

New court system (puerto rico) essay

[Economics](#), [Currency](#)



Introduction A strong and independent judiciary is a sign of resilience and dynamic democracy needed in protecting people's rights against future state's intrusions. In a democracy, the judiciary played an all important role as the final arbiter of legal controversies and issues affecting people's fundamental and civil/proprietary rights or any other thing brought before it by virtue of statutes and the state constitution. A strong judiciary or court system is imbued with public interest. Thus its creation should be given preferential attention. The establishment of a judiciary as an institution and its importance could not be overemphasized in the establishment of a state.

Without it, no branch could check and balance the executive and legislative department's powers and abuses. This paper will lay down the parameters of a new court system that will be created in Puerto Rico in the event that it will become a United States 51st state. This paper mirrored the court systems of California, Texas and Florida as its basis because of its diversified people and predominant Spanish culture like Puerto Rico. Puerto Rico As a self-governing commonwealth associated with the United States of America, Puerto Rico is headed by the U. S. President through the Governor.

Though it controls its internal affairs, Puerto Rico submits legal questions involving “ interstate trade, foreign relations and commerce, customs administrations, control of air, land and sea, immigration and emigration, nationality and citizenship, currency, maritime laws, military service, military bases, army, navy and air force, declaration of war, constitutionality of laws, jurisdictions and legal procedures, treaties, radio and television-

communications, agriculture, mining and minerals, highways, postal system; Social Security, and other areas generally controlled by the federal government in the United States” (Puerto Rico’s Government, 2007).

Puerto Rico’s websites (<http://welcome.topuertorico.org>)

revealed major differences in between the 50 states and Puerto Rico such as: “ local taxation system and [its] exemption from Internal Revenue Code[;] lack of voting representation in either house of the U. S. Congress[;] the ineligibility of Puerto Ricans to vote in presidential elections[;] and its lack of assignation of some revenues reserved for the states.” JudiciaryLike any other state, Puerto Rico’s Judicial System System’s 12 judicial districts is headed by one Supreme Court composed of a Chief Justice and six (6) Associate Justices appointed by the Governor. The Commonwealth’s judicial hierarchy, aside from the Supreme Court, includes a Court of Appeals, Superior Court, a District Court (civil & criminal), and Municipal Court. The island commonwealth has a “ district court comparable to those of any US regular states. Each district court has at least one district judge and can have more than a score of district judges, as well as a clerk, a United States Attorney, a United States Marshall, one or more United States Magistrates, bankruptcy judges, probation officers, court reporters, and their staffs. The federal government, located in San Juan, is represented by 2 district judges and the procurator, who is named by the President of the United States.

” Finally, Puerto Rico is divided into counties or 78 “ municipios” (municipalities) each governed by elected mayor and municipal assembly (Puerto Rico’s Government, 2007). Table 1 shows the old Puerto Rico’s

court system. Table 1 the current Puerto Rico's Court System. Source: The National Center for State Court (<http://www.ncsconline.org/>)

The New Court System

New Puerto Rico's judicial system, as an arbiter of legal questions and statutes' interpretations, is composed by the state and federal system with its respective jurisdictions. Jurisdiction For Puerto Rico, jurisdiction is the legal authority of its court to try and decide cases brought before it.

The absence of subject matter jurisdiction of the court over the defendant or the plaintiff divests them of any authority to try and decide the case. Jurisdiction is anchored on the defendant's residence or the court's geographical location. In the case of California, a Californian plaintiff has no right to bring a suit or action against any defendant or person whose residence is not or "no contact with" California (Guide to California Law: California Court System, 2007). The law, constitutions or the case law determines jurisdiction and in the event of an overlapping jurisdiction. Thus the plaintiffs are given a preferential choice as to which court they may file the suits.

There are three types of subject matter jurisdiction in Puerto Rico's new court system, namely: exclusive, general, and limited. Exclusive Jurisdiction. "Exclusive jurisdiction means that only a particular court can decide a case as in the case of bankruptcy court" (Guide to California Law: California Court System, 2007).

General Jurisdiction. "General jurisdiction means that a court has the ability to hear and decide a wide range of cases." (Guide to California Law:

California Court System, 2007). For Puerto Rico's New court System, its superior courts will be the court of general jurisdiction. Limited Jurisdiction. " Limited jurisdiction means that a court has restrictions on the cases it can decide. Small claims court is a court of limited jurisdiction" (Guide to California Law: California Court System, 2007).

For Puerto Rico's New Court System, any claim for damages of \$5000 or less is within the limited jurisdiction of the small claim courts. The new system also provides, as in the case of the California, that " no person may file more than two claims in small claims court over \$2500 in one calendar year" (Guide to California Law: California Court System, 2007). VenueCalifornia Court System (2007) define venue as legal action's location with corresponding court located on a particular geographical area empowered to hear and decide cases. As in the case of Puerto Rico, Municipal Courts located in each of the " municipios" have jurisdiction in cases originating from their respective municipalities or where one or more of the defendants reside. The State Courts

As a new state, Puerto Rico will have a new and functional State Courts composed of the state Supreme Court, Courts of Appeal, Court of First Instance, and Municipal Courts. Puerto Rico's Supreme Court

Based in San Juan the capital city, the Puerto Rico's Supreme Court is the highest court in the new state and is composed of a chief justice and six associate justices. In order to conduct business, five justices must be present and at least four justices must agree on a decision in each case.

For Puerto Rico Supreme Court, jurisdiction is both mandatory and discretionary like the State of Florida's Supreme Court and must hear all

judgments “ imposing the death penalty, district court decisions declaring a state[’ s] statute or provision of the state constitution invalid, bond validation judgments, and actions of statewide agencies relating to public utilities” (Guide to Florida Law: Florida Court System, 2007). Also, Puerto Rico Supreme Court has plenary discretionary power in hearing Court of Appeals’ decisions that expressly declare a “ state statute valid; questions certified by the district courts of appeal as being of great public importance; or decisions where the district courts are in conflict with one another. It may also issue advisory opinions at the governor’s request concerning interpretation of the state constitution regarding the governor’s powers and duties” (Guide to Florida Law: Florida Court System, 2007) .

The new Supreme Court will retain mandatory jurisdiction in civil, administrative agencies, legal and judicial profession, and original proceedings cases. It has the exclusive power to review the property Registrar’s ruling. Also, it has discretionary power to review civil, criminal cases and interlocutory decisions (Puerto Rico: Court Structure as of Fiscal Year 2004, n. d.

)In order to be appointed as Puerto Rico’s Supreme Court justice, a person must be a State (Puerto Rico) resident and a member of The Puerto Rico Bar for 10 years prior to his appointment. In case of court vacancy, the state “ governor appoints the next justice from a list of three qualified persons prepared by the State’s Judicial Nominating Commission. Justices serve for six years, after which they can have their name put on the general election

ballot if they wish to remain in office” (Guide to Florida Law: Florida Court System, 2007) for another 6 years more.

The court hears oral arguments on its discretion or as may be allowed by their Rules. Court of Appeals There will be a Court of Appeals (CA) composed of 38 Associates Justices and a Presiding Justice. 13 Court of Appeals’ divisions with 3 justices sitting as panel, covering Puerto Rico’s 12th judicial region or district composed the Court of Appeals internal structure. Sitting as a division, the panel of three justices decides Court of First Instance’s appeals in criminal and civil cases. Like Florida, Puerto Rico’s Court of Appeals have jurisdiction to “decide appeals from [superior] courts when a state statute or provision of the state constitution is held invalid, or for orders or judgments certified to be of great public importance” (Guide to Florida Law: Florida Court System, 2007). The CA is the final appellate review of litigated cases in the state.

Appeal cases may seek Puerto Rico’s Supreme Court intervention in an appropriate review petition. Court of First Instance (Superior Court) There will be a Court of First Instance consisting of 30 presiding judges who presides jury trials. There will be two (2) Court of First Instance in each of Puerto Rico’s 12 judicial region/district and six courts will be located in San Juan, the capital city. They have the following jurisdiction: tort, contract; real property; probate/estate proceedings; administrative agency appeals; domestic relations; exclusive felony; misdemeanor; preliminary hearings; and juvenile (Puerto Rico: Court Structure as of Fiscal Year 2004, n. d.

)Municipal Court There will be one (1) Municipal Trial Court in each of the 78 “municipios” with an exclusive jurisdiction on tort, contract, real property ranging from \$0 to \$3,000, small claims (\$5,000), miscellaneous civil, and ordinance violation. The courts perform no jury trials. Table

2 Shows Puerto Rico’s New State Court System. Table 2 The Puerto Rico’s New Court System
 The U. S. Federal Courts
 The U. S Federal Courts
 Federal District Court
 Like Florida, the State of Puerto Rico will have three U. S.

district courts, located in the northern, middle and southern districts of the state (Guide to Florida Law: Florida Court System, 2007). The U. S.

District Courts have original jurisdiction over cases involving: federal crimes; civil suits under the federal law; civil suits between citizens of different states where the amount exceeds \$50,000; admiralty and maritime cases; bankruptcy cases; review of actions of certain federal administrative agencies; and other matters assigned to them by Congress (Wilson, 1992, p. 405). Also, the federal system provides for a bankruptcy court that has exclusive jurisdiction over bankruptcy matters. United States Court of

Appeals (Circuit Courts) The United States’ federal government is grouped into several judicial districts and each of these districts is grouped into circuits which has a court of appeals. The Court of Appeals or the Circuit Courts has an appellate jurisdiction over matters involving appeals from: federal district courts; U.

S. Regulatory Commissions; and certain other federal courts. In the case of the State of Puerto Rico, the newly created state will be included under the 11th Circuit Courts who sit in Atlanta, Georgia because of its close proximity

to the 11th Circuit Courts' area of jurisdiction (Wilson, 1992, p. 405). The United States Supreme Court Composed of one court and eight associate justices and one chief justice, the United States Supreme Court possessed both original and appellate jurisdiction. It has original jurisdiction over cases involving: two or more states; the United States and a state; foreign ambassadors and diplomats; and a state and a citizen of a different state (if begun by a state).

It hears appeals cases in its discretion over cases involving: lower federal courts; and highest state courts (Wilson, 1992). Courts of Specific Jurisdiction Aside from the permanent courts, the federal system created a number of special courts with specific jurisdiction, like: the Federal Tax Courts, Bankruptcy Courts and the “ U. S. Court of Appeals for the Federal Circuit hears appeals regarding patents, customs, and claims against the U. S.

government” (Guide to Florida Law: Florida Court System, 2007). Judicial Selection In order to have a dynamic, independent and responsive judiciary, the judicial selection should be given a considerable attention. In the case of Puerto Rico, judicial selection will be based on the conglomeration of California and Florida rules on the matter. Texas Court's system was not used because of its complexities in both jurisdictions and judges selection.

The Supreme Court and Appellate Court's members will be nominated by the State's Commission on Judicial Appointments and appointed by the governor (Florida: Current Method of Judicial Selection. (n. d.). State's Commission on

Judicial Appointments members are the chief justice, the attorney general, and a presiding justice of the court of appeals. The State Bar Association of Puerto Rico will conduct an evaluation and thorough investigation on the nominees' fitness as a possible member of the bench.

Usually, the State Bar's recommendation will not bound the governor's choice to the vacant position. The appellate judges' retention will be based on a process set forth by the state through a law passed by Puerto Rico. Serving a twelve-year term, appellate judges must stand for retention in the next gubernatorial election preceding their initial appointment. For " Superior court judges are chosen in a nonpartisan elections for six-year terms and any vacancies on the court will be filled by the governor (Judicial Selection in California: An Introduction. (n.

d.). In the case of Superior Courts judges, the State Governor shall appoint them based on a set of criteria provided for by the state legislature.

Removal of Judges Using the State of California as a basis, Puerto Rico's judges may be removed in one of the three ways: " Judges may be impeached by the assembly and convicted by two thirds of the senate; . Judges are subject to recall election; and The commission on judicial performance investigates complaints of judicial misconduct and incapacity and may privately admonish, suspend, censure, retire, or remove a judge.

The commission's decisions are subject to review by the supreme court" (California: Current Methods of Judicial Selection, n. d.). Judicial Campaign and Election In adopting Canon 5 and 7 of California and Florida's

code of judicial conduct, respectively, the State of Puerto Rico provides the following rules for judicial campaign and election of the judicial

candidates: The judicial candidates shall not: “ make statements that commit them with respect to cases, controversies, or issues that could come before the courts; or knowingly, or with reckless disregard for the truth, misrepresent the identity, qualifications, present position, or other fact concerning themselves or an opponent. Judicial candidates are not prohibited from soliciting campaign contributions” (California: Judicial Campaigns and Elections.

(n. d.). Also, the judicial candidates shall not “[p]ersonally solicit campaign contributions or solicit attorneys for publicly stated support. However, candidates may establish campaign committees to secure and manage campaign funds and obtain public statements of support”(Florida: Judicial Campaigns and Elections, n. d.)Conclusion The New Court System of

Puerto Rico will boost their new found place as the 51st State of the United States. A strong, functional and independent judiciary will enhance the democratic process all Puerto Ricans desired and dreamed of and at the same time protecting the people’s fundamental rights against future abuses of the state and its organs.

Without a functional judiciary or courts, the people and the state will drift into the lonely sea of oblivion who try to find peace and prosperity in a dry and weary land. ReferencesCalifornia: Current Methods of Judicial Selection. (n. d.). Retrieved April 16, 2007, from <http://www.>

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