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 UNITED STATES OF AMERICA

10
 11 **UNITED STATES DISTRICT COURT**
 12 **SOUTHERN DISTRICT OF CALIFORNIA**
 13

14 THE ESTATE OF JOEL REYES
 MUNOZ by and through its successor in
 15 interest LETICIA DURAN
 MARTINEZ; LETICIA DURAN
 16 MARTINEZ, in her own right; BRIAN
 JOEL REYES DURAN; and A.Y.R.D.,
 17 a minor, by his mother and guardian,
 LETICIA DURAN MARTINEZ,

18 Plaintiffs,

19 v.

20 UNITED STATES OF AMERICA; and
 21 DOES 1-10, inclusive,

22 Defendants.

Case No.: 23-cv-1422-JES-DEB

**DEFENDANT UNITED STATES’
 ANSWER TO THE COMPLAINT**

23
 24
 25 Th United States of America (Defendant) answers Plaintiffs’ Complaint as follows:

26 **INTRODUCTION**

27 The allegations contained in Plaintiffs’ “Introduction” constitute argument to which
 28 no response is required. To the extent a response is required, Defendant denies the

1 allegations.

2 **GENERAL ALLEGATIONS**

3 1. Answering Paragraph 1, Defendant asserts that the allegations contained
4 therein are legal conclusions and/or arguments to which no response is required. To the
5 extent such allegations contain alleged facts, Defendant denies said allegations.

6 2. Answering Paragraph 2, Defendant asserts that the allegations contained
7 therein are legal conclusions and/or arguments to which no response is required. To the
8 extent such allegations contain alleged facts, Defendant denies said allegations.

9 3. Answering Paragraph 3, Defendant asserts that the allegations contained
10 therein are legal conclusions and/or argument to which no response is required. To the
11 extent a response a deemed required, Defendant admits that venue is proper in this District.

12 4. Answering Paragraph 4, Defendant admits Plaintiffs filed an administrative
13 claim. The remainder of the allegations in Paragraph 4 are legal conclusions and/or
14 arguments to which no response is required. To the extent a response is required, Defendant
15 denies the allegations.

16 5. Answering Paragraph 5, Defendant admits that Plaintiffs' administrative claim
17 was denied by letter dated April 10, 2023.

18 6. Answering Paragraph 6, Defendant asserts that the allegations contained
19 therein are legal conclusions and/or arguments to which no response is required. To the
20 extent such allegations contain alleged facts, Defendant denies said allegations.

21 **PARTIES**

22 7. Answering Paragraph 7, Defendant realleges its responses to all prior
23 paragraphs as if fully set forth herein.

24 8. Answering Paragraph 8, Defendant admits that the named individuals are
25 Plaintiffs in this case. Defendant lacks information sufficient to form a belief as to the truth
26 of the remaining allegations contained Paragraph 8, and on that basis denies them.

27 9. Answering Paragraph 9, Defendant admits that the Department of Homeland
28 Security is an agency of the United States of America and that U.S. Customs and Border

1 Protection is an agency within the Department of Homeland Security. Defendant further
2 admits that the Department of Homeland Security and U.S. Customs and Border Protection
3 operate in San Diego County, California. Defendant lacks information sufficient to form a
4 belief as to the truth of the allegations against the DOE defendants contained therein, and
5 on that basis denies them.

6 10. Answering Paragraph 10, Defendant lacks information sufficient to form a
7 belief as to the truth of the allegations contained therein, and on that basis denies them.

8 11. Answering Paragraph 11, Defendant lacks information sufficient to form a
9 belief as to the truth of the allegations contained therein, and on that basis denies them.

10 12. Answering Paragraph 12, Defendant lacks information sufficient to form a
11 belief as to the truth of the allegations contained therein, and on that basis denies them.

12 13. Answering Paragraph 13, Defendant lacks information sufficient to form a
13 belief as to the truth of the allegations contained therein, and on that basis denies them.

14 14. Answering Paragraph 14, Defendant admits that decedent Joel Reyes Munoz
15 died. Defendant lacks information sufficient to form a belief as to the truth of the remaining
16 allegations contained Paragraph 14, and on that basis denies them.

17 15. Answering Paragraph 15, Defendant lacks information sufficient to form a
18 belief as to the truth of the allegations contained therein, and on that basis denies them.

19 16. Answering Paragraph 16, Defendant lacks information sufficient to form a
20 belief as to the truth of the allegations contained therein, and on that basis denies them.

21 17. Answering Paragraph 17, Defendant lacks information sufficient to form a
22 belief as to the truth of the allegations contained therein, and on that basis denies them.

23 18. Answering Paragraph 18, Defendant asserts that the Paragraph does not
24 contain charging allegations against Defendant, and on that basis does not require a
25 response. To the extent a response is required, the allegations are denied.

26 19. Answering Paragraph 19, Defendant asserts that the Paragraph does not
27 contain charging allegations against Defendant, and on that basis does not require a
28 response. To the extent a response is required, the allegations are denied.

1 20. Answering Paragraph 20, Defendant admits that Joel Reyes Munoz died on
2 January 12, 2022. Defendant lacks information sufficient to form a belief as to the truth of
3 the remaining allegations contained Paragraph 20, and on that basis denies them.

4 21. Answering Paragraph 21, Defendant lacks information sufficient to form a
5 belief as to the truth of the allegations contained therein, and on that basis denies them.

6 **FIRST CAUSE OF ACTION**

7 **NEGLIGENCE**

8 22. Answering Paragraph 22, Defendant realleges its responses to all prior
9 paragraphs as if fully set forth herein.

10 23. Answering Paragraph 23, Defendant asserts that the allegations contained
11 therein are legal conclusions and/or arguments to which no response is required. To the
12 extent such allegations contain alleged facts, Defendant denies said allegations.

13 24. Answering Paragraph 24, Defendant asserts that the allegations contained
14 therein are legal conclusions and/or arguments to which no response is required. To the
15 extent such allegations contain alleged facts, Defendant denies said allegations.

16 25. Answering Paragraph 25, Defendant asserts that the allegations contained
17 therein are legal conclusions and/or arguments to which no response is required. To the
18 extent such allegations contain alleged facts, Defendant denies said allegations.

19 26. Answering Paragraph 26, Defendant asserts that the allegations contained
20 therein are legal conclusions and/or arguments to which no response is required. To the
21 extent such allegations contain alleged facts, Defendant denies said allegations.

22 27. Answering Paragraph 27, Defendant asserts that the allegations contained
23 therein are legal conclusions and/or arguments to which no response is required. To the
24 extent such allegations contain alleged facts, Defendant denies said allegations.

25 28. Answering Paragraph 28, Defendant asserts that the allegations contained
26 therein are legal conclusions and/or arguments to which no response is required. To the
27 extent such allegations contain alleged facts, Defendant denies said allegations.

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1 **SECOND CAUSE OF ACTION**

2 **BANE ACT**

3 This cause of action was dismissed against Defendant [ECF No. 8]. Therefore, no
4 response to Paragraphs 29-35 is required. To the extent a response is required, Defendant
5 denies all allegations set forth in Paragraphs 29-35.

6 **THIRD CAUSE OF ACTION**

7 **WRONGFUL DEATH**

8 36. Answering Paragraph 36, Defendant realleges its responses to all prior
9 paragraphs as if fully set forth herein.

10 37. Answering Paragraph 37, Defendant asserts that the allegations contained
11 therein are legal conclusions and/or arguments to which no response is required. To the
12 extent such allegations contain alleged facts, Defendant denies said allegations.

13 38. Answering Paragraph 38, Defendant asserts that the allegations contained
14 therein are legal conclusions and/or arguments to which no response is required. To the
15 extent such allegations contain alleged facts, Defendant denies said allegations.

16 **PRAYER FOR RELIEF**

17 In response to the paragraphs in Plaintiffs' Prayer for Relief, no answer is necessary.
18 To the extent those paragraphs require an answer, Defendant denies generally and
19 specifically, each, all, and every allegation in these paragraphs and asserts that Plaintiffs
20 should take nothing in this suit.

21 **AFFIRMATIVE AND OTHER DEFENSES**

- 22 1. The Complaint fails to state a claim upon which relief may be granted.
23 2. Plaintiffs are proportionately barred from recovery by their or decedent's
24 comparative fault.
25 3. To the extent the acts or omissions of others were the sole proximate causes of
26 any injury, damage, or loss to the Plaintiffs, those acts and omissions have superseded any
27 acts or omissions of Defendant.
28

1 4. The liability of Defendant, if any, and responsible parties, named or unnamed,
2 if any, should be apportioned according to their respective degrees of fault, and any liability
3 should be reduced accordingly.

4 5. Defendant asserts, as an affirmative defense, California Civil Code
5 § 1431.2(a), which provides:

6 In any action for personal injury, property damages, or wrongful death, based
7 upon principles of comparative fault, the liability of each defendant for non-
8 economic damages shall be several only and shall not be joint. Each defendant
9 shall be liable only for the amount of non-economic damages allocated to that
10 defendant in direct proportion to that defendant's percentage of fault, and a
11 separate judgment shall be rendered against that defendant for that amount.

12 6. To the extent Plaintiffs failed to exercise reasonable care in mitigating their
13 damages, their claims must be barred or diminished.

14 7. In the event Defendant is found liable, which Defendant expressly denies,
15 Defendant is entitled to an offset against damages, if any, for all amounts received by
16 Plaintiffs from any other source for their alleged injuries.

17 WHEREFORE, Defendant prays that Plaintiffs take nothing by their Complaint, that
18 this action be dismissed in its entirety, for Defendant's costs of suit incurred herein, and for
19 such other relief as the Court may deem just and proper.

20 DATED: February 27, 2024

Respectfully submitted,

21 TARA K. McGRATH
22 United States Attorney

23 /s/ Erin M. Dimpleby
24 ERIN M. DIMBLEBY
25 Assistant United States Attorney

26 /s/ Ernest Cordero, Jr.
27 ERNEST CORDERO, JR.
28 Assistant United States Attorney

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