

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

|                                     |   |             |
|-------------------------------------|---|-------------|
| ADRIANA CAZARES, on behalf of       | ) |             |
| herself and as Administrator of the | ) |             |
| Estate of Victor M. Cazares Jr, and | ) |             |
| Michelle Cazares.                   | ) |             |
|                                     | ) |             |
| Plaintiff,                          | ) |             |
|                                     | ) |             |
| v.                                  | ) |             |
|                                     | ) |             |
| FRANK R. RAND, JUSTIN ZHENG,        | ) |             |
| GENE LAZCANO, and TOWN OF           | ) |             |
| CICERO, ILLINOIS, a municipal       | ) |             |
| corporation,                        | ) |             |
|                                     | ) |             |
| Defendants.                         | ) | Jury Demand |

**COMPLAINT**

Now comes Plaintiffs Adriana Cazares, on behalf of herself and as Administrator of the Estate of Victor M. Cazares Jr., deceased and Michelle Cazares, by and through their attorneys Loevy & Loevy, and complaining of Defendants Frank R. Rand, Justin Zheng, Gene Lazcano, and the Town of Cicero, alleges as follows:

**INTRODUCTION**

1. In May and June of 2020, millions of citizens across the country took to the streets in protest to support the Black Lives Matter movement. The calls for action to end racial injustice and excessive use of force by members of law enforcement created a charged atmosphere. Sadly, lines were drawn over the issues, and some who wanted to “back the police” treated the protesters as enemies to be fought instead of fellow citizens to be heard.

2. This case concerns acts of cruelty committed by several such people against a dying man and his grieving family. Acting in the misguided belief that they were somehow supporting law and order by violating this family's rights, these Defendants photographed Victor Cazares, as he lay mortally wounded after being shot in the head, and published it to the internet as a threat to protesters with the caption: "Come to Cicero to loot and break shit! Get a free body bag!! Nice head shot!!"

3. Worse, Defendants in this case are among the privileged who enjoy the benefits of the public trust: two current Cicero Fire Department (CFD) Paramedics and a retired CFD Lieutenant. Their actions were abhorrent under any circumstances, and, regardless, their statements about Mr. Cazares were simply untrue.

4. Mr. Cazares was not a criminal, but a good samaritan. When looting broke out in Cicero, he gathered with several neighbors to be present in front of the local grocery as a witness to discourage any criminal conduct. As he stood by with his neighbors, unarmed, an unknown person fired shots, hitting Mr. Cazares in the head. He was 27 years old at the time of his death.

5. Defendants Zheng and Lazcano were called to the scene to provide medical care.

6. Instead of addressing the medical emergency with the most immediate care and treatment, they took a photograph of Mr. Cazares and his injuries, or allowed others to do so, without his consent.

7. After receiving the photo, Defendant Rand posted it to a Facebook group for Cicero residents with over 8,000 members, writing the false and offensive comments and stating, in effect, that Mr. Cazares got what he deserved.

8. Mr. Cazares and his family deserve justice. Plaintiff brings this action to hold the Defendants accountable for their loathsome misconduct and the harm done to a dying man and his loved ones.

### **JURISDICTION AND VENUE**

9. This Court has jurisdiction pursuant to 28 U.S.C. § 1331 and §1332(a). The case presents a federal question under 42 U.S.C. § 1983. There is also sufficient diversity of citizenship with the aggregate amount in controversy exceeding \$75,000, exclusive of interests and costs. The Court also has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. § 1367.

10. Further, pursuant to Fed. R. Civ. P. 4(k)(1) and 735 ILCS 5/2-209, this Court has personal jurisdiction over Defendant Frank Rand. The Illinois longarm statute (735 ILCS 5/2-209) covers Defendant Rand's actions, *inter alia*, under §2-209(a)(2) (commission of a tortious act within this State), and/or §2-209(a)(c) (catchall provision that Illinois may exercise jurisdiction over any person that the U.S. Constitution or Illinois constitution would permit).

11. Venue is proper under 28 U.S.C. §1391(b) because a substantial part of the acts or omissions giving rise to the claims alleged herein occurred in the Northern District of Illinois.

## PARTIES

12. At the time of his death, Victor M. Cazares Jr. was 27 years old and a resident of Cicero, Cook County, Illinois. He is survived by his parents and two sisters.

13. Plaintiff Adriana Cazares is one of Victor Cazares' sisters and the Administrator of his estate. She grew up in Cicero and currently resides in Chicago, Cook County, Illinois. Ms. Cazares is a mother of three and works part time as a dental assistant.

14. Plaintiff Michelle Cazares is one of Victor Cazares' sisters. She is a Cyberspace Officer in the United States Air Force. She has served for over 20 years, at nine different bases, and been deployed five times. She enjoys traveling and had plans to travel around the world with her brother.

15. Defendant Frank Rand is a resident of Menominee County, Michigan. He was a lieutenant with the Cicero Fire Department before he retired in 2019. Defendant Rand maintains significant contacts to the State of Illinois as well as with individuals and corporations residing here, including Defendants Zheng and Lazcano, other personnel within the Cicero Fire Department where he was employed for over 26 years, and the City of Cicero.

16. Defendant Justin Zheng resides in Chicago, Cook County, Illinois. He is an EMT paramedic with the Cicero Fire Department.

17. Defendant Gene Lazcano is a resident of Aurora, Kane County, Illinois. He is employed by the Town of Cicero as an EMT paramedic with its fire department.

18. At all relevant times pertinent to this complaint Defendants Justin Zheng and Gene Lazcano were employed by Defendant Town of Cicero, through its Fire Department, and acting within the scope of their employment.

19. Defendant Town of Cicero is an Illinois Municipal Corporation located in the County of Cook, State of Illinois.

20. At all relevant times permanent to this complaint, Defendant Town of Cicero operated the Cicero Fire Department with its formal headquarters located at 5303 West 25<sup>th</sup> Street, Cicero, Illinois 60804.

### **FACTS**

21. June 1, 2020 was a day of unrest for the Town of Cicero. Protests were ongoing and some had taken to looting.

22. The Cicero Police reported that the looting was caused by outsiders who came to Cicero to loot and vandalize businesses in the area.

23. Some in the community gathered in front of the neighborhood grocery store, Super Espiga in the 4900 block of 14<sup>th</sup> Street, to discourage any looting.

24. Victor Cazares was one of those who took on this noble act.

25. Around 6 p.m., as he stood there unarmed, Mr. Cazares was shot in the head by an unknown gunman.

26. Defendants Zheng and Lazcano were dispatched to provide Mr. Cazares emergency medical aid.

27. They arrived at scene and was with Mr. Cazares by 6:23 p.m.

28. When they arrived, Mr. Cazares was breathing and had a pulse.

29. They wrapped the gunshot wound with gauze and bandage rolls.

30. Instead of taking Mr. Cazares immediately and directly to the hospital, Defendants Zheng and Lazcano, took or caused another to take, one or more photograph[s] of Mr. Cazares without his consent.

31. The photograph shows Mr. Cazares on the ambulance stretcher, his head having been bandaged and dying. The stretcher was covered in blood and the bandage roll on Mr. Cazares' head was red and wet.

32. At 6:25 p.m., two minutes after Defendants Zheng and Lazcano arrived at Mr. Cazares side, Defendant Frank Rand posted the photograph of Mr. Cazares to a Facebook group for people who grew up in Cicero, Illinois.

33. This Facebook group has over 8,000 members.

34. In addition to publishing the unauthorized photograph, Defendant Rand made false and disparaging remarks about Mr. Cazares, stating: "Come to Cicero to loot and break shit! Get a free body bag!! Nice head shot!!"

35. Based on the fact that photo shows Mr. Cazares on the ambulance stretcher with wounds bandaged, was posted within two minutes of the ambulance arrival, and was posted by a person with ties to the CFD, Plaintiffs are informed

and believe that Defendants Zheng and Lazcano took the photograph and supplied it to Rand, or acted in conspiracy with another who did so.

36. After Rand posted the photograph, Mr. Cazares and his family were subjected to offensive comments and taunts, as were others associated with them.

37. As a result of Defendants' actions, Mr. Cazares and his family suffered grievous injuries.

**COUNT I – 14<sup>th</sup> AMENDMENT DUE PROCESS  
(42 U.S.C. §1983)**

38. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

39. The actions and conduct of Defendants Zheng and Lazcano, acting in their capacity as City of Cicero employees, and in conspiracy with Defendant Rand and others, were so egregious as to shock the conscious.

40. There was no medical or any other legitimate need or justification for Defendants Zheng and Lazcano to take an unauthorized photograph of Mr. Cazares and cause it to be published on Facebook.

41. Defendants Zheng, Lazcano, and Rand's actions were undertaken with the intent to cause, or were in reckless or negligent disregard of the probability that their conduct would cause, injuries to Victor Cazares and the Cazares Family.

**COUNT II – CONSPIRACY  
(42 U.S.C. §1983)**

42. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

43. Defendants Zheng and Lazcano, acting in concert with other co-conspirators, known and unknown, including Defendant Rand, reached an agreement among themselves to publish an unauthorized photograph of Mr. Cazares and make false statements about him and thereby to deprive him of his privacy and liberty interests and substantive due process rights, all in a manner that shocks the conscience.

44. In so doing, these Defendants conspired to accomplish an unlawful purpose by unlawful means.

45. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in the joint activity.

46. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally, and in total disregard of the truth.

47. As a result of the misconduct, Plaintiffs suffered injuries.

**COUNT III – INVASION OF PRIVACY  
(State Law)**

48. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

49. Mr. Victor Cazares had a reasonable expectation of privacy, and at no time expected that Defendants Zheng and Lazcano would take a photograph of him and his medical treatment without his consent or that Defendant Rand would publish and use that photograph to slander him.

50. Defendants Zheng, Lazcano, and Rand, through their actions in conspiring and in taking and publishing the photograph, including falsely depicting

Victor Cazares as a looter, gave publicity to matters concerning Victor Cazares that unreasonably places him in a false light and violates his right of privacy.

51. The publication of the photograph and the false light in which Mr. Cazares was placed would be highly offensive to a reasonable person and served no legitimate public concern.

52. Defendants Zheng, Lazcano, and Rand acted with actual malice in that they knew of, or recklessly disregarded, the falsity of the publicized matter and the false light in which Mr. Cazares would be placed or acted with reckless disregard for the truth or falsity of the publicized matter and the false light in which Mr. Cazares would be placed.

53. As a result of Defendants Zheng, Lazcano, and Rand's action, Plaintiffs suffered injuries.

**COUNT IV – DEFAMATION  
(State Law)**

54. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

55. Defendants Zheng, Lazcano, and Rand, through their actions in conspiring and in taking and publishing the photograph and making false statements that Victor Cazares committed a criminal offense (e.g., looting) on a Facebook group with over 8,000 members thereby defaming Mr. Cazares.

56. Defendants Zheng, Lazcano, and Rand's actions were undertaken with the intent to cause, or were in reckless or negligent disregard of the Plaintiffs' rights.

57. As a result of Defendants Zheng, Lazcano, and Rand's action, Plaintiffs suffered injuries.

**COUNT V – BREACH OF CONTRACT  
(State Law)**

58. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

59. Defendants Zheng and Lazcano as the responding EMT paramedics had an implied obligation to treat Mr. Cazares with requisite skill and care to furnish medical aid.

60. Taking a photograph of Mr. Cazares without his consent and then disseminating it to others did not assist in providing proper medical care and violated Mr. Cazares privacy rights.

61. As a result of the breach, Mr. Cazares suffered injuries.

**COUNT VI – INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS  
(State Law)**

62. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

63. The actions and conduct of Defendants Zheng and Lazcano, acting in their individual capacity and as paramedics, and Defendant Rand were extreme and outrageous.

64. Their actions, including taking the unauthorized photograph of Mr. Cazares and publishing it on Facebook, were undertaken with the intent to cause,

or were in reckless disregard of the probability that their conduct would cause, severe emotional distress to the Plaintiffs.

65. As a result of these Defendants' action, the Plaintiffs suffered emotional distress and other grievous damages.

**COUNT VII – CONSPIRACY  
(State Law)**

66. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

67. Defendants Zheng, Lazcano and Rand, acting in concert with other co-conspirators, known and unknown, reached an agreement among themselves to publish an unauthorized photograph of Mr. Cazares and make false statements about him and thereby to defame him and invade his privacy.

68. In so doing, these co-conspirators conspired to accomplish an unlawful purpose by unlawful means.

69. In furtherance of their conspiracy, each of these co-conspirators committed overt acts and were otherwise willful participants in the joint activity.

70. The misconduct described in this Count was objectively unreasonable and was undertaken intentionally or recklessly, in disregard of the truth.

71. As a result of the misconduct, Plaintiffs suffered injuries.

**COUNT VIII – INDEMNIFICATION  
(State Law)**

72. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

73. Illinois law provides that public entities are directed to pay any tort judgment for compensatory damages for which employees are liable within the scope of their employment activities.

74. Defendants Zheng and Lazcano are or were employees of the Cicero Fire Department, an agency of the Town of Cicero, who acted within the scope of their employment in committing the misconduct described above.

75. Defendant Town of Cicero is liable to indemnify any compensatory judgment awarded against Defendants Zheng and Lazcano.

**COUNT IX – *RESPONDEAT SUPERIOR***  
**(State Law)**

76. Plaintiffs incorporate each paragraph of this Complaint as if fully restated here.

77. In committing the acts alleged in the preceding paragraphs, Defendants Zheng and Lazcano are or were employees of the Town of Cicero, acting at all relevant times within the scope of their employment and under the color of law.

78. Defendant Town of Cicero is liable as a principal for all tors committed by its agents.

\* \* \*

Wherefore, Plaintiffs, ADRIANA CAZARES, on her behalf and as Administrator of the Estate of Victor Cazares, deceased, and MICHELLE CAZARES respectfully request that this Court enter a judgment in their favor and

against Defendants Frank R. Rand, Justin Zheng, Gene Lazcano, and the Town of Cicero, awarding compensatory damages, as well as punitive damages against all individual defendants and any other relief this Court deems just and appropriate.

**JURY DEMAND**

Plaintiffs hereby demand a trial by jury pursuant to Federal Rule of Civil Procedure 38(b) on all issues so triable.

Dated: February 23, 2021

RESPECTFULLY SUBMITTED,

/s/ Michael Kanovitz

Attorneys for Plaintiffs,

Michael Kanovitz  
Cindy Tsai  
LOEVY & LOEVY  
311 North Aberdeen, 3rd Floor  
Chicago, IL 60607  
312-243-5900  
mike@loevy.com  
cindy@loevy.com