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

Puerto Rico Soccer league NFP Corp., Joseph Marc Serralta Ives, Maria Larracuente, Jose R. Olmo-Rodriguez, and Futbol Boricua (FBNET), Inc., *Plaintiffs*, v. Federación Puertorriqueña de Futbol, Inc., Iván Rivera-Gutierrez, José "Cukito" Martinez, Gabriel Ortiz, Luis Mozo Cañete, Fédération Internationale de Football Association (FIFA), and Confederation of North, Central America and Caribbean Association Football (CONCACAF, *Defendants*.	CIVIL ACTION NO. 23-1203 (RAM)

PLAINTIFFS' SUPPLEMENT TO RESPONSE IN OPPOSITION TO DEFENDANTS' JOINT MOTION FOR ENTRY OF A PROTECTIVE AND CONFIDENTIALITY ORDER AND RULE 502(d) ORDER

TO THE HONORABLE COURT:

COME NOW Plaintiffs Puerto Rico Soccer League NFP Corp. ("PRSL"), Joseph Marc Serralta Ives, María Larracuente, José R. Olmo-Rodríguez, and Fútbol Boricua (FBNET), Inc. (collectively, "Plaintiffs"), through undersigned counsel, and hereby submit this Supplement to their Response in Opposition to Defendants' Joint Motion for Entry of a Protective and Confidentiality Order and Rule 502(d) Order (Dkt. No. 169, filed March 6, 2025) ("Defendants' Motion"), filed on March 10, 2025. This Supplement addresses newly discovered evidence of witness intimidation by Defendants, which further justifies Plaintiffs' need to maintain flexibility

in identifying and listing alternative trial witnesses, contrary to Defendants' request to limit Plaintiffs to 15 witnesses (Dkt. No. 169 at 11-13).

I. INTRODUCTION

Since filing their Response in Opposition on March 10, 2025, Plaintiffs have learned of an alarming incident involving Defendants' apparent efforts to intimidate a listed witness, Lionel "Perdon" Simonetti, to deter him from testifying in this case. This conduct not only undermines the integrity of the judicial process but also demonstrates why Plaintiffs must retain the ability to identify and call alternative witnesses if those originally listed are pressured or coerced into refusing to testify. Defendants' proposed protective order, which seeks to cap Plaintiffs' trial witnesses at 15 (Dkt. No. 169-1, Exhibit J), is wholly inadequate in light of this new evidence and threatens Plaintiffs' ability to present their case under the Sherman Act. The First Circuit has long recognized that courts must safeguard the discovery process from abuse, including witness intimidation. See *United States v. Angiulo*, 897 F.2d 1169, 1190 (1st Cir. 1990) (condemning efforts to interfere with witnesses as contrary to fair adjudication). This Supplement reinforces Plaintiffs' opposition to Defendants' restrictive discovery regime.

II. FACTUAL BACKGROUND

On February 19, 2025, Lionel "Perdon" Simonetti, a witness identified in Plaintiffs' portion of the Joint Case Management Memorandum (Dkt. No. 147), was approached by an individual acting on behalf of Defendant Federación Puertorriqueña de Fútbol, Inc. ("FPF"). The individual questioned Mr. Simonetti about his reasons for assisting Plaintiffs in this litigation, creating an intimidating atmosphere. Immediately following this encounter, at 7:16 P.M. on February 19, 2025, Mr. Simonetti called Plaintiff María Larracuente to report the incident and express his distress, stating

that he felt pressured not to testify. Attached as **Exhibit A** is a screenshot of the call log from Ms. Larracuente's phone, confirming the call's date, time, and duration.

This incident occurred after the Initial Scheduling Conference on February 6, 2025, where the Court directed Plaintiffs to refine their witness list (Dkt. No. 154), and after Plaintiffs' February 17, 2025, communication to Defendants identifying ten proposed deponents while reserving the right to call additional witnesses (Dkt. No. 168, Ex. E at 2-5). Defendants' Motion, filed March 6, 2025, seeks to exploit the Court's directive by imposing an arbitrary cap of 15 trial witnesses, ignoring the practical realities of litigation—including the risk of witness tampering, as now evidenced by Mr. Simonetti's experience.

III. ARGUMENT

A. Defendants' Witness Intimidation Necessitates Flexibility in Plaintiffs' Witness List

The intimidation of Mr. Simonetti reveals Defendants' intent to obstruct Plaintiffs' ability to gather and present evidence supporting their Sherman Act claim. Federal courts have consistently held that parties must be afforded latitude in discovery to counteract such misconduct. See, e.g., *Rozier v. Ford Motor Co.*, 573 F.2d 1332, 1346 (5th Cir. 1978) (broad discovery is essential to prevent "trial by ambush" or suppression of evidence); see also Fed. R. Civ. P. 26(b)(1) (discovery scope includes matters relevant to claims and proportional to case needs). Limiting Plaintiffs to 15 trial witnesses, as Defendants propose (Dkt. No. 169 at 11-13), would reward Defendants' improper tactics by constraining Plaintiffs' ability to replace intimidated witnesses with alternatives.

Mr. Simonetti's knowledge—related to FPF's anticompetitive practices—is directly relevant to Plaintiffs' antitrust claim concerning PRSL's alleged exclusion from the market (Dkt. No. 129 at 9). If he or other witnesses are deterred from testifying, Plaintiffs must be permitted to identify

substitutes without artificial numerical restrictions. The First Circuit has emphasized that discovery rulings should promote fairness, not hinder a party's case due to opposing counsel's overreach. See *Anderson v. Cryovac, Inc.*, 805 F.2d 1, 7 (1st Cir. 1986) (discovery should be "as broad as possible" absent specific harm). Defendants' conduct constitutes the specific harm justifying broader, not narrower, witness flexibility.

B. Defendants' Proposed 15-Witness Limit Is Arbitrary and Unduly Burdensome in Light of Witness Intimidation

Defendants argue that Plaintiffs' list of 68 potential witnesses is "disproportionate" and "unduly burdensome" (Dkt. No. 169 at 11-12), but they fail to account for their own actions exacerbating the need for a robust witness pool. The incident with Mr. Simonetti demonstrates that Defendants are actively contacting Plaintiffs' listed witnesses to discourage their participation, a tactic that could render multiple witnesses unavailable. A cap of 15 witnesses, as proposed in Defendants' draft protective order (Dkt. No. 169-1, Exhibit J at 3), assumes a static litigation environment unaffected by such interference—an assumption now proven false.

The Court's discretion under Fed. R. Civ. P. 26(c) to limit discovery for "undue burden or expense" does not extend to shielding Defendants from the consequences of their own misconduct. Rather, the Rules aim to ensure a "just, speedy, and inexpensive determination" of actions (Fed. R. Civ. P. 1), which requires protecting Plaintiffs' ability to adapt to Defendants' intimidation efforts. Defendants' reliance on cases like *Whittingham v. Amherst College*, 163 F.R.D. 170 (D. Mass. 1995) (Dkt. No. 169 at 13), is inapposite where, as here, the opposing party's actions necessitate a larger witness list to safeguard the case's integrity.

C. The Court Should Sanction Defendants' Conduct and Deny Their Witness Restriction Request

Defendants' approach to Mr. Simonetti raises serious ethical and legal concerns, potentially violating Local Rule 83E (adopting ABA Model Rule 4.4(a)), which prohibits conduct that "serves no substantial purpose other than to embarrass, delay, or burden a third person." This Court has inherent authority to address such misconduct and ensure a fair discovery process. See *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43-44 (1991) (courts may sanction bad-faith conduct affecting litigation). At minimum, the Court should deny Defendants' request to limit Plaintiffs to 15 witnesses, as this restriction would compound the harm caused by their intimidation tactics. Plaintiffs reserve the right to seek further relief, including sanctions, upon additional evidence of witness tampering.

IV. CONCLUSION

The intimidation of Lionel "Perdon" Simonetti on February 19, 2025, by an agent of Defendant FPF underscores the need for Plaintiffs to maintain flexibility in their witness list to counter Defendants' efforts to suppress testimony. Defendants' proposed protective order, limiting Plaintiffs to 15 trial witnesses, is untenable in this context and should be rejected. Plaintiffs respectfully request that the Court: (1) deny Defendants' Motion to cap the witness list at 15; (2) permit Plaintiffs to identify alternative witnesses as needed to address intimidation; and (3) consider further inquiry into Defendants' conduct as warranted. This Supplement bolsters Plaintiffs' original opposition (filed March 10, 2025), and the Court should adopt a Protective Order and Rule 502(d) Order consistent with Plaintiffs' broader position.

WHEREFORE, Plaintiffs request that the Court DENY Defendants' Joint Motion for Entry of a Protective and Confidentiality Order and Rule 502(d) and award Plaintiffs their costs and fees for opposing this Motion, plus any further relief deemed just and proper.

DATED this 13th day of March, 2025.

Respectfully submitted,

/s/ José R. Olmo-Rodríguez
José R. Olmo-Rodríguez
USDC PR 213405
261 Ave. Domenech, SJ PR 00918
787.758.3570/jrolmo1@gmail.com

/s/ *Ibrahim Reyes*
Ibrahim Reyes Gándara
Florida Bar No. 581798
REYES LAWYERS, P.A.
236 Valencia Avenue
Coral Gables, FL 33134
Tel. 305-445-0011
Fax. 305-445-1181
Email: ireyes@reyeslawyers.com
Admitted *pro hac vice*

Counsel for the Plaintiffs

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed this document with the Clerk of Court using CM/ECF/PACER, which will send a notice of such filing to all attorneys of record in this case.

/s/ Jose R. Olmo-Rodríguez
José R. Olmo-Rodríguez, Esquire

/s/ Ibrahim Reyes
Ibrahim Reyes, Esquire

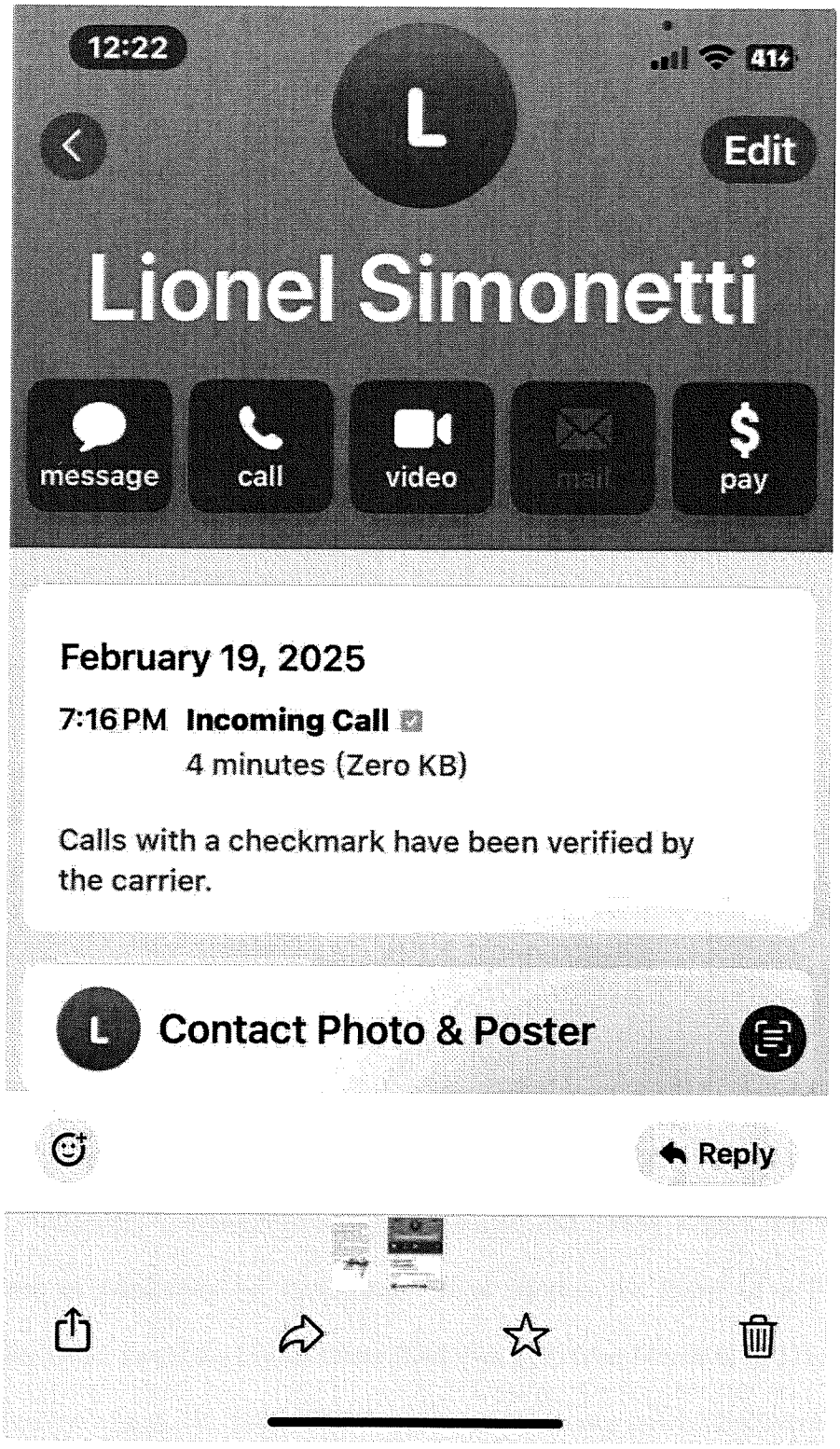
12:22
41
L
Edit
Lionel Simonetti
message
call
video
mail
pay
February 19, 2025
7:16 PM Incoming Call
4 minutes (Zero KB)
Calls with a checkmark have been verified by the carrier.
L
Contact Photo & Poster
Reply

EXHIBIT "A"