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SANTA CRUZ COUNTY and SANTA CRUZ
7 COUNTY SHERIFF STEVE ROBBINS

8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

<p>10 DENNIS BUTLER on behalf of himself and all 11 those similarly situated;</p> <p>12 Plaintiffs,</p> <p>13 v.</p> <p>14 SANTA CRUZ COUNTY; SANTA CRUZ COUNTY SHERIFF STEVE ROBBINS, in his 15 Individual and Official Capacities; SANTA CRUZ COUNTY SHERIFF'S DEPUTIES 16 DOES 1 THROUGH 50; and ROES 1 THROUGH 20</p> <p>17 Defendants.</p>	<p>Case No. C07 0941</p> <p>ANSWER TO COMPLAINT BY COUNTY OF SANTA CRUZ AND COUNTY SHERIFF STEVE ROBBINS AND DEMAND FOR JURY TRIAL</p>
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19 COMES NOW Defendants SANTA CRUZ COUNTY and COUNTY SHERIFF STEVE
20 ROBBINS who answer the correspondingly labeled and numbered paragraphs of Plaintiffs'
21 Complaint for Damages ("Complaint"), and states their affirmative defenses, as follows:

- 22 1. Defendants neither admit nor deny this paragraph based on lack of information and
23 belief.
- 24 2. Defendants neither admit nor deny this paragraph based on lack of information and
25 belief. Specifically, Defendants deny that any class of similarly situated persons exists in this action
26 and deny that Plaintiff can meet the prerequisites enumerated in FRCP 23.
- 27 3. Defendant ROBBINS admits he is the elected Sheriff of Santa Cruz County; all other
28 allegations are neither admitted nor denied based on lack of information and belief.

1 4. Defendants neither admit nor deny this paragraph based on lack of information and
2 belief.

3 5. Defendants neither admit nor deny this paragraph based on lack of information and
4 belief.

5 6. Defendants neither admit nor deny this paragraph based on lack of information and
6 belief.

7 7. Defendant COUNTY admits it is a political subdivision of the State of California; all
8 other allegations are neither admitted nor denied based on lack of information and belief.

9 8. Defendants deny the allegations in this paragraph.

10 9. Defendants deny that any class of similarly situated persons exists in this action and
11 deny that Plaintiff can meet the prerequisites enumerated in FRCP 23.

12 10. Defendants neither admit nor deny this paragraph based on lack of information and
13 belief.

14 11. Defendants neither admit nor deny this paragraph based on lack of information and
15 belief.

16 12. Defendants admit that Plaintiffs have filed a governmental tort claim and that
17 Defendants have denied same.

18 13. Defendants deny the allegations in this paragraph.

19 14. Defendants deny the allegations in this paragraph.

20 15. Defendants neither admit nor deny this paragraph based on lack of information and
21 belief.

22 16. Defendants neither admit nor deny this paragraph based on lack of information and
23 belief.

24 17. Defendants neither admit nor deny this paragraph based on lack of information and
25 belief.

26 18. Defendants neither admit nor deny this paragraph based on lack of information and
27 belief.

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1 19. Defendants neither admit nor deny this paragraph based on lack of information and
2 belief.

3 20. Defendants neither admit nor deny this paragraph based on lack of information and
4 belief.

5 21. Defendants neither admit nor deny this paragraph based on lack of information and
6 belief.

7 22. Defendants neither admit nor deny this paragraph based on lack of information and
8 belief.

9 23. Defendants neither admit nor deny this paragraph based on lack of information and
10 belief.

11 24. Defendants neither admit nor deny this paragraph based on lack of information and
12 belief.

13 25. Defendants neither admit nor deny this paragraph based on lack of information and
14 belief.

15 26. Defendants neither admit nor deny this paragraph based on lack of information and
16 belief.

17 27. Defendants neither admit nor deny this paragraph based on lack of information and
18 belief.

19 28. Defendants neither admit nor deny this paragraph based on lack of information and
20 belief.

21 29. Defendants neither admit nor deny this paragraph based on lack of information and
22 belief.

23 30. Defendants incorporate by reference all previously and subsequently stated
24 paragraphs as though set forth in full.

25 31. Defendants deny the allegations in this paragraph.

26 32. Defendants incorporate by reference all previously and subsequently stated
27 paragraphs as though set forth in full.

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1 33. Defendants deny the allegations in this paragraph.

2 34. Defendants incorporate by reference all previously and subsequently stated
3 paragraphs as though set forth in full.

4 35. Defendants deny the allegations in this paragraph.

5 36. Defendants incorporate by reference all previously and subsequently stated
6 paragraphs as though set forth in full.

7 37. Defendants neither admit nor deny this paragraph based on lack of information and
8 belief.

9 38. As to paragraphs 1 through 11 related to Plaintiffs' requests for relief, purported
10 damages and requests for same, Defendants deny that Plaintiffs have been injured due to any
11 conduct or failure to act by County of Santa Cruz or any of its agents and employees and deny that
12 Plaintiffs are entitled to any relief.

13 **AFFIRMATIVE DEFENSES**

14 As a **FIRST AFFIRMATIVE DEFENSE**, Defendants allege that the Complaint fails to
15 state a claim for relief for violation of the Civil Rights Act, 42 U.S.C. §1983, California Penal Code
16 § 4030, the Bane Civil Rights Act or any other claim asserted by Plaintiffs.

17 As a **SECOND AFFIRMATIVE DEFENSE**, Defendants, at all times alleged in the
18 Complaint, acted in a good faith belief that their actions were reasonable under the circumstances,
19 did not violate Plaintiffs' constitutional rights, and therefore, Defendants and/or their agents and
20 employees are entitled to absolute and/or qualified immunity. *Harlow v. Fitzgerald*, 457 U.S. 800
21 (1982); *Mazor v. Shelton*, 637 F.Supp. 330 (N.D. Cal. 1986); *Babcock v. Tyler*, 884 F.2d 497 (9th
22 Cir. 1989); Cal. Government Code §§ 820.2, 821.6.

23 As a **THIRD AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs, by their own
24 conduct, induced and negligently and/or intentionally caused and brought about the conduct of
25 which they complain.

26 As a **FOURTH AFFIRMATIVE DEFENSE**, Defendants allege that the Complaint fails to
27 state a claim for relief for punitive damages.

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1 As a **FIFTH AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs assumed the
2 risk of their conduct, and, therefore, are barred from pursuing this Complaint.

3 As a **SIXTH AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs' claims are
4 barred by all applicable statutes of limitation, including but not limited to, the Government Tort
5 Claims Act and/or Code of Civil Procedure §§ 1094.5, 1094.6.

6 As a **SEVENTH AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs' Complaint
7 fails to state a cause of action for which relief can be granted.

8 As an **EIGHTH AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs and/or other
9 third parties solely caused Plaintiffs' damages, if any exist, not these answering Defendants. Civil
10 Code § 1431 et seq. Any potential liability imputed to these Defendants should be reduced
11 comparatively to their percentage of fault.

12 As a **NINTH AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs' claims are
13 barred by the equitable doctrines of estoppel, laches and unclean hands.

14 As a **TENTH AFFIRMATIVE DEFENSE**, Defendants allege that at no time did
15 Defendants breach any mandatory legal duty owed to Plaintiffs the proximate cause of which was
16 Plaintiffs' alleged injury and/or damages.

17 As an **ELEVENTH AFFIRMATIVE DEFENSE**, Defendants allege that because Plaintiffs
18 have drafted their Complaint in conclusive terms, this Defendant cannot fully anticipate all available
19 affirmative defenses that may be applicable to the within action. Accordingly, this answering
20 Defendant hereby reserves the right to add additional affirmative defenses to the extent such
21 affirmative defenses are applicable to the within action.

22 As a **TWELFTH AFFIRMATIVE DEFENSE**, Defendants allege that Plaintiffs' claims
23 should be barred or significantly reduced due to their failure to mitigate their damages, if any exist.

24 As a **THIRTEENTH AFFIRMATIVE DEFENSE**, Defendants allege that their alleged
25 conduct and/or failure to act is protected by all applicable governmental immunities pursuant to
26 California Government Code §§ 810 et seq.

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1 As a **FOURTEENTH AFFIRMATIVE DEFENSE**, Defendants allege that at all times
2 complained of by Plaintiffs, they acted reasonably and without malice, negligence or recklessness as
3 to Plaintiffs.

4 As a **FIFTEENTH AFFIRMATIVE DEFENSE**, Defendants allege that their acts and those
5 of their agents and employees, and thus the public entity, are protected by Cal. Civil Code § 47 et
6 seq.

7 As a **SIXTEENTH AFFIRMATIVE DEFENSE**, Defendants allege that none of their
8 agents and/or employees engaged in any interference, or attempts to interfere, by threats,
9 intimidation, violence or coercion with Plaintiffs' exercise or enjoyment of their constitutional
10 rights.

11 As a **SEVENTEENTH AFFIRMATIVE DEFENSE**, Defendants allege that the complaint
12 is barred because Plaintiffs have failed to exhaust their administrative remedies.

13 As an **EIGHTEENTH AFFIRMATIVE DEFENSE**, Defendants allege that the complaint
14 is barred because the issues it is based on, or a necessary portion of them, are not ripe for
15 adjudication.

16 As a **NINETEENTH AFFIRMATIVE DEFENSE**, Defendants allege that the complaint
17 fails to state a federal civil rights claim under the doctrine announced in *Monell v. Dep't of Soc.*
18 *Servs.*, 436 U.S. 658 (1978).

19 As a **TWENTY-SEVENTH AFFIRMATIVE DEFENSE**, Defendants allege that to the
20 extent the Sheriff was acting as a state officer while performing state law enforcement duties,
21 Defendants are immune from suit pursuant to the Eleventh Amendment.

22 As a **TWENTY-FIRST AFFIRMATIVE DEFENSE**, Defendants allege that no class of
23 similarly situated persons exists in this action and allege that Plaintiff cannot meet the prerequisites
24 enumerated in FRCP 23.

25 **DEMAND FOR JURY TRIAL**

26 Jury trial is demanded on behalf of Defendants.

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- WHEREFORE, Defendants request:
- a. That Plaintiffs take nothing by reason of their complaint;
 - b. That judgment be rendered in favor of Defendants;
 - c. That Defendants be awarded their costs of suit and attorney's fees;
 - d. For such other relief as the Court deems proper.

Dated: March 9, 2007

DANA McRAE, COUNTY COUNSEL

By: _____/S/_____

JULIA HILL

Assistant County Counsel

Attorneys for Defendants SANTA CRUZ COUNTY
and SANTA CRUZ COUNTY SHERIFF STEVE
ROBBINS