STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

SCOTT SUMERACKI,

Plaintiff/Counter-Defendant,

Case No.: 25-016997-CH
Hon. Muriel D. Hughes

vs.

GARDEN CITY COLLISION, LLC, *et. al.*,

Defendants,

and

GARDEN CITY COLLISION, LLC, and OSAMA NAGI SAIF ALJABALI,

Defendants/Counter-Plaintiffs.

OPINION AND ORDER ON PLAINTIFF'S MOTION FOR LEAVE TO FILE AMENDED COMPLAINT

At a session of said Court held in the Coleman A. Young Municipal Center, Detroit, Wayne County, Michigan,
on this: 6/11/2026

PRESENT: Muriel D. Hughes
Circuit Judge

This civil matter is before the Court on a motion for leave to file a first amended complaint filed by Plaintiff Scott Sumeracki ("Sumeracki"). Defendants Amy V. Doukoure, Esq. ("Doukoure") and Council on American-Islamic Relations — Michigan ("CAIR-Michigan") oppose the motion. Defendants Garden City Collision, LLC ("GC

Collision") and Osama Nagi Saif Aljabali ("Aljabali") oppose the motion in part. For the reasons stated below, the Court grants the motion in part and denies it in part.

I. BACKGROUND

Sumeracki resides at 29223 James Street in Garden City, Michigan, immediately adjacent to GC Collision's auto body and collision-repair facility at 6982 Middlebelt Road. He filed his original Verified Complaint asserting claims arising from paint fumes, overspray, emissions, and nuisance conditions connected to GC Collision's operations, as well as subsequent conduct by Doukoure and CAIR-Michigan.

On March 20, 2026, this Court entered two orders on motions for summary disposition filed under MCR 2.116(C)(8).

As to GC Collision and Aljabali, the Court denied the motion on Count I (nuisance), Count III (negligence), and Count IX (declaratory and injunctive relief); granted the motion in part on Count II (trespass), dismissing the claim to the extent it relied on the Michigan Trespass Liability Act while allowing the common-law overspray theory to proceed; and granted the motion without prejudice on Count VI (defamation) and Count VIII (intentional infliction of emotional distress).

As to Doukoure and CAIR-Michigan, the Court granted the motion in its entirety, dismissing Counts IV through IX without prejudice.

Sumeracki now seeks leave to file a First Amended Verified Complaint. The proposed amendment: (a) removes Count IV (civil stalking), Count V (intrusion upon seclusion), and Count VIII (intentional infliction of emotional distress); (b) removes reliance on the Michigan Trespass Liability Act from Count II; (c) repleads Count VI (defamation) with greater specificity against Doukoure, CAIR-Michigan, GC Collision,

and Aljabali; (d) repleads Count VII (abuse of process) with additional factual detail against Doukoure; and (e) narrows Count IX (declaratory and injunctive relief) to GC Collision and the Aljabali defendants only.

GC Collision and Aljabali oppose the motion only as to the repleading of Count VI for defamation. They do not object to the conforming amendments to Counts I, II, III, and IX. Doukoure and CAIR-Michigan oppose the motion in its entirety as to any claims against them, arguing that the proposed defamation and abuse-of-process claims remain legally futile.

II. STANDARD FOR LEAVE TO AMEND

Under MCR 2.118(A)(2), a party may amend a pleading by leave of court or written consent of the adverse party, and leave "shall be freely given when justice so requires." The Michigan Supreme Court has held that a motion to amend ordinarily should be granted and should be denied only for particularized reasons: (1) undue delay, (2) bad faith or dilatory motive, (3) repeated failure to cure deficiencies by amendments previously allowed, (4) undue prejudice to the opposing party, or (5) futility of the amendment. *Ben P Fyke & Sons v Gunter Co,* 390 Mich 649, 656 (1973); *Weymers v Khera,* 454 Mich 639, 658 (1997).

An amendment is futile if, ignoring the substantive merits of the claim, it is legally insufficient on its face; if it merely restates the allegations already made; or if it adds a claim over which the court lacks jurisdiction. *PT Today, Inc v Comm'r of Office of Fin & Ins Servs,* 270 Mich App 110, 143 (2006). An amendment that merely restates allegations already made or adds allegations that still fail to state a claim is futile. *Lane v KinderCare Learning Ctrs, Inc,* 231 Mich App 689, 697 (1998). Where a plaintiff has been given an

opportunity to cure deficiencies after a dismissal without prejudice yet files a proposed amended complaint that does not address the court's identified deficiencies, the trial court need not grant leave. *Casey v Auto Owners Ins Co,* 273 Mich App 388 (2006); *Dowerk v Charter Twp of Oxford,* 233 Mich App 62 (1998).

III. DISCUSSION

A. Conforming Amendments (Counts I, II, III, and IX)

Sumeracki's proposed amendments to Counts I (nuisance), II (trespass), III (negligence), and IX (declaratory and injunctive relief) conform the pleadings to this Court's March 20, 2026 rulings. The proposed complaint removes the Michigan Trespass Liability Act theory from Count II and proceeds solely on common-law overspray, removes dismissed counts, and narrows declaratory and injunctive relief to GC Collision and the Aljabali defendants. These amendments do not inject new claims or theories. They eliminate claims and theories this Court already dismissed and conform the operative pleading to the Court's prior rulings.

GC Collision and Aljabali do not oppose these conforming amendments. No party has identified undue delay, bad faith, prejudice, or futility as to these amendments. The amendments promote judicial economy by establishing a single operative pleading that reflects the Court's prior orders.

The Court finds that justice requires granting leave as to Counts I, II, III, and IX.

B. Count VI — Defamation

Sumeracki seeks to replead Count VI for defamation against all Defendants. The proposed amended complaint identifies three categories of allegedly defamatory

statements: (1) statements Doukoure made to Garden City police on January 8, 2025; (2) statements Doukoure made during a Garden City Council meeting; and (3) statements Aljabali and GC Collision made to police in December 2024.

The Court addresses each category in turn.

1. <u>Statements to Police Are Absolutely Privileged</u>

Michigan has long recognized an absolute privilege for statements made to law enforcement when reporting criminal activity. *Shinglemeyer v Wright,* 124 Mich 230 (1900). In *Eddington v Torrez,* 311 Mich App 198, 203 (2015), the Court of Appeals reaffirmed that *Shinglemeyer* "created an absolute privilege that arises in the context of a defamation claim and covers any report of criminal activity to law enforcement personnel" and that *Shinglemeyer* "remains the law." The privilege applies even if the reporting party made the report maliciously. Persons who make statements to the police when reporting crimes or assisting the police in investigating crimes enjoy a privilege, and "those statements may not be used to sustain a defamation claim." *Eddington, supra.*

Sumeracki's proposed Count VI against Doukoure rests primarily on her January 8, 2025 police complaint, in which she reported to law enforcement that Sumeracki followed her from court, that she felt threatened, that Sumeracki yelled at her, and that he advanced aggressively toward her. These are statements made to police officers regarding alleged criminal or threatening conduct. They are absolutely privileged under *Shinglemeyer* and *Eddington*, regardless of whether they were true or made with malice. The proposed amendment does not alter this legal reality. Sumeracki's allegation that video evidence contradicts Doukoure's account does not defeat the privilege. The

absolute privilege attaches to the occasion of reporting to law enforcement, not to the truth of the report.

Similarly, the proposed Count VI against GC Collision and Aljabali rests on Aljabali's December 2024 report to police that Sumeracki had been cursing at employees and customers and had moved garbage cans around vehicles on the public roadway, and on their subsequent pursuit of harassment-related police or municipal action. These too are statements to law enforcement and through related governmental complaint channels. They are absolutely privileged and cannot sustain a defamation claim. *Eddington, supra.*

Sumeracki has identified no publication by GC Collision or Aljabali outside these protected channels. To the extent Count VI against these Defendants rests on statements to police and municipal authorities, it remains futile.

2. <u>City Council Statements Are Not Actionable</u>

Sumeracki also points to Doukoure's statements at a Garden City Council meeting, where she stated, in substance, that the situation was "about bias" and "about a city that answers to one man's prejudice instead of the law" and that "Arab and Muslim business owners [are] treated like criminals, while the man harassing them is rewarded with access, attention, and impunity."

To be actionable as defamation, a statement must assert facts that are "provable as false." *Ghanam v Does,* 303 Mich App 522, 545 (2014). The First Amendment protects statements that cannot be interpreted as stating actual facts about an individual, including "the usual rhetorical hyperbole and imaginative expression." *Id.* at 546. Terms such as "blackmailer," "traitor," "crook," "steal," and "criminal activities" must be read in context to determine whether they are merely exaggerations of the type often used in

public commentary. Where a reasonable reader would understand such terms as rhetorical hyperbole meant to express strong disapproval rather than an accusation of criminal activity or actual misconduct, they cannot be regarded as defamatory. *Id.*

Doukoure's references to "one man's prejudice" and "the man harassing them" are not provable as false. They are characterizations and expressions of opinion about Sumeracki's motivations in the context of a public dispute addressed to a legislative body. They convey disapproval and criticism, not concrete factual assertions susceptible of being proven true or false. Under *Ghanam v Does*, this is the language of public commentary on a matter of municipal concern. A defamation defendant cannot be held liable for the reader's possible inferences, speculations, or conclusions where the defendant has not made or directly implied any provably false factual assertion. *Locricchio v Evening News Ass'n,* 438 Mich 84, 144 (1991).

To the extent Sumeracki alleges that Doukoure "admitted" calling him a "racist" and "criminal harasser" in prior motion practice, Defendants deny that allegation, and even if such characterizations were used, they fall within the category of protected opinion or rhetorical hyperbole that Michigan law does not treat as actionable defamation. *Ghanam, supra.*

3. The Proposed Amendment Fails the Specificity Requirement

Michigan law requires a plaintiff to specifically identify every statement claimed to be defamatory. *Sarkar v Doe,* 318 Mich App 156 (2016). The elements of a defamation claim "must be specifically pleaded, including the allegations with respect to the defamatory words, the connection between the plaintiff and the defamatory words, and

the publication of the alleged defamatory words." *Thomas M. Cooley L. Sch. v. Doe 1*, 300 Mich. App. 245, 266 (2013).

As to GC Collision and Aljabali, the proposed amended complaint pleads defamation collectively, alleging that "GC Collision and/or Aljabali" "used or adopted" accusations. It does not identify the exact defamatory language attributed to each Defendant, does not separate who said what, when each statement was made, or to whom each was directed. This collective pleading fails to satisfy Michigan's specificity requirement. *Sarkar, supra.*

4.Count VI Remains Futile

The Court dismissed Count VI without prejudice on March 20, 2026, affording Sumeracki an opportunity to cure the identified defects. The proposed amendment adds narrative detail, but it does not materially alter the claims. The statements to police remain absolutely privileged. The city council statements are protected opinion and rhetorical hyperbole. No new actionable, nonprivileged publication has been identified. The collective pleading against GC Collision and Aljabali fails the specificity requirement. As in *Dowerk v Charter Twp of Oxford*, where the Court of Appeals affirmed denial of leave because the proposed amendment merely restated allegations already pleaded without curing defects, Sumeracki's proposed Count VI repackages the same theories in expanded form without addressing the legal deficiencies that required dismissal. The amendment to Count VI is futile. *Lane, supra; PT Today, supra.*

C. Count VII — Abuse of Process

Sumeracki seeks to replead Count VII for abuse of process against Doukoure. The proposed claim rests on Doukoure's January 8, 2025 police complaint and her subsequent use of police and municipal complaint processes. Sumeracki alleges that Doukoure made a false police complaint for an ulterior purpose — to intimidate and retaliate against him for his complaints regarding GC Collision — and that this caused officers to be dispatched to his home.

Abuse of process is "the wrongful use of the process of a court." *Spear v Pendill,* 164 Mich 620, 623 (1911). Two elements must be established: (1) the existence of an ulterior purpose, and (2) an act in the use of the process not proper in the regular prosecution of the proceeding. *Id.* Critically, the action "lies for the improper use of process after it has been issued, not for maliciously causing it to issue."*Id.* Where enforcement officers wrongfully caused process to issue, that conduct is actionable, if at all, only as malicious prosecution and not as abuse of process. *Belt v Ritter,* 18 Mich App 495, 499-500 (1969). A complaint must allege more than the mere issuance of process, because a claim asserting nothing more than an improper motive in properly obtaining process does not successfully plead an abuse of process. *Dalley v Dykema Gossett PLLC,* 287 Mich App 296, 322 (2010). Moreover, even a bad motive alone will not establish the claim; there must be a corroborating act demonstrating the ulterior purpose. *Bonner v Chicago Title Ins Co,* 194 Mich App 462, 472 (1992); *Vallance v Brewbaker,* 161 Mich App 642, 646 (1987).

Sumeracki's proposed Count VII does not allege an improper act in the use of process after its issuance. Rather, it alleges that Doukoure filed a false police complaint and that officers were dispatched to his residence. Filing a police report is the act of

causing a police response — it is not the use of judicially-issued process. Under *Spear v Pendill*, making a criminal complaint, without more, cannot support an abuse of process claim because the complainant "had no control over said warrant and criminal prosecution after making the complaint." Under *Friedman v Dozorc*, 412 Mich 1 (1981), the mere filing of a summons and complaint — even a groundless one — is properly employed when used to institute a civil action and cannot support an abuse of process claim.

Sumeracki also alleges that Doukoure filed a motion to amend and add a counterclaim "despite not being a party." To the extent this allegation refers to the use of litigation mechanisms, a party's pursuit of a motion or other court procedure for its intended purpose does not constitute abuse of process, even if motivated by an improper intent. *Dalley, supra; Friedman, supra*.

The proposed amendment does not cure the defect that led this Court to dismiss Count VII on March 20, 2026. Sumeracki still relies on Doukoure's police complaint and related municipal activities — not on any improper act in the use of court-issued process after its issuance. The amendment to Count VII is futile.

IV. CONCLUSION

Sumeracki's proposed conforming amendments to Counts I, II, III, and IX remove claims and theories this Court has already dismissed and conform the pleading to the Court's March 20, 2026 rulings. These amendments are proper and justice requires that leave be granted as to those counts.

The proposed amendments to Count VI (defamation) and Count VII (abuse of process), however, do not cure the defects previously identified by this Court. The defamation claim remains legally insufficient because the statements to police are

absolutely privileged, the city council statements are protected opinion, and the pleading lacks the specificity Michigan law requires. The abuse of process claim remains legally insufficient because it rests on the filing of a police complaint, not on the misuse of judicially-issued process. Because these proposed amendments are futile, leave to amend is denied as to Counts VI and VII.

For the reasons stated in the foregoing Opinion,

IT IS ORDERED that Plaintiff Scott Sumeracki's Motion for Leave to File First Amended Complaint is **GRANTED IN PART** and **DENIED IN PART** as follows:

IT IS FURTHER ORDERED that Plaintiff is **GRANTED** leave to file the First Amended Verified Complaint to the extent it conforms the pleadings to this Court's March 20, 2026 orders, including the amendments to Count I (nuisance), Count II (trespass — common-law overspray theory only), Count III (negligence), and Count IX (declaratory and injunctive relief as to GC Collision and the Aljabali defendants only), and to the extent it removes Counts IV (civil stalking), V (intrusion upon seclusion), and VIII (intentional infliction of emotional distress);

IT IS FURTHER ORDERED that Plaintiff is **DENIED** leave to replead Count VI (defamation) against Defendants Amy V. Doukoure, Esq., Council on American-Islamic Relations — Michigan, Garden City Collision, LLC, and Osama Nagi Saif Aljabali, on the ground that the proposed amendment is futile;

IT IS FURTHER ORDERED that Plaintiff is **DENIED** leave to replead Count VII (abuse of process) against Defendant Amy V. Doukoure, Esq., on the ground that the proposed amendment is futile;

IT IS FURTHER ORDERED that this matter shall proceed on the surviving claims consistent with this Order and the Court's prior orders of March 20, 2026;

THIS IS NOT A FINAL ORDER AND DOES NOT CLOSE THE CASE.

IT IS SO ORDERED.

DATED:

/s/ Muriel D. Hughes
June 11, 2026

Hon. Muriel D. Hughes
Circuit Judge