RANDY S. GROSSMAN 1 United States Attorney DAVID B. WALLACE (Cal. Bar No. 172193) ERNEST CORDERO, JR. (Cal. Bar No. 131865) COLIN MCDONALD (Cal. Bar No. 286561) Assistant U.S. Attorneys United States Attorney's Office 880 Front Street, Room 6293 San Diego, California 92101-8893 Telephone: (619) 546-7669/7478/9144 Facsimile: (619) 546-7751 Email: Dave.wallace@usdoi.gov Ernest.cordero@usdoj.gov 7 Colin.mcdonald@usdoj.gov 8 Attorneys for Defendant United States of America **10** UNITED STATES DISTRICT COURT 11 SOUTHERN DISTRICT OF CALIFORNIA **12** SILVESTRE ESTRADA, et al., Case No.: 22-CV-00373-AJB (BGS) 13 Plaintiff, 14 **DEFENDANT UNITED STATES'** ANSWER TO PLAINTIFFS' FIRST 15 AMENDED COMPLAINT UNITED STATES OF AMERICA, et al., 16 Defendants. 17 18 19 Defendant United States of America (hereinafter "Defendant") through its attorneys, **20** Randy S. Grossman, United States Attorney, David B. Wallace, Ernest Cordero, Jr., and 21 Colin McDonald, Assistant United States Attorneys, answers Plaintiffs' First Amended 22 Complaint as follows: 23 **JURISDICTION** 24 Answering paragraph 1 of the Complaint, Defendant affirmatively alleges that 1. 25 said paragraph contains jurisdictional allegations, which present legal conclusions and 26 questions of law to be determined solely by the court, to which no answer is required. To 27

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the extent an answer is required, each, and every allegation contained in said paragraph is denied.

VENUE

2. Answering paragraph 2 of the Complaint, Defendant admits the substantial truth of the allegations contained therein.

PARTIES

- 3. Answering paragraph 3 of the Complaint, Defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and based thereon, denied generally and specifically each of those allegations.
- 4. Answering paragraph 4 of the Complaint, Defendant admits the substantial truth of the allegations contained therein.
- 5. Answering paragraph 5 of the Complaint, Defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and based thereon, denied generally and specifically each of those allegations.
- 6. Answering paragraph 6 of the Complaint, Defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and based thereon, denied generally and specifically each of those allegations.
- 7. Answering paragraph 7 of the Complaint, Defendant admits the substantial truth of the allegations contained therein.

GENERAL ALLEGATIONS

8. Answering paragraph 8 of the Complaint, Defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and based thereon, denied generally and specifically each of those allegations.

- 9. Answering paragraph 9 of the Complaint, Defendant United States asserts that Defendants' agents had legal justification to discharge their firearms. As to any remaining allegations, Defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and based thereon, denied generally and specifically each of those allegations.
- 10. Answering paragraph 10 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 11. Answering paragraph 11 of the Complaint, Defendant alleges that it is without knowledge or information sufficient to form a belief as to the truth of the allegations contained therein and based thereon, denied generally and specifically each of those allegations.

FIRST CAUSE OF ACTION

- 12. Answering paragraph 12 of the Complaint, Defendant realleges Paragraphs 1 − 11 of its answers to Paragraphs 1 − 11 of Plaintiffs' Complaint, and by this reference incorporates them herein as though set forth in full.
- 13. Answering paragraph 13 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 14. Answering paragraph 14 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 15. Answering paragraph 15 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 16. Answering paragraph 16 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 17. Answering paragraph 16 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.

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SECOND CAUSE OF ACTION

- 18. Answering paragraph 18 of the Complaint, Defendant realleges Paragraphs 1 11 of its answers to Paragraphs 1 11 of Plaintiffs' Complaint, and by this reference incorporates them herein as though set forth in full.
- 19. Answering paragraph 19 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 20. Answering paragraph 20 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 21. Answering paragraph 21 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.

THIRD CAUSE OF ACTION

- 22. Answering paragraph 22 of the Complaint, Defendant realleges Paragraphs 1–11 of its answers to Paragraphs 1 11 of Plaintiffs' Complaint, and by this reference incorporates them herein as though set forth in full.
- 23. Answering paragraph 23 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 24. Answering paragraph 24 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 25. Answering paragraph 25 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.

FOURTH CAUSE OF ACTION

- 26. Answering paragraph 26 of the Complaint, Defendant realleges Paragraphs 1 − 11 of its answers to Paragraphs 1 − 11 of Plaintiffs' Complaint, and by this reference incorporates them herein as though set forth in full.
- 27. Answering paragraph 27 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 28. Answering paragraph 28 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.

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29. Answering paragraph 29 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.

FIFTH CAUSE OF ACTION

- Answering paragraph 30 of the Complaint, Defendant realleges Paragraphs 1 30. -11 of its answers to Paragraphs 1-11 of Plaintiffs' Complaint, and by this reference incorporates them herein as though set forth in full.
- Answering paragraph 31 of the Complaint, Defendant alleges that the 31. allegations contained therein are legal conclusions solely within the purview of the court and for its determination, and no answer is therefore required.
- 32. Answering paragraph 32 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- 33. Answering paragraph 33 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.
- Answering paragraph 34 of the Complaint, Defendant denies, generally and 34. specifically, each, all, and every allegation contained therein.
- Answering paragraph 35 of the Complaint, Defendant denies, generally and 35. specifically, each, all, and every allegation contained therein.
- 36. Answering paragraph 36 of the Complaint, Defendant denies, generally and specifically, each, all, and every allegation contained therein.

AFFIRMATIVE DEFENSES

All allegations not here before specifically admitted, denied or modified are hereby denied. For further and separate answer, Defendant alleges as follows:

- The United States has not waived its sovereign immunity to suit under 1. California Civil Code § 52.1 except to the limited extent provided under the FTCA.
- Any injury or injuries sustained by Plaintiffs were caused in whole, or in part, 2. by and through their own intentional actions, carelessness, and/or negligence.

- 3. The injuries and damages alleged by Plaintiffs were not proximately caused by a negligent or wrongful act or omission on the part of any employee or agent of Defendant.
- 4. To the extent any employee of the United States used force with respect to Plaintiffs, that employee was justified in the use of force.
- 5. The actions of Defendant's employees were privileged under federal and state law.
- 6. To the extent any employee of Defendant used force, those employees used only reasonable force, and the force used was reasonably necessary under the circumstances with which they were confronted.

WHEREFORE, Defendant prays that Plaintiffs take nothing by reason of their suit herein, that judgment be rendered in favor of Defendant, for costs of suit herein incurred, and for such other and further relief as this Court may deem proper.

Date: July 13, 2022

Respectfully submitted,

RANDY S. GROSSMAN United States Attorney

s/David B. Wallace
DAVID B. WALLACE
ERNEST CORDERO, JR.
COLIN MCDONALD
Assistant United States Attorneys
Attorneys for United States of America