

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

RUSSELL ZINTER; JACK MILLER;
BRIAN HOWD; JAMES A. MEAD;
JOSEPH BRANDON PIERCE; MARK BROWN;
DAVID BAILEY; JUAN GONZALES JR.;
KEVIN EGAN; JONATHON GREEN;
JAMES SPRINGER

Plaintiffs,

VS.

CIVIL ACTION NO. 5:18-CV-0680-FB

CHIEF JOSEPH SALVAGGIO;
LIEUTENANT DAVID ANDERSON;
DEPUTY JANE DOE GOLDMAN;
OFFICER JOHNNY VASQUEZ;
CPL CHAD MANDRY; SERGEANT JOHN DOE;
OFFICER JIMMIE WELLS; CPL. LOUIS FARIAS,
BADGE 534; OFFICER BRANDON EVANS,
BADGE 556; OFFICER UZIEL HERNANDEZ;
JOHN DOE TASER 1; JOHN DOE TASER 2 AND
THE CITY OF LEON VALLEY, A POLITICAL
SUBDIVISION OF THE STATE OF TEXAS

Defendants.

**DEFENDANT CHIEF SALVAGGIO, LT. ANDERSON AND OFFICERS VASQUEZ,
MANDRY, WELLS, FARIAS, EVANS AND HERNANDEZ' OBJECTIONS TO
SUBPOENAS AND MOTION TO QUASH**

TO THE HONORABLE UNITED STATES MAGISTRATE JUDGE RICHARD B. FARRER:

NOW COME **CITY OF LEON VALLEY CHIEF OF POLICE JOSEPH SALVAGGIO, LT. DAVID ANDERSON AND OFFICERS JOHNNY VASQUEZ, CORPORAL CHAD MANDRY, OFFICER JIMMIE WELLS, CORPORAL LOUIS FARIAS, OFFICER BRANDON EVANS and OFFICER UZIEL HERNANDEZ**, Individual Defendants in the above entitled and numbered cause and files this their Objections to Subpoenas dated September 10, 2018 (herein attached as Exhibit A).and Motion to Quash said subpoenas pursuant to Rule 45, Federal Rules of Civil Procedure in support thereof

would respectfully show unto the Court the following:

I.

Plaintiffs are individuals who have been arrested and/or detained during the month of June 2018 on charges ranging from Retaliation, Interference with Public Duties, Resisting Arrest and Failure to Identify concerning various incidents at the City Of Leon Valley Municipal Court.

Criminal State Court Proceedings have been initiated against the following Plaintiffs:

- (a) **JAMES ALLEN SPRINGER**, Cause No. 2018CR7461
- (b) **JACK MILLER**, Cause No. 2018CR8725
- (c) **MARK BROWN**, Bexar County Court at Law No. 12, Cause Nos. 577193 and 577195
- (d) **DAVID BAILEY**, Bexar County Court at Law No. 4, Cause No. 577789.

Defendants assert that criminal investigations are pending against additional plaintiffs herein.

II.

On September 10, 2018, Defendants' counsel received an email with the attached subpoenas which are incorporated by reference to this motion as Exhibit A. Defendants object and move to Quash said subpoenas under Rule 45(b)(1) for being defective. *In Re Dennis*, 330 F.3d 696, 704 (5th Cir. 2003); *Seals v. Shell Oil Co.*, 2013 W.L. 3070844 (E.D. La. June 17, 2013).

III.

Defendants **CHIEF SALVAGGIO, LT. ANDERSON AND OFFICER VASQUEZ, CORPORAL MANDRY, OFFICER WELLS, CORPORAL FARIAS, OFFICER EVANS and OFFICER HERNANDEZ** further object and move to quash Plaintiffs' subpoenas (Exhibit A) pursuant to Rule 45(d)(2)(B) of the Federal Rules of Civil Procedure and 45(d)(3) as being overbroad and not proportional to the needs of the case. Subpoena directed to "person or persons, if any, who have examined any of the items seized by Leon Valley Police in the dates identified in the compliant" and subpoena

“persons at Leon Valley Police Department most knowledgeable on the following, persons at Leon Valley P.D. most knowledgeable of the evidentiary value of the items seized on the complained of dates in the First Amended Complaint...” said subpoenas are overbroad and not proportional on their face. *American Federation of Musicians of the United States and Canada v. Skodam Films LLC*, 313 F.R.D. 39, 44 (N.D. Tex. 2015).

WHEREFORE, PREMISES CONSIDERED, Defendants **CHIEF SALVAGGIO, LT. ANDERSON AND OFFICER VASQUEZ, CORPORAL MANDRY, OFFICER WELLS, CORPORAL FARIAS, OFFICER EVANS and OFFICER HERNANDEZ** pray that their objections and Motion to Quash be in all things granted and for such other and further relief as 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, LT. DAVID ANDERSON AND

OFFICERS JOHNNY VASQUEZ, CORPORAL CHAD MANDRY,

OFFICER JIMMIE WELLS, CORPORAL LOUIS FARIAS,

OFFICER BRANDON EVANS AND OFFICER UZIEL HERNANDEZ

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of September, 2018, I electronically filed the foregoing Defendants Chief Salvaggio, Lt. Anderson and Officer Vasquez, Corporal Mandry, Officer Wells, Corporal Farias, Officer Evans and Officer Hernandez' Objections to Subpoenas and Motion to Quash 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