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9 Attorneys for Federal Defendants
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,

**ANSWER OF FEDERAL DEFENDANT
UNITED STATES OF AMERICA TO
SECOND AMENDED COMPLAINT**

16 v.

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 Defendant United States of America (the "USA") answers the
2 Second Amended Complaint ("SAC") of Plaintiffs Peter Guzman
3 ("Guzman") and Maria Carbajal ("Carbajal") (collectively,
4 "Plaintiffs") as follows:

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, the USA lacks
8 sufficient information or belief upon which to admit or deny the
9 allegations of this paragraph, and based thereon, generally and
10 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, the USA 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, the USA admits only
18 that the government does not have the authority to knowingly
19 deport a United States citizen. The USA lacks sufficient
20 information or belief upon which to admit or deny the remaining
21 allegations herein, and based thereon, generally and specifically
22 denies them.

23 4. Answering paragraph 4 of the SAC, the USA denies,
24 generally and specifically, the allegations herein.

25 5. Answering paragraph 5 of the SAC, the USA lacks
26 sufficient information or belief upon which to admit or deny the
27 allegations herein, and based thereon, generally and specifically
28 denies them.

1 6. Answering paragraph 6 of the SAC, the USA admits only
2 that Guzman was put on a bus by Immigration and Customs
3 Enforcement ("ICE") agents and that Guzman subsequently
4 disembarked the bus. The USA denies that Guzman was forced to
5 disembark and that he did so in Tijuana, Mexico. The USA lacks
6 sufficient information or belief upon which to admit or deny the
7 remaining allegations herein, and based thereon, generally and
8 specifically denies them.

9 7. Answering paragraph 7 of the SAC, the USA denies that
10 Guzman was unlawfully deported. The USA 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 8. Answering paragraph 8 of the SAC, the USA denies that
15 Guzman was unlawfully deported. The USA lacks sufficient
16 information or belief upon which to admit or deny the remaining
17 allegations herein, and based thereon, generally and specifically
18 denies them.

19 9. Answering paragraph 9 of the SAC, the USA denies that
20 Guzman was unlawfully deported. The USA lacks sufficient
21 information or belief upon which to admit or deny the remaining
22 allegations herein, and based thereon, generally and specifically
23 denies them.

24 10. Answering paragraph 10 of the SAC, the USA admits only
25 that the Department of Homeland Security and the Los Angeles
26 County Board of Supervisors entered into a January 25, 2005
27 Memorandum of Understanding ("MOU"), allowing Los Angeles County
28 Sheriff's Department ("LASD") personnel - described as "custody

1 assistants" - to engage in certain federal immigration
2 enforcement duties. Except as otherwise admitted, the USA
3 denies, generally and specifically, the remaining allegations
4 herein.

5 11. Answering paragraph 11 of the SAC, the USA denies,
6 generally and specifically, the allegations herein.

7 12. Answering paragraph 12 of the SAC, the USA admits only
8 that LASD booking records reflected a self-reported birthplace of
9 California and listed a number in the entry for the arrestee's
10 drivers license number. The USA denies, however, that ICE
11 illegally deported Guzman; that the medical records at issue show
12 Guzman was not capable of exercising a voluntary, knowing and
13 intelligent waiver of his rights; and that ICE ignored records
14 and/or did not undertake reasonable and diligent efforts to
15 review them and appreciate their meaning. The USA denies that it
16 illegally deported Guzman. The USA lacks sufficient information
17 or belief upon which to admit or deny the remaining allegations
18 herein, and based thereon, generally and specifically denies
19 them.

20 13. Answering paragraph 13 of the SAC, the USA denies,
21 generally and specifically, the allegations herein.

22 14. Answering paragraph 14 of the SAC, the USA admits only
23 that Guzman entered Mexico in May 2007 and that he was detained
24 by the U.S. Border Patrol at the border near Calexico on August
25 5, 2007. The USA denies that it illegally deported Guzman. The
26 USA lacks sufficient information or belief upon which to admit or
27 deny the remaining allegations herein, and based thereon,
28 generally and specifically denies them.

1 15. Answering paragraph 15 of the SAC, the USA admits that
2 Carbajal is a lawful permanent resident alien. The USA 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 16. Answering paragraph 16 of the SAC, the USA denies that
7 it violated any provision of the Federal Tort Claims Act and that
8 it is "implicated" for any alleged wrongdoing with regard to this
9 case.

10 17. Answering paragraph 17 of the SAC, the USA admits that,
11 during the relevant time herein, Defendant James T. Hayes
12 ("Defendant Hayes") was the Field Office Director for the Los
13 Angeles District of ICE, and in that capacity, he oversaw an
14 office responsible for the detention and removal of aliens within
15 the district. The USA further admits that Defendant Hayes was
16 promoted to Acting Director of ICE's Office of Detention and
17 Removal. The USA 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 18. Answering paragraph 18 of the SAC, the USA admits that,
21 Defendant Pilar Garcia ("Defendant Garcia") is, and at all
22 relevant times herein, was an Immigration Enforcement Agent with
23 ICE. The USA lacks sufficient information or belief upon which
24 to admit or deny the remaining allegations herein, and based
25 thereon, generally and specifically denies them.

26 19. There are no factual allegations in Paragraph 19
27 requiring a response by the USA.

28 20. Answering paragraphs 20 to 24 of the SAC, the USA lacks

1 sufficient information or belief upon which to admit or deny the
2 allegations herein, and based thereon, generally and specifically
3 denies them.

4 21. There are no factual allegations in paragraphs 25 and
5 26 requiring a response by the USA.

6 22. Answering paragraphs 27 to 29 of the SAC, the USA
7 denies, generally and specifically, the allegations herein.

8 23. Answering paragraph 30 of the SAC, the USA lacks
9 sufficient information or belief upon which to admit or deny the
10 allegations herein, and based thereon, generally and specifically
11 denies them.

12 24. Answering paragraphs 31 to 34 of the SAC, the USA lacks
13 sufficient information or belief upon which to admit or deny the
14 allegations herein, and based thereon, generally and specifically
15 denies them.

16 25. Answering paragraph 35 of the SAC, the USA admits the
17 allegations of this paragraph.

18 26. Answering paragraphs 36 to 40 of the SAC, the USA lacks
19 sufficient information or belief upon which to admit or deny the
20 allegations herein, and based thereon, generally and specifically
21 denies them.

22 27. Answering paragraphs 41 and 42 of the SAC, the USA
23 admits the allegations of this paragraph.

24 28. Answering paragraph 43 of the SAC, the USA denies,
25 generally and specifically, the allegations of this paragraph.

26 29. Answering paragraph 44 of the SAC, the USA admits only
27 that LASD records reflected a self-reported birth place of
28 California and listed a number in the entry for the arrestee's

1 drivers license number. The USA specifically denies that no
2 reasonable basis existed to suspect or otherwise conclude that
3 Guzman was not a United States citizen. The USA lacks sufficient
4 information or belief upon which to admit or deny the remaining
5 allegations herein, and based thereon, generally and specifically
6 denies them.

7 30. Answering paragraph 45 of the SAC, the USA lacks
8 sufficient information or belief upon which to admit or deny the
9 allegations herein, and based thereon, generally and specifically
10 denies them.

11 31. Answering paragraph 46 of the SAC, the USA denies,
12 generally and specifically, the allegations herein.

13 32. Answering paragraphs 47 to 49 of the SAC, the USA
14 admits the allegations herein.

15 33. Answering paragraph 50 of the SAC, the USA lacks
16 sufficient information or belief upon which to admit or deny the
17 allegations herein, and based thereon, generally and specifically
18 denies them.

19 34. Answering paragraph 51 of the SAC, the USA admits
20 that Guzman signed the form at issue. The USA further admits
21 that form was written entirely in Spanish and that it purportedly
22 waived Guzman's legal rights to a removal deportation hearing and
23 stated he was a citizen of Mexico and that he agreed to be
24 voluntarily deported to Mexico. Except as otherwise admitted,
25 the USA denies, generally and specifically, the remaining
26 allegations herein.

27 35. Answering paragraphs 52 and 53 of the SAC, the USA
28 lacks sufficient information or belief upon which to admit or

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

3 36. Answering paragraph 54 of the SAC, the USA admits that
4 LASD records at issue listed a number in the entry for the
5 arrestee's drivers license number. Except as otherwise admitted,
6 the USA denies, generally and specifically, the remaining
7 allegations herein.

8 37. Answering paragraphs 55 to 59 of the SAC, the USA
9 denies, generally and specifically, the allegations herein.

10 38. Answering paragraph 60 of the SAC, the USA admits only
11 that Guzman was placed on a bus on May 11, 2007. Except as
12 otherwise admitted, the USA denies, generally and specifically,
13 the remaining allegations herein.

14 39. Answering paragraphs 61 to 78 of the SAC, the USA lacks
15 sufficient information or belief upon which to admit or deny the
16 allegations herein, and based thereon, generally and specifically
17 denies them.

18 40. Answering paragraphs 79 and 80 of the SAC, the USA
19 denies, generally and specifically, the allegations herein.

20 41. Answering paragraph 81 of the SAC, the USA lacks
21 sufficient information or belief upon which to admit or deny the
22 allegations herein, and based thereon, generally and specifically
23 denies them.

24 42. Answering paragraph 82 of the SAC, the USA admits that
25 Guzman attempted to enter the United States near Calexico and was
26 detained by border guards at the border in August 2007. The USA
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 43. Answering paragraphs 83 and 84 of the SAC, the USA
3 lacks sufficient information or belief upon which to admit or
4 deny the allegations herein, and based thereon, generally and
5 specifically denies them.

6 44. Answering paragraph 85 of the SAC, the USA specifically
7 denies that Guzman was illegally deported and his alleged damages
8 were a direct and foreseeable consequence of such deportation.
9 The USA lacks sufficient information or belief upon which to
10 admit or deny the remaining allegations herein, and based
11 thereon, generally and specifically denies them.

12 45. Answering paragraph 86 of the SAC, the USA specifically
13 denies that Guzman was illegally deported and his alleged damages
14 were a direct and foreseeable consequence of such deportation.
15 The USA lacks sufficient information or belief upon which to
16 admit or deny the remaining allegations herein, and based
17 thereon, generally and specifically denies them.

18 46. Answering paragraph 87 of the SAC, the USA lacks
19 sufficient information or belief upon which to admit or deny the
20 allegations herein, and based thereon, generally and specifically
21 denies them.

22 47. Answering paragraph 88 of the SAC, the USA denies,
23 generally and specifically, the allegations herein.

24 48. Answering paragraph 89 of the SAC, the USA lacks
25 sufficient information or belief upon which to admit or deny the
26 allegations herein, and based thereon, generally and specifically
27 denies them.

28 49. Answering paragraph 90 of the SAC, the USA admits

1 that, on or about October 31, 2007, Plaintiffs filed
2 administrative tort claims with the U.S. Department of Homeland
3 Security, and on or about May 7, 2008, the claims were denied.

4 50. Answering paragraph 91 of the SAC, the USA
5 incorporates, by reference, its responses to paragraphs 1 through
6 90 of the SAC, as if fully set forth herein.

7 51. Answering paragraphs 92 to 96 of the SAC, the USA
8 admits only that ICE Defendants were acting under color of
9 federal law and acted in the performance of official duties under
10 federal law, with regard to Plaintiffs. The USA denies,
11 generally and specifically, the remaining allegations herein.

12 52. Answering paragraph 97 of the SAC, the USA
13 incorporates, by reference, its responses to paragraphs 1 through
14 90 of the SAC, as if fully set forth herein.

15 53. Answering paragraphs 98 to 102 of the SAC, the USA
16 admits only that ICE Defendants were acting under color of
17 federal law and acted in the performance of official duties under
18 federal law, with regard to Plaintiffs. The USA denies,
19 generally and specifically, the remaining allegations herein.

20 54. Answering paragraph 103 of the SAC, the USA
21 incorporates, by reference, its responses to paragraphs 1 through
22 90 of the SAC, as if fully set forth herein.

23 55. Answering paragraph 104 of the SAC, the USA denies,
24 generally and specifically, the allegations herein.

25 56. Answering paragraph 105 of the SAC, the USA
26 specifically denies that the ICE Defendants committed any
27 reckless, intentional, and deliberate acts and omissions with
28 regard to Guzman and Carbajal. The USA lacks sufficient

1 information or belief upon which to admit or deny the remaining
2 allegations herein, and based thereon, generally and specifically
3 denies them.

4 57. Answering paragraphs 106 to 109 of the SAC, the USA
5 admits only that ICE Defendants were acting under color of
6 federal law and acted in the performance of official duties under
7 federal law, with regard to Plaintiffs. The USA denies,
8 generally and specifically, the remaining allegations herein.

9 58. Answering paragraph 110 of the SAC, the USA
10 incorporates, by reference, its responses to paragraphs 1 through
11 90 of the SAC, as if fully set forth herein.

12 59. Answering paragraphs 111 to 115 of the SAC, the USA
13 admits only that ICE Defendants were acting under color of
14 federal law and acted in the performance of official duties under
15 federal law, with regard to Plaintiffs. The USA denies,
16 generally and specifically, the remaining allegations herein.

17 60. Answering paragraph 116 of the SAC, the USA
18 incorporates, by reference, its responses to paragraphs 1 through
19 90 of the SAC, as if fully set forth herein.

20 61. Answering paragraphs 117 to 119 of the SAC, the USA
21 admits only that it obtained custody of Guzman from LASD. Except
22 as otherwise admitted, the USA denies, generally and
23 specifically, the remaining allegations herein.

24 62. Answering paragraph 120 of the SAC, the USA admits
25 that, on or about October 31, 2007, Plaintiffs filed
26 administrative tort claims with the U.S. Department of Homeland
27 Security, and on or about May 7, 2008, the claims were denied.

28 63. Answering paragraph 121 of the SAC, the USA

1 incorporates, by reference, its responses to paragraphs 1 through
2 90 of the SAC, as if fully set forth herein.

3 64. Answering paragraphs 122 to 125 of the SAC, the USA
4 admits only that Plaintiffs filed administrative tort claims with
5 the Department of Homeland Security, and these claims were
6 denied. The USA denies, generally and specifically, the
7 remaining allegations herein.

8 65. Answering paragraph 126 of the SAC, the USA
9 incorporates, by reference, its responses to paragraphs 1 through
10 90 of the SAC, as if fully set forth herein.

11 66. Answering paragraphs 127 to 130 of the SAC, the USA
12 denies generally and specifically, the allegations herein.

13 67. Answering paragraph 131 of the SAC, the USA admits
14 that, on or about October 31, 2007, Plaintiffs filed
15 administrative tort claims with the U.S. Department of Homeland
16 Security, and on or about May 7, 2008, the claims were denied.

17 68. The Eighth, Ninth, Tenth, Eleventh, Twelfth, and
18 Thirteenth Claims for Relief have only been asserted
19 against the LASD Defendants and the Doe LASD Defendants. As
20 such, no response to paragraphs 132 to 164 is required. To the
21 extent a response is required, however, the USA, generally and
22 specifically, denies the allegations herein.

23
24 First Affirmative Defense

25 69. The SAC fails to state a claim upon which relief can be
26 granted.

27 Second Affirmative Defense

28 70. The SAC is barred by the doctrine of qualified

1 immunity, as to ICE Defendant Hayes.

2 Third Affirmative Defense

3 71. Neither the USA nor its employees owed, let alone
4 breached, any duty to Plaintiffs.

5 Third Affirmative Defense

6 72. To the extent Plaintiffs were injured, neither the USA
7 nor its employees were the actual or proximate cause of those
8 injuries.

9 Fourth Affirmative Defense

10 73. Any conduct undertaken by the USA was justified.

11 Fifth Affirmative Defense

12 74. The acts or omissions alleged in the SAC were
13 justified.

14 Sixth Affirmative Defense

15 75. If Plaintiffs sustained or suffered any loss, injury,
16 damage or detriment, the same was directly and proximately caused
17 and contributed to by the conduct, acts, omissions, activities,
18 carelessness, recklessness, negligence and/or intentional
19 misconduct of Plaintiffs and/or others, and not by the USA.

20 Seventh Affirmative Defense

21 76. Plaintiffs have failed, in whole or in part, to
22 mitigate their alleged damages.

23 Eighth Affirmative Defense

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

27 Ninth Affirmative Defense

28 78. As any injury, damages and/or loss allegedly suffered

1 by Plaintiffs were caused by their own negligence, Plaintiffs'
2 damages should be reduced by said percentage of fault.

3 Tenth Affirmative Defense

4 79. Should Plaintiffs prevail against the USA, the USA's
5 liability is several and limited to its own actionable segment of
6 fault, if any.

7 The USA has insufficient knowledge or information on which
8 to form a belief as to whether it may have additional, as yet
9 unstated, affirmative defenses available. The USA therefore
10 reserves the right to assert additional affirmative defenses in
11 the event discovery indicates that they may be appropriate.

12
13 WHEREFORE, the USA prays for judgment against Plaintiffs, as
14 follows:

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

17 2. That Plaintiffs take nothing by their SAC;

18 3. That the USA be awarded costs incurred herein; and

19 4. That the Court order such other and further relief for
20 the USA as the Court may deem just and proper.

21 DATED: Sept. 23, 2009

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27 /s/
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