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UNITED STATES OF AMERICA,
10 JAMES T. HAYES, and PILAR GARCIA

11 UNITED STATES DISTRICT COURT

12 CENTRAL DISTRICT OF CALIFORNIA

13 WESTERN DIVISION

14 PETER GUZMAN AND MARIA CARBAJAL

No. CV 08-1327-GHK(SSx)

15 Plaintiffs,

16 v.

**ANSWER OF FEDERAL DEFENDANT
PILAR GARCIA TO SECOND AMENDED
COMPLAINT**

17 UNITED STATES OF AMERICA;
JAMES T. HAYES, Field Office
18 Director, U.S. Immigration and
Customs Enforcement; PILAR
19 GARCIA, Agent, U.S. Immigration
and Customs Enforcement;
20 COUNTY OF LOS ANGELES; LEROY
BACA, Sheriff of the County of
21 Los Angeles; TIMOTHY CORNELL,
Captain of Los Angeles County
22 Inmate Reception Center; SANDRA
FIGUERAS, Custodial Assistant,
23 Los Angeles County Sheriff's
Department; DOE ICE AGENTS 1-10;
24 and DOE LASD OFFICERS 1-10,

25 Defendants.
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1 Federal Defendant Pilar Garcia ("Defendant Garcia") hereby
2 answers the Second Amended Complaint ("SAC") of Plaintiffs Peter
3 Guzman ("Guzman") and Maria Carbajal ("Carbajal") (collectively,
4 "Plaintiffs"), as follows.¹

5 1. Paragraph 1 consists of legal conclusions regarding
6 jurisdictional basis, and as such, no response is required. To
7 the extent a response is required, however, Defendant Garcia
8 lacks sufficient information or belief upon which to admit or
9 deny the allegations of this paragraph, and based thereon,
10 generally and specifically denies them.

11 2. Paragraph 2 consists of legal conclusions regarding
12 venue, and as such, no response is required. To the extent a
13 response is required, however, Defendant Garcia lacks sufficient
14 information or belief upon which to admit or deny the allegations
15 of this paragraph, and based thereon, generally and specifically
16 denies them.

17 3. Answering paragraph 3 of the SAC, Defendant Garcia
18 admits only that the government does not have the authority to
19 knowingly deport a United States citizen. Defendant Garcia lacks
20 sufficient information or belief upon which to admit or deny the
21 remaining allegations herein, and based thereon, generally and
22 specifically denies them.

23 4. Answering paragraph 4 of the SAC, Defendant Garcia
24 cannot respond to any allegations pertaining to Defendant Hayes,
25

26 ¹ Based upon the pending interlocutory appeal filed by
27 Defendant James T. Hayes ("Defendant Hayes") and the Court's Orders
28 herein, Defendant Garcia does not respond to any allegations which
refer or are related to Defendant Hayes or his alleged acts or
omissions.

1 as the action against him is stayed, pending resolution of his
2 interlocutory appeal. With regard to the allegations that
3 pertain to Defendant Garcia specifically, Defendant Garcia
4 denies, generally and specifically, the allegations herein. With
5 regard to any remaining allegations, Defendant Garcia lacks
6 sufficient information or belief upon which to admit or deny, and
7 based thereon, generally and specifically denies them.

8 5. Answering paragraph 5 of the SAC, Defendant Garcia
9 lacks sufficient information or belief upon which to admit or
10 deny the allegations herein, and based thereon, generally and
11 specifically denies them.

12 6. Answering paragraph 6 of the SAC, Defendant Garcia
13 admits only that Guzman was put on a bus by Immigration and
14 Customs Enforcement ("ICE") agents and that Guzman subsequently
15 disembarked the bus. Defendant Garcia denies that Guzman was
16 forced to disembark and that he did so in Tijuana, Mexico.
17 Defendant Garcia lacks sufficient information or belief upon
18 which to admit or deny the remaining allegations herein, and
19 based thereon, generally and specifically denies them.

20 7. Answering paragraph 7 of the SAC, Defendant Garcia
21 denies that Guzman was unlawfully deported. Defendant Garcia
22 lacks sufficient information or belief upon which to admit or
23 deny the remaining allegations herein, and based thereon,
24 generally and specifically denies them.

25 8. Answering paragraph 8 of the SAC, Defendant Garcia
26 denies that Guzman was unlawfully deported. Defendant Garcia
27 lacks sufficient information or belief upon which to admit or
28 deny the remaining allegations herein, and based thereon,

1 generally and specifically denies them.

2 9. Answering paragraph 9 of the SAC, Defendant Garcia
3 denies that Guzman was unlawfully deported. Defendant Garcia
4 lacks sufficient information or belief upon which to admit or
5 deny the remaining allegations herein, and based thereon,
6 generally and specifically denies them.

7 10. Answering paragraph 10 of the SAC, Defendant Garcia
8 cannot respond to any allegations pertaining to Defendant Hayes,
9 as the action against him is stayed, pending resolution of his
10 interlocutory appeal. Defendant Garcia lacks sufficient
11 information or belief upon which to admit or deny the remaining
12 allegations herein, and based thereon, generally and specifically
13 denies them.

14 11. Answering paragraph 11 of the SAC, Defendant Garcia
15 cannot respond to any allegations pertaining to Defendant Hayes,
16 as the action against him is stayed, pending resolution of his
17 interlocutory appeal. With regard to the allegations that
18 pertain to Defendant Garcia specifically, Defendant Garcia
19 denies, generally and specifically, the allegations herein.
20 Defendant Garcia lacks sufficient information or belief upon
21 which to admit or deny the remaining allegations herein, and
22 based thereon, generally and specifically denies them.

23 12. Answering paragraph 12 of the SAC, Defendant Garcia
24 cannot respond to any allegations pertaining to Defendant Hayes,
25 as the action against him is stayed, pending resolution of his
26 interlocutory appeal. With regard to the allegations that
27 pertain to Defendant Garcia specifically, Defendant Garcia denies
28 that ICE illegally deported Guzman and that ICE ignored records

1 and/or did not undertake reasonable and diligent efforts to
2 review them and appreciate their meaning. Defendant Garcia lacks
3 sufficient information or belief upon which to admit or deny the
4 remaining allegations herein, and based thereon, generally and
5 specifically denies them.

6 13. Answering paragraph 13 of the SAC, Defendant Garcia
7 cannot respond to any allegations pertaining to Defendant Hayes,
8 as the action against him is stayed, pending resolution of his
9 interlocutory appeal. With regard to the allegations that pertain
10 to Defendant Garcia specifically, Defendant Garcia denies,
11 generally and specifically, the allegations herein. Defendant
12 Garcia lacks sufficient information or belief upon which to admit
13 or deny the remaining allegations herein, and based thereon,
14 generally and specifically denies them.

15 14. Answering paragraph 14 of the SAC, Defendant Garcia
16 admits only that Guzman entered Mexico in May 2007. Defendant
17 Garcia denies that Guzman was illegally deported. Defendant
18 Garcia lacks sufficient information or belief upon which to admit
19 or deny the remaining allegations herein, and based thereon,
20 generally and specifically denies them.

21 15. Answering paragraph 15 of the SAC, Defendant Garcia
22 lacks sufficient information or belief upon which to admit or
23 deny the allegations herein, and based thereon, generally and
24 specifically denies them.

25 16. Answering paragraph 16 of the SAC, Defendant Garcia
26 cannot respond to any allegations pertaining to Defendant Hayes,
27 as the action against him is stayed, pending resolution of his
28 interlocutory appeal. With regard to the allegations that pertain

1 to Defendant Garcia specifically, Defendant Garcia denies that
2 she acted wrongfully with regard to Plaintiff, that the United
3 States violated any provision of the Federal Tort Claims Act, and
4 that her actions "implicated" the United States in this case.

5 17. Answering paragraph 17 of the SAC, Defendant Garcia
6 cannot respond to any allegations pertaining to Defendant Hayes,
7 as the action against him is stayed, pending resolution of his
8 interlocutory appeal.

9 18. Answering paragraph 18 of the SAC, Defendant Garcia
10 admits that, she is, and at all relevant times herein, was an
11 Immigration Enforcement Agent with ICE. Defendant Garcia lacks
12 sufficient information or belief upon which to admit or deny the
13 remaining allegations herein, and based thereon, generally and
14 specifically denies them.

15 19. There are no factual allegations in Paragraph 19
16 requiring a response by Defendant Garcia.

17 20. Answering paragraphs 20 to 24 of the SAC, Defendant
18 Garcia lacks sufficient information or belief upon which to admit
19 or deny the allegations herein, and based thereon, generally and
20 specifically denies them.

21 21. There are no factual allegations in paragraphs 25 and
22 26 requiring a response by Defendant Garcia.

23 22. Answering paragraphs 27 to 29 of the SAC, Defendant
24 Garcia denies, generally and specifically, the allegations herein
25 as they pertain to her.

26 23. Answering paragraph 30 of the SAC, Defendant Garcia
27 lacks sufficient information or belief upon which to admit or
28 deny the allegations herein, and based thereon, generally and

1 specifically denies them.

2 24. Answering paragraphs 31 to 34 of the SAC, Defendant
3 Garcia lacks sufficient information or belief upon which to admit
4 or deny the allegations herein, and based thereon, generally and
5 specifically denies them.

6 25. Answering paragraph 35 of the SAC, Defendant Garcia
7 lacks sufficient information or belief upon which to admit or
8 deny the allegations herein, and based thereon, generally and
9 specifically denies them.

10 26. Answering paragraphs 36 to 40 of the SAC, Defendant
11 Garcia lacks sufficient information or belief upon which to admit
12 or deny the allegations herein, and based thereon, generally and
13 specifically denies them.

14 27. Answering paragraphs 41 and 42 of the SAC, Defendant
15 Garcia cannot respond to any allegations pertaining to Defendant
16 Hayes, as the action against him is stayed, pending resolution of
17 his interlocutory appeal. Defendant Garcia lacks sufficient
18 information or belief upon which to admit or deny the remaining
19 allegations herein, and based thereon, generally and specifically
20 denies them.

21 28. Answering paragraph 43 of the SAC, Defendant Garcia
22 cannot respond to any allegations pertaining to Defendant Hayes,
23 as the action against him is stayed, pending resolution of his
24 interlocutory appeal. With regard to the allegations that pertain
25 to Defendant Garcia specifically, Defendant Garcia denies,
26 generally and specifically, the allegations of this paragraph.
27 Defendant Garcia lacks sufficient information or belief upon
28 which to admit or deny the remaining allegations herein, and

1 based thereon, generally and specifically denies them.

2 29. Answering paragraph 44 of the SAC, Defendant Garcia
3 specifically denies that no reasonable basis existed to suspect
4 or otherwise conclude that Guzman was not a United States
5 citizen. Defendant Garcia lacks sufficient information or belief
6 upon which to admit or deny the remaining allegations herein, and
7 based thereon, generally and specifically denies them.

8 30. Answering paragraphs 45 and 46 of the SAC, Defendant
9 Garcia lacks sufficient information or belief upon which to admit
10 or deny the allegations therein, and based thereon, generally and
11 specifically denies them.

12 31. Answering paragraphs 47 to 50 of the SAC, Defendant
13 Garcia lacks sufficient information or belief upon which to admit
14 or deny the allegations therein, and based thereon, generally and
15 specifically denies them.

16 32. Answering paragraph 51 of the SAC, Defendant Garcia
17 admits that Guzman signed the form at issue. Defendant Garcia
18 further admits that the form was written entirely in Spanish and
19 that it gave Guzman the option of waiving his legal rights to a
20 removal deportation hearing. Additionally, the completed form
21 states that Guzman was a citizen of Mexico and that he agreed to
22 be voluntarily deported to Mexico. Except as otherwise admitted,
23 Defendant Garcia denies, generally and specifically, the
24 remaining allegations herein.

25 33. Answering paragraph 52 of the SAC, Defendant Garcia
26 denies generally and specifically the allegations herein.

27 34. Answering paragraphs 53 and 54 of the SAC, Defendant
28 Garcia lacks sufficient information or belief upon which to admit

1 or deny the allegations therein, and based thereon, generally and
2 specifically denies them.

3 35. Answering paragraphs 55 to 59 of the SAC, Defendant
4 Garcia cannot respond to any allegations pertaining to Defendant
5 Hayes, as the action against him is stayed, pending resolution of
6 his interlocutory appeal. With regard to the allegations that
7 pertain to Defendant Garcia specifically, Defendant Garcia
8 denies, generally and specifically, the allegations herein. As
9 to the remaining allegations, Defendant Garcia lacks sufficient
10 information or belief upon which to admit or deny the allegations
11 therein, and based thereon, generally and specifically denies
12 them.

13 36. Answering paragraph 60 of the SAC, Defendant Garcia
14 cannot respond to any allegations pertaining to Defendant Hayes,
15 as the action against him is stayed, pending resolution of his
16 interlocutory appeal. With regard to the allegations that pertain
17 to Defendant Garcia specifically, Defendant Garcia admits only
18 that Guzman was placed on a bus on May 11, 2007. Except as
19 otherwise admitted, Defendant Garcia denies, generally and
20 specifically, the remaining allegations herein.

21 37. Answering paragraphs 61 to 78 of the SAC, Defendant
22 Garcia lacks sufficient information or belief upon which to admit
23 or deny the allegations herein, and based thereon, generally and
24 specifically denies them.

25 38. Answering paragraphs 79 and 80 of the SAC, Defendant
26 Garcia cannot respond to any allegations pertaining to Defendant
27 Hayes, as the action against him is stayed, pending resolution of
28 his interlocutory appeal. With regard to the allegations that

1 pertain to Defendant Garcia specifically, Defendant Garcia
2 denies, generally and specifically, the allegations herein. As
3 to the remaining allegations, Defendant Garcia lacks sufficient
4 information or belief upon which to admit or deny the allegations
5 therein, and based thereon, generally and specifically denies
6 them.

7 39. Answering paragraph 81 of the SAC, Defendant Garcia
8 cannot respond to any allegations pertaining to Defendant Hayes,
9 as the action against him is stayed, pending resolution of his
10 interlocutory appeal. With regard to the remaining allegations,
11 Defendant Garcia lacks sufficient information or belief upon
12 which to admit or deny the allegations herein, and based thereon,
13 generally and specifically denies them.

14 40. Answering paragraph 82 to 84 of the SAC, Defendant
15 Garcia lacks sufficient information or belief upon which to admit
16 or deny the allegations therein, and based thereon, generally and
17 specifically denies them.

18 41. Answering paragraphs 85 and 86 of the SAC, Defendant
19 Garcia lacks sufficient information or belief upon which to admit
20 or deny the allegations herein, and based thereon, generally and
21 specifically denies them.

22 42. Answering paragraph 87 of the SAC, Defendant Garcia
23 specifically denies that Guzman was illegally deported and his
24 alleged damages were a direct and foreseeable consequence of such
25 deportation. Defendant Garcia lacks sufficient information or
26 belief upon which to admit or deny the remaining allegations
27 herein, and based thereon, generally and specifically denies
28 them.

1 43. Answering paragraph 88 of the SAC, Defendant Garcia
2 cannot respond to any allegations pertaining to Defendant Hayes,
3 as the action against him is stayed, pending resolution of his
4 interlocutory appeal. With regard to the allegations that pertain
5 to Defendant Garcia specifically, Defendant Garcia denies,
6 generally and specifically, the allegations herein.

7 44. Answering paragraphs 89 and 90 of the SAC, Defendant
8 Garcia lacks sufficient information or belief upon which to admit
9 or deny the allegations herein, and based thereon, generally and
10 specifically denies them.

11 45. Answering paragraph 91 of the SAC, Defendant Garcia
12 incorporates, by reference, her responses to paragraphs 1 through
13 90 of the SAC, as if fully set forth herein.

14 46. Answering paragraph 92 of the SAC, Defendant
15 Garcia cannot respond to any allegations pertaining to Defendant
16 Hayes, as the action against him is stayed, pending resolution of
17 his interlocutory appeal. With regard to the allegations that
18 pertain to Defendant Garcia specifically, Defendant Garcia
19 denies, generally and specifically, the allegations herein.

20 47. Answering paragraph 93 of the SAC, Defendant Garcia
21 cannot respond to any allegations pertaining to Defendant Hayes,
22 as the action against him is stayed, pending resolution of his
23 interlocutory appeal. With regard to the allegations that pertain
24 to Defendant Garcia specifically, Defendant Garcia admits only
25 that she acted under color of federal law and acted in the
26 performance of official duties under federal laws, with regard to
27 Plaintiff Guzman.

28 48. Answering paragraphs 94 to 96 of the SAC, Defendant

1 Garcia cannot respond to any allegations pertaining to Defendant
2 Hayes, as the action against him is stayed, pending resolution of
3 his interlocutory appeal. With regard to the allegations that
4 pertain to Defendant Garcia specifically, Defendant Garcia
5 denies, generally and specifically, the allegations herein.

6 49. Answering paragraph 97 of the SAC, Defendant Garcia
7 incorporates, by reference, her responses to paragraphs 1 through
8 90 of the SAC, as if fully set forth herein.

9 50. Answering paragraph 98 of the SAC, Defendant Garcia
10 cannot respond to any allegations pertaining to Defendant Hayes,
11 as the action against him is stayed, pending resolution of his
12 interlocutory appeal. With regard to the allegations that pertain
13 to Defendant Garcia specifically, Defendant Garcia denies,
14 generally and specifically, the allegations herein.

15 51. Answering paragraph 99 of the SAC, Defendant Garcia
16 cannot respond to any allegations pertaining to Defendant Hayes,
17 as the action against him is stayed, pending resolution of his
18 interlocutory appeal. With regard to the allegations that pertain
19 to Defendant Garcia specifically, Defendant Garcia admits only
20 that she acted under color of federal law and acted in the
21 performance of official duties under federal laws, with regard to
22 Plaintiff Guzman. However, Defendant Garcia denies that she
23 acted with the intent or purpose to discriminate against
24 Plaintiff.

25 52. Answering paragraphs 100 to 102 of the SAC, Defendant
26 Garcia cannot respond to any allegations pertaining to Defendant
27 Hayes, as the action against him is stayed, pending resolution of
28 his interlocutory appeal. With regard to the allegations that

1 pertain to Defendant Garcia specifically, Defendant Garcia
2 denies, generally and specifically, the allegations herein.

3 53. Answering paragraph 103 of the SAC, Defendant Garcia
4 incorporates, by reference, her responses to paragraphs 1 through
5 90 of the SAC, as if fully set forth herein.

6 54. Answering paragraph 104 of the SAC, Defendant Garcia
7 cannot respond to any allegations pertaining to Defendant Hayes,
8 as the action against him is stayed, pending resolution of his
9 interlocutory appeal. With regard to the allegations that pertain
10 to Defendant Garcia specifically, Defendant Garcia denies,
11 generally and specifically, the allegations herein.

12 55. Answering paragraph 105 of the SAC, Defendant Garcia
13 cannot respond to any allegations pertaining to Defendant Hayes,
14 as the action against him is stayed, pending resolution of his
15 interlocutory appeal. With regard to the allegations that pertain
16 to Defendant Garcia specifically, Defendant Garcia specifically
17 denies that she committed any reckless, intentional, and
18 deliberate acts and omissions with regard to Guzman and Carbajal.
19 Defendant Garcia lacks sufficient information or belief upon
20 which to admit or deny the remaining allegations herein, and
21 based thereon, generally and specifically denies them.

22 56. Answering paragraphs 103 to 105 of the SAC, Defendant
23 Garcia cannot respond to any allegations pertaining to Defendant
24 Hayes, as the action against him is stayed, pending resolution of
25 his interlocutory appeal. With regard to the allegations that
26 pertain to Defendant Garcia specifically, Defendant Garcia
27 denies, generally and specifically, the allegations herein.

28 57. Answering paragraph 106 of the SAC, Defendant Garcia

1 cannot respond to any allegations pertaining to Defendant Hayes,
2 as the action against him is stayed, pending resolution of his
3 interlocutory appeal. With regard to the allegations that pertain
4 to Defendant Garcia specifically, Defendant Garcia admits only
5 that she acted under color of federal law and acted in the
6 performance of official duties under federal laws, with regard to
7 Plaintiff Guzman.

8 58. Answering paragraphs 107 to 109 of the SAC, Defendant
9 Garcia cannot respond to any allegations pertaining to Defendant
10 Hayes, as the action against him is stayed, pending resolution of
11 his interlocutory appeal. With regard to the allegations that
12 pertain to Defendant Garcia specifically, Defendant Garcia
13 denies, generally and specifically, the allegations herein.

14 59. Answering paragraph 110 of the SAC, Defendant Garcia
15 incorporates, by reference, her responses to paragraphs 1 through
16 90 of the SAC, as if fully set forth herein.

17 60. Answering paragraphs 111 to 115 of the SAC, Defendant
18 Garcia cannot respond to any allegations pertaining to Defendant
19 Hayes, as the action against him is stayed, pending resolution of
20 his interlocutory appeal. With regard to the allegations that
21 pertain to Defendant Garcia specifically, Defendant Garcia admits
22 only that she acted under color of federal law and acted in the
23 performance of official duties under federal laws, with regard to
24 Plaintiff Guzman. Defendant Garcia denies, generally and
25 specifically, the remaining allegations herein.

26 61. Answering paragraph 116 of the SAC, Defendant Garcia
27 incorporates, by reference, her responses to paragraphs 1 through
28 90 of the SAC, as if fully set forth herein.

1 62. Answering paragraphs 117 to 119 of the SAC, Defendant
2 Garcia cannot respond to any allegations pertaining to Defendant
3 Hayes, as the action against him is stayed, pending resolution of
4 his interlocutory appeal. With regard to the allegations that
5 pertain to Defendant Garcia specifically, Defendant Garcia admits
6 only that ICE obtained custody of Guzman from LASD. Except as
7 otherwise admitted, Defendant Garcia denies, generally and
8 specifically, the remaining allegations herein.

9 63. Answering paragraph 120 of the SAC, Defendant Garcia
10 lacks sufficient information or belief upon which to admit or
11 deny the allegations herein, and based thereon, generally and
12 specifically denies them.

13 64. Answering paragraph 121 of the SAC, Defendant Garcia
14 incorporates, by reference, her responses to paragraphs 1 through
15 90 of the SAC, as if fully set forth herein.

16 65. Answering paragraphs 122 to 124 of the SAC, Defendant
17 Garcia cannot respond to any allegations pertaining to Defendant
18 Hayes, as the action against him is stayed, pending resolution of
19 his interlocutory appeal. With regard to the allegations that
20 pertain to Defendant Garcia specifically, Defendant Garcia
21 denies, generally and specifically, the allegations herein.

22 66. Answering paragraph 125 of the SAC, Defendant Garcia
23 lacks sufficient information or belief upon which to admit or
24 deny the allegations herein, and based thereon, generally and
25 specifically denies them.

26 67. Answering paragraph 126 of the SAC, Defendant Garcia
27 incorporates, by reference, her responses to paragraphs 1 through
28 90 of the SAC, as if fully set forth herein.

1 68. Answering paragraphs 127 to 130 of the SAC, Defendant
2 Garcia cannot respond to any allegations pertaining to Defendant
3 Hayes, as the action against him is stayed, pending resolution of
4 his interlocutory appeal. With regard to the allegations that
5 pertain to Defendant Garcia specifically, Defendant Garcia
6 denies, generally and specifically, the allegations herein.

7 69. Answering paragraph 131 of the SAC, Defendant Garcia
8 lacks sufficient information or belief upon which to admit or
9 deny the allegations herein, and based thereon, generally and
10 specifically denies them.

11 70. The Eighth, Ninth, Tenth, Eleventh, Twelfth, and
12 Thirteenth Claims for Relief have only been asserted
13 against the LASD Defendant Garcia and the Doe LASD Defendant
14 Garcia. As such, no response to paragraphs 132 to 164 is
15 required. To the extent a response is required, however,
16 Defendant Garcia, generally and specifically, denies the
17 allegations herein.

18
19 First Affirmative Defense

20 71. The SAC fails to state a claim upon which relief can be
21 granted.

22 Second Affirmative Defense

23 72. Should Plaintiffs prevail against Defendant Garcia,
24 her liability is several and limited to her own actionable
25 segment of fault, if any.

26 Third Affirmative Defense

27 73. Defendant Garcia did not owe, let alone breach, any
28 duty to Plaintiffs.

1 Fourth Affirmative Defense

2 74. To the extent Plaintiffs were injured, Defendant Garcia
3 was not the actual or proximate cause of those injuries.

4 Fifth Affirmative Defense

5 75. The acts or omissions alleged in the SAC were
6 justified.

7 Sixth Affirmative Defense

8 76. If Plaintiffs sustained or suffered any loss, injury,
9 damage or detriment, the same was directly and proximately caused
10 and contributed to by the conduct, acts, omissions, activities,
11 carelessness, recklessness, negligence and/or intentional
12 misconduct of Plaintiffs and/or others, and not by Defendant
13 Garcia.

14 Seventh Affirmative Defense

15 77. Plaintiffs have failed, in whole or in part, to
16 mitigate their alleged damages.

17 Eighth Affirmative Defense

18 78. As any injury, damages and/or loss allegedly suffered
19 by Plaintiffs were caused by their own negligence, Plaintiffs'
20 damages should be reduced by said percentage of fault.

21 Ninth Affirmative Defense

22 79. To the extent not already covered in this Answer,
23 Defendant Garcia denies any and all allegations of
24 wrongdoing pertaining to her alleged conduct at issue in this
25 action.

26 Defendant Garcia has insufficient knowledge or information
27 on which to form a belief as to whether it may have additional,
28 as yet unstated, affirmative defenses available. Defendant

1 Garcia therefore reserves the right to assert additional
2 affirmative defenses in the event discovery indicates that they
3 may be appropriate.

4 WHEREFORE, Defendant Garcia prays for judgment against
5 Plaintiffs, as follows:

6 1. That Plaintiffs' SAC and each cause of action contained
7 therein be dismissed with prejudice.

8 2. That Plaintiffs take nothing by their SAC;

9 3. That Defendant Garcia be awarded costs incurred herein;
10 and

11 4. That the Court order such other and further relief for
12 Defendant Garcia as the Court may deem just and proper.

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15 DATED: Sept. 23, 2009

GEORGE S. CARDONA
Acting United States Attorney
LEON W. WEIDMAN
Assistant United States Attorney
Chief, Civil Division

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19 _____/s/
KATHERINE M. HIKIDA
DEBORAH E. YIM
Assistant United States Attorneys

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21 Attorneys for Federal Defendants
22 UNITED STATES OF AMERICA,
JAMES T. HAYES, and PILAR GARCIA
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