

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

CASE NO. 04-20003-CIV-MARTINEZ-KLEIN

GUSTAVO GOMEZ LOPEZ, individually, and  
CLAUDIA FEBRES-CORDERO, individually,

Plaintiffs,

vs.

BANCO LATINO INTERNATIONAL,

Defendant.

**PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT TO ADD  
DEFENDANTS AND INCORPORATED MEMORANDUM IN SUPPORT**

Pursuant to Rules 15(a) and 21, Fed.R.Civ.P., and Local Rule 15.1, plaintiffs Gustavo Gomez Lopez and Claudia Febres-Cordero (hereinafter "Mr. and Mrs. Gomez Lopez") respectfully move this Court for leave to amend their complaint to add two additional defendants to this malicious prosecution action. These additional defendants are two law firms which brought and continued to prosecute the claims asserted by Banco Latino International ("BLI") in the underlying malicious lawsuit. Pursuant to Local Rule 15.1, the proposed amended complaint adding these defendants is attached hereto.<sup>1</sup>

<sup>1</sup> The proposed amended complaint also deletes certain allegations and claims with respect to the original co-defendant (FOGADE), who was voluntarily dismissed without prejudice after this action was commenced.

## FACTUAL AND PROCEDURAL BACKGROUND

1. On June 19, 1995, BLI, Fondo de Garantia de Depositos y Proteccion Bancaria (“FOGADE”), and other nominal plaintiffs, by and through their counsel of record Akerman, Senterfitt & Eidson, P.A. (“Akerman”), commenced a putative federal RICO action against Mr. and Mrs. Gomez Lopez (among other defendants) in the United States District Court for the Southern District of Florida, Miami Division, styled *Banco Latino S.A.C.A., Banco Latino International, et al. v. Gustavo A. Gomez Lopez, Claudia Febres Cordero de Gomez, et al.*, Case No. 95-1300-CIV-GRAHAM (the “Federal Court Action”).

2. In June 1998, the original RICO complaint in the Federal Court Action was dismissed by the District Court. FOGADE and the other plaintiffs’ alleged claims were severed from those of BLI and dismissed.

3. On or about April 15, 1999, BLI, by and through its counsel of record Akerman and its new co-counsel Cleary, Gottlieb, Steen & Hamilton (“Cleary”), filed a first amended RICO complaint against Mr. and Mrs. Gomez Lopez and other defendants. That first amended complaint contained eight counts against Mr. and Mrs. Gomez Lopez (and numerous other defendants) under federal and Florida law for: (1) Civil RICO -- 18 U.S.C. §1962(c); (2) Conspiracy to Violate RICO -- 18 U.S.C. §1962(d); (3) Fraud; (4) Breach of Fiduciary Duty of Care; (5) Breach of Fiduciary Duty of Loyalty; (6) Civil Conspiracy; (7) Constructive Fraud; and (8) Constructive Trust.

4. Thereafter, BLI, Cleary and Akerman continued to prosecute BLI’s putative claims.

5. On March 2, 2000, after discovery had proven all of BLI's alleged claims to be without any factual or legal support, Mr. Gomez Lopez filed a dispositive motion for summary judgment on all of BLI's alleged claims in the Federal Court Action.

6. On April 27, 2000, after five years of BLI and its counsel's vexatious litigation, the District Court entered Summary Final Judgment in favor of Mr. and Mrs. Gomez Lopez on all of BLI's alleged claims.

7. That Summary Final Judgment was not amended, modified, reversed or vacated, and is final.

8. In addition to the dismissal of the Federal Court Action in its entirety, and in response to a motion for sanctions filed by Mr. Gomez Lopez, the District Court subsequently imposed substantial sanctions under Fed.R.Civ.P. 11 against BLI and Cleary for their conduct in continuing to prosecute the Federal Court Action.<sup>2</sup> Those sanctions were not appealed, amended, modified, reversed or vacated, and are final.

9. There was an absence of probable cause both for commencing, and for continuing to prosecute, the claims asserted by BLI in the Federal Court Action against Mr. and Mrs. Gomez Lopez. BLI's claims in the Federal Court Action were commenced, and continued to be prosecuted, with malice, and/or with a willful, wanton and reckless disregard for and indifference to, Mr. and Mrs. Gomez Lopez's rights.

10. Cleary and Akerman knew that the putative claims asserted by BLI against Mr. and Mrs. Gomez Lopez in the Federal Court Action were baseless. However, notwithstanding that knowledge, and rather than withdraw from their representation of BLI, Cleary and Akerman

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<sup>2</sup> Mr. Gomez Lopez's motion for sanctions was also filed against Akerman. However, at Akerman's request, and without conceding or waiving any claims, remedies or issues with respect to Akerman or any other person, Mr. Gomez Lopez withdrew without prejudice his motion for sanctions as against Akerman only.

elected to continue prosecuting BLI's claims against Mr. and Mrs. Gomez Lopez. In doing so, Cleary and Akerman continued to generate and be paid substantial amounts of attorneys' fees, to their benefit and to the detriment of Mr. and Mrs. Gomez Lopez.

11. The five years of expensive and humiliating litigation to which Mr. and Mrs. Gomez Lopez were unnecessarily subjected by this wrongful prosecution had severe consequences for Mr. and Mrs. Gomez Lopez, including causing injury to reputation; shame, humiliation and mental anguish; substantial attorneys' fees, costs, and other expenses; and lost time and lost earning capacity in the past and in the future.

12. Accordingly, on December 4, 2003, Mr. and Mrs. Gomez Lopez properly commenced this action in the Circuit Court in and for Miami-Dade County, Florida (the "Circuit Court"), asserting state law claims for malicious prosecution and conspiracy to maliciously prosecute against BLI and FOGADE.

13. On or about January 2, 2004, BLI and FOGADE purportedly removed this action to this Court.

14. On January 23, 2004, FOGADE was voluntarily dismissed from this action without prejudice.

15. On January 30, 2004, Mr. and Mrs. Gomez Lopez filed a motion to remand this case to the state Circuit Court in Miami-Dade County, Florida, where it was properly commenced.<sup>3</sup>

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<sup>3</sup> Plaintiffs file this motion for leave to amend pursuant to the deadline established by this Court and in an abundance of caution. By filing this motion, plaintiffs do not admit or concede that this action was properly removed to this Court or that this action may proceed in this Court, and do not withdraw or waive their pending motion to remand.

16. On February 25, 2004, the parties filed their joint scheduling report. Therein, Mr. and Mrs. Gomez Lopez identified that they may add additional defendants, but as of that time had not made a determination whether to do so.

17. On March 12, 2004, this Court entered its Order Setting Civil Trial Date and Pretrial Schedule. [D.E. #27]. Therein, the Court specifically established April 9, 2004 as the deadline to join additional parties. Accordingly, this motion is timely filed within the deadline established by this Court.

18. Mr. and Mrs. Gomez Lopez have claims for malicious prosecution against the law firms who brought and continued to prosecute the underlying malicious litigation on behalf of BLI. The malicious prosecution claims against the law firms which represented BLI do not affect the existing allegations or claims against BLI, but merely parallel those allegations and claims. In order to avoid a multiplicity of lawsuits, as well as the expiration of the applicable limitations period, Mr. and Mrs. Gomez Lopez seek leave to add Cleary and Akerman as defendants to this action and to do so while this litigation is in its early stages.

19. Accordingly, pursuant to Rules 15(a) and 21, Fed.R.Civ.P., and the policy of liberally allowing plaintiffs to add defendants at this early stage, Mr. and Mrs. Gomez Lopez timely move for leave to amend their complaint to add Cleary and Akerman as additional defendants to the existing claims for malicious prosecution.

### ARGUMENT

As provided in Fed.R.Civ.P. 21, "Parties may be dropped or added by order of the court on motion of any party or its own initiative at any stage of the action and on such terms as are just." (emphasis added). Similarly, Fed.R.Civ.P. 15(a) provides that leave of court to amend a

pleading “shall be freely given when justice so requires.” (emphasis added). These mandates are to be heeded. See *Foman v. Davis*, 371 U.S. 178, 182 (1962).

Indeed, it is well-established that requests by plaintiffs for leave to amend are to be liberally granted. See *Grayson v. K Mart Corp.*, 79 F.3d 1086, 1110 (11<sup>th</sup> Cir. 1996); *Espey v. Wainright*, 734 F.2d 748, 750 (11<sup>th</sup> Cir. 1984); *Dussouy v. Gulf Coast Investment Corp.*, 660 F.2d 594 (5th Cir. 1981) (rule evinces a bias in favor of granting leave to amend). One of the reasons for liberally permitting amendments is that they help consolidate litigation and avoid multiplicity of lawsuits. See *Dussouy*, 660 F.2d at 599-600 (leave to amend should not be denied where the amendment will avoid the filing of a separate action).

Accordingly, district courts have only severely circumscribed discretion to deny a plaintiff leave to amend its complaint. *Grayson*, 79 F.3d at 1110; *Espey*, 734 F.2d at 750; *Dussouy*, 660 F.2d at 597. The Court is constrained to allow a plaintiff leave to amend, unless there is a substantial countervailing reason not to allow the amendment. *Grayson*, 79 F.3d at 1110 (emphasis added). As the Eleventh Circuit held in *Espey*:

This policy...in liberally permitting amendments to facilitate determination of claims on the merits circumscribes the exercise of the trial court’s discretion; thus, unless there is a substantial reason to deny leave to amend, the discretion of the district court is not broad enough to permit denial.

734 F.2d at 750 (citing and quoting *Dussouy*).

Thus, under Rule 15(a) and Rule 21, this Court must grant the requested amendment unless BLI demonstrates (which it cannot) a substantial countervailing reason not to allow the amendment. Although it is not Mr. and Mrs. Gomez Lopez’s burden to refute the existence of

any such reasons, it is clear that none of the reasons which might justify denying the requested amendment are present here.<sup>4</sup> For example:

- a. This motion is made in good faith and not for purposes of delay;
- b. This motion is timely made within the deadline established by this Court in its Scheduling Order and, thus, there has been no undue delay;
- c. This motion is being made at the early stages of this litigation and before significant discovery has occurred;
- d. Mr. and Mrs. Gomez Lopez have not previously amended their complaint;
- e. BLI will suffer no undue prejudice and has been on notice that plaintiffs may add additional defendants;
- f. The amendment is not futile because it properly alleges the applicable elements of a malicious prosecution claim against Cleary and Akerman and is filed within the applicable limitations period;
- g. Mr. and Mrs. Gomez Lopez do not seek to assert additional claims against BLI, and the malicious prosecution claims against the law firms which represented BLI do not affect the existing allegations or claims against BLI, but merely parallel those allegations and claims;<sup>5</sup>
- h. There are no new, or different, factual or legal allegations against BLI; and
- i. Granting the requested amendment will avoid a multiplicity of lawsuits.

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<sup>4</sup> Even if any such reasons were present (which they are not), then the prejudice which Mr. and Mrs. Gomez Lopez would suffer from denial of leave to amend becomes relevant and, in this case, outweighs any other consideration. *See Dussouy*, 660 F.2d at 598 (prejudice to moving party only becomes relevant if there is a substantial reason to deny the amendment).

<sup>5</sup> An existing defendant suffers no undue prejudice from an amendment where (as here) a new party is added and the existing defendant's challenged conduct is essentially the same as that challenged in the initial complaint. *Dussouy*, 660 F.2d at 599. Also, the mere passage of time, without more, is not a basis to deny leave to amend. *Id.* at 598.

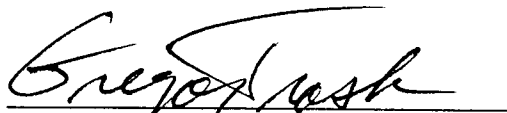
## CONCLUSION

For the above reasons, Mr. and Mrs. Gomez Lopez respectfully request that this Court enter an Order granting leave for Cleary and Akerman to be added as defendants to this action, and providing that the amended complaint attached hereto be deemed filed as a matter of record as of the date this motion was filed (i.e., April 9, 2004). A proposed order granting this motion is appended hereto. Pursuant to Local Rule 7.1.A.3, prior to filing this motion counsel for Mr. and Mrs. Gomez Lopez conferred with BLI's counsel in a good faith effort to resolve the issues raised herein. As of the time of filing this motion, BLI's counsel had not received a response from BLI as to whether BLI has any objection to the relief requested herein. Upon being advised of BLI's response, undersigned counsel will promptly notify the Court.

Respectfully submitted:

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By: \_\_\_\_\_



Peter W. Homer  
Florida Bar No. 291250  
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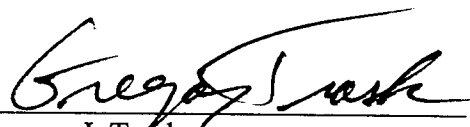
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 9<sup>th</sup> day of April 2004 by hand delivery before 5:00 p.m. to:

Mindy Mora, Esq.  
Michael Foster, Esq.  
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Counsel for Defendant BLI

And by facsimile before 5:00 p.m. and postage prepaid first class U.S. mail to:

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\_\_\_\_\_  
Gregory J. Trask

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
Miami Division

CASE NO. 04-20003-CIV-MARTINEZ-KLEIN

GUSTAVO GOMEZ LOPEZ, individually, and  
CLAUDIA FEBRES-CORDERO, individually,

Plaintiffs,

vs.

BANCO LATINO INTERNATIONAL,  
CLEARY, GOTTLIEB, STEEN & HAMILTON,  
and AKERMAN, SENTERFITT & EIDSON, P.A.,

Defendants.

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**AMENDED COMPLAINT AND DEMAND FOR JURY TRIAL**

Plaintiff Gustavo Gomez Lopez and Plaintiff Claudia Febres-Cordero sue Defendant Banco Latino International, Defendant Cleary, Gottlieb, Steen & Hamilton, and Defendant Akerman, Senterfitt & Eidson, P.A. for malicious prosecution and conspiracy to maliciously prosecute, and demand a jury trial on all issues so triable.

**Jurisdictional and Venue Allegations**

1. This action was commenced in the Circuit Court in and for Miami-Dade County, Florida, and was purportedly removed to this Court on or about January 2, 2004.<sup>1</sup>

2. Plaintiff Gustavo Gomez Lopez ("Mr. Gomez Lopez") presently resides in London, England.

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<sup>1</sup> Plaintiffs file this amended complaint pursuant to the deadline established by this Court and in an abundance of caution. By filing this amended complaint, plaintiffs do not admit or concede that this action was properly removed to this Court or that this action may proceed in this Court, and do not withdraw or waive their pending motion to remand.

3. Plaintiff Claudia Febres-Cordero (“Mrs. Gomez Lopez”) presently resides in London, England.

4. Mr. and Mrs. Gomez Lopez are, and were at all times material to this action, husband and wife.

5. Defendant Banco Latino International (“BLI”) is a United States Edge Act corporation with an office in Miami, Miami-Dade County, Florida.

6. Defendant Akerman, Senterfitt & Eidson, P.A. (“Akerman”) is a Florida corporation which maintains an office in Miami, Miami-Dade County, Florida.

7. Defendant Cleary, Gottlieb, Steen & Hamilton (“Cleary”) is a partnership with offices in Washington, D.C., among other cities. Cleary is amenable to jurisdiction in this forum under Fla. Stat. § 48.193 because, among other things, Cleary committed a tortious act within this State as alleged herein. Fla. Stat. § 48.193(1)(b). Furthermore, as alleged herein, Cleary had sufficient minimum contacts with Florida to satisfy due process requirements and subject Cleary to the jurisdiction of Florida courts. Cleary’s conduct and connection with Florida as alleged herein are such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice, and Cleary should have reasonably anticipated being sued in this forum regarding this matter.

8. Venue is appropriate in Miami-Dade County, Florida because the claims asserted by Mr. and Mrs. Gomez Lopez arise from the malicious prosecution of a federal lawsuit pending in Miami-Dade County, Florida; Defendants BLI and Akerman have offices in Miami-Dade County, Florida; the claims asserted by Mr. and Mrs. Gomez Lopez accrued in Miami-Dade County, Florida; and the underlying litigation which gives rise to this action was brought and concluded in Miami-Dade County, Florida.

## Background

9. Mr. Gomez Lopez was the chairman of the board of directors of BLI from March 12, 1993 until December 21, 1993.

10. Mrs. Gomez Lopez was a director of BLI approximately from its inception until March 12, 1993.

11. On June 19, 1995, BLI, by and through its counsel of record Akerman, Fondo de Garantia de Depositos y Proteccion Bancaria ("FOGADE"), and other nominal plaintiffs commenced a putative federal RICO action against Mr. and Mrs. Gomez Lopez (among other defendants) in the United States District Court for the Southern District of Florida, Miami Division, styled *Banco Latino S.A.C.A., Banco Latino International, et al. v. Gustavo A. Gomez Lopez, Claudia Febres Cordero de Gomez, et al.*, Case No. 95-1300-CIV-GRAHAM (the "Federal Court Action").

12. In June 1998, the original RICO complaint in the Federal Court Action was dismissed by the District Court. FOGADE and the other plaintiffs' alleged claims were severed from those of BLI and dismissed.

13. On April 15, 1999, BLI, by and through its counsel of record Cleary and Akerman, filed a first amended RICO complaint against Mr. and Mrs. Gomez Lopez and other defendants.

14. On March 2, 2000, after discovery had proven all of BLI's alleged claims to be without any factual or legal support, Mr. Gomez Lopez filed a dispositive motion for summary judgment on all of BLI's alleged claims in the Federal Court Action.

15. On April 27, 2000, after five years of BLI and their counsel's vexatious litigation, the District Court entered Summary Final Judgment in favor of Mr. and Mrs. Gomez Lopez and against BLI.

16. That Summary Final Judgment was not amended, modified, reversed or vacated, and is final.

17. In addition to the dismissal of the Federal Court Action in its entirety, and in response to a motion for sanctions filed by Mr. Gomez Lopez, the District Court subsequently imposed substantial sanctions under Fed.R.Civ.P. 11 against BLI and Cleary for their conduct in continuing to prosecute the Federal Court Action.<sup>2</sup>

18. The five years of expensive and humiliating litigation to which Mr. and Mrs. Gomez Lopez were unnecessarily subjected by this wrongful prosecution had severe consequences for Mr. and Mrs. Gomez Lopez, including causing injury to reputation; shame, humiliation and mental anguish; substantial attorneys' fees, costs, and other expenses; and lost time and lost earning capacity in the past and in the future.

19. All conditions precedent to the maintenance of this action have occurred, have been satisfied, have been waived, or have been excused.

20. Mr. and Mrs. Gomez Lopez have, as a consequence of defendants' conduct, retained the undersigned attorneys and are obligated to pay a reasonable fee for their services. Mr. and Mrs. Gomez Lopez are entitled to recover their attorneys' fees as an element of their damages, as well as pursuant to Fla. Stat. § 57.105.

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<sup>2</sup> Mr. Gomez Lopez's motion for sanctions was also filed against Akerman. However, at Akerman's request, and without conceding or waiving any claims, remedies or issues with respect to Akerman or any other person, Mr. Gomez Lopez withdrew without prejudice his motion for sanctions as against Akerman only.

**COUNT I**  
**ACTION FOR MALICIOUS PROSECUTION**  
**(By Mr. Gomez Lopez Against BLI, Cleary and Akerman)**

21. Mr. Gomez Lopez realleges and incorporates the above paragraphs 1 through 20, inclusive, as if specifically and fully set forth herein.

22. BLI, Akerman and Cleary brought claims on behalf of BLI against Mr. Gomez Lopez in the Federal Court Action, and continued to prosecute claims on behalf of BLI against Mr. Gomez Lopez, until those claims and the Federal Court Action itself were dismissed with prejudice in their entirety by the District Court.

23. The Federal Court Action was terminated in favor of Mr. Gomez Lopez.

24. There was an absence of probable cause both for bringing, and for continuing to prosecute, the claims brought on behalf of BLI against Mr. Gomez Lopez in the Federal Court Action.

25. The claims brought on behalf of BLI against Mr. Gomez Lopez in the Federal Court Action were brought, and continued to be prosecuted, with malice and/or with a willful, wanton and reckless disregard for, and indifference to, Mr. Gomez Lopez's rights.

26. As a result of the foregoing, Mr. Gomez Lopez suffered substantial damages, including, but not necessarily limited to:

- a. injury to reputation;
- b. shame, humiliation and mental anguish;
- c. attorneys' fees, costs, and other expenses; and
- d. lost time, lost earnings and lost earning capacity in the past and future.

27. Defendants' misconduct was intentional, or was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of Mr. Gomez Lopez, thereby warranting the imposition of punitive damages against each defendant.

**WHEREFORE**, Plaintiff Gustavo A. Gomez Lopez requests that this Court enter judgment in his favor and against BLI, Cleary and Akerman, jointly and severally, for damages, costs, expenses, prejudgment interest, postjudgment interest, attorneys' fees, punitive damages, and any and all other relief deemed just and proper, and requests a jury trial.

**COUNT II**  
**ACTION FOR MALICIOUS PROSECUTION**  
**(By Mrs. Gomez Lopez Against BLI, Cleary and Akerman)**

28. Mrs. Gomez Lopez realleges and incorporates the above paragraphs 1 through 20, inclusive, as if specifically and fully set forth herein.

29. BLI, Akerman and Cleary brought claims on behalf of BLI against Mrs. Gomez Lopez in the Federal Court Action, and continued to prosecute claims on behalf of BLI against Mrs. Gomez Lopez, until those claims and the Federal Court Action itself were dismissed with prejudice in their entirety by the District Court.

30. The Federal Court Action was terminated in favor of Mrs. Gomez Lopez.

31. There was an absence of probable cause both for bringing, and for continuing to prosecute, the claims brought on behalf of BLI against Mrs. Gomez Lopez in the Federal Court Action.

32. The claims brought on behalf of BLI against Mrs. Gomez Lopez in the Federal Court Action were brought, and continued to be prosecuted, with malice and/or with a willful, wanton and reckless disregard for, and indifference to, Mrs. Gomez Lopez's rights.

33. As a result of the foregoing, Mrs. Gomez Lopez suffered substantial damages, including, but not necessarily limited to:

- a. injury to reputation;
- b. shame, humiliation and mental anguish;
- c. attorneys' fees, costs, and other expenses; and
- d. lost time, lost earnings and lost earning capacity in the past and future.

34. Defendants' misconduct was intentional, or was so reckless or wanting in care that it constituted a conscious disregard or indifference to the rights of Mrs. Gomez Lopez, thereby warranting the imposition of punitive damages against each defendant.

**WHEREFORE**, Plaintiff Claudia Febres-Cordero requests that this Court enter judgment in her favor and against BLI, Cleary and Akerman, jointly and severally, for damages, costs, expenses, prejudgment interest, postjudgment interest, attorneys' fees, punitive damages, and any and all other relief deemed just and proper, and requests a jury trial.

**COUNT III**  
**ACTION FOR CONSPIRACY TO MALICIOUSLY PROSECUTE**  
**(By Mr. Gomez Lopez Against BLI)**

35. Mr. Gomez Lopez realleges and incorporates the above paragraphs 1 through 27, inclusive, as if specifically and fully set forth herein.

36. BLI and Fondo de Garantia de Depositos y Proteccion Bancaria ("FOGADE") combined to take the concerted improper action of maliciously prosecuting Mr. Gomez Lopez through the claims asserted by BLI, resulting in the damage to Mr. Gomez Lopez set forth above.

37. BLI and FOGADE did so intentionally, and/or with a willful, wanton and reckless disregard for, and indifference to, Mr. Gomez Lopez's rights, thereby warranting the imposition of punitive damages.



**WHEREFORE**, Plaintiff Gustavo Gomez Lopez requests that this Court enter judgment in his favor and against BLI for damages, costs, expenses, prejudgment interest, postjudgment interest, attorneys' fees, punitive damages, and any and all other relief deemed just and proper, and requests a jury trial.

**COUNT IV**  
**ACTION FOR CONSPIRACY TO MALICIOUSLY PROSECUTE**  
**(By Mrs. Gomez Lopez Against BLI)**

38. Mrs. Gomez Lopez realleges and incorporates the above paragraphs 1 through 20 and 28 through 34, inclusive, as if specifically and fully set forth herein.

39. BLI and FOGADE combined to take the concerted improper action of maliciously prosecuting Mrs. Gomez Lopez through the claims asserted by BLI, resulting in the damage to Mrs. Gomez Lopez set forth above.

40. BLI and FOGADE did so intentionally, and/or with a willful, wanton and reckless disregard for, and indifference to, Mrs. Gomez Lopez's rights, thereby warranting the imposition of punitive damages.

**WHEREFORE**, Plaintiff Claudia Febres-Cordero requests that this Court enter judgment in her favor and against BLI for damages, costs, expenses, prejudgment interest, postjudgment interest, attorneys' fees, punitive damages, and any and all other relief deemed just and proper, and requests a jury trial.

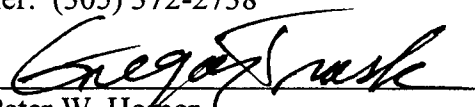
**DEMAND FOR JURY TRIAL ON ALL ISSUES**

Mr. and Mrs. Gomez Lopez demand a trial by jury in this matter for all issues so triable.

Respectfully submitted:

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By: \_\_\_\_\_

  
Peter W. Homer  
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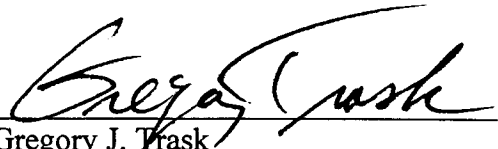
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was served this 9<sup>th</sup> day of April 2004 by hand delivery before 5:00 p.m. to:

Mindy Mora, Esq.  
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Counsel for Defendant BLI

And by facsimile and postage prepaid first class U.S. mail to:

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Gregory J. Trask

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
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GUSTAVO GOMEZ LOPEZ, individually, and  
CLAUDIA FEBRES-CORDERO, individually,

Plaintiffs,

vs.

BANCO LATINO INTERNATIONAL,

Defendant.

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**ORDER ON PLAINTIFFS' MOTION FOR LEAVE TO AMEND COMPLAINT**

**THIS CAUSE** having come before the Court on the date set forth below on Plaintiffs' Motion for Leave to Amend Complaint to Add Defendants and Incorporated Memorandum of Law in Support filed on April 9, 2004 (the "Motion"), and the Court being fully and duly advised in the premises, it is

**ORDERED AND ADJUDGED** that the Motion is **GRANTED**. Plaintiffs' Amended Complaint attached to the Motion is deemed filed as a matter of record as of April 9, 2004, and plaintiffs shall serve the Amended Complaint on all defendants.

**DONE AND ORDERED** in Chambers at Miami, Miami-Dade County, Florida this \_\_\_\_ day of April 2004.

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Jose E. Martinez  
United States District Judge

Copies to all persons  
on attached service list

SERVICE LIST

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