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 TORRANCE POLICE DEPARTMENT

14 UNITED STATES DISTRICT COURT  
 15 CENTRAL DISTRICT OF CALIFORNIA

16 ROBERT THOMSON,  
 17 Plaintiff,  
 18 vs.  
 19 TORRANCE POLICE DEPARTMENT  
 and THE LOS ANGELES COUNTY  
 20 SHERIFFS DEPARTMENT,  
 21 Defendants.

Case No. CV11-06154 SJO (JCx)  
**ANSWER OF DEFENDANT  
 TORRANCE POLICE  
 DEPARTMENT TO PLAINTIFF'S  
 FIRST AMENDED COMPLAINT**

Date Action Filed: July 26, 2011

1 Defendant TORRANCE POLICE DEPARTMENT (“Defendant”) hereby  
2 answers the First Amended Complaint (“Complaint”) filed by Plaintiff ROBERT  
3 THOMSON (“Plaintiff”) as follows:

4 **RESPONSE TO PREFATORY STATEMENT**

5 Answering the prefatory statement on page 1 of the Complaint, Defendant  
6 admits that it denied Plaintiff’s application under California Penal Code section  
7 12050 for a concealed carry weapon (“CCW”) permit. Except as expressly admitted  
8 herein, Defendant denies each and every allegation contained in the prefatory  
9 statement on page 1 of the Complaint both generally and specifically.

10 **RESPONSE TO INTRODUCTION**

11 1. Answering paragraph 1 of the Complaint, Defendant admits that  
12 Plaintiff applied for a CCW permit from Defendant and was denied a CCW permit  
13 by Defendant. Defendant is without sufficient knowledge or information to form a  
14 belief as to the truth of the remaining allegations contained in said paragraph, and on  
15 that basis denies each and every allegation contained therein.

16 2. Answering paragraph 2 of the Complaint, Defendant is without  
17 sufficient knowledge or information to form a belief as to the truth of the allegations  
18 contained in said paragraph, and on that basis denies each and every allegation  
19 contained therein.

20 3. Answering paragraph 3 of the Complaint, Defendant is without  
21 sufficient knowledge or information to form a belief as to the truth of the allegations  
22 contained in said paragraph, and on that basis denies each and every allegation  
23 contained therein.

24 4. Answering paragraph 4 of the Complaint, Defendant is without  
25 sufficient knowledge or information to form a belief as to the truth of the allegations  
26 contained in said paragraph, and on that basis denies each and every allegation  
27 contained therein.

28 5. Answering paragraph 5 of the Complaint, Defendant admits that

1 Plaintiff applied for a CCW permit from Defendant and was denied a CCW permit  
2 by Defendant based on Defendant's failure to establish good cause for the issuance  
3 thereof. Except as expressly admitted herein, Defendant denies each and every  
4 allegation contained in paragraph 5 both generally and specifically.

5 **RESPONSE TO PARTIES**

6 6. Answering paragraph 6 of the Complaint, Defendant admits that  
7 Plaintiff is a natural person. Defendant is without sufficient knowledge or  
8 information to form a belief as to the truth of the remaining allegations contained in  
9 said paragraph, and on that basis denies each and every allegation contained therein.

10 7. Answering paragraph 7 of the Complaint, Defendant affirmatively  
11 alleges that the Torrance Police Department is a department of the City of Torrance,  
12 which is a Charter City governed as a Council/Manager form of government under  
13 the laws of the State of California. Except as expressly admitted herein, Defendant  
14 denies each and every allegation contained in paragraph 7 both generally and  
15 specifically.

16 8. Answering paragraph 8 of the Complaint, Defendant is without  
17 sufficient knowledge or information to form a belief as to the truth of the allegations  
18 contained in said paragraph, and on that basis denies each and every allegation  
19 contained therein.

20 **RESPONSE TO JURISDICTION & VENUE**

21 9. Answering paragraph 9 of the Complaint, Defendant affirmatively  
22 alleges that this Court has jurisdiction over this action under 28 U.S.C. section 1331  
23 only if this action states a valid claim for relief under 42 U.S.C. section 1983.

24 10. Answering paragraph 10 of the Complaint, Defendant admits the  
25 allegations contained therein.

26 **RESPONSE TO LEGAL BACKGROUND**

27 11. Answering paragraph 11 of the Complaint, Defendant admits that the  
28 Attorney General has created a form application for applying for a CCW permit

1 under California Penal Code section 12050. Except as expressly admitted herein,  
2 Defendant denies each and every allegation contained in paragraph 11 both  
3 generally and specifically.

4 12. Answering paragraph 12 of the Complaint, Defendant admits that  
5 courts have recognized that police chiefs and sheriffs have wide discretion to decide  
6 "good cause" under California Penal Code section 12050. Except as expressly  
7 admitted herein, Defendant denies each and every allegation contained in paragraph  
8 12 both generally and specifically.

9 13. Answering paragraph 13 of the Complaint, Defendant is without  
10 sufficient knowledge or information to form a belief as to the truth of the allegations  
11 contained in said paragraph, and on that basis denies each and every allegation  
12 contained therein.

13 **RESPONSE TO FIRST CAUSE OF ACTION**

14 14. Answering paragraph 14 of the Complaint, Defendant denies each and  
15 every allegation contained therein both generally and specifically.

16 15. Answering paragraph 15 of the Complaint, Defendant denies each and  
17 every allegation contained therein both generally and specifically.

18 16. Answering paragraph 16 of the Complaint, Defendant denies each and  
19 every allegation contained therein both generally and specifically.

20 **AFFIRMATIVE DEFENSES**

21 17. As separate and distinct answers and defenses to Plaintiff's Complaint,  
22 and on the basis that it has evidentiary support or is likely to have evidentiary  
23 support after a reasonable opportunity for further investigation or discovery,  
24 Defendant alleges the following:

25 **FIRST AFFIRMATIVE DEFENSE**

26 (Failure to State a Claim)

27 18. The Complaint and its one cause of action asserted therein fails to state  
28 a claim upon which relief can be granted against Defendant.

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**SECOND AFFIRMATIVE DEFENSE**

(Failure to Mitigate Damages)

19. The relief sought by Plaintiff is barred to the extent he failed to take all necessary steps to mitigate any damages he allegedly suffered.

**THIRD AFFIRMATIVE DEFENSE**

(No Constitutional Deprivation—Qualified Immunity)

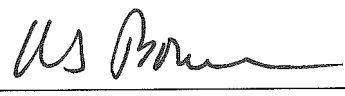
20. Neither Defendant nor its employees or agents deprived Plaintiff of any clearly established constitutional or statutory rights of which Defendant or its employees or agents reasonably should have been or could have been aware. As such, Defendant is entitled to qualified immunity.

WHEREFORE, Defendant TORRANCE POLICE DEPARTMENT prays for judgment against Plaintiff ROBERT THOMSON as follows:

- 1. That Plaintiff take nothing by reason of his Complaint;
- 2. That judgment on the Complaint be entered in favor of Defendant;
- 3. That Defendant be awarded its costs of suit incurred as a result of this action;
- 4. That Defendant be awarded its attorneys' fees and litigation expenses as a result of this action; and
- 5. That the Court award such other and further relief as deemed just and proper.

Dated: August 26, 2011

RUTAN & TUCKER, LLP  
ROBERT S. BOWER  
AJIT S. THIND

By: 

Robert S. Bower  
Attorneys for Defendant  
TORRANCE POLICE  
DEPARTMENT