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8 Attorneys for Defendants,
9 Sergeant Brett Hayhoe and Officer Daryl Glover, Jr.

10
11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13 JERMAINE PETIT, an incompetent
14 person, by and through his Guardian
15 Ad Litem, CHARLOTTE
16 BLACKWELL,

17 Plaintiff,

18 v.

19 CITY OF LOS ANGELES, a
20 municipal entity; OFFICER DARYL
21 GLOVER, JR.; SERGEANT BRETT
22 HAYHOE; and DOES 1 through 10,
23 inclusive,

24 Defendants.

Case No. 2:23-cv-00789-ODW (PVCx)

**ANSWER TO FIRST AMENDED
COMPLAINT FOR DAMAGES;
DEMAND FOR JURY TRIAL**

25 COMES NOW Defendants, Sergeant Brett Hayhoe and Officer Daryl
26 Glover Jr., public employees, answering Plaintiff’s First Amended Complaint for
27 Damages (hereinafter “FAC”) on file herein, admits, denies and alleges as follows:

28 **ADMISSIONS AND DENIALS**

1. In response to paragraphs 1 and 2 of the First Amended Complaint,
these answering defendants state that this paragraph contains characterization of
the First Amended Complaint to which no response is required. To the extent that

1 a response is required, these answering defendants denies the allegations of these
2 paragraphs, except admits that this Court has jurisdiction over the instant matter
3 pursuant to 28 U.S.C. §§ 1331, 1343, 1983, 1988, and 1367, and that based on the
4 allegations contained in the First Amended Complaint, venue is proper under 28
5 U.S.C. § 1391.

6 2. In response to paragraph 3 of the First Amended Complaint, these
7 answering defendants are without sufficient knowledge or information to form a
8 belief as to the truth of the allegations set forth in this paragraph, and on that basis,
9 denies those allegations.

10 3. In response to paragraph 4 of the First Amended Complaint, these
11 answering defendants admit that the City of Los Angeles is a duly organized public
12 entity within the State of California.

13 4. In response to paragraphs 6, 9, 10, 25, 45, 47, 63, 80, 116, 121, 132,
14 133, 134, and 135 of the First Amended Complaint, these answering defendants
15 state that this paragraph contains characterizations of the First Amended
16 Complaint to which no response is required. To the extent that a response is
17 required, these answering defendants deny the allegations set forth in this
18 paragraph.

19 5. In response to paragraphs 7, 26, 27, 48, 49, 65, and 117 of the First
20 Amended Complaint, these answering defendants admit that they were employed
21 with the Los Angeles Police Department (“LAPD”) at all times relevant to this
22 action. Except as expressly admitted, these answering defendants deny the
23 remaining allegations set forth in these paragraphs.

24 6. In response to paragraphs 8, 11, 12, 13, 14, 15, 17, 18, 20, 21, 22, 23,
25 28, 29, 30, 31, 33, 34, 34, 36, 37, 38, 39, 40, 41, 42, 43, 44, 50, 51, 61, 66, 67, 68,
26 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 83, 84, 85, 86, 88, 89, 91, 92, 93, 94, 95,
27 96, 99, 100, 101, 102, 104, 105, 107, 108, 109, 110, 111, 112, 113, 118, 119, 123,
28 124, 125, 126, 127, 128, 129, 130, 136, ~~142~~, and 143 of the First Amended

1 Complaint, these answering defendants deny the allegations set forth therein.

2 7. In response to paragraphs 16 and 32, 87, and 103 of the First
3 Amended Complaint, these answering defendants admit that the defendant officers
4 made repeated commands from Plaintiff to show his hands. Except as expressly
5 admitted, these answering defendants deny the remaining allegations set forth in
6 these paragraphs.

7 8. In response to paragraphs 17, 35, 52, 53, 54, 55, 56, 57, 58, 59, 60,
8 62, 82, 90, 98, 106, 115, 120, 137, 138, 140, and 141 of the First Amended
9 Complaint, these answering defendant state that these paragraphs contain
10 allegations unrelated to him, and as such, neither admits nor denies the allegations
11 set forth therein.

12 9. In response to paragraphs 24, 46, 64, 81, 97, 114, 122, and 131 of the
13 First Amended Complaint, these answering defendants incorporate their
14 admissions and denials to the paragraphs referenced therein.

15 **AFFIRMATIVE DEFENSES**

16 1. Plaintiff has failed to allege facts sufficient to state a claim upon
17 which relief can be granted.

18 2. The conduct of these answering defendants was objectively
19 reasonable and did not interfere with nor deprive Plaintiff or her deceased father of
20 his constitutional rights.

21 3. Any damages which resulted to Plaintiff were caused by third parties
22 whose acts were superseding and intervening to any cause relating to these
23 answering defendants.

24 4. Any recovery on Plaintiff's First Amended Complaint, or any
25 purported claim or cause of action alleged therein, is barred in whole or in part by
26 the comparative fault of Plaintiff's deceased father and/or others.

27 5. These answering defendants are immune from liability herein
28 because, at all times mentioned in the First Amended Complaint, they conducted

1 themselves reasonably, in good faith, and within all existing constitutional and
2 statutory parameters pertaining to his actions as a duly authorized police officer,
3 and thus are entitled to qualified immunity from suit herein.

4 6. Plaintiff's deceased father failed to exercise ordinary care, caution,
5 and prudence for his own welfare so as to avoid the happening of the alleged
6 injuries and thereby contributing thereto. Plaintiff's recovery is therefore barred to
7 the degree of such contribution, comparative fault and/or negligence, including
8 Plaintiff's father's own criminal conduct.

9 7. To the extent the First Amended Complaint seeks damages for any
10 state tort claims, those claims are barred in that Plaintiff has failed to properly
11 comply with the provisions of the California Tort Claims Act in the filing of an
12 appropriate claim with a public entity prior to the initiation of the lawsuit, pursuant
13 to the provisions of Government Code sections 900, 901, 910, and 911.2;
14 furthermore, the Tort Claim(s) submitted does not authorize the various state torts
15 set forth in Plaintiff's First Amended Complaint.

16 8. Plaintiff's deceased father assumed the risk of injury for his actions
17 and the results thereof.

18 9. These answering defendants are immune from liability by the
19 application of one or more of the immunities set forth in the California
20 Government Code, including the immunities set forth in sections 818.6, 820,
21 820.2, 820.25, 820.4, 820.6, 820.8, 821, 821.6, 821.8, 822.2, 845, and 845.6; Civil
22 Code sections 43.55, 47, and 3333.3; Penal Code sections 243, 834, 835, 835(a),
23 836, and 836.5.

24 10. The acts complained of by Plaintiff were provoked by Plaintiff's
25 deceased father himself in that he failed to comply with the lawful orders of law
26 enforcement.

27 11. Any recovery on Plaintiff's First Amended Complaint, or any
28 purported claim or cause of action alleged therein, is barred in whole or in part by

1 Plaintiff's father's own conduct which violated numerous provisions of the
2 California Penal Code and, as such, was negligent per se.

3 12. In doing the acts alleged in Plaintiff's First Amended Complaint,
4 these answering defendants were acting in self-defense and defense of others.

5 13. Plaintiff's action is barred by the doctrines of res judicata and/or
6 collateral estoppel.

7 14. Plaintiff's deceased father consented to the acts and conduct of the
8 answering defendant involved in the subject incident.

9 15. Plaintiff's claims are barred by superseding or intervening causes.

10 16. Any recovery on Plaintiff's First Amended Complaint, or any
11 purported claim or cause of action alleged therein, is barred in whole or in part by
12 Plaintiff's and/or her father's failure to mitigate their damages.

13 17. Plaintiff's action is barred by the applicable statute of limitations.

14 18. The conduct of the answering defendant at the time of the incidents
15 and events referred to in the First Amended Complaint was privileged under
16 California law.

17 19. Plaintiff's action is barred by the doctrines of waiver, laches, estoppel
18 and unclean hands.

19 20. These answering defendants reserve the right to amend this Answer to
20 include additional affirmative defenses that may become known.

21 Wherefore, these answering defendants prays for relief as follows:

22 21. That Plaintiff take nothing by her First Amended Complaint herein;

23 22. That these answering defendants recover the costs of suit incurred
24 herein.

25 23. That these answering defendants recover their reasonable attorney's
26 fees incurred herein.

27 24. That the Court award such other and further relief as it deems just and
28 proper.

1 DATED: December 20, 2024 CARPENTER, ROTHANS & DUMONT LLP

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/s/ Kimberly Sarmiento

By: _____

Steven J. Rothans
Kimberly Sarmiento
Attorneys for Defendants,
Sergeant Brett Hayhoe and
Officer Daryl Glover, Jr.

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DEMAND FOR JURY TRIAL

Pursuant to Local Rule 38-1, these answering defendants hereby demand a jury trial as provided in Rule 38(b) of the Federal Rules of Civil Procedure

DATED: December 20, 2024 CARPENTER, ROTHANS & DUMONT LLP

/s/ Kimberly Sarmiento

By: _____
Steven J. Rothans
Kimberly Sarmiento
Attorneys for Defendants,
Sergeant Brett Hayhoe and
Officer Daryl Glover, Jr.