

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA  
MIAMI DIVISION  
CASE NO. 13-CV-22589-KMW**

MIGUEL ANGEL CORBACHO DAUDINOT,

Plaintiff,

v.

YASIEL PUIG VALDES a/k/a YASIEL PUIG  
and MARITZA VALDES GONZALEZ,

Defendants.

**DEFENDANTS' ANSWER AND AFFIRMATIVE DEFENSES TO SECOND  
AMENDED COMPLAINT**

Defendants, YASIEL PUIG VALDES (“Puig”) and MARITZA VALDES GONZALEZ (“Valdes”) (collectively, “defendants”), hereby answer Plaintiff’s Second Amended Complaint (“Complaint”) and assert the affirmative defenses set forth below:

1. Defendants deny that the allegations in the Complaint confer subject matter jurisdiction under the Torture Victim Protection Act of 1991 (TVPA) 28 U.S.C. § 1350, note, § 2(a) and 28 U.S.C. § 1331.

2. Defendants are without knowledge of the allegations in paragraph 2.

3. Defendants admit that Puig is a Cuban citizen residing in Miami, Florida.

4. Defendants admit that Valdes is a Cuban citizen residing in Miami, Florida.

5. Admitted that plaintiff seeks damages in excess of \$75,000; however, defendants deny that plaintiff is entitled to any damages from defendants.

6. Defendants deny providing any false or misleading denunciation against plaintiff, Corbacho Daudinot (“plaintiff”). Defendants are without knowledge of the remaining allegations in paragraph 6.

7. Admitted that Puig was and is an internationally acclaimed baseball player and a Cuban citizen. Admitted that Puig defected from Cuba in 2012, was subsequently retained by the Major League Baseball team, the Los Angeles Dodgers, and maintains a permanent residence in Miami, Florida. Admitted that Puig truthfully testified in plaintiff’s trial in Cuba. Defendants deny that Puig on his own volition informed authorities of the INDER about alleged illegal activities committed by plaintiff and filed a complaint to DCSE against plaintiff. Defendants are without knowledge of the remaining allegations in paragraph 7.

8. Admitted Puig was sanctioned from playing on the Cuban national baseball team and the Cuban national series team in 2009. Defendants deny the remaining allegations of paragraph 8.

9. Admitted Valdes is Puig's mother and a Cuban citizen who left Cuba on or around January 2013 and resides with her son in Miami, Florida. Defendants deny the remaining allegations in paragraph 9.

10. Admitted that Puig was sanctioned from playing in the Cuban national baseball team and the Cuban national Series team of Cienfuegos in 2009. Defendants deny the remaining allegations in paragraph 10.

11. Defendants deny the allegations in paragraph 11.

12. Defendants deny the allegations in paragraph 12.

13. Defendants deny the allegations in paragraph 13.

14. Defendants deny the allegations in paragraph 14.

15. Defendants deny the allegations in paragraph 15.

16. Defendants deny the allegations in paragraph 16.

17. Defendants are without knowledge of the allegations in paragraph 17.

18. Defendants are without knowledge of the allegations in paragraph 18.

19. Admitted that Puig was aware of Aroldis Chapman's removal from the national team in 2008. Defendants deny the remaining allegations in paragraph 19.

20. Defendants deny the allegations in paragraph 20.

21. Defendants are without knowledge of the allegations in paragraph 21.

22. Defendants deny the allegations in paragraph 22.

23. Defendants deny that venue is appropriate in the Southern District of Florida for allegations of conduct that occurred entirely in Cuba.

24. Defendants deny the allegations in paragraph 24.

25. Defendants deny the allegations in paragraph 25.

26. Defendants deny the allegations in paragraph 26.

27. Defendants deny the allegations in paragraph 27.

28. Defendants deny the allegations in paragraph 28.

29. Defendants deny the allegations in paragraph 29.

30. Defendants deny the allegations in paragraph 30.

31. Defendants deny the allegations in paragraph 31.

32. Defendants deny the allegations in paragraph 32.

33. Defendants deny the allegations in paragraph 33.

34. Defendants deny the allegations in paragraph 34.

35. Defendants deny the allegations in paragraph 35.

36. Defendants deny the allegations in paragraph 36.

37. Defendants are without knowledge of the allegations in paragraph 37.

38. Defendants deny the allegations in paragraph 38.

39. Admitted that Puig attempted to escape Cuba with Despaigne.

Defendants deny the remaining allegations in paragraph 39.

40. Defendants deny the allegations in paragraph 40.

41. Defendants deny the allegations in paragraph 41.

42. Defendants deny the allegations in paragraph 42.

43. Defendants deny the allegations in paragraph 43.

44. Defendants deny the allegations in paragraph 44.

45. Defendants deny the allegations in paragraph 45.

46. Defendants are without knowledge of the allegations in paragraph 46.

47. Defendants deny the allegations in paragraph 47.

48. Defendants deny the allegations in paragraph 48.

49. Defendants deny the allegations in paragraph 49.

50. Defendants deny the allegations in paragraph 50.

51. Admitted that in early 2010, Puig was a player for *el equipo de desarrollo* in Cienfuegos. Defendants are without knowledge of the remaining allegations in paragraph 51.

52. Defendants are without knowledge of the allegations in paragraph 52.

53. Defendants are without knowledge of plaintiff's sentence and conditions of detention. Defendants deny the remaining allegations in paragraph 53.

54. Admitted that Puig was reinstated into the National Team and the National Series team. Defendants deny the remaining allegations in paragraph 54.

55. Admitted that Despaigne approached Puig with a plan to leave Cuba that was arranged by financial backers in the United States. Defendants deny the remaining allegations in paragraph 55.

56. Defendants are without knowledge of the allegations in paragraph 56.

57. Defendants are without knowledge of the allegations in paragraph 57.

58. Defendants are without knowledge of the allegations in paragraph 58.

59. Defendants are without knowledge of the allegations in paragraph 59.

60. Defendants are without knowledge of the allegations in paragraph 60.

61. Defendants are without knowledge of the allegations in paragraph 61.

62. Defendants are without knowledge of the allegations in paragraph 62.

63. Defendants are without knowledge of the allegations in paragraph 63.

64. Defendants are without knowledge of the allegations in paragraph 64.

65. Admitted that plaintiff and Orozco approached Valdes at her neighbor's home to ask where they could find Puig. Defendants are without knowledge of the remaining allegations in paragraph 65.

66. Defendants deny the allegations in paragraph 66.

67. Defendants are without knowledge of the allegations in paragraph 67.

68. Admitted that Puig was having ice cream at an establishment in Coopelia, Cuba when he was approached by plaintiff and Orozco, who asked

him whether he was interested in leaving Cuba. Defendants further admit that that Orozco provided Puig with cash and a cell phone. Defendants deny the remaining allegations in paragraph 68.

69. Defendants' answer paragraph 69 by referring to their answer to paragraph 68. Defendants deny the remaining allegations in paragraph 69.

70. Defendants are without knowledge of the allegations in paragraph 70.

71. Defendants are without knowledge of the allegations in paragraph 71.

72. Defendants are without knowledge of the allegations in paragraph 72.

73. Defendants are without knowledge of the allegations in paragraph 73.

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77. Defendants are without knowledge of the allegations in paragraph 77.

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83. Defendants are without knowledge of the allegations in paragraph 83.

84. Defendants are without knowledge of the allegations in paragraph 84.

85. Defendants are without knowledge of the allegations in paragraph 85.

86. Defendants are without knowledge of the allegations in paragraph 86.

87. Defendants are without knowledge of the allegations in paragraph 87.

88. Defendants are without knowledge of the allegations in paragraph 88 regarding the evidence produced by the prosecution against plaintiff. Defendants deny the remaining allegations in paragraph 88.

89. Defendants are without knowledge of the allegations in paragraph 89.

90. Defendants deny the allegations in paragraph 90.

91. Defendants deny the allegations in paragraph 91.

92. Defendants are without knowledge of the allegations in paragraph 92.

93. Defendants deny the allegations in paragraph 93.

94. Defendants deny the allegations in paragraph 94.

95. Defendants admit that attached as “Exhibit E” to the Second Amended is the “*fotaba iustrativa*,” in which Puig identifies plaintiff in a photo lineup. Defendants are without knowledge of the remaining allegations in paragraph 95.

96. Defendants deny the allegations in paragraph 96.

97. Defendants are without knowledge of the allegations in paragraph 97.

98. Defendants are without knowledge of the allegations in paragraph 98.

99. Defendants are without knowledge of the allegations in paragraph 99.

100. Defendants are without knowledge of the allegations in paragraph 100.

101. Defendants are without knowledge of the allegations in paragraph 101.

102. Defendants are without knowledge of the allegations in paragraph 102.

103. Defendants are without knowledge of the allegations in paragraph 103.

104. Defendants are without knowledge of the allegations in paragraph 104.

105. Defendants are without knowledge of the allegations in paragraph 105.

106. Defendants are without knowledge of the allegations in paragraph 106.

107. Defendants deny the allegations in paragraph 107.

108. Admitted.

109. Defendants deny the allegations in paragraph 109.

110. Defendants deny the allegations in paragraph 110.

111. Defendants admit responding truthfully to the compulsory interrogations by INDER personnel. Defendants deny the remaining allegation in paragraph 111.

112. Defendants deny the allegations in paragraph 112.

113. Defendants admit that Puig responded truthfully to the compulsory interrogations by DCSE personnel that Orozco had provided him with a cell phone, that a man from abroad would be calling him, and that Orozco had planned to return to Cienfuegos for him. Defendants deny the remaining allegations in paragraph 113.

114. Defendants admit that during the compulsory interrogations by DCSE personnel, Puig confirmed that he had received multiple calls to the cell phone that Orozco had given him, that the calls were from Orozco and another man, and that both men had called to speak to him about leaving Cuba. Defendants deny the remaining allegations in paragraph 114.

115. Defendants admit that Orozco called Puig to persuade him to escape the country and that Orozco told Puig his location. Defendants are without knowledge of the remaining allegations in paragraph 115.

116. Defendants deny the allegations in paragraph 116.

117. Defendants deny the allegations in paragraph 117.

118. Defendants deny the allegations in paragraph 118.

119. The declaration referenced in paragraph 119 speaks for itself; and Defendants deny any allegation that is inconsistent with the written document. Defendants do not admit the authenticity of the declaration. Defendants are without knowledge of the remaining allegations in paragraph 119.

120. The declaration referenced in paragraph 120 speaks for itself; and defendants deny any allegation that is inconsistent with the written document. Defendants do not admit the authenticity of the declaration. Defendants deny the remaining allegations in paragraph 120.

121. Admitted.

122. Defendants are without knowledge of the allegations in paragraph 121.

123. Admitted that athletes who attempt to flee Cuba are generally removed from the National Team. Defendants are without knowledge of the remaining allegations in paragraph 123.

124. Defendants are without knowledge of the allegations in paragraph 124.

125. Admitted that Puig had been sanctioned by the government and relegated to the developmental team in Cienfuegos. Admitted that Puig participated in the 2008 World Junior Baseball Championship and having played in the Cienfuegos National Series team for the 2008-2009 season. Defendants deny the remaining allegations in paragraph 125.

126. Admitted that Puig was reinstated into the National Series baseball team for Cienfuegos and reinstated into the Cuban national baseball team, which travels outside of the island. Defendants deny the remaining allegations in paragraph 126.

127. Admitted that Puig, as part of the National Team, traveled to the 2011 World Port Tournament in Rotterdam, the Netherlands, and that Puig was suspended from baseball subsequently. Denied that Puig had attempted to escape while at the 2011 World Port Tournament in Rotterdam, the Netherlands. Defendants are without knowledge of the remaining allegations in paragraph 127.

128. Defendants deny the allegations in paragraph 128.

129. Defendants admit that Puig was removed from the National team and relegated to the developmental team rather than the National Series for the 2009-2010 season. Defendants deny the remaining allegations in paragraph 129.

130. Defendants deny the allegations in paragraph 130.

131. Defendants deny the allegations in paragraph 131.

132. Defendants deny the allegations in paragraph 132.

133. Defendants deny the allegations in paragraph 133.

134. Defendants deny the allegations in paragraph 134.

135. Defendants are without knowledge of the allegations in paragraph 135.

136. Defendants deny the allegations in paragraph 136.

137. Defendants deny the allegations in paragraph 137.

138. Defendants deny the allegations in paragraph 138.

139. Defendants deny the allegations in paragraph 139.

140. Defendants deny the allegations in paragraph 140.

141. Defendants deny the allegations in paragraph 141.

142. Admitted that Puig attempted to leave Cuba in Holguin Providence, Cuba with a group of others, and that the attempt was intercepted by Cuban authorities. Defendants are without knowledge of the remaining allegations in paragraph 142.

143. Defendants admit that Puig attempted to escape Cuba from Central Chaparra, Jesus Menendez municipality, Cuba with a group of others, that the attempt was intercepted by the coast guard, and that they

were returned to Cuba by the coast guard. Defendants are without knowledge of the remaining allegations in paragraph 143.

144. Defendants admit that Puig successfully escaped from Cuba without interception on or around June 2012; that Yunion Despaigne, Lester Quesada, Jenny Reyes, and others were with Puig during this escape; that the group landed first on Isla Mujeres, Mexico, where they remained for approximately one (1) month; that they were subsequently taken to Cancun, where they stayed for approximately two (2) days; that Puig subsequently went to Mexico City, where he received Mexican residency; that Jaime Torres visited with Puig in Mexico City; and that Puig entered the United States through the U.S./Mexico border after remaining in Mexico City for approximately twenty (20) days. Defendants deny that Jaime Torres is Puig's current sports agent. Defendants are without knowledge of the remaining allegations in paragraph 144.

145. Defendants deny the allegations in paragraph 145.

146. Defendants deny the allegations in paragraph 146.

147. Defendants deny the allegations in paragraph 147.



148. Defendants are without knowledge of the allegations in paragraph 148.<sup>1</sup>

149. Defendants are without knowledge of the allegations in paragraph 149.

150. Defendants are without knowledge of the allegations in paragraph 150.

151. Defendants are without knowledge of the allegations in paragraph 151.

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153. Defendants are without knowledge of the allegations in paragraph 153.

154. Defendants are without knowledge of the allegations in paragraph 154.

155. Defendants are without knowledge of the allegations in paragraph 155.

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<sup>1</sup> Paragraphs 148 through 232 of the Complaint contain general allegations regarding the Cuban judicial system and the Cuban government's mistreatment of non-parties that are not connected with this matter. Defendants are unable to properly investigate these allegations and therefore, respond to these paragraphs by lacking knowledge.

156. Defendants are without knowledge of the allegations in paragraph 156.

157. Defendants are without knowledge of the allegations in paragraph 157.

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230. Defendants are without knowledge of the allegations in paragraph 230.

231. Defendants are without knowledge of the allegations in paragraph 231.

232. Defendants are without knowledge of the allegations in paragraph 232.

233. Defendants deny the allegations in paragraph 233.

234. Admitted that Puig was placed into the developmental team in Cienfuegos as part of official sanctions against him. Defendants deny the remaining allegations in paragraph 234.

235. Defendants deny the allegations in paragraph 235.

236. Defendants deny the allegations in paragraph 236.

237. Defendants deny the allegations in paragraph 237.

238. Defendants deny the allegations in paragraph 238.

239. Defendants deny the allegations in paragraph 239.

240. Defendants deny the allegations in paragraph 240.

241. Defendants deny the allegations in paragraph 241.

242. Defendants deny the allegations in paragraph 242.

243. Defendants deny the allegations in paragraph 243.

244. Defendants deny the allegations in paragraph 244.

245. Defendants deny the allegations in paragraph 245.

246. Defendants deny that Puig had any involvement with a conspiracy, or had acted pursuant to a conspiracy. Defendants are without knowledge of the remaining the allegations in paragraph 246.

247. Defendants deny that Valdes had any involvement with a conspiracy, or acted pursuant to a conspiracy. Defendants are without knowledge of the remaining the allegations in paragraph 247.

248. Defendants deny the allegations in paragraph 248.

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269. Defendants deny the allegations in paragraph 269.
270. Defendants deny the allegations in paragraph 270.
271. Defendants deny the allegations in paragraph 271.
272. Defendants deny the allegations in paragraph 272.

273. Defendants deny the allegations in paragraph 273.

**COUNT I**  
**Torture in Violation of TVPA**  
**(Against Puig and Valdes)**

274. Defendants are without knowledge of the allegations in paragraph 274.

275. Defendants are without knowledge of the allegations in paragraph 275.

276. Defendants deny the allegations in paragraph 276.

277. Defendants deny the allegations in paragraph 277.

278. Defendants deny the allegations in paragraph 278.

279. Defendants deny the allegations in paragraph 279.

280. Defendants are without knowledge of the allegations in paragraph 280.

281. Defendants deny that plaintiff is entitled to any damages from defendants. Defendants are without knowledge of the remaining allegations in paragraph 281.

282. Defendants deny all allegations in the Complaint that are not specifically admitted herein.

## **AFFIRMATIVE DEFENSES**

1. Plaintiff's Second Amended Complaint fails to state a claim under the TVPA upon which relief can be granted.
2. Plaintiff's claim is barred because the Torture Victim Protection Act ("TVPA")<sup>2</sup> does not apply extraterritorially to the facts of this case.
3. Plaintiff claim under the TVPA is barred for failure to meet the TVPA's definition of torture.
4. Plaintiff claim of secondary liability under the TVPA is barred because the defendants never agreed with the Cuban government to bring about plaintiff's detention and torture.
5. Plaintiff's claim is non-justiciable under the political question doctrine because adjudication of this case would require this Court to rule on matters that are constitutionally committed to the political branches of the government and this Court lacks judicially discoverable and manageable standards by which it may decide this case.
6. Plaintiff's claim is non-justiciable under the doctrine of international comity. The locus of this case is Cuba and this Court should

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<sup>2</sup> The TPVA provides, in part: "An individual who, under actual or apparent authority, or color of law, of any foreign nation – (1) subjects an individual to torture shall, in a civil action, be liable for damages to that individual." Torture Victim Protection Act § 2(a), Pub. L. No. 102-256, 106 Stat. 73 (1992) (codified at 28 U.S.C. § 1350 (Historical and Statutory Notes)).

not interfere with Cuba's sovereignty in regulating illegal human smuggling and trafficking.

7. Plaintiff's claim is barred by international doctrine that immunizes witnesses from liability for participating in criminal proceedings.

8. Plaintiff's' claim is non-justiciable under the act of state doctrine as plaintiff asks this Court to sit in judgment of the Cuban criminal justice system, plaintiff's trial in Cuba, and Cuba's enforcement of its anti-trafficking laws.

9. Plaintiffs' claims are un-triable due to the unavailability of critical witnesses and evidence.

WHEREFORE, defendants demand judgment against plaintiff and such other relief as the Court deems just and proper.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that on August 8, 2014, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified on the attached Service List in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

By: /s/ Averil Andrews  
Averil Andrews

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