

**IN THE UNITED STATES DISTRICT  
COURT NORTHERN DISTRICT OF  
ILLINOIS EASTERN DIVISION**

JACQUES RIVERA,	)	
	)	No. 12 CV 004428
Plaintiff,	)	
	)	
v.	)	The Honorable Joan B. Gottschall
	)	
REYNALDO GUEVARA, et al.,	)	
	)	
Defendants.	)	

**DEFENDANT GUEVARA AND MINGEY’S RULE 50 MOTION FOR  
JUDGMENT AS A MATTER OF LAW**

Defendants Reynaldo Guevara and Ed Mingey (“Movants”), by their attorneys, move this Honorable Court for the entry of an order pursuant to Federal Rule of Civil Procedure 50 for judgment as a matter of law and state:

Plaintiff has rested his case at trial after having an opportunity to fully be heard on all of his remaining claims. The only evidence presented against Movants at trial was based on the negative inference associated with the Movants’ invocation their Fifth Amendment rights. The Supreme Court and the Seventh Circuit have been clear that evidence of a Fifth Amendment invocation is not permissible as the sole affirmative evidence upon any issue. *See Baxter v. Palmigiano*, 425 U.S. 308, 313. Therefore, Plaintiff has presented insufficient evidence upon which a jury could find in Plaintiff’s favor for the remaining claims against the Movants.

Accordingly, the lack of any evidence to support Plaintiff’s remaining claims against them confirms that the Movants are entitled to judgment as a matter of law. Further, Movants hereby restate and adopt the legal basis and arguments asserted on Summary Judgment and join and adopt the Rule 50 Motion and arguments of Co-Defendants McLaughlin and Gawrys as further basis for judgment as a matter of law in favor of Movants.

WHEREFORE, Defendants Guevara and Mingey request that the Court enter judgment as a matter of law in their favor and against the Plaintiff as to the Counts remaining.

Dated: June 28, 2018

Respectfully submitted,

/s/Thomas More Leinenweber  
Thomas More Lieinenweber  
*Counsel for Defendants Guevara  
and Mingey*

Thomas More Leinenweber  
James V. Daffada  
Kevin E. Zibolski  
Leinenweber Baroni & Daffada, LLC  
120 N. LaSalle Street, Suite 2000  
Chicago, IL 60602  
(866)786-3705

**CERTIFICATE OF SERVICE**

I hereby certify under penalty of perjury pursuant to 28 U.S.C.A. § 1746 that on June 28, 2018, I electronically filed the foregoing **Defendants Guevara and Mingey's Rule 50 Motion for Judgment** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants below.

**Attorneys for Plaintiff**

Arthur R. Loevy  
Jonathan I. Loevy  
Elizabeth N. Mazur  
Russel Ainsworth  
Michael I. Kanovitz  
Steven E. Art  
Anad Swaminathan  
Rachel Brady  
311 N. Aberdeen  
Chicago, IL 60607  
(312)243-5900  
(312) 243-5902 (Fax)  
[loevylaw@loevy.com](mailto:loevylaw@loevy.com)  
[jon@loevy.com](mailto:jon@loevy.com)  
[Elizabethm@loevy.com](mailto:Elizabethm@loevy.com)  
[russell@loevy.com](mailto:russell@loevy.com)  
[mike@loevy.com](mailto:mike@loevy.com)  
[steve@loevy.com](mailto:steve@loevy.com)  
[annad@loevy.com](mailto:annad@loevy.com)  
[Brady@loevy.com](mailto:Brady@loevy.com)

J. Samuel Tenenbaum  
Bluhm Legal Clinic  
375 East Chicago Avenue  
Chicago, IL 60611  
(312)503-4808  
[s-tenenbaur@law.northwestern.edu](mailto:s-tenenbaur@law.northwestern.edu)

Locke E. Bowman, III  
Alexa Van Brunt  
Roderick MacArthur Justice Center  
Northwestern University School of Law  
375 East Chicago Avenue  
Chicago, IL 60611  
(312)503-0844  
(312)503-1272 (fax)  
[l-bowman@law.northwestern.edu](mailto:l-bowman@law.northwestern.edu)  
[a-vanbrunt@law.northwestern.edu](mailto:a-vanbrunt@law.northwestern.edu)

**Attorneys for City of Chicago**

Eileen E. Rosen  
Stacy A. Benjamin  
Catherine M. Barber  
Theresa B. Carney  
Rock Fusco & Connelly, LLC  
321 N. Clark Street, Suite 2200  
Chicago, IL 60654  
(312)494-1000  
(312)494-1001(fax)  
[erosen@rfclaw.com](mailto:erosen@rfclaw.com)  
[sbenjamin@rfclaw.com](mailto:sbenjamin@rfclaw.com)  
[cbarber@rfclaw.com](mailto:cbarber@rfclaw.com)  
[tcarney@rfclaw.com](mailto:tcarney@rfclaw.com)

**Attorneys for Reynaldo Guevara**

Thomas M. Leinenweber  
James V. Daffada  
Kevin E. Zibolski  
Leinenweber Baroni & Daffada, LLC  
120 N. La Salle Street, Suite 2000  
(312)663-3003  
[thomas@ilesq.com](mailto:thomas@ilesq.com)  
[jim@ilesq.com](mailto:jim@ilesq.com)  
[kevin@ilesq.com](mailto:kevin@ilesq.com)

/s/ Thomas More Leinenweber  
Thomas More Leinenweber  
*Counsel for Defendants Guevara and Mingey*