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7 TYRA HARRINGTON, JESSE CABLK,
TODD HOFFMAN, RYAN SHARP,
8 MICHAEL TOLLACK and COUNTY OF SONOMA

9
10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF SONOMA

12
13 NICHOLA SCHMITZ, BENJAMIN
VERDUSCO and SUZANNE BROCK
14 Plaintiffs,

15 v.

16 PERMIT SONOMA, TENNIS WICK, in
their official capacity as Director of Permit
17 Sonoma; TYRA HARRINGTON, in her
official capacity as Code Enforcement
18 Manager of Permit Sonoma, JESSE
19 CABLK in their official capacity as Code
Enforcement Supervisor of Permit Sonoma,
20 TODD HOFFMAN, in their official
capacity as Senior Code Enforcement
21 Manager of Permit Sonoma, RYAN
22 SHARP, in their official capacity as Code
Enforcement Inspector I; MICHAEL
23 TOLLACK, in their official capacity as
Code Enforcement Inspector I and
24 COUNTY OF SONOMA
25 Defendants.

Case No.25CV03893

ANSWER TO COMPLAINT

Assigned to Hon. Oscar Pardo

26
27 Defendants COUNTY OF SONOMA, TENNIS WICK, TYRA HARRINGTON, TODD
28 HOFFMAN, JESSE CABLK, RYAN SHARP and MICHAL TOLLACK hereby answer the

1 unverified Complaint of Plaintiffs NICHOLA SCHMITZ, BENJAMIN VERDUSCO and
2 SUZANNE BROCK as follows:

3 **GENERAL DENIAL**

4 Pursuant to Code of Civil Procedure section 431.30(d), Defendants deny each and every,
5 all and singular, generally and specifically, allegations contained in the unverified Complaint,
6 filed on June 4, 2025, and each and every part thereof and, in their connection, Defendants deny
7 that Plaintiffs have a viable cause of action or have been injured or damaged in any sum, or
8 otherwise, or at all.

9 **AFFIRMATIVE DEFENSES**

10 As and for separate affirmative defenses to each and every purported cause of action,
11 Defendants allege as follows:

12 **FIRST AFFIRMATIVE DEFENSE**

13 **(Failure to State a Cause of Action)**

14 As a first separate and distinct affirmative defense, Defendants allege that Plaintiffs have
15 failed to state facts sufficient to constitute a cause of action, and/or have failed to state a legally
16 cognizable cause of action.

17 **SECOND AFFIRMATIVE DEFENSE**

18 **(No Right to Privacy Claim)**

19 As a second separate and distinct affirmative defense, Defendants allege that Plaintiffs
20 have failed to state facts sufficient to constitute an affirmative claim, based on constitutional
21 theories that relate to exclusion of evidence in criminal prosecutions.

22 **THIRD AFFIRMATIVE DEFENSE**

23 **(Waiver)**

24 As a third separate and distinct affirmative defense, each Plaintiff's purported cause
25 of action, is barred, in whole or in part, by the doctrine of waiver by virtue of Plaintiff's conduct
26 violating various statutes and codes.

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FOURTH AFFIRMATIVE DEFENSE

(Estoppel)

As a fourth separate and distinct affirmative defense, Plaintiff’s purported causes of action are barred, in whole or in part, by the doctrine of estoppel by virtue of Plaintiff’s conduct before and after the alleged conduct by Defendants.

FIFTH AFFIRMATIVE DEFENSE

(Unclean Hands)

As a fifth separate and distinct affirmative defense, Plaintiff’s purported causes of action are barred, in whole or in part, by the doctrine of unclean hands and other applicable equitable doctrines by virtue of Plaintiffs’ conduct.

SIXTH AFFIRMATIVE DEFENSE

(Equitable Relief Barred)

As a sixth separate and distinct affirmative defense, Plaintiffs prayer for equitable or injunctive relief is barred because Plaintiffs had an adequate remedy at law.

SEVENTH AFFIRMATIVE DEFENSE

(Statute of Limitations)

As a seventh separate and distinct affirmative defense, Plaintiffs purported cause of action is barred, in whole or in part, by the statutes of limitation contained in Code of Civil Procedure §§320, 335.1, 337, 337.1, 337.15, 338, 339, 340, or any other applicable statute.

EIGHTH AFFIRMATIVE DEFENSE

(Proper Exercise of Legal Authority)

As an eighth separate and distinct affirmative defense, Plaintiffs purported cause of action is barred, in whole or in part, because the actions challenged in the Complaint were a valid exercise of the legal authority properly vested in the Defendants.

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NINTH AFFIRMATIVE DEFENSE
(Compelling and Legitimate Interest)

As a ninth separate and distinct affirmative defense, Plaintiffs purported cause of action is barred, in whole or in part, because the actions challenged in the Complaint were necessary to achieve and further a compelling and legitimate state interest.

TENTH AFFIRMATIVE DEFENSE
(Actions in Accordance with Law and Supported by Prior Court Decisions)

As a tenth separate and distinct affirmative defense, with respect to the actions alleged in the Complaint, Defendants proceeded in the manner allowed by decisions of the United States District Court, Northern District of California and the Superior Court, County of Sonoma. Defendants' actions were not arbitrary, capricious or without substantial evidentiary support. Defendants' decision was supported by the findings and substantial evidence.

ELEVENTH AFFIRMATIVE DEFENSE
(Failure to Mitigate Damages)

As an eleventh separate and distinct affirmative defense, Defendants allege that each and every cause of action is barred because Plaintiffs failed to mitigate their damages, if any. The costs, expenses, and attorneys' fees claimed by Plaintiffs can and should have been mitigated by reasonable diligence on their part or by one acting under similar circumstances.

TWELFTH AFFIRMATIVE DEFENSE
(Immunity)

As a twelfth separate and distinct affirmative defense, Defendants allege that they are immune from liability herein pursuant to the provisions of California Government Code §800, et. seq., that the actions taken by Defendants were taken within their discretion, and that all actions taken by Defendants, were reasonable under the circumstances and taken under a good faith belief that the actions were not unlawful and that they are therefore immune.

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THIRTEENTH AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

As a thirteenth separate and distinct affirmative defense, Plaintiffs failed to exhaust administrative remedies with respect to the contentions they seek to raise in their Complaint; including but not limited to, challenging the code violations resulting from Defendants’ conduct.

FOURTEENTH AFFIRMATIVE DEFENSE

(No Entitlement to Injunctive or Declaratory Relief)

As a fourteenth separate and distinct affirmative defense, Plaintiffs are not entitled to injunctive relief based on the allegations set forth in the Complaint.

FIFTEENTH AFFIRMATIVE DEFENSE

(Good Faith Belief)

As a fifteenth separate and distinct affirmative defense, Defendants acted under the Good Faith Belief that the drone use described in the Complaint was not in violation of constitutional mandates.

SIXTEENTH AFFIRMATIVE DEFENSE

(Impossibility of Relief)

As a sixteenth separate and distinct affirmative defense, Defendants allege they are excused from some of the relief claimed or requested in the Complaint, which is impossible, impracticable and/or against public interest for Defendants to provide.

SEVENTEENTH AFFIRMATIVE DEFENSE

(Lack of Standing)

As a seventeenth separate and distinct affirmative defense, Defendants are informed and believe that Plaintiffs lack standing to pursue a claim under Code of Civil Procedure §526a.

EIGHTEENTH AFFIRMATIVE DEFENSE

(No Waiver of Applicable Affirmative Defenses)

As an eighteenth separate and distinct affirmative defense, Defendants have not knowingly or intentionally waived any applicable affirmative defense. Defendants reserve their right to assert and to rely upon such other defenses as may become available or apparent or as

1 may be raised or asserted by others in their case, and to amend the answer and/or affirmative
2 defenses accordingly. Defendants further reserve their right to amend their answer to delete
3 affirmative defenses that they determine are not applicable.

4 **WHEREFORE**, Defendants prays as follows:

- 5 1. That Plaintiffs take nothing by their action;
- 6 2. That Defendants be awarded all reasonable costs incurred in defending their
7 action;
- 8 3. For such other and further relief as the Court may deem just and proper.

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10 Dated: October 22, 2025

ROBERT H. PITTMAN, County Counsel

11 By: Michael King
12 Michael A. King
13 Deputy County Counsel
14 Attorneys for Defendants
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 575 Administration Drive, Room 105-A, Santa Rosa, CA 95403.

On October 22, 2025, I served the within documents:

ANSWER TO COMPLAINT

- by transmitting via facsimile, the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m.
- by transmitting e-mail the document(s) listed above to the e-mail address set forth below on this date before 5:00 p.m.
- by placing the document(s) listed above in a sealed envelope for collection and mailing on that date following ordinary business practices. I am readily familiar with the County's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U. S. postal service on that same day with postage thereon fully prepaid in the ordinary course of business.
- by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Santa Rosa, California addressed as set forth below.

Matthew T. Cagle Nicolas A. Hidalgo Amanda Young Shilpi Agarwal ACLU FOUNDATION OF NORTHERN CALIFORNIA, INC. 39 Drumm Street San Francisco, CA 94111 mcagle@aclunc.org Attorneys for Plaintiffs	Jonathan P. Schneller O'Melveny & Meyers, LLP 400 S Hope Street, Suite 1900 Los Angeles, CA 90071-2811 jschneller@omm.com Attorneys for Plaintiffs
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- I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on October 22, 2025, at Santa Rosa, California.

/s/ Megan Sweeley
Megan Sweeley