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KENSINGTON POLICE PROTECTION AND
7 COMMUNITY SERVICES DISTRICT, RICKY HULL,
MANNY RAMOS, RODNEY MARTINEZ, KEITH
8 BARROW, THEODORE FOLEY

9
10 UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA

12
13 FADI SABA, CHIH LIN,
14 Plaintiff,

15 v.

16 KENSINGTON POLICE PROTECTION
AND COMMUNITY SERVICES
17 DISTRICT, RICKY HULL, MANNY
RAMOS, RODNEY MARTINEZ, KEITH
18 BARROW, THEODORE FOLEY, and
DOES 1-25, inclusive,
19 Defendants.

Case No. 4:18-CV-00766 DMR

DEFENDANTS' ANSWER TO COMPLAINT

JURY TRIAL DEMANDED

**CONSENT TO MAGISTRATE JUDGE
JURISDICTION (28. U.S.C. §636(C))**

Hon. Donna M. Ryu

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21
22 COMES NOW Defendants KENSINGTON POLICE PROTECTION AND
23 COMMUNITY SERVICES DISTRICT, and RICKY HULL ("Defendants"), and in answer to the
24 complaint on file herein admit and allege as follows:

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JURISDICTION AND VENUE

1. Defendants reserve objection to jurisdiction at this time.

2. Venue is proper.

3. Compliance with the California Government Tort Claims Act is mandatory. In answer to the allegations in paragraph 3, starting at “Plaintiffs” at line 7, and ending with “2017” at line 8, these Defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

PARTIES

4. In answer to the allegations of paragraph 4 of the complaint, these Defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

5. In answer to the allegations of paragraph 5 of the complaint, these Defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

6. Admit.

7. Defendants admit that at all times relevant to this action Defendant Hull was acting in the course and scope of his duties as a sworn peace officer for the Defendant District, and was acting under the color of the law.

8. Admit.

9. Admit.

10. Admit.

11. Admit

12. Defendants have no objection, at this time, as to Plaintiffs praying leave of Court to amend the pleadings to name DOE officers at some future point, and Defendants expressly reserve any and all objections to any such future prayer by Plaintiffs for leave to amend as may be

1 appropriate at the time.

2 13. In answer to the allegations of paragraph 13 of the complaint, these Defendants
3 have no information or belief to enable them to answer said allegations, and for that reason and
4 basing their denial on that ground, deny both generally and specifically, each and every, all and
5 singular, the allegations contained therein.

6 **FACTUAL ALLEGATIONS**

7 14. Admit.

8 15. In answer to the allegations of paragraph 15, beginning at line 27 and ending on p.
9 4, line 2 “. . . Manager of the District”, Admit. Beginning at pp. 4, line 2 “The position of Chief .
10 .” and ending at line 6 “. . . Reno, Nevada”, these Defendants have no information or belief to
11 enable them to answer said allegations, and for that reason and basing their denial on that ground,
12 deny both generally and specifically, each and every, all and singular, the allegations contained
13 therein.

14 16. In answer to the allegation of paragraph 16, beginning on pp. 4, line 7, and ending
15 at line 10 with “leadership...” these Defendants have no information or belief to enable them to
16 answer said allegations, and for that reason and basing their denial on that ground, deny both
17 generally and specifically, each and every, all and singular, the allegations contained therein. In
18 answer to the allegations in this same paragraph beginning on line 10 with “In 2012 ...” and
19 ending on line 12 with “high speed” these Defendants deny both generally and specifically, each
20 and every, all and singular, the allegations contained therein. In answer to the allegations in this
21 same paragraph beginning on line 12 with “Kosel” and ending with “cards” on line 13, these
22 Defendants have no information or belief to enable them to answer said allegations, and for that
23 reason and basing their denial on that ground, deny both generally and specifically, each and
24 every, all and singular, the allegations contained therein. In answer to the allegations in this same
25 paragraph, beginning with “While Hull ...” on line 13 and ending with “history of aggression” on
26 line 18, these Defendants deny both generally and specifically, each and every, all and singular,
27 the allegations contained therein.

28 17. In answer to the allegations of paragraph 17, these Defendants have no information

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1 or belief to enable them to answer said allegations, and for that reason and basing their denial on
2 that ground, deny both generally and specifically, each and every, all and singular, the allegations
3 contained therein.

4 18. In answer to the allegations of paragraph 18, these Defendants have no information
5 or belief to enable them to answer said allegations, and for that reason and basing their denial on
6 that ground, deny both generally and specifically, each and every, all and singular, the allegations
7 contained therein.

8 19. In answer to the allegations of paragraph 19, these Defendants have no information
9 or belief to enable them to answer said allegations, and for that reason and basing their denial on
10 that ground, deny both generally and specifically, each and every, all and singular, the allegations
11 contained therein.

12 20. In answer to the allegations of paragraph 20, these Defendants have no information
13 or belief to enable them to answer said allegations, and for that reason and basing their denial on
14 that ground, deny both generally and specifically, each and every, all and singular, the allegations
15 contained therein.

16 21. In answer to the allegations of paragraph 21, these Defendants have no information
17 or belief to enable them to answer said allegations, and for that reason and basing their denial on
18 that ground, deny both generally and specifically, each and every, all and singular, the allegations
19 contained therein.

20 22. In answer to the allegations of paragraph 22, these Defendants admit the portion
21 starting with “The responsibility” on pp. 5 at line 23, and ending with “Hull” at line 23; and admit
22 the portion beginning with “he asked” at line 25 and ending with “to talk” at line 26. In answer to
23 the allegations in this paragraph starting on pp. 5 at line 24, “At some point” and ending at line 25
24 with “follow up” these Defendants have no information or belief to enable them to answer said
25 allegations, and for that reason and basing their denial on that ground, deny both generally and
26 specifically, each and every, all and singular, the allegations contained therein. In answer to the
27 allegations of this same paragraph, starting with “When Saba...” at pp. 5 line 26, and ending with
28 “the camp” on pp. 6 line 21, these Defendants deny both generally and specifically, each and

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1 every, all and singular, the allegations contained therein.

2 23. In answer to the allegations of paragraph 23, these Defendants have no information
3 or belief to enable them to answer said allegations, and for that reason and basing their denial on
4 that ground, deny both generally and specifically, each and every, all and singular, the allegations
5 contained therein.

6 24. In answer to the allegations of paragraph 24, these Defendants admit the portion
7 beginning and ending with “Westby” on pp. 6 line 13, and admit the portion beginning with “told
8 Hull” and ending with “it wasn’t necessary” at line 13. In answer to the remainder of the
9 allegations of paragraph 24, these Defendants deny both generally and specifically, each and
10 every, all and singular, the allegations contained therein.

11 25. In answer to the allegations of paragraph 25, beginning with “Saba” on pp. 6 at
12 line 20, and ending with “hospital” at line 21, these Defendants have no information or belief to
13 enable them to answer said allegations, and for that reason and basing their denial on that ground,
14 deny both generally and specifically, each and every, all and singular, the allegations contained
15 therein. In answer to the remainder of the allegations of paragraph 25, these Defendants deny both
16 generally and specifically, each and every, all and singular, the allegations contained therein.

17 26. In answer to the allegations of paragraph 26, these Defendants have no information
18 or belief to enable them to answer said allegations, and for that reason and basing their denial on
19 that ground, deny both generally and specifically, each and every, all and singular, the allegations
20 contained therein.

21 27. In answer to the allegations of paragraph 27, beginning with “Later” on pp. 7 at
22 line 8, and ending with “did not” at line 24, these Defendants have no information or belief to
23 enable them to answer said allegations, and for that reason and basing their denial on that ground,
24 deny both generally and specifically, each and every, all and singular, the allegations contained
25 therein. Defendants admit the portion beginning with “At that” at line 14, and ending with “Hull
26 arrived” at line 15. In response to the remainder of the allegations of paragraph 27, these
27 Defendants deny both generally and specifically, each and every, all and singular, the allegations
28 contained therein.

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1 28. In answer to the allegations of paragraph 28, Defendants admit that Defendant
2 Hull cited Muwaffaq Fattah. On information and belief these Defendants admit that at some point
3 Saba was served with a TRO. As to the remainder of the allegations of paragraph 28, these
4 Defendants deny both generally and specifically, each and every, all and singular, the allegations
5 contained therein.

6 29. In answer to the allegations of paragraph 29, beginning with “Plaintiffs” on pp. 7
7 at line 22, and ending with “job” on pp. 8 at line 4, these Defendants deny both generally and
8 specifically, each and every, all and singular, the allegations contained therein. In answer to the
9 allegations of paragraph 29, beginning with “Fortunately” on pp. 8 at line 4 and ending with
10 “agencies” at line 8, these Defendants deny both generally and specifically, each and every, all
11 and singular, the allegations contained therein.

12 30. In answer to the allegations of paragraph 30, these Defendants admit that
13 Defendant Hull prepared a police report involving a tree. In answer to the remainder of the
14 allegations of paragraph 30, these Defendants deny both generally and specifically, each and
15 every, all and singular, the allegations contained therein.

16 31. In answer to the allegations of paragraph 31, these Defendants have no information
17 or belief to enable them to answer said allegations, and for that reason and basing their denial on
18 that ground, deny both generally and specifically, each and every, all and singular, the allegations
19 contained therein.

20 32. In answer to the allegations of paragraph 32, these Defendants admit the portion
21 beginning with “Kevin Hui” on pp. 8 at line 20 and ending with “Hull” at line 21. As to the
22 remainder of the allegations of paragraph 32, these Defendants have no information or belief to
23 enable them to answer said allegations, and for that reason and basing their denial on that ground,
24 deny both generally and specifically, each and every, all and singular, the allegations contained
25 therein.

26 33. In answer to the allegations of paragraph 33, beginning with “Plaintiffs” on pp. 8
27 at line 25, and ending with “against Saba” on pp. 9 at line 1, these Defendants deny both
28 generally and specifically, each and every, all and singular, the allegations contained therein. In

1 answer to the allegations of paragraph 33, beginning with “During” on pp. 9 at line 1, and ending
2 with “Specifically” these Defendants have no information or belief to enable them to answer said
3 allegations, and for that reason and basing their denial on that ground, deny both generally and
4 specifically, each and every, all and singular, the allegations contained therein. In answer to the
5 allegations of paragraph 33, beginning with “Hull” on pp. 9 at line 4, and ending with
6 “profession” at line 8, these Defendants deny both generally and specifically, each and every, all
7 and singular, the allegations contained therein.

8 34. In answer to the allegations of paragraph 34, these Defendants have no information
9 or belief to enable them to answer said allegations, and for that reason and basing their denial on
10 that ground, deny both generally and specifically, each and every, all and singular, the allegations
11 contained therein.

12 35. In answer to the allegations of paragraph 35, these Defendants deny both generally
13 and specifically, each and every, all and singular, the allegations contained therein.

14 36. In answer to the allegations of paragraph 36, these Defendants deny both generally
15 and specifically, each and every, all and singular, the allegations contained therein.

16 37. Admit.

17 38. In answer to the allegations of paragraph 37, these Defendants have no information
18 or belief to enable them to answer said allegations, and for that reason and basing their denial on
19 that ground, deny both generally and specifically, each and every, all and singular, the allegations
20 contained therein.

21 39. Admit.

22 40. Admit

23 41. In answer to the allegations of paragraph 41, these Defendants deny both generally
24 and specifically, each and every, all and singular, the allegations contained therein.

25 42. In answer to the allegations of paragraph 42, beginning with “Between” on pp. 10
26 at line 21, and ending with “a search” at line 23, these Defendants deny both generally and
27 specifically, each and every, all and singular, the allegations contained therein. In answer to the
28 remainder of the allegations of paragraph 42, these Defendants have no information or belief to

1 enable them to answer said allegations, and for that reason and basing their denial on that ground,
2 deny both generally and specifically, each and every, all and singular, the allegations contained
3 therein.

4 43. In answer to the allegations of paragraph 43, these Defendants have no information
5 or belief to enable them to answer said allegations, and for that reason and basing their denial on
6 that ground, deny both generally and specifically, each and every, all and singular, the allegations
7 contained therein.

8 44. In answer to the allegations of paragraph 44, these Defendants have no information
9 or belief to enable them to answer said allegations, and for that reason and basing their denial on
10 that ground, deny both generally and specifically, each and every, all and singular, the allegations
11 contained therein.

12 45. In answer to the allegations of paragraph 45, these Defendants have no information
13 or belief to enable them to answer said allegations, and for that reason and basing their denial on
14 that ground, deny both generally and specifically, each and every, all and singular, the allegations
15 contained therein.

16 46. In answer to the allegations of paragraph 46, these Defendants admit the portion
17 “Defendants drove him to a BART station” beginning and ending on pp. 11 at line 24. As to the
18 remainder of the allegations of paragraph 46, these Defendants deny both generally and
19 specifically, each and every, all and singular, the allegations contained therein.

20 47. In answer to the allegations of paragraph 47, beginning and ending with “Once
21 Defendants had the falsified statement” these Defendants deny both generally and specifically,
22 each and every, all and singular, the allegations contained therein. In answer to the remainder of
23 the allegations of paragraph 47, these Defendants have no information or belief to enable them to
24 answer said allegations, and for that reason and basing their denial on that ground, deny both
25 generally and specifically, each and every, all and singular, the allegations contained therein.

26 48. In answer to the allegations of paragraph 48, these Defendants have no information
27 or belief to enable them to answer said allegations, and for that reason and basing their denial on
28 that ground, deny both generally and specifically, each and every, all and singular, the allegations

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1 contained therein.

2 49. In answer to the allegations of paragraph 49, these Defendants have no information
3 or belief to enable them to answer said allegations, and for that reason and basing their denial on
4 that ground, deny both generally and specifically, each and every, all and singular, the allegations
5 contained therein.

6 50. In answer to the allegations of paragraph 50, these Defendants admit the portion
7 “The police report of the incident was allegedly prepared by Ramos and signed by Keith Barrow”
8 beginning on pp. 12 at line 14, and ending at line 15. In answer to the allegations of paragraph 50,
9 beginning on pp. 12 at line 15 with “Plaintiffs are informed” and ending with “around the nation”
10 at line 22, these Defendants deny both generally and specifically, each and every, all and singular,
11 the allegations contained therein.

12 51. In answer to the allegations of paragraph 51, these Defendants admit the portion
13 beginning with “After” on pp. 12 at line 23, and ending with “hours” at line 24. As to the
14 allegations contained in paragraph 51 beginning with “Plaintiffs” at line 24 and ending with
15 “orders” at line 27, these Defendants deny both generally and specifically, each and every, all and
16 singular, the allegations contained therein. In answer to the allegations of paragraph 51, beginning
17 with “During the” on pp. 12 at line 27, and ending with “securely” on pp. 13 at line 3, these
18 Defendants have no information or belief to enable them to answer said allegations, and for that
19 reason and basing their denial on that ground, deny both generally and specifically, each and
20 every, all and singular, the allegations contained therein.

21 52. In answer to the allegations of paragraph 52, these Defendants deny both generally
22 and specifically, each and every, all and singular, the allegations contained therein.

23 53. In answer to the allegations of paragraph 53, these Defendants deny both generally
24 and specifically, each and every, all and singular, the allegations contained therein.

25 54. In answer to the allegations of paragraph 54, these Defendants admit the portion
26 beginning and ending with “The DA investigated the case but never pursued the charges”; in
27 answer to the remainder of the allegations of paragraph 54, these Defendants have no information
28 or belief to enable them to answer said allegations, and for that reason and basing their denial on

1 that ground, deny both generally and specifically, each and every, all and singular, the allegations
2 contained therein.

3 55. In answer to the allegations of paragraph 55, these Defendants have no information
4 or belief to enable them to answer said allegations, and for that reason and basing their denial on
5 that ground, deny both generally and specifically, each and every, all and singular, the allegations
6 contained therein.

7 **FIRST CLAIM**

8 (18 U.S.C. §1961 *et. seq.*, RICO Violations)

9 56. In answer to the allegations of paragraph 56, these Defendants have no information
10 or belief to enable them to answer said allegations, and for that reason and basing their denial on
11 that ground, deny both generally and specifically, each and every, all and singular, the allegations
12 contained therein.

13 57. In answer to the allegations of paragraph 57, these Defendants deny both generally
14 and specifically, each and every, all and singular, the allegations contained therein.

15 58. In answer to the allegations of paragraph 58, these Defendants deny both generally
16 and specifically, each and every, all and singular, the allegations contained therein.

17 59. In answer to the allegations of paragraph 59, these Defendants deny both generally
18 and specifically, each and every, all and singular, the allegations contained therein.

19 60. In answer to the allegations of paragraph 60, these Defendants deny both generally
20 and specifically, each and every, all and singular, the allegations contained therein.

21 **SECOND CLAIM**

22 (42 U.S.C. §1983 – Violation of 4th Amendment)

23 61. In answer to the allegations of paragraph 61, these Defendants have no information
24 or belief to enable them to answer said allegations, and for that reason and basing their denial on
25 that ground, deny both generally and specifically, each and every, all and singular, the allegations
26 contained therein.

27 62. In answer to the allegations of paragraph 62, these Defendants deny both generally
28 and specifically, each and every, all and singular, the allegations contained therein.

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1 63. In answer to the allegations of paragraph 63, these Defendants deny both generally
 2 and specifically, each and every, all and singular, the allegations contained therein.

3 64. In answer to the allegations of paragraph 64, these Defendants deny both generally
 4 and specifically, each and every, all and singular, the allegations contained therein.

5 65. In answer to the allegations of paragraph 65, these Defendants deny both generally
 6 and specifically, each and every, all and singular, the allegations contained therein.

7 **THIRD CLAIM**

8 (42 U.S.C. §1983 – Violation of 4th Amendment)

9 66. In answer to the allegations of paragraph 66, these Defendants have no information
 10 or belief to enable them to answer said allegations, and for that reason and basing their denial on
 11 that ground, deny both generally and specifically, each and every, all and singular, the allegations
 12 contained therein.

13 67. In answer to the allegations of paragraph 67, these Defendants deny both generally
 14 and specifically, each and every, all and singular, the allegations contained therein.

15 68. In answer to the allegations of paragraph 68, these Defendants deny both generally
 16 and specifically, each and every, all and singular, the allegations contained therein.

17 69. In answer to the allegations of paragraph 69, these Defendants deny both generally
 18 and specifically, each and every, all and singular, the allegations contained therein.

19 70. In answer to the allegations of paragraph 70, these Defendants deny both generally
 20 and specifically, each and every, all and singular, the allegations contained therein.

21 71. In answer to the allegations of paragraph 71, these Defendants deny both generally
 22 and specifically, each and every, all and singular, the allegations contained therein.

23 **FOURTH CLAIM**

24 (42 U.S.C. §1983 – 4th Amendment)

25 72. In answer to the allegations of paragraph 72, these Defendants have no information
 26 or belief to enable them to answer said allegations, and for that reason and basing their denial on
 27 that ground, deny both generally and specifically, each and every, all and singular, the allegations
 28 contained therein.

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1 73. In answer to the allegations of paragraph 71, these Defendants deny both generally
2 and specifically, each and every, all and singular, the allegations contained therein.

3 74. In answer to the allegations of paragraph 74, these Defendants deny both generally
4 and specifically, each and every, all and singular, the allegations contained therein.

5 75. Admit.

6 76. In answer to the allegations of paragraph 76, these Defendants deny both generally
7 and specifically, each and every, all and singular, the allegations contained therein.

8 77. In answer to the allegations of paragraph 77, these Defendants deny both generally
9 and specifically, each and every, all and singular, the allegations contained therein.

10 78. In answer to the allegations of paragraph 78, these Defendants deny both generally
11 and specifically, each and every, all and singular, the allegations contained therein.

12 **FIFTH CLAIM**

13 (State Law – False Arrest and Imprisonment)

14 79. In answer to the allegations of paragraph 79, these Defendants have no information
15 or belief to enable them to answer said allegations, and for that reason and basing their denial on
16 that ground, deny both generally and specifically, each and every, all and singular, the allegations
17 contained therein.

18 80. In answer to the allegations of paragraph 80, these Defendants deny both generally
19 and specifically, each and every, all and singular, the allegations contained therein.

20 81. In answer to the allegations of paragraph 81, these Defendants deny both generally
21 and specifically, each and every, all and singular, the allegations contained therein.

22 82. In answer to the allegations of paragraph 82, these Defendants deny both generally
23 and specifically, each and every, all and singular, the allegations contained therein.

24 83. In answer to the allegations of paragraph 83, these Defendants deny both generally
25 and specifically, each and every, all and singular, the allegations contained therein.

26 84. In answer to the allegations of paragraph 84, these Defendants deny both generally
27 and specifically, each and every, all and singular, the allegations contained therein.

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SIXTH CLAIM

(State Law – Negligent Hiring, Training and Retention)

85. In answer to the allegations of paragraph 85, these Defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

86. In answer to the allegations of paragraph 86, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

87. In answer to the allegations of paragraph 87, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

88. In answer to the allegations of paragraph 88, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

89. In answer to the allegations of paragraph 89, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

90. In answer to the allegations of paragraph 90, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

SEVENTH CLAIM

(State Law – Malicious Prosecution)

91. In answer to the allegations of paragraph 91, these Defendants have no information or belief to enable them to answer said allegations, and for that reason and basing their denial on that ground, deny both generally and specifically, each and every, all and singular, the allegations contained therein.

92. In answer to the allegations of paragraph 92, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

93. In answer to the allegations of paragraph 93, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

94. In answer to the allegations of paragraph 94, these Defendants deny both generally and specifically, each and every, all and singular, the allegations contained therein.

1 95. In answer to the allegations of paragraph 95, these Defendants deny both generally
2 and specifically, each and every, all and singular, the allegations contained therein.

3 96. In answer to the allegations of paragraph 96, these Defendants deny both generally
4 and specifically, each and every, all and singular, the allegations contained therein.

5 97. In answer to the allegations of paragraph 97, these Defendants deny both generally
6 and specifically, each and every, all and singular, the allegations contained therein.

7 **EIGHTH CLAIM**

8 (State Law – Defamation)

9 98. In answer to the allegations of paragraph 91, these Defendants have no information
10 or belief to enable them to answer said allegations, and for that reason and basing their denial on
11 that ground, deny both generally and specifically, each and every, all and singular, the allegations
12 contained therein.

13 99. In answer to the allegations of paragraph 99, these Defendants deny both generally
14 and specifically, each and every, all and singular, the allegations contained therein.

15 100. In answer to the allegations of paragraph 100, these Defendants deny both
16 generally and specifically, each and every, all and singular, the allegations contained therein.

17 101. In answer to the allegations of paragraph 101, these Defendants deny both
18 generally and specifically, each and every, all and singular, the allegations contained therein.

19 102. In answer to the allegations of paragraph 102, these Defendants deny both
20 generally and specifically, each and every, all and singular, the allegations contained therein.

21 **NINTH CLAIM**

22 (State Law – IIED)

23 103. In answer to the allegations of paragraph 103, these Defendants have no
24 information or belief to enable them to answer said allegations, and for that reason and basing
25 their denial on that ground, deny both generally and specifically, each and every, all and singular,
26 the allegations contained therein.

27 104. In answer to the allegations of paragraph 104, these Defendants deny both
28 generally and specifically, each and every, all and singular, the allegations contained therein.

1 105. In answer to the allegations of paragraph 105, these Defendants deny both
2 generally and specifically, each and every, all and singular, the allegations contained therein.

3 106. In answer to the allegations of paragraph 106, these Defendants deny both
4 generally and specifically, each and every, all and singular, the allegations contained therein.

5 WHEREFORE, Defendants pray that plaintiffs take nothing by way of the complaint on
6 file herein and that defendants have judgment for their costs, attorneys' fees and for such other
7 and further relief as the Court deems proper.

8 FIRST AFFIRMATIVE DEFENSE

9 AS AND FOR A FIRST, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
10 ALLEGE:

11 That plaintiffs were themselves negligent and careless in and about the matters and events
12 set forth in the complaint, and that said negligence contributed to their alleged injuries and/or
13 damages. A verdict of the jury in favor of plaintiffs, if any, which may be rendered in this case
14 must therefore be reduced by the percentage that plaintiffs' negligence contributed to the accident
15 and injuries complained of, if any there were.

16 SECOND AFFIRMATIVE DEFENSE

17 AS AND FOR A SECOND, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
18 ALLEGE:

19 That plaintiffs were themselves negligent and careless in and about the matters and events
20 set forth in the complaint, that said negligence contributed to the alleged injuries and/or damages,
21 and that said negligence is imputed to plaintiffs. The verdict of the jury in favor of plaintiffs, if
22 any, which may be rendered in this case must therefore be reduced by the percentage that
23 plaintiffs' negligence contributed to the accident and injuries complained of, if any there were.

24 THIRD AFFIRMATIVE DEFENSE

25 AS AND FOR A THIRD, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
26 ALLEGE:

27 That the complaint does not state facts sufficient to constitute a cause of action against
28 these answering defendants.

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FOURTH AFFIRMATIVE DEFENSE

AS AND FOR A FOURTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
ALLEGE:

That the incident arrest alleged in the complaint on file herein were caused by the sole negligence of plaintiffs.

FIFTH AFFIRMATIVE DEFENSE

AS AND FOR A FIFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
ALLEGE:

Plaintiffs' cause of action is barred by reason of the provisions of California Code of Civil Procedure sections 335.1, 337, 337.1, 338, 339, 340, and 343.

SIXTH AFFIRMATIVE DEFENSE

AS AND FOR A SIXTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
ALLEGE:

Plaintiffs failed to mitigate their damages.

SEVENTH AFFIRMATIVE DEFENSE

AS AND FOR A SEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
ALLEGE:

Plaintiffs were guilty of willful misconduct and wanton and reckless behavior in and about the matters and events set forth in said complaint; and that said willful misconduct and wanton and reckless behavior contributed to the injuries and damages alleged, if any there were.

EIGHTH AFFIRMATIVE DEFENSE

AS AND FOR AN EIGHTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS
ALLEGE:

Should plaintiffs recover non-economic damages against any defendant, the liability for non-economic damages is limited to the degree of fault and several liability of said defendants pursuant to Civil Code § 1431.2 and a separate, several judgment shall be rendered against said defendant based upon said defendant's degree of fault and several liability.

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NINTH AFFIRMATIVE DEFENSE

AS AND FOR A NINTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS ALLEGE:

As a further, separate, affirmative defense, defendants allege that they are entitled to a set-off of any damages recovered by plaintiffs.

TENTH AFFIRMATIVE DEFENSE

AS AND FOR A TENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS ALLEGE:

These answering defendants, a public entity, and public entity employees, are immune from liability pursuant to California Government Code §§ 800 et seq.

ELEVENTH AFFIRMATIVE DEFENSE

AS AND FOR AN ELEVENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS ALLEGE:

Any and all acts or omissions of the Defendant District, its agents and employees, which allegedly caused the injury at the time and place set forth were the result of an exercise of discretion vested in them.

TWELFTH AFFIRMATIVE DEFENSE

AS AND FOR A TWELFTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS ALLEGE:

Any and all acts or omissions of Defendant Hull, his agents and employees under his supervision, which allegedly caused the injury at the time and place set forth were the result of an exercise of discretion vested in them.

THIRTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A THIRTEENTH, SEPARATE AND DISTINCT DEFENSE, DEFENDANTS ALLEGE:

Defendants allege that plaintiffs failed to set forth the facts sufficient to state a cause of action due to a failure to comply with claims requirements of the California Government Code §§ 900 et. seq.

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FOURTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A FOURTEENTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

Should plaintiffs recover non-economic damages against any defendant, the liability for non-economic damages is limited to the degree of fault and several liability of said defendant pursuant to Civil Code § 1431.2 and a separate, several judgment shall be rendered against said defendants based upon said defendants’ degree of fault and several liability.

FIFTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A FIFTEENTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

Defendant RICKY HULL, alleged employee mentioned in plaintiffs’ complaint was, at all times, duly qualified, appointed and acting police officer of Kensington Police Protection and Community Services District and peace officer of the State of California and in accordance with the Constitution of the United States and the State of California and the laws of the United States and the laws of the State of California; and at all times mentioned herein, said officer was engaged in the performance of their regularly assigned duties within the scope of his duties as peace officer of Kensington Police Protection and Community Services District.

SIXTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A SIXTEENTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

These answering defendants acted in good faith and with a reasonable belief that the actions were lawful and further did not directly or indirectly perform any acts whatsoever which would constitute a breach of any duty owed to plaintiffs.

SEVENTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A SEVENTEENTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

The acts of these answering defendants were lawful and proper and in all respects were reasonable and legal.

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EIGHTEENTH AFFIRMATIVE DEFENSE

AS AND FOR A EIGHTEENTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

In this connection probable cause existed to believe that plaintiffs had committed a public offense and, therefore, probable cause existed to detain and/or arrest plaintiffs.

NINETEENTH AFFIRMATIVE DEFENSE

AS AND FOR A NINETEENTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

At all times relevant to this litigation, plaintiffs consented either expressly or impliedly, to any such acts or conduct as may be shown on the part of these answering defendants.

TWENTIETH AFFIRMATIVE DEFENSE

AS AND FOR A TWENTIETH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

These answering defendants are immune from liability pursuant to the provisions of §§ 815, 815.2, 818, 820.2, 820.4, 820.6, 820.8, 820.9, 821.6, 844.6, and 845.6 of the Government Code of the State of California.

TWENTY-FIRST AFFIRMATIVE DEFENSE

AS AND FOR A TWENTY-FIRST, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

Plaintiffs have wholly failed to plead facts which give rise to any colorable claim for punitive or exemplary damages against defendants, nor do any such facts exist.

TWENTY-SECOND AFFIRMATIVE DEFENSE

AS AND FOR A TWENTY-SECOND, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

Plaintiffs' claims for punitive or exemplary damages violate defendants' right to procedural due process, substantive due process, and protection from "excessive" fines as guaranteed by the Fifth, Fourteenth, and Eighth Amendments to the United States Constitution, respectively, and the Constitution of the State of California.

TWENTY-THIRD AFFIRMATIVE DEFENSE

AS AND FOR A TWENTY-THIRD, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

Plaintiffs' Cause of Action for Defamation is barred by the provisions of Code of Civil
Procedure Section 340(c).

TWENTY-FOURTH AFFIRMATIVE DEFENSE

AS AND FOR A TWENTY-FOURTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

The statements and representations made by defendants alleged in the complaint were true
when made.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

AS AND FOR A TWENTY-FIFTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANTS ALLEGE:

Defendants are entitled to qualified immunity on grounds that defendants' conduct did not
violate any clearly established right, and there is no prior case law that articulates a constitutional
rule specific enough to alert these answering defendants in this case that their particular conduct
was unlawful.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

AS AND FOR A TWENTY-SIXTH, SEPARATE AND DISTINCT DEFENSE,
DEFENDANT ALLEGES:

Plaintiffs' complaint on file herein is barred by the doctrine of laches, collateral estoppel
and unclean hands.

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1 WHEREFORE, defendants pray that plaintiffs take nothing by way of the complaint on
2 file herein and that defendants have judgment for their costs, attorneys' fees and for such other
3 and further relief as the court deems proper.

4
5 Respectfully submitted,

6 Dated: March 16, 2018

7 ALLEN, GLAESSNER,
8 HAZELWOOD & WERTH, LLP

9 By: /s/ Philip J. Downs, Jr.
10 DALE L. ALLEN, JR.
11 PHILIP J. DOWNS, JR.
12 Attorneys for Defendants
13 KENSINGTON POLICE PROTECTION
14 AND COMMUNITY SERVICES DISTRICT,
15 and RICKY HULL

16 **DEMAND FOR JURY TRIAL**

17 Defendants hereby demand a jury trial as provided by Rule 38(a) of the Federal Rules of
18 Civil Procedure.

19 **CONSENT TO MAGISTRATE JUDGE JURISDICTION**

20 In accordance with 28.U.S.C. §636(c), I voluntarily **consent** to have a United States
21 magistrate judge conduct all further proceedings in this case, including trial and entry of final
22 judgment. I understand that appeal from the judgment shall be taken directly to the United State
23 Court of Appeals for the Ninth Circuit.

24 By: /s/ Philip J. Downs, Jr.
25 DALE L. ALLEN, JR.
26 PHILIP J. DOWNS, JR.
27 Attorneys for Defendants
28 KENSINGTON POLICE PROTECTION
AND COMMUNITY SERVICES DISTRICT,
and RICKY HULL

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