

1 DEBRA W. YANG
United States Attorney
2 LEON W. WEIDMAN
Assistant United States Attorney
3 Chief, Civil Division
JASON K. AXE
4 Assistant United States Attorney
California Bar Number 187101
5 Federal Building, Suite 7516
300 North Los Angeles Street
6 Los Angeles, California 90012
Telephone: (213) 894-8827
7 Facsimile: (213) 894-7819

8 Attorneys for Defendant
United States Postal Service
9

10 UNITED STATES DISTRICT COURT
11 FOR THE CENTRAL DISTRICT OF CALIFORNIA
12 SOUTHERN DIVISION

13 ROBERT NIGG AND KEITH LEWIS,
14 et al.,

15 Plaintiffs,

16 v.

17 UNITED STATES POSTAL SERVICE,
18 Defendant.

No. SACV 03-1611 GLT (ANx)

**ANSWER OF DEFENDANT UNITED
STATES POSTAL SERVICE TO
PLAINTIFFS' AMENDED COMPLAINT**

19
20 Defendant United States Postal Service ("Defendant") acting
21 by and through its undersigned attorneys, hereby answers the
22 allegations in Plaintiffs' Amended Complaint as follows:

23 1. The allegations of paragraph 1 constitute
24 jurisdictional allegations to which no response is required. To
25 the extent a response is deemed required, Defendant denies the
26 allegations contained in paragraph 1.

27 2. Deny.

28 3. Defendant lacks knowledge sufficient to form a belief

1 as to the truth of the matters asserted in paragraph 3 and on
2 that basis denies them.

3 4. Admit.

4 5. Defendant admits that it employs approximately 2,000
5 United States Postal Inspectors. Defendant lacks knowledge
6 sufficient to form a belief as to the truth of the remaining
7 matters asserted in paragraph 5 and on that basis denies them.

8 6. Defendant has produced the names of all current Postal
9 Inspectors and Postal Inspectors who left United States Postal
10 Inspection Service employment in the last three years. Defendant
11 lacks knowledge sufficient to form a belief as to the truth of
12 the remaining matters asserted in paragraph 6 and on that basis
13 denies them.

14 7. The United States Postal Service is an independent
15 establishment of the executive branch of the United States
16 Government. The basic function of the United States Postal
17 Service is the obligation to provide postal services to bind the
18 nation together through the personal, educational, literary, and
19 business correspondence of the people. The United States Postal
20 Service has the specific power to investigate postal offenses and
21 civil matters relating to the Postal Service. The United States
22 Postal Inspection Service is the law enforcement arm of the
23 United States Postal Service. To the extent the allegations of
24 paragraph 7 are inconsistent, they are denied.

25 8. The allegations of paragraph 8 constitute
26 jurisdictional allegations to which no response is required. To
27 the extent a response is deemed required, Defendant denies the
28 allegations contained in paragraph 8.

1 9. The allegations of paragraph 9 constitute venue
2 allegations to which no response is required. To the extent a
3 response is deemed required, Defendant denies the allegations
4 contained in paragraph 9.

5 10. The allegations of paragraph 10 constitute
6 jurisdictional allegations to which no response is required. To
7 the extent a response is deemed required, Defendant denies the
8 allegations contained in paragraph 10.

9 11. The allegation of paragraph 11 constitutes a legal
10 conclusion to which no response is required. To the extent a
11 response is deemed required, Defendant denies the allegation
12 contained in paragraph 11.

13 12. In response to Paragraph 12, Defendant states that the
14 Court has already issued an order regarding the request set forth
15 in paragraph 12.

16 13. The allegations of paragraph 13 constitute legal
17 conclusions to which no response is required. To the extent a
18 response is deemed required, Defendant denies the allegations
19 contained in paragraph 13.

20 14. Deny.

21 15. The allegations of paragraph 15 constitute legal
22 conclusions to which no response is required. To the extent a
23 response is deemed required, Defendant denies the allegations
24 contained in paragraph 15.

25 16. To the extent that the allegations contained in
26 paragraph 16 are an approximation, Defendant admits the
27 allegations contained in paragraph 16.

28 17. Defendant admits that Postal Inspectors are assigned to

1 teams and that approximately 300 EAS Level 24/ISLE Level 14 Team
2 Leaders are employed as supervisors. To the extent the
3 allegations of paragraph 17 are inconsistent, they are denied.

4 18. Defendant admits that approximately 30 Assistant
5 Inspectors-in-Charge supervise and manage Postal Inspectors. To
6 the extent the allegations of paragraph 18 are inconsistent, they
7 are denied.

8 19. Defendant admits that Postal Inspectors carry on their
9 investigations under the oversight and supervision of their team
10 leaders. Defendant denies the remaining allegations of paragraph
11 19.

12 20. Deny.

13 21. Defendant states that the cases that Plaintiffs
14 reference in paragraph 21 speak for themselves.

15 22. Deny.

16 23. Defendant states that the submissions to the Merit
17 Systems Protection Board by the Postal Service speak for
18 themselves.

19 24. Defendant states that the MSPB decision speaks for
20 itself.

21 25. Deny.

22 26. Deny.

23 27. Deny.

24 28. Defendant lacks knowledge sufficient to form a belief
25 as to the truth of the matters asserted in paragraph 28 and on
26 that basis denies them.

27 29. Defendant lacks knowledge sufficient to form a belief
28 as to the truth of the matters asserted in paragraph 29 and on

1 that basis denies them.

2 30. Defendant lacks knowledge sufficient to form a belief
3 as to the truth of the matters asserted in paragraph 30 and on
4 that basis denies them.

5 31. Defendant lacks knowledge sufficient to form a belief
6 as to the truth of the matters asserted in paragraph 31 and on
7 that basis denies them.

8 32. Defendant lacks knowledge sufficient to form a belief
9 as to the truth of the matters asserted in paragraph 32 and on
10 that basis denies them.

11 33. Defendant lacks knowledge sufficient to form a belief
12 as to the truth of the matters asserted in paragraph 33 and on
13 that basis denies them.

14 34. Defendant lacks knowledge sufficient to form a belief
15 as to the truth of the matters asserted in paragraph 34 and on
16 that basis denies them.

17 35. Defendant lacks knowledge sufficient to form a belief
18 as to the truth of the matters asserted in paragraph 35 and on
19 that basis denies them.

20 36. Defendant lacks knowledge sufficient to form a belief
21 as to the truth of the matters asserted in paragraph 36 and on
22 that basis denies them.

23 37. Defendant lacks knowledge sufficient to form a belief
24 as to the truth of the matters asserted in paragraph 37 and on
25 that basis denies them.

26 38. Defendant lacks knowledge sufficient to form a belief
27 as to the truth of the matters asserted in paragraph 38 and on
28 that basis denies them.

1 39. Deny.

2 40. Defendant lacks knowledge sufficient to form a belief
3 as to the truth of the matters asserted in paragraph 40 and on
4 that basis denies them.

5 41. Defendant lacks knowledge sufficient to form a belief
6 as to the truth of the matters asserted in paragraph 41 and on
7 that basis denies them.

8 42. Defendant lacks knowledge sufficient to form a belief
9 as to the truth of the matters asserted in paragraph 42 and on
10 that basis denies them.

11 43. Defendant lacks knowledge sufficient to form a belief
12 as to the truth of the matters asserted in paragraph 43 and on
13 that basis denies them.

14 44. Defendant lacks knowledge sufficient to form a belief
15 as to the truth of the matters asserted in paragraph 44 and on
16 that basis denies them.

17 45. Deny.

18 46. Defendant lacks knowledge sufficient to form a belief
19 as to the truth of the matters asserted in paragraph 46 and on
20 that basis denies them.

21 47. Defendant lacks knowledge sufficient to form a belief
22 as to the truth of the matters asserted in paragraph 47 and on
23 that basis denies them.

24 48. Defendant lacks knowledge sufficient to form a belief
25 as to the truth of the matters asserted in paragraph 48 and on
26 that basis denies them.

27 49. Deny.

28 50. Defendant lacks knowledge sufficient to form a belief

1 as to the truth of the matters asserted in paragraph 50 and on
2 that basis denies them.

3 51. Deny.

4 52. Deny.

5 53. Admit.

6 54. Deny.

7 55. Deny.

8 56. Deny.

9 57. Admit.

10 58. Defendant lacks knowledge sufficient to form a belief
11 as to the truth of the matters asserted in paragraph 58 and on
12 that basis denies them.

13 59. Defendant lacks knowledge sufficient to form a belief
14 as to the truth of the matters asserted in paragraph 59 and on
15 that basis denies them.

16 60. Deny.

17 61. Defendant hereby incorporates by reference the
18 responses contained in each of the preceding paragraphs as if
19 fully set forth herein.

20 62. Paragraph 62 sets forth legal conclusions to which no
21 response is necessary. To the extent that a response is deemed
22 necessary, Defendant denies the allegations contained in
23 paragraph 62.

24 63. Paragraph 63 sets forth legal conclusions to which no
25 response is necessary. To the extent that a response is deemed
26 necessary, Defendant denies the allegations contained in
27 paragraph 63.

28 64. Defendant lacks knowledge sufficient to form a belief

1 as to the truth of the matters asserted in paragraph 64 and on
2 that basis denies them.

3 65. Paragraph 65 sets forth legal conclusions to which no
4 response is necessary. To the extent that a response is deemed
5 necessary, Defendant denies the allegations contained in
6 paragraph 65.

7 66. On July 13, 2004, Plaintiffs dismissed this cause of
8 action, therefore no response to this paragraph is required.

9 67. On July 13, 2004, Plaintiffs dismissed this cause of
10 action, therefore no response to this paragraph is required.

11 68. On July 13, 2004, Plaintiffs dismissed this cause of
12 action, therefore no response to this paragraph is required.

13 69. On July 13, 2004, Plaintiffs dismissed this cause of
14 action, therefore no response to this paragraph is required.

15 70. On July 13, 2004, Plaintiffs dismissed this cause of
16 action, therefore no response to this paragraph is required.

17 71. On July 13, 2004, Plaintiffs dismissed this cause of
18 action, therefore no response to this paragraph is required.

19 72. The last paragraph of the Amended Complaint constitutes
20 Plaintiffs' prayer for relief to which no response is required.
21 To the extent that a response is deemed required, the allegations
22 of the prayer for relief are denied. Plaintiffs should take
23 nothing at all.

24 73. Any allegation contained in Plaintiffs' Amended
25 Complaint that has not been admitted or denied is hereby denied.

26 FIRST AFFIRMATIVE DEFENSE

27 Defendant is entitled to an offset for all benefits paid to
28 Plaintiffs by any agency of the United States or through funds

1 which are provided by the United States.

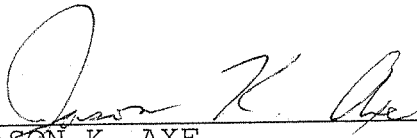
2 SECOND AFFIRMATIVE DEFENSE

3 Plaintiffs are not entitled to damages that accrued beyond
4 the time period permitted by the applicable statute of
5 limitations.

6
7 WHEREFORE, Defendant prays for judgment dismissing
8 Plaintiffs' Amended Complaint, and awarding Defendant its costs
9 and disbursements in this action, and for such other and further
10 relief as the Court may deem just and proper.

11
12 Dated: July 30, 2004

Respectfully submitted,
DEBRA W. YANG
United States Attorney
LEON W. WEIDMAN
Assistant United States Attorney
Chief, Civil Division

13
14
15
16
17 
18 JASON K. AXE
Assistant United States Attorney
Attorneys for Defendant
United States Postal Service

