

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CIVIL DIVISION

CASE NO.: 20-cv-24374-BB

MARGLLI GALLEGO,

Plaintiff,

v.

IVETTE PEREZ, CARLOS LUFFI,
RICKY GARCIA, FLAVIO ESCOBAR,
all individually, and who are all residents
of the State of Florida,

Defendants.

_____ /

SECOND AMENDED COMPLAINT

Plaintiff, MARGLLI GALLEGO, files this Second Amended Complaint against Defendants IVETTE PEREZ, CARLOS LUFFI, RICKY GARCIA and FLAVIO ESCOBAR in their individual capacities and allege the following:

THE PARTIES, JURISDICTION, AND VENUE

At all times material to this action:

1. Plaintiff, Marglli Gallego, (“Mrs. Gallego”), was a citizen of the State of Florida, and a resident of Miami-Dade County, Florida.
2. Defendant, Ivette Perez, (“Officer Perez”), was a resident the State of Florida, and a police officer with the Miami-Dade County Police Department.
3. Defendant, Carlos Luffi, (“Sergeant Luffi”), was a resident the State of Florida, and a sergeant with the Miami-Dade County Police Department.

4. Defendant, Ricky Garcia, (“Officer Garcia”), was a resident the State of Florida, and a police officer with the Miami-Dade County Police Department.

5. Defendant, Flavio Escobar, (“Officer Escobar”), was a resident the State of Florida, and a police officer with the Miami-Dade County Police Department.

6. The Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 and 42 U.S.C. § 1983. Venue is proper because the events giving rise to this claim all occurred within Miami-Dade County, Florida.

THE FACTS GIVING RISE TO THE CLAIM

Background Information

7. Mrs. Gallego is an owner of a condominium unit that is part of a “master” homeowners association named Hammocks Community Association, Inc. (the “Hammocks”).

8. The Hammocks is the largest homeowners association in Florida.

9. The Hammocks encompasses over 3,800 acres of land, waterways, and beaches in Southwest Miami-Dade County.

10. It has 6,537 residential units, including single-family homes, townhomes, and condominiums.

11. If the Hammocks were a city, its land area would be larger than Miami Shores, Key Biscayne, and El Portal *combined*.

12. The Hammocks is so large that it has its own Fourth of July fireworks display.

13. The Hammocks is comprised of 44 subordinate associations, 18 of which it is directly responsible for managing.

14. The Hammocks Board of Directors, management company, and employees are all collectively responsible for maintaining and securing all of the land, beaches, tiki-huts, gyms, fields, community centers, outer sidewalks, gates, and streets, amongst other things.

15. This is no small task by any stretch of the imagination.

16. The Hammocks annual budget is almost \$5,000,000.00.

17. Mrs. Gallego was on the Board of Directors of the Hammocks from 2015 to April 2021. She served as Treasurer from 2015 through 2017, and as President from 2018 until April 2021.

18. Officer Perez and Sergeant Luffi are assigned to the Miami-Dade Police Department Economic Crimes Unit.

19. Sergeant Luffi is Officer Perez's direct supervisor and has the authority to control her work duties.

20. For the past three to four years, Officer Perez and Sergeant Luffi have made false, malicious, bad-faith, and defamatory statements about Mrs. Gallego to other property owners, vendors, and contractors.

21. For instance, Officer Perez and Sergeant Luffi have publicly told property owners, vendors and contractors that Mrs. Gallego is stealing money from the Hammocks and is going to jail.

22. Sergeant Luffi went so far as to confront a Hammocks contractor who was defending an unrelated civil injunction case (*i.e.*, a restraining order).

23. Sergeant Luffi approached the contractor outside of the courthouse and demanded that the contractor "say something" against Mrs. Gallego.

24. Sergeant Luffi offered to "help him out" in return.

25. The contractor believed that Sergeant Luffi's heavy-handed invitation to "say something" against Mrs. Gallego was a bad-faith solicitation to falsely accuse her of a crime.

26. The contractor refused to make up a lie against Mrs. Gallego.

27. It is important to note that Sergeant Luffi knew that the contractor was represented by an attorney at the time, and that it was improper for him to confront a represented defendant outside of a courthouse and essentially offer him a quasi-cooperation agreement.

28. Officer Perez and Sergeant Luffi also falsely and maliciously told contractors and vendors of the Hammocks that Mrs. Gallego was involved in an illegal "kick-back" scheme and was going to jail.

29. Officer Perez and Sergeant Luffi threatened those same vendors with jail time unless they "cooperated" with them in their investigation against Mrs. Gallego.

30. Mrs. Gallego was aware of all of the malicious statements and actions by Officer Perez and Sergeant Luffi, as listed above.

31. Officer Perez and Sergeant Luffi's actions and statements were outside the scope of their duties and made in bad faith.

Facts of this Incident

32. On March 6, 2018, the Hammocks held an election for the Board of Directors.

33. It is important to note that, well before the March 6, 2018 election, the Hammocks paid "off-duty"¹ Miami-Dade County police officers to provide general security for the association.

¹ The officers are not technically "off-duty." They are working in an overtime capacity, but are being paid by the Hammocks.

34. Off-duty officers who worked for the Hammocks were required to wear their full uniform.

35. Whenever elections were held, the Hammocks always directed at least one off-duty police officer to station himself outside of the main door of the association clubhouse (the location of the elections).

36. At times, the off-duty officers stationed outside would enter the clubhouse during elections for various reasons. Some off-duty officers were also posted inside of the clubhouse during the election.

37. Before the election began, the off-duty officers were introduced to the Board of Directors and staff members who were present at the election.

38. In fact, most board members and staff wore t-shirts or polo shirts with the Hammocks logo on it.

39. The Hammocks management team informed all off-duty officers at the election to assist with crowd control and any aggressive individuals who may show up. During prior elections, some individuals became upset when their names were not on the voter rolls.

40. Since the election was not open to the public, the Board and management also informed the off-duty officers to prevent anyone who is not a member of the association from entering the clubhouse.

41. During the March 6, 2018 election, Officer Garcia and Officer Escobar were working at the Hammocks in an “off-duty” capacity.

42. Officer Garcia’s primary responsibility was to guard the front door of the clubhouse during the election.

43. Officer Escobar was more of a rover that day and did whatever was needed during the election.

44. The Hammocks management told Officer Garcia and Officer Escobar to stop anyone from entering the clubhouse who was not a member of the Hammocks.

45. The Hammocks left a membership list at the front entrance to assist the officers.

46. At approximately 6:40 p.m., Officer Perez, Sergeant Luffi and another unknown police officer parked directly in front of the Hammocks clubhouse in unmarked police vehicles.

47. All three officers were in plain clothes, but had their guns on their waists and their badges hanging from their necks.

48. At approximately 6:45 p.m., Officer Perez, Sergeant Luffi, and the unknown officer had a 10-15 minute conversation with Officer Garcia and Officer Escobar outside of the clubhouse.

49. During their conversation, Officer Perez and Sergeant Luffi told Officer Garcia that they were going to arrest Mrs. Gallego.

50. Officer Garcia later admitted on video that he believed Officer Perez and Sergeant Luffi showed up to arrest Mrs. Gallego.

51. Accordingly, Officer Garcia felt compelled to allow Sergeant Luffi (a higher-ranking officer), Officer Perez, and the unknown officer to enter the Hammocks election, which happened around 7:00 p.m., right as the voting booths were closing.

52. It is important to note that Sergeant Luffi has supervisory control over Officer Garcia and Officer Escobar, even in their "off-duty" capacity.

53. Joel Mercado (a former corrections officer) was the property manager for the Hammocks at the time.

54. Mr. Mercado noticed Officer Perez, Sergeant Luffi, and the unknown officer walk inside of the clubhouse.

55. Officers Garcia and Escobar also entered at this time, since the voting period had just ended.

56. Mr. Mercado immediately approached Officer Perez, Sergeant Luffi, and the unknown officer and told them that the election was closed to the public.

57. Mr. Mercado then told the three officers that they were not allowed to be present inside and had to leave.

58. Sergeant Luffi laughed at Mr. Mercado and stated in a condescending tone, “What are you going to do about it?”

59. Officers Garcia and Escobar were in close proximity to Sergeant Luffi when he laughed and made the condescending statement.

60. Officer Perez, Sergeant Luffi, and the unknown officer then walked over to the election ballot box and attempted to confiscate it.

61. Mr. Mercado told them that they could not take the closed, un-tabulated election ballots.

62. Mrs. Gallego, the President of the Hammocks at the time, also walked over and told Officer Perez, Sergeant Luffi, and the unknown officer that they were not allowed to be present and had to leave.

63. Officer Perez, Sergeant Luffi, and the unknown officer ignored Mrs. Gallego’s request.

64. Officers Garcia and Escobar were in close proximity and overheard the entire conversation between Perez, Luffi, Mrs. Gallego and Mr. Mercado, as stated above.

65. Instead of asking Perez, Luffi, and the unknown officer to leave, as Mrs. Gallego had requested, Officers Garcia and Escobar stayed silent and acquiesced to the authority of their superior officer.

66. Officer Perez and Sergeant Luffi continuously demanded that Mr. Mercado and Mrs. Gallego allow them to take the ballots.

67. Mr. Mercado and Mrs. Gallego continuously refused Officer Perez and Sergeant Luffi's warrantless demand.

68. Attorney Santiago Eljaiek, Esq. represented the Hammocks at the time and responded to the election site.

69. Mr. Eljaiek told Officers Perez and Sergeant Luffi that they could not remove the ballots without a warrant.

70. Officer Perez and Sergeant Luffi did not have probable cause to believe that a crime occurred, nor did they have a search warrant to confiscate the ballots.

71. Since the voting had concluded, the members of the association began to open and tabulate the votes.

72. This is a long and tedious process. Over 2,000 votes were cast and there were several people running for different seats on the Board.

73. No outside individuals were allowed to be present during the counting process, only residents of the Hammocks or the staff.

74. Nevertheless, Officer Perez, Sergeant Luffi, and the unknown officer hovered around the vote counting process.

75. Officer Perez, Sergeant Luffi, and the unknown officer were told again to leave, but they refused.

76. Officers Garcia and Escobar were standing in close proximity and heard Perez and Luffi refuse to leave.

77. Based on Officer Perez and Sergeant Luffi's history of malicious acts, their highly suspicious act of attempting to seize the ballot box without a warrant or probable cause, and their refusal to leave when told to do so, Mrs. Gallego told Sergeant Luffi that he must be a relative of someone who does not want her on the Board.²

78. Officer Perez immediately interjected and stated, "How do you know that? Why did you say that?"

79. Officer Perez told Mrs. Gallego something along the lines of, "I can't wait to put you in a chair and ask you questions."

80. Mrs. Gallego immediately responded, "I am represented by a lawyer, you can't do that."³

81. As Mrs. Gallego was saying, "you can't do that," Officer Garcia (who was present during the conversation and heard what Officer Perez said) immediately pushed Mrs. Gallego away and told her to "sit down in this chair right now and don't move."

82. Mrs. Gallego sat down in the chair as directed.

² It is important to note that, before the 2018 election, Sergeant Luffi had accompanied a Hammocks homeowner to the management office and threatened the management team if they did not provide the homeowner with the requested documents. Mrs. Gallego found it odd that a police sergeant would accompany a private citizen on an in-person document request to his homeowner's association. Moreover, Sergeant Luffi conversed and congregated with this very same homeowner during the 2018 election for an extended period of time.

³ By the time the 2018 election occurred, Officers Perez and Luffi had slandered, harassed, and threatened Mrs. Gallego for approximately two years, which caused Mrs. Gallego to hire a criminal defense attorney. Officer Perez and Luffi knew this fact because they had spoken to him on previous occasions.

83. Officers Garcia and Escobar then sat down on chairs that were located on each side of Mrs. Gallego.

84. Officers Garcia and Escobar sat in very close proximity to Mrs. Gallego, essentially “sandwiching” her.

85. Officer Perez and Sergeant Luffi’s statements, both inside and outside of the clubhouse, and their bold-face defiance to leave the premises undoubtedly instigated, encouraged, incited, caused or contributed to Officer Garcia and Officer Escobar’s illegal seizure of Mrs. Gallego.

86. Officer Perez’s statements clearly had an effect on Officers Garcia and Escobar because, in addition to saying, “I can’t wait to put you in a chair,” she and Sergeant Luffi had just told Officers Garcia and Escobar that they were going to arrest Mrs. Gallego.

87. It is important to note that neither Officer Garcia nor Officer Escobar tasered Mrs. Gallego, slammed her to the ground, or took her outside and placed her in a police vehicle.

88. Instead, Officers Garcia and Escobar did exactly as Officer Perez wished, *i.e.* put Mrs. Gallego “in a chair” and waited for directions from Officer Perez and Sergeant Luffi.

89. Officer Garcia and Escobar’s actions were reasonably related to Officer Perez’s “put you in a chair” statement.

90. Furthermore, Officers Garcia and Escobar were not acting solely on their own volition.

91. Mrs. Gallego was the President of the Hammocks – the organization paying for Officer Garcia and Escobar’s presence.

92. In fact, when this incident occurred, Officers Garcia and Escobar had already earned a significant amount of money by working at the Hammocks.

93. There is no way possible that Officer Perez's statements and actions, both inside and outside of the clubhouse, did not influence or encourage Officer Garcia and Escobar's action of detaining the head of their off-duty employer.

94. Sergeant Luffi also instigated, encouraged, incited, contributed or caused the illegal detention.

95. When Officer Garcia and Escobar first detained Mrs. Gallego, Sergeant Luffi lifted up his untucked shirt and flashed his handcuffs in their direction.

96. Officers Garcia and Escobar could clearly see their sergeant's actions.

97. Sergeant Luffi intentionally flashed his handcuffs numerous times in Officer Garcia and Escobar's direction while they detained Mrs. Gallego.

98. Sergeant Luffi's repeated flashing of his handcuffs was clearly a signal to Officers Garcia and Escobar - both of whom are subordinate officers - to keep Mrs. Gallego detained, especially since he had just told Officer Garcia outside that they were going to arrest Mrs. Gallego.

99. Sergeant Luffi's statements inside and outside of the clubhouse, and his defiant acts within the clubhouse, including flashing his handcuffs and refusing to leave when told to do so, undoubtedly instigated or contributed to Officer Garcia and Escobar prolonging the detention of Mrs. Gallego.

100. Furthermore, Sergeant Luffi's act of flashing handcuffs is reasonably related to Officer Garcia and Escobar's prolonged detention.

101. Sergeant Luffi's act of flashing his handcuffs confirmed what he had previously told Officers Garcia and Escobar, *i.e.* that he was going to arrest Mrs. Gallego.

102. Again, Officers Garcia and Escobar were not acting solely on their own volition.

103. It is extremely unlikely that Sergeant Luffi's statements and actions *throughout the night* did not influence or encourage Officer Garcia and Escobar's detention of the head of their off-duty employer.

104. Sergeant Luffi's actions also signaled to Mrs. Gallego that she was not free to leave, even though she was the President of the Board and involved in conducting an election.

105. Sergeant Luffi's act of flashing his handcuffs and Officer Perez's "put you in a chair" statement clearly contributed to Garcia and Escobar's prolonged detention of Mrs. Gallego because they kept her in the same chair for the entire counting process, which last approximately *four and ½ hours*.

106. Mrs. Gallego was not allowed to use the restroom, nor was she provided with food or water, even though she was the Board President.

107. During the four hour detention, Officer Perez came over multiple times and told Mrs. Gallego, "I'm going to be able to ask you questions!"

108. There is no way that Garcia and Escobar would have detained Mrs. Gallego in such a fashion without the influence of Sergeant Luffi and Officer Perez.

109. Proof of this point is that Mrs. Gallego was not allowed to get up until Sergeant Luffi and Officer Perez departed the premises, which was after the count had ended.

110. When Officer Perez and Sergeant Luffi finally exited the property, Officer Garcia shrugged his shoulders.

111. The look on Garcia's face indicated, "Oh well, I tried to help you."

112. There was absolutely no evidence whatsoever that anyone had tampered with the ballots, let alone Mrs. Gallego. Anyone in the association had the right to observe the count.

113. Mrs. Gallego never committed a crime, nor had she been accused of committing a crime.

114. In fact, none of the officers involved even alleged that election fraud had occurred or was occurring.

115. Perez and Luffi sufficiently instigated, encouraged, incited, contributed to or caused Mrs. Gallego's illegal detention by, *inter alia*, confronting her in a place that they had no right to be, refusing to leave when told to do so, dangling handcuffs in front of her, and saying, "I can't wait to put you in chair and ask you questions." Perez and Luffi are not absolved of liability simply because two other police officers "sandwiched" Mrs. Gallego in a chair.

116. Although Perez and Luffi did not physically detain Mrs. Gallego like the other officers involved here, Perez and Luffi has undoubtedly *caused, instigated or participated* in making Mrs. Gallego feel as if she was not free to leave.

117. Luffi and Perez are just as responsible as Garcia and Escobar.

Fraudulent Arrest Warrant

118. If there was any question about the validity of Officer Perez and Sergeant Luffi's potential "bystander defense," their fraudulent arrest of Mrs. Gallego in April of 2021 shows that their defense is completely frivolous.⁴

119. After Mrs. Gallego filed this lawsuit against Officer Perez and Sergeant Luffi (in addition to a state-court defamation lawsuit) in October of 2020, Perez and Luffi sought and

⁴ Mrs. Gallego wants to make clear that her April 2021 arrest is relevant under Federal Rule of Evidence 404(b) and only mentioned here to prove Perez and Luffi's "absence of mistake or lack of accident." The April 2021 incident is not an actual count or claim in this current lawsuit.

received a warrant to arrest Mrs. Gallego for (i) Grand Theft; and (ii) Organized Scheme to Defraud.⁵

Food Items

120. Officer Perez falsely claimed in her 2021 warrant affidavit that Mrs. Gallego misused association funds on various food items for her personal use between June 27, 2016 and March 31, 2018. *See attached Exhibit "A" at pg. 9 – Warrant Affidavit.*

121. Officer Perez stated in the warrant affidavit that she and a forensic investigator examined American Express billing statements for credit cards paid for by the Hammocks. *See Id.*

122. Officer Perez fraudulently stated in her warrant affidavit that, "On June 29, 2016, a Hammocks' Amex card ***assigned to [Mrs. Gallego]***, purchased \$26.75 at Little Caesars and \$30.71 at Publix. On June 30, 2016, [Mrs. Gallego] spent \$141.16 at Miami Subs." (emphasis added). *See Id.*

⁵ Officer Perez showed her utter and complete bias against Mrs. Gallego by mentioning in the warrant affidavit that Mrs. Gallego filed this lawsuit and a state-court defamation lawsuit against her and her sergeant - which is hardly probable cause to arrest someone. Officer Perez also claimed that the Hammocks was giving them the run-a-around regarding a subpoena to produce documents. *See Exhibit A (Warrant Affidavit), at pg. 5-6.* What Perez blatantly failed to mention in her affidavit is that her document request was so large and voluminous that a lawyer for the Hammocks objected to the request. The Hammocks attorney informed a state court judge that fulfilling the document request would be so time consuming that the Hammocks would have to issue a special assessment against the association. Still, the Hammocks produced approximately 10,000 documents in response to the document request, which MDPD later refused to pay for. Instead, MDPD requested more documents, claimed that some of the 10,000 documents produced were unresponsive, and continued to refuse to pay the statutory rate for the documents. It is unnecessary to explain further, but a Miami-Dade Circuit Court Judge is still deciding how much MDPD should pay for the documents request and whether the Hammocks has an obligation to provide more documents.

123. As seen on the American Express statement, the food items listed in the paragraph above were purchased with a card ending in 7100. *See attached Exhibit “B” – July 2016 Amex Statement.*

124. The complete fallacy in Officer Perez’s statement is that the card ending in 7100 was not “assigned” to Mrs. Gallego,⁶ but to the Hammocks generally. *See Id.*

125. Moreover, when a vendor swiped the card ending in 7100, it shows that the card was issued to William Gil, the Hammocks’ former controller. *See attached Exhibit “C” – June 30, 2016 Miami Subs Receipt.*

126. It is absolutely inconceivable that Officer Perez, a 25-year veteran who has been assigned to the economic crimes bureau for the past 14 years, and a MDPD financial auditor could both mistakenly claim that the card ending in 7100 was “assigned” to Mrs. Gallego, especially after examining the American Express records.

127. Officer Perez’s actions were intentionally designed to retaliate against Mrs. Gallego for filing a lawsuit against her and her supervisor, *inter alia*.

128. Furthermore, Officer Perez purposely turned a “blind eye” to many other expenses that were obviously related to the association.

129. For example, on September 11, 2017, Hurricane Irma ravaged Miami-Dade County. *See* <https://www.youtube.com/watch?v=8jfeGPn4WgQ>.

130. Residents throughout the Hammocks were displaced and many residents lost electricity for weeks. *See Exhibit “D” – Hammocks photographs of Hurricane Irma.*

⁶ As seen in the American Express statement, the Hammocks Community Association business card that was “assigned to” Mrs. Gallego ended in 1018.

131. Mrs. Gallego and the Board passed a resolution to use the main clubhouse as a place of refuge for seniors in the Hammocks who lost electricity and needed air conditioning, and for individuals who became displaced because of the damage to their homes. *See Exhibit “E” – Board Minutes re: Hurricane Irma.*

132. That same day, the Hammocks purchased \$395.27 worth of food from Asados El Paisa – a restaurant that also operates a food truck – in order to provide food to residents who were essentially homeless. *See Exhibit “F” – Payment and Amex Statement re: Asados El Paisa.*

133. Deceitfully, Officer Perez claimed in her warrant affidavit that the \$395.27 payment to Asados El Paisa was a **fraudulent expense** by Mrs. Gallego. *See Exhibit “A” at pg. 9 – Warrant Affidavit.*

134. To the casual observer, Officer Perez could have simply made a mistake. Upon closer review, however, Officer Perez’s intention was clearly malicious.

135. As stated in the warrant, Officer Perez reviewed the Board Minutes and the American Express credit card statements.

136. As such, she should have noticed that the Board approved the use of the main clubhouse as a refuge for Hurricane Irma, which is the exact same day that \$395.27 of association funds were used to purchase food from Asados El Paisa.

137. Moreover, on September 12, 2017, a day after Hurricane Irma, the Hammocks purchased \$24,000.00 worth of ice to pass out to residents. *See Exhibit “G” – Receipt and Photographs of Ice.*

138. A \$24,000.00 ice purchase on a credit card statement is something that would undoubtedly stick out to an economic crimes fraud investigator.

139. In the American Express statement, the \$395.27 purchase from Asados El Paisa is directly above the ice purchase. *See Exhibit "F," pgs. 2-3.*

140. After reviewing the Board Minutes and credit card statements, there is no way that Officer Perez could have honestly concluded that Asados El Paisa was a fraudulent use of association funds by Mrs. Gallego.⁷

141. Furthermore, Mrs. Gallego can substantiate all of the alleged "fraudulent charges" described in the arrest warrant.⁸

142. She passionately advocated for increasing community activities in the Hammock.

143. For example, Ms. Gallego spearheaded a campaign that provides free after-school tutoring and summer camp for children who live in the Hammocks. *See Exhibit "I" – Photographs from Hammocks Events.*

144. Under Ms. Gallego's guidance, the Hammocks also started providing residents with Zumba classes, Bingo Nights, and kids summer camp – all for free and without increasing the monthly association fees.⁹ *See Exhibit "I."*

145. The Hammocks provided free food at most of these events. *See Exhibit "I."*

⁷ The same is true with the bulk of charges from Sedanos. *See Exhibit "A" pg. 9.* On October 5, 2016, Abraham Barja – a Hammocks employee – used a card ending in 1018, which is actually assigned to Mrs. Gallego, in order to purchase supplies for Hurricane Matthew. *See Exhibit H – Sedano's Receipt.* Association funds were used to purchase Gatorade, water, and non-perishable goods, including 240 cans of Vienna Sausages – hardly a delicacy for some with access to a \$5 million budget.

⁸ Officer Perez lumped many of the charges together by vendor, e.g. \$946.58 at Domino's Pizza. Therefore, it is difficult to extrapolate some of the charges by date. Nevertheless, Mrs. Gallego knows that the association regularly provided Pizza to residents during Movie Night, Bingo Night, Kids Summer Camp, Halloween, Fourth of July, etc. *See Exhibit "I."*

⁹ Despite all of Mrs. Gallego's accomplishments, a small group of property owners (hereafter "the Objectors") want to replace Mrs. Gallego and the current board with either themselves or their friends - many of whom were previously on the board or previously part of the management company. Many tactics employed by the Objectors are simply outrageous, and more appropriate for a Quentin Tarantino or Tyler Perry movie (and not the funny ones).

146. Officer Perez's claim in the warrant affidavit that the Board approved "a specific caterers or vendor" for food expenses on holidays or other community events is simply not true. *See Exhibit "J" – Excerpts of Board Minutes.*

147. Instead, the Hammocks approved a \$45,000.00 budget for community events.

148. It is also important to point out that, for various legitimate reasons, many board members or employees of the association used the Hammocks' American Express credit card issued to Mrs. Gallego.¹⁰ *See e.g. attached Exhibit K.*

149. The Hammocks, with such a large annual budget, is simply too large to cut a check for every single expense.

KP Assurance

150. Officer Perez, at Sergeant Luffi's direction, claims that Mrs. Gallego also misused association funds by directing KP Assurance to investigate individuals who she has "personal issues" with, and by directing KP Assurance to conduct surveillance on her home – all without approval.

151. Officer Perez conveniently omitted several easily ascertainable facts that justify the KP Assurance expenses, including the surveillance of Mrs. Gallego's home.

152. For example, Mrs. Gallego received death threats that were related to the performance of her duties as a Board Member.

153. In fact, the death threats occurred inside of the Hammocks office building and in front of numerous people.

¹⁰ This is not some new phenomena in business. For example, the credit card used to pay for the filing fee in this case was issued to the firm, has the firm's name on it, and also has one of the partner's name on it. It does not, however, mean that the named partner used the card to file this case. A paralegal did that.

154. The events surrounding the death threats are documented in *Marglli Gallego v. Enmanuel Rodriguez*, Miami-Dade County Case No. 2015-06458-FC-04.

155. Mrs. Gallego has also been attacked inside of the Hammocks, random people have showed up to her home, and someone firebombed the home next door to hers - all in an effort to get her to resign from the Board.

156. Other events also occurred in 2015, which the Board reported to the FBI.

157. The Hammocks had a legitimate reason and duty to protect its board member by providing limited surveillance, especial since the felonious acts committed against her were all related to the performance of her official duties as a board member.

158. In the warrant affidavit, Officer Perez uses resident Maria Alonso as an example of a person who Mrs. Gallego attempted to harass and conduct surveillance on. Terrible choice.

159. Maria Alonso is related to Enmanuel Rodriguez, the same person who threatened Mrs. Gallego.

160. Furthermore, in November of 2016, Maria Alonso sued Mrs. Gallego for defamation in Miami-Dade County Court Case No. 2016-29884-CA-01.

161. Mrs. Gallego was on the Hammocks Board at the time of the lawsuit, which stemmed from statements that Mrs. Gallego made as Board Treasurer.

162. The November 2016 defamation lawsuit was highly contested and the factual basis to support Mrs. Alonso's claim involved multiple individuals who lived in the Hammocks – the very same people who Officer Perez claim are Mrs. Gallego's "political opponents."

163. The November 2016 defamation lawsuit initiated by Maria Alonso did not conclude until April of 2018.

164. It is important to note that the “political opponents” started this whole mess, including filing lawsuits against the Hammocks.

165. Section 10.1 of the Hammocks articles of incorporation states that “[t]he Association *shall* indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he [or she] is or was a director, employee, officer or agent of the Association....”

166. Section 10.4 allows the association to advance expenses incurred in defending a civil or criminal action, suit or proceeding as authorized by the Board of Directors.

167. Officer Perez claims Mrs. Gallego misused association fund to pay for KP Assurance surveillance, but the reality is that all of the surveillance and investigations were related to legal matters effecting the association.

168. Officer Perez supposedly came to such conclusion because she could not find any approval for KP Assurance in the general Board Minutes.

169. As a 25-year veteran assigned to the condo squad, Officer Perez knew, or should have known, that Florida Statute 720.303(2)(b) permits homeowner associations to conduct “legal matter” meetings outside of traditional board meetings, which is common practice throughout the State of Florida.

170. Accordingly, the KP Assurance surveillance records and approval thereof do not (and should not) appear in the traditional board minutes, as they relate to the lawsuits mentioned above and legal matter investigations going on at the time.

171. Instead of being honest and transparent about the KP Assurance Invoices, Officer Perez doubled down on her complete misrepresentations to the court.

172. In the warrant affidavit, Officer Perez stated that “*each* [KP Assurance] invoice for services reads Bill To: Marglli Gallego, 9020 Hammocks Blvd...” (emphasis added). *See Exhibit A, pg. 6.*

173. Officer Perez’s sworn statement is completely bogus.

174. The KP Assurance invoices were initially billed to Celena Nash, Esq. - the attorney representing the Hammocks at the time, and then later to the Hammocks directly or Bernarda Colon, who worked in the Hammocks accounting department. *See Exhibit L – KP Assurance Invoices.*

175. KP Assurance started placing Mrs. Gallego’s name on the invoices (using the Hammocks address) when the Hammocks began paying KP with its American Express card.

176. Regarding the background searches of Mrs. Gallego’s “political opponents,” all of them were related to legal matters and were done under the direction of Celena Nash, Esq. – the Board’s attorney. *See Exhibit M – Emails from Celena Nash, Esq. to KP Assurance.*

177. Officer Perez’s *sworn* representation to the state-court judge in her warrant affidavit, *i.e.* “*each* invoice reads Bill To: Marglli Gallego,” is completely bogus and borderline criminal.

178. Celena Nash engaged KP Assurance to investigate the complicated and contentious legal matters amongst the individuals living in the Hammocks.

179. Officer Perez knew this because she examined the minutes and the KP Assurance invoices.

180. Officer Perez’s claim that Mrs. Gallego conducted investigations into her opponents without anyone knowing is just another concerted attempt to intimidate and harass Mrs. Gallego.

181. This time, however, Officer Perez's actions are not just a fraud on the Hammocks residents, but also a fraud on the Court.

COUNT I

**DEPRIVATION OF CIVIL RIGHTS
FOURTH AMENDMENT VIOLATION
UNLAWFUL TERRY STOP – OFFICER IVETTE PEREZ**

182. Mrs. Gallego re-alleges the allegations contained in paragraphs 1-181 of this Complaint.

183. This action is brought by Mrs. Gallego pursuant to Title 42, Section 1983, United States Code, for the deprivation of her Civil Rights caused by Miami-Dade County Police Officer Ivette Perez, in her individual capacity.

184. On or about March 6, 2018, Officer Perez intentionally committed acts that violated Mrs. Gallego's Fourth Amendment right not to be subjected to an unreasonable or prolonged investigatory stop.

185. No reasonable police officer could have believed that Mrs. Gallego was involved, or was about to become involved, in criminal activity.

186. Officer Perez's instigation and/or participation in the events on March 6, 2018 caused or contributed to the prolonged stop and detention, which was not reasonable in scope.

187. The law enforcement purpose (or lack thereof) served by the stop, the diligence with which the Officer Perez pursued the investigation, and the length of the stop was not reasonable based on the totality of circumstances.

188. No reasonable person would have felt free to leave.

189. Officer Perez's conduct caused injury to Mrs. Gallego, which was a reasonably foreseeable consequence of her conduct.

190. Officer Perez was acting under color of state law as a police officer when she committed such acts, even though her acts were outside the limits of lawful authority.

COUNT II

DEPRIVATION OF CIVIL RIGHTS FOURTH AMENDMENT VIOLATION UNLAWFUL TERRY STOP – CARLOS LUFFI

191. Mrs. Gallego re-alleges the allegations contained in paragraphs 1-181 of this Complaint.

192. This action is brought by Mrs. Gallego pursuant to Title 42, Section 1983, United States Code, for the deprivation of her Civil Rights caused by Miami-Dade County Police Officer Carlos Luffi, in his individual capacity.

193. On or about March 6, 2018, Sergeant Luffi intentionally committed an act that violated Mrs. Gallego's Fourth Amendment right not to be subjected to an unreasonable or prolonged investigatory stop.

194. No reasonable police officer could have believed that Mrs. Gallego was involved, or was about to become involved, in criminal activity.

195. Sergeant Luffi's instigation and/or participation in the events on March 6, 2018 caused or contributed to the prolonged stop and detention, which was not reasonable in scope.

196. The law enforcement purpose (or lack thereof) served by the stop, the diligence with which the Officer Luffi pursued the investigation, and the length of the stop was not reasonable based on the totality of circumstances.

197. No reasonable person would have felt free to leave.

198. Officer Luffi's conduct caused injury to Mrs. Gallego, which was a reasonably foreseeable consequence of his conduct.

199. Officer Luffi was acting under color of state law as a police officer when he committed such acts, even though his acts were outside the limits of lawful authority.

COUNT III

DEPRIVATION OF CIVIL RIGHTS FOURTH AMENDMENT VIOLATION UNLAWFUL TERRY STOP – RICKY GARCIA

200. Mrs. Gallego re-alleges the allegations contained in paragraphs 1-181 of this Complaint.

201. This action is brought by Mrs. Gallego pursuant to Title 42, Section 1983, United States Code, for the deprivation of her Civil Rights caused by Miami-Dade County Police Officer Ricky Garcia, in his individual capacity.

202. On or about March 6, 2018, Officer Garcia intentionally committed an act that violated Mrs. Gallego's Fourth Amendment right not to be subjected to an unreasonable or prolonged investigatory stop.

203. No reasonable police officer could have believed that Mrs. Gallego was involved, or was about to become involved, in criminal activity.

204. Officer Garcia's stop and detention was not reasonable in scope.

205. The law enforcement purpose served by the stop (or lack thereof), the diligence with which the Officer Garcia pursued the investigation, and the length of the stop was not reasonable based on the totality of circumstances.

206. No reasonable person would have felt free to leave.

207. Officer Garcia's conduct caused injury to Mrs. Gallego, which was a reasonably foreseeable consequence of his conduct.

208. Officer Garcia was acting under color of state law as a police officer when he committed such acts, even though his acts were outside the limits of lawful authority.

COUNT IV

**DEPRIVATION OF CIVIL RIGHTS
FOURTH AMENDMENT VIOLATION
UNLAWFUL TERRY STOP – FLAVIO ESCOBAR**

209. Mrs. Gallego re-alleges the allegations contained in paragraphs 1-181 of this Complaint.

210. This action is brought by Mrs. Gallego pursuant to Title 42, Section 1983, United States Code, for the deprivation of her Civil Rights caused by Miami-Dade County Police Officer Flavio Escobar, in his individual capacity.

211. On or about March 6, 2018, Officer Escobar intentionally committed an act that violated Mrs. Gallego's Fourth Amendment right not to be subjected to an unreasonable or prolonged investigatory stop.

212. No reasonable police officer could have believed that Mrs. Gallego was involved, or was about to become involved, in criminal activity.

213. Officer Escobar's stop and detention was not reasonable in scope.

214. The law enforcement purpose served by the stop (or lack thereof), the diligence with which the Officer Escobar pursued the investigation, and the length of the stop was not reasonable based on the totality of circumstances.

215. No reasonable person would have felt free to leave.

216. Officer Escobar's conduct caused injury to Mrs. Gallego, which was a reasonably foreseeable consequence of his conduct.

217. Officer Escobar was acting under color of state law as a police officer when he committed such acts, even though his acts were outside the limits of lawful authority.

WHEREFORE, Plaintiff, Marglli Gallego, demands judgment for her economic and noneconomic damages, attorney's fees, the costs of prosecuting this action, and any other relief this Court deems proper and just.

DEMAND FOR JURY TRIAL

Plaintiff, Marglli Gallego demands a jury trial of all issues so triable as of right by a jury.

DATED: May 14, 2021

RASCO KLOCK PEREZ NIETO
Counsel for the Plaintiff, Marglli Gallego
2555 Ponce de Leon Blvd., Suite 600
Coral Gables, Florida 33134
Telephone: 305.476.7100
Facsimile: 305-476-7102
Email: hnapoleon@rascoklock.com

By: /s/ Hilton Napoleon, II
Hilton Napoleon, II
Fla. Bar No.: 17593