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6 CITY OF SACRAMENTO

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12 JARED ROBINET

13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA

15 STEPHEN CLARK; SE'QUETTE CLARK;
16 A.C., a minor, by and through his Guardian
17 Ad Litem, RAJNEESH MANNI, C.C., a
18 minor, by and through his Guardian Ad
19 Litem, RAJNEESH MANNI; SEQUITY
20 EDDY THOMPSON; and TOMMY LEE
21 THOMPSON

22 Plaintiffs,

23 vs.

24 CITY OF SACRAMENTO, TERRENCE
25 MERCADEL; JARED ROBINET; and
26 DOES 1-10, inclusive,

27 Defendants.

Case No.: 2:19-cv-00171-JAM-EFB

**ANSWER OF DEFENDANTS CITY
OF SACRAMENTO, TERRENCE
MERCADAL, AND JARED
ROBINET**

28 Defendants CITY OF SACRAMENTO, TERRENCE MERCADAL, and JARED
ROBINET (hereinafter "Defendants") answer the verified Complaint (hereinafter
"Complaint") of Plaintiffs as follows:

1. Answering paragraph 1 of the Complaint, Defendants contend that there are no
factual allegations alleged in paragraph 1 which require admission or denial.

1 2. Answering paragraph 2 of the Complaint, Defendants admit that the Complaint
2 alleges federal and state law claims, including civil rights related to the fatal officer involved
3 shooting of Stephon Clark. As to the remaining allegations contained within paragraph 2,
4 Defendants deny each and every allegation contained therein.

5 3. Answering paragraph 3 of the Complaint, Defendants are without sufficient
6 information to form a belief as to the truth of those allegations and on that basis deny each and
7 every allegation contained therein.

8 4. Answering paragraph 4 of the Complaint, Defendants are without sufficient
9 information to form a belief as to the truth of those allegations and on that basis deny each and
10 every allegation contained therein.

11 5. Answering paragraph 5 of the Complaint, Defendants are without sufficient
12 information to form a belief as to the truth of those allegations and on that basis deny each and
13 every allegation contained therein.

14 6. Answering paragraph 6 of the Complaint, Defendants are without sufficient
15 information to form a belief as to the truth of those allegations and on that basis deny each and
16 every allegation contained therein.

17 7. Answering paragraph 7 of the Complaint, Defendants are without sufficient
18 information to form a belief as to the truth of those allegations and on that basis deny each and
19 every allegation contained therein.

20 8. Answering paragraph 8 of the Complaint, Defendants are without sufficient
21 information to form a belief as to the truth of those allegations and on that basis deny each and
22 every allegation contained therein.

23 9. Answering paragraph 9 of the Complaint, Defendants are without sufficient
24 information to form a belief as to the truth of those allegations and on that basis deny each and
25 every allegation contained therein.

26 10. Answering paragraph 10 of the Complaint, Defendants admit that the City of
27 Sacramento is and was a public entity organized as a charter City. Defendants admit that
28 Terrence Mercadal and Jared Robinet were employed by the City of Sacramento Police

1 Department as sworn police officers. As to the remaining allegations contained in paragraph
2 10, Defendants deny each and every allegation contained therein.

3 11. Answering paragraph 11 of the Complaint, Defendants admit that Defendants
4 Terrence Mercadal and Jared Robinet were employed by the City of Sacramento Police
5 Department as sworn police officers and acting under the color of law and within the course
6 and scope of their employment. As to the remaining allegations contained within paragraph
7 11, Defendants deny each and every allegation contained therein.

8 12. Answering paragraph 12 of the Complaint, Defendants admit that Defendants
9 Terrence Mercadal and Jared Robinet were employed by the City of Sacramento Police
10 Department as sworn police officers and acting under the color of law and within the course
11 and scope of their employment. As to the remaining allegations contained within paragraph
12 12, Defendants deny each and every allegation contained therein.

13 13. Answering paragraph 13 of the Complaint, Defendants admit that Defendants
14 Terrence Mercadal and Jared Robinet were employed by the City of Sacramento Police
15 Department as sworn police officers and acting under the color of law and within the course
16 and scope of their employment. As to the remaining allegations contained within paragraph
17 11, Defendants deny each and every allegation contained therein.

18 14. Answering paragraph 14 of the Complaint, Defendants are without sufficient
19 information to form a belief as to the truth of the allegations contained therein, and on that
20 basis deny each and every allegation contained therein.

21 15. Answering paragraph 15 of the Complaint, Defendants are without sufficient
22 information to form a belief as to the truth of the allegations contained therein, and on that
23 basis deny each and every allegation contained therein.

24 16. Answering paragraph 16 of the Complaint, Defendants admit the allegations
25 contained therein.

26 17. Answering paragraph 17 of the Complaint, Defendants admit the allegations
27 contained therein.

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1 18. Answering paragraph 18 of the Complaint, Defendants admit the allegations
2 contained therein.

3 19. Answering paragraph 19 of the complaint, Defendants, without admitting that the
4 allegations in the Complaint are true, and given their affirmative defenses to the allegations,
5 admit that jurisdiction is proper.

6 20. Answering paragraph 20 of the Complaint, Defendants, without admitting that the
7 allegations in the Complaint are true, and given their affirmative defenses to the allegations,
8 admit that venue is proper.

9 21. Answering paragraph 21 of the Complaint, Defendants incorporate by reference
10 their response to each and every paragraph of the Complaint as though fully set forth herein.

11 22. Answering paragraph 22 of the Complaint, Defendants are without sufficient
12 information to form a belief as to the truth of the allegations contained therein, and on that
13 basis deny each and every allegation contained therein.

14 23. Answering paragraph 23 of the Complaint, Defendants admit that Sacramento
15 Police Officers Terrence Mercadal and Jared Robinet discharged their firearms at Decedent
16 striking him and causing serious physical injury including death. As to the remaining
17 allegations contained within paragraph 23, Defendants deny each and every allegation
18 contained therein.

19 24. Answering paragraph 24 of the Complaint, Defendants admit that Sacramento
20 Police Officers Terrence Mercadal and Jared Robinet discharged their firearms at Decedent.
21 As to the remaining allegations contained within paragraph 24, Defendants deny each and
22 every allegation contained therein.

23 25. Answering paragraph 25 of the Complaint, Defendants deny each and every
24 allegation contained therein.

25 26. Answering paragraph 26 of the Complaint, Defendants deny each and every
26 allegation contained therein.

27 27. Answering paragraph 27 of the Complaint, Defendants deny each and every
28 allegation contained therein.

1 28. Answering paragraph 28 of the Complaint, Defendants deny each and every
2 allegation contained therein.

3 29. Answering paragraph 29 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 30. Answering paragraph 30 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 31. Answering paragraph 31 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 32. Answering paragraph 32 of the Complaint, Defendants are without sufficient
10 information to form a belief as to the truth of the allegations contained therein and on that
11 basis deny each and every allegation contained therein.

12 33. Answering paragraph 33 of the Complaint, Defendants are without sufficient
13 information to form a belief as to the truth of the allegations contained therein and on that
14 basis deny each and every allegation contained therein.

15 34. Answering paragraph 34 of the Complaint, Defendants incorporate by reference
16 their response to each and every paragraph of the Complaint as though fully set forth herein.

17 35. Answering paragraph 35 of the Complaint, Defendants deny each and every
18 allegation contained therein.

19 36. Answering paragraph 36 of the Complaint, Defendants deny each and every
20 allegation contained therein.

21 37. Answering paragraph 37 of the Complaint, Defendants deny each and every
22 allegation contained therein.

23 38. Answering paragraph 38 of the Complaint, Defendants deny each and every
24 allegation contained therein.

25 39. Answering paragraph 39 of the Complaint, Defendants deny each and every
26 allegation contained therein.

27 40. Answering paragraph 40 of the Complaint, Defendants deny each and every
28 allegation contained therein.

1 41. Answering paragraph 41 of the Complaint, Defendants incorporate by reference
2 their response to each and every paragraph of the Complaint as though fully set forth herein.

3 42. Answering paragraph 42 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 43. Answering paragraph 43 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 44. Answering paragraph 44 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 45. Answering paragraph 45 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 46. Answering paragraph 46 of the Complaint, Defendants deny each and every
12 allegation contained therein.

13 47. Answering paragraph 47 of the Complaint, Defendants deny each and every
14 allegation contained therein.

15 48. Answering paragraph 48 of the Complaint, Defendants deny each and every
16 allegation contained therein.

17 49. Answering paragraph 49 of the Complaint, Defendants are without sufficient
18 information to form a belief as to the truth of the allegations contained therein and on that
19 basis deny each and every allegation contained therein.

20 50. Answering paragraph 50 of the Complaint, Defendants deny each and every
21 allegation contained therein.

22 51. Answering paragraph 51 of the Complaint, Defendants incorporate by reference
23 their response to each and every paragraph of the Complaint as though fully set forth herein.

24 52. Answering paragraph 52 of the Complaint, Defendants deny each and every
25 allegation contained therein.

26 53. Answering paragraph 53 of the Complaint, Defendants deny each and every
27 allegation contained therein.

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1 54. Answering paragraph 54 of the Complaint, Defendants deny each and every
2 allegation contained therein.

3 55. Answering paragraph 55 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 56. Answering paragraph 56 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 57. Answering paragraph 57 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 58. Answering paragraph 58 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 59. Answering paragraph 59 of the Complaint, Defendants incorporate by reference
12 their response to each and every paragraph of the Complaint as though fully set forth herein.

13 60. Answering paragraph 60 of the Complaint, Defendants are without sufficient
14 information to form a belief as to the truth of the allegations contained therein and on that
15 basis deny each and every allegation contained therein.

16 61. Answering paragraph 61 of the Complaint, Defendants are without sufficient
17 information to form a belief as to the truth of the allegations contained therein and on that
18 basis deny each and every allegation contained therein.

19 62. Answering paragraph 62 of the Complaint, Defendants are without sufficient
20 information to form a belief as to the truth of the allegations contained therein and on that
21 basis deny each and every allegation contained therein.

22 63. Answering paragraph 63 of the Complaint, Defendants are without sufficient
23 information to form a belief as to the truth of the allegations contained therein and on that
24 basis deny each and every allegation contained therein.

25 64. Answering paragraph 64 of the Complaint, Defendants admit that Decedent died.
26 As to the remaining allegations contained in paragraph 64, Defendants deny each and every
27 allegation contained therein.

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1 65. Answering paragraph 65 of the Complaint, Defendants deny each and every
2 allegation contained therein.

3 66. Answering paragraph 66 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 67. Answering paragraph 67 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 68. Answering paragraph 68 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 69. Answering paragraph 69 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 70. Answering paragraph 70 of the Complaint, Defendants deny each and every
12 allegation contained therein.

13 71. Answering paragraph 71 of the Complaint, Defendants deny each and every
14 allegation contained therein.

15 72. Answering paragraph 72 of the Complaint, Defendants deny each and every
16 allegation contained therein.

17 73. Answering paragraph 73 of the Complaint, Defendants incorporate by reference
18 their response to each and every paragraph of the Complaint as though fully set forth herein.

19 74. Answering paragraph 74 of the Complaint, Defendants deny each and every
20 allegation contained therein.

21 75. Answering paragraph 75 of the Complaint, Defendants deny each and every
22 allegation contained therein.

23 76. Answering paragraph 76 of the Complaint, Defendants deny each and every
24 allegation contained therein.

25 77. Answering paragraph 77 of the Complaint, Defendants deny each and every
26 allegation contained therein.

27 78. Answering paragraph 78 of the Complaint, Defendants deny each and every
28 allegation contained therein.

1 79. Answering paragraph 79 of the Complaint, Defendants deny each and every
2 allegation contained therein.

3 80. Answering paragraph 80 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 81. Answering paragraph 81 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 82. Answering paragraph 82 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 83. Answering paragraph 83 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 84. Answering paragraph 84 of the Complaint, Defendants incorporate by reference
12 their response to each and every paragraph of the Complaint as though fully set forth herein.

13 85. Answering paragraph 85 of the Complaint, Defendants admit that Terrence
14 Mercadal and Jared Robinet were employed as sworn police officers for the City of
15 Sacramento Police Department and were working within the course and scope of employment
16 when they deployed lethal force against the Decedent. As to the remaining allegations
17 contained within paragraph 85, Defendants deny each and every allegation contained therein.

18 86. Answering paragraph 86 of the Complaint, Defendants deny each and every
19 allegation contained therein.

20 87. Answering paragraph 87 of the Complaint, Defendants deny each and every
21 allegation contained therein.

22 88. Answering paragraph 88 of the Complaint, Defendants deny each and every
23 allegation contained therein.

24 89. Answering paragraph 89 of the Complaint, Defendants deny each and every
25 allegation contained therein.

26 90. Answering paragraph 90 of the Complaint, Defendants deny each and every
27 allegation contained therein.

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1 91. Answering paragraph 91 of the Complaint, Defendants deny each and every
2 allegation contained therein.

3 92. Answering paragraph 92 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 93. Answering paragraph 93 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 94. Answering paragraph 94 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 95. Answering paragraph 95 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 96. Answering paragraph 96 of the Complaint, Defendants incorporate by reference
12 their response to each and every paragraph of the Complaint as though fully set forth herein.

13 97. Answering paragraph 97 of the Complaint, Defendants admit that Terrence
14 Mercadal and Jared Robinet were employed as sworn police officers for the City of
15 Sacramento Police Department and were working within the course and scope of employment
16 when they deployed lethal force against the Decedent. As to the remaining allegations
17 contained within paragraph 85, Defendants deny each and every allegation contained therein.

18 98. Answering paragraph 98 of the Complaint, Defendants deny each and every
19 allegation contained therein.

20 99. Answering paragraph 99 of the Complaint, Defendants deny each and every
21 allegation contained therein.

22 100. Answering paragraph 100 of the Complaint, Defendants deny each and every
23 allegation contained therein.

24 101. Answering paragraph 101 of the Complaint, Defendants deny each and every
25 allegation contained therein.

26 102. Answering paragraph 102 of the Complaint, Defendants deny each and every
27 allegation contained therein.

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1 103. Answering paragraph 103 of the Complaint, Defendants incorporate by reference
2 their response to each and every paragraph of the Complaint as though fully set forth herein.

3 104. Answering paragraph 104 of the Complaint, Defendants admit that Terrence
4 Mercadal and Jared Robinet were employed as sworn police officers for the City of
5 Sacramento Police Department and were working within the course and scope of employment
6 when they deployed lethal force against the Decedent. As to the remaining allegations
7 contained within paragraph 104, Defendants deny each and every allegation contained
8 therein.

9 105. Answering paragraph 105 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 106. Answering paragraph 106 of the Complaint, Defendants deny each and every
12 allegation contained therein.

13 107. Answering paragraph 107 of the Complaint, Defendants deny each and every
14 allegation contained therein.

15 108. Answering paragraph 108 of the Complaint, Defendants incorporate by reference
16 their response to each and every paragraph of the Complaint as though fully set forth herein.

17 109. Answering paragraph 109 of the Complaint, Defendants deny each and every
18 allegation contained therein.

19 110. Answering paragraph 110 of the Complaint, Defendants deny each and every
20 allegation contained therein.

21 111. Answering paragraph 111 of the Complaint, Defendants deny each and every
22 allegation contained therein.

23 112. Answering paragraph 112 of the Complaint, Defendants deny each and every
24 allegation contained therein.

25 113. Answering paragraph 113 of the Complaint, Defendants incorporate by reference
26 their response to each and every paragraph of the Complaint as though fully set forth herein.

27 114. Answering paragraph 114 of the Complaint, Defendants admit that Terrence
28 Mercadal and Jared Robinet discharged their firearms at Decedent. As to the remaining

1 allegations contained within paragraph 114, Defendants deny each and every allegation
2 contained therein.

3 115. Answering paragraph 115 of the Complaint, Defendants are without sufficient
4 information to form a belief as to the truth of the allegations contained therein, and on that
5 basis deny each and every allegation contained therein.

6 116. Answering paragraph 116 of the Complaint, Defendants are without sufficient
7 information to form a belief as to the truth of the allegations contained therein, and on that
8 basis deny each and every allegation contained therein.

9 117. Answering paragraph 117 of the Complaint, Defendants are without sufficient
10 information to form a belief as to the truth of the allegations contained therein, and on that
11 basis deny each and every allegation contained therein.

12 118. Answering paragraph 118 of the Complaint, Defendants are without sufficient
13 information to form a belief as to the truth of the allegations contained therein, and on that
14 basis deny each and every allegation contained therein.

15 119. Answering paragraph 119 of the Complaint, Defendants are without sufficient
16 information to form a belief as to the truth of the allegations contained therein, and on that
17 basis deny each and every allegation contained therein.

18 120. Answering paragraph 120 of the Complaint, Defendants deny each and every
19 allegation contained therein.

20 121. Answering paragraph 121 of the Complaint, Defendants deny each and every
21 allegation contained therein.

22 122. Answering paragraph 122 of the Complaint, Defendants incorporate by reference
23 their response to each and every paragraph of the Complaint as though fully set forth herein.

24 123. Answering paragraph 123 of the Complaint, Defendants admit the allegations
25 contained therein.

26 124. Answering paragraph 124 of the Complaint, Defendants admit the allegations
27 contained therein.

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1 125. Answering paragraph 125 of the Complaint, Defendants admit that Terrence
2 Mercadal and Jared Robinet used deadly force against the Decedent. As to the remaining
3 allegations contained in paragraph 125 of the Complaint, Defendants deny each and every
4 allegation contained therein.

5 126. Answering paragraph 126 of the Complaint, Defendants deny each and every
6 allegation contained therein.

7 127. Answering paragraph 127 of the Complaint, Defendants deny each and every
8 allegation contained therein.

9 128. Answering paragraph 128 of the Complaint, Defendants deny each and every
10 allegation contained therein.

11 129. Answering paragraph 129 of the Complaint, Defendants admit that Terrence
12 Mercadal and Jared Robinet were working as police officers for the City of Sacramento Police
13 Department and acting in the course and scope of employment. As to the remaining
14 allegations contained in paragraph 129, Defendants deny each and every allegation contained
15 therein.

16 130. Answering paragraph 130 of the Complaint, Defendants deny each and every
17 allegation contained therein.

18 131. Answering paragraph 131 of the Complaint, Defendants deny each and every
19 allegation contained therein.

20 132. Answering paragraph 132 of the Complaint, Defendants deny each and every
21 allegation contained therein.

22 133. Answering paragraph 133 of the Complaint, Defendants deny each and every
23 allegation contained therein.

24 134. Answering paragraph 134 of the Complaint, Defendants deny each and every
25 allegation contained therein.

26 135. Answering paragraph 135 of the Complaint, Defendants deny each and every
27 allegation contained therein.

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1 **AFFIRMATIVE DEFENSES**

2 As and for separate and distinct affirmative defenses, Defendants allege as follows:

3 **FIRST AFFIRMATIVE DEFENSE**

4 [Failure to State a Cause of Action]

5 Plaintiff's complaint, and each cause of action contained therein, fails to state the facts
6 sufficient to constitute a cause of action against Defendants.

7 **SECOND AFFIRMATIVE DEFENSE**

8 [Statute of Limitations]

9 The claims for relief alleged in the complaint are barred by the applicable statute of
10 limitations.

11 **THIRD AFFIRMATIVE DEFENSE**

12 [Tort Claims Act]

13 Plaintiffs claim is barred for failure to comply with the California Tort Claims Act.

14 **FOURTH AFFIRMATIVE DEFENSE**

15 [Comparative Fault - Plaintiff]

16 Plaintiff is barred from recovery, in whole or part, because his sole or partial negligence
17 was the proximate cause of the acts and events alleged in the complaint.

18 **FIFTH AFFIRMATIVE DEFENSE**

19 [Comparative Fault - Third Parties]

20 Plaintiff is barred from recovery from Defendants, in whole or part, because the sole or
21 partial negligence of third parties was the proximate cause of the acts and events alleged in the
22 complaint.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 [Government Code - Immunities]

25 Each act or omission alleged in the complaint falls within the immunities and defenses
26 described in sections 800 through 995 of the California Government Code, including but not
27 limited to, sections 815.2, 818.8, 820.2, 821.2, 822.2, 830.2, 830.4, 830.6, 830.8, 830.9, 831,
28 831.2, 835.4, 840.2, 840.4, 840.6, and 845.8.

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SEVENTH AFFIRMATIVE DEFENSE

[Good Faith]

Defendants allege they acted in good faith and without wrongful intent at all times alleged in the complaint.

EIGHTH AFFIRMATIVE DEFENSE

[Failure to Mitigate]

Plaintiff's claims are barred, in whole or part, due to Plaintiff's failure to mitigate the damages alleged in the complaint.

NINTH AFFIRMATIVE DEFENSE

[Arrest/Force]

Each act or omission alleged in the complaint falls within the immunities and privileges set forth in the California Penal Code, including but not limited to, sections 834, 834a, 835, 836, and 836.5.

TENTH AFFIRMATIVE DEFENSE

[Qualified Immunity]

Defendants allege immunity from liability because the police officers' conduct did not violate clearly established federal law and/or a reasonable officer would not have known his/her conduct violated clearly established law.

WHEREFORE, Defendants request:

1. That Plaintiffs take nothing from Defendants herein and that judgment be awarded in favor of Defendants;
2. That Defendants recover their reasonable costs incurred in the defense of this action; and
3. For such other and further relief as the court may deem proper.

DEMAND FOR JURY TRIAL

NOTICE IS HEREBY GIVEN that Defendants demand a jury trial in the above-entitled action pursuant to the provisions of Rule 38 of the Federal Rules of Civil Procedure and the

1 Seventh Amendment of the United States Constitution.

2 DATED: March 1, 2019

SUSANA ALCALA WOOD,
City Attorney

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4
5 By: /s/ ANDREA M. VELASQUEZ

6 **ANDREA M. VELASQUEZ**
Senior Deputy City Attorney

7 Attorneys for the CITY OF SACRAMENTO
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