

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

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4       **MELBA VAZQUEZ-MCLEAR,**  
5       **Plaintiff,**  
6       **v.**  
7       **STATE INSURANCE FUND, et al.,**  
8       **Defendants.**

Civil No. 12-1927 (GAG)

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11                                   **MEMORANDUM OPINION AND ORDER**

12           Melba Vazquez McLear (“Plaintiff”) filed a motion for reconsideration (Docket No. 54) after  
13 the court dismissed her case (Docket No. 47). Defendants opposed the motion (Docket No. 55).  
14 After reviewing the pleadings and the pertinent law, the court **DENIES** Plaintiff’s motion for  
15 reconsideration.

16           In its prior opinion and order, the court held Plaintiff did not include sufficient factual  
17 allegations as to each defendant’s participation. The court stands by its prior ruling. In Soto-Torres  
18 v. Fraticelli, the First Circuit held that the plaintiff’s statement that the defendant “participated in  
19 or directed the constitutional violation . . .” was insufficient to survive a motion to dismiss because  
20 it “provided no facts to support either that he participated in’ or ‘directed’ the alleged violations).  
21 654 F.3d 153, 159 (1st Cir. 2011). In Penalbert-Rosa v. Fortuno-Burset, the First Circuit found the  
22 plaintiff’s allegations to be threadbare and speculative and therefore insufficient to bring a complaint  
23 within the realm of plausibility. 631 F.3d at 595. The only allegation against the defendants was that  
24 they “participated” or “approved” of the firing, but did not include factual explanation whatsoever.

25           In its motion for reconsideration, Plaintiff cites to Ocasio v. Hernandez to show her  
26 complaint includes sufficient allegations. Unlike Soto-Torres and Penalbert-Rosa, the complaint in  
27 Ocasio includes “well-pleaded factual allegations that detail each of [the] defendants’ level of  
28 personal involvement in and familiarity with the plaintiffs’ terminations.” 640 F.3d 1, 16 (1st Cir.

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2011). In the instant case, the court finds that Plaintiff did not include sufficient factual allegations as to each defendant’s participation.

**Conclusion**

For the reasons set forth above, the court **DENIES** Plaintiff’s motion for reconsideration.

**SO ORDERED.**

In San Juan, Puerto Rico this 7th day of August, 2013.

*s/ Gustavo A. Gelpi*

GUSTAVO A. GELPI

United States District Judge