

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

MUNOZ REALTY, INC.,
a Michigan corporation,
GASTON MUNOZ,
an individual,

Plaintiffs/Counter-Defendants,

-vs-

Case No.: 22-014428-CZ
Hon. Dana Margaret Hathaway

JORGE FLORES,
an individual,
GUY NAVARRO,
an individual,
DEREK GRIGSBY,
an individual,
MICHAEL SHANE,
an individual,
MORATORIUM NOW! COALITION, and
JOHN and/or JANE DOE,

Defendants/Counter-Plaintiffs.

Segatti Noor, PLLC
By: Gary Segatti (P39047)
Brian D. Harrison (P58513)
Medina D. Abdun-Noor (P58755)
Shurab Dhar (P86504)
24555 Southfield Rd., Ste. 200
Southfield, MI 48075
248.423.9700
garysegatti@yahoo.com
medinanoor@segattinoorlaw.com
harrison@harrisonlegal.net
धारशुराब@gmail.com

Attorneys for Plaintiffs/Counter-Defendants

Syeda F. Davidson (P72801)
Mark P. Fancher (P56223)
Daniel S. Korobkin (P72842)
American Civil Liberties Union
Fund of Michigan
2966 Woodward Ave.
Detroit, MI 48201
313.578.6814
sdavidson@aclumich.org
mfancher@aclumich.org
dkorobkin@aclumich.org

Attorneys for Defendants/Counter-Plaintiffs
Jorge Flores, Guy Navarro, Derek Grigsby,
Michael Shane, and
Moratorium Now! Coalition

Goodman Hurwitz & James, P.C.
By: Julie H. Hurwitz (P34720)
1394 E. Jefferson Ave.
Detroit, MI 48207
313.567.6170
jhurwitz@goodmanhurwitz.com
mail@goodmanhurwitz.com

Attorney for Defendant/Counter-Plaintiff
Jorge Flores

Locklear Legal
By: Holland Locklear (P82236)
607 Shelby, Ste. 725
Detroit, MI 48226
833.424.4466
holland@locklearlegal.com
Attorney for Defendant/Counter-Plaintiff
Jorge Flores

**ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT, AFFIRMATIVE
DEFENSES, COUNTERCLAIMS, AND JURY DEMAND**

ANSWER

Defendants Jorge Flores, Guy Navarro, Derek Grigsby, Michael Shane, and Moratorium Now! Coalition (collectively, "Defendants") state the following for their Answer to Plaintiffs' Second Amended Complaint:

1. Defendants lack knowledge sufficient to admit or deny this allegation and leave Plaintiffs to their proofs.
2. Defendants lack knowledge sufficient to admit or deny this allegation and leave Plaintiffs to their proofs.
3. Defendants admit.
4. Defendants admit.
5. Defendants admit.
6. Defendants admit.
7. Defendants admit.
8. Defendants lack knowledge sufficient to admit or deny this allegation and leave Plaintiffs to their proofs.

9. Defendants lack knowledge sufficient to admit or deny this allegation and leave Plaintiffs to their proofs.

10. Defendants lack knowledge sufficient to admit or deny this allegation and leave Plaintiffs to their proofs.

11. Defendants admit.

12. Defendants admit only that this Court has allowed Plaintiffs to amend their First Amendment Complaint to add Michael Shane as a defendant. Defendants deny the remainder of Plaintiffs' ¶ 12. This Answer is in response to Plaintiffs' Second Amended Complaint, not an amendment to their initial complaint.

13. Defendants deny.

14. Defendants admit this allegation only with regard to themselves. Defendants lack knowledge sufficient to admit or deny this allegation with regard to any John or Jane Doe defendants.

15. Defendants admit making these statements, but deny that they are false or unlawful.

16. Defendants admit making these statements, but deny that they are false or unlawful.

17. Defendants admit to publishing the pictures but deny that they intended to portray Plaintiffs in a false light.

18. Defendants admit to having received a letter demanding retraction, but deny that they refused to comply.

19. Defendants deny.

20. Defendants deny.

21. Defendants deny.

22. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

23. Defendants admit that Mr. Navarro sent an email to Herb Strather, but deny that Mr. Navarro made any false statements in the email.

24. Defendants admit that Mr. Shane stated that Plaintiff brandished a gun at a homeless person, but they lack sufficient information to admit or deny that statement constituted publication and they leave Plaintiffs to their strict proofs.

25. Defendants admit that Mr. Shane made a statement about Mr. Munoz and guns but deny that it was Mr. Shane's intent to refer to Mr. Munoz, as he was confused and was actually referring to Jorge Flores.

26. Defendants deny.

27. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27a. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27b. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27c. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27d. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27e. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27f. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27g. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27h. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27i. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27j. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27k. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27l. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27m. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27n. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27o. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

27p. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

28. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

29. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

30. Defendants lack sufficient information to admit or deny and leave Plaintiffs to their strict proofs.

31. Defendants deny that they published the information in Exhibit 8, as the exhibit clearly states that the publisher is “Wisconsin Bail Out the People Movement.” Defendants further deny that the statement in the exhibit is false.

COUNT I – CIVIL CONSPIRACY

32. Defendants incorporate the responses above by reference.

33. Defendants deny.

34. Defendants deny.

35. Defendants deny.

COUNT II – DEFAMATION

36. Defendants incorporate the responses above by reference.

37. Defendants deny.

38. Defendants deny.

39. Defendants deny.

40. Defendants deny.

COUNT III – INVASION OF PRIVACY FALSE LIGHT

41. Defendants incorporate the responses above by reference.
42. Defendants deny.
43. Defendants deny.
44. Defendants deny.
45. Defendants deny.
46. Defendants deny.

COUNT IV – INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

47. Defendants incorporate the responses above by reference.
48. Defendants deny.
49. Defendants deny.
50. Defendants deny.
51. Defendants deny.

**COUNT V – TORTIOUS INTERFERENCE WITH CONTRACT/BUSINESS
RELATIONSHIP OR EXPECTANCY**

52. Defendants incorporate the responses above by reference.
53. Defendants lack knowledge sufficient to admit or deny this allegation and leave

Plaintiffs to their proofs.

54. Defendants deny.
55. Defendants deny.
56. Defendants deny.

Defendants respectfully request that this Court dismiss this Complaint against them with prejudice, enter judgment in favor of Defendants, grant the relief requested in Defendants countercomplaint, and award Defendants the costs and fees associated with defending this action.

AFFIRMATIVE DEFENSES

Defendants state the following for their affirmative defenses:

1. The Complaint fails to state a claim upon which relief can be granted.
2. Plaintiffs' claims are barred, in whole or in part, by the doctrines of waiver, estoppel, or laches.
3. Plaintiffs' claims are barred, in whole or in part, by the applicable statute of limitations.
4. Plaintiffs' claims are barred, in whole or in part, because they failed to mitigate their alleged damages.
5. Plaintiffs' claims are barred, in whole or in part, because they have not suffered actionable damages.
6. Plaintiffs' claims are barred, in whole or in part, because the statements upon which they base their claims were privileged.
7. Plaintiffs' claims are barred, in whole or in part, because the statements made by Defendants are fair comment on matters of public interest.
8. Plaintiffs' claims are barred, in whole or in part, because of their status as public figures.
9. Plaintiffs' claims are barred, in whole or in part, because the statements upon which they base their claims are not defamatory.
10. Plaintiffs' claims are barred, in whole or in part, because the statements upon which they base their claims are true.
11. Plaintiffs' claims are barred, in whole or in part, because the statements upon which they base their claims have not been published.

12. Plaintiffs' claims are barred, in whole or in part, because Defendants' statements were their opinions and not intended or perceived to be based in fact.

13. Plaintiffs' claims are barred, in whole or in part, because they cannot demonstrate that Defendants acted with actual malice.

14. Plaintiffs' claims are barred, in whole or in part, because the damages that they allege are caused by third-parties other than Defendants.

15. Plaintiffs' claims are barred, in whole or in part, because there is another action is pending involving the same parties and involving the same claims.

16. Plaintiffs' claims are barred, in whole or in part, because they were brought in bad faith.

17. Plaintiffs' claims are barred, in whole or in part, because they were brought without good grounds for the allegations in the complaint for purposes of harassment and intimidation.

18. Plaintiffs' claims are barred, in whole or in part, because Defendants' speech and activities are protected by the First Amendment.

Defendants make these Affirmative Defenses based on the information presently known to them. Defendants reserve the right to amend or modify these Affirmative Defenses based on information discovered throughout the course of this litigation.

COUNTERCLAIMS

Jorge Flores, Guy Navarro, Derek Grigsby, Michael Shane, and Moratorium Now! Coalition (collectively "Defendants"), state the following for their counterclaims against Plaintiffs:

INTRODUCTION

1. The right to speak on issues of public importance is fundamental and protected by both the Michigan and United States Constitutions. This includes the right to protest and the right to inform government officials regarding such issues.

2. The use of the court system to retaliate against people for speaking out on issues of public importance is a dangerous practice, and allowing it to stand is a threat to these fundamental rights.

3. Strategic Lawsuits Against Public Participation (SLAPPs) are lawsuits that target those who speak out on issues of public interest.¹

4. SLAPPs “come camouflaged as any of six ordinary torts,” including defamation, business torts, judicial torts, conspiracy, constitutional-civil rights violations, and nuisance.²

5. Moratorium Now! is a coalition of grassroots activists and organizations, union and religious leaders, farmers, politicians, and concerned citizens from across Michigan originally assembled to stop mortgage foreclosures and evictions. Since then, Moratorium Now! has expanded its advocacy to include, among other things, additional housing-related issues.

6. Mr. Flores, Mr. Navarro, Mr. Grigsby, and Mr. Shane are activists who help to further the mission of Moratorium Now! by investigating housing-related issues and bringing them to light by reporting them or protesting the conditions.

7. The First Amendment protects the rights of Mr. Flores, Mr. Navarro, Mr. Grigsby, Mr. Shane, and Moratorium Now! to engage in these activities without fear of intimidation and harassment.

¹ George W. Pring, *SLAPPs: Strategic Lawsuits Against Public Participation*, 7 Pace Env'tl. L. Rev. 3, 4 (1989).

² *Id.* at 9.

8. Within approximately the last year, Defendants have been approached about a multitude of unsafe housing conditions on properties owned by Plaintiffs.

9. Defendants have attempted to bring these conditions to light by investigating them, reporting them to the proper authorities, and engaging in protest. Plaintiffs have attempted to intimidate Defendants into silence by filing the instant SLAPP.

10. In addition to the SLAPP itself, Plaintiffs have engaged in additional forms of harassing conduct aimed at intimidating Defendants in the hopes of silencing them on this issue of public importance. These actions include the filing of two lawsuits involving the same parties on the same subject (the instant suit being the latter), an attempt to frame Mr. Flores for criminal sexual conduct, an attempt to obtain a personal protection order against Mr. Navarro, and the reservation of three forms of the business name “Moratorium Now!” with the state of Michigan so that the original Moratorium Now! coalition will encounter difficulties in using the name. Defendants now bring this counterclaim to address these actions.

PARTIES AND JURISDICTION

11. Plaintiff/Counter-Defendant Munoz Realty, Inc. is a Michigan corporation with a principal place of business located at 1619 Springwells Street, Detroit, Wayne County, Michigan 48209.

12. Plaintiff/Counter-Defendant Gaston Munoz is a resident of Wayne County, Michigan.

13. Defendant/Counter-Plaintiff Jorge Flores is a resident of Wayne County, Michigan.

14. Defendant/Counter-Plaintiff Guy Navarro is a resident of Wayne County, Michigan.

15. Defendant/Counter-Plaintiff Derek Grigsby is a resident of Wayne County, Michigan.

16. Defendant/Counter-Plaintiff Michael Shane is a resident of Wayne County, Michigan.

17. Defendant/Counter-Plaintiff Moratorium Now! has a place of business in and conducts business in Wayne County, Michigan.

18. The events giving rise to this cause of action occurred in Wayne County, Michigan.

19. The amount in controversy is greater than \$25,000.

FACTS

20. Moratorium Now! is a coalition of human rights activists. Its members focus a large part of their efforts on housing rights issues. Mr. Flores, Mr. Navarro, Mr. Grigsby, and Mr. Shane are part of the coalition.

21. Defendants receive requests for assistance from people in the community who are in danger of being evicted. Sometimes, the threat of eviction is due to a withholding of rent based on their rental homes being substandard or even dangerous. They then visit the tenant at the property to investigate the complaint. They take a variety of actions in response, including helping the tenant find new housing, making reports to the appropriate authorities, making posts on social media, and organizing protests to bring attention to particularly pervasive matters.

22. Additionally, Defendants learn about people who are facing eviction from court documents or from other sources. When that happens, they will go to the tenant's home, provide a flyer with information about what Moratorium Now! does, and ask if the tenant would like

assistance. This is the only time that someone from Moratorium Now! might appear at a tenant's home without the tenant expecting them ahead of time.

23. Around the summer of 2021, Moratorium Now! began to receive information related to properties owned by Plaintiffs.

24. Shortly after Moratorium Now! began to receive this information, Mr. Navarro, who was not yet active with Moratorium Now! spoke with a day worker who explained that he was tasked with guarding one of Plaintiffs' properties overnight. The property did not have electricity. Unfortunately, the day worker brought a generator into the house overnight and died of carbon monoxide poisoning. Mr. Navarro felt that the day worker should not have been tasked with guarding a house with no electricity overnight, and also that he should have been properly trained and instructed on the dangers of carbon monoxide poisoning.

25. Mr. Navarro began advocating on social media for Plaintiffs to contribute financially to the welfare of the day worker's family and his burial costs.

26. Mr. Navarro also attempted to alert the proper authorities regarding the dangerous conditions that led to the day worker's death. Eventually, Mr. Navarro's advocacy led him to Moratorium Now!

27. In the meantime, information that Defendants received regarding Plaintiffs' properties began to escalate. Mr. Flores personally received and responded to some of this information. He reported one of Plaintiffs' properties and used social media to post about what he saw.

28. On July 25, 2022, Plaintiffs sued Mr. Flores in this Court for his reports to government officials, and a Google review.³ The Complaint brought claims for defamation, false

³ See Wayne County Circuit Court Case #22-008846-CZ.

light invasion of privacy, intentional infliction of emotional distress, and tortious interference with a contract or business relationship or expectancy.

29. After Plaintiffs sued Mr. Flores, another tenant contacted Moratorium Now! because she was facing eviction because she withheld rent due to Plaintiffs' failure to respond to her repeated requests for repairs.⁴ Moratorium Now! accompanied her and other renters in Plaintiffs' properties to a Detroit City Council Public Health and Safety Committee meeting on October 3, 2022 and October 17, 2022 to voice their concerns.

30. The Detroit City Council then asked that Detroit's Building, Safety, Engineering, and Environmental Department (BSEED) prepare a report showing all BSEED violations assessed against Plaintiffs' properties. The report revealed a number of violations. Still, Plaintiffs attempted to foist blame for the condition of the property onto the tenants.⁵

31. A BSEED inspector visited one of the properties discussed during the October 3 City Council committee meeting. The property failed the inspection and was issued a correction order.

32. Defendants continued to receive calls from Plaintiffs' tenants and continued to report their findings to the appropriate authorities or assisted tenants with doing so themselves, and posted commentary to social media.

33. On October 24, 2022, Plaintiffs filed a police report alleging that Defendants posed as city building inspectors to gain access to Plaintiffs' properties, which was not true.

⁴ Nushrat Rahman, *Tenants raise concerns about Detroit rentals, push for landlord accountability*, Detroit Free Press (Nov. 22, 2022), <https://www.freep.com/story/news/local/michigan/detroit/2022/11/22/detroit-rental-properties-tenant-concerns-landlord/69555628007/>.

⁵ *Id.*

34. In October of 2022, an unknown telephone number called Mr. Flores, claiming to be a tenant of Plaintiffs' and asking for assistance "breaking her lease." Moratorium Now! advised the caller that it does not assist tenants with breaking leases.

35. On November 12, 2022, a woman rear-ended Mr. Flores at a stop sign near an apartment building that his family owns. Both parties got out of their vehicles and called the police. When the police arrived, the woman falsely alleged that Mr. Flores sexually assaulted her. Mr. Flores was charged with criminal sexual conduct (CSC).

36. On December 6, 2022, a preliminary examination was held regarding the CSC charge. An investigator testified that his investigation revealed the following facts:

a. The woman who rear-ended Mr. Flores had been waiting in a parking lot across the corner from his family's building for over an hour, pulling out and following him after he was seen leaving the building;

b. While the woman was waiting in the parking lot, a vehicle registered to Gaston Munoz also arrived in the parking lot and parked near the woman; and

c. The phone number that called Mr. Flores in October of 2022 was registered to the same woman.

37. Judge Kenneth King dismissed the case against Mr. Flores at the preliminary examination, observing that "something is definitely going on here," and that there was "a bigger story" than what was revealed at the hearing.

38. On December 5, 2022, despite the lawsuit already pending against Mr. Flores, Plaintiffs filed the lawsuit in the instant case, again naming Mr. Flores, adding Mr. Navarro, Mr. Grigsby, and Moratorium Now!, but alleging the same causes of action and seeking the same relief.

39. On December 21, 2022, Gaston Munoz also obtained a personal protection order against Mr. Navarro, alleging that Mr. Navarro was posting “threats” against him on social media. The personal protection order has since been terminated.

40. In March of 2023, Plaintiffs’ agent filed three applications for reservation of name with LARA—one for Moratorium Now!, one for Moratorium Now! Coalition, and one for Moratorium Now! Michigan.

41. Plaintiffs have withheld information for months, ambushed Defendants with it in open court with no notice, and seek to prolong this litigation and resulting harassment and stress by adding one defendant at a time. Plaintiffs are currently on their third iteration of the same lawsuit and continue to assert that “Jane Doe” or “John Doe” defendants exist, undoubtedly based on information they have failed to disclose despite two separate discovery requests, which they will likely later release in a manner inconsistent with the court rules to seek to amend this complaint yet again.

42. Plaintiffs are using the court system to persist in their harassment of Defendants for no reason other than to silence Defendants and chill their constitutionally protected speech.

COUNT ONE – MALICIOUS PROSECUTION

43. Defendants incorporate the paragraphs above by reference.

44. Plaintiffs initiated allegations of criminal activity against Mr. Flores without probable cause and with malice.

45. Plaintiffs initiated the allegation for personal reasons, including vexation and the desire to cause damage to Plaintiffs’ reputation, in retaliation for Mr. Flores’ protected speech about Plaintiffs’ properties to government officials and the public.

46. MCL 600.2907 provides for civil and criminal liability for every person who, for vexation or trouble or with malice, causes another to be arrested, attached, or in any way proceeded against by any process of civil or criminal action without that person's consent.

47. The criminal proceeding initiated against Mr. Flores was resolved in his favor.

48. As a direct result of Plaintiffs' malice in initiating the allegations against Mr. Flores, he has suffered damage, including, but not limited to, harm to his reputation, mental anguish, and being subjected to an investigation and charges regarding the allegations.

COUNT TWO – ABUSE OF PROCESS

49. Defendants incorporate the paragraphs above by reference.

50. Plaintiffs have abused the court system by using it for an ulterior motive or purpose to cause vexation, trouble, embarrassment, damage to Defendants' reputations, and in retaliation for Defendants' protected speech about Plaintiffs' properties to government officials and the public.

51. Plaintiffs' improper purpose is corroborated by the attempt to frame Mr. Flores, the baseless personal protection order against Mr. Navarro, the filing of two lawsuits, plus an amendment of the second lawsuit just as discovery was closing, naming the same parties and same causes of action, initiating police reports falsely accusing Defendants of posing as building inspectors, and the reservation of three possible business names for Moratorium Now!

52. Plaintiffs' actions are willful and intentional.

53. The misuse of the court system is improper because Plaintiffs knew that the allegations made against Defendants were false or otherwise not actionable.

54. As a direct result of Plaintiffs' abuse of the court system, Defendants have suffered damage to their reputation and mental anguish.

**COUNT THREE – TORTIOUS INTERFERENCE WITH A BUSINESS
RELATIONSHIP OR EXPECTANCY**

55. Defendants incorporate the paragraphs above by reference.

56. Defendants have an expectation that they will be able to run their business and use its name without its members being subjected to retaliatory actions and interference with the business organization.

57. Plaintiffs know of this business expectancy.

58. Plaintiffs intentionally and improperly interfered with Defendants' business interest, causing a breach or disruption to those interests through the actions described above.

59. Defendants suffered damages as a result of Plaintiffs' tortious interference.

COUNT FOUR – CIVIL CONSPIRACY

60. Defendants incorporate the paragraphs above by reference.

61. Plaintiffs illegally, maliciously, and wrongfully conspired with others with the intent to and for the illegal purpose of furthering their malicious prosecution of Mr. Flores, abuse of process toward Defendants, and interference with their business expectancies.

62. Plaintiffs conspired to intimidate and silence Defendants so that they would no longer engage in constitutionally protected speech.

63. The conspiracy resulted in the illegal, unlawful, or tortious activities of malicious prosecution and abuse of process.

64. As a result of the conspiracy, Defendants continue to suffer damages due to the resources required to defend the numerous actions brought against them by Plaintiffs, in addition to the emotional distress and mental anguish caused by such actions.

REQUEST FOR RELIEF

Defendants/Counter-Plaintiffs request that this Court enter judgment against Plaintiffs/Counter-Defendants consistent with the injuries they have suffered and will continue to suffer, costs, and attorney fees as the court deems proper.

JURY DEMAND

Defendants demand a jury trial on all issues so triable.

Respectfully submitted,

Dated: December 21, 2023

/s/ Syeda F. Davidson
Syeda F. Davidson (P72801)
Mark P. Fancher (P56223)
Daniel S. Korobkin (P72842)
American Civil Liberties Union
of Michigan
2966 Woodward Avenue
Detroit, MI 48201
313.578.6814

Goodman Hurwitz & James, PC
BY: Julie H. Hurwitz (P34720)
1394 E. Jefferson Ave.
Detroit, MI 48207
313.567.6170

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BY: Holland Locklear (P82236)
607 Shelby, Ste. 725
Detroit, MI 48226
833.424.4466