

1 SUSANA ALCALA WOOD, City Attorney (SBN 156366)
2 **SEAN D. RICHMOND, Senior Deputy City Attorney (SBN 210138)**
3 srichmond@cityofsacramento.org
4 CITY OF SACRAMENTO
5 915 I Street, Room 4010
6 Sacramento, CA 95814-2608
7 Telephone: (916) 808-5346
8 Telecopier: (916) 808-7455

9 Attorneys for the CITY OF SACRAMENTO

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 SACRAMENTO REGIONAL
13 COALITION TO END HOMELESSNESS;
14 JAMES LEE CLARK,

15 Plaintiffs,

16 vs.

17 CITY OF SACRAMENTO,

18 Defendant.

Case No.: 2:18-cv-00878-MCE-AC

**ANSWER OF DEFENDANT CITY OF
SACRAMENTO**

19 Defendant CITY OF SACRAMENTO, (hereinafter “City Defendant”) answers the
20 verified Complaint (hereinafter “Complaint”) of Plaintiffs SACRAMENTO REGIONAL
21 COALITION TO END HOMELESSNESS and JAMES LEE CLARK, as follows:

22 1. Answering paragraph 1 of the Complaint, Defendants admit it has adopted
23 Ordinance No. No. 2017-0054 which addresses aggressive or intrusive solicitation. City
24 Defendant admits to Paragraph one. The remaining allegations contained in paragraph 1 are
25 conclusions of law not averments of fact to which a response is required.

26 2. Answering paragraph 2 of the Complaint, Defendant, without admitting that the
27 allegations in the Complaint are true and given its Affirmative Defenses to the allegations of
28 the Complaint, admit that jurisdiction is conferred upon this Court pursuant to Title 28 of the

1 United States Code §§ Title 28 of the United States Code §§ 1331 and 1343.

2 3. Answering paragraph 3 of the Complaint, Defendant, without admitting that the
3 allegations in the Complaint are true and given its Affirmative Defenses to the allegations of
4 the Complaint, admit that supplemental jurisdiction is conferred upon this Court pursuant to
5 Title 28 of the United States Code § 1367.

6 4. Answering paragraph 4 of the Complaint, Defendant, without admitting that the
7 allegations contained in the Complaint are true and given its Affirmative Defenses to the
8 allegations of the Complaint, admit that venue is proper.

9 5. Answering paragraph 5 of the Complaint, Defendant admits all allegations
10 contained therein.

11 6. Answering paragraph 6 of the Complaint, Defendant admits the subject Ordinance
12 regulates solicitation and further admits the cited portion of the Ordinance. Defendant denies
13 each and every remaining allegation set forth in paragraph 6 of the Complaint.

14 7. Answering paragraph 7 of the Complaint, Defendant admits that the Ordinance
15 prohibits solicitation in the cited locations. Defendant denies each and every remaining
16 allegation set forth in paragraph 7 of the Complaint.

17 8. Answering paragraph 8 of the Complaint, Defendant admits all allegations
18 contained therein.

19 9. Answering paragraph 9 of the Complaint, Defendant admits all allegations
20 contained therein.

21 10. Answering paragraph 10 of the Complaint, Defendant admits all allegations
22 contained therein.

23 11. Answering paragraph 11 of the Complaint, Defendant is without sufficient
24 knowledge or information to form a belief as to the truth of those allegations and on that basis
25 deny each and every allegation contained therein.

26 12. Answering paragraph 12 of the Complaint, Defendant is without sufficient
27 knowledge or information to form a belief as to the truth of those allegations and on that basis
28 deny each and every allegation contained therein.

1 13. Answering paragraph 13 of the Complaint, Defendants are without sufficient
2 knowledge or information to form a belief as to the truth of those allegations and on that basis
3 deny each and every allegation contained therein.

4 14. Answering paragraph 14 of the Complaint, Defendant admits that soliciting from
5 motor vehicles within 30 feet of a driveway accessing a business establishment is a prohibited
6 act under the ordinance. As to the remaining allegations contained in paragraph 14 of the
7 Complaint, Defendants are without sufficient knowledge or information to form a belief as to
8 the truth of those remaining allegations and on that basis deny each and every remaining
9 allegation contained therein.

10 15. Answering paragraph 15 of the Complaint, Defendant admits that solicitating
11 donations within 30 feet of a public transportation stop is prohibited by the Ordinance. As to
12 the remaining allegations contained in paragraph 15 of the Complaint, Defendants are without
13 sufficient knowledge or information to form a belief as to the truth of those remaining
14 allegations and on that basis deny each and every remaining allegation contained therein.

15 16. Answering paragraph 16 of the Complaint, Defendant is without sufficient
16 knowledge or information to form a belief as to the truth of those allegations and on that basis
17 deny each and every allegation contained therein.

18 17. Answering paragraph 17 of the Complaint, Defendant is without sufficient
19 knowledge or information to form a belief as to the truth of those allegations and on that basis
20 deny each and every allegation contained therein.

21 18. Answering paragraph 18 of the Complaint, Defendant is without sufficient
22 knowledge or information to form a belief as to the truth of those allegations and on that basis
23 deny each and every allegation contained therein.

24 19. Answering paragraph 19 of the Complaint, Defendant is without sufficient
25 knowledge or information to form a belief as to the truth of those allegations and on that basis
26 deny each and every allegation contained therein.

27 20. Answering paragraph 20 of the Complaint, Defendant is without sufficient
28 knowledge or information to form a belief as to the truth of those allegations and on that basis

1 deny each and every allegation contained therein.

2 21. Answering paragraph 21 of the Complaint, Defendant is without sufficient
3 knowledge or information to form a belief as to the truth of those allegations and on that basis
4 deny each and every allegation contained therein.

5 22. Answering paragraph 22 of the Complaint, Defendant admits all allegations
6 contained therein.

7 23. Answering paragraph 23 of the Complaint, Defendant admits that it received
8 comment from the public at large regarding the Ordinance and that some of that comment
9 pertained to the general safety aspect arising from aggressive solicitation. As to the remaining
10 allegations made in paragraph 23, Defendant denies each and every remaining allegation.

11 24. Answering paragraph 24 of the Complaint, Defendant admits all allegations
12 contained therein.

13 25. Answering paragraph 25 of the Complaint, Defendant admits that Plaintiff Clark
14 testified in opposition to the Ordinance. Defendants deny the veracity of Plaintiff Clark's
15 testimony.

16 26. Answering paragraph 26 of the Complaint, Defendant admits that the effect of
17 aggressive solicitation on the Sacramento business community was a component of
18 consideration in regard to the Ordinance.

19 27. Answering paragraph 27 of the Complaint, Defendant admits all allegations
20 contained therein.

21 28. Answering paragraph 28 of the Complaint, Defendant denies each and every
22 allegation contained therein.

23 29. Answering paragraph 29 of the Complaint, Defendant admits that the subject and
24 focus of the Ordinance at issue is solicitation.

25 30. Answering paragraph 30 of the Complaint, Defendant denies each and every
26 allegation contained therein.

27 31. Answering paragraph 31 of the Complaint, Defendant denies each and every
28 allegation contained therein.

1 32. Answering paragraph 32 of the Complaint, Defendant denies each and every
2 allegation contained therein.

3 33. Answering paragraph 33 of the Complaint, Defendant denies each and every
4 allegation contained therein.

5 34. Answering paragraph 34 of the Complaint, Defendant denies each and every
6 allegation contained therein.

7 35. Answering paragraph 35 of the Complaint, Defendant denies each and every
8 allegation contained therein.

9 36. Answering paragraph 36 of the Complaint, Defendant denies each and every
10 allegation contained therein.

11 37. Answering paragraph 37 of the Complaint, Defendant denies each and every
12 allegation contained therein.

13 38. Answering paragraph 38 of the Complaint, Defendant incorporates by reference
14 its responses to each and every paragraph of the Complaint as though fully set forth herein.

15 39. Answering paragraph 39 of the Complaint, Defendant denies each and every
16 allegation contained therein.

17 40. Answering paragraph 40 of the Complaint, Defendant incorporates by reference
18 its responses to each and every paragraph of the Complaint as though fully set forth herein.

19 41. Answering paragraph 41 of the Complaint, Defendant denies each and every
20 allegation contained therein.

21 42. Answering paragraph 42 of the Complaint, Defendant incorporates by reference
22 its responses to each and every paragraph of the Complaint as though fully set forth herein.

23 43. Answering paragraph 43 of the Complaint, Defendant denies each and every
24 allegation contained therein.

25 44. Answering paragraph 44 of the Complaint, Defendant incorporates by reference
26 its responses to each and every paragraph of the Complaint as though fully set forth herein.

27 45. Answering paragraph 45 of the Complaint, Defendant denies each and every
28 allegation contained therein.

1 46. Answering paragraph 46 of the Complaint, Defendant incorporates by reference
2 its responses to each and every paragraph of the Complaint as though fully set forth herein.

3 47. Answering paragraph 47 of the Complaint, Defendant denies each and every
4 allegation contained therein.

5 48. Answering paragraph 48 of the Complaint, Defendant incorporates by reference
6 its responses to each and every paragraph of the Complaint as though fully set forth herein.

7 49. Answering paragraph 49 of the Complaint, Defendant denies each and every
8 allegation contained therein.

9 50. Answering paragraph 50 of the Complaint, Defendant incorporates by reference
10 its responses to each and every paragraph of the Complaint as though fully set forth herein.

11 51. Answering paragraph 51 of the Complaint, Defendant denies each and every
12 allegation contained therein.

13 52. Answering paragraph 52 of the Complaint, Defendant is without sufficient
14 knowledge or information to form a belief as to the truth of those allegations and on that basis
15 deny each and every allegation contained therein.

16 53. Answering paragraph 53 of the Complaint, Defendant incorporates by reference
17 its responses to each and every paragraph of the Complaint as though fully set forth herein.

18 54. Answering paragraph 54 of the Complaint, Defendant admits all allegations
19 contained therein.

20 55. Answering paragraph 55 of the Complaint, Defendant denies each and every
21 allegation contained therein.

22 **AFFIRMATIVE DEFENSES**

23 As and for separate and distinct affirmative defenses, Defendant alleges as follows:

24 **FIRST AFFIRMATIVE DEFENSE**

25 [Failure to State a Cause of Action]

26 Plaintiffs' complaint, and each cause of action contained therein, fails to state the facts
27 sufficient to constitute a cause of action against Defendant.

28 / / /

1 **SECOND AFFIRMATIVE DEFENSE**

2 [Statute of Limitations]

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

5 **THIRD AFFIRMATIVE DEFENSE**

6 [Government Code - Immunities]

7 Each act or omission alleged in the complaint falls within the immunities and defenses
8 described in sections 800 through 995 of the California Government Code, including but not
9 limited to, sections 815.2, 818.8, 820.2, 821.2, 822.2, 830.2, 830.4, 830.6, 830.8, 830.9, 831,
10 831.2, 835.4, 840.2, 840.4, 840.6, and 845.8.

11 **FOURTH AFFIRMATIVE DEFENSE**

12 [Good Faith]

13 Defendant alleges it has acted in good faith and without wrongful intent at all times alleged
14 in the complaint.

15 **FIFTH AFFIRMATIVE DEFENSE**

16 [Standing]

17 Plaintiffs lack the proper standing to sue Defendant on the grounds set forth in the
18 complaint.

19 WHEREFORE, Defendant requests:

20 1. That Plaintiffs take nothing from Defendant herein and that judgment be awarded
21 in favor of Defendant;

22 2. That Defendant recover its reasonable costs incurred in the defense of this action;
23 and

24 3. For such other and further relief as the court may deem proper.

25 **DEMAND FOR JURY TRIAL**

26 NOTICE IS HEREBY GIVEN that Defendant City of Sacramento, demands a jury trial
27 in the above-entitled action pursuant to the provisions of Rule 38 of the Federal Rules of Civil

28 / / /

1 Procedure and the Seventh Amendment of the United States Constitution.

2 DATED: May 11, 2018

SUSANA ALCALA WOOD,
City Attorney

3
4
5 By: /s/ SEAN D. RICHMOND

SEAN D. RICHMOND
Senior Deputy City Attorney

6
7 Attorneys for the CITY OF SACRAMENTO

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28