

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

| | | |
|-----------------------------------|---|-------------------------|
| MADELINE MENDOZA, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No.: 2023 CV 02441 |
| |) | |
| CITY OF CHICAGO, REYNALDO |) | |
| GUEVARA, GER LYNN YANOW, as |) | |
| Special Representative for ERNEST |) | |
| HALVORSEN, STEPHEN GAWRYS, and |) | |
| ANTHONY RICCIO, |) | |
| |) | |
| Defendants. |) | |

**DEFENDANT REYNALDO GUEVARA'S
ANSWER TO PLAINTIFF'S AMENDED COMPLAINT**

NOW COMES Defendant, REYNALDO GUEVARA, by and through his attorneys, Steven B. Borkan, Timothy P. Scahill, Emily E. Schnidt, Kathryn E. Boyle, Krystal R. Gonzalez, and Whitney N. Hutchinson of BORKAN & SCAHILL, LTD., and for his Answer to Plaintiff's First Amended Complaint, states as follows:

1. This is a civil action arising under 42 U.S.C. § 1983. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 1343 and 1367.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

2. When she was just 16 years old, plaintiff Madeline Mendoza was framed for murder by notorious Chicago police detectives Reynaldo Guevara and Ernest Halvorsen.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

3. Mendoza served more than seventeen years of wrongful imprisonment, an injury from which she continues to suffer.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

4. The Chicago Police Department's official policies and customs of failing to discipline, supervise, and control its officers, as well as its code of silence, caused the misconduct of Guevara and Halvorsen.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

5. Based on the powerful evidence that has come to light about Guevara and Halvorsen's repeated wrongdoing and evidence of plaintiff's innocence, the Circuit Court of Cook County vacated plaintiff's conviction.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

6. Plaintiff brings this lawsuit to secure a remedy for the grievous harms she suffered from her wrongful imprisonment.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

I. Parties

7. Plaintiff Madeline Mendoza is a resident of the Northern District of Illinois.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

8. Defendant City of Chicago is an Illinois municipal corporation.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

9. Defendants Reynaldo Guevara, Stephen Gawrys, and Anthony Riccio were, at all relevant times, acting under color of their offices as Chicago police officers. Plaintiff sues these defendants in their individual capacities only.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

10. Defendant Geri Lynn Yanow is sued in her capacity as Special Representative of Ernest Halvorsen, as successor in interest and to defend this action on behalf of Ernest Halvorsen.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

11. Ernest Halvorsen was, at all relevant times, acting under color of his office as a Chicago police officer.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

12. Plaintiff refers to Ernest Halvorsen, Reynaldo Guevara, Stephen Gawrys, and Anthony Riccio as the “individual officer defendants.”

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

II. False Arrest and Unreasonable Prosecution of Plaintiff

13. On May 12, 1992, Jacqueline Montanez shot and killed Jimmy Cruz and Hector Reyes in Humboldt Park on the West Side of Chicago.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

14. At the time of the killings, plaintiff was with Montanez, Cruz, Reyes, and another woman, Marilyn Mulero.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

15. Plaintiff did not have any prior knowledge of any plan to kill Cruz or Reyes and she did not in any way aid, abet, facilitate, or participate in the homicides.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

16. Defendants Guevara and Halvorsen were assigned to investigate the murders.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

17. Defendants Guevara and Halvorsen conspired, confederated, and agreed to fabricate a false story that plaintiff had participated in the murders.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

18. Defendants Guevara and Halvorsen concocted the false story that Montanez shot Reyes, she then gave the gun to Mulero, and then Mulero shot Cruz after plaintiff signaled Mulero to shoot.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

19. The acts of Guevara and Halvorsen in furtherance of their scheme to frame plaintiff include the following:

- a. They caused Montanez to make a statement falsely implicating plaintiff in the murders;
- b. They caused Mulero to make a statement falsely implicating plaintiff in the murders;
- c. They caused Yvette Rodrigues to provide a false statement that she had heard plaintiff, Montanez, and Mulero each bragging about the shootings;
- d. They caused Jackie Serrano to provide a false statement that she had witnessed plaintiff participate in the shooting of Cruz from her apartment; and
- e. They caused Joan Roberts, a jailhouse informant, to provide a false statement that plaintiff had admitted to participating in the murders.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

20. The acts of Guevara and Halvorsen in furtherance of their scheme to frame plaintiff also include the following:

- a. They prepared police reports containing the false story;
- b. They attested to the false story through the official police reports; and
- c. They communicated the false story to prosecutors.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

21. Defendants Gawrys and Riccio either participated in the above-described acts or knew of them and failed to intervene to prevent the violation of plaintiff's rights.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

22. The individual officer defendants committed the above-described wrongful acts knowing that the acts would cause plaintiff to be held in custody and wrongly prosecuted.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

23. Plaintiff was charged with murder because of the wrongful acts of the individual officer defendants.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

24. Plaintiff knew that it would be impossible to prove that the individual officers had concocted the evidence against her.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

25. Accordingly, even though plaintiff was innocent, she pleaded guilty to the murder of Cruz and to conspiracy to commit the murder of Reyes on September 22, 1993, and she was sentenced to 35 years for murder concurrent to 7 years for conspiracy.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

26. Plaintiff served her sentence and was released from prison in 2009.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

27. Plaintiff was deprived of liberty because of the above-described wrongful acts of the individual officer defendants.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

III. Plaintiff's Exoneration

28. Plaintiff challenged the above-described wrongful conviction after learning that lawyers for other wrongfully convicted individuals had discovered repeated misconduct by Guevara and Halvorsen.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

29. On January 3, 2023, the Circuit Court of Cook County vacated plaintiff's convictions and granted the State's request to *nolle prosequi* the case.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

IV. Official Policies and Customs of the Chicago Police Department Were the Moving Force for Defendants' Misconduct

30. At all relevant times, the Chicago Police Department maintained official policies and customs that facilitated, encouraged, and condoned the misconduct of the individual officer defendants.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

A. Failure to Discipline

31. At all relevant times, the Chicago Police Department maintained a policy or custom of failing to discipline, supervise, and control its officers. By maintaining this policy or custom,

the City caused its officers to believe that they could engage in misconduct with impunity because their actions would never be thoroughly scrutinized.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

32. Before plaintiff's arrest, policymakers for the City of Chicago knew that the Chicago Police Department's policies or customs for disciplining, supervising, and controlling its officers were inadequate and caused police misconduct.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

33. Despite their knowledge of the City's failed policies and customs for disciplining, supervising, and controlling its officers, the policymakers failed to take action to remedy these problems.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

34. As a direct and proximate result of the Chicago Police Department's inadequate policies or customs for disciplining, supervising, and controlling its officers and the policymakers' failure to address these problems, the individual officer defendants engaged in misconduct, including but not limited to the wrongful arrest, detention, and prosecution of plaintiff, as described above.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

B. Code of Silence

35. At all relevant times, the Chicago Police Department maintained a "code of silence"

that required police officers to remain silent about police misconduct. An officer who violated the code of silence would be penalized by the Department.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

36. At all relevant times, police officers were trained at the Chicago Police Academy not to break the code of silence. Officers were instructed that “Blue is Blue. You stick together. If something occurs on the street that you don’t think is proper, you go with the flow. And after that situation, if you have an issue with that officer or what happened, you can confront them. If you don’t feel comfortable working with them anymore, you can go to the watch commander and request a new partner. But you never break the code of silence.”

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

37. This “code of silence” facilitated, encouraged, and enabled the individual officer defendants to engage in egregious misconduct for many years, knowing that their fellow officers would cover for them and help conceal their widespread wrongdoing.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

38. In the case of *Obrycka v. City of Chicago et al.*, No. 07-cv-2372 (N.D. Ill.), a federal jury found that, as of February 2007, “the City [of Chicago] had a widespread custom and/or practice of failing to investigate and/or discipline its officers and/or code of silence.”

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

39. In December 2015, Chicago Mayor Rahm Emanuel acknowledged the continued existence of the code of silence within the Chicago Police Department; Emanuel, speaking in his capacity as Mayor, admitted that the code of silence leads to a culture where extreme acts of abuse are tolerated.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

40. In April 2016, the City's Police Accountability Task Force found that the code of silence "is institutionalized and reinforced by CPD rules and policies that are also baked into the labor agreements between the various police unions and the City."

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

41. In an official government report issued in January 2017, the United States Department of Justice found that "a code of silence exists, and officers and community members know it."

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

42. On March 29, 2019, then-Chicago Police Superintendent Eddie Johnson publicly acknowledged the code of silence, stating that some Chicago police officers "look the other way" when they observe misconduct by other Chicago police officers.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

43. In October 2020, then-Chicago Police Superintendent David Brown acknowledged in public comments that the "code of silence" continues to exist.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

44. The same code of silence in place during the time period at issue in the *Obrycka* case and recognized by the Mayor, Superintendent Johnson, Superintendent Brown, the Task Force, and the Department of Justice was also in place when plaintiff suffered the wrongful arrest, detention, and prosecution described above.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

45. As a direct and proximate result of the City's code of silence, the individual officer defendants engaged in misconduct, including but not limited to the wrongful arrest, detention, and prosecution of plaintiff, as described above.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

C. The City's Policies and Customs Have Caused Numerous Other Wrongful Convictions

46. Chicago Police Officers, including the individual officer defendants, acting pursuant to defendant City of Chicago's "code of silence" and defective discipline policy have concocted false stories and fabricated evidence in numerous other cases.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

47. In each case, the officers concocted false stories and fabricated evidence because they knew that there would be no consequences for their misconduct because of defendant City of Chicago's "code of silence" and defective discipline policy.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

48. These numerous cases include, but are not limited to, the following:

- a. In August of 1988, defendant Guevara caused Jacques Rivera to be falsely convicted of murder by coercing a witness to falsely identify Rivera;
- b. In September of 1989, defendant Guevara caused Juan Johnson to be falsely convicted of murder by coercing a witness to falsely identify Johnson;
- c. In August of 1990, defendant Guevara caused Jose May-sonet to be falsely convicted of murder by coercing him into falsely confessing;
- d. In January of 1991, defendant Guevara caused Xavier Arcos to be falsely convicted of murder by coercing a witness to falsely identify Arcos;
- e. In May of 1993, defendants Guevara and Halvorsen caused Armando Serrano and Jose Montanez to be falsely convicted of murder by coercing a witness to falsely testify that Serrano and Montanez admitted to committing the murder;
- f. In May of 1993, defendants Guevara and Halvorsen caused Robert Boutu to be falsely convicted of murder by coercing two jailhouse informants to falsely testify that Boutu admitted to committing the murder;
- g. In June of 1993, defendant Guevara caused Gabriel Iglesias to be falsely convicted of murder by coercing two witnesses to falsely identify Iglesias and by coercing a jailhouse informant to falsely testify that Iglesias admitted to committing the murder;
- h. In September of 1994, defendant Guevara caused Roberto Almodovar and William Negron to be falsely convicted of murder by coercing a witness to falsely identify Almodovar and Negron;
- i. In May of 1995, defendants Guevara and Halvorsen caused Thomas Sierra to be

falsely convicted of murder by coercing false testimony from two witnesses; and

 j. In April of 1998, defendant Guevara caused Gabriel Solache and Arturo Reyes to be falsely convicted of murder and kidnapping by coercing them to give false confessions.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

V. Claims

49. As a result of the foregoing, defendants caused plaintiff to be deprived of rights secured by the Fourth and Fourteenth Amendments.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

50. As a supplemental state law claim against defendant City of Chicago only: as a result of the foregoing, plaintiff was subjected to a malicious prosecution under Illinois law.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

51. Plaintiff hereby demands trial by jury.

ANSWER: Defendant Guevara responds to this allegation by asserting the rights guaranteed to him by the Fifth Amendment of the United States Constitution.

WHEREFORE, Defendant Guevara prays this Court enter judgment in his favor and against Plaintiff. Defendant Guevara demands trial by jury.

AFFIRMATIVE DEFENSES

NOW COMES Defendant, REYNALDO GUEVARA, by and through his attorneys, Steven B. Borkan, Timothy P. Scahill, Emily E. Schnidt, and Whitney N. Hutchinson of

BORKAN & SCAHILL, LTD., and without intending to waive his rights under the Fifth Amendment of the United States Constitution, asserts the following Affirmative Defenses:

Qualified Immunity

At all times during the events alleged in Plaintiff's Complaint, a reasonable police officer, objectively viewing the facts and circumstances then confronting Defendant Guevara at issue during the incident which allegedly provides the basis for the present case, could have reasonably believed that the actions taken by him were objectively reasonable and were within constitutional limits that were clearly established at the time. Defendant Guevara is, therefore, entitled to qualified immunity.

Absolute Immunity

To the extent the Complaint purports to attempt to impose liability on Defendant Guevara relating to acts or perjury or false testimony of any kind, or failure to testify or disclose the true nature of circumstances leading up to Plaintiff's arrest or prosecution, Defendant Guevara is absolutely immune from liability pursuant to federal and state law immunities. *Briscoe v. LaHue*, 460 U.S. 325 (1983); *Jurgenson v. Haslinger*, 295 Ill. App. 3d 139 (3d Dist. 1998).

Failure To State A Claim

Insofar as Plaintiff's claims are premised upon the reliability of pretrial identification by witnesses, Plaintiff's sole and exclusive remedies under governing law are those afforded in the underlying criminal case and, thus, any claims asserted herein arising from such allegations do not set forth a viable legal cause of action. Insofar as Plaintiff alleges a claim based upon a failure to intervene or otherwise premised upon the actions of another person, such claims similarly are not viable legal claims.

Failure to Mitigate

To the extent Plaintiff failed to mitigate any of her claimed injuries or damages, any verdict or judgment obtained by Plaintiff must be reduced by application of the principle that Plaintiff has a duty to mitigate, commensurate with the degree of failure to mitigate attributed to Plaintiff by the jury in this case.

Comparative or Contributory Fault

To the extent any injuries or damages claimed by Plaintiff were proximately caused, in whole or in part, by the negligent, willful, wanton, and/or other wrongful conduct on the part of the Plaintiff, any verdict or judgment obtained by Plaintiff must be reduced by application of the principles of comparative fault, by an amount commensurate with the degree of fault attributed to Plaintiff by the jury in this cause.

Statute of Limitations on Federal Claims

To the extent any of Plaintiff's claims arising under 42 U.S.C. § 1983 accrued more than two years prior to the institution of this suit, Plaintiff's claims are barred by the applicable statute of limitations.

745 Ill. Comp. Stat. 10/8-101

To the extent any of Plaintiff's claims arising under Illinois state law accrued more than one year prior to the institution of this suit, Plaintiff's claims are barred by the applicable statute of limitations.

745 Ill. Comp. Stat. 10/2-208

As to the state law claims, Defendant Guevara is not liable for any of the claims alleged because a public employee is not liable for injury caused by his instituting or prosecuting any judicial or administrative proceeding within the scope of his employment, unless he acts

maliciously and without probable cause. 745 ILCS 10/2-208.

745 Ill. Comp. Stat. 10/2-204

As to the state law claims, Defendant Guevara is not liable for any of the claims alleged because a public employee, as such and acting within the scope of his employment, is not liable for an injury caused by the act or omission of another person. 745 ILCS 10/2-204.

735 Ill. Comp. Stat. 5/13-202

To the extent any Count in the Complaint seeks recovery under state law for any acts or omissions not within the scope of actions subject to the statute of limitations set forth in 745 Ill. Comp. Stat. 10/8-101(a), any of Plaintiff's claims accruing more than two years previous to the filing of this suit are barred by 735 Ill. Comp. Stat. 5/13-202.

745 Ill. Comp. Stat. 10/2-201

At certain times relevant to this suit, Defendant Guevara was performing discretionary acts within the scope of his employment pursuant to 745 Ill. Comp. Stat. 10/201 and thus is immune from suit.

745 Ill. Comp. Stat. 10/2-210

To the extent the acts alleged are held to constitute a negligent misrepresentation or provision of information by the Defendant Guevara, Defendant Guevara is immune from suit as a public employee acting in the scope of employment pursuant to 745 Ill. Comp. Stat. 10/2-210.

745 Ill. Comp. Stat. 10/2-202

As to the state law claims, Defendant Guevara is not liable for any of the claims alleged because at all times relevant to this complaint he was a public employee, namely a police officer, who was engaged in the execution and enforcement of the law, and none of his acts or omissions in the execution or enforcement of any law constituted willful and wanton conduct. 745 ILCS

10/2-202.

745 Ill. Comp. Stat. 10/2-205 and 745 Ill. Comp. Stat. 10/2-103

To the extent the Complaint seeks recovery based on an injury relating to a failure to enforce the law, Defendant Guevara is immune from suit pursuant to 745 Ill. Comp. Stat. 10/2-205.

745 Ill. Comp. Stat. 10/2-212

To the extent the Complaint seeks recovery based upon joint action between public employees, Defendant Guevara is immune from suit pursuant to 745 Ill. Comp. Stat. 10/2-212.

745 Ill. Comp. Stat. 10/4-102

Under the Illinois Tort Immunity Act, neither a public entity nor a public employee can be held liable for the failure to provide police services or the failure to provide adequate police services or the failure to detect or solve crimes, or the failure to identify or apprehend criminals. 745 ILCS 10/4-102. Defendant Guevara is provided immunity under this provision.

745 Ill. Comp. Stat. 10/4-104

To the extent any Count in the Complaint seeks recovery based upon an injury relating to any interference with the right of a prisoner to obtain a judicial determination or review of the legality of their confinement, Defendant Guevara is not liable for such injuries pursuant to 745 Ill. Comp. Stat. 10/4-104.

Collateral Estoppel/Issue Preclusion and/or Res Judicata/Claim Preclusion

Plaintiff's claims as asserted are barred by the doctrine of Collateral Estoppel/Issue Preclusion and/or Res Judicata/Claim Preclusion to the extent applicable.

Unconstitutionality of Punitive Damages Award, If Any

An award of punitive damages would deprive Defendant Guevara of due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution where liability for punitive damages has not been proven beyond a reasonable doubt or at least by clear and convincing evidence, or where the award of punitive damages is disproportionate to actual damages.

WHEREFORE, Defendant Guevara prays this Court enter judgment in his favor and against Plaintiff. Defendant demands trial by jury.

JURY DEMAND

This Defendant demands a trial by jury.

Respectfully submitted,

BORKAN & SCAHILL, LTD.

By: /s/ *Emily E. Schmidt*
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