

Amber A. Logan, CSB #166395
Logan Mathevosian & Hur LLP
 Equitable Plaza, Suite 2740
 3435 Wilshire Boulevard
 Los Angeles, California 90010-2014
 (213)365-2703
lmh@lmhfirm.com
amberlogan@lmhfirm.com

Attorney for Defendant, John Roth

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

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

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

Defendant, Los Angeles County Sheriff's Deputy JOHN ROTH 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.
7

8 4. This defendant takes no position regarding the following paragraphs of
9 the First Amended Complaint which allege no facts against him: 8, 9, 11, 12, 13, 14,
10 15, 16, 17, 18, 19, 20, 72, 73, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 90, 91, 92,
11 93, 94, 95, 96, 97, 98, 99, 111, 120, 137, 138, 140, 141.
12

13 5. This defendant admits the allegation in paragraph 10, that John M. Roth
14 is, and at all times mentioned in the First Amended Complaint was, a Deputy Sheriff
15 employed by the Los Angeles County Sheriff's Department. This defendant denies
16 the remainder of said paragraph.
17

18 6. This defendant currently lacks sufficient knowledge of facts which
19 enable it to admit or deny the allegations contained in the following paragraphs of
20 the First Amended Complaint: 4, 5, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 53,
21 54, 56, 58 59, 60, 61, 62, 64, 74, 75, 76, 77, 130, 132.
22

23 7. The following paragraphs of the First Amended Complaint purport to
24 constitute restatements of the law and/or arguments and contain no factual
25 allegations for this defendant to admit or deny: 21, 22, 23, 24, 25, 26, 27, 28, 29, 30,
26 66, 67, 68, 70, 71, 104, 105, 106, 116, 122, 129, 133, 134, 136.
27

28 /////

1 8. This defendant admits the allegations contained in the following
2 paragraphs of the First Amended Complaint: 6, 43, 44, 45, 46, 47, 48, 49, 51,
3 95, 139.

4 9. This defendant currently denies the allegations against him in the
5 following paragraphs of the First Amended Complaint: 50, 52, 55, 57, 63, 65, 66,
6 69, 89, 100, 101, 102, 103, 107, 108, 109, 110, 112, 113, 114, 115, 117, 118, 119,
7 121, 123, 124, 125, 126, 127, 128, 131, 135, 138, 142, 143.

8
9 **AFFIRMATIVE DEFENSES**

10 **FIRST AFFIRMATIVE DEFENSE**

11 Plaintiff's First Amended Complaint fails to state facts sufficient to constitute
12 a cause of action, is not pled with particularity and fails to allege fact which allege a
13 constitutional violation.
14

15 **SECOND AFFIRMATIVE DEFENSE**

16 The Plaintiff's Complaint is barred by plaintiff's failure to comply with the
17 provisions of the California Government Claims Act pursuant to Government Code
18 section 910, et seq.
19

20 **THIRD AFFIRMATIVE DEFENSE**

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

23 **FOURTH AFFIRMATIVE DEFENSE**

24 The Plaintiff failed to mitigate the damages alleged in the complaint. Thus,
25 recovery must be reduced.
26

27 /////

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

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.

NINTH AFFIRMATIVE DEFENSE

Any and all official acts taken by this Defendant was in good faith and without malicious intent to deprive the Plaintiffs of their constitutional rights or to cause other injury.

TENTH AFFIRMATIVE DEFENSE

The Defendant defends on the basis that he did not act with deliberate indifference.

////

ELEVENTH AFFIRMATIVE DEFENSE

The Defendant contends that he is protected from suit under the doctrine of qualified immunity, because the Defendant did not violate any clearly established law of which a reasonable law enforcement officer would have known.

TWELFTH AFFIRMATIVE DEFENSE

The Defendant defends on the basis that he is not an official policy maker authorized to initiate, promulgate, reinforce, or ratify any official policy, custom or practice of the Los Angeles County Sheriff's Department.

THIRTEENTH AFFIRMATIVE DEFENSE

The Defendant defends on the basis that he is entitled to immunity under the Eleventh Amendment for enforcing the laws of the State of California.

FOURTEENTH 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 this Defendant is found to have contributed proximately to such injuries, losses, or damage, Plaintiffs' recovery, if any, should be reduced on the basis of comparative fault.

FIFTEENTH AFFIRMATIVE DEFENSE

The Defendant 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

1 of such third parties was active and would therefore bar any indemnity from this
2 Defendant on the basis of active-passive negligence.

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 The Defendant, a public employee, cannot be held liable for any injury, loss
5 or damage resulting from the act or omission of its employee, where he acted
6 reasonably under the circumstances pursuant to Government Code section 820.4.
7

8 **SEVENTEENTH AFFIRMATIVE DEFENSE**

9 The Defendant, a public employee, cannot be held liable for any injury, loss
10 or damage resulting from an act or omission of its resulting from the exercise of the
11 discretion vested in him as a public employee, whether or not such discretion was
12 abused, pursuant to Government Code Section 820.2.
13

14 **SEVENTEENTH AFFIRMATIVE DEFENSE**

15 The Defendant, a public employee, cannot be held liable for any injury, loss
16 or damage resulting from his investigation of a crime, or the initiation or prosecution
17 of any judicial, quasi-judicial or administrative proceeding, pursuant to Government
18 Code section 821.6.
19

20 **EIGHTEENTH AFFIRMATIVE DEFENSE**

21 An injunction may not be granted to prevent the execution of a public statute
22 by officers of the law, for the public benefit, nor to prevent the exercise of a public
23 office, in a lawful manner, by the person in possession.
24

25 **NINETEENTH AFFIRMATIVE DEFENSE**

26 The Defendant defends on the basis that the Plaintiffs' complaint is barred by
27 the doctrines of res judicata, collateral estoppel, waiver, laches, and unclean hands.
28

TWENTIETH AFFIRMATIVE DEFENSE

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

WHEREFORE, Defendant JOHN ROTH prays:

1. that Plaintiff take nothing, and his complaint be dismissed with prejudice;
2. that the defendant be awarded costs of suit;
3. that the defendant be awarded attorney's fees pursuant to 42 U.S.C. section 1988;
4. for such other and further relief as is just and proper.

DEMAND FOR JURY TRIAL

Defendant JOHN ROTH hereby demands a jury trial in this matter pursuant to Fed. R. Civ. P. Rule 38 (b).

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

By: s / Amber A. Logan
AMBER A. LOGAN
Attorney for Defendant,
John Roth