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6 Attorneys for Defendants SAN BERNARDINO COUNTY SHERIFF'S
DEPARTMENT, Sheriff Gary Penrod (Exempt per Gov't Code Section 6103)

7
8 UNITED STATES DISTRICT COURT
9 CENTRAL DISTRICT OF CALIFORNIA

10
11 JAMEELAH MEDINA,)
12 Plaintiff(s),)
13 v.)
14 COUNTY OF SAN BERNARDINO,)
a political subdivision; GARY)
15 PENROD, in his individual and)
official capacities; DOES 1 through)
16 10, in their individual and official)
capacities;)
17 Defendants.)
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CASE NO: EDCV07-1600 VAP (OPx)
Complaint Filed: 12/5/07

ANSWER TO FIRST AMENDED COMPLAINT

20 Defendants, County of San Bernardino and Gary Penrod, hereby respond to
21 Plaintiff's First Amended Complaint (FAC).

22 **ADMISSIONS AND DENIALS**

- 23 1. Admit.
24 2. Admit.
25 3. Admit.
26 4. Defendants lack sufficient information with respect to the allegations

27 in Paragraph 4 of the FAC and, therefore, are unable to admit or deny the
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1 allegations therein. As a result, defendants deny such allegations.

2 5. Defendants admit the County of San Bernardino is a political entity
3 duly organized and existing under the laws of the State of California as alleged in
4 Paragraph 5. Defendants are unable to admit or deny the balance of Paragraph 5 at
5 this time and, therefore, the balance of the allegations are denied.

6 6. Defendants lack sufficient information with respect to the allegations
7 in Paragraph 6 of the FAC and, therefore, are unable to admit or deny the
8 allegations therein. As a result, defendants deny such allegations.

9 7. Defendants admit Gary Penrod was and is the San Bernardino County
10 Sheriff-Coroner as alleged in Paragraph 7, and was and is authorized by the
11 County of San Bernardino to perform duties and responsibilities consistent with
12 his role as a duly sworn peace officer. Defendants are unable to admit or deny the
13 balance of Paragraph 7 at this time and, therefore, the balance of the allegations
14 are denied.

15 8. Defendants lack sufficient information with respect to the allegations
16 in Paragraph 8 of the FAC and, therefore, are unable to admit or deny the
17 allegations therein. As a result, defendants deny such allegations.

18 9. Defendants deny the allegations in Paragraph 9.

19 10. Defendants deny the allegations in Paragraph 10.

20 11. Paragraph 11 does not contain any allegations to admit or deny.

21 12. Paragraph 12 does not contain any allegations to admit or deny.

22 13. Paragraph 13 does not contain any allegations to admit or deny.

23 14. Defendants lack sufficient information with respect to the allegations
24 in Paragraph 14 of the FAC and, therefore, are unable to admit or deny the
25 allegations therein. As a result, defendants deny such allegations.

26 15. Defendants lack sufficient information with respect to the allegations
27 in Paragraph 15 of the FAC and, therefore, are unable to admit or deny the
28

1 allegations therein. As a result, defendants deny such allegations.

2 16. Admit.

3 17. Defendants lack sufficient information with respect to the allegations
4 in Paragraph 17 of the FAC and, therefore, are unable to admit or deny the
5 allegations therein. As a result, defendants deny such allegations.

6 18. Admitted.

7 19. Defendants lack sufficient information with respect to the allegations
8 in Paragraph 19 of the FAC and, therefore, are unable to admit or deny the
9 allegations therein. As a result, defendants deny such allegations.

10 20. Defendants have no response to the allegations in Paragraph 20
11 because Craig Roberts is not named in Plaintiff's First Amended Complaint.

12 21. Defendants lack sufficient information with respect to the allegations
13 in Paragraph 21 of the FAC and, therefore, are unable to admit or deny the
14 allegations therein. As a result, defendants deny such allegations.

15 22. Defendants lack sufficient information with respect to the allegations
16 in Paragraph 22 of the FAC and, therefore, are unable to admit or deny the
17 allegations therein. As a result, defendants deny such allegations.

18 23. Defendants lack sufficient information with respect to the allegations
19 in Paragraph 23 of the FAC and, therefore, are unable to admit or deny the
20 allegations therein. As a result, defendants deny such allegations.

21 24. Defendants lack sufficient information with respect to the allegations
22 in Paragraph 24 of the FAC and, therefore, are unable to admit or deny the
23 allegations therein. As a result, defendants deny such allegations.

24 25. Defendants lack sufficient information with respect to the allegations
25 in Paragraph 25 of the FAC and, therefore, are unable to admit or deny the
26 allegations therein. As a result, defendants deny such allegations.

27 26. Defendants lack sufficient information with respect to the allegations
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1 in Paragraph 26 of the FAC and, therefore, are unable to admit or deny the
2 allegations therein. As a result, defendants deny such allegations.

3 27. Defendants lack sufficient information with respect to the allegations
4 in Paragraph 27 of the FAC and, therefore, are unable to admit or deny the
5 allegations therein. As a result, defendants deny such allegations.

6 28. Defendants lack sufficient information with respect to the allegations
7 in Paragraph 28 of the FAC and, therefore, are unable to admit or deny the
8 allegations therein. As a result, defendants deny such allegations.

9 29. Defendants lack sufficient information with respect to the allegations
10 in Paragraph 29 of the FAC and, therefore, are unable to admit or deny the
11 allegations therein. As a result, defendants deny such allegations.

12 30. Defendants lack sufficient information with respect to the allegations
13 in Paragraph 30 of the FAC and, therefore, are unable to admit or deny the
14 allegations therein. As a result, defendants deny such allegations.

15 31. Defendants lack sufficient information with respect to the allegations
16 in Paragraph 31 of the FAC and, therefore, are unable to admit or deny the
17 allegations therein. As a result, defendants deny such allegations.

18 32. Defendants lack sufficient information with respect to the allegations
19 in Paragraph 32 of the FAC and, therefore, are unable to admit or deny the
20 allegations therein. As a result, defendants deny such allegations.

21 33. Admit.

22 34. Defendants lack sufficient information with respect to the allegations
23 in Paragraph 34 of the FAC and, therefore, are unable to admit or deny the
24 allegations therein. As a result, defendants deny such allegations.

25 35. Defendants deny the allegations in Paragraph 35.

26 36. Defendants lack sufficient information with respect to the allegations
27 in Paragraph 36 of the FAC and, therefore, are unable to admit or deny the
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1 allegations therein. As a result, defendants deny such allegations.

2 37. Defendants lack sufficient information with respect to the allegations
3 in Paragraph 37 of the FAC and, therefore, are unable to admit or deny the
4 allegations therein. As a result, defendants deny such allegations.

5 38. Defendants lack sufficient information with respect to the allegations
6 in Paragraph 38 of the FAC and, therefore, are unable to admit or deny the
7 allegations therein. As a result, defendants deny such allegations.

8 39. Defendants deny the allegations in Paragraph 39.

9 40. Admit.

10 41. Defendants deny the allegations in Paragraph 41.

11 42. Defendants deny the allegations in Paragraph 42.

12 43. Defendants deny the allegations in Paragraph 43.

13 44. Defendants deny the allegations in Paragraph 44.

14 45. Defendants deny the allegations in Paragraph 45.

15 46. Paragraph 46 does not contain any statements to admit or deny.

16 47. Admit.

17 48. Defendants deny the allegations in Paragraph 48.

18 49. Defendants deny the allegations in Paragraph 49.

19 50. Paragraph 50 does not contain any statements to admit or deny.

20 51. Admit.

21 52. Defendants deny the allegations in Paragraph 52.

22 53. Defendants deny the allegations in Paragraph 53.

23 54. Paragraph 54 does not contain any statements to admit or deny.

24 55. Admit.

25 56. Defendants deny the allegations in Paragraph 56.

26 57. Defendants deny the allegations in Paragraph 57.

27 58. Paragraph 58 does not contain any statements to admit or deny.

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- 1 59. Admit.
- 2 60. Defendants deny the allegations in Paragraph 60.
- 3 61. Defendants deny the allegations in Paragraph 61.
- 4 62. Paragraph 62 does not contain any statements to admit or deny.

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6 **AFFIRMATIVE DEFENSES**

7 **First Affirmative Defense**

8 At all times relevant herein, Plaintiff was the actual and legal cause of her
9 own harm and damages, if any, and, therefore, Defendants are not liable under any
10 legal theory.

11 **Second Affirmative Defense**

12 At all times relevant herein, the harm and damages, if any, suffered by
13 Plaintiff were caused by the acts and/or omissions of third persons, and not these
14 answering Defendants.

15 **Third Affirmative Defense**

16 Defendants are not liable to Plaintiff on the grounds they are protected by
17 absolute immunity.

18 **Fourth Affirmative Defense**

19 Plaintiff's FAC fails to state facts sufficient to constitute a cause of action
20 against Defendants.

21 **Fifth Affirmative Defense**

22 At all times relevant herein, Defendants were performing discretionary
23 functions and did not violate a clearly-established constitutional or statutory right
24 of which a reasonable person in their position would have known. Defendants
25 believed they were acting in good faith and their conduct was lawful and
26 constitutional. Therefore, Defendants are entitled to qualified immunity.

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1 **Sixth Affirmative Defense**

2 At all times relevant herein, Defendants did not follow any illegal or
3 unconstitutional custom or policy.

4 **Seventh Affirmative Defense**

5 At all times relevant herein, the events, acts, and omissions alleged to
6 constitute a statutory or constitutional violation were nothing more than a single
7 instance and, therefore, there can be no liability for an alleged unconstitutional
8 custom or policy.

9 **Eighth Affirmative Defense**

10 As for an eighth separate and distinct affirmative defense, Defendants did
11 not act pursuant to or promulgate or ratify any deliberately indifferent custom,
12 practice, or policy which actually caused any deprivation of the Plaintiff's
13 federally protected civil rights.

14 **Ninth Affirmative Defense**

15 Plaintiff's claims are barred by *Government Code sections* 810 et seq.,
16 including but not limited to sections 815, 815.2, 818.2, 820.2, 820.4, 820.6, 820.8
17 and 822.2.

18 **Tenth Affirmative Defense**

19 These answering defendants have never taken any action with a conscious
20 disregard of Plaintiff's rights, and have not engaged in any conduct with respect to
21 Plaintiff which would constitute oppression, fraud or malice, nor have these
22 answering defendants ratified or approved any such acts of others.

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WHEREFORE, DEFENDANTS PRAY AS FOLLOWS:

1. That Plaintiff takes nothing by way of her FAC;
2. For costs of suit;
3. For attorney's fees, as provided for by 42 U.S.C. section 1988; and
4. Such other and further relief as this Court deems proper.

DATED: March 5, 2008

LYNBERG & WATKINS
A Professional Corporation

By: 

DANA ALDEN FOX
EUGENE S. SUH
Attorneys for Defendants, SAN
BERNARDINO COUNTY SHERIFF'S
DEPARTMENT, SHERIFF GARY
PENROD

1 Case: *Jameelah Medina v. County of San Bernardino*

2
3 **PROOF OF SERVICE**

4 **UNITED STATES DISTRICT COURT, FOR THE DISTRICT OF CALIFORNIA**

5 I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 888 South Figueroa Street, 16th Floor, Los Angeles, California 90017.

6
7 On **March 5, 2008**, I served the foregoing document described as follows: ***ANSWER TO FIRST AMENDED COMPLAINT*** on all interested parties in this action by placing a true copy thereof enclosed in sealed envelope addressed as follows:

8
9 **SEE ATTACHED SERVICE LIST**

10
11 X **(BY MAIL)** As follows: I am "readily familiar" with the firm's practice of collection and processing correspondence for mailing. Under that practice, it would be deposited with U.S. Postal Service on the same day with postage thereon fully prepaid at Los Angeles, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposition for mailing an affidavit.


12
13
14 **(BY ELECTRONIC TRANSFER)** I caused all of the pages of the above-entitled document to be sent to the recipient(s) noted via electronic transfer (facsimile) at the respective telephone umbers indicated above.

15
16
17 **(BY FEDERAL EXPRESS/OVERNIGHT MAIL)** I caused the above-described document to be served on the interested parties noted as follows by Federal Express/Overnight Mail.

18
19 **(BY PERSONAL SERVICE):** I caused such envelope to be delivered by hand to the office(s) of the addressee via messenger.

20 X **(FEDERAL)** I declare under penalty of perjury under the laws of the United States that the above is true and correct.

21 Executed March 5, 2008 at Los Angeles, California.

22
23
24 
25 _____
26 ROCHELLE M. PARRA
27
28

Case No.: EDCV07-1600 VAP (Opx)
SERVICE LIST

<p>Hector O. Villagra, Esq. ACLU FOUNDATION OF SOUTHERN CALIFORNIA 2140 W. Chapman Avenue, Suite 209 Orange, CA 92868 Phone: (714) 450-3962 Fax: (714) 450-3969 email: hvillagra@aclu-sc.org Attorneys for Plaintiff, Jameelah Medina</p>	<p>Ranjana Nataranjan, Esq. ACLU FOUNDATION OF SOUTHERN CALIFORNIA 1616 Beverly Boulevard Los Angeles, CA 90026 Phone: (213) 977-9500 Fax: (213) 250-3919 email: rnataranjan@aclu-sc.org Co-counsel for Plaintiff</p>
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