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

SONIA M. DÁVILA-SURÉN **Plaintiff,** **v.** PUERTO RICO INDUSTRIAL COMMISSION; MARÍA T. QUINTANA, in her official capacity as Chair of the Puerto Rico Industrial Commission; FEDERACIÓN CENTRAL DE TRABAJADORES, UFCW LOCAL 481 **Defendants.**	**Civil No.:** 26-1512 (MAJ) 42 U.S.C. § 1983 FOR VIOLATIONS OF CIVIL RIGHTS, DECLARATORY JUDGMENT, INJUNCTIVE RELIEF, AND COMPENSATORY AND NOMINAL DAMAGES

REPLY TO PLAINTIFF'S RESPONSE IN OPPOSITION TO MOTION TO DISMISS

TO THE HONORABLE COURT:

COME NOW, codefendants María T. Quintana, in her official capacity as Chair of the Puerto Rico Industrial Commission ("PRIC Chair"), and the Puerto Rico Industrial Commission ("PRIC"), through the undersigned attorneys, without submitting to the Court's jurisdiction and without waiving any affirmative defense, very respectfully **STATE**, **ALLEGE**, and **PRAY** as follows:

I. INTRODUCTION

On October 5, 2026, the PRIC and the PRIC Chair moved to dismiss under Rule 12(b)(1) and Rule 12(b)(6), arguing that Plaintiff lacked standing to seek prospective relief against the PRIC and the PRIC Chair and, in the alternative, that her claims are moot because the PRIC stopped the challenged deductions effective August 1, 2026, ten days

before Plaintiff filed suit, and that the PRIC is immune under the Eleventh Amendment and the claims against the PRIC Chair fall outside *Ex parte Young*. (Docket No. 12). After an extension (Docket No. 13), Plaintiff filed her Opposition on October 27, 2026, one day after the extended deadline, which Plaintiff attributes to technical difficulties. (Docket No. 16). The Court granted leave to reply. (Docket No. 20).

The Opposition fails to explain how Plaintiff has standing. Article III standing does not depend on when a plaintiff becomes convinced that an injury has ceased. The injury-in-fact element, which is the first element of Article III standing, is defined as "an invasion of a legally protected interest which is (a) concrete and particularized; and (b) actual or imminent, not conjectural or hypothetical." *Katz v. Pershing, LLC*, 672 F.3d 64, 71 (1st Cir. 2012) (quoting *Lujan v. Defs. of Wildlife*, 504 U.S. 555, 560 (1992)). Standing therefore turns on whether an objectively existing, or sufficiently imminent, injury capable of judicial redress existed when the action commenced. A plaintiff's subjective apprehension, without more, cannot substantiate an injury in fact for standing purposes. *Laird v. Tatum*, 408 U.S. 1, 13-14 (1972) (holding, in the First Amendment context, that "[a]llegations of a subjective 'chill' are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm"). Plaintiff lacks standing to litigate this case against the PRIC or the PRIC Chair because, when she filed suit, she faced no ongoing or imminent injury that prospective relief could redress. Consequently, the Court should dismiss the claims against the PRIC and the PRIC Chair.

II. DISCUSSION

A. Plaintiff's subjective belief that the challenged deductions might continue does not establish Article III standing

Plaintiff's Opposition rests on a fundamental misunderstanding of the jurisdictional inquiry under Article III. Although Plaintiff concedes that the PRIC notified her on July 23, 2026, that her union dues deductions would cease effective August 1, 2026, she nevertheless contends that a live controversy existed when she commenced this action on August 11, 2026, because she did not trust that the PRIC would honor its representation. (Docket No. 16 at 5-6). Yet Plaintiff's subjective beliefs about the PRIC's reliability cannot substitute for the objective jurisdictional requirements imposed by Article III. The critical question is whether, at the time this action commenced, Plaintiff was experiencing a continuing injury redressable through prospective relief or faced a sufficiently imminent threat of future injury. The record reflects that the challenged deductions had ceased effective August 1, 2026, before Plaintiff filed her Complaint. (Docket No. 12-5, Docket No. 12-6).

Because the PRIC's motion presents a factual challenge supported by record evidence, the Complaint's allegation that deductions were ongoing (Docket No. 1 at 13, ¶ 44) receives no presumptive weight, and the Court may weigh the evidence to determine whether Plaintiff had standing when she filed suit. *Valentín v. Hosp. Bella Vista*, 254 F.3d 358, 363 (1st Cir. 2001). Plaintiff bears the burden of establishing standing, *Lujan*, 504 U.S. at 561, and standing is measured as of the date the action commenced, *Davis v. FEC*, 554 U.S. 724, 734 (2008). Past injury does not suffice: "[p]ast exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief .

. . if unaccompanied by any continuing, present adverse effects." *City of Los Angeles v. Lyons*, 461 U.S. 95, 102 (1983) (*quoting O'Shea v. Littleton*, 414 U.S. 488, 495-96 (1974)). Accordingly, even accepting Plaintiff's assertion that she genuinely distrusted the PRIC's July 23 communication, that distrust does not give her standing to litigate this case. Because the challenged deductions had already ceased, and no sufficiently imminent threat of their recurrence existed, Plaintiff lacked standing to seek prospective relief irrespective of when she personally became convinced that the PRIC had complied. Plaintiff's unsworn statement (Docket No. 16-1) does not change the analysis; it identifies no deduction from her wages after August 1, 2026.

B. Speculation that the PRIC might someday resume deductions does not establish standing

Plaintiff next argues that the PRIC's continued recognition of the purview of codefendant Federación Central de Trabajadores, UFCW Local 481 (the "Union"), to determine its membership establishes a likelihood that dues deductions will resume. (Docket No. 16 at 13-16). Said argument improperly treats the mere possibility of future administrative action as an imminent constitutional injury.

The record establishes that on July 23, 2026, the Union formally notified the PRIC that Plaintiff had disaffiliated from it and authorized the PRIC to immediately cease all union dues deductions for Plaintiff. (Docket No. 12-7). The PRIC implemented that instruction effective August 1, 2026. (Docket No. 12-5). Plaintiff identifies no subsequent communication from the Union revoking its previous communication and no administrative action forcing her to be a member of the Union. Instead, Plaintiff

speculates that the Union might someday change its position and that the PRIC might then resume deductions. Speculation of that kind cannot carry Plaintiff's burden, which on a factual challenge must be met with evidence rather than conjecture. *See Lujan*, 504 U.S. at 561.

Article III standing demands more. An injury needs to be real, not abstract. *Conservation L. Found., Inc. v. Acad. Express, LLC,* 129 F.4th 78, 88 (1st Cir. 2025). It is particularized if it "affect[s] the plaintiff in a personal and individual way." *Id.* (quoting *Lujan,* 504 U.S. at 560 n.1). An allegation of future injury may suffice for Article III standing if the threatened injury is "certainly impending" or if there is a "substantial risk" that the harm will occur. *Reddy v. Foster*, 845 F.3d 493, 500 (1st Cir. 2017) (quoting *Susan B. Anthony List v. Driehaus,* 573 U.S. 149, 158 (2014)). But if Plaintiff's future injury is "too speculative for Article III purposes" and "no prosecution is even close to impending," then Plaintiff has no standing to sue. *Id.* (quoting *Blum v. Holder*, 744 F.3d 790, 799 (1st Cir. 2014)).

Plaintiff relies on the PRIC's prior administrative decisions in 2022 and June 2026. Both events occurred under different circumstances. In November 2022, following the Puerto Rico Court of First Instance's Judgment invalidating the administrative memoranda governing disaffiliation procedures (Docket No. 12 at 2-4, ¶¶ 2-3), the PRIC addressed the status of employees whose union membership remained reflected in the agency's records. Likewise, the June 2026 communication arose before the PRIC received the Union's July 23 communication. The record establishes that the Union issued the requested notification and that the PRIC implemented the resulting cessation.

Plaintiff does not identify any factual development occurring after July 23 that would reasonably support an expectation of renewed deductions. Her theory rests on a hypothetical future decision by the Union to reverse its own certification, and the Supreme Court has declined to abandon its usual reluctance "to endorse standing theories that rest on speculation about the decisions of independent actors." *Clapper v. Amnesty Int'l USA*, 568 U.S. 398, 414 (2013).

C. Voluntary cessation cannot supply the standing Plaintiff lacked at filing, and her claims for prospective relief are moot in any event

Plaintiff devotes considerable attention to the voluntary-cessation doctrine (Docket No. 16 at 11-18), but that doctrine governs mootness and does not relieve Plaintiff of her burden to establish standing when she invoked federal jurisdiction. Standing and mootness present distinct inquiries. Standing concerns the plaintiff's entitlement to invoke federal jurisdiction at the commencement of the litigation, whereas mootness addresses whether an existing controversy remains sufficiently live throughout the proceedings. *Friends of the Earth, Inc. v. Laidlaw Env't Servs. (TOC), Inc.*, 528 U.S. 167, 189-90 (2000). The prospect that a defendant will resume challenged conduct "may be too speculative to support standing, but not too speculative to overcome mootness." *Id.* at 190.

Here, the PRIC's cessation occurred before the commencement of this action. On July 23, 2026, the PRIC Chair notified the Union, with copy to Plaintiff, that because the payroll corresponding to July 31, 2026, had already been processed, the cessation of dues deductions would take effect on August 1, 2026, ten days before Plaintiff filed suit.

(Docket Nos. 12-5, 12-6). This was not an action to escape the Court's jurisdiction because Plaintiff had not even filed her lawsuit at that time. The voluntary-cessation doctrine reaches a defendant that stops "the challenged practice in order to moot the plaintiff's case." *Bos. Bit Labs, Inc. v. Baker*, 11 F.4th 3, 9 (1st Cir. 2021) (quoting *Town of Portsmouth v. Lewis*, 813 F.3d 54, 59 (1st Cir. 2016)). On August 1, 2026, there was no case to moot.

Plaintiff additionally argues that the PRIC cannot establish cessation because it continues to defend the legality of its prior administrative decision. (Docket No. 16 at 13-15). But "[w]hat matters is not whether a defendant repudiates its past actions, but what repudiation can prove about its future conduct." *FBI v. Fikre*, 601 U.S. 234, 244 (2024). The challenged conduct cannot reasonably be expected to recur if the claims against the PRIC and the PRIC Chair are dismissed. Plaintiff is no longer a Union member, the Union itself has confirmed Plaintiff's disaffiliation and authorized the PRIC to cease all deductions, and the PRIC will not deduct union dues from her wages absent her affirmative written authorization and the record contains no indication that the PRIC intends to resume them. Plaintiff's position mainly relies on when she received confirmation of the cessation and on speculation about future changes in her membership status or on future conduct from the Union. Neither circumstance, without a concrete and sufficiently imminent threat of renewed deductions, establishes her entitlement to prospective relief against the PRIC or the PRIC Chair.

In *Ramos-Ramos v. Jordán-Conde*, 171 F.4th 438 (1st Cir. 2026), the First Circuit, in a *Janus* case, determined that the employees' request for a retrospective declaration was moot. *Id.* at 442. This is because there was no dispute that the public employer and the

union had stopped deducting dues from the employees. *Id.* The First Circuit resolved that a backward-looking declaration "would serve only to declare that this concluded conduct was unconstitutional." *Id.* But this claim was moot because the court determined that it "would be merely advisory." *Id.* (quoting *ACLU of Mass. v. U.S. Conf. of Cath. Bishops,* 705 F.3d 44, 53 (1st Cir. 2013)). In addition, the First Circuit determined that the employees' request for a prospective declaration was moot. Because the First Circuit was convinced on the record that *Janus*, rather than legal gamesmanship, best explained the public employer's and the union's change in conduct, it determined that the public employer and the union were not likely "to begin deducting dues from the employees again simply because there still exists a provision in the collective bargaining agreement that permits them to do so." *Id.* at 444. *Ramos-Ramos* supports dismissal *a fortiori*. There, the defendants stopped the deductions only after suit was filed, and the First Circuit still held the request for a prospective declaration moot. Here, the deductions stopped before Plaintiff filed suit. Although the court described the defendants' admissions as crucial on that record, it reaffirmed that "[a]n admission of error is not always necessary to conclude that a claim is moot based on changed conduct." *Id.* at 444 (citing *ACLU of Mass.*, 705 F.3d at 55 n.9). What those admissions established was that the defendants had stopped deducting dues for "non-litigation reason[s]." *Id.* (quoting *Lowe v. Gagné-Holmes*, 126 F.4th 747, 758 (1st Cir. 2025)). The record here shows that more directly. The PRIC ceased the deductions in response to the Union's July 23 notification, before any lawsuit existed. Nor does the PRIC dispute the rule *Janus* announced; it acknowledges that Plaintiff cannot be compelled to subsidize the Union without her affirmative consent. Accordingly, even if Plaintiff had

standing when she filed suit, her claims for prospective relief against the PRIC and the PRIC Chair are moot.

D. The PRIC's practice of ceasing deductions upon the Union's certification of disaffiliation complies with *Janus*

The PRIC acknowledges that Plaintiff cannot be compelled to subsidize a labor organization unless Plaintiff gives clear and affirmative consent. *Janus v. Am. Fed'n of State, Cnty., & Mun. Emps., Council 31*, 585 U.S. 878, 930 (2018). The policy in place to stop deductions from a PRIC employee when he or she is no longer a union member complies with *Janus*, which "does not preclude enforcement of union membership and dues deduction authorization agreements." *Mendez v. Cal. Tchrs. Ass'n,* 419 F. Supp. 3d 1182, 1186 (N.D. Cal. 2020), *aff'd*, No. 20-15394 (9th Cir. July 29, 2021).

Here, Plaintiff disaffiliated from the Union, the Union notified the public employer, and the public employer stopped deductions. This sequence is consistent with *Janus*, despite Plaintiff's broad interpretation of the decision as suggesting that an individual's union membership status is irrelevant to the collection of union dues. The dispute concerns, at bottom, the relationship between the employee and the Union, notwithstanding Plaintiff's allegation that the two acted in concert. Put simply, the PRIC lacks authority to interfere in matters governing the relationship between an employee and the exclusive representative. Act No. 45 of April 18, 1935, as amended, is the enabling act of the Industrial Commission and said statute provides that "the right of the employees pursuant to said sections to organize among themselves; constitute, affiliate, or assist labor organizations; negotiate collectively, including the establishment of

procedures to hear claims and grievances by means of selected representatives, is hereby acknowledged. All allegations regarding illegal practices shall be handled by the Labor Relations Board." P.R. LAWS ANN. tit. 11, § 8. The Puerto Rico Labor Relations Act, which created the Puerto Rico Labor Relations Board, provides that it is an unfair labor practice "[t]o initiate, create, establish, dominate, **interfere with** or attempt to initiate, create, establish, dominate or interfere with **the** formation or **administration of any labor organization** or to contribute financial or other support to the same." P.R. LAWS ANN. tit. 29, § 69(1)(b) (emphasis added).

Across the United States, many legislatures have adopted laws designed to address the practical effects of the *Janus* decision on public-sector unions. Some of these laws shift the responsibility of maintaining dues authorizations from the employer to the union. Under these schemes, employers must rely on the union's certification that an employee has authorized dues deductions, rather than independently reviewing the employee's signed forms themselves.

For example, California requires public employers to honor employee authorizations for dues deductions transmitted by the union, rather than directly from the employee, and limits public employer involvement in canceling these deductions. *See* Cal. Gov't Code § 1157.12(a)-(b); *see also id.* § 1153 (directing the State Controller to "[m]ake, cancel, or change a deduction or reduction **at the request of the person or organization authorized to receive the deduction or reduction**" (emphasis added)). Washington has a similar provision. Wash. Rev. Code § 28B.52.043(2)(a) ("An employee's request to revoke authorization for payroll deductions must be in writing and submitted

by the employee to the exclusive bargaining representative in accordance with the terms and conditions of the authorization"). Moreover, New York continues dues deductions until the employee revokes membership in writing in accordance with the signed authorization. N.Y. Civ. Serv. Law § 208(1)(b)(i).[1] The Ninth Circuit has rejected a First Amendment challenge to Washington's framework. *See Belgau v. Inslee*, 975 F.3d 940, 950-52 (9th Cir. 2020), *cert. denied*, 141 S. Ct. 2795 (2021). Accordingly, requiring an employee to first submit a resignation to the union in order to terminate dues deductions is a reasonable and lawful framework, contrary to Plaintiff's assertion. (Docket No. 16 at 18).

E. Plaintiff's claims for damages against the Union do not establish jurisdiction over her requests for prospective relief against the PRIC and the PRIC Chair

Plaintiff further contends that her claims for monetary and nominal damages preserve a live controversy notwithstanding the PRIC's cessation of deductions. (Docket No. 16 at 16-18). This argument ignores the distinction between the relief requested against the Union and the remedies sought against the PRIC and the PRIC Chair.

Plaintiff expressly acknowledges that she seeks monetary damages from the Union rather than the PRIC or the PRIC Chair. (Docket No. 16 at 17). The existence of those claims does not confer standing to obtain a permanent injunction or prospective declaratory judgment against different defendants.

[1] Insofar as it is relevant here, this New York state statute provides that "[a] public employer shall extend to an employee organization certified or recognized pursuant to this article the following rights: . . . (b) . . . The right to such membership dues deduction shall remain in full force and effect until: (i) an individual employee revokes membership in the employee organization in writing in accordance with the terms of the signed authorization." N.Y. Civ. Serv. Law § 208(1)(b). *See also* Alan M. Klinger & Dina Kolker, *Public Sector Unions Can Survive* Janus, 34 ABA J. Lab. & Emp. L. 267, 273 (2020).

This is because "[s]tanding is not dispensed in gross; rather, plaintiffs must demonstrate standing for each claim that they press and for each form of relief that they seek." *TransUnion LLC v. Ramirez*, 594 U.S. 413, 431 (2021). Plaintiff's argument that *Uzuegbunam v. Preczewski*, 592 U.S. 279, 292 (2021) allows her damages claims against the Union to sustain her requests for prospective relief against the PRIC and the PRIC Chair is wrong. (Docket No. 16 at 17). Whatever claims may remain against the Union for previously deducted dues, Plaintiff must establish a separate jurisdictional basis for the relief she requests against the PRIC and the PRIC Chair.

Without an ongoing violation or sufficiently imminent threatened injury, Plaintiff effectively seeks an advisory determination concerning the PRIC's previous administrative actions, which Article III does not authorize. *See Ramos-Ramos*, 171 F.4th at 442. Accordingly, the Court should dismiss the claims against the PRIC and the PRIC Chair.

F. Plaintiff has not established an ongoing violation of federal law warranting prospective relief under *Ex parte Young*

Plaintiff also argues that the PRIC Chair is a proper defendant under *Ex parte Young*, 209 U.S. 123 (1908), because she exercises administrative authority over the PRIC's payroll processes. (Docket No. 16 at 18-21). Even assuming the PRIC Chair possesses the requisite connection to those processes, that circumstance does not eliminate the requirement of an ongoing violation of federal law. *Ex parte Young* applies only where the complaint "alleges an ongoing violation of federal law and seeks relief properly characterized as prospective." *Verizon Md. Inc. v. Pub. Serv. Comm'n of Md.*, 535 U.S. 635,

645 (2002) (quoting *Idaho v. Coeur d'Alene Tribe of Idaho*, 521 U.S. 261, 296 (1997) (O'Connor, J., concurring in part and concurring in the judgment)).

Here, the PRIC ceased the deductions effective August 1, 2026. Plaintiff identifies no subsequent deduction and establishes no sufficiently imminent threat of renewed deductions. Therefore, regardless of the PRIC Chair's authority, Plaintiff has not demonstrated a present need for prospective judicial intervention.

G. The PRIC is immune under the Eleventh Amendment, and *Ex parte Young* does not reach it

Plaintiff's reliance on *Ex parte Young* also does not overcome the PRIC's separate Eleventh Amendment immunity. The exception permits qualifying prospective claims against state officials in their official capacities, but it "has no application in suits against the States and their agencies, which are barred regardless of the relief sought." *P.R. Aqueduct & Sewer Auth. v. Metcalf & Eddy, Inc.*, 506 U.S. 139, 146 (1993). Because the PRIC is an arm of the Commonwealth (Docket No. 12 at 13), it remains independently entitled to dismissal on the sovereign-immunity grounds asserted in the Motion to Dismiss.

III. CONCLUSION

Plaintiff's Opposition does not cure the Complaint's defects. The Opposition fails to establish that a live controversy existed at the commencement of the litigation. The record establishes that on July 23, 2026, the Union formally notified the PRIC that Plaintiff had disaffiliated from it and authorized the PRIC to immediately cease all union dues deductions for Plaintiff. Plaintiff's distrust of the PRIC's representations does not alter the objective circumstances existing when she invoked this Court's jurisdiction. Likewise,

Plaintiff's speculation that the Union might someday reverse its position does not establish a sufficiently imminent threat of future injury to satisfy Article III standing requirements. Whether the question is framed as standing or mootness, Plaintiff's claims for prospective relief against the PRIC and the PRIC Chair cannot proceed. Nor can her damages claims against the Union supply jurisdiction over the distinct prospective relief she seeks from the PRIC and the PRIC Chair. Consequently, the Court should dismiss the claims against the PRIC and the PRIC Chair.

Moreover, because Plaintiff has failed to demonstrate an ongoing violation of federal law, her claims against the PRIC Chair cannot proceed under *Ex parte Young*. Independently, the PRIC remains entitled to Eleventh Amendment immunity. For these reasons, Plaintiff's Opposition provides insufficient basis to deny the PRIC and the PRIC Chair's Motion to Dismiss.

WHEREFORE, the PRIC and the PRIC Chair respectfully request that this Honorable Court grant the Motion to Dismiss filed at Docket No. 12 and dismiss all claims against them.

I HEREBY CERTIFY that on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the parties subscribing to the CM/ECF system.

RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on this 9th day of November 2026.

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