| 1 | DENNIS J. HERRERA, State Bar #139669 | | |
|----|---|---------------------------------|--|
| 2 | City Attorney WAYNE SNODGRASS, State Bar #148137 | | |
| 3 | TARA M. STEELEY, State Bar #231775 Deputy City Attorneys | | |
| 4 | City Hall, Řoom 234 1 Dr. Carlton B. Goodlett Place San Francisco, California 94102-4682 | | |
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| 6 | E-Mail: tara.steeley@sfgov.org | | |
| 7 | Attorneys for Defendants | | |
| 8 | SAN FRANCISCO LIBRARY COMMISSION CITY AND COUNTY OF SAN FRANCISCO | AND | |
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| 11 | UNITED STATES DISTRICT COURT | | |
| 12 | NORTHERN DISTRICT OF CALIFORNIA | | |
| 13 | JAMES CHAFFEE, | Case No. CV10-4521 VRW | |
| 14 | Plaintiff, | ANSWER TO COMPLAINT FOR DAMAGES | |
| 15 | VS. | | |
| 16 | SAN FRANCISCO LIBRARY COMMISSION, CITY AND COUNTY OF | | |
| 17 | SAN FRANCISCO, and DOES 1 through 20, inclusive, | | |
| 18 | Defendants. | | |
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| 28 | ANSWER | | |
| | CASE NO. CV10-4521 VRW | Destrate in | |
| | | Dockets.Ju | |

On behalf of themselves and no other persons or entities, Defendants San Francisco Library 1 Commission and City And County Of San Francisco (collectively, "Defendants") hereby answer and 2 respond to the Complaint for Damages ("Complaint"), as follows: 3

1. Answering the allegations of paragraph one, Defendants lack knowledge or information sufficient to form a belief as to the allegations in paragraph one, and deny the same on that basis.

2. Answering the allegations of paragraph two, Defendants admit that the San Francisco 6 Library Commission is a department of the City and County of San Francisco whose powers and duties are set forth in the City Charter and other applicable laws. Except as expressly admitted, the allegations are denied.

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Defendants deny each and every allegation in paragraph three.

4. Answering the allegations of paragraph four, Defendants lack knowledge or 11 information sufficient to form a belief as to the allegations in paragraph four, and deny the same on 12 that basis. 13

5. Defendants deny each and every allegation in paragraph five.

6. Defendants deny each and every allegation in paragraph six.

7. Defendants deny each and every allegation in paragraph seven.

8. Answering the allegations of paragraph eight, Defendants admit that the Library 17 Commission holds regular and special meetings. Defendants deny the remaining allegations of 18 paragraph eight. 19

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Defendants deny each and every allegation in paragraph nine.

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10. Defendants deny each and every allegation in paragraph ten.

11. Answering the allegations of paragraph eleven, Defendants admit that some entities 22 23 who are not speaking as members of the public and are not similarly situated to Plaintiff are allowed to use computerized graphic displays at Library Commission meetings. Defendants admit that Plaintiff, 24 25 like all other members of the public, is not allowed to use computerized graphic displays during the public comment portion of Library Commission meetings. Unless expressly admitted, Defendants 26 27 deny the allegations of paragraph eleven.

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ANSWER CASE NO. CV10-4521 VRW

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Defendants deny each and every allegation in paragraph twelve.

| 1 | 13. | Defendants deny each and every allegation in paragraph thirteen. |
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| 2 | 14. | Defendants deny each and every allegation in paragraph fourteen. |
| 3 | 15. | Defendants deny each and every allegation in paragraph fifteen. |
| 4 | 16. | Answering the allegations of paragraph sixteen, Defendants deny that Plaintiff has |
| 5 | suffered any | harm as a result of Defendants conduct. On that basis, Defendants deny each and every |
| 6 | allegation in paragraph sixteen. | |
| 7 | 17. | Defendants deny each and every allegation in paragraph seventeen. |
| 8 | 18. | Defendants deny each and every allegation in paragraph eighteen. |
| 9 | 19. | Answering the allegations of paragraph nineteen, Defendants deny that Plaintiff has |
| 10 | suffered any | harm related to the allegations set forth in the Complaint. On that basis, Defendants deny |
| 11 | each and every allegation in paragraph nineteen. | |
| 12 | 20. | Defendants deny each and every allegation in paragraph twenty. |
| 13 | 21. | Defendants deny each and every allegation in paragraph twenty-one. |
| 14 | 22. | Defendants deny each and every allegation in paragraph twenty-two. |
| 15 | 23. | Answering the allegations of paragraph twenty-three, Defendants deny that Plaintiff has |
| 16 | suffered any harm related to the allegations set forth in the Complaint. On that basis, Defendants deny | |
| 17 | each and every allegation in paragraph twenty-three. | |
| 18 | 24. | Answering the allegations of paragraph twenty-four, Defendants deny that Plaintiff is |
| 19 | entitled to att | orneys fees for bringing this action. Defendants deny any remaining allegations |
| 20 | contained in J | paragraph twenty-four. |
| 21 | 25. | Answering the allegations of paragraph twenty-five, Defendants deny that Defendants' |
| 22 | policies and p | practices violate any of Plaintiff's rights. Defendants admit that Plaintiff contends |
| 23 | otherwise in his Complaint. Except as expressly admitted, the allegations of paragraph twenty-five are | |
| 24 | denied. | |
| 25 | 26. | Answering the allegations of paragraph twenty-six, Defendants deny that Defendants' |
| 26 | policies and p | practices violate any of Plaintiff's rights. Defendants admit that Plaintiff contends |
| 27 | otherwise in his Complaint. Except as expressly admitted, the allegations of paragraph twenty-six are | |
| 28 | denied. | |
| | ANSWER | 2 |

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| 1 | 27. | Answering the allegations of paragraph twenty-seven, Defendants deny that there is any |
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| 2 | uncertainty a | s to whether Defendants' policies and actions described in the Complaint comply with the |
| 3 | law. On that | basis, the allegations of paragraph twenty-seven are denied. |
| 4 | | AFFIRMATIVE DEFENSES |
| 5 | Defendants state the following affirmative defenses without assuming or admitting that it bears | |
| 6 | the burden of proof as to any of them. | |
| 7 | 1. | The Complaint should be denied, in whole or in part, because Plaintiff has failed to |
| 8 | state a claim on which relief can be granted. | |
| 9 | 2. | The Complaint is barred, in whole or in part, by laches or mootness. |
| 10 | 3. | The Complaint is barred, in whole or in part, by the doctrines of waiver and/or estoppel. |
| 11 | 4. | The Complaint is barred, in whole or in part, because plaintiff has failed to comply with |
| 12 | the applicable | e statute(s) of limitations. |
| 13 | 5. | Defendants presently have insufficient knowledge or information on which to form a |
| 14 | belief as to w | whether they may have additional, as yet unstated, defenses available. Defendants reserve |
| 15 | the right to assert additional defenses in the event that discovery indicates that they would be | |
| 16 | appropriate. | |
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| 17 | | PRAYER |
| 17 18 | WHE | PRAYER REFORE, Defendants pray for judgment as follows: |
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| 18 | | REFORE, Defendants pray for judgment as follows: |
| 18 19 | 1. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. |
| 18 19 20 | 1. 2. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. |
| 18 19 20 21 | 1. 2. Defendants. 3. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. That Plaintiff's suit be dismissed with prejudice and judgment entered in favor of |
| 18 19 20 21 22 | 1. 2. Defendants. 3. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. That Plaintiff's suit be dismissed with prejudice and judgment entered in favor of That Defendants be awarded its costs of suit, including reasonable attorneys fees, |
| 18 19 20 21 22 23 | 1. 2. Defendants. 3. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. That Plaintiff's suit be dismissed with prejudice and judgment entered in favor of That Defendants be awarded its costs of suit, including reasonable attorneys fees, |
| 18 19 20 21 22 23 24 | 1. 2. Defendants. 3. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. That Plaintiff's suit be dismissed with prejudice and judgment entered in favor of That Defendants be awarded its costs of suit, including reasonable attorneys fees, |
| 18 19 20 21 22 23 24 25 | 1. 2. Defendants. 3. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. That Plaintiff's suit be dismissed with prejudice and judgment entered in favor of That Defendants be awarded its costs of suit, including reasonable attorneys fees, |
| 18 19 20 21 22 23 24 25 26 | 1. 2. Defendants. 3. | REFORE, Defendants pray for judgment as follows: That Plaintiff takes nothing from Defendants by his Complaint. That Plaintiff's suit be dismissed with prejudice and judgment entered in favor of That Defendants be awarded its costs of suit, including reasonable attorneys fees, |

| 1 | 4. That Defendants be granted such other and further relief as the Court deems just and |
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| 2 | proper. |
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| 4 | Dated: October 27, 2010 |
| 5 | DENNIS J. HERRERA |
| 6 | City Attorney WAYNE SNODGRASS |
| 7 | TARA M. STEELEY Deputy City Attorneys |
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| 9 | By: <u>/s/Tara M. Steeley</u> TARA M. STEELEY |
| 10 | Attorneys for Defendants |
| 11 | SAN FRANCISCO LIBRARY COMMISSION AND CITY AND COUNTY OF SAN FRANCISCO |
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| 20 | ANSWER 4 CASE NO. CV10-4521 VRW |

| 1 | PROOF OF SERVICE | | |
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| 2 | I, HOLLY TAN, declare as follows: | | |
| 3 | I am a citizen of the United States, over the age of eighteen years and not a party to the above- entitled action. I am employed at the City Attorney's Office of San Francisco, City Hall, Room 234, 1 Dr. Carlton B. Goodlett Place, San Francisco, CA 94102. | | |
| 5 | On October 27, 2010, I served the following document(s): | | |
| 6 | ANSWER TO COMPLAINT FOR DAMAGES | | |
| | on the following persons at the locations specified: | | |
| 7 | JAMES CHAFFEE In Pro Per | | |
| 8 | 63 Stoneybrook Avenue | | |
| 9 | San Francisco, CA 94112 Telephone: 415-584-8999 | | |
| 10 | | | |
| 11 | in the manner indicated below: | | |
| 12 | BY UNITED STATES MAIL : Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and mailing with | | |
| 13 the United States Postal Service. I am readily familiar with the practices of the San Francisco City A | the United States Postal Service. I am readily familiar with the practices of the San Francisco City Attorney's Office for collecting and processing mail. In the ordinary course of business, the sealed envelope(s) that I placed | | |
| 14 | for collection would be deposited, postage prepaid, with the United States Postal Service that same day. | | |
| 15 16 | BY PERSONAL SERVICE : I sealed true and correct copies of the above documents in addressed envelope(s) and caused such envelope(s) to be delivered by hand at the above locations by a professional messenger service. A declaration from the messenger who made the delivery is attached or will be | | |
| | filed separately with the court. | | |
| 17 18 | BY OVERNIGHT DELIVERY : I sealed true and correct copies of the above documents in addressed envelope(s) and placed them at my workplace for collection and delivery by overnight courier service. I am readily familiar with the practices of the San Francisco City Attorney's Office for sending overnight deliveries. In | | |
| 19 the ordinary course of business, the sealed envelope(s) that I placed for collection would | the ordinary course of business, the sealed envelope(s) that I placed for collection would be collected by a courier the same day. | | |
| 20 | BY FACSIMILE : Based on a written agreement of the parties to accept service by fax, I transmitted true and | | |
| 21 | correct copies of the above document(s) via a facsimile machine at telephone number Fax #415-554-4699 to the persons and the fax numbers listed above. The fax transmission was reported as complete and without error. The | | |
| transmission report was properly issued by the transmitting facsimile machine, and a copy of the | transmission report was properly issued by the transmitting facsimile machine, and a copy of the transmission report \Box is attached or \Box will be filed separately with the court. | | |
| 23 | I declare under penalty of perjury pursuant to the laws of the State of California that the | | |
| 24 | foregoing is true and correct. | | |
| 25 | Executed October 27, 2010, at San Francisco, California. | | |
| 26 | /s/Holly Tan | | |
| 27 | HOLLY TAN | | |
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| | ANSWER 5 CASE NO. CV10-4521 VRW | | |

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