

1 COUNTY OF LOS ANGELES  
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**LOS ANGELES  
SUPERIOR COURT**  
Public Agency - No Filing Fee Required  
Gov. Code § 6103

9  
10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 FOR THE COUNTY OF LOS ANGELES

12 JOE ORONOZ, LARRY PITTS, CRAIG  
13 KAUFMAN, and CHERYL KAUFMAN as  
individuals and on behalf of all other similarly  
14 situated "PERSONS" of Unincorporated Los  
Angeles County,

15 Plaintiffs,

16 vs.

17 THE COUNTY OF LOS ANGELES; and  
DOES 1-1000 inclusive,

18 Defendants.

) Master File No.: BC 334027  
) [Consolidated with BC 334145]  
) [Assigned to Hon. Emilie H. Elias]

) **ANSWER TO FIRST AMENDED CLASS  
ACTION COMPLAINT**

) Date Action Filed: May 27, 2005  
) Trial Date: Not Set

19  
20 Defendant County of Los Angeles, for its answer to the first amended class  
21 action complaint herein, admits, denies and alleges as follows:

22 1. Pursuant to Code of Civil Procedure section 431.30(d), defendant  
23 generally denies each and every allegation in the first amended class action complaint.

24 AS AND FOR ITS AFFIRMATIVE DEFENSES, DEFENDANT ALLEGES AS FOLLOWS:

25 **First Affirmative Defense**

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

27 2. As to all causes of action, plaintiffs fail to state facts sufficient to constitute  
28 a cause of action against this defendant.

1 **Second Affirmative Defense**

2 **(Res Judicata / Collateral Estoppel)**

3 3. All causes of action are barred in whole or in part by the judgment in  
4 *Howard Jarvis Taxpayers Association v. The County of Los Angeles et al.*, LASC Case No. BC  
5 021327.

6 **Third Affirmative Defense**

7 **(Estoppel)**

8 4. All causes of action are barred in whole or in part by estoppel. Plaintiffs  
9 permitted the collection of the UUT for fifteen years and failed to act promptly before the funds  
10 collected were transferred to and expended by the defendant County for numerous public  
11 purposes, and the defendant County received and expended such funds, and was lulled into  
12 taking no independent steps to validate the UUT, in good faith reliance upon the judgment in  
13 *Howard Jarvis Taxpayers Association v. The County of Los Angeles*, LASC Case No. BC  
14 021327.

15 **Fourth Affirmative Defense**

16 **(Waiver)**

17 5. All causes of action are barred in whole or in part by waiver. Plaintiffs  
18 permitted the collection of the UUT for fifteen years and failed to act promptly before the funds  
19 collected were transferred to and expended by the defendant County for numerous public  
20 purposes.

21 **Fifth Affirmative Defense**

22 **(Failure to Mitigate Damages)**

23 6. All causes of action are barred in whole or in part by plaintiffs' failure to  
24 reasonably mitigate their damages.

25 **Sixth Affirmative Defense**

26 **(Failure to Exhaust Administrative Remedies)**

27 7. As to all causes of action, plaintiffs other than plaintiff Joe Oronoz failed to  
28 comply with the requirements of the Government Claim Act (Gov't Code § 905 et seq.) and

1 Chapter 4.04 of the Los Angeles County Code.

2 **Seventh Affirmative Defense**

3 **(No Class Action)**

4 8. All causes of action are barred in whole or in part because this case is  
5 ineligible for certification as a class action.

6 **Eighth Affirmative Defense**

7 **(Indispensable Parties)**

8 9. As to all causes of action, plaintiffs fail to name and join indispensable  
9 parties.

10 **Ninth Affirmative Defense**

11 **(Proposition 218)**

12 10. All causes of action are barred in whole or in part to the extent that  
13 Proposition 62 (Govt. Code, §§ 53720-30) has been superseded by Proposition 218 (Cal.  
14 Const., art. XIII C & XIII D).

15 **Tenth Affirmative Defense**

16 **(Public Policy)**

17 11. All causes of action are barred in whole or in part because any recovery  
18 by plaintiffs would violate public policy.

19 **Eleventh Affirmative Defense**

20 **(No Refund Remedy)**

21 12. All causes of action are barred in whole or in part because tax refunds are  
22 not an available remedy in this case.

23 **Twelfth Affirmative Defense**

24 **(Statutes of Limitations)**

25 13. All causes of action are barred in whole or in part by Code of Civil  
26 Procedure sections 338(a), 339(1), 340(a), 342, and 863, Government Code sections 911.2  
27 and 945.6, and/or the County Code, section 4.04.030.

1 **Thirteenth Affirmative Defense**

2 **(Laches)**

3 14. All of the causes of action are barred in whole or in part by laches.

4 **Fourteenth Affirmative Defense**

5 **(Prospective Effect of *Guardino* Decision)**

6 15. All causes of action are barred in whole or in part because the Supreme  
7 Court's decision in *Santa Clara County Local Transportation Authority v. Guardino* (1995) 11  
8 Cal.4th 220, upholding Proposition 62 (Govt. Code, §§ 53720-30), only applies prospectively.

9 **Fifteenth Affirmative Defense**

10 **(Offset)**

11 16. All causes of action are barred in whole or in part by offsetting amounts  
12 owed by plaintiffs to defendant.

13 **Sixteenth Affirmative Defense**

14 **(No Injunctive Relief)**

15 17. All causes of action are barred in whole or in part because tax collection  
16 may not be enjoined under the policies of the California Constitution, article XIII, section 32.

17 WHEREFORE, defendant prays that plaintiffs take nothing by their complaint and  
18 that defendant be awarded its attorneys fees, costs, and such other and further relief the court  
19 deems proper.

20 DATED: March 24, 2006

COUNTY OF LOS ANGELES

Raymond G. Fortner, Jr.

Albert R. Ramseyer

NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP

Scott N. Yamaguchi

Winfield D. Wilson

24 By: Scott N. Yamaguchi  
25 Scott N. Yamaguchi  
26 Attorneys for The County of Los Angeles  
27  
28

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and am not a party to the within action; my business address is Nossaman, Guthner, Knox & Elliott, LLP, 445 S. Figueroa Street, 31st Floor Los Angeles, California 90071-1602.

On **March 24, 2006**, at my employer's above-stated place of business, I served the foregoing document(s) described as **ANSWER TO FIRST AMENDED CLASS ACTION COMPLAINT** on interested parties in this action by placing ( ) the original (X) a true copy thereof enclosed in a separate sealed envelope to each addressee as follows:

**David W.T. Brown, Esq.**  
**Paul E. Heidenreich, Esq.**  
**HUSKINSON & BROWN, LLP**  
**865 Manhattan Beach Boulevard, Suite 200**  
**Manhattan Beach, California 90266**

**Stephen Bernard, Esq.**  
**BERNARD & BERNARD**  
**10990 Wilshire Boulevard, Suite 1175**  
**Los Angeles, California 90024-4305**

(X) **(By U.S. Mail)** I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit. I deposited such envelope(s) with postage thereon fully prepaid in a collection box from where it would be placed in the United States Mail at Los Angeles, California that same day in my employer's ordinary course of business.

( ) **(By Facsimile)** I served a true and correct copy by facsimile pursuant to C.C.P 1013(e), to the number(s) listed above or on attached sheet. Said transmission was reported complete and without error.

( ) **(By Federal Express)** I served a true and correct copy by Federal Express or other overnight delivery service, for delivery on the next business day. A true and correct copy of the Federal Express or other overnight delivery service airbill is attached hereto.

(X) **(STATE)** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

( ) **(FEDERAL)** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed on **March 24, 2006**, at Los Angeles, California.

\_\_\_\_\_  
Dina Ament

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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