

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF PUERTO RICO  
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4

IRMA SANTIAGO RIOS, et al.,

Plaintiffs,

v.

HOSPITAL HIMA SAN PABLO  
FAJARDO,

Defendant.

Civil No. 3:14-CV-01760 (JAF)

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6 **OPINION AND ORDER**

7 **I.**

8 **Introduction**

9 This matter is before the court on Defendant Centro Médico del Turabo, Inc. d/b/a  
10 HIMA San Pablo-Fajardo's (hereinafter "HSPF") Motion for Summary Judgment (ECF  
11 No. 15) and Plaintiffs Irma Santiago-Ríos and Carlos Edgardo Ramírez-Santiago's  
12 (hereinafter "Plaintiffs") Motion for Leave to File a Second Amended Complaint (ECF  
13 No. 14). The parties have fully briefed each of the motions and the matters are ripe for  
14 review. For the following reasons, HSPF's Motion for Summary Judgment (ECF No. 15)  
15 is GRANTED, and Plaintiffs' Motion for Leave to File Second Amended Complaint is  
16 DENIED.

17 **II.**

18 **Factual and Procedural Summary**

19 The court will set forth only those facts sufficient to provide a background  
20 summary of Plaintiffs' claims, and will include additional facts, if and when needed, in  
21 the analysis below. On October 14, 2012, decedent Ramón Santiago-Ríos, a 78-year-old

1 man, was involved in an automobile accident at approximately 3:30 a.m. Mr. Santiago-  
2 Ríos was taken by ambulance to HSPF and arrived at 4:40 a.m. He was immediately  
3 examined by nurses in the Emergency Department for TRIAGE and was examined by a  
4 doctor by 4:45 a.m. Mr. Santiago-Ríos remained under the care of HSPF until his  
5 discharge at 2:40 p.m., with instructions for follow up.

6 Two days later, at 7:00 p.m. on October 16, 2012, Mr. Santiago-Ríos returned to  
7 HSPF by ambulance. He was again immediately received at the Emergency Department  
8 for TRIAGE. He remained under the care of HSPF until he passed away at 1:50 a.m. on  
9 October 17, 2012. The cause of death was complications from body trauma with  
10 duodenal ulcer and coronary artery disease as contributing factors.

11 On October 13, 2014, Plaintiffs filed suit against HSPF alleging improper  
12 screening and improper discharge of their relative under the Emergency Medical  
13 Treatment and Active Labor Act, 42 U.S.C. § 1395 dd (hereinafter “EMTALA”) for the  
14 events that took place on October 14, 16, and 17, 2012.<sup>1</sup> Plaintiffs’ claims are not  
15 inherited claims of the deceased Mr. Santiago-Ríos; instead, they seek \$300,000 each for  
16 the emotional damages they sustained as a result of Mr. Santiago-Ríos’ death.

### 17 **III.**

#### 18 **Summary Judgment Standard**

19 We grant a motion for summary judgment “if the pleadings, the discovery and  
20 disclosure materials on file, and any affidavits show that there is no genuine issue as to  
21 any material fact and the movant is entitled to judgment as a matter of law.” Fed. R. Civ.

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<sup>1</sup> Plaintiffs amended their complaint on February 2, 2015 (ECF No. 10).

1 P. 56(c). A factual dispute is “genuine” if it could be resolved in favor of either party and  
2 “material” if it potentially affects the outcome of the case. *Calero–Cerezo v. U.S. Dep’t*  
3 *of Justice*, 355 F.3d 6, 19 (1st Cir. 2004).

4 The movant carries the burden of establishing that there is no genuine issue as to  
5 any material fact. *Celotex Corp. v. Catrett*, 477 U.S. 317, 325 (1986). The movant does  
6 not need to produce evidence to prove the absence of a genuine issue of material fact but  
7 may instead point to a lack of evidence supporting the nonmovant’s case. *Id.* In  
8 evaluating a motion for summary judgment, we must view the record in the light most  
9 favorable to the nonmovant, and we must consider the entire record of admissible  
10 evidence. *See Reeves v. Sanderson Plumbing Prods.*, 530 U.S. 133, 150–51 (2000).  
11 “Once the moving party has made a preliminary showing that no genuine issue of  
12 material fact exists, the nonmovant must produce specific facts, in suitable evidentiary  
13 form, to establish the presence of a trialworthy issue.” *Clifford v. Barnhart*, 449 F.3d 276,  
14 280 (1st Cir. 2006) (internal quotation marks omitted). The non-movant “may not rely  
15 merely on allegations or denials in its own pleading; rather, its response must ... set out  
16 specific facts showing a genuine issue for trial.” Fed. R. Civ. P. 56(e)(2).

#### 17 **IV.**

#### 18 **Law and Analysis**

##### 19 **A. EMTALA**

20 Plaintiffs allege that HSPF violated EMTALA by providing an inadequate medical  
21 screening and improper discharge of decedent Mr. Santiago-Ríos, which led to his death  
22 two days later.

1           EMTALA requires hospital emergency rooms to conduct an “appropriate medical  
2 screening examination ... to determine whether or not an emergency medical condition ...  
3 exists.” 42 U.S.C. § 1395dd(a). An “appropriate medical screening” under § 1395dd(a) is  
4 one “reasonably calculated to identify critical medical conditions that may be afflicting  
5 symptomatic patients and provides that level of screening uniformly.” *Correa v. Hosp.*  
6 *San Francisco*, 69 F.3d 1184, 1192 (1st Cir. 1995). EMTALA, however, is not a cause of  
7 action for medical malpractice. *Id.* While either a refusal to screen or a policy that results  
8 in a disparate screening violates EMTALA, a flawed medical screening, standing alone,  
9 does not. *See id.* at 1192–93.

10           If a patient is found to have an emergency medical condition, a hospital must  
11 stabilize the condition prior to transfer, subject to certain exceptions. § 1395dd(b)-(c). An  
12 “emergency medical condition” is one that “manifest[s] itself by acute symptoms of  
13 sufficient severity ... such that the absence of immediate medical attention could  
14 reasonably be expected to result in—(i) placing the health of the individual ... in serious  
15 jeopardy, (ii) serious impairment to bodily functions, or (iii) serious dysfunction of any  
16 bodily organ or part.” § 1395dd(e)(1)(A).

17 **B. Standing**

18           Our first question is whether Plaintiffs, who are not the patient, have authority to  
19 pursue their own personal EMTALA claims against HSPF. Section 1395dd(d)(2) states  
20 that: “[a]ny individual who suffers personal harm as a direct result of a participating  
21 hospital's violation of a requirement of this section may, in a civil action obtain those  
22 damages available for personal injury under the law of the State in which the hospital is

1 located ....” HSPF argues that that the words “individual” and “direct”, contained in the  
2 statute, denote that a claim under EMTALA belongs to the patient and may be pursued by  
3 the patient or the patient’s heirs who inherit the patient’s claim.

4 In *Correa*, the First Circuit stated that “EMTALA looks to state law, broadly  
5 defined to include Puerto Rico law, see 42 U.S.C. §§ 410(h), 1395x(x), anent the  
6 availability of damages.” *Id.* at 1196. Section 1395dd(d)(2) states that “[a]ny individual  
7 who suffers personal harm as a direct result of a participating hospital's violation of a  
8 requirement of this section may, in a civil action against the hospital, obtain those  
9 damages available for personal injury under the law of the State in which the hospital is  
10 located.”

11 The issue here is whether the scope of the term “any individual” in section  
12 1395dd(d)(2) authorizes relatives of a deceased patient to maintain their own private  
13 EMTALA cause of action. The court finds that the term “any individual” does not extend  
14 that far. Rather than referring to the availability of a cause of action under EMTALA, the  
15 language of section 1395dd(d)(2) refers to the availability of damages for a person with  
16 an EMTALA claim and refers to state law for the answer. As we have previously pointed  
17 out in *Malave Sastre v. Hospital Doctor’s Center, Inc.*, “the legislative history of  
18 EMTALA confirms this narrower reading of the statute.” 93 F.Supp.2d 105, 111 (D.P.R.  
19 2000). The Senate Judiciary Committee stated that its intention was for EMTALA to  
20 authorize only two types of actions, to wit: those brought by a medical facility which  
21 received an improperly transferred patient and those brought by the individual patient  
22 suffering the harm. See H.R.Rep. 99–241, pt. 3, at 7(1985), *reprinted in* 1986

1 U.S.C.C.A.N. 726, 727. Therefore, the court reads the legislative intent as stating that  
2 only patients can have a cause of action in their own right under EMTALA.

3 Our reading of EMTALA is not inapposite with the First Circuit's previous  
4 holding in *Correa*, which recognized that the court "is equally open to read the law as  
5 permitting an individual who has a special relationship with another—say, a wife  
6 deprived of consortium or, as here a bereaved relative—to sue when she is harmed in  
7 direct consequence of an EMTALA violation inflicted upon another[.]" *Correa*, 69 F.3d  
8 at 1196. *Correa* did not address whether the relatives of a decedent have their own  
9 private cause of action under EMTALA. Instead, the scope of the holding in *Correa* is  
10 circumscribed to a situation where the heirs of a dead patient *inherit the decedent's*  
11 EMTALA cause of action, a principle recognized by Puerto Rico law. *Id.* (emphasis  
12 added); *see also Alvarez–Pumarejo v. Municipality of San Juan*, 972 F.Supp. 86, 87–88  
13 (D.P.R. 1997) (citation omitted).

14 Because Plaintiffs brought claims only on their own behalf for the emotional  
15 damages suffered for the loss of their relative, Defendant HSPF is entitled to judgment as  
16 a matter of law.<sup>2</sup>

## 17 V.

### 18 **Plaintiffs' Motion for Leave to File Second Amended Complaint**

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20 Federal Rule of Civil Procedure 15(a), indicates that leave to amend a complaint  
21 "shall be freely given when justice so requires." Denial of a motion for leave to amend a

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<sup>2</sup> Because this ruling dismisses Plaintiffs' Amended Complaint and ends the controversy, we need not rule on Defendant's second Motion for Summary Judgment at ECF No. 29, which addresses the merits of Plaintiffs' EMTALA action.

1 complaint is justified when such amendment would be futile. *Correa–Martinez v.*  
2 *Arrillaga–Belendez*, 903 F.2d 49, 59 (1st Cir.1990) (“Where an amendment would be  
3 futile or would serve no legitimate purpose, the district court should not needlessly  
4 prolong matters.”). The First Circuit explained the “yardstick by which futility is to be  
5 measured” in *Hatch v. Department for Children, Youth, and Their Families*:

6 The appropriateness *vel non* of a district court decision denying a motion to  
7 amend on the ground of futility depends, in the first instance, on the posture  
8 of the case. If leave to amend is sought before discovery is complete and  
9 neither party has moved for summary judgment, the accuracy of the  
10 “futility” label is gauged by reference to the liberal criteria of Federal Rule  
11 of Civil Procedure 12(b)(6). *See Glassman v. Computervision Corp.*, 90  
12 F.3d 617, 623 (1st Cir. 1996). In this situation, amendment is not deemed  
13 futile as long as the proposed amended complaint sets forth a general  
14 scenario which, if proven, would entitle the plaintiff to relief against the  
15 defendant on some cognizable theory. *See Rose v. Hartford Underwriters*  
16 *Ins. Co.*, 203 F.3d 417, 421 (6th Cir. 2000) (explaining that, in such a  
17 posture, “a proposed amendment is futile only if it could not withstand a  
18 12(b)(6) motion to dismiss”). If, however, leave to amend is not sought  
19 until after discovery has closed and a summary judgment motion has been  
20 docketed, the proposed amendment must be not only theoretically viable  
21 but also solidly grounded in the record. *Resolution Trust Corp. v. Gold*, 30  
22 F.3d 251, 253 (1st Cir. 1994). In that type of situation, an amendment is  
23 properly classified as futile unless the allegations of the proposed amended  
24 complaint are supported by substantial evidence. *Id.*

25 274 F.3d 12, 19 (1st Cir. 2001). Here, Plaintiffs moved to further amend their complaint  
26 prior to the completion of discovery and six days prior to when HSPF moved for  
27 summary judgment. Accordingly, we must determine whether “the proposed amended  
28 complaint sets forth a general scenario which, if proven, would entitle the plaintiff to  
29 relief against the defendant on some cognizable theory.” *Id.* (citation omitted).

30 The Proposed Second Amended Complaint again only sets forth claims of the  
31 Plaintiffs on their own behalf for the emotional damages suffered for the loss of their

1 relative. As discussed above, Plaintiffs do not have a cause of action under EMTALA.  
2 Because the Proposed Second Amended Complaint fails to identify any cognizable  
3 theory under which they would be entitled to relief against HSPF, Plaintiffs' Motion for  
4 Leave to File Second Amended Complaint is DENIED.

5 **VI.**  
6 **Conclusion**

7 For the foregoing reasons, Defendant Hospital HIMA San Pablo-Fajardo's Motion  
8 for Summary Judgment (ECF No. 15) is GRANTED, Plaintiffs' Amended Complaint is  
9 DISMISSED. Plaintiffs Irma Santiago-Ríos and Carlos Edgardo Ramírez-Santiago's  
10 Motion for Leave to File Second Amended Complaint is DENIED. Judgment dismissing  
11 the Amended Complaint will follow.

12 **IT IS SO ORDERED.**

13 San Juan, Puerto Rico, this 4th day of September, 2015.

14 S/José Antonio Fusté  
15 **JOSE ANTONIO FUSTE**  
16 **U. S. DISTRICT JUDGE**