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1 Defendants Federal Glover, Mark De Saulnier, John M. Goia, Millie Greenberg,  
2 Gayle B. Uilkema, John Sweeten, Anne Cain, Patty Chan, and Laura O’Donoghue,  
3 erroneously sued and served herein as Laura O’Donahue, (hereafter, collectively,  
4 “Defendants”) answer the Complaint of Faith Center Church Evangelistic Ministries and  
5 Hattie Hopkins (hereafter, collectively, “Plaintiffs”) as follows:

6 1. In response to the allegations in paragraph 1, Defendants admit that  
7 Plaintiffs seek declaratory relief, injunctive relief, nominal damages, costs and attorneys’  
8 fees. Defendants deny each of the remaining allegations in this paragraph.

9 2. In response to the allegations in paragraph 2, Defendants admit that the  
10 Plaintiffs assert claims in this action pursuant to the First and Fourteenth Amendments of  
11 the United States Constitution, 28 U.S.C. §§ 2201 and 2202, and 42 U.S.C. §§ 1983 and  
12 1988, without admitting the validity of those claims.

13 3. In response to the allegations in paragraph 3, Defendants admit that this  
14 Court has subject matter jurisdiction under 28 U.S.C. § 1331. Defendants deny that they  
15 seek to deprive Plaintiffs of their federal constitutional rights under color of state law, and  
16 thus deny that jurisdiction is proper under 28 U.S.C. § 1343.

17 4. In response to the allegations in paragraph 4, Defendants admit that this  
18 Court is authorized to issue declaratory judgments pursuant to 28 U.S.C. § 2201.  
19 Defendants deny that there is any basis for the issuance of the requested declaratory relief.

20 5. Defendants assert that the allegation in paragraph 5 is vague and indefinite,  
21 in that 28 U.S.C. § 1343(3) does not exist. If this allegation is meant to refer to 28 U.S.C. §  
22 1343(a)(3), Defendants admit that this Court has authority to issue injunctive relief, but  
23 deny that Defendants have engaged in any conduct that would warrant the issuance of the  
24 requested injunctive relief. Except as so expressly admitted, Defendants deny the  
25 allegations in paragraph 5.

26 6. Defendants assert that the allegation in paragraph 6 is vague and indefinite,  
27 in that 28 U.S.C. § 1343(3) does not exist. If this allegation is meant to refer to 28 U.S.C. §  
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1 1343(a)(3), Defendants admit that this Court has authority to award damages, but deny that  
2 Defendants have engaged in any conduct that would warrant the award of the requested  
3 damages. Except as so expressly admitted, Defendants deny the allegations in paragraph 6.

4 7. In response to the allegation in paragraph 7, Defendants admit that this  
5 Court has authority to award attorneys' fees under 42 U.S.C. § 1988 for claims properly  
6 asserted under that statute, but deny that this case is properly filed under that statute, and  
7 further deny that Defendants have engaged in any conduct that would warrant an award of  
8 attorneys' fees in this case.

9 8. In response to the allegations in paragraph 8, Defendants admit that venue in  
10 the Northern District of California is proper under 28 U.S.C. § 1391.

11 9. In response to the allegations in paragraph 9, Defendants admit that this case  
12 is properly assigned to the San Francisco or Oakland Division, pursuant to Local Rules 3-2  
13 and 3-5.

14 10. In response to the allegations in paragraph 10, Defendants admit that  
15 Plaintiff Faith Center Church Evangelistic Ministries is registered as a corporation with the  
16 California Secretary of State. Defendants lack sufficient knowledge or information to form  
17 a belief as to the truth of all other allegations in this paragraph and, on that basis, deny  
18 those allegations.

19 11. In response to the allegations in paragraph 11, Defendants admit that Hattie  
20 Hopkins is the registered agent for service of process of Faith Center Church Evangelistic  
21 Ministries. Defendants lack sufficient knowledge or information to form a belief as to the  
22 truth of all other allegations in this paragraph and, on that basis, deny those allegations.

23 12. In response to the allegations in paragraph 12, Defendants admit that Federal  
24 Glover is a member, and current chair, of the Contra Costa County Board of Supervisors,  
25 and that he has an office in Pittsburg, California. Defendants admit that the Contra Costa  
26 County Board of Supervisors has adopted policies for County libraries. Except as so  
27 expressly admitted, Defendants deny the allegations contained in paragraph 12.

1           13.     In response to the allegations in paragraph 13, Defendants admit that Mark  
2 De Saulnier is a member of the Contra Costa County Board of Supervisors, and that he has  
3 an office in Concord, California. Defendants admit that the Contra Costa County Board of  
4 Supervisors has adopted policies for County libraries. Except as so expressly admitted,  
5 Defendants deny the allegations contained in paragraph 13.

6           14.     In response to the allegations in paragraph 14, Defendants admit that John  
7 M. Gioia is a member of the Contra Costa County Board of Supervisors, and that he has an  
8 office in El Cerrito, California. Defendants admit that the Contra Costa County Board of  
9 Supervisors has adopted policies for County libraries. Except as so expressly admitted,  
10 Defendants deny the allegations contained in paragraph 14.

11           15.     In response to the allegations in paragraph 15, Defendants admit that Millie  
12 Greenberg is a member of the Contra Costa County Board of Supervisors, and that she has  
13 an office in Danville, California. Defendants admit that the Contra Costa County Board of  
14 Supervisors has adopted policies for County libraries. Except as so expressly admitted,  
15 Defendants deny the allegations contained in paragraph 15.

16           16.     In response to the allegations in paragraph 16, Defendants admit that Gayle  
17 B. Uilkema is a member of the Contra Costa County Board of Supervisors, and that she has  
18 an office in Lafayette, California. Defendants admit that the Contra Costa County Board of  
19 Supervisors has adopted policies for County libraries. Except as so expressly admitted,  
20 Defendants deny the allegations contained in paragraph 16.

21           17.     In response to the allegations in paragraph 17, Defendants admit that John  
22 Sweeten is the Contra Costa County Administrator, and that the County Administrator's  
23 Office is located in Martinez, California. Except as so expressly admitted, Defendants deny  
24 the allegations contained in paragraph 17.

25           18.     Defendants admit the allegations in paragraph 18.

26           19.     In response to the allegations in paragraph 19, Defendants admit that Patty  
27 Chan is the Senior Branch Librarian of the Antioch branch of the Contra Costa County  
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1 Library, in Antioch, California. Defendants further admit that Ms. Chan has responsibility  
2 for implementing library policies. Defendants assert that the phrase “responsible for  
3 overseeing the use of library facilities by outside groups and individuals” is so vague and  
4 indefinite that Defendants lack sufficient information and belief to respond and, on that  
5 basis, deny that allegation. Except as so expressly admitted, Defendants deny the  
6 allegations in paragraph 19.

7 20. In response to the allegations in paragraph 20, Defendants deny that Laura  
8 O’Donoghue is the Administrative Deputy Director of the Antioch branch of the Contra  
9 Costa County Library. Defendants admit that Ms. O’Donoghue has responsibility for  
10 implementing library policies. Defendants assert that the phrase “responsible for  
11 overseeing the use of library facilities by outside groups and individuals” is so vague and  
12 indefinite that Defendants lack sufficient information and belief to respond and, on that  
13 basis, deny that allegation. Except as so expressly admitted, Defendants deny the  
14 allegations in paragraph 20.

15 21. Defendants lack sufficient knowledge or information to form a belief as to  
16 the truth of the allegations in paragraph 21 and, on that basis, deny those allegations.

17 22. Defendants lack sufficient knowledge or information to form a belief as to  
18 the truth of the allegations in paragraph 22 and, on that basis, deny those allegations.

19 23. Defendants lack sufficient knowledge or information to form a belief as to  
20 the truth of the allegations in paragraph 23 and, on that basis, deny those allegations.

21 24. Defendants lack sufficient knowledge or information to form a belief as to  
22 the truth of the allegations in paragraph 24 and, on that basis, deny those allegations.

23 25. Defendants lack sufficient knowledge or information to form a belief as to  
24 the truth of the allegations in paragraph 25 and, on that basis, deny those allegations.

25 26. Defendants lack sufficient knowledge or information to form a belief as to  
26 the truth of the allegations in paragraph 26 with respect to Faith Center’s “meetings” in  
27 general and, on that basis, deny those allegations. With respect to the purposes for which  
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1 Plaintiffs wanted to use the library’s meeting room on May 29, 2004, and July 31, 2004,  
2 Defendants deny that Plaintiffs indicated any intention to “discuss educational, cultural, and  
3 community issues from a religious perspective,” to share meals or “discuss[] social and  
4 political issues.” To the extent that any further response is required, Defendants deny the  
5 allegations in paragraph 26.

6 27. Defendants lack sufficient knowledge or information to form a belief as to  
7 the truth of the allegations in paragraph 27 and, on that basis, deny those allegations.

8 28. In response to the allegations in paragraph 28, Defendants admit those  
9 allegations.

10 29. In response to the allegations in paragraph 29, Defendants admit those  
11 allegations.

12 30. In response to the allegations in paragraph 30, Defendants admit that the  
13 meeting room in the Antioch library is available on a first-come, first-served basis, for use  
14 consistent with library policies. To the extent that the allegations in paragraph 30 require  
15 any further response, Defendants deny those allegations.

16 31. In response to the allegations in paragraph 31, Defendants admit those  
17 allegations.

18 32. In response to the allegations in paragraph 32, Defendants admit those  
19 allegations.

20 33. In response to the allegations in paragraph 33, Defendants admit those  
21 allegations.

22 34. In response to the allegations in paragraph 34, Defendants assert that the  
23 phrase “need only submit” is vague, indefinite and argumentative. Defendants admit that  
24 individuals or organizations seeking to use the meeting room at the library in Antioch must  
25 submit an application, which includes the following: Name of Library, Date of Meeting,  
26 Time of Meeting, Name of Applicant, Name of Organization, Purpose of Organization,  
27 Purpose of Meeting, Agreement to Abide By and Uphold All Rules and Policies of the  
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1 Contra Costa County Library and to Defend, Indemnify, and Hold Harmless Contra Costa  
2 County, Signature of the Applicant, Position in the Organization, Home Address and  
3 Phone, Business Address and Phone. To the extent that the allegations in paragraph 34  
4 require any further response, Defendants deny those allegations.

5 35. In response to the allegations in paragraph 35, Defendants deny those  
6 allegations.

7 36. Defendants lack sufficient knowledge or information to form a belief as to  
8 the truth of the allegations in paragraph 36 and, on that basis, deny those allegations.

9 37. Defendants lack sufficient knowledge or information to form a belief as to  
10 the truth of the allegations in paragraph 37 and, on that basis, deny those allegations.

11 38. Defendants lack sufficient knowledge or information to form a belief as to  
12 the truth of the allegations in paragraph 38 and, on that basis, deny those allegations.

13 39. Defendants assert that the allegations in paragraph 39 are vague and  
14 indefinite as to time, such that Defendants lack sufficient knowledge or information to form  
15 a belief as to the truth of the allegations as phrased. On that basis, Defendants deny the  
16 allegations.

17 40. In response to the allegations in paragraph 40, Defendants admit that Ms.  
18 Hopkins was advised that she needed to fill out an application to use the library meeting  
19 room. Except as so expressly admitted, Defendants deny the allegations in paragraph 40.

20 41. In response to the allegations in paragraph 41, Defendants deny that the fax  
21 transmissions attached as Exhibits A and B were faxed to the library in May 2004. As to  
22 all other allegations in paragraph 41, if any, Defendants deny those allegations.

23 42. Defendants lack sufficient knowledge or information to form a belief as to  
24 the truth of the allegations in paragraph 42 and, on that basis, deny those allegations.

25 43. Defendants lack sufficient knowledge or information to form a belief as to  
26 the truth of the allegations in paragraph 43 and, on that basis, deny those allegations.

27 44. Defendants lack sufficient knowledge or information to form a belief as to  
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1 the truth of the allegations in paragraph 44 and, on that basis, deny those allegations.

2 45. Defendants lack sufficient knowledge or information to form a belief as to  
3 the truth of the allegations in paragraph 45 and, on that basis, deny those allegations.

4 46. Defendants lack sufficient knowledge or information to form a belief as to  
5 the truth of the allegations in paragraph 46 and, on that basis, deny those allegations.

6 47. Defendants lack sufficient knowledge or information to form a belief as to  
7 the truth of the allegations in paragraph 47 and, on that basis, deny those allegations.

8 48. Defendants lack sufficient knowledge or information to form a belief as to  
9 the truth of the allegations in paragraph 48 and, on that basis, deny those allegations.

10 49. Defendants lack sufficient information and belief to respond to the  
11 allegations in paragraph 49 and, on that basis, deny those allegations.

12 50. Defendants lack sufficient information and belief to respond to the  
13 allegations in paragraph 50 and, on that basis, deny those allegations.

14 51. In response to the allegations in paragraph 51, Defendants lack sufficient  
15 information and belief to respond to the allegations regarding use of musical instruments or  
16 amplified sound and, on that basis, deny those allegations. To the extent that Plaintiffs  
17 allege that their “consideration for the library’s patrons” means that their activities were  
18 low in volume, Defendants deny those allegations.

19 52. In response to the allegations in paragraph 52, Defendants admit that library  
20 employees advised Ms. Hopkins and Ms. Ward that the library’s meeting room could not be  
21 used for religious services. Except as so expressly admitted, Defendants deny the  
22 allegations in paragraph 52.

23 53. Defendants lack sufficient knowledge or information to form a belief as to  
24 the truth of the allegations in paragraph 53 and, on that basis, deny those allegations.

25 54. In response to the allegations in paragraph 54, Defendants deny that library  
26 employees advised Ms. Hopkins that there was no noise problem with Faith Center;  
27 Defendants admit that library employees advised Ms. Hopkins that the library meeting  
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1 room use policy prohibited use of the meeting room for religious services. As to all other  
2 allegations in paragraph 54, if any, Defendants deny those allegations.

3 55. In response to the allegations in paragraph 55, Defendants admit that library  
4 employees showed Ms. Hopkins Resolution No. 92/793. Defendants deny that Resolution  
5 No. 92/793 “forbade religious groups to use Library facilities.” Defendants further deny  
6 that Resolution No. 92/793 is the library’s current policy.

7 56. In response to the allegations in paragraph 56, Defendants admit that  
8 Resolution No. 92/793 included the statement “[l]ibrary meeting rooms shall not be used  
9 for religious purposes.”

10 57. In response to the allegations in paragraph 57, Defendants admit those  
11 allegations.

12 58. Defendants deny the allegations in paragraph 58.

13 59. Defendants lack sufficient knowledge or information to form a belief as to  
14 the truth of the allegations in paragraph 59 and, on that basis, deny those allegations.

15 60. Defendants lack sufficient knowledge or information to form a belief as to  
16 the truth of the allegations in paragraph 60 and, on that basis, deny those allegations.

17 61. In response to the allegations in paragraph 61, Defendants admit that Ms.  
18 Hopkins expressed concerns about the library’s meeting room use policy. Except as so  
19 expressly admitted, defendants deny the allegations in paragraph 61.

20 62. Defendants admit the allegations in paragraph 62.

21 63. Defendants lack sufficient knowledge or information to form a belief as to  
22 the truth of the allegations in paragraph 63 and, on that basis, deny those allegations.

23 64. In response to the allegations in paragraph 64, Defendants admit those  
24 allegations.

25 65. In response to the allegations in paragraph 65, Defendants admit that Ms.  
26 O’Donoghue called Ms. Hopkins in June 2004, but deny Plaintiffs’ characterization of that  
27 call as having occurred in “early June.” To the extent that the allegations in paragraph 65  
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1 require any further response, Defendants deny those allegations.

2           66.     In response to the allegations in paragraph 66, Defendants admit those  
3 allegations.

4           67.     In response to the allegations in paragraph 67, Defendants admit those  
5 allegations, referring to Resolution No. 93/525. To the extent that the allegations in  
6 paragraph 67 require any further response, Defendants deny those allegations.

7           68.     In response to the allegations in paragraph 68, Defendants admit those  
8 allegations.

9           69.     In response to the allegations in paragraph 69, Defendants admit that Ms.  
10 O'Donoghue so advised Ms. Hopkins with respect to the July 31, 2004 "prayer, praise and  
11 worship" meeting, as described in Faith Center's application.

12           70.     Defendants lack sufficient information and belief to respond to the  
13 allegations in paragraph 70 and, on that basis, deny those allegations.

14           71.     In response to the allegations in paragraph 71, Defendants admit that Ms.  
15 Hopkins forwarded correspondence via facsimile to Ms. O'Donoghue on July 7, 2004;  
16 Defendants deny that correspondence was forwarded on July 5, 2004. To the extent that the  
17 allegations in paragraph 71 require any further response, Defendants deny those allegations.

18           72.     Defendants deny the allegations in paragraph 72.

19           73.     With the exception of the date, about which Defendants do not have  
20 sufficient knowledge or information to form a belief, Defendants admit the allegations in  
21 paragraph 73.

22           74.     Defendants admit the allegations in paragraph 74.

23           75.     Defendants admit the allegations in paragraph 75, as to the "prayer, praise  
24 and worship" for which Faith Center had applied to use the library's meeting room.

25           76.     In response to the allegations in paragraph 76, Defendants admit that Ms.  
26 Hopkins asked to speak to County Counsel and to Ms. O'Donoghue's supervisor. Except  
27 as so expressly admitted, Defendants deny the allegations in paragraph 76.

1           77.     In response to the allegations in paragraph 77, Defendants admit that Ms.  
2 Caldwell telephoned Ms. Hopkins. In all other respects, Defendants deny the allegations in  
3 paragraph 77.

4           78.     Defendants admit the allegations in paragraph 78, as to the “prayer, praise  
5 and worship” for which Faith Center had applied to use the library’s meeting room. To the  
6 extent that the allegations in paragraph 78 require any further response, Defendants deny  
7 those allegations.

8           79.     Defendants lack sufficient knowledge or information to form a belief as to  
9 the truth of the allegations in paragraph 79 and, on that basis, deny those allegations.

10          80.     In response to the allegations in paragraph 80, Defendants assert that the  
11 phrase “those meetings” is vague and indefinite. To the extent that any further response is  
12 required, Defendants lack sufficient knowledge or information to form a belief as to the  
13 truth of the allegations in this paragraph and, on that basis, deny those allegations.

14          81.     In response to the allegations in paragraph 81, Defendants assert that the  
15 phrase “those meetings” is vague and indefinite. Defendants admit that their library policy  
16 precludes Plaintiffs from using the library’s meeting room for worship services.  
17 Defendants lack sufficient knowledge or information to form a belief as to the truth of the  
18 allegations as to the future uses for which Plaintiffs desire to use the library’s meeting room  
19 and, on that basis, deny those allegations.

20          82.     The allegations in paragraph 82 purport to state a conclusion of law and  
21 therefore require no response. To the extent that they purport to allege any wrongful  
22 conduct by Defendants, or otherwise require any response, Defendants deny the allegations  
23 in paragraph 82.

24          83.     The allegations in paragraph 83 purport to state a conclusion of law and  
25 therefore require no response. To the extent that they purport to allege any violation by  
26 Defendants of Plaintiffs’ First Amendment rights, or otherwise require any response,  
27 Defendants deny the allegations in paragraph 83.

1           84.     The allegations in paragraph 84 purport to state a conclusion of law and  
2 therefore require no response. To the extent that they purport to allege violation by  
3 Defendants of the Establishment Clause, or otherwise require any response, Defendants  
4 deny the allegations in paragraph 84.

5           85.     Defendants deny the allegations in paragraph 85.

6           **FIRST CAUSE OF ACTION - VIOLATION OF THE RIGHT TO FREEDOM**  
7           **OF SPEECH UNDER THE UNITED STATES CONSTITUTION**

8           86.     In response to the allegations in paragraph 86, Defendants refer to and  
9 reassert all responses set forth in paragraphs 1 to 85 of this Answer and incorporate them  
10 herein by this reference.

11          87.     The allegations in paragraph 87 purport to state a conclusion of law and  
12 therefore require no response. To the extent that they purport to allege any violation by  
13 Defendants of Plaintiffs' First or Fourteenth Amendment rights, or otherwise require any  
14 response, Defendants deny the allegations in paragraph 87.

15          88.     The allegations in paragraph 88 purport to state a conclusion of law and  
16 therefore require no response. To the extent that they purport to allege any violation by  
17 Defendants of Plaintiffs' rights, or otherwise require any response, Defendants deny the  
18 allegations in paragraph 88.

19          89.     The allegations in paragraph 89 purport to state a conclusion of law and  
20 therefore require no response. To the extent that they purport to allege any discrimination  
21 by Defendants, or otherwise require any response, Defendants deny the allegations in  
22 paragraph 89.

23          90.     The allegations in paragraph 90 purport to state a conclusion of law and  
24 therefore require no response. To the extent that they purport to allege any discrimination  
25 by Defendants, or otherwise require any response, Defendants deny the allegations in  
26 paragraph 90.

27          91.     The allegations in paragraph 91 purport to state a conclusion of law and  
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1 therefore require no response. To the extent that they purport to allege any discrimination  
2 by Defendants, or otherwise require any response, Defendants deny the allegations in  
3 paragraph 91.

4 92. Defendants deny the allegations in paragraph 92 of the Complaint.

5 93. Defendants deny the allegations in paragraph 93 of the Complaint.

6 94. Defendants deny the allegations in paragraph 94 of the Complaint.

7 **SECOND CAUSE OF ACTION - VIOLATION OF THE RIGHT TO FREE**

8 **EXERCISE OF RELIGION UNDER THE UNITED STATES CONSTITUTION**

9 95. In response to the allegations in paragraph 95, Defendants refer to and  
10 reassert all responses set forth in paragraphs 1 to 94 of this Answer and incorporate them  
11 herein by this reference.

12 96. Defendants lack sufficient knowledge or information to form a belief as to  
13 the truth of the allegations in paragraph 96 and, on that basis, deny those allegations.

14 97. Defendants lack sufficient knowledge or information to form a belief as to  
15 the truth of the allegations in paragraph 97 with respect to what Plaintiffs seek to do in the  
16 future and, on that basis, deny those allegations. Defendants further deny that the  
17 applications Plaintiffs previously submitted to the library indicated that it was Plaintiffs  
18 intent to discuss educational, cultural, and community issues from a religious perspective.

19 98. Defendants deny the allegations in paragraph 98.

20 99. Defendants deny the allegations in paragraph 99.

21 100. Defendants deny the allegations in paragraph 100.

22 101. Defendants deny the allegations in paragraph 101.

23 102. Defendants deny the allegations in paragraph 102.

24 **THIRD CAUSE OF ACTION - VIOLATION OF THE ESTABLISHMENT**

25 **CLAUSE UNDER THE UNITED STATES CONSTITUTION**

26 103. In response to the allegations in paragraph 103, Defendants refer to and  
27 reassert all responses set forth in paragraphs 1 to 102 of this Answer and incorporate them  
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1 herein by this reference.

2 104. Defendants deny the allegations in paragraph 104 as they pertain to  
3 Defendants' current policy.

4 105. Defendants deny the allegations in paragraph 105.

5 106. Defendants deny the allegations in paragraph 106.

6 107. Defendants deny the allegations in paragraph 107.

7 108. Defendants deny the allegations in paragraph 108.

8 **FOURTH CAUSE OF ACTION - VIOLATION OF THE EQUAL PROTECTION**

9 **CLAUSE UNDER THE UNITED STATES CONSTITUTION**

10 109. In response to the allegations in paragraph 109, Defendants refer to and  
11 reassert all responses set forth in paragraphs 1 to 108 of this Answer and incorporate them  
12 herein by this reference.

13 110. The allegations in paragraph 110 purport to state a conclusion of law and  
14 therefore require no response. To the extent that they purport to allege any discrimination  
15 by Defendants, or otherwise require any response, Defendants deny the allegations in  
16 paragraph 110.

17 111. In response to the allegations in paragraph 111, Defendants assert that the  
18 allegations are so vague, indefinite and incomplete that Defendants lack sufficient  
19 knowledge and information to form a belief as to the truth of the allegations and, on that  
20 basis, deny those allegations.

21 112. Defendants deny the allegations in paragraph 112.

22 113. Defendants deny the allegations in paragraph 113.

23 114. Defendants deny the allegations in paragraph 114.

24 115. To the extent that any allegation made anywhere in the Complaint has not  
25 been expressly admitted or affirmatively averred, it is hereby denied.

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1 **AFFIRMATIVE DEFENSES**

2 **First Affirmative Defense**

3 The Complaint and each purported cause of action therein fail to state a cause of  
4 action.

5 **Second Affirmative Defense**

6 Defendants claim immunity from liability as they were performing discretionary  
7 functions and acting in good faith, and their conduct did not violate clearly established  
8 statutory or constitutional rights of which a reasonable person would have known, such that  
9 they are entitled to qualified good faith immunity.

10 **Third Affirmative Defense**

11 This matter is not yet ripe for determination by this Court.

12 **Fourth Affirmative Defense**

13 Defendants allege that at all times and places mentioned in the Complaint,  
14 Defendants performed and discharged in good faith each and every obligation, if any, owed  
15 to Plaintiffs.

16 **Fifth Affirmative Defense**

17 Defendants allege that at all times and places mentioned in the Complaint,  
18 Defendants acted without malice and with a good faith belief in the propriety of their  
19 conduct.

20 **Sixth Affirmative Defense**

21 Defendants allege that Plaintiffs have failed to exhaust administrative and/or  
22 contractual remedies.

23 **Seventh Affirmative Defense**

24 Defendants allege that their conduct at all times material herein was privileged  
25 and/or justified under applicable law.

26 **Eighth Affirmative Defense**

27 Defendants assert the various immunities conferred upon Defendants pursuant to  
28

1 the California Government Code and other applicable provisions of law.

2 **Ninth Affirmative Defense**

3 Plaintiffs are estopped by their conduct from asserting any cause of action against  
4 Defendants.

5 **Tenth Affirmative Defense**

6 Plaintiffs have failed to use due diligence to mitigate damages, if any.

7 **Eleventh Affirmative Defense**

8 Any relief sought by the Plaintiffs is barred by the doctrine of unclean hands.

9 **Twelfth Affirmative Defense**

10 Plaintiffs are not entitled to injunctive relief because adequate remedies at law are  
11 available.

12 **Thirteenth Affirmative Defense**

13 Plaintiffs cannot seek to enjoin acts of non-parties.

14 **Fourteenth Affirmative Defense**

15 The Court should not enjoin acts mandated by the laws of the State of California.

16 **Fifteenth Affirmative Defense**

17 Any right Plaintiffs have to injunctive relief is outweighed by the public interest.

18 **Sixteenth Affirmative Defense**

19 Defendants are entitled to legislative immunity for any actions alleged in the  
20 Complaint.

21 **Seventeenth Affirmative Defense**

22 Plaintiffs are not entitled to any relief from Defendants due to their failure to  
23 comply with the claims filing requirements of the California Government Code.

24 **PRAYER FOR RELIEF**

25 WHEREFORE, Defendants pray that:

26 1. Judgment be entered in Defendants' favor and that Plaintiffs take nothing by  
27 their Complaint;



1           2.     Defendants be awarded their costs of suit and reasonable attorneys' fees; and  
2           3.     Defendants have such other and further relief as the Court may deem just  
3 and proper.

4 Dated: August 18, 2004

SILVANO B. MARCHESI  
County Counsel

/s/ Kelly M. Flanagan  
By: KELLY M. FLANAGAN  
Deputy County Counsel  
Attorneys for Defendants