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

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

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
17 Customs Enforcement; PILAR
GARCIA, Agent, U.S. Immigration
18 and Customs Enforcement; COUNTY
OF LOS ANGELES; LEROY BACA,
19 Sheriff of the County of Los Angeles;
TIMOTHY CORNELL, Captain, Los
20 Angeles County Inmate Reception
Center; SANDRA FIGUERAS,
21 Custodial Assistant, Los Angeles
County Sheriff's Department; AND
22 DOES 1-100,

23 Defendants.
24

) Case No. CV 08-01327 GHK (SSx)
) Honorable George H. King
)

**ANSWER TO COMPLAINT;
DEMAND FOR JURY TRIAL**

25
26 TO THE COURT, ALL INTERESTED PARTIES AND THEIR
27 ATTORNEYS OF RECORD:

28 ///

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

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

10 2. Answering Paragraphs 10 and 37 Complaint, Defendants admit that
11 a Memorandum of Understanding ("MOU") exists between the Department of
12 Homeland Security and the Los Angeles County Sheriff's Department ("LASD"),
13 the terms and conditions of which are set forth therein. Defendants further admit
14 that Immigration and Customs Enforcement ("ICE") trained LASD personnel
15 pursuant to the MOU. Defendants further admit that Plaintiff Guzman was turned
16 over to the custody of ICE. As to the remainder of the allegations stated in these
17 Paragraphs, Defendants do not have sufficient information or belief to enable
18 them to answer said Paragraphs and, on that ground, deny each and every
19 allegation contained therein.

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

24 4. Answering Paragraph 11 of the Complaint, Defendants admit that an
25 MOU exists between the Department of Homeland Security and the LASD, the
26 terms and conditions of which are set forth therein. Defendants further admit that
27 ICE trained LASD personnel pursuant to the MOU. Defendants deny generally
28 and specifically any allegation of improper conduct on the basis of race. As to

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

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

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

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

25 8. Answering Paragraph 16 of the Complaint, Defendants admit that
26 Michael Chertoff is the Secretary of the Department of Homeland Security and,
27 as a result, is charged with the legal responsibility attendant to said position. As
28 to the remainder of the allegations stated in this Paragraph, Defendants do not

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

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

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

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

22 12. Answering Paragraph 26 of the Complaint, Defendants admit that
23 they acted pursuant to their official duties. As to the remainder of the allegations
24 stated in this Paragraph, Defendants do not have sufficient information or belief
25 to enable them to answer said Paragraph and, on that ground, deny each and every
26 allegation contained therein.

27 13. Answering Paragraph 32 of the Complaint, Defendants admit the
28 allegations stated in this Paragraph and further admit that Plaintiff was arrested

1 for a felony violation.

2 14. Answering Paragraph 38 of the Complaint, Defendants admit that
3 Plaintiff Guzman was interviewed by Defendant Sandra Figueras pursuant to the
4 MOU. Defendants further admit that Defendant Figueras was a custody assistant
5 of the LASD at the time of the interview. As to the remainder of the allegations
6 stated in this Paragraph, Defendants do not have sufficient information or belief
7 to enable them to answer said Paragraph and, on that ground, deny each and every
8 allegation contained therein.

9 15. Answering Paragraphs 48 and 49, Defendants deny generally and
10 specifically that they deported Plaintiff Guzman. Defendants further deny
11 generally and specifically that they were deliberately indifferent “to the rights and
12 well-being of inmates of or perceived to be racially/ethnically Latino.” As to the
13 remainder of the allegations stated in these Paragraphs, Defendants do not have
14 sufficient information or belief to enable them to answer said Paragraphs and, on
15 that ground, deny each and every allegation contained therein.

16 16. Answering Paragraph 69, Defendants admit that in August, 2007,
17 Plaintiff Guzman came back into LASD custody. As to the remainder of the
18 allegations stated in this Paragraph, Defendants do not have sufficient information
19 or belief to enable them to answer said Paragraph and, on that ground, deny each
20 and every allegation contained therein.

21 17. Answering Paragraph 75, 80, 85, 91, 94, and 97, Defendants hereby
22 incorporate by reference their answers to Paragraphs 1 through 74 stated herein.

23 18. Answering Paragraph 87, Defendants lack sufficient information to
24 respond to the allegation that Plaintiff Carbajal has cared for Plaintiff Guzman his
25 entire life. As to the remainder of the allegations stated in this Paragraph,
26 Defendants deny generally and specifically each and every allegation contained
27 therein.

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1 19. Answering Paragraphs 19, 23, 24, 33, and 41, Defendants admit the
2 allegations stated in said Paragraphs.

3 20. Answering Paragraphs 4, 27, 39, 40, 45, 47, 76 through 79, 81
4 through 84, 86, 88 through 90, 92, 93, 95, 96, 98, and 99, Defendants deny
5 generally and specifically each and every allegation contained therein.

6 21. Answering Paragraphs 5 through 9, 15, 17, 18, 19, 25, 28 through
7 31, 34 through 36, 42 through 44, 46, 50 through 68, and 70 through 74, 100, and
8 101, Defendants do not have sufficient information or belief to enable them to
9 answer said Paragraphs and, on that ground, deny each and every allegation
10 contained therein.

11 **FIRST AFFIRMATIVE DEFENSE**

12 22. Plaintiffs' Complaint fails to state a cause of action against these
13 Defendants.

14 **SECOND AFFIRMATIVE DEFENSE**

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

16 **THIRD AFFIRMATIVE DEFENSE**

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

22 **FOURTH AFFIRMATIVE DEFENSE**

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

25 **FIFTH AFFIRMATIVE DEFENSE**

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

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SIXTH AFFIRMATIVE DEFENSE

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

SEVENTH AFFIRMATIVE DEFENSE

28. Plaintiffs lack standing to assert the claims in their Complaint.

EIGHTH AFFIRMATIVE DEFENSE

29. 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

30. 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

31. 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

32. 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

33. 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.

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1 **THIRTEENTH AFFIRMATIVE DEFENSE**

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

4 **FOURTEENTH AFFIRMATIVE DEFENSE**

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

7 **FIFTEENTH AFFIRMATIVE DEFENSE**

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

10 **SIXTEENTH AFFIRMATIVE DEFENSE**

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

14 **SEVENTEENTH AFFIRMATIVE DEFENSE**

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

23 **EIGHTEENTH AFFIRMATIVE DEFENSE**

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

26 **NINETEENTH AFFIRMATIVE DEFENSE**

27 40. Plaintiffs failed to mitigate their damages.

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TWENTIETH AFFIRMATIVE DEFENSE

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

TWENTY-FIRST AFFIRMATIVE DEFENSE

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

TWENTY-SECOND AFFIRMATIVE DEFENSE

43. Plaintiffs' Complaint 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

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

TWENTY-FOURTH AFFIRMATIVE DEFENSE

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

TWENTY-FIFTH AFFIRMATIVE DEFENSE

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

TWENTY-SIXTH AFFIRMATIVE DEFENSE

47. Plaintiffs' claims and requests for relief are barred, in whole or in 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 Complaint are not those of the County.

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

1 part, by the doctrines of collateral estoppel and/or res judicata.

2 **THIRTY-SEVENTH AFFIRMATIVE DEFENSE**

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

6 **THIRTY-EIGHTH AFFIRMATIVE DEFENSE**

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

10
11 WHEREFORE, Defendants pray that Plaintiffs take nothing by the way of
12 their Complaint and that these answering Defendants herein recover their costs
13 and such other and further relief as the Court may deem just and proper.

14
15 **DEMAND FOR JURY TRIAL**

16 TO THE CLERK OF THE ABOVE-ENTITLED COURT:

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

21
22 Dated: April 7, 2008

FRANSCCELL, STRICKLAND,
ROBERTS & LAWRENCE, PC

23
24 By _____
25 Paul B. Beach
26 Justin W. Clark
27 Attorneys for Defendants
28 County of Los Angeles,
Sheriff Leroy D. Baca, Timothy Cornell,
and Sandra Figueras