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13 LAS VEGAS-CLARK COUNTY LIBRARY  
14 DISTRICT and RONALD R. HEEZEN

15 **UNITED STATES DISTRICT COURT**  
16 **DISTRICT OF NEVADA**

17 WILLIAM DEANS, an individual,

18 Plaintiff,

19 Case No. 2:16-cv-02405-APG-PAL

20 vs.

21 LAS VEGAS CLARK COUNTY LIBRARY  
22 DISTRICT; RONALD R. HEEZEN, (in his  
23 official capacity); COLLEGE OF SOUTHERN  
24 NEVADA; ANTONIA MARIE SUMMERLIN  
25 (Badge No. 228) (in her personal and official  
26 capacity); RANDALL PERKINS (Badge No.  
27 104) (in his professional capacity); JANE DOE;  
28 JOHN ROE; and JANE POE,

Defendants.

29 **DEFENDANT LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT'S**  
30 **ANSWER TO AMENDED COMPLAINT**  
31 **[JURY TRIAL DEMANDED]**

32 Defendant Las Vegas-Clark County Library District (the "Library District") answers  
33 Plaintiff's Amended Complaint as follows:

34 The narrative allegations contained on Page 1 of the Amended Complaint do not require a  
35 response; to the extent a response is required, the Library District denies all allegations on Page 1 of  
36 the Amended Complaint.

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## **1.0 INTRODUCTION**

1. In response to the allegations contained in Paragraph 1 of the Amended Complaint, the Library District is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies them.

2. In response to the allegations contained in Paragraph 2 of the Amended Complaint, the Library District admits that Plaintiff was present at 6301 West Charleston Boulevard, Las Vegas, Nevada 89146 (the “West Charleston Library”) on October 13, 2016. The Library District further admits that the West Charleston Library is a “public library” located on the campus of the College of Southern Nevada (“CSN”) to the extent that “public library” is defined in NRS 379.0057. The Library District further admits that many of its patrons are “civically-minded citizens” and that many of its patrons use the Library District facilities to educate themselves. The Library District denies all remaining or inconsistent allegations contained in Paragraph 2.

3. In response to the allegations contained in Paragraph 3 of the Amended Complaint, the Library District admits that its employees informed Plaintiff that persons wishing to circulate a petition must “check-in” with Library District staff. The Library District denies all remaining or inconsistent allegations contained in Paragraph 3.

4. In response to the allegations contained in Paragraph 4 of the Amended Complaint, the Library District denies all allegations.

5. In response to the allegations contained in Paragraph 5 of the Amended Complaint, the Library District denies all allegations.

6. In response to the allegations contained in Paragraph 6 of the Amended Complaint, the Library District admits that it issued Plaintiff a “Notice of Trespass” and instructed him that he was not permitted to visit any Library District facilities for a period of one year. The Library District denies all remaining or inconsistent allegations contained in Paragraph 6.

7. In response to the allegations contained in Paragraph 7 of the Amended Complaint, the Library District denies all allegations.

8. In response to the allegations contained in Paragraph 8 of the Amended Complaint, the Library District denies all allegations.

## **2.0 JURISDICTION AND VENUE**

9. In response to the allegations contained in Paragraph 9 of the Amended Complaint, the Library District states that the allegations consist solely of legal conclusions to which no response is required; to the extent a response is required, the Library District denies the allegations.

10. In response to the allegations contained in Paragraph 10 of the Amended Complaint, the Library District states that the allegations consist solely of legal conclusions to which no response is required; to the extent a response is required, the Library District denies the allegations.

### **3.0 THE PARTIES**

11. In response to the allegations contained in Paragraph 11 of the Amended Complaint, the Library District denies that it acted unlawfully. The Library District further states that it is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 11 and, on that basis, denies them.

12. In response to the allegations contained in Paragraph 12 of the Amended Complaint, the Library District admits that it is a “public library” as defined in NRS 379.0057. The Library District further admits that it operates library facilities in Las Vegas and Clark County. The Library District further admits that it provides library services. The Library District denies all remaining or inconsistent allegations contained in Paragraph 12.

## 4.0 STANDING

13. In response to the allegations contained in Paragraph 13 of the Amended Complaint, the Library District denies that it acted unlawfully. The Library District further denies all remaining allegations contained in Paragraph 13.

14. In response to the allegations contained in Paragraph 14 of the Amended Complaint, the Library District denies that it has violated Plaintiff's rights under either the U.S. Constitution or the Nevada Constitution. The Library District further states that the allegation that "the requirements for Article III standing have been met" is a legal conclusion to which no response is required; to the extent a response is required, the Library District denies the allegation. The Library District denies all remaining or inconsistent allegations contained in Paragraph 14.

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## **5.0 FACTS COMMON TO ALL CLAIMS**

15. In response to the allegations contained in Paragraph 15 of the Amended Complaint, the Library District is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies them.

16. In response to the allegations contained in Paragraph 16 of the Amended Complaint, the Library District admits that the area outside of the East Entrance of the West Charleston Library (the “Plaza”) is “an aesthetically attractive, circular outdoor space of about 75 feet in diameter” with a bench and stone columns. The Library District further admits that the Plaza is approximately 5,000 square feet. The Library District denies all remaining or inconsistent allegations contained in Paragraph 16.

17. In response to the allegations contained in Paragraph 17 of the Amended Complaint, the Library District admits that the West Charleston Library is located on the CSN campus. The Library District states that the allegation that the entrance to the West Charleston Library is a “traditional public forum” is a legal conclusion to which no response is required; to the extent a response is required, the Library District denies the allegation. The Library District further denies all remaining or inconsistent allegations contained in Paragraph 17.

18. In response to the allegations contained in Paragraph 18 of the Amended Complaint, the Library District is without knowledge or information sufficient to form a belief as to the truth of the allegations and, on that basis, denies them.

19. In response to the allegations contained in Paragraph 19 of the Amended Complaint, the Library District is without knowledge or information sufficient to form a belief as to the truth of the allegations relating to Plaintiff's activities and, on that basis, denies them. The Library District denies that Plaintiff "positioned himself in a way that allowed him to interact with individuals coming into and out of the Library, but without blocking anyone's ingress or egress from the Library." The Library District further denies all remaining or inconsistent allegations contained in Paragraph 19.

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1       20. In response to the allegations contained in Paragraph 20 of the Amended Complaint,  
 2 the Library District is without knowledge or information sufficient to form a belief as to the truth of  
 3 the allegations and, on that basis, denies them.

4       21. In response to the allegations contained in Paragraph 21 of the Amended Complaint,  
 5 the Library District admits that Sam Kushner (“Mr. Kushner”) was the Assistant Branch Manager  
 6 for the West Charleston Library on October 13, 2016. The Library District further admits that Mr.  
 7 Kushner informed Plaintiff of the Library District’s *Petitioner & Voter Registration Guidelines* for  
 8 persons wishing to circulate petitions on Library District property, which includes “checking-in”  
 9 with Library District staff. The Library District denies all remaining or inconsistent allegations  
 10 contained in Paragraph 21.

11       22. In response to the allegations contained in Paragraph 22 of the Amended Complaint,  
 12 the Library District admits that Mr. Kushner informed Plaintiff of the Library District’s *Petitioner &*  
*Voter Registration Guidelines*. The Library District further admits that Mr. Kushner informed  
 13 Plaintiff of the area(s) the Library District has designated for petitioning activities in compliance  
 14 with NRS 293.127565. The Library District denies all remaining or inconsistent allegations  
 15 contained in Paragraph 22.

16       23. In response to the allegations contained in Paragraph 23 of the Amended Complaint,  
 17 the Library District admits that it has *Petitioner & Voter Registration Guidelines*. The Library  
 18 District further admits that it complies with NRS 293.127565(1), which requires that “an area must  
 19 be designated for the use of any person to gather signatures on a petition at any time that the building  
 20 is open to the public.” The Library District further admits that “[b]efore a person may use an area  
 21 designated pursuant to [NRS 293.127565(1)], the person must notify the public officer or employee  
 22 in control of the operation of the building governed by [NRS 293.127565(1)] of the dates and times  
 23 that the person intends to use the area to gather signatures on a petition.” The Library District denies  
 24 all remaining or inconsistent allegations contained in Paragraph 23.

25       24. In response to the allegations contained in Paragraph 24 of the Amended Complaint,  
 26 the Library District admits that the area designated pursuant to NRS 293.127565(1) is not marked on  
 27 the grounds of the West Charleston Library. The Library District further admits that the written  
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1 description provided to the Nevada Secretary of State of the area of the Plaza which has been  
2 designated pursuant to NRS 293.127565(1) states: "At the east entrance a the far edget of the center  
3 circle." The Library District denies all remaining or inconsistent allegations contained in Paragraph  
4 24.

5 25. In response to the allegations contained in Paragraph 25 of the Amended Complaint,  
6 the Library District denies all allegations.

7 26. In response to the allegations contained in Paragraph 26 of the Amended Complaint,  
8 the Library District admits that the area of the Plaza designated pursuant to NRS 293.127565(1) is  
9 approximately 65 feet from the doors and provides easy access to foot traffic. The Library District  
10 denies all remaining or inconsistent allegations contained in Paragraph 26.

11 27. In response to the allegations contained in Paragraph 27 of the Amended Complaint,  
12 the Library District admits that Mr. Kushner did not act arbitrarily or capriciously, but showed  
13 Plaintiff the area of the Plaza designated pursuant to NRS 293.127565(1), which has been used by  
14 other patrons engaging in petitioning or voter registration activities. The Library District denies all  
15 remaining or inconsistent allegations contained in Paragraph 27.

16 28. In response to the allegations contained in Paragraph 28 of the Amended Complaint,  
17 the Library District admits that Plaintiff refused to follow Mr. Kushner's reasonable instructions.  
18 The Library District further admits that Florence Jakus ("Ms. Jakus") was the Branch Manager for  
19 the West Charleston Library on October 13, 2016. The Library District further admits that Steve  
20 Dimoulas ("Mr. Dimoulas") was a librarian for the West Charleston Library on October 13, 2016.  
21 The Library District further admits that Ms. Jakus and Mr. Dimoulas showed Plaintiff the area of  
22 Plaza designated pursuant to NRS 293.127565(1). The Library District denies all remaining or  
23 inconsistent allegations contained in Paragraph 28.

24 29. In response to the allegations contained in Paragraph 29 of the Amended Complaint,  
25 the Library District admits that Ms. Jakus repeated the information Mr. Kushner had provided to  
26 Plaintiff and requested that Plaintiff check-in and relocate to the area of the Plaza designated  
27 pursuant to NRS 293.127565(1). The Library District denies all remaining or inconsistent  
28 allegations contained in Paragraph 29.

1       30.    In response to the allegations contained in Paragraph 30 of the Amended Complaint,  
2 the Library District admits that Plaintiff asserted that his actions were protected by the Constitution  
3 The Library District further admits that Plaintiff alleged that the Library District's actions violated  
4 his constitutional rights. The Library District denies all remaining or inconsistent allegations  
5 contained in Paragraph 30.

6       31.    In response to the allegations contained in Paragraph 31 of the Amended Complaint,  
7 the Library District admits the allegations.

8       32.    In response to the allegations contained in Paragraph 32 of the Amended Complaint,  
9 the Library District admits the allegations.

10       33.    In response to the allegations contained in Paragraph 33 of the Amended Complaint,  
11 the Library District admits that CSN Officer Antonia Summerlin ("Officer Summerlin") was one of  
12 the officers who responded to the Library District's call. The Library District is without knowledge  
13 or information sufficient to form a belief as to the truth of the allegations regarding Officer  
14 Summerlin's statements to Plaintiff and, on that basis, denies them. The Library District denies all  
15 remaining or inconsistent allegations contained in Paragraph 33.

16       34.    In response to the allegations contained in Paragraph 34 of the Amended Complaint,  
17 the Library District is without knowledge or information sufficient to form a belief as to the truth of  
18 the allegations regarding Plaintiff's statements to Officer Summerlin and, on that basis, denies them.  
19 The Library District denies all remaining or inconsistent allegations contained in Paragraph 34.

20       35.    In response to the allegations contained in Paragraph 35 of the Amended Complaint,  
21 the Library District admits that it issued Plaintiff a Notice of Trespass for failure to follow  
22 reasonable staff instructions, which included, but are not limited to, refusing to remove himself from  
23 a location that interfered with ingress and egress to and from the West Charleston Library. The  
24 Library District denies all remaining or inconsistent allegations contained in Paragraph 35.

25       36.    In response to the allegations contained in Paragraph 36 of the Amended Complaint,  
26 the Library District admits that the Notice of Trespass prohibits Plaintiff from visiting any Library  
27 District facility for a period of one year. The Library District denies all remaining or inconsistent  
28 allegations contained in Paragraph 36.

1       37. In response to the allegations contained in Paragraph 37 of the Amended Complaint,  
2 the Library District issued the Notice of Trespass pursuant to the Library Rules of Conduct, which  
3 forbid “failure to comply with reasonable staff instruction.” The Library District further admits that  
4 on October 13, 2016, a Notice of Trespass included a prohibition on visiting any Library District  
5 facility for a period up to one year. The Library District denies all remaining or inconsistent  
6 allegations contained in Paragraph 37.

7       38.     In response to the allegations contained in Paragraph 38 of the Amended Complaint,  
8 the Library District is without knowledge or information sufficient to form a belief as to the truth of  
9 the allegations regarding Officer Summerlin's statements to Plaintiff and, on that basis, denies them.  
10 The Library District denies all remaining or inconsistent allegations contained in Paragraph 38.

11           39.     In response to the allegations contained in Paragraph 39 of the Amended Complaint,  
12 the Library District denies all allegations contained.

13        40.      In response to the allegations contained in Paragraph 40 of the Amended Complaint,  
14 the Library District denies all allegations.

15        41.      In response to the allegations contained in Paragraph 41 of the Amended Complaint,  
16 the Library District denies all allegations.

17       42.     In response to the allegations contained in Paragraph 42 of the Amended Complaint,  
18 the Library District is without knowledge or information sufficient to form a belief as to the truth of  
19 the allegations related to Plaintiff's reasons for his actions and, on that basis, denies them. The  
20 Library District denies all remaining or inconsistent allegations contained in Paragraph 42.

## 6.0 CLAIMS FOR RELIEF

## 6.1 First Claim for Relief

**Violation of the First Amendment to the United States Constitution  
under 42 U.S.C. § 1983  
(Free Speech)**

25       43.     In response to the allegations contained in Paragraph 43 of the Amended Complaint,  
26 the Library District realleges and incorporates by reference the above paragraphs, as though fully set  
27 forth herein.

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1       44. In response to the allegations contained in Paragraph 44 of the Amended Complaint,  
2 the Library District is without knowledge or information sufficient to form a belief as to the truth of  
3 the allegations that Plaintiff “gathered signatures to petition the government” and “instructed citizens  
4 how to register to vote,” and on that basis, denies them. The Library District further states that the  
5 allegation that “[t]he plaza adjacent to the Library . . . is a traditional public forum which affords the  
6 greatest First Amendment protections” is a legal conclusion to which no response is required; to the  
7 extent a response is required, the Library District denies the allegations. The Library District denies  
8 all remaining or inconsistent allegations contained in Paragraph 44.

9       45. In response to the allegations contained in Paragraph 45 of the Amended Complaint,  
10 the Library District states that the allegations in Paragraph 45 consist entirely of legal conclusions to  
11 which no response is required; to the extent a response is required, the Library District denies the  
12 allegations. The Library District denies all remaining or inconsistent allegations contained in  
13 Paragraph 45.

14       46. In response to the allegations contained in Paragraph 46 of the Amended Complaint,  
15 the Library District states that the allegations in Paragraph 46 consist entirely of legal conclusions to  
16 which no response is required; to the extent a response is required, the Library District denies the  
17 allegations. The Library District denies all remaining or inconsistent allegations contained in  
18 Paragraph 46.

19       47. In response to the allegations contained in Paragraph 47 of the Amended Complaint,  
20 the Library District states that the allegations in Paragraph 47 consist entirely of legal conclusions to  
21 which no response is required; to the extent a response is required, the Library District denies the  
22 allegations. The Library District denies all remaining or inconsistent allegations contained in  
23 Paragraph 47.

24       48. In response to the allegations contained in Paragraph 48 of the Amended Complaint,  
25 the Library District states that the allegations in Paragraph 48 consist entirely of legal conclusions to  
26 which no response is required; to the extent a response is required, the Library District denies the  
27 allegations. The Library District denies all remaining or inconsistent allegations contained in  
28 Paragraph 48.

1       49. In response to the allegations contained in Paragraph 49 of the Amended Complaint,  
2 the Library District states that the allegations in Paragraph 49 consist entirely of legal conclusions to  
3 which no response is required; to the extent a response is required, the Library District denies the  
4 allegations. The Library District denies all remaining or inconsistent allegations contained in  
5 Paragraph 49.

6       50. In response to the allegations contained in Paragraph 50 of the Amended Complaint,  
7 the Library District denies the allegation that it “leav[es] the decision of whether to allow a person to  
8 engage in petitioning activity on Library grounds to the sole discretion of Library staff without any  
9 guiding principles or standards.” The Library District further denies that it violated Plaintiff’s rights.  
10 The Library District states that the remaining allegations in Paragraph 50 consist entirely of legal  
11 conclusions to which no response is required; to the extent a response is required, the Library  
12 District denies the allegations. The Library District denies all remaining or inconsistent allegations  
13 contained in Paragraph 50.

14       51. In response to the allegations contained in Paragraph 51 of the Amended Complaint,  
15 the Library District states that the allegations in Paragraph 51 consist entirely of legal conclusions to  
16 which no response is required; to the extent a response is required, the Library District denies the  
17 allegations. The Library District denies all remaining or inconsistent allegations contained in  
18 Paragraph 51.

19       52. In response to the allegations contained in Paragraph 52 of the Amended Complaint,  
20 the Library District denies that it issued Plaintiff a Notice of Trespass for engaging in  
21 constitutionally protected activities. The Library District further denies that it violated Plaintiff’s  
22 rights. The Library District further denies that the Notice of Trespass affects any library that is not  
23 part of the Library District. The Library District further states that the remaining allegations in  
24 Paragraph 52 consist entirely of legal conclusions to which no response is required; to the extent a  
25 response is required, the Library District denies the allegations. The Library District denies all  
26 remaining or inconsistent allegations contained in Paragraph 52.

27       53. In response to the allegations contained in Paragraph 53 of the Amended Complaint,  
28 the Library District states that the allegations in Paragraph 53 consist entirely of legal conclusions to

which no response is required; to the extent a response is required, the Library District denies the allegations. The Library District denies all remaining or inconsistent allegations contained in Paragraph 53.

54. In response to the allegations contained in Paragraph 54 of the Amended Complaint, the Library District denies all allegations.

## **6.2 SECOND CLAIM FOR RELIEF**

### **Violation of Nevada Const., Art. 1, § 9. (Free Speech)**

55. In response to the allegations contained in Paragraph 55 of the Amended Complaint, the Library District realleges and incorporates by reference the above paragraphs, as though fully set forth herein.

56. In response to the allegations contained in Paragraph 56 of the Amended Complaint, the Library District is without knowledge or information sufficient to form a belief as to the truth of the allegations that Plaintiff “gathered signatures to petition the government” and “instructed citizens how to register to vote,” and on that basis, denies them. The Library District further states that the allegation that “[t]he plaza adjacent to the Library . . . is a traditional public forum which affords the greatest degree of protection under Art. 1, § 9 of the Nevada Constitution” is a legal conclusion to which no response is required; to the extent a response is required, the Library District denies the allegations. The Library District denies all remaining or inconsistent allegations contained in Paragraph 56.

57. In response to the allegations contained in Paragraph 57 of the Amended Complaint, the Library District states that the allegations in Paragraph 57 consist entirely of legal conclusions to which no response is required; to the extent a response is required, the Library District denies the allegations. The Library District denies all remaining or inconsistent allegations contained in Paragraph 57.

58. In response to the allegations contained in Paragraph 58 of the Amended Complaint, the Library District states that the allegations in Paragraph 58 consist entirely of legal conclusions to which no response is required; to the extent a response is required, the Library District denies the

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1 allegations. The Library District denies all remaining or inconsistent allegations contained in  
2 Paragraph 58.

3 59. In response to the allegations contained in Paragraph 59 of the Amended Complaint,  
4 the Library District states that the allegations in Paragraph 59 consist entirely of legal conclusions to  
5 which no response is required; to the extent a response is required, the Library District denies the  
6 allegations. The Library District denies all remaining or inconsistent allegations contained in  
7 Paragraph 59.

8 60. In response to the allegations contained in Paragraph 60 of the Amended Complaint,  
9 the Library District states that the allegations in Paragraph 60 consist entirely of legal conclusions to  
10 which no response is required; to the extent a response is required, the Library District denies the  
11 allegations. The Library District denies all remaining or inconsistent allegations contained in  
12 Paragraph 60.

13 61. In response to the allegations contained in Paragraph 61 of the Amended Complaint,  
14 the Library District states that the allegations in Paragraph 61 consist entirely of legal conclusions to  
15 which no response is required; to the extent a response is required, the Library District denies the  
16 allegations. The Library District denies all remaining or inconsistent allegations contained in  
17 Paragraph 61.

18 62. In response to the allegations contained in Paragraph 62 of the Amended Complaint,  
19 the Library District denies the allegation that it “leav[es] the decision of whether to allow a person to  
20 engage in petitioning activity on Library grounds to the sole discretion of Library staff without any  
21 guiding principles or standards.” The Library District further denies that it violated Plaintiff’s rights.  
22 The Library District states that the remaining allegations in Paragraph 62 consist entirely of legal  
23 conclusions to which no response is required; to the extent a response is required, the Library  
24 District denies the allegations. The Library District denies all remaining or inconsistent allegations  
25 contained in Paragraph 62.

26 63. In response to the allegations contained in Paragraph 63 of the Amended Complaint,  
27 the Library District denies that it issued Plaintiff a Notice of Trespass for engaging in  
28 constitutionally protected activities. The Library District further denies that it violated Plaintiff’s

1 rights. The Library District further states that the remaining allegations in Paragraph 63 consist  
 2 entirely of legal conclusions to which no response is required; to the extent a response is required,  
 3 the Library District denies the allegations. The Library District denies all remaining or inconsistent  
 4 allegations contained in Paragraph 63.

5 64. In response to the allegations contained in Paragraph 64 of the Amended Complaint,  
 6 the Library District denies that it issued Plaintiff a Notice of Trespass for engaging in  
 7 constitutionally protected activities. The Library District further denies that it violated Plaintiff's  
 8 rights. The Library District further denies that the Notice of Trespass affects any library that is not  
 9 part of the Library District. The Library District further states that the remaining allegations in  
 10 Paragraph 64 consist entirely of legal conclusions to which no response is required; to the extent a  
 11 response is required, the Library District denies the allegations. The Library District denies all  
 12 remaining or inconsistent allegations contained in Paragraph 64.

13 65. In response to the allegations contained in Paragraph 65 of the Amended Complaint,  
 14 the Library District denies all allegations.

15 66. In response to the allegations contained in Paragraph 66 of the Amended Complaint,  
 16 the Library District denies all allegations.

17 **6.3 THIRD CLAIM FOR RELIEF**  
 18 **Violation of the Fourteenth Amendment to the United States Constitution**  
 19 **Under 42 U.S.C. § 1983**  
**(Due Process)**

20 67. In response to the allegations contained in Paragraph 67 of the Amended Complaint,  
 21 the Library District realleges and incorporates by reference the above paragraphs, as though fully set  
 22 forth herein.

23 68. In response to the allegations contained in Paragraph 68 of the Amended Complaint,  
 24 the Library District states that the allegations in Paragraph 68 consist entirely of legal conclusions to  
 25 which no response is required; to the extent a response is required, the Library District denies the  
 26 allegations. The Library District denies all remaining or inconsistent allegations contained in  
 27 Paragraph 68.

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1       69.     In response to the allegations contained in Paragraph 69 of the Amended Complaint,  
2 the Library District states that the allegations in Paragraph 69 consist entirely of legal conclusions to  
3 which no response is required; to the extent a response is required, the Library District denies the  
4 allegations. The Library District denies all remaining or inconsistent allegations contained in  
5 Paragraph 69.

6           70.     In response to the allegations contained in Paragraph 70 of the Amended Complaint,  
7 the Library District denies all allegations.

## **6.4 FOURTH CLAIM FOR RELIEF**

### **Violation of Nevada Const., Art. 1, § 8 (Due Process)**

11       71.     In response to the allegations contained in Paragraph 71 of the Amended Complaint,  
12 the Library District realleges and incorporates by reference the above paragraphs, as though fully set  
13 forth herein.

14       72.     In response to the allegations contained in Paragraph 72 of the Amended Complaint,  
15 the Library District states that the allegations in Paragraph 72 consist entirely of legal conclusions to  
16 which no response is required; to the extent a response is required, the Library District denies the  
17 allegations. The Library District denies all remaining or inconsistent allegations contained in  
18 Paragraph 72.

19       73.     In response to the allegations contained in Paragraph 73 of the Amended Complaint,  
20 the Library District states that the allegations in Paragraph 73 consist entirely of legal conclusions to  
21 which no response is required; to the extent a response is required, the Library District denies the  
22 allegations. The Library District denies all remaining or inconsistent allegations contained in  
23 Paragraph 73.

24       74.     In response to the allegations contained in Paragraph 74 of the Amended Complaint,  
25     the Library District denies all allegations.

26       75.     The Library District denies that Plaintiff is entitled to the relief sought in the Prayer  
27 for Relief or to any relief whatsoever against the Library District.

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76. The Library District denies each and every allegation not expressly admitted above.

And now, having answered Plaintiff's Amended Complaint, the Library District sets forth its affirmative defenses as follows:

## **FIRST AFFIRMATIVE DEFENSE**

Plaintiff failed to exhaust his administrative remedies under NRS 293.127565.

## **SECOND AFFIRMATIVE DEFENSE**

Pursuant to NRS 293.127565, which dictates that claims shall be heard in Nevada's First Judicial District Court, the Court is without jurisdiction over the subject matter of this action.

### **THIRD AFFIRMATIVE DEFENSE**

Plaintiff's Amended Complaint fails to set forth facts sufficient to state a claim upon which relief may be granted against the Library District and further fails to entitle Plaintiff to the relief sought, or to any relief whatsoever from the Library District.

#### **FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations and/or statutes of repose, including, but not limited to, NRS 293.127565.

## **FIFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, by the equitable doctrine of laches.

## SIXTH AFFIRMATIVE DEFENSE

Plaintiff's claims against the Library District are barred, in whole or in part, by the equitable doctrine of waiver.

## SEVENTH AFFIRMATIVE DEFENSE

Plaintiff's claims against the Library District are barred, in whole or in part, by the equitable doctrine of estoppel.

## EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims against the Library District are barred, in whole or in part, by the equitable doctrine of unclean hands

## **NINTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, by Plaintiff's own acts, omissions, and other unlawful conduct.

## **TENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, by Plaintiff's own intentional and/or negligent conduct.

## **ELEVENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, because, at all times and places mentioned in the Amended Complaint, the Library District's actions were justified.

## **TWELFTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, because, at all times and places mentioned in the Amended Complaint, the Library District's actions were privileged.

### **THIRTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, because, at all times and places mentioned in the Amended Complaint, the Library District acted in a manner authorized and/or required by law.

#### **FOURTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, by the doctrine of release.

## **FIFTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims against the Library District are barred, in whole or in part, because Plaintiff's injuries, if any, were not legally or proximately caused by any acts or omissions of the Library District, but were instead caused by the police.

## SIXTEENTH AFFIRMATIVE DEFENSE

The Library District has performed and fully discharged all legal obligations to Plaintiff, including meeting the requisite standard of care to which Plaintiff was entitled.

## **SEVENTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's damages, if any, are less than the jurisdictional limit of this Court, and the Court is without jurisdiction over the subject matter of this action.

## **EIGHTEENTH AFFIRMATIVE DEFENSE**

Plaintiff's claims are barred, in whole or in part, by the contributory and/or comparative negligence, fault, and/or want of due care by Plaintiff, and, therefore, Plaintiff may not recover damages or any recoverable damages must be reduced in proportion to the amount of negligence attributable to Plaintiff.

## **NINETEENTH AFFIRMATIVE DEFENSE**

Plaintiff has failed to state a cause of action for the recovery of attorney's fees.

## **TWENTIETH AFFIRMATIVE DEFENSE**

Plaintiff's claims for punitive damages are in violation of constitutional guarantees of due process, equal protection, and/or the prohibition on excessive fines.

## **TWENTY-FIRST AFFIRMATIVE DEFENSE**

Pursuant to the Nevada Rules of Civil Procedure, the Library District reserves the right to assert, and gives notice that it intends to rely upon, any other affirmative defenses that may become available or appear during discovery proceedings or otherwise in this case, and reserves the right to amend its Answer to assert any such additional affirmative defenses.

## **TWENTY-SECOND AFFIRMATIVE DEFENSE**

The Library District has not yet completed a thorough investigation and study of all facts and circumstances of the subject matter of the Amended Complaint, and accordingly, reserves the right to amend, modify, revise, or supplement its Answer, and to plead such further defenses and take such further actions as it deems proper and necessary in its defense upon the completion of said investigation and study. .

## **TWENTY-THIRD AFFIRMATIVE DEFENSE**

Plaintiff has failed to join or notify a necessary and/or indispensable party.

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## **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's recovery is barred, in whole or in part, by his failure to mitigate any damages and/or injuries allegedly sustained.

WHEREFORE, the Library District prays for judgment against Plaintiff as follows:

1. That Plaintiff's claims for relief be dismissed with prejudice and that Plaintiff takes nothing thereby;

2. For an award of costs and attorney's fees incurred in the defense of this action, as  
may be permitted by law; and

3. For such other and further relief as the Court deems just and proper.

**DEMAND FOR JURY TRIAL**

Pursuant to Federal Rule of Civil Procedure 38, the Library District demands a trial by jury of all triable issues in the above-captioned action.

DATED this 10th day of March, 2017.

BAILEY♦KENNEDY

By: /s/ Dennis L. Kennedy  
DENNIS L. KENNEDY  
KELLY B. STOUT

*Attorneys for Defendants*  
LAS VEGAS-CLARK COUNTY  
LIBRARY DISTRICT and  
RONALD R. HEEZEN

**CERTIFICATE OF SERVICE**

I certify that I am an employee of BAILEY♦KENNEDY and that on the 10th day of March, 2017, service of the foregoing **DEFENDANT LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT'S ANSWER TO AMENDED COMPLAINT** was made by mandatory electronic service through the United States District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

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