or more insurance policies in favor of one or more of the aforementioned Defendants or another tortfeasor.

39. Upon information and belief, the policies provide coverage for damages caused at Hostería and/or coverage for the negligence of the owners, operators, and/or coverage for the negligence of the owners, operators and/or coverage for the negligence of the employees, representatives, directors, sub-contractors, licensees, or agents of Hostería.

40. Defendants ABC Insurance Companies are directly liable for the negligence or fault of its insured, which caused Mrs. Pérez damages or for the damages suffered on Hostería's property or as the terms of the insurance policies that were issued may provide.

41. Pursuant to 26 P.R. Laws Ann. § 2001, an insurance company is directly liable for the negligence or fault of its insured.

42. Pursuant to 26 P.R. Laws Ann. § 2003, an action against an insurer may be brought separately or may be joined together with an action against its insured.

**THIRD CAUSE OF ACTION:**  
**DOES I-X**

43. The allegations contained above are incorporated by reference as if again fully set forth.
44. Defendants Does I-X are generically named for lack of knowledge at this point.
45. Defendants Does I-X caused damages to Mrs. Pérez through fault or negligence in violation of article 1802, 31 P.R. Laws. Ann. § 5141.
46. Defendants DOES I-X negligent acts or omissions caused Mrs. Pérez damages.
47. Defendants Does I-X are jointly and severally liable for the damages caused to Mrs. Pérez.

**FOURTH CAUSE OF ACTION:**  
**CONJUGAL PARTNERSHIPS I-X**

48. The allegations contained above are incorporated by reference as if again fully set forth.
49. The Conjugal Partnerships are generically named for lack of knowledge at this point.
50. The activities by which DOES I-X caused Mrs. Pérez damages were activities that benefited their respective spouses.
51. Each conjugal partnership is jointly and severally liable to Mrs. Pérez for the damages caused by the Defendants.

**DAMAGES**

52. The allegations contained above are incorporated by reference as if again fully set forth.
53. As a result of the negligent acts or omissions of Defendants, Mrs. Pérez has suffered physical, emotional, and mental damages.
54. As a result of the negligent acts or omissions of Defendants, Mrs. Pérez has suffered physical, emotional and mental damages, which have a reasonable value of no less than ONE MILLION FIVE HUNDRED THOUSAND DOLLARS (\$1,500,000.00).

**TRIAL BY JURY DEMANDED**

55. Plaintiffs hereby demand a trial by jury

**WHEREFORE**, Plaintiff demands judgment against Defendants, jointly and severally, in the amount of no less than \$1,500,000.00 plus costs incurred, reasonable attorneys' fees and such other and further relief as to this Honorable Court may seem just and proper under the law.

**CERTIFICATION:** I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will notify the attorneys of record.

**RESPECTFULLY** submitted on this 26th of November 2014.

**INDIANO & WILLIAMS, P.S.C.**

*Attorneys for Plaintiff*

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