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10 CARLOS A. GARCIA

11 UNITED STATES DISTRICT COURT  
12  
13 NORTHERN DISTRICT OF CALIFORNIA  
14  
15 SAN FRANCISCO DIVISION

16 KEVIN M. HALL, an individual, ) No.: C 10-03799 RS  
17 )  
18 Plaintiff, ) **DEFENDANT'S ANSWER TO**  
19 ) **COMPLAINT**  
20 vs. )  
21 )  
22 CARLOS A. GARCIA, in his official capacity as )  
23 Superintendent of the San Francisco Unified )  
24 School District, )  
25 )  
26 Defendant. )  
27 )  
28 )

1 Defendant Carlos A. Garcia hereby answers Plaintiff's Complaint as follows:

2 1. Defendant is without sufficient knowledge or belief to answer or deny the  
3 allegations in the first sentence of paragraph 1, and therefore denies them. Defendant admits that he  
4 caused to deny an exemption to plaintiff under the Gun Free School Zone Act after the case of  
5 *McDonald v. City of Chicago* was decided. Except as so admitted, defendant denies the remainder of  
6 the allegations made in paragraph 1.

7 2. Defendant denies the allegations in paragraph 2.

8 3. Defendant admits the allegations in paragraph 3.

9 4. Defendant denies the allegations in paragraph 4.

10 5. Defendant admits the allegations in paragraph 5.

11 6. Defendant admits the allegations in paragraph 6.

12 7. Defendant is without sufficient knowledge or belief to answer or deny the  
13 allegations in paragraph 7, and therefore denies them.

14 8. Defendant admits the allegations in paragraph 8.

15 9. Defendant is without sufficient knowledge or belief to answer or deny the  
16 allegations in paragraph 9, and therefore denies them.

17 10. Defendant avers that the Second Amendment to the United States Constitution  
18 speaks for itself and no response is required. To the extent any response is necessary, Defendant  
19 denies each and every allegation made in paragraph 10.

20 11. Defendant avers that the case cited in paragraph 11 speaks for itself and no  
21 response is required. To the extent any response is necessary, Defendant denies each and every  
22 allegation made in paragraph 11.

23 12. Defendant avers that the case cited in paragraph 12 speaks for itself and no  
24 response is required. To the extent any response is necessary, Defendant denies each and every  
25 allegation made in paragraph 12.

26 13. Defendant avers that the statute cited in paragraph 13 speaks for itself and no  
27 response is required. To the extent any response is necessary, Defendant denies each and every  
28 allegation made in paragraph 13.

1           14. Defendant avers that the statute cited in paragraph 14 speaks for itself and no  
2 response is required. To the extent any response is necessary, Defendant denies each and every  
3 allegation made in paragraph 14.

4           15. Defendant is without sufficient knowledge or belief to answer or deny the  
5 allegations in paragraph 15, and therefore denies them.

6           16. Defendant is without sufficient knowledge or belief to answer or deny the  
7 allegations in paragraph 16, and therefore denies them.

8           17. Defendant admits the allegations in paragraph 17 of the Complaint.

9           18. Defendant admits the allegations in paragraph 18 of the Complaint, with the  
10 correction that he is the Superintendent of the San Francisco Unified School District.

11           19. Defendant admits that SFUSD received the letter attached as Exhibit A to the  
12 Complaint to Defendant. Except as so admitted, Defendant is without sufficient knowledge or belief to  
13 answer or deny the allegations in paragraph 19, and therefore denies them.

14           20. Defendant avers that Defendant's letter speaks for itself and no response is  
15 required. To the extent any response is necessary, Defendant denies each and every allegation made in  
16 paragraph 20.

17           21. Defendant admits that SFUSD Senior Deputy General Counsel Angela Miller  
18 sent a response to Plaintiff's letter on behalf of Defendant. Except as so admitted, Defendant is  
19 without sufficient knowledge or belief to answer or deny the allegations in paragraph 21, and therefore  
20 denies them.

21           22. Defendant avers that Ms. Miller's letter speaks for itself and no response is  
22 required. To the extent any response is necessary, Defendant admits the allegations in paragraph 22 of  
23 the Complaint.

24           23. Defendant denies the allegations in paragraph 23 of the Complaint.

25           24. Defendant denies the allegations in paragraph 24 of the Complaint.

**AFFIRMATIVE DEFENSES**

Defendant asserts the following affirmative defenses. In asserting these defenses, Defendant does not assume the burden of establishing any fact or proposition where that burden is properly imposed on Plaintiff. Defendant reserves the right to assert additional affirmative defenses that are subsequently revealed.

**FIRST AFFIRMATIVE DEFENSE**

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

The alleged Complaint fails to state facts sufficient to constitute a cause of action.

**SECOND AFFIRMATIVE DEFENSE**

**(Failure to State a Claim)**

The Complaint fails to state a claim upon which relief may be granted.

**THIRD AFFIRMATIVE DEFENSE**

**(No Harm)**

The Complaint fails to state facts sufficient to constitute a cause of action against Defendant because Plaintiff has suffered no harm as a result of Defendant's conduct.

**FOURTH AFFIRMATIVE DEFENSE**

**(Standing)**

Plaintiff lacks standing to bring the Complaint.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant demands:

1. That Plaintiff take nothing from Defendant;
2. That the Court enter judgment dismissing the Complaint;
3. That the Court award Defendant his reasonable expenses and costs, including, but not limited to, reasonable attorneys' fees, in defending against this action; and
4. That the Court grant Defendant such other, further relief as the Court may deem proper.

1 Dated: September 24, 2010

Respectfully submitted,

2 REMCHO, JOHANSEN & PURCELL, LLP

3  
4 By: \_\_\_\_\_/s/  
Thomas A. Willis

5 Attorneys for Defendant CARLOS A. GARCIA

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