

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

WILL BRADSHAW	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. 5:20-CV-01168-FB-ESC
	§	
JOSEPH SALVAGGIO;	§	
KELLY KUENSTLER;	§	
CATHERINE RODRIGUEZ;	§	
DONNA CHARLES;	§	
MONICA ALCOCER.	§	
	§	
Defendants.	§	
<hr/>		§

**DEFENDANTS SALVAGGIO, KUENSTLER, RODRIGUEZ,  
CHARLES AND ALCOCER'S ORIGINAL ANSWER**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE FRED BIERY:

NOW COMES CHIEF OF POLICE JOSEPH SALVAGGIO, CITY MANAGER KELLY KUENSTLER, AND CITY COUNCILMEMBERS DR. CATHERINE RODRIGUEZ, DONNA CHARLES AND MONICA ALCOCER, Individually and in their Official Capacities, as Officials for the City of Leon Valley, Defendants in the above entitled and numbered cause and files this their Original Answer to Plaintiff's Original Complaint heretofore filed and in support thereof would respectfully show unto the Court the following:

**I.  
FIRST DEFENSE**

Plaintiff's Original Complaint fails to state a cause action against these Defendants upon which relief may be granted.

**II.  
SECOND DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, admit that this action purports to arise from violations of Plaintiff's Constitutional Rights pursuant to 42 U.S.C. § 1983, as alleged in Plaintiff's Original Complaint; however, Defendants deny that any cause of action exists there under.

**III.  
THIRD DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny "Introduction" Paragraph 1 of Plaintiff's Original Complaint. Plaintiff's magniloquent assertions are without merit. Defendants deny Paragraphs 7 through 10 of Plaintiff's Original Complaint.

Defendant **JOSEPH SALVAGGIO** is the current Chief of Police of the City of Leon Valley. Defendant **KELLY KUENSTLER** is the current City Manager for the City of Leon Valley. **DR. CATHERINE RODRIGUEZ, DONNA CHARLES and MONICA ALCOCER** are current City Councilmembers sitting on the City Council for the City of Leon Valley. Defendants deny Plaintiff's mendacious allegations of conspiracy as alleged in Plaintiff's Original Complaint.

**IV.  
FOURTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny "Statement of Facts" Paragraphs 13 through 20 of Plaintiff's Original Complaint. Defendants admit Paragraph 12 to the extent that Chief Salvaggio sent City Manager Kuenstler a letter detailing harassment by City Councilmember Will Bradshaw. Defendants deny the vituperative allegations of conspiracy in

violating Plaintiff's First Amendment rights. Defendants assert the "Intra-Corporate Conspiracy Doctrine" as a bar to Plaintiff's claim of conspiracy. Defendants deny that Plaintiff's Constitutional rights were violated under 42 U.S.C. § 1983 as alleged in Plaintiff's Complaint.

Defendant Chief Salvaggio and City Manager Kuenstler assert their affirmative defense of qualified immunity and official immunity for Plaintiff's claims. Councilmembers Dr. Catherine Rodriguez, Donna Charles and Monica Alcocer assert their defense of absolute legislative immunity, qualified immunity and official immunity, as a matter of law.

**V.  
FIFTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny Paragraphs 21 through 23 of Plaintiff's Original Complaint. Plaintiff's allegations read like a zoilist novella full of conspiracies. Plaintiff Bradshaw's obstreperous aspersions toward police officers doing their lawful duty led to the issue in question. Defendants deny that Plaintiff's First Amendment rights were violated under 42 U.S.C. § 1983, as alleged.

**VI.  
SIXTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny the "Unconstitutional Ouster of Benny Martinez" Paragraphs 24 through 42 of Plaintiff's Original Complaint. Plaintiff sadly trivializes Dr. Catherine Rodriguez' sexual harassment at the hands of former Councilman Benny Martinez. Plaintiff's supercilious allegations which trivialize the sexual harassment of Dr. Catherine Rodriguez evidences the fact that Plaintiff is a ultracrepidarian.

**VII.  
SEVENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny Paragraphs 43 through 53 of Plaintiff's Original Complaint. Defendants would show unto the Court that Olen Yarnell was arrested pursuant to an outstanding warrant for his arrest. The arrest of Yarnell was constitutional, as a matter of law.

Plaintiff Bradshaw's pyrotic aspersions of the City of Leon Valley Police Department Officers faithfully executing their duties as peace officers for the State of Texas, forms the basis of the 3.12 hearing made the basis of this lawsuit. Plaintiff Bradshaw's harassment of City of Leon Valley Police Officers is in violation of the City of Leon Valley City Charter and forms the basis of the 3.12 hearing.

**VIII.  
EIGHTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** Paragraphs 54 through 66 of Plaintiff's Original Complaint. Plaintiff Bradshaw's gasconade of allegations alleging First Amendment violations are without merit.

**IX.  
NINTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny Paragraphs 67 through 76 of Plaintiff's Original Complaint. Plaintiff Bradshaw's meretricious allegations against Chief Salvaggio are baseless and reveal his true animus against the Chief of Police.

**X.  
TENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny Paragraphs 77 through 84 of Plaintiff's Original Complaint.

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny Paragraphs 85 through 91 of Plaintiff's Original Complaint. Defendants deny any violation of constitutional rights and deny conspiracy allegations as alleged.

**XI.  
ELEVENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny "Count I (Procedural Substantive Due Process)" Paragraphs 92 through 120 of Plaintiff's Original Complaint. Defendants deny the allegations under 42 U.S.C. § 1983 and deny that Plaintiff's rights have been violated under the First Amendment, as alleged.

In response to the vitriolic conduct of Plaintiff Bradshaw, the City of Leon Valley retained independent investigation of Councilman Bradshaw's conduct. The City retained the Branscomb Law Firm and specifically the Honorable Keith B. Sieczkowski, who is Board Certified in Labor and Employment Law, to conduct the investigation. Attorney Sieczkowski's memorandum to Council after objectively reviewing Councilman Bradshaw's actions indicated the following:

- (a) Bradshaw had created an antagonistic environment;
- (b) Bradshaw had stereotyped the officers by asserting they are "people kneeling on people's necks;"

- (c) Bradshaw’s calling the officer, “officer disgusting and disgraceful” was degrading under the circumstances; and,
- (d) Bradshaw’s conduct would be perceived as offensive.

This memorandum was provided to Plaintiff Bradshaw and he has been afforded his due process. The 3.12 hearing will further provide his due process and that he will be given the opportunity to respond to the charges. Defendants assert unto the Court that Plaintiff has not been denied procedural or substantive due process, as a matter of law.

**XII.  
TWELFTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny “Count II” Paragraphs 121 through 126 of Plaintiff’s Original Complaint. Defendants would show unto the Court that the City of Leon Valley retained an independent law firm to conduct an independent investigation into Councilman Bradshaw’s vitriolic conduct. Plaintiff Bradshaw has been provided a copy of the findings of the independent investigation. Defendants have not violated Plaintiff’s First Amendment rights by conducting an independent investigation and in scheduling a 3.12 hearing, as a matter of law.

**XIII.  
THIRTEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny “Count III” Paragraphs 127 through 132 of Plaintiff’s Original Complaint. Defendants deny that any of Plaintiff’s constitutional rights have been violated as alleged in Plaintiff’s Complaint.

**XIV.  
FOURTEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny “Count IV” Paragraphs 133 through 138 of Plaintiff’s Original Complaint. Defendants deny that Plaintiff has been denied equal protection under the law.

**XV.  
FIFTEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER**, deny “Count V” Paragraphs 139 through 144 of Plaintiff’s Original Complaint. Defendants deny “Conspiracy” under Section 1983 as alleged in Plaintiff’s Complaint. Defendants would show unto the Court that the Intra-Corporate Conspiracy Doctrine bars Plaintiff’s allegations for conspiracy under 42 U.S.C. § 1983, as a matter of law.

**XVI.  
SIXTEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny “Count VI” Paragraphs 145 through 151 of Plaintiff’s Original Complaint. Defendants deny Plaintiff’s allegations of unconstitutional acts and request the Court to deny Plaintiff’s claims for injunctive relief, including temporary injunction, as a matter of law.

**XVII.  
SEVENTEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny “Count VII” Paragraphs

152 through 156 of Plaintiff's Original Complaint. Defendants specifically deny Plaintiffs allegations of malicious prosecution. Plaintiff has failed to state the cause of action for malicious prosecution in his Complaint, as a matter of law.

**XVIII.  
EIGHTEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny "Count VIII" Paragraphs 157 through 162 of Plaintiff's Original Complaint. Defendants deny Plaintiff's rights under the TEXAS CONSTITUTION, Art. 1, § 19 have been violated as alleged in Plaintiff's Complaint.

Defendants would show unto the Court that Plaintiff has failed to state a cause of action under the TEXAS CONSTITUTION, as a matter of law. *Amaya v. City of San Antonio*, 980 F.Supp.2d 771, 782 (W.D. Tex. 2013); *City of Beaumont v. Bouillion*, 896 S.W.2d 143, 148 (Tex. 1995).

**XIX.  
NINETEENTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** deny "Count IX" Paragraphs 163 through 172 of Plaintiff's Original Complaint. Defendants herein would show unto the Court that Plaintiff has failed to state a *Monell* claim against this municipality, as a matter of law. Plaintiff has failed to show a direct casual link between municipal policy or custom that was the moving force behind Plaintiff's alleged constitutional deprivation. *Board of County Commissioners of Bryan County, Oklahoma v. Brown*, 520 U.S. 397, 405 (1997).



**XX.**  
**TWENTIETH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCO CER** assert that for any allegations that can be inferred under the TEXAS TORT CLAIMS ACT, that governmental immunity has not been waived pursuant to the TEXAS TORT CLAIMS ACT, Chapter 101, § 101.021, § 101.0215, §101.024, § 101.026, § 101.057 and § 101.106, as a matter of law.

**XXI.**  
**TWENTY-FIRST DEFENSE**

Defendants **CHIEF SALVAGGIO and CITY MANAGER KUENSTLER** assert their entitlement to official immunity and qualified immunity under both prongs of the qualified immunity analysis for all allegations made in Plaintiff's Original Complaint. Defendant City Councilmembers **DR. CATHERINE RODRIGUEZ, DONNA CHARLES and MONICA ALCO CER** assert absolute legislative immunity, qualified immunity and official immunity, as a matter of law.

**XXII.**  
**TWENTY-SECOND DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCO CER** deny the "Prayer For Relief" of Plaintiff's Original Complaint. Defendants move the Court to dissolve the Temporary Restraining Order (TRO), to deny Plaintiff's temporary injunction and/or permanent injunction in the case at bar.

Plaintiff's burden to obtain a preliminary injunction is as follows:

- (1) There is a substantial likelihood of success on the merits;
- (2) There is a substantial threat of irreparable injury;
- (3) The threatened injury to the movant outweighs the injury to the non-movant; and,
- (4) The granting of the injunction will not disserve the public interest. *PCI Transp. Inc. v. Ft. Worth & W. RR.*, 418 F.3d 535, 545 (5<sup>th</sup> Cir. 2005).

Defendants assert that Plaintiff fails on all four prongs of the injunction request.

**XXIII.  
TWENTY-THIRD DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** herein deny any allegations in Plaintiff's Original Complaint not specifically admitted herein and demands strict proof thereof as required by law.

**XXIV.  
TWENTY-FOURTH DEFENSE**

Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** herein demand a jury trial.

**WHEREFORE, PREMISES CONSIDERED,** Defendants **CHIEF SALVAGGIO, CITY MANAGER KUENSTLER, AND CITY COUNCILMEMBERS DR. RODRIGUEZ, CHARLES and ALCOCER** pray that Plaintiff's suit be dismissed against them, or in the alternative, that the Plaintiff take nothing by his lawsuit against them, that Defendants have Judgment herein, that the Defendants be awarded their costs expended, including reasonable attorney's fees and for such other and further relief, both general and special, and at law and in equity, to which they may show themselves justly entitled.

Respectfully submitted,

**LAW OFFICES OF CHARLES S. FRIGERIO**

A Professional Corporation

Riverview Towers

111 Soledad, Suite 840

San Antonio, Texas 78205

(210) 271-7877

(210) 271-0602 Telefax

Email: csfrigeriolaw@sbcglobal.net

frigeriolaw1995@sbcglobal.net

BY: /s/ Charles S. Frigerio

CHARLES S. FRIGERIO

SBN: 07477500

ATTORNEY-IN-CHARGE

HECTOR X. SAENZ

SBN: 17514850

ATTORNEYS FOR DEFENDANTS **CHIEF OF POLICE**

**JOSEPH SALVAGGIO, CITY MANAGER KELLY KUENSTLER,**

**CITY COUNCILMEMBERS DR. CATHERINE RODRIGUEZ,**

**DONNA CHARLES AND MONICA ALCOCER**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 21<sup>ST</sup> day of October, 2020, I electronically filed the foregoing Defendants Chief Salvaggio, City Manager Kuenstler, and City Councilmembers Dr. Rodriguez, Charles and Alcocer' Original Answer with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

Mr. Brandon J. Grable  
Grable Law Firm PLLC  
1603 Babcock Road, Suite 118  
San Antonio, Texas 78229

Mr. Solomon M. Radner  
EXCOLO LAW, PLLC  
26700 Lahser Road, Suite 401  
Southfield, MI 48033

/s/ Charles S. Frigerio

CHARLES S. FRIGERIO