

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

UNITED STATES OF AMERICA,
Plaintiff

v.

JOSE LUIS VAELLO MADERO,
Defendant

Case No. 17-2133 (GAG)

**DEFENDANT JOSE LUIS VAELLO MADERO'S STATEMENT OF
UNDISPUTED MATERIAL FACTS IN SUPPORT OF HIS MOTION
FOR SUMMARY JUDGMENT PURSUANT TO LOCAL CIVIL RULE 56**

Pursuant to Local Civil Rule 56 of the United States District Court for the District of Puerto Rico, defendant Jose Luis Vaello Madero (Vaello Madero), in support of his Motion for Summary Judgment, respectfully submits the following statement of material facts as to which there are no genuine issues to be tried:

1. The defendant, Vaello Madero, was a Social Security Administration (SSA) Title XVI Supplemental Security Income (SSI) disability recipient, and currently receives SSA Title II benefits. (Joint Stip. of Material Facts ¶ 1, ECF No. 51).

2. SSI is a federal income supplement program funded by general tax revenues, and not by Social Security taxes. (Joint Stip. of Material Facts ¶ 2, ECF No. 51).

3. Vaello Madero formerly resided in the State of New York. (Joint Stip. of Material Facts ¶ 3, ECF No. 51).

4. During his residency in New York, Vaello Madero became a recipient of SSI benefits. (Joint Stip. of Material Facts ¶ 4, ECF No. 51).

5. In June 2012, SSA sent Vaello Madero a 16 page Notice of Award describing the amounts of his SSI benefits, including back payments and future monthly

payments, and explaining how the amounts were calculated. The Notice of Award also provided additional information, including that Vaello Madero was required to report if he moved to a different address. (Joint Stip. of Material Facts ¶ 5, ECF No. 51).

6. In or about July 2013, Vaello Madero moved to Puerto Rico. (Joint Stip. of Material Facts ¶ 6, ECF No. 51).

7. Vaello Madero did not notify SSA of his relocation to Puerto Rico. (Joint Stip. of Material Facts ¶ 7, ECF No. 51).

8. Vaello Madero continued receiving SSI benefits while residing in Puerto Rico. (Joint Stip. of Material Facts ¶ 8, ECF No. 51).

9. On July 27, 2016, SSA sent written notice to Vaello Madero advising him that the agency was lowering his monthly SSI benefits payment from \$733.00 to \$0 beginning September 2016. (Joint Stip. of Material Facts ¶ 9, ECF No. 51).

10. The notice further states that SSA was changing Vaello Madero's past benefit amounts from the period of August 2014 through August 2016 to \$0 because Vaello Madero was residing outside the United States during that period of time and was thus ineligible for SSI. (Joint Stip. of Material Facts ¶ 10, ECF No. 51).

11. The notice advised Vaello Madero of his right to appeal SSA's determination within 60 days. (Joint Stip. of Material Facts ¶ 11, ECF No. 51).

12. SSA sent Vaello Madero another notice dated August 15, 2016, advising him of a change in his SSI benefits during the period of August 1, 2013 through July 31, 2014 to \$0. (Joint Stip. of Material Facts ¶ 12, ECF No. 51).

13. The August 15, 2016 notice also advised Vaello Madero of his right to appeal SSA's determination within 60 days. (Joint Stip. of Material Facts ¶ 13, ECF No. 51).

14. Vaello Madero did not file an appeal or hearing request in writing with respect to either notice. (Joint Stip. of Material Facts ¶ 14, ECF No. 51).

15. Neither of the two notices referenced above requested reimbursement of any funds, nor did they indicate whether Vaello Madero was liable for any overpayments. Both notices stated that SSA may contact him in the future “about any payments we previously made.” (Joint Stip. of Material Facts ¶ 15, ECF No. 51).

16. SSA did not send Vaello Madero a Notice of Overpayment advising him that he had accrued an overpayment of SSI benefits in connection with the benefit reductions. (Joint Stip. of Material Facts ¶ 16, ECF No. 51).

17. For the period August 1, 2013 to August 31, 2016, Vaello Madero received \$28,081 in SSI benefits from SSA. (Joint Stip. of Material Facts ¶ 17, ECF No. 51).

Date: August 10, 2018
Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF, which will send automatic notification of such filing to all CM/ECF Participants.

In San Juan, Puerto Rico, this 10th day of August, 2018.

/s/ John W. Ferré-Crossley

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