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County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer

7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**
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<p>10 ADAM BRANDY, an individual; 11 et al.,</p> <p>12 Plaintiffs,</p> <p>13 vs.</p> <p>14 ALEX VILLANUEVA, in his 15 official capacity as Sheriff of Los 16 Angeles County, California, and in his capacity as the Director of Emergency Operations; et al.,</p> <p>17 Defendants.</p> <hr/>	<p>18) Case No. 2:20-cv-02874-AB-SK 19) 20) Honorable Andre Birotte, Jr. 21) 22) DEFENDANTS COUNTY OF 23) LOS ANGELES, SHERIFF ALEX 24) VILLANUEVA, AND BARBARA 25) FERRER’S ANSWER TO FIRST 26) AMENDED COMPLAINT FOR 27) INJUNCTIVE AND 28) DECLARATORY RELIEF; DEMAND FOR JURY TRIAL</p>
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20 TO THE HONORABLE COURT, ALL PARTIES, AND TO THEIR
21 COUNSEL OF RECORD:

22 COME NOW Defendants ALEX VILLANUEVA, BARBARA FERRER, and
23 COUNTY OF LOS ANGELES (“Defendants”) and answering the First Amended
24 Complaint (“FAC”) filed by Plaintiffs ADAM BRANDY, *et al.* (“Plaintiffs”) on file
25 herein, for itself and for no other defendant, admit, deny, and allege as follows:

- 26 1. Answering Paragraphs 1, 2, 3, 5, 35, 37, and 85 of the FAC,
27 Defendants admit that citizens are entitled to various rights and legal protections
28 under federal and state law, and otherwise, the allegations contained therein are

1 vague, ambiguous and argumentative, and on those grounds, deny each and every
2 allegation contained therein.

3 2. Answering Paragraph 4 of the FAC, Defendants admit that responding
4 to the COVID-19 Novel Coronavirus pandemic presents challenges to the
5 government and that the inmates have been released from the Los Angeles County
6 Jail as part of the County's response to the pandemic, and as to the remainder of the
7 allegations set forth in Paragraph 4, the allegations contained therein are vague,
8 ambiguous and argumentative, and on those grounds, deny each and every
9 allegation contained therein.

10 3. Answering Paragraphs 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19,
11 36, 46, 47, 48, 50, 53, 65, 66, 67, 68, 69, 70, 71, 72, 77, 104 and 105 of the FAC,
12 Defendants lack sufficient information or belief to enable them to answer said
13 Paragraphs, and on that ground, deny each and every allegation contained therein.

14 4. Answering Paragraph 20 of the FAC, Defendants admit Gavin Newsom
15 is the Governor of the State of California, issued Executive Order N-33-20 and has
16 been sued in his official capacity. As to the remainder of the allegations set forth in
17 Paragraph 7, these Defendants lack sufficient information or belief to enable them to
18 answer said Paragraph and, on that ground, deny each and every allegation
19 contained therein.

20 5. Answering Paragraph 21 of the FAC, Defendants admit that Sonia Y.
21 Angell is the State of California Public Health Officer, and she has been sued in her
22 official capacity. As to the remainder of the allegations set forth in Paragraph 21,
23 these Defendants lack sufficient information or belief to enable them to answer said
24 Paragraph and, on that ground, deny each and every allegation contained therein.

25 6. Answering Paragraph 22 of the FAC, Defendants admit the County of
26 Los Angeles is a local governmental entity subject to the Constitution and laws of
27 the State of California, and as to the remainder of the allegations set forth in
28 Paragraph 22, these Defendants lack sufficient information or belief to enable them

1 to answer said Paragraph and, on that ground, deny each and every allegation
2 contained therein.

3 7. Answering Paragraph 23 of the FAC, Defendants admit that Defendant
4 Alex Villanueva has been sued in his official capacity as the Sheriff of the Los
5 Angeles County Sheriff's Department. Defendants deny that Defendant Villanueva
6 is the County of Los Angeles' Director of Emergency Operations.

7 8. Answering Paragraph 24 of the FAC, Defendants admit that Defendant
8 Barbara Ferrer is the Director of the Los Angeles County Department of Public
9 Health and that Defendant Ferrer has been sued in her official capacity.

10 9. Answering Paragraph 25 of the FAC, Defendants admit that that
11 Defendant Justin Hess has been sued in his official capacity. As to the remainder of
12 the allegations set forth in Paragraph 25, these Defendants lack sufficient
13 information or belief to enable them to answer said Paragraph and, on that ground,
14 deny each and every allegation contained therein.

15 10. Answering Paragraph 26 of the FAC, Defendants admit that that
16 Defendant City of Burbank is a local governmental entity subject to the Constitution
17 and laws of the State of California. As to the remainder of the allegations set forth
18 in Paragraph 26, these Defendants lack sufficient information or belief to enable
19 them to answer said Paragraph and, on that ground, deny each and every allegation
20 contained therein.

21 11. Answering Paragraph 27 of the FAC, Defendants admit that that
22 Defendant Eric Garcetti is the Mayor of the City of Los Angeles and that he has
23 been sued in his official capacity. As to the remainder of the allegations set forth in
24 Paragraph 27, these Defendants lack sufficient information or belief to enable them
25 to answer said Paragraph and, on that ground, deny each and every allegation
26 contained therein.

27 12. Answering Paragraph 28 of the FAC, Defendants admit that that
28 Defendant City of Los Angeles is a local governmental entity subject to the

1 Constitution and laws of the State of California. As to the remainder of the
2 allegations set forth in Paragraph 28, these Defendants lack sufficient information or
3 belief to enable them to answer said Paragraph and, on that ground, deny each and
4 every allegation contained therein.

5 13. Answering Paragraph 29 of the FAC, Defendants deny the Court has
6 subject matter jurisdiction over Plaintiffs' claims against Defendants.

7 14. Answering Paragraph 30 of the FAC, assuming the Court does have
8 subject matter jurisdiction over Plaintiffs' claims against Defendants, under the facts
9 alleged, Defendants admit venue is proper.

10 15. Answering Paragraph 31 of the FAC, Defendants do not dispute the
11 quoted text of the Second Amendment of the United States Constitution.

12 16. Answering Paragraphs 32 of the FAC, Defendants admit that the
13 quoted excerpts are from the cited case.

14 17. Answering Paragraph 33 of the FAC, Defendants admit that the cited
15 case addresses the referenced legal issue.

16 18. Answering Paragraph 34 of the FAC, Defendants admit that the quoted
17 text is from the Fourteenth Amendment of the United States Constitution.

18 19. Answering Paragraph 38 of the FAC, Defendants admit that Governor
19 Newsom proclaimed a State of Emergency related to COVID-19 on or about March
20 4, 2020.

21 20. Answering Paragraph 39 of the FAC, Defendants admit that Governor
22 Newsom signed Executive Order N-33-20. As to the remainder of the allegations
23 set forth in Paragraph 3j9, these Defendants lack sufficient information or belief to
24 enable them to answer said Paragraph and, on that ground, deny each and every
25 allegation contained therein.

26 21. Answering Paragraph 40 of the FAC, Defendants admit that the quoted
27 textual excerpts are from Executive Order N-33-20. As to the remainder of the
28 allegations set forth in Paragraph 40, these Defendants lack sufficient information or

1 belief to enable them to answer said Paragraph and, on that ground, deny each and
2 every allegation contained therein.

3 22. Answering Paragraph 41 of the FAC, Defendants admit that the quoted
4 textual excerpts is from the Executive Order N-33-20.

5 23. Answering Paragraph 42 of the FAC, Defendants admit that the quoted
6 text is from California Government Code section 8665.

7 24. Answering Paragraph 43 of the FAC, Defendants admit that on March
8 19, 2020, the County of Los Angeles Department of Public Health issued the Safer
9 at Home Order for Control of COVID-19 (“County Order”) and the quoted textual
10 excerpts are from the County Order which is a document that speaks for itself.

11 25. Answering Paragraph 44 of the FAC, Defendants admit that the quoted
12 text is from California Health & Safety Code section 120295.

13 26. Answering Paragraph 45 of the FAC, Defendants admit that the various
14 quoted textual excerpts are from the County Order which is a document that speaks
15 for itself.

16 27. Answering Paragraph 49 of the FAC, the allegations contained therein
17 is vague and ambiguous and on that basis, Defendants deny.

18 28. Answering Paragraph 51 of the FAC, Defendants admit on March 24,
19 2020, www.foxla.com published a news article regarding its interview with
20 Defendant Villanueva but deny that the quoted description of Defendant
21 Villanueva’s purported statement is contained in the cited article.

22 29. Answering Paragraph 49 of the FAC, the allegations contained therein
23 is vague and ambiguous and on that basis, Defendants deny.

24 30. Answering Paragraph 54 of the FAC, Defendants admit that the
25 referenced image of the order regarding gun and ammunition stores was released on
26 the Los Angeles County Sheriff’s Department’s Twitter page.

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1 31. Answering Paragraph 55 of the FAC, Defendants admit that the cited
2 APNews.com news article reported on Sheriff Villanueva's actions with respect to
3 gun retailers in connection to the County Order.

4 32. Answering Paragraph 56 of the FAC, Defendants admit that that the
5 cited APNews.com news article reported that Defendant Villanueva made the
6 referenced statements, without directly quoting him.

7 33. Answering Paragraph 57 of the FAC, Defendants admit that the
8 referenced order permitted firearms retailers to sell ammunition to security guard
9 companies. Defendants deny the allegation in the second sentence of this
10 Paragraph.

11 34. Answering Paragraph 58 of the FAC, Defendants deny generally and
12 specifically each allegation contained therein.

13 35. Answering Paragraph 59 of the FAC, the allegations contain quote
14 excerpts from an unidentified source, and on that basis, Defendants deny.

15 36. Answering Paragraph 60 of the FAC, Defendants admit that the quoted
16 textual excerpts are contained in the cited news article published by kcet.org.

17 37. Answering Paragraph 61 of the FAC, Defendants deny generally and
18 specifically each allegation contained therein.

19 38. Answering Paragraph 62 of the FAC, Defendants admit that the
20 referenced Associated Press News report attributed the quoted statements to County
21 Supervisor Sheila Kuehl.

22 39. Answering Paragraph 63 of the FAC, Defendants admit that the
23 referenced Associated Press News report attributed the quoted statements to Los
24 Angeles City Attorney Mike Feuer.

25 40. Answering Paragraph 64 of the FAC, Defendants admit that this action
26 was filed in this Court on March 27, 2020.

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1 41. Answering Paragraphs 73, 74, 75 and 76, Defendants admit Plaintiffs
2 have elected to identify the various COVID-19 related Orders referenced in this
3 action.

4 42. Answering Paragraphs 78, 80, 81, 83, 84, 86, 87, 88, 89, 90, 91, 93, 94,
5 95, 97, 98, 99, 100, 102, 103, 106, 107, and 108 of the FAC, Defendants deny
6 generally and specifically each allegation contained therein.

7 43. Answering Paragraph 79 of the FAC, Defendants admit that the quoted
8 statements are from the Department of Homeland Security, Cyber-Infrastructure
9 Division’s March 28, 2020 Advisory Memorandum on Identification of Essential
10 Critical Infrastructure Workers During Covid-19 Response.

11 44. Answering Paragraph 96 of the FAC, Defendants admit that Governor
12 Newsom has issued various executive orders regarding the State’s response to the
13 COVID-19 Novel Coronavirus pandemic, and as to the remainder of the allegations
14 set forth in Paragraph 96, these Defendants lack sufficient information or belief to
15 enable them to answer said Paragraph and, on that ground, deny each and every
16 allegation contained therein.

17 45. Answering Paragraph 101 of the FAC, Defendants admit that the
18 quoted textual excerpts are from the County Order.

19 46. Answering the Prayer for Relief in the FAC, on April 6, 2020, the
20 Court entered an order denying Plaintiffs’ *ex parte* application for a temporary
21 restraining order on the ground that Plaintiffs failed to demonstrate a likelihood of
22 success on the merits of their Second Amendment and Due Process claims.
23 Accordingly, Defendants deny each and every allegation relating to Plaintiffs’
24 claims for declaratory and injunctive relief. As to the remainder of the allegations
25 set forth in the Prayer for Relief, Defendants deny generally and specifically each
26 allegation contained therein.

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FIRST AFFIRMATIVE DEFENSE

47. The First Amended Complaint fails to state facts sufficient to constitute a cause of action upon which relief may be granted.

SECOND AFFIRMATIVE DEFENSE

48. This Court lacks subject matter jurisdiction over Plaintiffs' causes of action against Defendants.

THIRD AFFIRMATIVE DEFENSE

49. Plaintiffs' claims are barred because Plaintiffs lack standing to bring them.

FOURTH AFFIRMATIVE DEFENSE

50. Plaintiffs' claim for injunctive and declaratory relief are barred because Plaintiffs are not threatened with future injury by Defendants.

FIFTH AFFIRMATIVE DEFENSE

51. Plaintiffs are not entitled to injunctive or declaratory relief since the remedies at law are adequate.

SIXTH AFFIRMATIVE DEFENSE

52. Plaintiffs are not entitled to the injunctive relief sought since the relief sought is contrary to public policy.

SEVENTH AFFIRMATIVE DEFENSE

53. Plaintiffs' claims are barred by the doctrine of the law of the case.

EIGHTH AFFIRMATIVE DEFENSE

54. Plaintiffs' claims are barred by the doctrine of mootness.

NINTH AFFIRMATIVE DEFENSE

55. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrine of unclean hands.

TENTH AFFIRMATIVE DEFENSE

56. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrine of laches.

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ELEVENTH AFFIRMATIVE DEFENSE

57. Plaintiffs' claims and requests for relief are barred, in whole or in part, by doctrine of waiver.

TWELFTH AFFIRMATIVE DEFENSE

58. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrine of collateral estoppel.

THIRTEENTH AFFIRMATIVE DEFENSE

59. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrine of judicial estoppel.

FOURTEENTH AFFIRMATIVE DEFENSE

60. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrines of res judicata.

FIFTEENTH AFFIRMATIVE DEFENSE

61. Any and all official conduct taken by Defendants or their agents, officers or employees was in good faith and without malicious intent to deprive Plaintiffs of their constitutional rights or to cause them injury.

SIXTEENTH AFFIRMATIVE DEFENSE

62. Neither a public entity nor a public employee is liable for his act or omission, exercising due care, in the execution or enforcement of any law.

SEVENTEENTH AFFIRMATIVE DEFENSE

63. Neither a public entity nor a public employee is liable for any injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him.

EIGHTEENTH AFFIRMATIVE DEFENSE

64. Neither a public entity nor a public employee acting in good faith, without malice, and under the apparent authority of an enactment that is unconstitutional, invalid or inapplicable, is liable for any injury caused thereby, except to the extent that he would have been liable had the enactment been

1 constitutional, valid and applicable.

2 **NINETEENTH AFFIRMATIVE DEFENSE**

3 65. These answering Defendants did not violate Plaintiffs' Second
4 Amendment rights.

5 **TWENTIETH AFFIRMATIVE DEFENSE**

6 66. These answering Defendants did not violate Plaintiffs' Fifth
7 Amendment rights.

8 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

9 67. These answering Defendants did not violate Plaintiffs' Fourteenth
10 Amendment rights.

11 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

12 68. Because Plaintiffs' First Amended Complaint is couched in conclusory
13 terms, these answering Defendants cannot fully anticipate all the affirmative
14 defenses that may be applicable to the within action. Accordingly, the right to assert
15 additional affirmative defenses, if and to the extent that such affirmative defenses
16 are applicable, is hereby reserved.

17 WHEREFORE, Defendants pray that Plaintiffs take nothing by way of their
18 Complaint and that Defendants herein recover its costs and such other and further
19 relief as the Court may deem just and proper.

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22 Dated: June 24, 2020

LAWRENCE BEACH ALLEN & CHOI, PC

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By /s/ Jin S. Choi

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Jin S. Choi
Attorneys for Defendants
County of Los Angeles,
Sheriff Alex Villanueva,
and Barbara Ferrer

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DEMAND FOR JURY TRIAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendants County of Los Angeles, Sheriff Alex Villanueva, and Barbara Ferrer demand a trial by jury pursuant to Federal Rules of Civil Procedure, Rule 38(b), and Local Rule 38-1.

Dated: June 24, 2020

LAWRENCE BEACH ALLEN & CHOI, PC

By /s/ Jin S. Choi
Jin S. Choi
Attorneys for Defendants
County of Los Angeles,
Sheriff Alex Villanueva,
and Barbara Ferrer