

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

ELIO MARRERO GARCIA

Plaintiff

v.

**METRO MAYAGUEZ, INC.; ANGEL
VARGAS; ABC INSURANCE
COMPANY; AND JOHN DOE**

Defendants

CIVIL ACTION NO.

COMPLAINT AND DEMAND FOR JURY TRIAL

1. Plaintiff, Elio Marrero Garcia (hereinafter "Plaintiff" or "Mr. Marrero"), by and through their undersigned counsel, hereby file this Complaint against Metro Mayagüez, Inc.. (Defendant Hospital), Angel Vargas and ABC Insurance Company (sometimes collectively with Metro Mayagüez, Inc. "Defendants") and allege as follows:

I. PRELIMINARY STATEMENT

2. This is an action seeking declaratory, injunctive, and monetary relief for discrimination on the basis of disability in violation of Title III of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12181 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794; and for personal injuries sustained as a result of medical malpractice under Puerto Rico law.
3. Mr. Marrero, a person with a pre-existing spinal cord injury who had made substantial progress in his rehabilitation over eleven years, suffered catastrophic and permanent neurological damage when Defendants Hospital Perea and its employees failed to provide accessible medical equipment, failed to make reasonable modifications to procedures, and

used improper and dangerous techniques when attempting to position him for a cervical MRI in April 2024.

4. This case arises from the Defendants' failure to comply with clear legal mandates to provide accessible medical care to individuals with disabilities, resulting in life-altering injuries to Mr. Marrero that have reversed years of progress in his rehabilitation and drastically reduced his independence and quality of life.

II. PARTIES

5. Plaintiff Elio Marrero Garcia is a natural person and a resident of Mayagüez, Puerto Rico. Mr. Marrero is a qualified individual with a disability as defined by the ADA, 42 U.S.C. § 12102, due to his physical impairment (spinal cord injury) that substantially limits one or more major life activities, including walking, standing, and performing manual tasks.
6. Defendant Metro Mayagüez, Inc. is a hospital facility located at Dr. Bazora #15, Mayagüez, PR 00680-0000, which operates a radiology department. and provides magnetic resonance imaging ("MRI") services to the public, including individuals with disabilities. Defendant Hospital is a place of public accommodation as defined by 42 U.S.C. § 12181(7)(F).
7. Defendant Angel Vargas is a radiology technician employed by Metro Mayagüez, Inc. who, at all times relevant to this complaint, was acting within the course and scope of his employment. Upon information and belief, Angel Vargas is a resident of Puerto Rico.
8. Defendant ABC Insurance Company is an insurance company that, upon information and belief, provides liability insurance coverage to Metro Mayagüez, Inc. and/or Defendant Angel Vargas for the claims asserted herein. The true name of this Defendant is currently unknown to Plaintiff and will be substituted when ascertained.

9. John Doe are other employees or agents of Defendants whose identities are currently unknown but who participated in the discriminatory conduct alleged herein.

III. JURISDICTION AND VENUE

10. This Court has original jurisdiction over Plaintiff's federal claims pursuant to 28 U.S.C. §§ 1331 and 1343 for claims arising under the ADA and the Rehabilitation Act.
11. This Court has supplemental jurisdiction over Plaintiff's Puerto Rico law claims pursuant to 28 U.S.C. § 1367 because these claims are so related to the federal claims that they form part of the same case or controversy.
12. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201 and 2202.
13. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events giving rise to these claims occurred in this District, and because Defendant Hospital is located in this District.

IV. FACTUAL ALLEGATIONS

A. Regarding the Plaintiff' Medical Conditions: Mr. Marrero's pre-existing condition and recovery

14. In June 2011, Mr. Marrero suffered a traumatic spinal cord injury that affected his mobility, requiring the use of mobility aids, including a walker and, at times, a wheelchair.
15. The rehabilitation that Mr. Marrero began after his initial injury has been continuous from 2011 to 2024, with significant progress, allowing him to regain motor function and continue his independence.
16. By April 2024, he had regained enough motor function to stand and walk short distances with the walker, allowing him to perform daily living activities such as going to the supermarket with minimal assistance.

17. Mr. Marrero was able to independently carry out daily activities, such as visiting the supermarket, where he could stand and walk while holding onto a shopping cart with minimal assistance.
18. Likewise, Mr. Marrero could shower while standing with limited help, instead of requiring a bed bath. Additionally, Mr. Marrero had regained sensitivity in his abdominal and genital regions.
19. Mr. Marrero had reached a significant level of independence in his daily activities and was continuing to progress in his rehabilitation.
20. Mr. Marrero received regular medical treatment at the Defendant Hospital, which was fully aware of his medical history and his spinal cord injury through its medical records and his numerous visits to the facility over the years.

B. The april 2024 incident at Hospital Perea

21. Around April 2024, Mr. Marrero went to the radiology department at Hospital Perea in Mayagüez for a cervical MRI, as ordered by his doctor.
22. Mr. Marrero arrived at the appointment in his wheelchair, which was visibly evident to the staff of the Defendant Hospital, including the radiology technician, Mr. Ángel Vargas.
23. Upon arrival, Mr. Marrero informed Mr. Ángel Vargas, the on-duty radiology technician, about his preexisting spinal cord injury and his limited mobility.
24. Based on the extensive history of the Defendant Hospital treating Mr. Marrero and the medical records in its possession, the staff of the Defendant Hospital, and especially Mr. Ángel Vargas, knew or should have known that Mr. Marrero required special accommodations during the MRI procedure due to his preexisting spinal cord injury.
25. The Defendant Hospital lacked accessible MRI equipment, including adjustable height tables, patient lifts, or adequate aids to safely position the patient with a spinal cord injury.

26. However, Mr. Ángel Vargas informed Mr. Marrero that he would help him out of the wheelchair and lift his feet onto the MRI table to perform the exam, as he was alone and did not have the support of other hospital staff members.
27. Mr. Ángel Vargas transferred Mr. Marrero from his wheelchair to the MRI table without any positioning aids or accommodations for his preexisting condition.
28. Next, technician Ángel Vargas attempted to place an MRI coil (referred to as "antenna") on Mr. Marrero's head and neck.
29. When the MRI coil did not close or align correctly, the Defendant Technician informed Mr. Marrero that his head was "half a centimeter" away from the required position.
30. Instead of using proper positioning techniques or appropriate adaptive equipment for a patient with a spinal cord injury, the Defendant Technician applied direct physical force on Mr. Marrero's head and neck in an attempt to force his body into the required position for the MRI.
31. This forcible manipulation of Mr. Marrero's head and neck occurred despite Technician Ángel Vargas's knowledge of Mr. Marrero's preexisting spinal cord injury, which increased the risk of further neurological damage.
32. Immediately after this physical manipulation, Mr. Marrero experienced a sudden loss of sensation in his lower limbs. Mr. Marrero immediately communicated this loss of sensation to the Defendant Technician.
33. Instead of conducting a proper evaluation or calling for medical assistance, Mr. Vargas dismissed the Plaintiff's concerns, suggesting that the loss of sensation was simply due to the position of the body on the table, claiming it might have been caused by Mr. Marrero not being accustomed to lying flat.

34. The MRI procedure was eventually abandoned because the MRI coil could not be placed correctly despite Technician Vargas's forcible manipulation of Mr. Marrero's head and neck.
35. Once Mr. Marrero attempted to return to his wheelchair, the Defendant Technician had to physically push him because Mr. Marrero had lost the ability to assist with the transfer due to the new loss of sensation. At that moment, Mr. Marrero had no sensation in his body below the site of the injury.
36. Mr. Marrero reported his sudden loss of sensation to the nurse who performs catheterizations for the application of contrast fluid during the exam immediately after the failed MRI procedure.
37. Despite Mr. Marrero's report of new neurological symptoms immediately after the procedure, the Defendant Hospital staff did not provide adequate emergency evaluation, intervention, or treatment.

C. Confirmation of injury sustained due to improper MRI procedures

38. In the days following the incident, Mr. Marrero returned to the emergency department of the Defendant Hospital on several occasions, specifically reporting that his loss of sensation began during the MRI procedure.
39. Mr. Marrero visited the emergency department of the Defendant Hospital approximately three times, explaining each time that his neurological deterioration occurred during the MRI procedure.
40. The emergency department of the Defendant Hospital documented Mr. Marrero's complaints but did not investigate or treat the new spinal cord injury adequately, providing only muscle relaxants and ordering a CT scan of his head/brain dated April 13, 2024, which was not the proper diagnostic exam for a spinal cord injury.

41. Subsequent medical evaluations by specialists at the Medical Center in San Juan, Puerto Rico, confirmed that Mr. Marrero had sustained a new spinal cord injury consistent with trauma during the positioning in the MRI.
42. After the incident, on August 28, 2024, Mr. Marrero sought and obtained a cervical MRI at another medical facility, CIRT in Ponce, Puerto Rico.
43. The medical professionals at CIRT successfully performed the same MRI procedure using appropriate positioning techniques, including the use of support cushions under Mr. Marrero's body to properly align his spine without applying direct force to his head or neck.
44. At CIRT, two paramedic staff members lifted Mr. Marrero by the hips and placed support cushions beneath him to elevate his body and allow his head to be positioned correctly for the MRI without forcing his neck.
45. The radiologist at CIRT explicitly told Mr. Marrero that the procedure attempted by Technician Ángel Vargas was unnecessary and that there were standard alternative techniques available for patients with spinal mobility limitations.
46. The radiologist at CIRT performed the MRI without using the "antenna" (MRI coil) in the same manner attempted by the Defendant Technician, demonstrating that alternative, safer methods were available and well-known in the field.
47. Subsequently, Mr. Marrero visited several neurosurgeons, including Dr. José A. Fernández Abinader, José C. Pérez, López, Enrique Escobar, and Orlando de Jesús Garces, who examined him and confirmed that his neurological deterioration was attributable to the trauma sustained during the positioning in the MRI at the Defendant Hospital in April 2024.

48. These doctors explained to Mr. Marrero that the improper manipulation of his head and neck caused a new spinal cord injury, resulting in the loss of progress he had made during his eleven years of rehabilitation.

49. One of the specialists also informed him that performing such movements compromised his spinal cord, causing trauma in the cervical area due to pressure, thus creating a new injury and worsening his symptoms.

50. The doctors advised Mr. Marrero that recovery from this new injury may require another extended period of rehabilitation, comparable to the eleven years it took him to achieve his previous level of function, if recovery is even possible, as there is no treatment and surgery is not an option, with rehabilitation through physical therapy being the only method.

D. The impact of the injury on Mr. Marrero's life and his current disability condition

51. As a direct and proximate result of the negligent acts and omissions of the Defendants, Mr. Marrero has suffered a severe setback in his spinal cord condition, losing almost all the progress in mobility that he had achieved in eleven years of rehabilitation.

52. Before the incident in April 2024, Mr. Marrero could stand and walk short distances with a walker. He could move through public spaces such as supermarkets with minimal assistance, and he could shower with limited help.

53. After the April 2024 incident, Mr. Marrero is now confined to a wheelchair and has lost the ability to stand or walk, even with assistance.

54. Mr. Marrero has lost sensation in large areas of his lower body where he previously had sensation, including his abdominal area and genital region.

55. Mr. Marrero now requires a mechanical lift to transfer from his wheelchair for basic hygiene needs. In his current condition, Mr. Marrero needs assistance to be bathed in bed.

56. Mr. Marrero can no longer assist with the care of his own catheter, as he no longer has sensation when nurses manipulate the catheter.

57. Following the progression of symptoms due to the new injury, Mr. Marrero has lost the independence he had worked so hard to achieve over the years. In his current condition, he is confined to his home, as he requires permanent assistance to perform practically any daily activity.

58. Mr. Marrero has experienced severe physical pain, emotional distress, and mental suffering as a result of his loss of independence and mobility, requiring treatment for depression, including partial hospitalization.

59. His psychiatrist has occasionally referred him to a specialized psychiatric center due to the ongoing psychological distress he suffers.

60. Mr. Marrero has also experienced the loss of potential social and personal relationships. Before the injury, he was working on losing weight and improving his physical condition with the goal of continuing to integrate into everyday activities and social life, just like others. He even hoped to visit someone with whom he had established a long-distance relationship.

61. The injuries suffered have drastically reduced Mr. Marrero's quality of life and have reversed years of hard progress in rehabilitation.

E. Discrimination against Mr. Marrero by Hospital Perea due to the existence of barriers in medical equipment

62. The Defendant Hospital failed to provide the necessary accessible medical equipment for the safe examination of patients with mobility disabilities, including but not limited to:

62.1. Adjustable height mri tables that can be lowered to wheelchair height to facilitate transfers: The lack of accessible and adjustable MRI tables for wheelchair users

directly affected Mr. Marrero. Given his limited mobility condition, the process of transferring him from his wheelchair to the MRI table was difficult and dangerous, compromising his safety and well-being during the exam. This lack of appropriate equipment led to improper handling of his body, contributing to the new spinal cord injury.

- 62.2. Proper transfer equipment such as patient lifts or transfer boards: The absence of proper transfer equipment, such as lifts or transfer boards, forced the technician to perform an inadequate physical transfer, using only his strength to move Mr. Marrero from his wheelchair to the MRI table. Due to his preexisting spinal cord injury, this process increased the risk of further injury, resulting in the loss of sensation Mr. Marrero experienced immediately after the procedure.
- 62.3. Appropriate positioning aids such as cushions, wedges, or supports to safely position patients with mobility limitations: The MRI equipment lacked proper aids to safely position Mr. Marrero, such as cushions, wedges, or supports, leading to forced manipulation of his neck and head. Improper positioning and lack of adequate support during the procedure directly contributed to the additional damage to his spinal cord and the loss of functionality he had worked so hard to achieve over more than a decade of rehabilitation.
- 62.4. MRI-Compatible support and stabilization devices for patients with spinal cord injuries: The lack of appropriate support devices for patients with spinal cord injuries, such as those used in other medical centers, worsened the situation. These devices are essential to ensure the safety and comfort of patients with limited mobility. The lack of these essential elements at the Defendant Hospital

resulted in a risky procedure where the improper handling of Mr. Marrero caused a significant setback in his physical condition.

63. The lack of this essential accessible equipment made it impossible for the Defendant Hospital to provide safe and equal medical services to Mr. Marrero and other patients with similar disabilities. Furthermore, this failure to meet accessibility standards not only physically affected Mr. Marrero but also prevented him from receiving appropriate and dignified treatment in a medical setting, violating his rights under the ADA.
64. The fact that another medical facility (CIRT in Ponce) was able to successfully perform the same MRI procedure using appropriate techniques and positioning aids demonstrates that such accommodations were easily achievable and would not have fundamentally altered the nature of the services provided. This contrast between the two facilities highlights how the lack of proper equipment at the Defendant Hospital had a direct and negative impact on Mr. Marrero's health, while the use of correct practices and equipment at CIRT allowed the procedure to be performed without causing further harm.
65. According to the Plaintiff's information and belief, the Defendant Hospital has not conducted an adequate evaluation of its facilities and services to identify and eliminate accessibility barriers for patients with disabilities, despite clear guidelines from the U.S. Department of Justice on the requirements for accessible healthcare for patients with mobility disabilities. The failure to comply with these standards not only contributed to the deterioration of Mr. Marrero's condition but also reflects a systematic lack of adaptation to the needs of patients with reduced mobility

F. Discrimination against Mr. Marrero Due to the existence of architectural barriers at Hospital Perea's facilities

66. Mr. Marrero is a regular patient at Hospital Perea and, due to his health condition, must visit the medical center frequently for medical check-ups, exams, and other procedures related to his spinal cord injury. Due to his need for ongoing medical care, visits to the hospital are not merely a legitimate interest but a fundamental necessity for his health and well-being.

67. Since Mr. Marrero must visit the hospital regularly, his interaction with the facilities is crucial to maintaining his progress in treatment and rehabilitation. Despite the necessity of hospital visits, his experience is deeply affected by the physical and accessibility barriers within the facilities, which hinder his mobility and safety. The specific barriers that Mr. Marrero is aware of include:

67.1. Damaged Surface in Accessible Parking: Mr. Marrero is aware that the surface of the parking lot is damaged, with cracks and unevenness that greatly hinder his maneuverability in a wheelchair. The deteriorated surfaces significantly impede his ability to safely move from the parking lot to the hospital entrance, increasing the risk of falls or accidents. Although there are designated accessible spaces, the paint is worn, and they lack the necessary adjacent space to ensure proper maneuverability. These areas do not meet the required standards, turning a simple task like parking into an unnecessarily difficult and dangerous process for people with mobility disabilities. The lack of a safe access route from the parking lots to the entrance further exacerbates the physical effort Mr. Marrero must exert, discouraging him from attempting to visit the hospital.

67.2. Main Entrance: Mr. Marrero has encountered a significant physical barrier at the main entrance of the hospital due to an uneven surface or step at the access point.

This barrier represents a serious obstacle for him, as he uses a wheelchair and needs step-free access. The uneven ground at this entrance prevents a safe and smooth entry into the hospital, forcing him to depend on the assistance of others. This situation not only disrupts his independence but also makes the process of entering the hospital more tiring and unsafe. The lack of an accessible entrance reflects a clear lack of consideration for patients with mobility limitations, directly violating Mr. Marrero's right to equitable access under the ADA.

67.3. Admissions Entrance: Mr. Marrero is aware that the admissions entrance also has an uneven surface that makes access difficult. Although there seems to be a ramp, this accessibility feature becomes unusable due to the uneven terrain leading to the ramp, making it ineffective for people with mobility limitations like Mr. Marrero. The lack of proper design and poor maintenance forces him to take longer, more complicated routes to access the hospital or depend on assistance from others, further reducing his independence. This lack of an adequate accessible route to key areas of the hospital demonstrates negligence in ensuring the facilities are properly adapted for people with disabilities.

67.4. Nursing Counter: The nursing counter presents a significant barrier for Mr. Marrero due to its excessive height and lack of necessary depth, making it practically inaccessible for someone in a wheelchair. The configuration of the counter prevents Mr. Marrero from getting close enough to interact comfortably and safely with the medical staff. This not only prevents him from communicating effectively with healthcare providers but also increases the risk of accidents or discomfort when attempting to reach for necessary information or services. The

lack of proper design at this counter reflects the hospital's negligence in providing equitable access to all patients.

- 67.5. Nursing Station Counter: The nursing station counter is also too high, lacks a lowered section for easy access, and lacks sufficient depth. This configuration limits Mr. Marrero's ability to interact comfortably with nursing staff, affecting his accessibility and comfort. The absence of an appropriate counter prevents his access to essential services, affecting his overall experience at the hospital and limiting his ability to receive necessary medical care.

G. Failure to provide reasonable modifications, failure to implement procedures appropriate to Mr. Marrero's condition, and pattern of discrimination

68. The failure to provide reasonable modifications and the failure to implement appropriate procedures during the MRI procedure by the Defendant Hospital staff and Technician Ángel Vargas are related to the following points:

- 68.1. Failure to adequately assess Mr. Marrero's specific needs related to his disability before attempting the MRI procedure: Despite the hospital's extensive history with Mr. Marrero as a patient, and its full awareness of his disability and the need for specific accommodations for his limited mobility condition, an adequate assessment of his needs was not conducted before the MRI procedure. This omission led to the procedure being carried out without the necessary modifications to safely accommodate his disability, severely compromising his well-being.
- 68.2. Failure to use alternative positioning techniques known in the field and later demonstrated by Cirt in Ponce: The Defendant Hospital did not employ adapted and safe positioning techniques for patients with spinal cord injuries, such as

those successfully implemented at CIRT in Ponce. Instead of using such methods, the Defendant Technician applied forced manipulation, resulting in a new spinal cord injury for Mr. Marrero. The failure to use known and effective alternatives reflects a lack of consideration for best practices for patients with mobility disabilities, such as Mr. Marrero's.

- 68.3. Failure to have proper protocols for safely imaging patients with spinal cord injuries: The lack of proper protocols and accessible equipment, such as adjustable height MRI tables and aids for the safe positioning of patients with spinal cord injuries, put Mr. Marrero in an unnecessarily risky situation. These omissions not only violated accessibility regulations but also demonstrated a lack of preparedness to properly treat patients with severe disabilities like Mr. Marrero's.
- 68.4. Failure to train staff on proper handling and positioning of patients with mobility disabilities, particularly those with spinal cord injuries: The lack of specialized training for hospital staff on how to handle patients with mobility disabilities, especially those with spinal cord injuries, directly contributed to the improper handling of Mr. Marrero during the procedure. The hospital staff was not prepared to recognize and apply proper positioning techniques for a patient with limited mobility, resulting in improper treatment and additional injury.
- 68.5. Failure to respond adequately to Mr. Marrero's immediate report of neurological symptoms following improper manipulation: After Mr. Marrero reported immediate loss of sensation following improper manipulation of his neck and head, the hospital did not respond appropriately nor provide proper medical

evaluation. Despite his report of serious neurological symptoms, the hospital did not provide urgent care or consult a specialist, worsening his condition and resulting in further neurological deterioration.

69. These failures directly resulted in the improper handling of Mr. Marrero's head and neck, causing his new spinal cord injury and subsequent neurological deterioration. The reasonable modifications required, such as the use of appropriate equipment and positioning techniques, would not have fundamentally altered the nature of the MRI service, as demonstrated by the successful MRI performed at CIRT using appropriate accommodations for Mr. Marrero's disability. The failure to provide reasonable modifications by the Defendant Hospital was particularly severe given its knowledge of Mr. Marrero's specific condition due to his extensive patient history at the facility.
70. On the other hand, according to the Plaintiff's information and belief, the violations of Mr. Marrero's rights were not isolated incidents but reflect a systematic failure by the Defendant Hospital to comply with federal disability laws, as evidenced by:
 - 70.1. Failure to provide appropriate equipment for patients with mobility disabilities: The absence of accessible and appropriate medical equipment, such as adjustable MRI tables and support devices for patients with limited mobility, demonstrates a systematic pattern of neglect toward the needs of patients with disabilities. This lack of essential equipment not only affected Mr. Marrero but also highlights a deficiency in the hospital's practices to comply with the accessibility requirements established by law.
 - 70.2. Inadequate staff training on proper handling and accommodation of patients with disabilities: The lack of specialized training for medical staff on how to care for

patients with mobility disabilities and spinal cord injuries reveals a lack of commitment to providing safe and accessible healthcare. This pattern of misinformation and lack of preparedness contributed to the inappropriate and potentially harmful treatment Mr. Marrero received during his procedure and reflects the systematic negligence of the hospital toward people with disabilities.

70.3. Dismissive response to mr. marrero's report of neurological symptoms after improper physical manipulation: The way the hospital dismissed and did not properly respond to Mr. Marrero's report of neurological symptoms is a reflection of a systematic pattern of ignorance or negligence toward the needs of patients with disabilities. This inadequate response to a critical patient report demonstrates unequal and discriminatory treatment toward people with limited mobility.

71. This systematic failure has resulted in discrimination against Mr. Marrero and likely against other people with disabilities seeking medical care at the Defendant Hospital. The continued lack of reasonable accommodations, proper equipment, and staff training reflects a structural and persistent violation of the rights of patients with mobility disabilities under the ADA and other accessibility laws.

CAUSE OF ACTION

COUNT I

Violation of the Americans with Disabilities Act - Architectural Barriers [42 U.S.C. § 12182(a)]

72. Plaintiff realleges and incorporates paragraphs 1-71 as if fully set forth herein.

73. Title III of the ADA, 42 U.S.C. § 12182(a), prohibits discrimination based on disability in places of public accommodation, including hospitals, medical facilities, and professional health care providers.

74. Defendant Metro Mayagüez, Inc., as a public accommodation, is subject to the requirements set forth in Title III of the ADA, which mandates that all individuals with disabilities have equal access to the goods, services, facilities, privileges, advantages, or accommodations provided by a place of public accommodation.
75. The failure of Defendant Hospital to remove architectural barriers in its facilities, as well as to provide appropriate medical equipment and modifications, directly violates these requirements under Title III.
76. Mr. Marrero, as a qualified individual with a disability, suffers from a spinal cord injury that substantially limits his mobility, including his ability to walk, stand, and perform manual tasks. Given his condition, Mr. Marrero requires certain accommodations to ensure his ability to access hospital facilities and receive medical care safely and independently. However, Defendant Hospital has failed to provide such accommodations, resulting in discrimination against Mr. Marrero based on his disability.
77. The hospital's failure to remove architectural barriers that obstruct Mr. Marrero's access to the facility is a clear violation of 42 U.S.C. § 12182(b)(2)(A)(iv). Specifically, the parking areas at Defendant Hospital are not fully accessible. The surfaces of the accessible parking spaces are damaged, with cracks and uneven pavement that make it extremely difficult for Mr. Marrero to safely navigate from his vehicle to the hospital entrance. While some parking spaces are designated as accessible, the lack of proper signage and the inadequate space surrounding these spaces further limits their usability. Additionally, there is no safe, accessible route from the parking area to the main entrance, further complicating Mr. Marrero's ability to enter the hospital independently.

78. Furthermore, Defendant Hospital's main and admissions entrances contain significant barriers for individuals with mobility impairments. The main entrance has steps and an uneven surface, which make it impossible for Mr. Marrero, who uses a wheelchair, to enter without assistance.
79. The absence of a smooth, accessible pathway to the entrance forces Mr. Marrero to rely on others for help, diminishing his independence and causing unnecessary physical strain. The admissions entrance also presents an obstacle due to a significant slope and uneven surfaces. Although a ramp is present, it is rendered inoperable by the uneven access area, making it unsafe and inaccessible for Mr. Marrero. These conditions violate the ADA's requirements for accessible entryways, which mandate that all routes into a facility be fully accessible to individuals with mobility impairments.
80. In addition to the architectural barriers, Metro Mayagüez, Inc. failed to provide the necessary medical equipment to accommodate Mr. Marrero's disability during his MRI procedure. As required by the ADA, medical facilities must ensure that patients with disabilities have access to appropriate medical equipment.
81. However, Metro Mayagüez, Inc. did not provide adjustable MRI tables, patient lifts, or positioning aids that would have allowed Mr. Marrero to safely undergo the MRI procedure.
82. These essential modifications were readily achievable and would not have fundamentally altered the nature of the MRI service, as evidenced by the successful MRI procedure performed at CIRT in Ponce, which utilized appropriate accommodations for patients with mobility impairments. Instead of using these standard techniques, the technician at

Defendant Hospital applied force to Mr. Marrero's head and neck, resulting in a further injury to his spinal cord and a significant deterioration of his health.

83. Although the hospital had knowledge of Mr. Marrero's condition and the need for specific accommodations, it did not modify its procedures to ensure that the MRI was conducted safely. The failure to use proper positioning techniques or adjust equipment to accommodate Mr. Marrero's disability is a violation of 42 U.S.C. § 12182(b)(2)(A)(ii), which requires public accommodations to make reasonable modifications in practices when necessary to provide accessible services to individuals with disabilities.
84. Moreover, Metro Mayagüez, Inc. did not adequately respond to Mr. Marrero's immediate report of neurological symptoms following the improper manipulation during the MRI. Instead of providing the necessary medical attention or calling for an appropriate assessment, the hospital staff dismissed Mr. Marrero's concerns, stating that the loss of sensation was likely due to his position on the MRI table, despite the obvious neurological distress he was experiencing. This failure to address Mr. Marrero's urgent medical needs further exacerbated his condition and violated the ADA's requirement to provide effective communication and equal access to medical services for individuals with disabilities.
85. As a direct and proximate result of Defendant Hospital's violations of Title III of the ADA, Mr. Marrero has suffered physical injury, including the deterioration of his spinal cord condition and a significant loss of mobility function. He has also endured pain, suffering, emotional distress, and the loss of independence and dignity, as well as the need for additional and ongoing medical treatment and rehabilitation. The denial of full and equal access to medical services due to the architectural and medical equipment

barriers at Defendant Hospital has caused Mr. Marrero to experience discrimination in violation of his rights under the ADA.

86. Metro Mayagüez, Inc. was fully aware of Mr. Marrero's disability and his need for reasonable modifications but failed to provide such modifications, despite the fact that such accommodations were easily achievable. The modifications required, including the provision of adjustable equipment, positioning aids, and proper training for staff, would have allowed Mr. Marrero to undergo his medical procedure safely and without further harm.
87. The hospital's failure to make these accommodations is a clear violation of 42 U.S.C. § 12182(b)(2)(A)(ii) and § 12182(a), which ensure that individuals with disabilities have full and equal access to medical services and facilities.
88. As a result of Defendant Hospital's continuing failure to comply with the ADA, Mr. Marrero is entitled to injunctive relief pursuant to 42 U.S.C. § 12188(a) to prevent future discrimination and ensure that the hospital complies with the requirements of the ADA.
89. Furthermore, Mr. Marrero is entitled to an award of attorneys' fees, litigation expenses, and costs pursuant to 42 U.S.C. § 12205,

COUNT II

Violation of Section 504 of the Rehabilitation Act - Denial of Reasonable Accommodation [1973, 29 U.S.C. § 794]

90. Plaintiff realleges and incorporates paragraphs 1-89 as if fully set forth herein.
91. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a), provides that "No otherwise qualified individual with a disability... shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance."

92. Mr. Marrero is an "otherwise qualified individual with a disability" as defined by Section 504 because he has a physical impairment, specifically a spinal cord injury, that substantially limits one or more major life activities, including walking, standing, and performing manual tasks. Upon information and belief, Metro Mayagüez, Inc. receives federal financial assistance, including Medicare and Medicaid reimbursements, and is therefore subject to the requirements of Section 504.
93. Defendant Hospital discriminated against Mr. Marrero solely on the basis of his disability by failing to provide him with equal access to and benefits of the medical services offered by the hospital. The hospital's failure to remove architectural barriers, such as uneven and damaged parking areas, and inaccessible entryways, significantly hindered Mr. Marrero's ability to access the facility. Furthermore, the lack of necessary accommodations, such as accessible MRI equipment and appropriate medical aids, further prevented Mr. Marrero from fully participating in the medical services that the hospital offered.
94. These failures directly led to Mr. Marrero being denied full and equal access to medical care that was crucial for his rehabilitation and health management.
95. The hospital also failed to make reasonable accommodations necessary to provide Mr. Marrero with equal access to medical services. The failure to provide adjustable MRI tables and other appropriate medical equipment for individuals with spinal cord injuries constitutes a violation of Section 504. Mr. Marrero's condition required special adjustments to the hospital's procedures and equipment, but the hospital's failure to provide these reasonable accommodations during the MRI procedure, despite the availability of such modifications, exacerbated Mr. Marrero's medical condition.

96. These modifications were not only reasonable but also readily achievable, as evidenced by the successful MRI procedure performed at CIRT in Ponce, where appropriate techniques and equipment were used to accommodate Mr. Marrero's disability.
97. Furthermore, the methods of administration used by Defendant Hospital had the effect of discriminating against Mr. Marrero. The lack of proper medical equipment and failure to provide reasonable accommodations, such as the absence of a lift or positioning aids during the MRI, led to a forced manipulation of his body. This procedure caused further injury to Mr. Marrero's spinal cord, worsening his condition and violating his rights under Section 504. By failing to adapt their medical practices and equipment, the hospital subjected Mr. Marrero to physical harm that could have been avoided with reasonable modifications to the procedure and facilities.
98. Metro Mayagüez, Inc. also failed to appropriately respond to Mr. Marrero's medical needs related to his disability. After Mr. Marrero reported the immediate loss of sensation following the improper manipulation during the MRI, the hospital did not provide an adequate medical response. Instead of promptly assessing his condition or calling for specialized medical assistance, the hospital dismissed Mr. Marrero's report, stating that the loss of sensation was likely due to his position on the table. This failure to take proper action, despite Mr. Marrero's clear and urgent report, reflects a deliberate indifference to his medical needs and further exacerbated his condition. The hospital's neglect in responding to his immediate symptoms shows a systemic failure to provide the care required for individuals with disabilities under Section 504.
99. As a direct and proximate result of Defendant Hospital's violations of Section 504, Mr. Marrero has suffered physical injury, including the deterioration of his spinal cord

condition and loss of mobility function. He has also endured pain, suffering, emotional distress, and the loss of independence and dignity. These violations have forced him to seek additional and ongoing medical treatment and rehabilitation. The discrimination Mr. Marrero faced due to the hospital's failure to provide accommodations and respond appropriately to his medical needs has caused significant harm to his health and well-being.

100. Mr. Marrero is entitled to compensatory damages pursuant to 29 U.S.C. § 794a for Defendant Hospital's violations of Section 504 of the Rehabilitation Act.
101. Additionally, Mr. Marrero is entitled to an award of attorneys' fees, litigation expenses, and costs pursuant to 29 U.S.C. § 794a.

COUNT III

Violation of Puerto Rico Medical Malpractice Laws [31 L.P.R.A. § 5141]

102. Plaintiff realleges and incorporates paragraphs 1- 101 as if fully set forth herein.

Actions of Radiology Technician Ángel Vargas

103. Pursuant to Article 1802 of the Puerto Rico Civil Code, P.R. Laws Ann. tit. 31, § 5141, and Puerto Rico law governing medical malpractice, Defendant Ángel Vargas, as the radiology technician, had a duty to provide medical care to Mr. Marrero in accordance with the applicable standard of care. This standard of care required Defendant Vargas to conduct a thorough assessment of Mr. Marrero's physical limitations before attempting the MRI procedure, provide appropriate positioning aids and accommodations for a patient with a known spinal cord injury, refrain from applying physical force to manipulate the position of a patient with a spinal cord injury, and implement alternative techniques when standard positioning methods were not appropriate.

104. Defendant Vargas breached the applicable standard of care in several ways that directly caused harm to Mr. Marrero:
- 104.1. First, Vargas failed to properly assess Mr. Marrero's physical condition before attempting the MRI. Despite being fully aware of Mr. Marrero's spinal cord injury and mobility limitations, Vargas did not conduct an adequate evaluation of his needs for the procedure.
 - 104.2. Second, Vargas failed to provide the necessary positioning aids or accommodations to ensure Mr. Marrero's safety during the MRI. Instead, Vargas applied direct physical force to manipulate Mr. Marrero's head and neck, despite the knowledge of his spinal condition, violating the proper medical protocol for handling a patient with such an injury.
 - 104.3. Third, when standard techniques for positioning were not effective, Vargas failed to implement known alternative techniques for MRI positioning.
 - 104.4. Finally, when Mr. Marrero reported sudden neurological changes, such as loss of sensation, Vargas dismissed his concerns and did not provide the necessary medical assessment or intervention, worsening Mr. Marrero's condition.
105. These breaches of the standard of care were the direct and proximate cause of Mr. Marrero's injuries. The immediate temporal relationship between the improper manipulation by Vargas and the onset of symptoms, such as the loss of sensation in his lower extremities and abdominal area, demonstrates the direct link between Vargas' negligent actions and the harm suffered by Mr. Marrero.
106. Multiple medical professionals have confirmed that the MRI procedure performed by Defendant Vargas was the cause of Mr. Marrero's deterioration, noting that the techniques

used were inappropriate for a patient with a spinal cord injury. The successful completion of the same MRI procedure at another facility using appropriate techniques further demonstrates that Defendant Vargas' actions were a clear deviation from the standard of care.

107. The breaches of the standard of care by Defendant Vargas were not simply medical judgment calls, but clear deviations from established protocols. These protocols, which include using positioning aids and ensuring proper evaluation, were ignored in this case, directly leading to the injuries Mr. Marrero sustained. Published guidelines for the safe imaging of patients with spinal cord injuries confirm that the methods used by Vargas were inappropriate and unsafe.
108. As a direct and proximate result of Defendant Vargas' medical malpractice, Mr. Marrero has suffered serious and permanent physical injuries, including neurological deterioration that has significantly impacted his mobility and independence. He has also endured substantial physical pain and suffering, emotional distress, and mental anguish due to the harm caused by Vargas' negligent actions. Furthermore, Mr. Marrero has experienced a loss of independence and a diminished quality of life, and will require ongoing medical treatment and rehabilitation.
109. These damages include both past and future medical expenses, as well as other economic and non-economic damages that will be determined at trial.

Actions of Metro Mayagüez, Inc.

110. Pursuant to Article 1802 of the Puerto Rico Civil Code, P.R. Laws Ann. tit. 31, § 5141, and Puerto Rico law governing medical malpractice, Defendant Hospital had a duty to ensure that Mr. Marrero received medical care in accordance with the applicable standard

of care. The specific standard of care required Defendant Hospital to conduct a thorough assessment of Mr. Marrero's physical limitations, provide appropriate positioning aids, ensure that its staff followed proper protocols for patients with spinal cord injuries, and respond adequately to reports of adverse medical symptoms during procedures.

111. Defendant Hospital breached the applicable standard of care in several ways that directly caused harm to Mr. Marrero:

111.1. First, Defendant Hospital failed to properly train its staff, including Defendant Vargas, on how to handle patients with spinal cord injuries and how to provide proper accommodations for such patients during medical procedures. The hospital failed to provide the necessary equipment, such as adjustable MRI tables and patient lifts, to accommodate Mr. Marrero's disability safely.

111.2. The hospital's failure to respond appropriately to Mr. Marrero's reports of sudden neurological changes further demonstrates a breach of the standard of care. Instead of conducting an immediate assessment or providing the necessary medical intervention, the hospital staff dismissed Mr. Marrero's symptoms, allowing his condition to worsen.

112. These breaches by Defendant Hospital were the direct and proximate cause of Mr. Marrero's injuries. The failure to implement proper practices, to train staff adequately, and to provide the necessary medical equipment created a dangerous environment for Mr. Marrero, leading to further injury and deterioration of his condition. The hospital's negligence directly contributed to the harm that Mr. Marrero experienced, including the loss of mobility and the need for ongoing medical care.

113. As a result of Defendant Hospital's medical malpractice, Mr. Marrero has suffered serious and permanent physical injuries, including neurological deterioration, pain, suffering, emotional distress, and the loss of independence. The hospital's failure to ensure that its facilities and staff adhered to appropriate medical protocols and standards of care for patients with spinal cord injuries resulted in damages, including past and future medical expenses, and other economic and non-economic damages that will be determined at trial.

V. JURY TRIAL DEMANDED

114. Plaintiff hereby demands a trial by jury on all issues so triable pursuant to Rule 38 of the Federal Rules of Civil Procedure.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Elio Marrero García respectfully requests that this Court enter judgment against Defendants and grant the following relief:

- A. A declaration that Metro Mayagüez, Inc. violated Title III of the ADA, Section 504 of the Rehabilitation Act, and Puerto Rico law;
- B. An order enjoining Metro Mayagüez, Inc. from continuing to discriminate against individuals with disabilities and requiring Metro Mayagüez, Inc. to:
 - a. Remove all architectural barriers identified in the facilities of Hospital Perea including but not limited to:
 - i. Repairing or replacing damaged parking surfaces to ensure smooth, even, and accessible paths for individuals with mobility impairments, within 30 days.
 - ii. Repainting and maintaining accessible parking spaces to meet regulatory requirements, with clear signage indicating the spaces, within 30 days.

- iii. Modifying the main and admissions entrances to eliminate steps and ensure that access is provided through properly designed ramps, ensuring smooth transitions and compliance with ADA guidelines, within 60 days.
 - iv. Installing a proper accessible route from parking areas to the main entrance of the hospital, providing at least 36 inches of clearance throughout, within 60 days.
 - b. Provide and maintain appropriate accessible medical equipment, including adjustable-height examination tables, patient lifts, and positioning aids for spinal cord injury patients, within 30 days.
 - c. Provide comprehensive training to all hospital staff regarding the requirements of the ADA and Section 504, the proper use of accessible equipment, and appropriate techniques for assisting patients with mobility disabilities, within 30 days.
 - d. Implement a system for identifying patients who may need accommodations and ensure that such accommodations are provided promptly and effectively, within 30 days.
- C. Compensatory damages pursuant to Title III of the Americans with Disabilities Act, 42 U.S.C. § 12188 and Section 504 of the Rehabilitation Act, for the physical pain, emotional harm, and mental anguish suffered by Mr. Marrero as a result of the failure to provide accessible medical care and accommodations during the MRI procedure, as well as the ongoing impact on his mobility and quality of life.
- D. Nominal damages because Metro Mayagüez, Inc. subjected Mr. Marrero to unlawful discrimination in violation of Title III of the Americans with Disabilities Act, and Section

504 of the Rehabilitation Act, by failing to provide necessary medical accommodations and using improper medical procedures that directly caused harm to Mr. Marrero's physical and mental well-being.

E. Compensatory damages for medical malpractice under Puerto Rico law against Metro Mayagüez, Inc., including:

- a. Damages for physical pain and suffering, in the amount of \$40,000.
- b. Damages for mental and emotional distress caused by the negligent MRI procedure, in the amount of \$30,000.
- c. Damages for loss of independence and diminished quality of life, in the amount of \$25,000.
- d. Compensation for past and future medical expenses, including rehabilitation costs and therapy, in the amount of \$50,000.
- e. Any other economic and non-economic damages permitted by law, in the amount of \$20,000.

F. Compensatory damages pursuant to Puerto Rico law against Defendant Ángel Vargas, including:

- a. Compensation for the physical pain and suffering caused by the improper handling of Mr. Marrero during the MRI procedure, in the amount of \$50,000.
- b. Compensation for the emotional distress, mental anguish, and loss of dignity experienced by Mr. Marrero due to Defendant Vargas' negligence, in the amount of \$40,000.

- c. Compensation for the deterioration of Mr. Marrero's spinal cord condition, loss of mobility, and the long-term impact on his quality of life, in the amount of \$50,000.
 - d. Compensation for past and future medical expenses related to the damage caused by Defendant Vargas' negligent actions, in the amount of \$60,000.
 - e. Any other economic and non-economic damages permitted by Puerto Rico law, in the amount of \$20,000.
- G. Punitive damages against Metro Mayagüez, Inc. in the amount of \$250,000.
- H. Punitive damages against Defendant Ángel Vargas in the amount of \$250,000 for his reckless, willful, and grossly negligent conduct in failing to properly accommodate Mr. Marrero and applying inappropriate and harmful techniques during the MRI procedure.
- I. Reasonable attorneys' fees, litigation expenses, and costs pursuant to 42 U.S.C. § 12205 and 29 U.S.C. § 794a.
- J. Pre-judgment and post-judgment interest as allowed by law.

Dated: March 21, 2025.

VELEZ LAW GROUP LLC
Civil Rights Division

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