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6 Attorneys for Defendant William D. Gore
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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

11 EDWARD PERUTA,

12 Plaintiff,

13 v.

14 COUNTY OF SAN DIEGO, WILLIAM D.
15 GORE, INDIVIDUALLY AND IN HIS
CAPACITY AS SHERIFF,

16 Defendants.
17
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USSD No. **09-CV-2371 IEG (BLM)**

**DEFENDANT WILLIAM D. GORE'S
ANSWER TO COMPLAINT**

Dept: 1 – Courtroom of the
Hon. Irma E. Gonzalez

19 Defendant William D. Gore (“Defendant Gore”) answers the Complaint for
20 Damages filed herein by admitting, denying and alleging as follows:

21 1. In response to Paragraph 1 of the Complaint, Defendant Gore lacks
22 sufficient information and belief to admit or deny the allegations contained in those
23 paragraphs, and on that basis, denies each and every allegation contained therein.

24 2. In response to Paragraph 2 of the Complaint, Defendant Gore denies the
25 allegations contained therein.

26 3. In response to Paragraphs 3, 4, 5, and 6 of the Complaint, Defendant Gore
27 admits the allegations contained therein.

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1 4. In response to Paragraphs 7 and 8, of the Complaint, Defendant Gore denies
2 the allegations contained therein.

3 5. In response to Paragraph 9 of the Complaint, Defendant Gore admits the
4 allegations contained therein.

5 6. In response to Paragraph 10 of the Complaint, Defendant Gore denies the
6 allegations contained therein.

7 7. In response to Paragraphs 11, 12, and 13 of the Complaint, Defendant Gore
8 admits the allegations contained therein.

9 8. In response to Paragraph 14 of the Complaint, Defendant Gore lacks
10 sufficient information and belief to admit or deny the allegations contained in those
11 paragraphs, and on that basis, denies each and every allegation contained therein.

12 9. In response to Paragraphs 15 and 16 of the Complaint, Defendant Gore
13 denies the allegations contained therein.

14 10. In response to Paragraphs 17, 18, 19, 20, 21, 22, 23, 24, 25, 26 and 27 of the
15 Complaint, Defendant Gore lacks sufficient information and belief to admit or deny the
16 allegations contained in those paragraphs, and on that basis, denies each and every
17 allegation contained therein.

18 11. In response to Paragraph 28 of the Complaint, Defendant Gore admits the
19 allegations contained therein.

20 12. In response to Paragraph 29 of the Complaint, Defendant Gore lacks
21 sufficient information and belief to admit or deny the allegations contained in those
22 paragraphs, and on that basis, denies each and every allegation contained therein.

23 13. In response to Paragraphs 30 and 31 of the Complaint, Defendant Gore
24 denies the allegations contained therein.

25 14. In response to Paragraphs 32 and 33 of the Complaint, Defendant Gore lacks
26 sufficient information and belief to admit or deny the allegations contained in those
27 paragraphs, and on that basis, denies each and every allegation contained therein.

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1 15. In response to Paragraphs 34 and 35 of the Complaint, Defendant Gore
2 admits the allegations contained therein.

3 16. In response to Paragraphs 36, 37, 38 and 39 of the Complaint, Defendant
4 Gore denies the allegations contained therein.

5 17. In response to Paragraph 40 of the Complaint, Defendant Gore hereby
6 incorporates by reference its response to Paragraphs 1 through 39 of the Complaint, as
7 contained in Paragraphs 1 through 16 of this Answer, as though fully set forth.

8 18. In response to Paragraphs 41 and 42 of the Complaint, Defendant Gore
9 denies the allegations contained therein.

10 19. In response to Paragraph 43 of the Complaint, Defendant Gore hereby
11 incorporates by reference its response to Paragraphs 1 through 42 of the Complaint, as
12 contained in Paragraphs 1 through 18 of this Answer, as though fully set forth.

13 20. In response to Paragraphs 44 and 45 of the Complaint, Defendant Gore
14 denies the allegations contained therein.

15 21. In response to Paragraph 46 of the Complaint, Defendant Gore hereby
16 incorporates by reference its response to Paragraphs 1 through 45 of the Complaint, as
17 contained in Paragraphs 1 through 20 of this Answer, as though fully set forth.

18 22. In response to Paragraph 47 of the Complaint, Defendant Gore admits the
19 allegations contained therein.

20 23. In response to Paragraph 48 of the Complaint, Defendant Gore denies the
21 allegations contained therein.

22 **AFFIRMATIVE DEFENSES**

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24 As a first, separate and distinct affirmative defense, defendant alleges that the
25 complaint fails to state facts sufficient to constitute a claim upon which relief can be
26 granted.

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As a second, separate and distinct affirmative defense, defendant alleges that plaintiff has failed to sue a proper and indispensable party.

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As a third, separate and distinct affirmative defense, defendant alleges that the complaint is barred by laches.

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As a fourth, separate and distinct affirmative defense, defendant alleges that he is entitled to qualified immunity from liability under title 42, United States Code section 1983 and that plaintiff's claims do not arise out of any clearly established constitutional right.

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As a fifth, separate and distinct affirmative defense, defendant alleges that the action is barred by the statute of limitations.

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As a sixth, separate and distinct affirmative defense, defendant alleges that the action is barred by plaintiff's failure to exhaust administrative remedies, including but not limited to, internal administrative procedures and/or statutory administrative procedures and, therefore, this Court lacks jurisdiction over plaintiff's claim.

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As a seventh, separate and distinct affirmative defense, defendant alleges that plaintiff lacks standing to maintain this action.

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As an eighth, separate and distinct affirmative defense, defendant alleges that plaintiff has an adequate remedy at law.

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As a ninth, separate and distinct affirmative defense, defendant alleges that the Complaint is moot.

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WHEREFORE, said defendant prays as follows:

1. That the action be dismissed with prejudice;
2. That the request for injunctive relief be denied and plaintiff take nothing by his action;
3. That defendant recover his costs of suit incurred herein, including attorneys' fees; and
4. For such other and further relief as the Court deems proper and just.

DATED: January 20, 2010

JOHN J. SANSONE, County Counsel

By: s/ JAMES M. CHAPIN, Senior Deputy
Attorneys for Defendant William D. Gore

Declaration of Service

I, the undersigned, declare:

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California, where the service occurred; and my business address is: 1600 Pacific Highway, Room 355, San Diego, California.

On January 20, 2010, I served the following documents: **Defendant William D. Gore's Answer to Complaint** in the following manner:

By placing a copy in a separate envelope, with postage fully prepaid, for each addressee named below and depositing each in the U. S. Mail at San Diego, California.

By electronic filing, I served each of the above referenced documents by E-filing, in accordance with the rules governing the electronic filing of documents in the United States District Court for the Southern District of California, as to the following parties:

Paul H. Neuharth, Jr., Esq.
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San Diego, CA 92101
T: (619) 231-0401
F: (619) 231-8759
E-mail: pneuharth@sbcglobal.net
(Attorney for Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.
Executed on January 20, 2010, at San Diego, California.

By: s/ JAMES M. CHAPIN
E-mail: james.chapin@sdcounty.ca.gov