

Defendants answer the amended complaint in this case by responding to the allegations in the numbered paragraphs of the complaint as follows:

1. The first sentence of this paragraph characterizes plaintiffs' case and no answer is required. To the extent that an answer is required, defendants admit that a military coup overthrew the government of Jean-Bertrand Aristide and that

ANSWER TO AMENDED COMPLAINT

Defendants.

Chris Sale, Acting Commissioner,
 Immigration and Naturalization
 Service;
 Janet Reno, Attorney General;
 Warren Christopher, Secretary of State;
 Rear Admiral Robert Kramsek and
 Admiral Kims, Commandants, United
 States Coast Guard; and
 Commander, U.S. Naval Base,
 Guantanamo Bay,

v.

Plaintiffs,

Haitian Centers Council, Inc.,
 National Coalition for Haitian
 Refugees, Inc.,
 Immigration Law Clinic of the Jerome N.
 Frank Legal Services Organization
 of New Haven, Connecticut;
 Dr. Francis Guerrier,
 Mlot Baptiste, Kennedy Augustin, and
 Yolande Jean, on behalf of themselves
 and all others similarly situated;
 Lener Nicols and Claud Kennel, on
 behalf of themselves
 and all others similarly situated;

No. 92-CIV-1258

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF NEW YORK

September 30, 1991 is the day customarily cited as the day of the
coup, but deny that defendants have acted illegally or
arbitrarily. Defendants admit the allegation in the second
sentence that following the coup many Haitians left their
country. Defendants are without sufficient knowledge or
information to form a belief as to the truth of the remaining
allegations in the second sentence, which allegations are denied.
Defendants deny the allegations in the third sentence. The
allegations in the introductory clauses of the fourth sentence
are assertions of law to which no response is necessary. To the
extent that a response is deemed necessary, the assertions are
denied. Defendants admit the allegation in the fourth sentence
that they "have interdicted numerous vessels on the high seas"
carrying Haitians. Defendants deny the remaining allegations in
the fourth sentence. Defendants admit the allegations in the
fifth sentence, except that defendants deny that Haitians were
detained at Guantanamo, and that Haitians outside the United
States can properly be described as "asylum seekers." Defendants
admit, however, that migrants were not generally free to roam
around the base nor to travel to the United States. Regarding
the sixth sentence, defendants admit that persons who are
"screened out" [were] . . . forcibly repatriated to Haiti" if
they were nationals of Haiti unless they were immediate relatives
of Haitian nationals who were screened in. Defendants deny the
remaining allegations contained within the sixth sentence. The
allegations in the seventh sentence are denied, except that
defendants admit that many screened-in Haitians have been

conclusion to which no response is necessary. To the extent a
3. The first 14 words of the first sentence contain a legal
fourth sentence is denied.

Haitians were inadvertently returned to Haiti in 1992. The
under United States law, and that a small number of screened-in
persecution, which is the standard for receiving refugee status
determine whether or not they had a well-founded fear of
after several requests, to participate in an interview to
"screened-in" migrants who tested HIV positive and who refused,
they returned from Guantanamo to Haiti a limited number of
The third sentence is denied, except that defendants admit that
"credible fear" interviews, pursuant to Executive Order 12807,
Haitian migrants currently are returned to Haiti without
sentence is denied, except that defendants admit that interdicted
facing grave physical danger upon repatriation. The second
interdictions have the authority to provide protection to persons
commanding officers of Coast Guard vessels involved in
1992, have not been screened. Defendants aver that the
that defendants admit that Haitians interdicted after May 24,

2. The first sentence of this paragraph is denied, except
government's actions respecting many of them.
their medical status has been an important consideration in the
have remained at the Guantanamo Bay Naval Base in Cuba, and that
except that defendants admit that some "screened-in" migrants
transported to the United States. The eighth sentence is denied,

information to form a belief as to the truth of the allegations

of this paragraph. Defendants lack sufficient knowledge or

8. Defendants admit the allegations in the first sentence

the allegations in the eighth sentence of this paragraph.

this paragraph, which allegations are denied. Defendants deny

contained within sentences two, three, four, six, and seven of

information to form a belief as to the truth of the allegations

five of this paragraph. Defendants lack sufficient knowledge or

7. Defendants admit the allegations in sentences one and

assertions of law to which no response is necessary.

this case. The remaining assertions in the paragraph are

official capacities, and (3) that no real property is involved in

the United States, all of whom are alleged to have acted in their

the defendants are a single agency and officers and employees of

principal place of business in Brooklyn, New York, (2) that among

and existing under the laws of the state of New York with its

Council, Inc. ("HCC") is a not-for-profit corporation organized

6. Defendants admit (1) that plaintiff Haitian Centers

is deemed necessary, the assertions are denied.

to which no response is necessary. To the extent that a response

5. The assertions in this paragraph are assertions of law

4. This paragraph is denied.

second and third sentences are denied.

denied. The remainder of the first sentence is denied. The

response is necessary, the first 14 words of the sentence are

determination as to the bona fides of their persecution claim, Guerrier and Baptiste were repatriated from Guantanamo without a "detained." As to the second sentence, defendants admit that

States nor to roam the Base at Guantanamo, but were not Guerrier and Baptiste were not free to travel to the United screened-in at Guantanamo. Defendants aver that plaintiffs except to admit that plaintiffs Guerrier and Baptiste were

11. Defendants deny the allegations in the first sentence, Haitian citizens. The second sentence is admitted.

except that defendants admit that the four named plaintiffs are first sentence of this paragraph, which allegations are denied, form a belief as to the truth of the allegations contained in the 10. Defendants lack sufficient knowledge or information to

"detained." See averment in paragraph one. characterized as "refugees," and deny that migrants were migrants being counseled by clinic members can properly be to form a belief as to what number, if any, of the Haitian except that defendants lack sufficient knowledge or information denied. Defendants admit the second sentence in this paragraph, the first sentence of this paragraph, which allegations are

form a belief as to the truth of the allegations contained within 9. Defendants lack sufficient knowledge or information to allegations in the sixth sentence of this paragraph.

paragraph, which allegations are denied. Defendants deny the contained within sentences two, three, four, and five of this

at Guantanamo, and defendants lack sufficient knowledge or Yolande Jean were screened-in and that Kennedy Augustin remains except that defendants admit that plaintiffs Kennedy Augustin and 12. Defendants deny the allegations in the first sentence,

refugee status under that program. available in Haiti and the Guerrier and Baptiste may apply for denied. Defendants aver that in-country refugee processing is contained within the seventh sentence, which allegations are information to form a belief as to the truth of the allegations sentences are denied. Defendants lack sufficient knowledge or allegations are denied. The allegations in the fifth and sixth truth of the allegations in the fourth sentence, which sufficient knowledge or information to form a belief as to the procedural and due process rights at Guantanamo. Defendants lack the third sentence respecting the exercise or existence of which allegations are denied. Defendants deny the allegations in respecting the retention of the Haitian Service Organizations, truth of the allegations contained within the third sentence sufficient knowledge or information to form a belief as to the remaining allegations in the second sentence. Defendants lack any persecution claim they may have had. Defendants deny the persecution. Defendants aver that Guerrier and Baptiste waived reflecting whether they possessed a well founded fear of in INS interview procedures designed to elicit information because they refused, after repeated entreaties, to participate

information to form a belief as to whether Kennedy Augustin is the "Jean Doe" of the original complaint. The second sentence contains a description of plaintiff's case to which no response is necessary. To the extent that a response to these words is necessary, the sentence is denied. Defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations contained within the third sentence, which on Guantanamo is less than 185. The fourth sentence is denied. The fifth sentence contains a description of plaintiff's case and legal conclusions to which no response is necessary. To the extent that a response to this sentence is necessary, the sentence is denied. The allegations in the sixth and seventh sentences are denied, except that defendants lack sufficient knowledge or information to form a belief as to the truth of the allegations contained within the seventh sentence respecting what plaintiff may "seek." The allegations in the eighth, ninth, tenth, and eleventh sentences are denied. Defendants aver that the United States does not consider the statutory and regulatory rights pertaining to asylum to extend to persecution claims made by persons at Guantanamo. Defendants deny the allegations in the twelfth sentence respecting "arbitrary and ad hoc procedures."

The defendants lack sufficient knowledge or information to form a belief as to the truth of the remaining allegations in the

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that Rear Admiral Robert Krause is Chief of Staff of the Coast
that Admiral J.W. Kime is the Commandant of the Coast Guard and

17. With regard to the first sentence, defendants admit
extent that a response is necessary, the sentence is admitted.

plaintiffs' case to which no response is necessary. To the
migrants. The third sentence contains a description of

an ongoing role in governmental decisions affecting the Haitian
denied, except that defendants admit the State Department plays
16. The first sentence is admitted. The second sentence is

sentence is admitted.

is necessary. To the extent that a response is necessary, the
contains a description of plaintiffs' case to which no response
15. The first sentence is admitted. The second sentence

extent that a response is necessary, the sentence is admitted.
plaintiffs' case to which no response is necessary. To the

as "refugees." The fourth sentence contains a description of
deny plaintiffs' characterization of plaintiff Haitian migrants
denied. The third sentence is admitted, except that defendants
14. The first sentence is admitted. The second sentence is

are denied. The allegations in the fifth sentence are denied.
the first, second, third, and fourth sentences, which allegations
form a belief as to the truth of the allegations contained within
13. Defendants lack sufficient knowledge or information to

fifteenth and sixteenth sentences, which allegations are denied.
twelfth, and all allegations in the thirteenth, fourteenth,

persons; prohibited any payments, direct or indirect and states or within the possession or control of United States government property and interests in property in the United October 4 and October 28, 1991, which blocked all Haitian defendants admit that the President issued Executive orders on allegations contained within the second sentence except that which seized power on September 30, 1991. Defendants deny the states government has refused to recognize the de facto regime first sentence except that defendants admit that the United

21. Defendants deny the allegations contained within the independence in 1804. January of 1991, was the first free election in Haiti since its Jean Bertrand Aristide was elected, held in December of 1990 and the second sentence, except to admit that the election in which first sentence. Defendants deny the allegations contained within the

20. Defendants admit the allegations contained within the

19. This paragraph is admitted.

sentence is admitted.

To the extent that a response is necessary, the contains a description of plaintiffs' case to which no response

18. The first sentence is admitted. The second sentence sentence is admitted.

To the extent that a response is necessary, the contains a description of plaintiffs' case to which no response

guard. The second sentence is admitted. The third sentence

regardless of form, to the de facto regime in Haiti; and prohibited any U.S. trade with Haiti except for exempted categories of donated articles, goods, services, and informational materials. Defendants admit the allegations contained in the third sentence.

22. Defendants deny the allegations in this paragraph, except that defendants admit that as a result of the September 1991 coup, certain Haitians, who have identified themselves as active opponents of the Haitian government replacing that of President Jean-Bertrand Aristide, have been at times victimized by incidents of violence.

23. Defendants deny the allegations in the first sentence except to admit that thousands of Haitians left Haiti in the last two months of 1991 and in 1992. With respect to the second sentence, defendants admit that Haitians have left Haiti for the Dominican Republic, but defendants lack sufficient information to admit or deny the remaining allegations contained in the second sentence, which allegations are denied. Defendants deny the allegations in the third sentence, but admit that thousands of Haitians have set out in small boats that are often overloaded, unseaworthy, lacking in basic safety equipment, and operated by inexperienced persons without due regard for the hazards of lengthy voyages on the high seas.

24. Defendants admit the allegations in this paragraph except that defendants deny that the vessels are primarily

United States all screened-in Haitians at Guantanamo except for admit that it was the practice of defendants to bring to the the allegations in the fourth sentence, except that defendants allegations in the third sentence are admitted. Defendants deny to demonstrate a "well-founded fear" of persecution. The demonstrate a "credible fear" of persecution necessarily failed fear" standard; consequently, any Haitian who failed to persecution standard is a lesser standard than the "well-founded demonstrate. Defendants further aver that the "credible fear" or that some Haitian migrants had more than one opportunity to so they had a "credible fear" of persecution, and defendants aver itself gave Haitian migrants the opportunity to demonstrate that sentence are denied. Defendants aver that the screening process in or screened out. The remaining allegations in the second which formed the basis for determining whether they were screened determine whether they had a "credible fear" of persecution, were taken to Guantanamo and that they were interviewed to second sentence, defendants admit that some interdicted Haitians the United States at varying times since the coup. Regarding the approximately 40,000 Haitian migrants have been intercepted by except to admit that many vessels carrying altogether 25. Defendants deny the allegations in the first sentence, United States.

many other have no destination or a destination other than the carrying Haitians fleeing political persecution and deny that

those subject to medical or criminal excursions, and defendants admit that those screened-in Haitians brought to the United States were and are afforded all procedural benefits accorded asylum applicants.

26. Defendants admit that between October of 1991 and May 24, 1992, approximately 35,000 Haitians were taken to the United States Naval Base at Guantanamo Bay but deny the remaining allegations in the first sentence. Defendants deny the allegations contained within the second sentence except that defendants admit that coast guard cutters are United States government vessels and that the United States government exercises control over the cutters and is permitted pursuant to a 1903 agreement and lease with the Republic of Cuba to "exercise complete jurisdiction and control over" the military base at Guantanamo Bay subject, however, to U.S. recognition of "the continuance of the ultimate sovereignty of the Republic of Cuba over" the Base, and subject to other provisions in such agreement and lease.

27. Defendants admit that some legal and advocacy groups have sought to gain access to the Haitians at Guantanamo but deny the remaining allegations in the first sentence. Defendants admit the allegations in the second sentence.

28. Defendants admit the allegations contained in this paragraph, except to deny that the Haitians should properly be characterized as "detainees."

31. Defendants admit that a small number of screened-in migrants were erroneously repatriated to Haiti, but aver that the vast majority of "screened-in" repatriated migrants included HIV positive individuals who refused, after several entries, to

Guantanamo.

and regulatory provisions respecting asylum to extend to and medical lawyers; and defendants do not consider the statutory order to inform a decision to be made about immigration parole whether the aliens had a well-founded fear of persecution in to be interviewed a second time to provide information about explained that many HIV+ Haitian aliens who were screened in were for the Haitians; in a February 29, 1992 memorandum, the INS assistance of those third countries in establishing refugee camps expressed by third countries when the United States sought the Haitian migrants at Guantanamo began in response to concerns not occur prior to the recent Haitian crisis; HIV testing of state that: medical testing of interdicted aliens generally did 30. Defendants deny the allegations in this paragraph, but

provided to plaintiff Haitian service organizations. Federal Register and notice respecting that memorandum was not had a well-founded fear of persecution was not published in the aliens to undergo a second screening to determine whether they but admit that the memorandum requiring HIV positive Haitian denied. Defendants deny the allegations in the third sentence, 29. The allegations in the first and second sentences are

32. Regarding the first sentence, defendants admit that since May 24, 1992, the United States government has repatriated Haitian migrants reasonably perceived to be attempting illegally and surreptitiously to enter the United States by boat. The remaining allegations in this sentence are denied. The second sentence is denied. Defendants aver that in-country refugee processing is available to any Haitian in Haiti and that whom are HIV positive aliens who refused at Guantanamo Bay to participate in the "well-founded fear of persecution" screening process, would or would not do in response to alleged United States policies. To the extent that these and the remaining allegations in this sentence require an answer, they are denied.

33. The allegations in this paragraph are denied. Defendants further aver that it was these aliens' own refusal to participate in the further screening process which resulted in their repatriation "without [the INS] determining that they lacked well-founded fears of persecution upon return to Haiti." These aliens waived their opportunity for such a determination. The remaining allegations in this paragraph are denied.

have previously been conducted without attorneys, and aver that Guantanamo Bay Naval Base, which are not adversarial proceedings,

defendants admit that "well-founded fear" interviews at the Guantanamo Bay Naval Base. Regarding the second sentence, permitted liberal physical access to Haitian migrants housed at furthermore, defendants aver that plaintiffs' counsel have been vessel or the United States Naval Base at Guantanamo Bay, Cuba. exclude any individual from access or entry to any Coast Guard government reserves the right to condition the visit of or reasons of good order, efficiency, safety, and security, the 35. Regarding the first sentence, defendants admit that for

The allegations in paragraph 34 otherwise are denied. access was to affect the interview processes than taking place. cutters, or to the Guantanamo migrants if the purpose of that legal and advocacy groups access to migrants on Coast Guard and state that defendants were not then knowingly permitting received by former defendant McNary until after March 16, 1992, requested in the letter (which on information and belief was not counsel did not obtain access by March 16, 1992, as had been which allegations are denied. Defendants admit that plaintiffs' respecting the intent, purpose, or capabilities of plaintiffs, the truth or accuracy of the allegations in those sentences was sent but lack sufficient information to form a belief as to 34, defendants admit that the letter described in those sentences 34. With regard to the first three sentences of paragraph

and the denial of certiorari in HRC v. Baker (the presumed "end there was any connection between the issuance of the memorandum accurately can be regarded as being in detention, and deny that carried out without procedural protections, deny that plaintiffs

processing" was involved, deny that the adjudications were United States officials, deny that "asylum claims" or "asylum Service general Counsel contradicted the public assurances of 29, 1992, memorandum by the Immigration and Naturalization the subparagraph except that defendants deny that the February second sentences. Defendants admit the remaining allegations in

f. Defendants admit the allegations in the first and e. The allegations in this sub-paragraph are denied. Defendants deny the remaining allegations in this subparagraph. non-government sources on country conditions in Haiti.

Defendants aver that INS officers also relied on reports from Department of State reports on country conditions in Haiti.

d. Defendants admit that INS officers relied on c. The allegations in this sub-paragraph are denied. b. The allegations in this sub-paragraph are denied. a. The allegations in this sub-paragraph are denied.

37. The allegations in the first sentence are denied. 36. The allegations in this paragraph are denied.

remaining allegations in this paragraph are denied. The no such interviews have occurred since plaintiffs' counsel has been given routine access to the Guantanamo migrants.

of judicial oversight". Defendants aver that the interviews conducted pursuant to the February 29, 1992, memorandum were conducted for the purpose of determining whether to grant parole to Haitians subject to medical exclusionary grounds.

9. The allegations in this sub-paragraph are denied. The paragraph contains legal conclusions to which no response is necessary. To the extent a response is necessary, the paragraph is denied.

39. The allegations contained in this paragraph are denied. Regarding the first sentence, defendants deny that members of any national group, including Haitians, are permitted by law to apply for political asylum under Immigration and Nationality Act § 208 if such individuals are outside the United States at the time of application. Defendants also deny that Haitians within the United States must undergo medical or HIV testing before being allowed to apply for asylum. Accordingly, defendants deny all allegations in the first sentence. Regarding the second sentence, defendants deny that there are "Cuban nationals" whom defendants interdict in the same circumstances as plaintiff Haitian migrants. Defendants admit that any Cubans brought to the United States after arriving at Guantanamo Bay Naval Base are not there tested for the HIV virus. All other allegations in this paragraph are denied.

41. The allegations in the first two sentences of the paragraph are admitted. Defendants deny the remaining

44. The first sentence of this paragraph contains part of plaintiffs' description of a proposed class, to which no response is necessary. To the extent that a response is deemed necessary, the description is denied. Defendants are without sufficient knowledge or information to form a belief as to the truth of the

1992, is approximately 10,600.

43. The first sentence of this paragraph contains part of plaintiffs' description of a proposed class, to which no response is necessary. Furthermore, defendants aver that the first sentence of this paragraph, describing the proposed class, is vague and ambiguous, and otherwise deny this class description. Defendants deny the allegations contained within the second sentence. Defendants aver that the number of Haitians at Guantanamo is less than 185, and that the number who were screened-in and brought to the United States since February 1, 1992, is approximately 10,600.

assertions are denied.

42. This paragraph contains plaintiffs' assertions relating to the class action allegations, to which no response is necessary. To the extent a response is deemed necessary, the

determination respecting possible persecution in Haiti.

repatrate Haitian migrants, including return without any delegates to the executive branch unreviewable discretion to the President issued on May 24, 1992 an Executive Order which allegations in this paragraph, except that defendants admit that

regarding information defendants allegedly provided to Haitian
tion to form a belief as to what plaintiffs "believe to be wrong"

51. Defendants are without sufficient knowledge or informa-

50. The allegations in this paragraph are denied.

paragraph, which allegations are denied.

tion to form a belief as to the truth of the allegations in this
49. Defendants are without sufficient knowledge or informa-

paragraph.

tion to form a belief as to the truth of the allegations in this
48. Defendants are without sufficient knowledge or informa-

denied.

other allegations in this paragraph, which allegations are

knowledge or information to form a belief as to the truth of the

legal and advocacy functions, but are without sufficient

Jerome N. Frank Legal Services Organization sometimes performs

47. Defendants admit that the Immigration Law Clinic of the

amended complaint.

plaintiffs' allegations in paragraphs 1 through 45 of their

46. Defendants reassert their preceding responses to

deemed necessary, the assertions are denied.

which no response is necessary. To the extent that a response is

assertions of law relating to maintaining a class action, to

45. The assertions contained within this paragraph are

tions are denied.

allegations contained within the second sentence, which allega-

allegations in this paragraph are denied.
to other provisions in such agreement and lease. The remaining
sovereignty of the Republic of Cuba over "the Base, and subject
however, to U.S. recognition of "the continuance of the ultimate
control" over the military base at Guantanamo Bay subject,

with the Republic of Cuba to "exercise complete jurisdiction and
United States is permitted pursuant to a 1903 agreement and lease
with extraterritorial reach apply on Guantanamo; and that the
and (b) their immediate relatives; that some United States laws
"screened-in" under a standard of "credible fear of persecution"
Guantanamo Bay, Cuba, are composed of (a) those originally

57. Defendants admit that Haitian migrants remaining at

56. The allegations in this paragraph are denied.

amended complaint.

plaintiffs' allegations in paragraphs 1 through 54 of their

55. Defendants reassert their preceding responses to

54. The allegations in this paragraph are denied.

53. The allegations in this paragraph are denied.

the migrant camp at Guantanamo Bay.

nationals and plaintiffs' counsel, have been permitted to enter
that defendants admit that other persons, including some foreign
52. The allegations in this paragraph are denied, except

remaining allegations in this paragraph, are denied.

migrants at Guantanamo Bay, Cuba. These allegations, and the

amended complaint.

plaintiffs' allegations in paragraphs 1 through 71 of their

72. Defendants reassert their preceding responses to

71. The allegations in this paragraph are denied.

70. The allegations in this paragraph are denied.

69. The allegations in this paragraph are denied.

these paragraphs in the amended complaint.

processing or applications, and have the "rights" asserted under

migrants are "refugees," are involved in "asylum" interview

paragraphs, except that defendants deny that plaintiff Haitian

65-68. Defendants admit the allegations in these

remaining allegations in this paragraph are denied.

migrants without the assistance of counsel for the migrants. The

64. Defendants admit that the INS has interviewed Haitian

63. The allegations in this paragraph are denied.

62. The allegations in this paragraph are denied.

amended complaint.

plaintiffs' allegations in paragraphs 1 through 60 of their

61. Defendants reassert their preceding responses to

60. The allegations in this paragraph are denied.

59. The allegations in this paragraph are denied.

process. The remaining allegations in this paragraph are denied.

no expense to the government during all stages of the asylum

applicants for asylum in the United States may retain counsel at

58. Defendants admit that United States law provides that

persecution.

of whether they have credible or well-founded fears of migrants have been repatriated without a specific determination defendants admit that since May 24, 1992, interdicted Haitian

86. The allegations in this paragraph are denied, but

answer to paragraph 31.

85. The allegations in this paragraph are denied. See

84. The allegations in this paragraph are denied.

amended complaint.

plaintiffs' allegations in paragraphs 1 through 82 of their

83. Defendants reassert their preceding responses to

82. The allegations in this paragraph are denied.

81. The allegations in this paragraph are denied.

80. The allegations in this paragraph are denied.

79. The allegations in this paragraph are denied.

78. The allegations in this paragraph are denied.

77. The allegations in this paragraph are denied.

76. The allegations in this paragraph are denied.

amended complaint.

plaintiffs' allegations in paragraphs 1 through 74 of their

75. Defendants reassert their preceding responses to

74. The allegations in this paragraph are denied.

73. The allegations in this paragraph are denied.

SECOND AFFIRMATIVE DEFENSE

The amended complaint fails to state a claim upon which relief can be granted.

FIRST AFFIRMATIVE DEFENSE

In addition, defendants assert the following defenses:

* * *

Defendants deny that plaintiffs are entitled to the relief sought in the complaint or to any relief whatsoever. Defendants deny that plaintiffs are entitled to the relief hereby denied.

Any allegation of the complaint not expressly admitted is

* * *

is denied. To the extent that a response is required, the prayer for relief plaintiffs' prayer for relief to which no response is necessary. The remainder of plaintiffs' complaint constitutes

* * *

- 88. The allegations in this paragraph are denied.
 - 89. The allegations in this paragraph are denied.
 - 90. The allegations in this paragraph are denied.
- plaintiffs' allegations in paragraphs 1 through 87 of their amended complaint.
88. Defendants reassert their preceding responses to plaintiffs' allegations in paragraphs 1 through 87 of their amended complaint.
87. The allegations in this paragraph are assertions of law to which no response is required. To the extent that a response is necessary, they are denied.

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law suit.

The court lacks jurisdiction over the claims in this

FOURTH AFFIRMATIVE DEFENSE

principles of res judicata and collateral estoppel.

The claims in the amended complaint are barred by the

THIRD AFFIRMATIVE DEFENSE

Judicial discretion to withhold relief.

Relief should be denied plaintiffs as an exercise of

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WHEREFORE, defendants request that the court dismiss the
complaint, grant defendants the cost of their suit, and grant
defendants such other and further relief as the court deems
proper.