



1 Defendant violated this law. (See id.)

2 In accordance with OCI deadlines, Defendant responded to the allegations claiming Plaintiff  
3 lacked standing because it was an association of private clinics as opposed to a contracted provider  
4 to which the rate reductions applied. (See Docket No. 1 at 2.) OCI deemed the action was  
5 tantamount to each member objecting individually to the rate change. (See id.) OCI then ordered  
6 Defendant to make adjustments to the rate of reimbursement, which would cost Defendant  
7 approximately \$2.5 million in additional payments. (See id. at 3.) After these rulings, Defendant  
8 removed the case to federal court, claiming removal was not an option until after OCI determined  
9 Plaintiff's claims were the equivalent of fifty-three separate claims by individual private laboratory  
10 clinics. (See id. at 3-4.)

## 11 II. Federal Question Jurisdiction

12 A case may be removed from a state court to a federal court if the federal court would also  
13 have original jurisdiction to hear the claim. See 28 U.S.C. § 1441(a). Civil actions arising from  
14 state agencies, as opposed to state courts, may be removed pursuant to Section 1441 when the  
15 agency proceedings are adjudicative in nature. See Ins. Comm'r of P.R. v. Doral Ins. Agency, Inc.,  
16 Civil No. 05-2230 (CCC), 2006 WL 3196472, at \*2 (D.P.R. Nov. 2, 2006) (citing Volkswagen de  
17 P.R. v. P.R. Labor Relations Bd., 454 F.2d 38 (1st Cir. 1972)). Federal district courts have original  
18 jurisdiction over "all civil actions arising under the Constitution, laws, or treaties of the United  
19 States." 28 U.S.C. § 1331 (2012).

20 Two types of cases invoke the court's federal question jurisdiction. The first, and the most  
21 common method is when the complaint contains causes of action that directly arise under the federal  
22 Constitution or laws. See Franchise Tax Bd. of Cal. v. Constr. Laborers Vacation Trust for S. Cal.,  
23 463 U.S. 1, 9-11 (1983). Known as the well-pleaded complaint rule, this method requires the federal  
24 question to be contained within the plaintiff's complaint. See R.I. Fishermen's Alliance, Inc. v. R.I.  
25 Dep't. of Env'tl. Mgmt., 585 F.3d 42, 48 (1st Cir. 2009). The second method allows federal question  
26 jurisdiction over "state-law claims that implicate significant federal issues." Grable & Sons Metal  
27 Prods., Inc. v. Darue Eng'g & Mfg., 545 U.S. 308, 312 (2005). This method is recognized when the  
28 complaint itself requires the determination of a federal question. It is clear that "[t]he existence of

1 a federal defense to a state-law cause of action will not suffice” to demonstrate federal question  
2 jurisdiction. R.I. Fishermen’s Alliance, 585 F.3d at 48.

3 Ultimately, Defendant argues the court has jurisdiction because the case raises significant  
4 federal antitrust issues that should be determined by the federal court, as opposed to a state agency.  
5 (See Docket No. 8 at 7-9.) Therefore, the court must determine whether the complaint raises a  
6 federal antitrust issue that is so substantial that the court has original jurisdiction to hear the claim.  
7 See Grable, 545 U.S. at 314. The court finds it does not have original jurisdiction and remands the  
8 case to OCI.

9 To demonstrate federal jurisdiction, Defendant must show that the “state-law claim  
10 necessarily raise[s] a stated federal issue, actually disputed and substantial, which a federal forum  
11 may entertain without disturbing any congressionally approved balance of federal and state judicial  
12 responsibilities.” Id. It is undisputed that Plaintiff’s claim does not directly raise any federal issues.  
13 The claim is a contract dispute rising under the laws of Puerto Rico. Within the complaint, federal  
14 laws are not discussed and Plaintiff does not seek any federal remedies. Had the complaint been  
15 filed directly in federal court, the court would not have subject matter jurisdiction over the matter.

16 Not surprisingly, Defendant urges the court in the opposite direction. Citing cases in which  
17 federal courts have found federal question jurisdiction when a federal issue is actually disputed and  
18 substantial, Defendant argues federal antitrust laws will be front and center in this litigation.  
19 Defendant argues Plaintiff’s claims were converted from state-law claims to federal claims once OCI  
20 decided to interpret Plaintiff’s claims as separate claims by its individual members. As suggested  
21 by Defendant, this issue is significant because Defendant will now argue that a collective objection  
22 to rate changes by competitors violates the Sherman Act. As the Sherman Act may be construed to  
23 bar collective action by Plaintiff, the case may need to be dismissed. Stated differently, Defendant  
24 plans to assert that the court has federal question jurisdiction because a federal law will be used as  
25 a defense. However, a federal court does not have jurisdiction over such claims. See Franchise Tax  
26 Bd. of Cal., 463 U.S. at 10 (citing Tennessee v. Union & Planters’ Bank, 152 U.S. 454 (1894)).

27 The cases Defendant cites exemplify the purpose of this type of federal question jurisdiction.  
28 In Grable, the Court held federal jurisdiction existed because Plaintiff’s complaint stated he did not

1 receive proper notice pursuant to federal law. See 545 U.S. at 314. The case hinged on the  
2 construction of notice incorporated in a federal tax statute. See id. In Smith v. Kansas City Title  
3 & Trust Co., the complaint alleged the issuance of bonds by the federal government was  
4 unconstitutional. 255 U.S. 180, 195-96 (1921). And in Merrell Dow Pharm., Inc. v. Thompson, the  
5 plaintiff's allegations rested, in part, on whether the defendant violated a federal prohibition against  
6 the misbranding of commercial drugs. 478 U.S. 804, 806 (1986). As these cases illustrate, federal  
7 question jurisdiction exists when the plaintiff's claims necessarily require the court to rule on an  
8 affirmative question of federal law. No case law supports Defendant's theory that this should be  
9 extended when the defendant raises a defense rooted in federal law.

10 In the present case, Plaintiff's claims do not necessitate an affirmative ruling of federal law.  
11 It is Defendant's defense that may require the court to rule on a matter of federal law. This  
12 distinction is not slight. The precedent regarding Section 1331 requires the court to examine the  
13 complaint to determine jurisdiction, rather than the defenses. The well-pleaded complaint rule is  
14 the starkest example of requiring the court to fully analyze the complaint while disregarding the  
15 defenses. As illustrated in Grable, to find federal jurisdiction over state-law claims, the complaint  
16 itself must push the court to make determinations of federal law. There is no such federal issue in  
17 the present case because Plaintiff could be fully compensated without any determination of federal  
18 law. Only Defendant's invocation of the Sherman Act raises a federal issue in this case. Therefore,  
19 the court **REMANDS** the case to OCI.

### 20 **III. Intervention**

21 The court need not rule on OCI's motion to intervene because of the aforementioned remand.  
22 However, the court finds it curious for the administrative board adjudicating the underlying claim  
23 to seek intervention in the federal court proceedings. Clearly, OCI is an entity created by law to  
24 oversee certain provisions of Puerto Rico insurance law. (See Docket No. 13 at 4.) OCI has the  
25 ability to sue in order to carry out its functions. See P.R. LAWS ANN. tit. 26, § 235(3). However,  
26 when OCI acts only in its adjudicative capacity, the court struggles to see why standing exists. OCI  
27 is not a party to this action. OCI is simply adjudicating Plaintiff's claims against Defendant. (See  
28 Docket No. 1.) It would be akin to a plaintiff filing an action in the Court of First Instance, which

1 is removed by the defendant, and then having the Court of First Instance seek intervention to argue  
2 for remanding the case back to itself. Such logic is questionable. However, as the court finds  
3 federal question jurisdiction lacking, the court need not determine the authority of OCI to seek  
4 intervention. Therefore, the court finds OCI's motion for intervention at Docket No. 13 to be  
5 **MOOT.**

6 **IV. Conclusion**

7 For the reasons set forth above, the court **REMANDS** the case back to OCI and **MOOTS**  
8 OCI's motion for intervention.

9  
10 **SO ORDERED.**

11 In San Juan, Puerto Rico this 5th day of June, 2013.

12 *S/Gustavo A. Gelpí*  
13 GUSTAVO A. GELPÍ  
14 United States District Judge  
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