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7 Attorneys for Defendants
County of Los Angeles, Sheriff Leroy Baca,
8 Timothy Cornell, and Sandra Figueras

9 **UNITED STATES DISTRICT COURT**
10 **CENTRAL DISTRICT OF CALIFORNIA**
11

12 PETER GUZMAN and MARIA
CARBAJAL,

13 Plaintiffs,
14

15 vs.

16 MICHAEL CHERTOFF, Secretary,
Department of Homeland Security;
JAMES T. HAYES, Field Office
17 Director, U.S. Immigration and
Customs Enforcement; PILAR
18 GARCIA, Agent, U.S. Immigration
and Customs Enforcement; COUNTY
19 OF LOS ANGELES; LEROY BACA,
Sheriff of the County of Los Angeles;
20 TIMOTHY CORNELL, Captain, Los
Angeles County Inmate Reception
21 Center; SANDRA FIGUERAS,
Custodial Assistant, Los Angeles
22 County Sheriff's Department; AND
DOES 1-100,

23 Defendants.
24

) Case No. CV 08-01327 GHK (SSx)

) Honorable George H. King
25

) **ANSWER TO SECOND AMENDED**
COMPLAINT; DEMAND FOR
JURY TRIAL
26

27 TO THE COURT, ALL INTERESTED PARTIES AND THEIR
28 ATTORNEYS OF RECORD:

1 COME NOW Defendants COUNTY OF LOS ANGELES, SHERIFF
2 LEROY BACA, TIMOTHY CORNELL, and SANDRA FIGUERAS
3 (collectively "Defendants"), and answering the Second Amended Complaint
4 ("SAC") herein for themselves and for no other Defendants, admit, deny, and
5 allege as follows:

6 1. Answering Paragraphs 1 and 2 of the SAC, Defendants admit that
7 jurisdiction and venue are proper. As to the remainder of the allegations set forth
8 in these Paragraphs, Defendants do not have sufficient information or belief to
9 enable them to answer said Paragraphs and, on that ground, deny each and every
10 allegation contained therein.

11 2. Answering Paragraphs 10 and 41 SAC, Defendants admit that a
12 Memorandum of Understanding ("MOU") exists between the Department of
13 Homeland Security and the Los Angeles County Sheriff's Department ("LASD"),
14 the terms and conditions of which are set forth therein. Defendants further admit
15 that Immigration and Customs Enforcement ("ICE") trained LASD personnel
16 pursuant to the MOU. Defendants further admit that Plaintiff Guzman was turned
17 over to the custody of ICE. As to the remainder of the allegations stated in these
18 Paragraphs, Defendants do not have sufficient information or belief to enable
19 them to answer said Paragraphs and, on that ground, deny each and every
20 allegation contained therein.

21 3. Answering Paragraph 3 of the SAC, Defendants admit that United
22 States citizens have rights attendant to said status. As to the remainder of the
23 allegations stated in this Paragraph, the allegations are vague and ambiguous and,
24 on that basis, Defendants deny generally and specifically said allegations.

25 4. Answering Paragraph 11 of the SAC, Defendants admit that an
26 MOU exists between the Department of Homeland Security and the LASD, the
27 terms and conditions of which are set forth therein. Defendants further admit that
28 ICE trained LASD personnel pursuant to the MOU. Defendants deny generally

1 and specifically any allegation of improper conduct on the basis of race. As to
2 the remainder of the allegations stated in this Paragraph, Defendants do not have
3 sufficient information or belief to enable them to answer said Paragraph and, on
4 that ground, deny each and every allegation contained therein.

5 5. Answering Paragraph 12 of the SAC, Defendants admit that certain
6 LASD records reflected that Plaintiff Guzman had told Defendants that he was a
7 United States citizen, while other LASD records reflected that Plaintiff Guzman
8 told Defendants that he was a Mexican citizen. Defendants deny generally and
9 specifically that Defendants deported Plaintiff Guzman. As to the remainder of
10 the allegations stated in this Paragraph, Defendants do not have sufficient
11 information or belief to enable them to answer said Paragraph and, on that
12 ground, deny each and every allegation contained therein.

13 6. Answering Paragraph 13 of the SAC, Defendants deny generally and
14 specifically that they harmed Plaintiffs in any way. As to the remainder of the
15 allegations stated in this Paragraph, Defendants do not have sufficient information
16 or belief to enable them to answer said Paragraph and, on that ground, deny each
17 and every allegation contained therein.

18 7. Answering Paragraph 14 of the SAC, Defendants admit that Plaintiff
19 Guzman was in the custody of the LASD until he was turned over to ICE.
20 Defendants deny generally and specifically that the LASD ever held "Peter"
21 Guzman. Defendants admit that the LASD assisted in the eventual release from
22 custody of Plaintiff Guzman. As to the remainder of the allegations stated in this
23 Paragraph, Defendants do not have sufficient information or belief to enable them
24 to answer said Paragraph and, on that ground, deny each and every allegation
25 contained therein.

26 8. Answering Paragraph 16 of the SAC, Defendants admit that the
27 Department of Homeland Security is a department within the United States
28 government. As to the remainder of the allegations stated in this Paragraph,

1 Defendants do not have sufficient information or belief to enable them to answer
2 said Paragraph and, on that ground, deny each and every allegation contained
3 therein.

4 9. Answering Paragraph 20 of the SAC, Defendants admit that the
5 County of Los Angeles is a public entity per the laws of the State of California
6 and that the LASD is a department of the County. As to the remainder of the
7 allegations stated in this Paragraph, Defendants do not have sufficient information
8 or belief to enable them to answer said Paragraph and, on that ground, deny each
9 and every allegation contained therein.

10 10. Answering Paragraph 21 of the SAC, Defendants admit that Leroy
11 Baca is the duly elected Sheriff of Los Angeles County and, as a result, is charged
12 with the legal responsibility attendant to said position. As to the remainder of the
13 allegations stated in this Paragraph, Defendants do not have sufficient information
14 or belief to enable them to answer said Paragraph and, on that ground, deny each
15 and every allegation contained therein.

16 11. Answering Paragraph 22 of the SAC, Defendants admit that Timothy
17 Cornell is a Captain of the LASD and was the unit commander of the Inmate
18 Reception Center and, as a result, was charged with the legal responsibility
19 attendant to said position. As to the remainder of the allegations stated in this
20 Paragraph, Defendants do not have sufficient information or belief to enable them
21 to answer said Paragraph and, on that ground, deny each and every allegation
22 contained therein.

23 12. Answering Paragraph 23 of the SAC, Defendants admit that Sandra
24 Figueras is a custody assistant with the LASD. As to the remainder of the
25 allegations stated in this Paragraph, Defendants do not have sufficient information
26 or belief to enable them to answer said Paragraph and, on that ground, deny each
27 and every allegation contained therein.

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1 13. Answering Paragraph 28, 134, 140, and 147 of the SAC, Defendants
2 admit that they acted pursuant to their official duties. Defendants deny generally
3 and specifically that they acted with the intent or purpose to discriminate against
4 Mr. Guzman. As to the remainder of the allegations stated in this Paragraph,
5 Defendants do not have sufficient information or belief to enable them to answer
6 said allegations and, on that ground, deny each and every allegation contained
7 therein.

8 14. Answering Paragraph 35 of the SAC, Defendants admit the
9 allegations stated in this Paragraph and further admit that Plaintiff was arrested
10 for a felony violation.

11 15. Answering Paragraph 42 of the SAC, Defendants admit that Plaintiff
12 Guzman was interviewed by Defendant Sandra Figueras pursuant to the MOU.
13 Defendants further admit that Defendant Figueras was a custody assistant of the
14 LASD at the time of the interview. As to the remainder of the allegations stated
15 in this Paragraph, Defendants do not have sufficient information or belief to
16 enable them to answer said Paragraph and, on that ground, deny each and every
17 allegation contained therein.

18 16. Answering Paragraph 91, 97, 103, 110, 116, 121, 126, 132, 138, 144,
19 151, 155, and 160, Defendants hereby incorporate by reference their answers to
20 Paragraphs 1 through 90 stated herein.

21 17. Answering Paragraph 105, Defendants lack sufficient information to
22 respond to the allegation that Plaintiff Carbajal has cared for Plaintiff Guzman his
23 entire life. As to the remainder of the allegations stated in this Paragraph,
24 Defendants deny generally and specifically each and every allegation contained
25 therein.

26 18. Answering Paragraphs 4, 26, 39, 43, 46, 54, 56, 57, 59, 60, 79
27 through 81, 85 through 88, 92, 94 through 96, 98, 100 through 102, 104, 107
28 through 109, 111, 113 through 115, 119, 122, 124, 127, 129, 130, 133, 135

1 through 137, 139, 141 through 143, 145, 146, 148 through 150, 153, 156, 158,
2 161 through 163, Defendants deny generally and specifically each and every
3 allegation contained therein.

4 19. Answering Paragraphs 5 through 9, 15, 17 through 19, 25,
5 27, 29 through 34, 36 through 38, 40, 44, 45, 47, 49 through 53, 55, 58, 61 through
6 78, and 82 through 84, 89, 90, 93, 99, 106, 112, 117, 118, 120, 123, 125, 128,
7 131, 154, and 159, Defendants do not have sufficient information or belief to
8 enable them to answer said Paragraphs and, on that ground, deny each and every
9 allegation contained therein.

10 20. Answering Paragraphs 152 and 157 of the SAC, Defendants admit
11 that they acted pursuant to their official duties. As to the remainder of the
12 allegations stated in this Paragraph, Defendants deny generally and specifically
13 each and every allegation contained therein.

14 21. Answering Paragraph 48 of the SAC, Defendants admit that an
15 immigration hold was placed on Mr. Guzman on April 26, 2007. As to the
16 remainder of the allegations stated in this paragraph, Defendants do not have
17 sufficient information or belief to enable them to answer said Paragraph and, on
18 that ground, deny each and every allegation contained therein.

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21 **FIRST AFFIRMATIVE DEFENSE**

22 22. Plaintiffs' SAC fails to state a cause of action against these
23 Defendants.

24 **SECOND AFFIRMATIVE DEFENSE**

25 23. The individual Defendants, if any, are entitled to qualified immunity.

26 **THIRD AFFIRMATIVE DEFENSE**

27 24. Plaintiffs' SAC fails to state a cause of action against these public
28 entity Defendants for, pursuant to Monell v. Department of Social Services of the

1 City of New York, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978), there can
2 be no recovery for a federal civil rights violation where there is no constitutional
3 deprivation occurring pursuant to governmental policy or custom.

4 **FOURTH AFFIRMATIVE DEFENSE**

5 25. Defendants are immune from liability under the Eleventh
6 Amendment to the Constitution of the United States.

7 **FIFTH AFFIRMATIVE DEFENSE**

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

10 **SIXTH AFFIRMATIVE DEFENSE**

11 27. Plaintiffs are not entitled to the injunctive relief sought since the
12 relief sought is contrary to public policy.

13 **SEVENTH AFFIRMATIVE DEFENSE**

14 28. Plaintiffs lack standing to assert the claims in their SAC.

15 **EIGHTH AFFIRMATIVE DEFENSE**

16 29. Neither a public entity nor a public employee is liable for any
17 injury caused by the institution or prosecution of any judicial proceedings within
18 the scope of the public employee's employment.

19 **NINTH AFFIRMATIVE DEFENSE**

20 30. Neither a public entity nor a public employee acting within the
21 scope of his employment is liable for any injury caused by a public employee's
22 misrepresentation, whether the misrepresentation be negligent or intentional.

23 **TENTH AFFIRMATIVE DEFENSE**

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

27 **ELEVENTH AFFIRMATIVE DEFENSE**

28 32. Neither a public entity nor a public employee is liable for any

1 injury caused by the adoption or failure to adopt an enactment or by the failure
2 to enforce an enactment.

3 **TWELFTH AFFIRMATIVE DEFENSE**

4 33. Any injury to Plaintiffs was due to and caused by the negligence
5 and/or omissions of Plaintiffs to care for themselves, which carelessness and/or
6 negligence and/or omissions were the proximate cause of the damage, if any, to
7 Plaintiffs.

8 **THIRTEENTH AFFIRMATIVE DEFENSE**

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

11 **FOURTEENTH AFFIRMATIVE DEFENSE**

12 35. Neither a public employee nor a public entity is liable for any
13 injury caused by the act or omission of another person.

14 **FIFTEENTH AFFIRMATIVE DEFENSE**

15 36. Plaintiffs' claims for relief and request for attorneys' fees is limited,
16 in whole or in part, by the Prison Litigation Reform Act.

17 **SIXTEENTH AFFIRMATIVE DEFENSE**

18 37. To the extent that Plaintiffs suffered any detriment, such detriment
19 was caused or contributed to by Plaintiffs' negligence and damage, if any,
20 should be reduced in direct proportion to their fault.

21 **SEVENTEENTH AFFIRMATIVE DEFENSE**

22 38. The injuries and damages alleged by Plaintiffs, if any, were
23 proximately caused by the negligence, conduct and liability of other persons or
24 entities, and these answering Defendants request that an allocation of such
25 negligence, conduct and liability be made among such other persons or entities,
26 and that, if any liability is found on the part of these Defendants, judgment
27 against these Defendants be only in an amount which is proportionate to the
28 extent and percentage by which these answering Defendants' acts or omissions

1 contributed to Plaintiffs' injuries or damages, if at all.

2 **EIGHTEENTH AFFIRMATIVE DEFENSE**

3 39. The negligence of a third-party or parties was a superseding,
4 intervening cause of Plaintiffs' injuries.

5 **NINETEENTH AFFIRMATIVE DEFENSE**

6 40. Plaintiffs failed to mitigate their damages.

7 **TWENTIETH AFFIRMATIVE DEFENSE**

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

10 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

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

13 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

14 43. Plaintiffs' SAC fails to state a cause of action against these
15 Defendants for punitive damages in that punitive damages violates these
16 Defendants' due process of law rights.

17 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

18 44. Plaintiffs' claims and requests for relief are barred, in whole or in
19 part, by waiver.

20 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

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

23 **TWENTY-FIFTH AFFIRMATIVE DEFENSE**

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

26 **TWENTY-SIXTH AFFIRMATIVE DEFENSE**

27 47. Plaintiffs' claims and requests for relief are barred, in whole or in
28 part, by the doctrine of assumption of risk.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

48. Plaintiffs' claims and requests for relief are barred, in whole or in part, by consent.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

49. The individual Defendants, if any, are entitled to quasi-judicial immunity.

TWENTY-NINTH AFFIRMATIVE DEFENSE

50. Plaintiffs' claims and requests for relief are barred, in whole or in part, because Plaintiffs failed to comply with the requirements of the California Tort Claims Act.

THIRTIETH AFFIRMATIVE DEFENSE

51. Plaintiffs' claims and requests for relief are barred, in whole or in part, because Plaintiffs failed to comply with the requirements of the Federal Tort Claims Act.

THIRTY-FIRST AFFIRMATIVE DEFENSE

52. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrine of sovereign immunity.

THIRTY-SECOND AFFIRMATIVE DEFENSE

53. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the doctrine of sovereign immunity.

THIRTY-THIRD AFFIRMATIVE DEFENSE

54. Plaintiffs' claims and requests for relief are barred, in whole or in part, by the principles set forth in *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

THIRTY-FOURTH AFFIRMATIVE DEFENSE

55. The County Sheriff and his subordinates act on behalf of the State, not the County, where engaged in law enforcement activities, consequently, any policies, practices or customs alleged in the SAC are not those of the County.

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THIRTY-FIFTH AFFIRMATIVE DEFENSE

56. These Defendants are immune from liability pursuant to Government Code § 845.2, which provides immunity from liability for failure to provide sufficient jail equipment, personnel or facilities.

THIRTY-SIXTH AFFIRMATIVE DEFENSE

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

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

58. These Defendants are immune from liability pursuant to Government Code § 844.6 which provides immunity from liability for an injury proximately caused by any prisoner or to any prisoner.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

59. Plaintiffs' claims are without merit because the alleged conduct by these answering Defendants was taken pursuant to the Memorandum of Understanding between the Department of Homeland Security and the Los Angeles County Sheriff's Department.

THIRTY-NINTH AFFIRMATIVE DEFENSE

60. Defendants are immune from liability based on the immunities that apply to the United States of America, its agents, and employees, or any of them.

FORTIETH AFFIRMATIVE DEFENSE

61. These answering Defendants hereby incorporate by reference the affirmative defenses asserted by the Federal Defendants in their Answer to Plaintiffs' First Amended Complaint.

FORTY-FIRST AFFIRMATIVE DEFENSE

62. These Defendants are immune from liability pursuant to Government Code § 820.8 which provides that a public employee is not liable for an injury caused by the act or omission of another person.

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FORTY-SECOND AFFIRMATIVE DEFENSE

63. To the extent Plaintiffs were injured, neither the Defendants nor their employees were the actual or proximate cause of those injuries.

FORTY-THIRD AFFIRMATIVE DEFENSE

64. Any conduct undertaken by Defendants was justified.

FORTY-FOURTH AFFIRMATIVE DEFENSE

65. The acts or omissions alleged in the SAC were justified

FORTY-FIFTH AFFIRMATIVE DEFENSE

66. If Plaintiffs sustained or suffered any loss, injury, damage or detriment, the same was directly and proximately caused and contributed to by the conduct, acts, omissions, activities, carelessness, recklessness, negligence and/or intentional misconduct of Plaintiffs and/or others, and not by Defendants.

FORTY-SIXTH AFFIRMATIVE DEFENSE

67. Plaintiffs have failed, in whole or in part, to mitigate their alleged damages

FORTY-SEVENTH AFFIRMATIVE DEFENSE

68. Under the Federal Tort Claims Act, Plaintiffs' recovery is limited to the amount sought administratively and may not include an additional award of attorney's fees.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

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

FORTY-NINTH AFFIRMATIVE DEFENSE

70. Should Plaintiffs prevail against these answering Defendants, these answering Defendants' liability is several and limited to its own actionable segment of fault, if any.

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1 WHEREFORE, Defendants pray that Plaintiffs take nothing by the way of
2 their SAC and that these answering Defendants herein recover their costs and
3 such other and further relief as the Court may deem just and proper.
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5 **DEMAND FOR JURY TRIAL**

6 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

7 PLEASE TAKE NOTICE that Defendants COUNTY OF LOS ANGELES,
8 SHERIFF LEROY BACA, TIMOTHY CORNELL, and SANDRA FIGUERAS
9 demand a trial by jury pursuant to Federal Rules of Civil Procedure, Rule 38(b)
10 and Local Rule 3.4.10.1.
11

12 Dated: September 22, 2009

LAWRENCE BEACH ALLEN & CHOI, PC

14 By s/ Justin W. Clark
15 Justin W. Clark
16 Attorneys for Defendants
17 County of Los Angeles,
18 Sheriff Leroy D. Baca, Timothy
19 Cornell, and Sandra Figueras
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