

3 3) whether state or federal law controls; 4) the adequacy of the state forum to protect the parties’
4 interests, and; 5) the vexatious or contrived nature of the federal claim. See Rio Grande Cmty.
5 Health Ctr., Inc. v. Rullan, 397 F.3d 56, 71-72 (1st Cir. 2005).

6 This case was bifurcated in the Puerto Rico courts, whereas this case is consolidated. (See
7 Docket No. 125 at 39 n.17.) Plaintiffs’ attorneys swear under penalty of perjury that this case is
8 more advanced in the litigation stage than the parallel state proceedings even though this case was
9 filed subsequent to the state actions. (See generally Docket Nos. 125-1-125-2.) This court has
10 already invested the time and resources of its chambers staff, as has Magistrate Judge Carreno-Coll.
11 A comprehensive timetable for resolving this case establishes deadlines for discovery and dispositive
12 motions for the next eleven months. (See Docket No. 83.) Furthermore, the state courts scheduled
13 a status conference for June 25, 2013, well after this court’s scheduled settlement conference at the
14 close of discovery in January 2013. (See Docket No. 125 at 46.)

15 This case was properly filed in federal court, as well. It makes sense why Plaintiffs would
16 bring concurrent state and federal claims. Their state claims request retrospective damages from the
17 Commonwealth of Puerto Rico, which the Eleventh Amendment bars in federal court. See Rullan,
18 397 F.3d at 72 (concurrent claims in which the state is a defendant only in the state proceedings for
19 Eleventh Amendment purposes is “an entirely reasonable explanation”). In the state proceedings,
20 additionally, Ox Bodies is a third-party defendant, whereas it is the principal defendant in federal
21 court. Although the state court could capably grapple with these state law issues, Congress provided
22 for diversity jurisdiction in 28 U.S.C. § 1332, and products liability cases do not implicate complex
23 questions unique to Puerto Rico. Lastly, a timeless principle whose origins are traced to the Great
24 Chief Justice dictates that, “With whatever doubts, with whatever difficulties, a case may be
25 attended, we must decide it, if it is brought before us . . . [to do otherwise] would be treason to the
26 Constitution.” Cohens v. Virginia, 19 U.S. 264, 404 (1821).

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For the reasons stated above, the court finds no exceptional circumstances meriting abstention. Defendants’ motion to dismiss is **DENIED without prejudice.** (Docket No. 106.)

SO ORDERED

In San Juan, Puerto Rico this 3rd day of May, 2013.

S/Gustavo A. Gelpí
GUSTAVO A. GELPÍ
United States District Judge