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County of Los Angeles, Sheriff Leroy Baca,
7 Timothy Cornell, and Sandra Figueras

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

11 PETER GUZMAN and MARIA
12 CARBAJAL,

13 Plaintiffs,

14 vs.

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

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

Honorable George H. King

**ANSWER TO FIRST AMENDED
DEMAND FOR JURY TRIAL**

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

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

6 1. Answering Paragraphs 1 and 2 of the FAC, 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 42 FAC, 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 FAC, 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 FAC, 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 FAC, 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 FAC, 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 FAC, 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 and 17 of the FAC, Defendants admit that
27 Michael Chertoff is the Secretary of the Department of Homeland Security and,
28 as a result, is charged with the legal responsibility attendant to said position.

1 Defendants further admit that the Department of Homeland Security is a
2 department within the United States government. As to the remainder of the
3 allegations stated in this Paragraph, Defendants do not have sufficient information
4 or belief to enable them to answer said Paragraph and, on that ground, deny each
5 and every allegation contained therein.

6 9. Answering Paragraph 21, Defendants admit that the County of Los
7 Angeles is a public entity per the laws of the State of California and that the
8 LASD is a department of the County. As to the remainder of the allegations
9 stated in this Paragraph, Defendants do not have sufficient information or belief
10 to enable them to answer said Paragraph and, on that ground, deny each and every
11 allegation contained therein.

12 10. Answering Paragraph 22, Defendants admit that Leroy Baca is the
13 duly elected Sheriff of Los Angeles County and, as a result, is charged with the
14 legal responsibility attendant to said position. 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 11. Answering Paragraph 23, Defendants admit that Timothy Cornell is
19 a Captain of the LASD and was the unit commander of the Inmate Reception
20 Center and, as a result, was charged with the legal responsibility attendant to said
21 position. As to the remainder of the allegations stated in this Paragraph,
22 Defendants do not have sufficient information or belief to enable them to answer
23 said Paragraph and, on that ground, deny each and every allegation contained
24 therein.

25 12. Answering Paragraph 29 of the FAC, Defendants admit that they
26 acted pursuant to their official duties. As to the remainder of the allegations
27 stated in this Paragraph, Defendants do not have sufficient information or belief

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1 to enable them to answer said Paragraph and, on that ground, deny each and every
2 allegation contained therein.

3 13. Answering Paragraph 36 of the FAC, Defendants admit the
4 allegations stated in this Paragraph and further admit that Plaintiff was arrested
5 for a felony violation.

6 14. Answering Paragraph 43 of the FAC, Defendants admit that Plaintiff
7 Guzman was interviewed by Defendant Sandra Figueras pursuant to the MOU.
8 Defendants further admit that Defendant Figueras was a custody assistant of the
9 LASD at the time of the interview. As to the remainder of the allegations stated
10 in this Paragraph, Defendants do not have sufficient information or belief to
11 enable them to answer said Paragraph and, on that ground, deny each and every
12 allegation contained therein.

13 15. Answering Paragraph 90, 95, 100, 106, 114, 118, 123, 128, 133, 139,
14 142, 146, 150, Defendants hereby incorporate by reference their answers to
15 Paragraphs 1 through 89 stated herein.

16 16. Answering Paragraph 102, Defendants lack sufficient information to
17 respond to the allegation that Plaintiff Carbajal has cared for Plaintiff Guzman his
18 entire life. As to the remainder of the allegations stated in this Paragraph,
19 Defendants deny generally and specifically each and every allegation contained
20 therein.

21 17. Answering Paragraphs 19, 24, 25, and 37, Defendants admit the
22 allegations stated in said Paragraphs.

23 18. Answering Paragraphs 4, 27, 40, 44, 47, 55, 57, 58, 60, 80 through
24 82, 86 through 89, 91 through 94, 96 through 99, 101, 103 through 105, 107
25 through 110, 115 through 117, 119 through 122, 124 through 127, 129 through
26 132, 134 through 138, 140, 141, 143 through 145, 147 through 149, and 151
27 through 153, Defendants deny generally and specifically each and every
28 allegation contained therein.

1 19. Answering Paragraphs 5 through 9, 15, 18 through 20, 26 through
2 28, 30 through 35, 37 through 41, 45, 46, 48, 49 though 54, 56, 59, 61 through 79,
3 and 83 through 85, Defendants do not have sufficient information or belief to
4 enable them to answer said Paragraphs and, on that ground, deny each and every
5 allegation contained therein.

6 **FIRST AFFIRMATIVE DEFENSE**

7 20. Plaintiffs' FAC fails to state a cause of action against these
8 Defendants.

9 **SECOND AFFIRMATIVE DEFENSE**

10 21. The individual Defendants, if any, are entitled to qualified immunity.

11 **THIRD AFFIRMATIVE DEFENSE**

12 22. Plaintiffs' FAC fails to state a cause of action against these public
13 entity Defendants for, pursuant to Monell v. Department of Social Services of the
14 City of New York, 436 U.S. 658, 98 S.Ct. 2018, 56 L.Ed.2d 611 (1978), there can
15 be no recovery for a federal civil rights violation where there is no constitutional
16 deprivation occurring pursuant to governmental policy or custom.

17 **FOURTH AFFIRMATIVE DEFENSE**

18 23. Defendants are immune from liability under the Eleventh
19 Amendment to the Constitution of the United States.

20 **FIFTH AFFIRMATIVE DEFENSE**

21 24. Plaintiffs are not entitled to injunctive or declaratory relief since the
22 remedies at law are adequate.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 25. Plaintiffs are not entitled to the injunctive relief sought since the
25 relief sought is contrary to public policy.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 26. Plaintiffs lack standing to assert the claims in their FAC.

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EIGHTH AFFIRMATIVE DEFENSE

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

NINTH AFFIRMATIVE DEFENSE

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

TENTH AFFIRMATIVE DEFENSE

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

ELEVENTH AFFIRMATIVE DEFENSE

30. Neither a public entity nor a public employee is liable for any injury caused by the adoption or failure to adopt an enactment or by the failure to enforce an enactment.

TWELFTH AFFIRMATIVE DEFENSE

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

THIRTEENTH AFFIRMATIVE DEFENSE

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

FOURTEENTH AFFIRMATIVE DEFENSE

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

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FIFTEENTH AFFIRMATIVE DEFENSE

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

SIXTEENTH AFFIRMATIVE DEFENSE

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

SEVENTEENTH AFFIRMATIVE DEFENSE

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

EIGHTEENTH AFFIRMATIVE DEFENSE

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

NINETEENTH AFFIRMATIVE DEFENSE

38. Plaintiffs failed to mitigate their damages.

TWENTIETH AFFIRMATIVE DEFENSE

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

TWENTY-FIRST AFFIRMATIVE DEFENSE

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

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TWENTY-SECOND AFFIRMATIVE DEFENSE

41. Plaintiffs' FAC fails to state a cause of action against these Defendants for punitive damages in that punitive damages violates these Defendants' due process of law rights.

TWENTY-THIRD AFFIRMATIVE DEFENSE

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

TWENTY-FOURTH AFFIRMATIVE DEFENSE

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

TWENTY-FIFTH AFFIRMATIVE DEFENSE

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

TWENTY-SIXTH AFFIRMATIVE DEFENSE

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

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

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

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

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

TWENTY-NINTH AFFIRMATIVE DEFENSE

48. 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.

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THIRTIETH AFFIRMATIVE DEFENSE

49. 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

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

THIRTY-SECOND AFFIRMATIVE DEFENSE

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

THIRTY-THIRD AFFIRMATIVE DEFENSE

52. 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

53. 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 FAC are not those of the County.

THIRTY-FIFTH AFFIRMATIVE DEFENSE

54. 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

55. 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

56. 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

58. 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

59. 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

60. 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

57. 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.

WHEREFORE, Defendants pray that Plaintiffs take nothing by the way of their FAC and that these answering Defendants herein recover their costs and such other and further relief as the Court may deem just and proper.

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DEMAND FOR JURY TRIAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

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

Dated: August 4, 2008

LAWRENCE BEACH ALLEN & CHOI, PC

By _____
Justin W. Clark
Attorneys for Defendants
County of Los Angeles,
Sheriff Leroy D. Baca, Timothy
Cornell, and Sandra Figueras