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10 UNITED STATES DISTRICT COURT

11 CENTRAL DISTRICT OF CALIFORNIA

12 ORIGINAL

13 MULTI-ETHNIC IMMIGRANT
14 WORKERS ORGANIZING NETWORK, et
15 al.,

16 Plaintiffs,

17 vs.

18 CITY OF LOS ANGELES, et al.,

19 Defendants.

20 No. CV 07-3072 AHM (FFMx)

21 **DEFENDANTS CAYLER
22 CARTER AND LOUIS
23 GRAY'S ANSWER TO FIRST
24 AMENDED COMPLAINT**

25 BY

26 COMES NOW Defendants, Cayler Carter and Louis Gray, answering
27 Plaintiff's First Amended Complaint, for themselves and no other Defendant,
28 admits, denies and alleges as follow:

1. Answering paragraph 1, Defendants admit that Plaintiffs are
apparently asserting claims under the United States Constitution, 28 U.S.C. §
1331, 28 U.S.C. § 1343, 28 U.S.C. § 1343 and 42 U.S.C. § 1983. However,
Defendants deny, generally and specifically, each and every, all and singular, of
the remaining allegations and claims set forth in this paragraph.

2. Answering paragraph 2, Defendants admit that venue is proper

14

1 3. Answering paragraph 3, Defendants deny generally and specifically,
2 each and every, all and singular, of the allegations and claims set forth therein.

3 4. Answering paragraph 4, Defendants deny, generally and
4 specifically, each and every, all and singular, of the allegations and claims set
5 forth therein.

6 5. Answering paragraph 5, Defendants admit that action occurred on
7 May 1, 2007, at or near MacArthur Park. Except that which is specifically
8 admitted, Defendants deny the remainder of these allegations.

9 6. Answering paragraph 6, Defendants admit that on May 1, 2007,
10 the Multi-ethnic Immigrant Worker Organizing Network (“MIWON”) conducted
11 a march and rally, beginning at approximately 2:00 p.m. Except that which is
12 specifically admitted, Defendants deny the remainder of these allegations.

13 7. Answering paragraph 7, Defendants lack sufficient information and
14 belief to respond to the allegations of paragraph 7, and on that ground deny,
15 generally and specifically, each and every, all and singular, of the allegations and
16 claims set forth therein.

17 8. Answering paragraph 8, Defendants deny, generally and
18 specifically, each and every, all and singular, of the allegations and claims set
19 forth therein.

20 9. Answering paragraph 9, Defendants deny, generally and
21 specifically, each and every, all and singular, of the allegations and claims set
22 forth therein.

23 10. Answering paragraph 10, the allegations are compound and
24 conflicting. As so stated, Defendants lack sufficient information and
25 belief to respond to the allegations of paragraph 10, and on that ground deny,
26 generally and specifically, each and every, all and singular, of the allegations and
27 claims set forth therein.

28 11. Answering paragraph 11, Defendants admit that a representative

1 of the rally organizers utilized the amplification system on a police vehicle to
2 advise individuals who were breaking the law to enter the park. Except that
3 which is specifically admitted, Defendants deny the remainder of these
4 allegations.

5 12. Answering paragraph 12, Defendants lack sufficient information
6 and belief to respond to the allegations of paragraph 12, and on that ground deny,
7 generally and specifically, each and every, all and singular, of the allegations and
8 claims set forth therein.

9 13. Answering paragraph 13, Defendants lack sufficient information
10 and belief to respond to the allegations of paragraph 13, and on that ground deny,
11 generally and specifically, each and every, all and singular, of the allegations and
12 claims set forth therein.

13 14. Answering paragraph 14, Defendants admit that some time during
14 the event, police ordered persons to move. Except that which is specifically
15 admitted, Defendants deny the remainder of these allegations.

16 15. Answering paragraph 15, Defendants deny, generally and
17 specifically, each and every, all and singular, of the allegations and claims set
18 forth therein.

19 16. Answering paragraph 16, Defendants deny, generally and
20 specifically, each and every, all and singular, of the allegations and claims set
21 forth therein.

22 17. Answering paragraph 17, Defendants deny, generally and
23 specifically, each and every, all and singular, of the allegations and claims set
24 forth therein.

25 18. Answering paragraph 18, Defendants deny, generally and
26 specifically, each and every, all and singular, of the allegations and claims set
27 forth therein.

28 19. Answering paragraph 19, Defendants deny, generally and

1 specifically, each and every, all and singular, of the allegations and claims set
2 forth therein.

3 20. Answering paragraph 20, Defendants deny, generally and
4 specifically, each and every, all and singular, of the allegations and claims set
5 forth therein.

6 21. Answering paragraph 21, Defendants deny, generally and
7 specifically, each and every, all and singular, of the allegations and claims set
8 forth therein.

9 22. Answering paragraph 22, Defendants deny, generally and
10 specifically, each and every, all and singular, of the allegations and claims set
11 forth therein.

12 23. Answering paragraph 23, Defendants deny, generally and
13 specifically, each and every, all and singular, of the allegations and claims set
14 forth therein.

15 24. Answering paragraph 24, Defendants deny, generally and
16 specifically, each and every, all and singular, of the allegations and claims set
17 forth therein.

18 25. Answering paragraph 25, Defendants deny, generally and
19 specifically, each and every, all and singular, of the allegations and claims set
20 forth therein.

21 26. Answering paragraph 26, Defendants deny, generally and
22 specifically, each and every, all and singular, of the allegations and claims set
23 forth therein.

24 27. Answering paragraph 27, Defendants deny, generally and
25 specifically, each and every, all and singular, of the allegations and claims set
26 forth therein.

27 28. Answering paragraph 28, Defendants deny, generally and
28 specifically, each and every, all and singular, of the allegations and claims set

1 forth therein.

2 29. Answering paragraph 29, Defendants lack sufficient information
3 and belief to respond to the allegations of paragraph 29, and on that ground deny,
4 generally and specifically, each and every, all and singular, of the allegations and
5 claims set forth therein.

6 30. Answering paragraph 30, Defendants lack sufficient information
7 and belief to respond to the allegations of paragraph 30, and on that ground deny,
8 generally and specifically, each and every, all and singular, of the allegations and
9 claims set forth therein.

10 31. Answering paragraph 31, Defendants lack sufficient information
11 and belief to respond to the allegations of paragraph 31, and on that ground deny,
12 generally and specifically, each and every, all and singular, of the allegations and
13 claims set forth therein.

14 32. Answering paragraph 32, Defendants lack sufficient information
15 and belief to respond to the allegations of paragraph 32, and on that ground deny,
16 generally and specifically, each and every, all and singular, of the allegations and
17 claims set forth therein.

18 33. Answering paragraph 33, Defendants deny, generally and
19 specifically, each and every, all and singular, of the allegations and claims set
20 forth therein.

21 34. Answering paragraph 34, Defendants lack sufficient information
22 and belief to respond to the allegations of paragraph 34, and on that ground deny,
23 generally and specifically, each and every, all and singular, of the allegations and
24 claims set forth therein.

25 35. Answering paragraph 35, Defendants lack sufficient information
26 and belief to respond to the allegations of paragraph 35, and on that ground deny,
27 generally and specifically, each and every, all and singular, of the allegations and
28 claims set forth therein.

1 36. Answering paragraph 36, Defendants lack sufficient information
2 and belief to respond to the allegations of paragraph 36, and on that ground deny,
3 generally and specifically, each and every, all and singular, of the allegations and
4 claims set forth therein.

5 37. Answering paragraph 37, Defendants lack sufficient information
6 and belief to respond to the allegations of paragraph 37, and on that ground deny,
7 generally and specifically, each and every, all and singular, of the allegations and
8 claims set forth therein.

9 38. Answering paragraph 38, Defendants lack sufficient information
10 and belief to respond to the allegations of paragraph 38, and on that ground deny,
11 generally and specifically, each and every, all and singular, of the allegations and
12 claims set forth therein.

13 39. Answering paragraph 39, Defendants deny, generally and
14 specifically, each and every, all and singular, of the allegations and claims set
15 forth therein.

16 40. Answering paragraph 40, Defendants deny, generally and
17 specifically, each and every, all and singular, of the allegations and claims set
18 forth therein.

19 41. Answering paragraph 41, Defendants deny, generally and
20 specifically, each and every, all and singular, of the allegations and claims set
21 forth therein.

22 42. Answering paragraph 42, Defendants deny, generally and
23 specifically, each and every, all and singular, of the allegations and claims set
24 forth therein.

25 43. Answering paragraph 43, Defendants deny, generally and
26 specifically, each and every, all and singular, of the allegations and claims set
27 forth therein.

28 44. Answering paragraph 44, Defendants admit the dispersal order was

1 lawful. Except that which is specifically admitted, Defendants deny the
2 remainder of these allegations.

3 45. Answering paragraph 45, Defendants deny, generally and
4 specifically, each and every, all and singular, of the allegations and claims set
5 forth therein.

6 46. Answering paragraph 46, Defendants deny, generally and
7 specifically, each and every, all and singular, of the allegations and claims set
8 forth therein.

9 47. Answering paragraph 47, Defendants deny, generally and
10 specifically, each and every, all and singular, of the allegations and claims set
11 forth therein.

12 48. Answering paragraph 48, Defendants deny, generally and
13 specifically, each and every, all and singular, of the allegations and claims set
14 forth therein.

15 49. Answering paragraph 49, Defendants lack sufficient information
16 and belief to respond to the allegations of paragraph 49, and on that ground deny,
17 generally and specifically, each and every, all and singular, of the allegations and
18 claims set forth therein.

19 50. Answering paragraph 50, Defendants lack sufficient information
20 and belief to respond to the allegations of paragraph 50, and on that ground deny,
21 generally and specifically, each and every, all and singular, of the allegations and
22 claims set forth therein.

23 51. Answering paragraph 51, Defendants lack sufficient information
24 and belief to respond to the allegations of paragraph 51, and on that ground deny,
25 generally and specifically, each and every, all and singular, of the allegations and
26 claims set forth therein.

27 52. Answering paragraph 52, Defendants lack sufficient information
28 and belief to respond to the allegations of paragraph 52, and on that ground deny,

1 generally and specifically, each and every, all and singular, of the allegations and
2 claims set forth therein.

3 53. Answering paragraph 53, Defendants lack sufficient information
4 and belief to respond to the allegations of paragraph 53, and on that ground deny,
5 generally and specifically, each and every, all and singular, of the allegations and
6 claims set forth therein.

7 54. Answering paragraph 54, Defendants lack sufficient information
8 and belief to respond to the allegations of paragraph 54, and on that ground deny,
9 generally and specifically, each and every, all and singular, of the allegations and
10 claims set forth therein.

11 55. Answering paragraph 55, Defendants lack sufficient information
12 and belief to respond to the allegations of paragraph 55, and on that ground deny,
13 generally and specifically, each and every, all and singular, of the allegations and
14 claims set forth therein.

15 56. Answering paragraph 56, Defendants lack sufficient information
16 and belief to respond to the allegations of paragraph 56, and on that ground deny,
17 generally and specifically, each and every, all and singular, of the allegations and
18 claims set forth therein.

19 57. Answering paragraph 57, Defendants lack sufficient information
20 and belief to respond to the allegations of paragraph 57, and on that ground deny,
21 generally and specifically, each and every, all and singular, of the allegations and
22 claims set forth therein.

23 58. Answering paragraph 58, Defendants lack sufficient information
24 and belief to respond to the allegations of paragraph 58, and on that ground deny,
25 generally and specifically, each and every, all and singular, of the allegations and
26 claims set forth therein.

27 59. Answering paragraph 59, Defendants lack sufficient information
28 and belief to respond to the allegations of paragraph 59, and on that ground deny,

1 generally and specifically, each and every, all and singular, of the allegations and
2 claims set forth therein.

3 60. Answering paragraph 60, Defendants lack sufficient information
4 and belief to respond to the allegations of paragraph 60, and on that ground deny,
5 generally and specifically, each and every, all and singular, of the allegations and
6 claims set forth therein.

7 61. Answering paragraph 61, Defendants lack sufficient information
8 and belief to respond to the allegations of paragraph 61, and on that ground deny,
9 generally and specifically, each and every, all and singular, of the allegations and
10 claims set forth therein.

11 62. Answering paragraph 62, Defendants lack sufficient information
12 and belief to respond to the allegations of paragraph 62, and on that ground deny,
13 generally and specifically, each and every, all and singular, of the allegations and
14 claims set forth therein.

15 63. Answering paragraph 63, Defendants lack sufficient information
16 and belief to respond to the allegations of paragraph 63, and on that ground deny,
17 generally and specifically, each and every, all and singular, of the allegations and
18 claims set forth therein.

19 64. Answering paragraph 64, Defendants lack sufficient information
20 and belief to respond to the allegations of paragraph 64, and on that ground deny,
21 generally and specifically, each and every, all and singular, of the allegations and
22 claims set forth therein.

23 65. Answering paragraph 65, Defendants lack sufficient information
24 and belief to respond to the allegations of paragraph 65, and on that ground deny,
25 generally and specifically, each and every, all and singular, of the allegations and
26 claims set forth therein.

27 66. Answering paragraph 66, Defendants lack sufficient information
28 and belief to respond to the allegations of paragraph 66, and on that ground deny,

1 generally and specifically, each and every, all and singular, of the allegations and
2 claims set forth therein.

3 67. Answering paragraph 67, Defendants lack sufficient information
4 and belief to respond to the allegations of paragraph 67, and on that ground deny,
5 generally and specifically, each and every, all and singular, of the allegations and
6 claims set forth therein.

7 68. Answering paragraph 68, Defendants admit William Bratton was
8 and is the Chief of Police of the Los Angeles Police Department. Except that
9 which is specifically admitted, Defendants deny the remainder of these
10 allegations.

11 69. Answering paragraph 69, Defendants admit that Cayler Carter was a
12 deputy chief with the LAPD on May 1, 2007, and served as the Commanding
13 Officer of the Central Bureau. Except that which is specifically admitted,
14 Defendants deny the remainder of these allegations.

15 70. Answering paragraph 70, Defendants admit that Louis Gray is a
16 commander with the LAPD who was assigned to Central Division on May 1,
17 2007, and was at the MacArthur Park rally. Except that which is specifically
18 admitted, Defendants deny the remainder of these allegations.

19 71. Answering paragraph 71, Defendants lack sufficient
20 information and belief to respond to the allegations of paragraph 71, and on that
21 ground deny, generally and specifically, each and every, all and singular, of the
22 allegations and claims set forth therein.

23 72. Answering paragraph 72, Defendants deny, generally and
24 specifically, each and every, all and singular, of the allegations and claims set
25 forth therein.

26 73. Answering paragraph 73, Defendants admit Deputy Chief Carter
27 was an employee of defendant City of Los Angeles, and was acting at all times
28 within the scope of his agency. Except that which is specifically admitted,

1 Defendants deny the remainder of these allegations.

2 74. Answering paragraph 74, Defendants lack sufficient information
3 and belief to respond to the allegations of paragraph 74, and on that ground deny,
4 generally and specifically, each and every, all and singular, of the allegations and
5 claims set forth therein.

6 75. Answering paragraph 75, Defendants lack sufficient information
7 and belief to respond to the allegations of paragraph 75, and on that ground deny,
8 generally and specifically, each and every, all and singular, of the allegations and
9 claims set forth therein.

10 76. Answering paragraph 76, Defendants lack sufficient information
11 and belief to respond to the allegations of paragraph 76, and on that ground deny,
12 generally and specifically, each and every, all and singular, of the allegations and
13 claims set forth therein.

14 77. Answering paragraph 77, Defendants lack sufficient information
15 and belief to respond to the allegations of paragraph 77, and on that ground deny,
16 generally and specifically, each and every, all and singular, of the allegations and
17 claims set forth therein.

18 78. Answering paragraph 78, Defendants lack sufficient information
19 and belief to respond to the allegations of paragraph 78, and on that ground deny,
20 generally and specifically, each and every, all and singular, of the allegations and
21 claims set forth therein.

22 79. Answering paragraph 79, Defendants lack sufficient information
23 and belief to respond to the allegations of paragraph 79, and on that ground deny,
24 generally and specifically, each and every, all and singular, of the allegations and
25 claims set forth therein.

26 80. Answering paragraph 80, Defendants lack sufficient information
27 and belief to respond to the allegations of paragraph 80, and on that ground deny,
28 generally and specifically, each and every, all and singular, of the allegations and

1 claims set forth therein.

2 81. Answering paragraph 81, Defendants lack sufficient information
3 and belief to respond to the allegations of paragraph 81, and on that ground deny,
4 generally and specifically, each and every, all and singular, of the allegations and
5 claims set forth therein.

6 82. Answering paragraph 82, Defendants lack sufficient information
7 and belief to respond to the allegations of paragraph 82, and on that ground deny,
8 generally and specifically, each and every, all and singular, of the allegations and
9 claims set forth therein.

10 83. Answering paragraph 83, Defendants lack sufficient information
11 and belief to respond to the allegations of paragraph 83, and on that ground deny,
12 generally and specifically, each and every, all and singular, of the allegations and
13 claims set forth therein.

14 84. Answering paragraph 84, Defendants lack sufficient information
15 and belief to respond to the allegations of paragraph 84, and on that ground deny,
16 generally and specifically, each and every, all and singular, of the allegations and
17 claims set forth therein.

18 85. Answering paragraph 85, Defendants lack sufficient information
19 and belief to respond to the allegations of paragraph 85, and on that ground deny,
20 generally and specifically, each and every, all and singular, of the allegations and
21 claims set forth therein.

22 86. Answering paragraph 86, Defendants lack sufficient information
23 and belief to respond to the allegations of paragraph 86, and on that ground deny,
24 generally and specifically, each and every, all and singular, of the allegations and
25 claims set forth therein.

26 87. Answering paragraph 87, Defendants lack sufficient information
27 and belief to respond to the allegations of paragraph 87, and on that ground deny,
28 generally and specifically, each and every, all and singular, of the allegations and

1 claims set forth therein.

2 88. Answering paragraph 88, Defendants lack sufficient information
3 and belief to respond to the allegations of paragraph 88, and on that ground deny,
4 generally and specifically, each and every, all and singular, of the allegations and
5 claims set forth therein.

6 89. Answering paragraph 89, Defendants lack sufficient information
7 and belief to respond to the allegations of paragraph 89, and on that ground deny,
8 generally and specifically, each and every, all and singular, of the allegations and
9 claims set forth therein.

10 90. Answering paragraph 90, Defendants deny, generally and
11 specifically, each and every, all and singular, of the allegations and claims set
12 forth therein.

13 91. Answering paragraph 91, Defendants deny, generally and
14 specifically, each and every, all and singular, of the allegations and claims set
15 forth therein.

16 92. Answering paragraph 92, Defendants deny, generally and
17 specifically, each and every, all and singular, of the allegations and claims set
18 forth therein.

19 93. Answering paragraph 93, Defendants deny, generally and
20 specifically, each and every, all and singular, of the allegations and claims set
21 forth therein.

22 94. Answering paragraph 94, Defendants deny, generally and
23 specifically, each and every, all and singular, of the allegations and claims set
24 forth therein.

25 95. Answering paragraph 95, Defendants deny, generally and
26 specifically, each and every, all and singular, of the allegations and claims set
27 forth therein.

28 96. Answering paragraph 96, Defendants deny, generally and

1 specifically, each and every, all and singular, of the allegations and claims set
2 forth therein.

3 97. Answering paragraph 97, Defendants deny, generally and
4 specifically, each and every, all and singular, of the allegations and claims set
5 forth therein.

6 98. Answering paragraph 98, Defendants deny, generally and
7 specifically, each and every, all and singular, of the allegations and claims set
8 forth therein.

9 99. Answering paragraph 99, Defendants deny, generally and
10 specifically, each and every, all and singular, of the allegations and claims set
11 forth therein.

12 100. Answering paragraph 100, Defendants deny, generally and
13 specifically, each and every, all and singular, of the allegations and claims set
14 forth therein.

15 101. Answering paragraph 101, Defendants deny, generally and
16 specifically to each and every, all and singular of the allegations and claims set
17 forth therein.

18 102. Answering paragraph 102, Defendants deny, generally and
19 specifically to each and every, all and singular of the allegations and claims set
20 forth therein.

21 103. Answering paragraph 103, Defendants deny, generally and
22 specifically to each and every, all and singular of the allegations and claims set
23 forth therein.

24 104. Answering paragraph 104, Defendants deny, generally and
25 specifically to each and every, all and singular of the allegations and claims set
26 forth therein.

27 105. Answering paragraph 105, Defendants deny, generally and
28 specifically to each and every, all and singular of the allegations and claims set

1 forth therein.

2 106. Answering paragraph 106, Defendants deny, generally and
3 specifically to each and every, all and singular of the allegations and claims set
4 forth therein.

5 107. Answering paragraph 107, Defendants deny, generally and
6 specifically to each and every, all and singular of the allegations and claims set
7 forth therein.

8 108. Answering paragraph 108, Defendants deny, generally and
9 specifically to each and every, all and singular of the allegations and claims set
10 forth therein.

11 109. Answering paragraph 109, Defendants deny, generally and
12 specifically to each and every, all and singular of the allegations and claims set
13 forth therein.

14 110. Answering paragraph 110, Defendants deny, generally and
15 specifically to each and every, all and singular of the allegations and claims set
16 forth therein.

17 111. Answering paragraph 111, Defendants deny, generally and
18 specifically to each and every, all and singular of the allegations and claims set
19 forth therein.

20 112. Answering paragraph 112, Defendants deny, generally and
21 specifically to each and every, all and singular of the allegations and claims set
22 forth therein.

23 113. Answering paragraph 113, Defendants deny, generally and
24 specifically to each and every, all and singular of the allegations and claims set
25 forth therein.

26 114. Answering paragraph 114, Defendants deny, generally and
27 specifically to each and every, all and singular of the allegations and claims set
28 forth therein.

1 115. Answering paragraph 115, Defendants deny, generally and
2 specifically to each and every, all and singular of the allegations and claims set
3 forth therein.

4 116. Answering paragraph 116, Defendants deny, generally and
5 specifically to each and every, all and singular of the allegations and claims set
6 forth therein.

7 117. Answering paragraph 117, Defendants deny, generally and
8 specifically to each and every, all and singular of the allegations and claims set
9 forth therein.

10 118. Answering paragraph 118, Defendants deny, generally and
11 specifically to each and every, all and singular of the allegations and claims set
12 forth therein.

13 119. Answering paragraph 119, Defendants deny, generally and
14 specifically to each and every, all and singular of the allegations and claims set
15 forth therein.

16 120. Answering paragraph 120, Defendants deny, generally and
17 specifically to each and every, all and singular of the allegations and claims set
18 forth therein.

19 121. Answering paragraph 121, Defendants deny, generally and
20 specifically to each and every, all and singular of the allegations and claims set
21 forth therein.

22 122. Answering paragraph 122, Defendants deny, generally and
23 specifically to each and every, all and singular of the allegations and claims set
24 forth therein.

25 123. Answering paragraph 123, Defendants deny, generally and
26 specifically to each and every, all and singular of the allegations and claims set
27 forth therein.

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FIRST AFFIRMATIVE DEFENSE

124. As for a first, separate and distinct affirmative defense, these answering Defendants allege that at all times herein relevant, they acted in good faith, without malice, and within the scope of their duties as police officers for the City of Los Angeles and as peace officers for the State of California.

SECOND AFFIRMATIVE DEFENSE

125. As for the second, separate and distinct affirmative defense, these answering Defendants allege that Plaintiffs' claims are subject to unique defenses, which effects the typicality of the claims of a class, and therefore a class cannot be maintained under F.R. Civ. P. Rule 23(a), (b)(1)(A), (B)(1), (2), and (3).

THIRD AFFIRMATIVE DEFENSE

126. As for the third, separate and distinct affirmative defense, these answering Defendants allege that Plaintiffs' claims are subject to unique defenses, and therefore a class represented by Plaintiffs who are subject to unique defenses not assertable against other class members, cannot be certified under F.R. Civ. P. Rule 23(a), (b)(1)(A), (B)(1), (2), and (3).

FOURTH AFFIRMATIVE DEFENSE

127. As for the fourth, separate and distinct affirmative defense, these answering Defendants allege that a public employee is not liable for injury resulting from his act or omission where the act or omission was the result of the exercise of the discretion vested in him.

FIFTH AFFIRMATIVE DEFENSE

128. As for the fifth, separate and distinct affirmative defense, these answering Defendants allege that the actions of these Defendants in all respects was reasonable, proper and legal.

SIXTH AFFIRMATIVE DEFENSE

129. As for the sixth, separate and distinct affirmative defense, these

1 answering Defendants allege that that Plaintiffs' have failed to comply with
2 applicable sections of the California Government Code relating to claims and
3 actions against public entities and public employees.

4 SEVENTH AFFIRMATIVE DEFENSE

5 130. As for the seventh, separate and distinct affirmative defense, these
6 answering Defendants allege that to the extent that Plaintiffs suffered any
7 detriment, the risk of such detriment was assumed by Plaintiffs.

8 EIGHTH AFFIRMATIVE DEFENSE

9 131. As for the eighth, separate and distinct affirmative defense, these
10 answering Defendants allege Plaintiffs did not suffer any detriment or damage in
11 any amount whatsoever or at all.

12 NINTH AFFIRMATIVE DEFENSE

13 132. As for the ninth, separate and distinct affirmative defense, these
14 answering Defendants allege that to the extent Plaintiffs suffered any detriment,
15 such was unavoidable.

16 TENTH AFFIRMATIVE DEFENSE

17 133. As for the tent, separate and distinct affirmative defense, these
18 answering Defendants allege that public employees are immune from liability for
19 acts undertaken in an official capacity and in good faith.

20 ELEVENTH AFFIRMATIVE DEFENSE

21 134. As for the eleventh, separate and distinct affirmative defense, these
22 answering Defendants allege that the Complaint fails to state a cause of action
23 under 42 U.S.C. § 1983 in that Plaintiffs did not suffer any deprivations without
24 due process of law within the meaning of that section.

25 TWELFTH AFFIRMATIVE DEFENSE

26 135. As for the twelfth, separate and distinct affirmative defense,
27 these answering Defendants allege that Plaintiffs allegations do not state a claim
28 for deprivation of any right secured by the First, Fourth and Fourteenth

1 Amendments to the United States Constitution.

2 THIRTEENTH AFFIRMATIVE DEFENSE

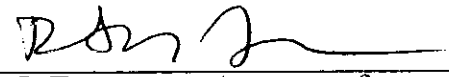
3 136. As for the thirteenth, separate and distinct affirmative defense, these
4 answering Defendants allege that Plaintiffs do not have standing to raise claims
5 for injuries allegedly arising from injuries to other persons.

6 WHEREFORE, these Defendants pray for judgment against Plaintiffs
7 herein as follows:

- 8 1. That the within Complaint be dismissed without prejudice;
9 2. That the Plaintiffs take nothing by way of their Complaint;
10 3. For attorneys' fees pursuant to Code of Civil Procedure, §§ 1021.7
11 and 1038; and 42 U.S.C. § 1988;
12 4. For costs of suit incurred herein; and
13 5. For such other and further relief as this Court may deem just and
14 proper.

15 Dated: August 9, 2007

FERGUSONPRAET & SHERMAN
A Professional Corporation

17 By: 
18 Peter J. Ferguson, Attorney for
19 Defendants Cayler Carter and Louis
20 Gray
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22
23
24
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1 PROOF OF SERVICE

2 STATE OF CALIFORNIA, COUNTY OF ORANGE

3 I, Coleen M. Ludvigson, am employed in the aforesaid County, State of
4 California; I am over the age of 18 years and not a party to the within action. My
5 business address is 1631 East 18th Street, Santa Ana, California 92705-7101.

6 On August 9, 2007, I served the foregoing **DEFENDANTS CAYLER**
7 **CARTER AND LOUIS GRAY'S ANSWER TO FIRST AMENDED**
8 **COMPLAINT** on the interested parties in this action by placing a true copy
9 thereof, enclosed in a sealed envelope, addressed as follows:

10 SEE ATTACHED LIST

11 (By Mail) I placed such envelope for deposit in accordance with office
12 practice, sealed, with postage thereon fully paid and the correspondence to
13 be deposited in the United States mail at Santa Ana, California on the
14 same day.

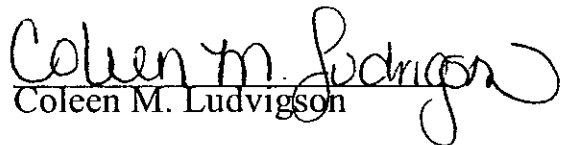
15 (By Facsimile) I caused to be faxed the above-entitled documents.

16 (By Personal Service) I caused such envelope to be delivered by hand to
17 the office of the addressee.

18 (State) I declare under penalty of perjury under the laws of the State of
19 California that the foregoing is true and correct.

20 (Federal) I declare under penalty of perjury that the foregoing is true and
21 correct, and that I am employed in the office of a member of the bar of this
22 Court at whose direction the service was made.

23 Executed on August 9, 2007, at Santa Ana, California.

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Coleen M. Ludvigson

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