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5 SANTA CRUZ METROPOLITAN TRANSIT DISTRICT

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8 UNITED STATES DISTRICT COURT

9 NORTHERN DISTRICT OF CALIFORNIA (SAN JOSE DIVISION)

10 DEBORAH A. LANE and JOSHUA E. LOYA,)
11 Plaintiffs,)
12 v.)
13 SANTA CRUZ METROPOLITAN TRANSIT)
DISTRICT, a political subdivision of the State of)
14 California,)
15 Defendant.)

CASE NO. C 02-01808 RMW HRL EAI
ADR
**DEFENDANT SANTA CRUZ
METROPOLITAN TRANSIT
DISTRICT'S ANSWER TO FIRST
AMENDED COMPLAINT**

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19 **Action Filed: April 16, 2002**
Trial Date: Not Set

20 Defendant Santa Cruz Metropolitan Transit District ("Metro") hereby answers
21 Plaintiffs' First Amended Complaint as follows:

22 1. In response to Paragraph 1 of Plaintiffs' First Amended Complaint, Metro
23 denies that the plaintiffs have been, are being or will be denied nondiscriminatory, safe
24 access to bus service operated by Metro. Metro is without sufficient knowledge or
25 information to form a belief as to the truth of the remaining allegations contained in said
26 paragraph, and on that basis denies each and every remaining allegation.

27 2. In response to Paragraph 2 of the First Amended Complaint, Metro denies
28 each and every allegation contained therein.

DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

1 3. In response to Paragraph 3 of the First Amended Complaint, Metro denies
2 each and every allegation contained therein.

3 4. In response to Paragraph 4 of the First Amended Complaint, Metro admits
4 that this Court has subject matter of jurisdiction over portions of this action pursuant to 28
5 U.S.C. §1331 and §1344; 42 U.S.C. §12133; 29 U.S.C. §794a, and further admits that the
6 Court has authority to grant declaratory and other relief pursuant in the appropriate
7 circumstances under 28 U.S.C. Sections 2201 and 2202. Metro denies all of the
8 remaining allegations of Paragraph 4.

9 5. In response to Paragraph 5 of the First Amended Complaint, Metro admits
10 that venue is proper within this district for all causes of action under Federal Law.

11 6. In response to Paragraph 6 of the First Amended Complaint, Metro admits
12 the allegations of Paragraph 6.

13 7. In response to Paragraph 7 of the First Amended Complaint, Metro is
14 without sufficient knowledge or information to form a belief as to the truth of the
15 allegations contained in said paragraph, and on that basis denies each and every
16 allegation contained therein.

17 8. In response to Paragraph 8 of the First Amended Complaint, Metro is
18 without sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and on that basis denies each and every
20 allegation contained therein.

21 9. In response to Paragraph 9 of the First Amended Complaint, Metro is
22 without sufficient knowledge or information to form a belief as to the truth of the
23 allegations contained in said paragraph, and on that basis denies each and every
24 allegation contained therein.

25 10. In response to Paragraph 10 of the First Amended Complaint, Metro is
26 without sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained in said paragraph, and on that basis denies each and every
28 allegation contained therein.

DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

1 11. In response to Paragraph 11 of the First Amended Complaint, Metro is
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph, and on that basis denies each and every
4 allegation contained therein.

5 12. In response to Paragraph 12 of the First Amended Complaint, Metro is
6 without sufficient knowledge or information to form a belief as to the truth of the
7 allegations contained in said paragraph, and on that basis denies each and every
8 allegation contained therein.

9 13. In response to Paragraph 13 of the First Amended Complaint, Metro admits
10 the allegations of Paragraph 13.

11 14. In response to Paragraph 14 of the First Amended Complaint, Metro is
12 without sufficient knowledge or information to form a belief as to the truth of the
13 allegations contained in said paragraph, and on that basis denies each and every
14 allegation contained therein.

15 15. In response to Paragraph 15 of the First Amended Complaint, Metro denies
16 all allegations contained therein.

17 16. In response to Paragraph 16 of the First Amended Complaint, Metro is
18 without sufficient knowledge or information to form a belief as to the truth of the
19 allegations contained in said paragraph, and on that basis denies each and every
20 allegation contained therein.

21 17. In response to Paragraph 17 of the First Amended Complaint, without
22 admitting the applicability of any federal regulations, Metro admits that a federal regulation
23 purports to require that Metro announce bus stops at transfer points with other fixed
24 routes, other major intersections and destination point, and intervals along a route
25 sufficient to permit individuals with visual impairments or other disabilities to be oriented to
26 their location.

27 18. In response to Paragraph 18 of the First Amended Complaint, without
28 admitting the applicability of any federal regulations, Metro admits that a federal regulation

DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

1 purports to require that where buses for more than one route serve the same stop, a
2 means by which an individual with a visual impairment or other disability can identify the
3 proper vehicle to enter or be identified to the vehicle operator as a person seeking a ride
4 on a particular route should be provided.

5 19. In response to Paragraph 19 of the First Amended Complaint, Metro
6 responds that the allegations constitute conclusions of law and on that basis Metro denies
7 each and every allegation contained therein.

8 20. In response to Paragraph 20 of the First Amended Complaint, Metro is
9 without sufficient knowledge or information to form a belief as to the truth of the
10 allegations contained in said paragraph and on that basis denies each and every
11 allegation contained therein.

12 21. In response to Paragraph 21 of the First Amended Complaint, Metro is
13 without sufficient knowledge or information to form a belief as to the truth of the
14 allegations contained in paragraphs 21a, 21b and 21c of the Plaintiff's First Amended
15 Complaint, and on that basis denies each and every allegation contained therein. Metro
16 denies the remaining allegations in Paragraph 21 of the Plaintiff's First Amended
17 Complaint.

18 22. In response to Paragraph 22 of the First Amended Complaint, Metro is
19 without sufficient knowledge or information to form a belief as to the truth of the
20 allegations contained in said paragraph, and on that basis denies each and every
21 allegation contained therein.

22 23. In response to Paragraph 23 of the First Amended Complaint, Metro denies
23 each and every allegation contained therein.

24 24. In response to Paragraph 24 of the First Amended Complaint, Metro admits
25 that Plaintiff, Deborah Lane, has met with Metro officials to discuss asserted deficiencies
26 in defendant's system of public transportation. Metro denies all remaining allegations in
27 Paragraph 24 of the First Amended Complaint.

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1 25. In response to Paragraph 25 of the First Amended Complaint, Metro is
2 without sufficient knowledge or information to form a belief as to the truth of the
3 allegations contained in said paragraph and on that basis denies each and every
4 allegation contained therein.

5 26. In response to Paragraph 26 of the First Amended Complaint, Metro denies
6 each and every allegation contained therein.

7 27. In response to Paragraph 27 of the First Amended Complaint, Metro denies
8 each and every allegation contained therein.

9 28. In response to Paragraph 28 of the First Amended Complaint, Metro denies
10 each and every allegation contained therein.

11 29. In response to Paragraph 29 of the First Amended Complaint, Metro denies
12 each and every allegation contained therein.

13 30. In response to Paragraph 30 of the First Amended Complaint, Metro denies
14 each and every allegation contained therein.

15 31. In response to Paragraph 31 of the First Amended Complaint, Metro denies
16 that its services, programs and activities contain any discriminatory barriers. As to the
17 remaining allegations in Paragraph 31 of the Plaintiff's First Amended Complaint, Metro is
18 without sufficient knowledge or information to form a belief as to the truth of the remaining
19 allegations contained in said paragraph, and on that basis denies each and every
20 remaining allegation contained therein.

21 32. In response to Paragraph 32 of the Plaintiff's First Amended Complaint,
22 Metro admits the allegations contained therein.

23 33. In response to Paragraph 33 of the First Amended Complaint, Metro denies
24 each and every allegation contained therein.

25 34. In response to Paragraph 34 of the First Amended Complaint, Metro is
26 without sufficient knowledge or information to form a belief as to the truth of the
27 allegations contained therein, and on that basis denies each and every allegation
28 contained therein.

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1 35. In response to Paragraph 35 of the First Amended Complaint, Metro
2 reasserts the admissions and/or denials previously set forth in Paragraphs 1-34 as though
3 fully set forth herein.

4 36. In response to Paragraph 36 of the First Amended Complaint, Metro alleges
5 that Paragraph 36 contains only statutory references and paraphrases thereof and that
6 therefore Metro is not required to respond.

7 37. In response to Paragraph 37 of the First Amended Complaint, Metro is
8 without sufficient knowledge or information to form a belief as to the truth of the
9 allegations contained in said paragraph and on that basis denies each and every
10 allegation contained therein.

11 38. In response to Paragraph 38 of the First Amended Complaint, Metro admits
12 the allegations contained therein.

13 39. In response to Paragraph 39 of the First Amended Complaint, Metro denies
14 each and every allegation contained therein.

15 40. In response to Paragraph 40 of the First Amended Complaint, Metro denies
16 each and every allegation contained therein.

17 41. In response to Paragraph 41 of the First Amended Complaint, Metro denies
18 each and every allegation contained therein.

19 42. In response to Paragraph 42 of the First Amended Complaint, Metro
20 reasserts the admissions and/or denials previously set forth in Paragraphs 1-41 as though
21 fully set forth herein.

22 43. In response to Paragraph 43 of the First Amended Complaint, Metro alleges
23 that Paragraph 43 contains only statutory references and paraphrases thereof and that
24 Metro is therefore not required to respond.

25 44. In response to Paragraph 44 of the First Amended Complaint, Metro admits
26 to all allegations contained therein.

27 45. In response to Paragraph 45 of the First Amended Complaint, Metro denies
28 each and every allegation contained therein.

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1 46. In response to Paragraph 46 of the First Amended Complaint, Metro denies
2 each and every allegation contained therein.

3 47. In response to Paragraph 47 of the First Amended Complaint, Metro denies
4 each and every allegation contained therein.

5 48. In response to Paragraph 48 of the First Amended Complaint, Metro
6 reasserts the admissions and/or denials previously set forth in Paragraphs 1-47 as though
7 fully set forth herein.

8 49. In response to Paragraph 49 of the First Amended Complaint, Metro denies
9 each and every allegation contained therein.

10 50. In response to Paragraph 50 of the First Amended Complaint, Metro denies
11 each and every allegation contained therein.

12 51. In response to Paragraph 51 of the Plaintiff's First Amended Complaint,
13 Metro alleges that Paragraph 51 contains only statutory references and paraphrases
14 thereof and that Metro is therefore not required to respond.

15 52. In response to Paragraph 52 of the First Amended Complaint, Metro denies
16 each and every allegation contained therein.

17 53. In response to Paragraph 53 of the First Amended Complaint, Metro denies
18 each and every allegation contained therein.

19 54. In response to Paragraph 54 of the First Amended Complaint, Metro denies
20 each and every allegation contained therein.

21 55. In response to Paragraph 55 of the First Amended Complaint, Metro
22 reasserts the admissions and/or denials previously set forth in Paragraphs 1-54 as though
23 fully set forth herein.

24 56. In response to Paragraph 56 of the First Amended Complaint, Metro admits
25 that it operates transportation made available to the general public and that Metro is within
26 the jurisdiction of the State of California. Metro denies each and every remaining
27 allegation of Paragraph 56.

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1 57. In response to Paragraph 57 of the First Amended Complaint, Metro alleges
2 that Paragraph 57 contains only statutory references and paraphrases thereof and that
3 Metro is therefore not required to respond.

4 58. In response to Paragraph 58 of the First Amended Complaint, Metro alleges
5 that Paragraph 58 contains only statutory references and paraphrases thereof and that
6 Metro is therefore not required to respond.

7 59. In response to Paragraph 59 of the First Amended Complaint, Metro denies
8 each and every allegation contained therein.

9 60. In response to Paragraph 60 of the First Amended Complaint, Metro denies
10 each and every allegation contained therein.

11 61. In response to Paragraph 61 of the First Amended Complaint, Metro denies
12 each and every allegation contained therein.

13 62. In response to Paragraph 62 of the First Amended Complaint, Metro denies
14 each and every allegation contained therein.

15 63. In response to Paragraph 63 of the First Amended Complaint, Metro
16 reasserts the admissions and/or denials previously set forth in Paragraphs 1-62as though
17 fully set forth herein.

18 64. In response to Paragraph 64 of the First Amended Complaint, Metro alleges
19 that Paragraph 64 contains only statutory references and paraphrases thereof and that
20 Metro is therefore not required to respond.

21 65. In response to Paragraph 65 of the First Amended Complaint, Metro is
22 without sufficient knowledge or information to form a belief as to the truth of the
23 allegations contained therein, and on that basis denies each and every allegation
24 contained therein.

25 66. In response to Paragraph 66 of the First Amended Complaint, Metro admits
26 all allegations contained therein.

27 67. In response to Paragraph 67 of the First Amended Complaint, Metro denies
28 each and every allegation contained therein.

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1 68. In response to Paragraph 68 of the First Amended Complaint, Metro alleges
2 that Paragraph 68 contains only statutory references and paraphrases thereof and that
3 Metro is therefore not required to respond.

4 69. In response to Paragraph 69 of the First Amended Complaint, Metro alleges
5 that Paragraph 69 contains only statutory references and paraphrases thereof and that
6 Metro is therefore not required to respond.

7 70. In response to Paragraph 70 of the First Amended Complaint, Metro denies
8 each and every allegation contained therein.

9 71. In response to Paragraph 71 of the First Amended Complaint, Metro denies
10 each and every allegation contained therein.

11 **AFFIRMATIVE DEFENSES**

12 **FIRST AFFIRMATIVE DEFENSE**

13 AS AND FOR A FIRST AFFIRMATIVE DEFENSE, to the First Amended Complaint
14 and each claim for relief contained therein, Metro alleges that plaintiff's First Amended
15 Complaint fails to state facts sufficient to constitute a claim for relief upon a claim upon
16 which relief may be granted.

17 **SECOND AFFIRMATIVE DEFENSE**

18 AS AND FOR A SECOND AFFIRMATIVE DEFENSE to the First Amended
19 Complaint and each claim for relief contained therein, Metro alleges that Plaintiffs are
20 barred from recovery by virtue of the applicable statutes of limitations.

21 **THIRD AFFIRMATIVE DEFENSE**

22 AS AND FOR A THIRD AFFIRMATIVE DEFENSE to the First Amended Complaint
23 and each claim for relief contained therein, Metro alleges that Plaintiffs' recovery is barred
24 by the equitable doctrine of laches.

25 **FOURTH AFFIRMATIVE DEFENSE**

26 AS AND FOR A FOURTH AFFIRMATIVE DEFENSE to the First Amended
27 Complaint and each claim for relief contained therein, Metro alleges that Plaintiffs'
28 recovery is barred by the doctrine of waiver.

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1 FIFTH AFFIRMATIVE DEFENSE

2 AS AND FOR A FIFTH AFFIRMATIVE DEFENSE to the First Amended Complaint
3 and each claim for relief contained therein, Metro alleges that Plaintiffs' recovery is barred
4 by the doctrine of estoppel.

5 SIXTH AFFIRMATIVE DEFENSE

6 AS AND FOR A SIXTH AFFIRMATIVE DEFENSE to the First Amended Complaint
7 and each claim for relief contained therein, Metro alleges that Plaintiffs' recovery is barred
8 by the doctrine of unclean hands.

9 SEVENTH AFFIRMATIVE DEFENSE

10 AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE to the First Amended
11 Complaint and each claim for relief contained therein, Metro alleges that some or all of
12 Plaintiffs' claims are barred by the doctrine of governmental immunity.

13 EIGHTH AFFIRMATIVE DEFENSE

14 AS AND FOR A NINTH AFFIRMATIVE DEFENSE to the First Amended Complaint
15 and each claim for relief contained therein, Metro asserts that it is in substantial
16 compliance with all applicable federal and state regulations pertaining to the rights of
17 individuals with disabilities.

18 WHEREFORE, Metro prays for judgment as follows:

- 19 1. That Plaintiffs take nothing by virtue of the First Amended Complaint on file
20 herein;
- 21 2. That Judgment be entered in Metro's favor;
- 22 3. That Metro be awarded its fees and costs in this matter;
- 23 4. For such other and further relief as the Court deems just and proper.

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DEFENDANT'S ANSWER TO PLAINTIFF'S FIRST AMENDED COMPLAINT

DEMAND FOR JURY TRIAL

Defendant SANTA CRUZ METROPOLITAN TRANSIT DISTRICT demands a trial by jury on all appropriate issues.

DATED: November 25, 2002

Respectfully submitted,

RIVKIN RADLER LLP

By: s/ D. Douglas Shureen
D. Douglas Shureen
Attorneys for Defendant
SANTA CRUZ METROPOLITAN
TRANSIT DISTRICT

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