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    Attorneys for Defendant Sheriff William D. Gore
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                           UNITED STATES DISTRICT COURT
                        SOUTHERN DISTRICT OF CALIFORNIA
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    EDWARD PERUTA, MICHELLE
                                                 USSD No. 09-CV-2371 IEG (BLM)
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    LAXSON, JAMES DODD, DR. LESLIE
    BUNCHER, MARK CLEÁRY and
12
    CALIFORNIA RIFLE AND PISTOL
                                                 DEFENDANT WILLIAM D. GORE'S
    ASSOCIATION FOUNDATION.
13
                                                 ANSWER TO PLAINTIFFS' FIRST
                                                 AMENDED COMPLAINT
                      Plaintiffs,
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                                                 [Defendant Demands Jury Trial]
15
          V.
    COUNTY OF SAN DIEGO, WILLIAM D.
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    GORE, INDIVIDUALLY AND IN HIS
    CAPACITY AS SHERIFF,
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                      Defendants.
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          Defendant William D. Gore ("Defendant Gore") answers the First Amended
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    Complaint filed herein by admitting, denying and alleging as follows:
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          1.
                In response to Paragraphs 6, 7, 8, 9, 10, 11, 14, 19, 20, 21, 22, 24, 25, 26,
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    27, 28, 29, 30, 32, 33, 34, 35, 39, 40, 41, 42, 43, 44, 45, 46, 47, 51, 52, 53, 55, 56, 57,
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    58, 68, 75, 76, 89, 96, 101, 108, 138, 141, 143, 144, 145, 146, and 147 of the First
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    Amended Complaint, Defendant Gore lacks sufficient information and belief to admit
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    or deny the allegations contained in those paragraphs, and on that basis, denies each and
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    every allegation contained therein.
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- 2. In response to Paragraphs 13, 16, 18, 38, 50, 59, 61, 62, 64, 65, 66, 67, 72, 74, 92, 100, and 140 of the First Amended Complaint, Defendant Gore admits the allegations contained therein.
- 3. In response to Paragraphs 1, 2, 3, 4, 5, 12, 15, 16, 17, 23, 31, 36, 37, 48, 54, 60, 63, 69, 70, 71, 73, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 91, 93, 94, 95, 97, 98, 99, 102, 103, 104, 105, 106, 107, 109, 110, 112, 113, 114, 116, 117, 118, 119, 120, 122, 123, 124, 125, 126, 128, 129, 130, 131, 133, 134, 135 and 136 of the First Amended Complaint, Defendant Gore denies the allegations contained therein.
- In response to Paragraph 49 of the First Amended Complaint, defendant 4. Gore admits the allegation as to granting renewal of Cleary's CCW application in November 2007. Except as expressly admitted, defendant lacks sufficient information and belief to admit or deny the remaining allegations contained said paragraph and on that basis, denies each and every remaining allegation contained therein.
- In response to paragraphs 111, 115, 121, 127, 132, 137, 139, and 142 of 5. the First Amended Complaint, Defendant Gore hereby incorporates by reference the responses to Paragraphs 1 through 147 of the First Amended Complaint, as though fully set forth herein.

AFFIRMATIVE DEFENSES

- As a first, separate and distinct affirmative defense, defendant alleges that 1. the First Amended Complaint fails to state facts sufficient to constitute a claim upon which relief can be granted.
- 2. As a second, separate and distinct affirmative defense, defendant alleges that plaintiffs have failed to sue a proper and indispensable party.
- As a third, separate and distinct affirmative defense, defendant alleges that 3. the complaint is barred by laches.
- As a fourth, separate and distinct affirmative defense, defendant alleges 4. that he is entitled to qualified immunity from liability under title 42, United States Code section 1983 and that plaintiffs' claims do not arise out of any clearly established

1	constitutional right.	
2	5.	As a fifth, separate and distinct affirmative defense, defendant alleges that
3	the action is barred by the statute of limitations.	
4	6.	As a sixth, separate and distinct affirmative defense, defendant alleges that
5	the action is barred by plaintiffs' failure to exhaust administrative remedies, including	
6	but not limited to, internal administrative procedures and/or statutory administrative	
7	procedures and, therefore, this Court lacks jurisdiction over plaintiffs' claims.	
8	7.	As a seventh, separate and distinct affirmative defense, defendant alleges
9	that plaintiffs lack standing to maintain this action.	
10	8.	As an eighth, separate and distinct affirmative defense, defendant alleges
11	that plaintiffs have an adequate remedy at law.	
12	9.	As a ninth, separate and distinct affirmative defense, defendant alleges that
13	the action is moot.	
14	10.	As a tenth, separate and distinct affirmative defense, defendant alleges that
15	he is a state actor who is immune from liability under 42 U.S.C. Section 1983.	
16	WHEREFORE, said defendant prays as follows:	
17	1.	That the action be dismissed with prejudice;
18	2.	That the request for injunctive relief be denied and plaintiffs take nothing
19	by his action;	
20	3.	That defendant recover his costs of suit incurred herein, including
21	attorneys' fees; and	
22	4.	For such other and further relief as the Court deems proper and just.
23	DATED:	July 9, 2010 JOHN J. SANSONE, County Counsel
2425		By: s/ <u>James M. Chapíw</u> JAMES M. CHAPIN, Senior Deputy Attorneys for Defendant Sheriff William D. Gore
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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 July 9, 2010, I served the following documents: **Defendant William** Gore's Answer to Plaintiff's First Amended Complaint [Defendant Demand's Jury Trial] 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 Efiling, 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:

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(Attorney for Plaintiff)

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Long Beach, California 90802

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E-mail: cmichael@michaellawers.com

(co-counsel for Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct. Executed on July 9, 2010, at San Diego, California.

By: s/James M. Chapin

JAMES M. CHAPIN, Senior Deputy E-mail: james.chapin@sdcounty.ca.gov