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Attorney for Defendant, County of Los Angeles

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

ANA PATRICIA FERNANDEZ,)	CASE NO. 2:20-cv-9876-DMG-PDx
an individual)	
)	DEFENDANT COUNTY OF
Plaintiff,)	LOS ANGELES' ANSWER TO
)	PLAINTIFF'S FIRST AMENDED
vs.)	COMPLAINT; JURY DEMAND
)	
LOS ANGELES COUNTY, et al.,)	
)	Judge: Hon. Dolly M. Gee
Defendants.)	Courtroom 8C
)	

TO THE COURT, TO ALL PARTIES HEREIN AND TO THEIR COUNSEL
OF RECORD:

Defendant, COUNTY OF LOS ANGELES generally denies each and every
allegation in Plaintiff's First Amended Complaint, and alleges follows:

1. This defendant admits that the court has jurisdiction to hear this matter
but denies all argument and remaining allegations in the following paragraphs of the
First Amended Complaint: 1, 2.

1 2. This defendant admits that venue is proper in the central district as
2 alleged in the following paragraph of the First Amended Complaint: 3.

3 3. This defendant admits the allegation in paragraph 7 of the First
4 Amended Complaint that the Los Angeles County Sheriff's Department is a
5 department within and is a subdivision of the County of Los Angeles. This
6 defendant denies the remainder of said paragraph.
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8 4. This defendant admits the allegations in paragraph 8 of the First
9 Amended Complaint that Alex Villanueva is an elected official and is a policy maker
10 for the Los Angeles County Sheriff's Department. This defendant denies the
11 remainder of said paragraph.
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13 5. This defendant admits the allegation in paragraph 9, that Wyatt
14 Waldron is, and at all times mentioned in the First Amended Complaint was, a
15 Deputy Sheriff employed by the Los Angeles County Sheriff's Department. This
16 defendant denies the remainder of said paragraph.
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18 6. This defendant admits the allegation in paragraph 10, that John M. Roth
19 is, and at all times mentioned in the First Amended Complaint was, a Deputy Sheriff
20 employed by the Los Angeles County Sheriff's Department. This defendant denies
21 the remainder of said paragraph.
22

23 7. The following paragraphs of the First Amended Complaint have been
24 rendered inapplicable following the court's ruling on the Defendant's Motion to
25 Dismiss the First Amended Complaint. On that basis, the Defendant admits that the
26 persons named in the following paragraphs are employees of the Los Angeles
27
28

1 County Sheriff's Department, but denies all remaining allegations contained in the
2 following paragraphs: 11, 12, 13, 14, 15, 16, 17, 18, 19.

3 8. This defendant currently lacks sufficient knowledge of facts which
4 enable it to admit or deny the allegations contained in the following paragraphs of the
5 First Amended Complaint: 4, 5, 20, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 53,
6 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 74, 75, 76, 77,
7 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 96, 97, 98, 100, 130, 132, 136, 141.

9 9. The following paragraphs of the First Amended Complaint purport to
10 constitute restatements of the law and/or arguments and contain no factual
11 allegations for this defendant to admit or deny: 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,
12 92, 93, 94, 104, 105, 106, 116, 122, 129, 133,

13 10. This defendant admits the allegations contained in the following
14 paragraphs of the First Amended Complaint: 6, 43, 44, 45, 46, 47, 48, 49, 51, 95,
15 137, 139, 140.

16 11. This defendant currently denies the allegations in the following
17 paragraphs of the First Amended Complaint: 50, 52, 73, 89, 90, 91, 99, 101, 102,
18 103, 107, 108, 109, 110, 111, 112, 113, 114, 115, 117, 118, 119, 120, 121, 123, 124,
19 125, 126, 127, 128, 131, 134, 135, 138, 142, 143.

22 **AFFIRMATIVE DEFENSES**

23 **FIRST AFFIRMATIVE DEFENSE**

24 Plaintiff's First Amended Complaint fails to state facts sufficient to constitute
25 a cause of action, is not pled with particularity and fails to allege fact which allege a
26 constitutional violation.
27

SECOND AFFIRMATIVE DEFENSE

The Plaintiff's Complaint is barred by plaintiff's failure to comply with the provisions of the California Government Claims Act pursuant to Government Code section 910, et seq.

THIRD AFFIRMATIVE DEFENSE

The Plaintiff's Complaint is barred by plaintiff's failure to comply with the applicable statutes of limitation.

FOURTH AFFIRMATIVE DEFENSE

The Plaintiff failed to mitigate the damages alleged in the complaint. Thus, recovery must be reduced.

FIFTH AFFIRMATIVE DEFENSE

The Plaintiff's causes of action under the Federal Civil Rights Act are barred as the Complaint fails to raise facts that go beyond mere tortious conduct and rise to the dignity of a violation of a Federal Constitutional or statutory right.

SIXTH AFFIRMATIVE DEFENSE

Any and all official acts taken by the defendant were in good faith and without malicious intent to deprive the plaintiff of his constitutional rights or to cause other injury.

SEVENTH AFFIRMATIVE DEFENSE

This answering defendant cannot be held liable for the unconstitutional acts or omissions of others.

EIGHTH AFFIRMATIVE DEFENSE

This answering defendant did not act with deliberate indifference.

NINTH AFFIRMATIVE DEFENSE

This answering defendant contends that it cannot be held liable for acts which are objectively reasonable under the laws of the State of California and the United States of America.

TENTH AFFIRMATIVE DEFENSE

This answering defendant contends that it neither authorized, initiated, promulgated, reinforced or ratified any official policy, custom or practice which led to the deprivation of the plaintiff's Constitutional rights.

ELEVENTH AFFIRMATIVE DEFENSE

This answering defendant cannot be held vicariously liable for the alleged unconstitutional acts of its subordinates under respondeat superior or any other derivative liability theory.

TWELFTH AFFIRMATIVE DEFENSE

Plaintiff's injuries, loss, or damages, if any, were proximately and solely caused by and contributed to by the fault of the plaintiff or other third parties not employed by this defendant. In the event that the County of Los Angeles, its agents or employees, are found to have contributed proximately to such injuries, losses, or damage, Plaintiffs' recovery, if any, should be reduced on the basis of comparative fault.

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THIRTEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles alleges, on information and belief, that Plaintiff's injuries, losses, or damages, if any, were caused proximately and solely by the acts and omission of other known and unknown third parties or entities which contributed to the Plaintiff's claimed injuries, loss, or damages, and which negligence on the part of such third parties was active, and would therefore bar any indemnity from the County of Los Angeles on the basis of active-passive negligence.

FOURTEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, defends on the basis that as a public entity, it is not liable for any injury, whether such injury arises out of an act or omission of the public entity, official, employee, agent, or servant of the public entity, unless there is express statutory liability for such acts or omission, and subject to any statutory immunity on the part of the County of Los Angeles, and subject to any defenses which are available to the County of Los Angeles if it were a private person, pursuant to Government Code sections 815 and 820 et. seq.

FIFTEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, defends on the basis that as a public entity it is not liable for any injury, loss, or damage resulting from any act or omission of an employee where the employee is immune from liability pursuant to Government Code section 815.2(b).

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SIXTEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, cannot be liable for any injury, loss or damage resulting from the act or omission of its employee, where the employee acted reasonably under the circumstances pursuant to Government Code section 820.4.

SEVENTEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, is not liable for any injury, loss or damage resulting from the act or omission of its employee resulting from the exercise of the discretion vested in the public employee, whether or not such discretion was abused, pursuant to Government Code Section 820.2.

EIGHTEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, is not liable for any injury, loss or damage resulting from its investigation of a crime, or the initiation or prosecution of any judicial, quasi-judicial or administrative proceeding, pursuant to Government Code section 821.6.

NINETEENTH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, is not liable for an injury caused by adopting or failing to adopt an enactment or by failing to enforce any law pursuant to Government Code section 820.6.

TWENTIETH AFFIRMATIVE DEFENSE

The County of Los Angeles, a public entity, is not liable for injury caused by its failure to make an inspection, or by reason of making an inadequate or negligent inspection, of any property, other than its property (as defined in subdivision (c) of

1 Section 830), for the purpose of determining whether the property complies with or
2 violates any enactment or contains or constitutes a hazard to health or safety
3 pursuant to Cal. Government Code section 818.6.

4 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

5 An injunction may not be granted to prevent the execution of a public statute
6 by officers of the law, for the public benefit, nor to prevent the exercise of a public
7 office, in a lawful manner, by the person in possession.
8

9 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

10 The County of Los Angeles, a public entity, is not liable for punitive or
11 exemplary damages under state or federal law.
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13 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

14 The County of Los Angeles County defends on the basis that the Plaintiffs'
15 complaint is barred by the doctrines of res judicata, collateral estoppel, waiver,
16 laches and unclean hands.
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18 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

19 The Defendant defends on the basis that, pursuant to California Civil Code
20 Section 1431.2, its liability, if any is found, for non-economic damages should be
21 several, and not joint liability.
22

23 ***WHEREFORE***, Defendant COUNTY OF LOS ANGELES prays:

- 24 1. that Plaintiff take nothing, and his complaint be dismissed with
25 prejudice;
26
27 2. that the defendant be awarded costs of suit;
28

1 3. that the defendant be awarded attorney's fees pursuant to 42 U.S.C.
2 section 1988;

3 4. for such other and further relief as is just and proper.

4 **DEMAND FOR JURY TRIAL**

5 Defendant COUNTY OF LOS ANGELES hereby demands a jury trial in this
6
7 matter pursuant to Fed. R. Civ. P. Rule 38 (b).

8
9 DATED: November 8, 2022 LOGAN MATHEVOSIAN & HUR, LLP

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11 By: s / Amber A. Logan
12 AMBER A. LOGAN
13 Attorney for Defendant,
14 County of Los Angeles
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