

## Indiano & Williams Wins Class Action Lawsuit Against the Colegio de Abogados (the Puerto Rico Bar Association)

On July 23, 2010, the United States Court of Appeals for the First Circuit ruled in favor of class plaintiffs represented by Indiano & Williams, P.S.C. See Brown v. Colegio de Abogados de Puerto Rico, 613 F.3d 44 (1<sup>st</sup> Cir. 2010). The class plaintiffs are all attorneys practicing in the Commonwealth of Puerto Rico local courts from 2002-2006, who were obligated to pay the Colegio de Abogados (“Colegio” or Puerto Rico Bar Association) their yearly annual membership renewal fee in order to practice law in Puerto Rico.

The case was filed as a class action lawsuit in the United States District Court for the District of Puerto Rico because members of the Puerto Rico Bar Association were required to purchase a compulsory life insurance policy as a precondition to their ability to practice law in Puerto Rico from 2002 - 2006 in violation of the First Amendment of the United States Constitution and the Civil Rights Act, 42 U.S.C. §1983. The Colegio’s compulsory life insurance program was not germane to the purposes that justify an integrated bar association, and therefore violated the First Amendment of the United States Constitution.

On September 26, 2008, the United States District Court for the District of Puerto Rico certified the class action and granted summary judgment in favor of the class plaintiffs. See Brown v. Colegio de Abogados de Puerto Rico, 579 F.Supp.2d 211 (D.P.R. 2008). The District Court also issued the following permanent injunction:

Defendant Colegio de Abogados de Puerto Rico is hereby prohibited from collecting from its members that portion of their future annual dues attributable to the Colegio’s mandatory group life insurance program. Failure to comply with this Judgment will result in an immediate reimbursement of the funds allocated for compulsory life insurance, or an Order of Execution against the property and assets of the Colegio.

The Colegio appealed to the United States Court of Appeals for the First Circuit and the case was argued on behalf of the class plaintiffs by David C. Indiano of Indiano & Williams, P.S.C. on May 3, 2010 in Boston, Massachusetts.

The First Circuit’s July 23, 2010 decision affirmed the District Court’s permanent injunction, affirmed the District Court’s finding of liability against the Puerto Rico Bar Association, affirmed the four- year period of the Colegio’s unconstitutional action, and affirmed the District Court’s method for calculating damages.

On remand to complete formal class notification, Indiano & Williams, P.S.C. successfully secured a lien on the Colegio’s real estate property to ensure payment of the full judgment, shifted the burden of the class notification expenses to the Colegio, and obtained a protective order prohibiting the Colegio from issuing unauthorized communications regarding the case to class members. After the Puerto Rico Bar Association and its president violated the protective order by impermissibly soliciting opt-outs and by disparaging the class representatives and

counsel, Indiano & Williams, P.S.C. successfully moved for contempt proceedings which ultimately resulted in the imprisonment of the Colegio's president and a \$10,000 sanction.

After the class notification process was completed, on April 13, 2011 final judgment in the total amount of \$1,971,663.26 was entered in favor of the 6,327 members of the damages class and the permanent injunction remained in full effect.

The Puerto Rico Bar Association filed a series of subsequent appeals all of which were voluntarily dismissed after an agreement was reached with Indiano & Williams, P.S.C. for the Colegio to pay the full judgment amount, post-judgment interest, attorney's fees, and expenses. On December 1, 2011, Rust Consulting, Inc., the Court-appointed administrator, began sending checks to each of the remaining class members entitled to a portion of the judgment amount. These payments represent what the First Circuit called "the best relief imaginable" and complete vindication for the constitutional rights violated by the Puerto Rico Bar Association.