

**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 25th 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 14th 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 – 14th 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,

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CIVIL COVER SHEET

The ILND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (See instructions on next page of this form.)

I. (a) PLAINTIFFS

ADRIANA CAZARES, on behalf of herself and as Administrator of the Estate of Victor M. Cazares Jr., and Michelle Cazares

(b) County of Residence of First Listed Plaintiff COOK (Except in U.S. plaintiff cases)

(c) Attorneys (firm name, address, and telephone number)

LOEVY & LOEVY
311 N. Aberdeen, 3rd FL, Chicago, IL 60607

DEFENDANTS

FRANK R. RAND, JUSTIN ZHENG, GENE LAZCANO, and TOWN OF CICERO ILLINOIS, a municipal corporation

County of Residence of First Listed Defendant (In U.S. plaintiff cases only)

Note: In land condemnation cases, use the location of the tract of land involved.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Check one box, only.)

- 1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government not a party.)
4 Diversity (Indicate citizenship of parties in Item III.)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only.) (Check one box, only for plaintiff and one box for defendant.)

Table with columns PTF, DEF and rows for Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business in This State, Incorporated and Principal Place of Business in Another State, Foreign Nation.

IV. NATURE OF SUIT (Check one box, only.)

Large table with columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, BANKRUPTCY, IMMIGRATION, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, SOCIAL SECURITY, FEDERAL TAXES, OTHER STATUTES.

V. ORIGIN (Check one box, only.)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District (specify), 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION (Enter U.S. Civil Statute under which you are filing and write a brief statement of cause.)

42 USC 1983, 14th Amend., Defamation

VII. PREVIOUS BANKRUPTCY MATTERS (For nature of suit 422 and 423, enter the case number and judge for any associated bankruptcy matter previously adjudicated by a judge of this Court. Use a separate attachment if necessary.)

VIII. REQUESTED IN COMPLAINT:

Check if this is a class action under Rule 23, F.R.CV.P.

Demand \$

CHECK Yes only if demanded in complaint:

Jury Demand: Yes No

IX. RELATED CASE(S) IF ANY (See instructions):

Judge

Case Number

X. Is this a previously dismissed or remanded case?

Yes No If yes, Case #

Name of Judge

Date: 2/23/2021

Signature of Attorney of Record s/ Michael Kanovitz

Authority for Civil Cover Sheet

The ILND 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use
(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the
(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box. Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.