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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF MONTANA**
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11 LENKA KNUTSON and)
12 SECOND AMENDMENT FOUNDATION,)
INC.,)

Case No.: 9:16-cv-00062-DWM

13 Plaintiffs,)
14)

15 v.)

ANSWER TO COMPLAINT

16 CHUCK CURRY, in his official capacity as)
17 Sheriff of Flathead County, Montana,)

18 Defendant.)
19)
20

21 Defendant Chuck Curry, in his official capacity as Sheriff of Flathead County
22 (hereinafter "Flathead County"), through its undersigned counsel, hereby answers the Complaint
23 herein as follows.

24 In response to the numbered paragraphs of the Complaint, Flathead County avers as
25 follows:

26 **INTRODUCTION**

27 1. This paragraph is merely introductory of the complaint and requires no response.

1 2. This paragraph states a legal conclusion and requires no response. To the extent a
2 response is required Flathead County denies the allegations.

3 3. Flathead County objects the paragraph is argumentative and calls for a legal
4 conclusion. Without waiving said objection, Flathead County admits Montana law
5 requires an applicant for a concealed carry permit be a United States citizen.

6 4. This paragraph states a legal conclusion and requires no response. To the extent a
7 response is required Flathead County denies the allegations.

8 **JURISDICTION AND VENUE**

9 5. Admit.

10 6. Admit.

11 7. Admit insofar as venue is proper. To the extent harm by Plaintiffs is alleged,
12 Flathead County is without sufficient knowledge or information to form a belief as to
13 the truth of all of the allegations contained therein and, therefore, denies the same.
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15 **PLAINTIFFS**

16 8. Flathead County is without sufficient knowledge or information to form a belief as to
17 the truth of all of the allegations contained therein and, therefore, denies the same.

18 9. Flathead County is without sufficient knowledge or information to form a belief as to
19 the truth of all of the allegations contained therein and, therefore, denies the same.

20 10. Flathead County is without sufficient knowledge or information to form a belief as to
21 the truth of all of the allegations contained therein and, therefore, denies the same.

22 11. Flathead County objects this paragraph is vague and draws legal conclusion which
23 requires no response. To the extent a response is required Flathead County denies the
24 allegations.

25 12. Admit insofar as Plaintiff Lenka Knutson was told her application would be denied
26 due to her citizenship status. Regarding the exact date and whether Ms. Knutson
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1 completed an application, Flathead County is without sufficient knowledge or
2 information to form a belief as to the truth of all of the allegations contained therein,
3 and therefore denies the same.

4 13. Flathead County is without sufficient knowledge or information to form a belief as to
5 the truth of all of the allegations contained therein and, therefore, denies the same.

6 14. Flathead County is without sufficient knowledge or information to form a belief as to
7 the truth of all of the allegations contained therein and, therefore, denies the same.

8 15. Flathead County is without sufficient knowledge or information to form a belief as to
9 the truth of all of the allegations contained therein and, therefore, denies the same.

10 **DEFENDANT**

11 16. Admit as to the responsibilities and obligations of Sheriff Curry. As to the residence
12 of Lenka Knutson, Flathead County is without sufficient knowledge or information to
13 form a belief as to the truth of all of the allegations contained therein and, therefore,
14 denies the same.

15 **CONSTITUTIONAL PROVISIONS**

16 17. Flathead County objects the paragraph draws a legal conclusion and requires no
17 response. Admit only insofar as the direct quoted language is correct.

18 18. Flathead County objects the paragraph draws a legal conclusion and requires no
19 response. Admit only insofar as the direct quoted language is correct.

20 19. Flathead County objects the paragraph draws a legal conclusion and requires no
21 response. Admit only insofar as the direct quoted language is correct.

22 **STATE LAW**

23 20. Flathead County objects the paragraph draws a legal conclusion and requires no
24 response. Admit only insofar as the direct quoted language is correct.
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1 21. Flathead County objects the paragraph draws a legal conclusion and requires no
2 response. Admit only insofar as the direct quoted language is correct.

3 22. Flathead County objects the paragraph draws a legal conclusion and requires no
4 response. Admit only insofar as the direct quoted language is correct.

5 23. Flathead County objects the paragraph draws a legal conclusion and requires no
6 response. Admit only insofar as the direct quoted language is correct.

7 **COUNT I – VIOLATION OF EQUAL PROTECTION (U.S. CONST. AMEND. XIV; 42**
8 **U.S.C. 1981(a), 1983)**

9 24. This paragraph requires no response.

10 25. Flathead County objects the paragraph is argumentative and calls for a legal
11 conclusion, and therefore denies the same.

12 **COUNT II – VIOLATION OF RIGHT TO KEEP AND BEAR FIREARMS (U.S. CONST.**
13 **AMENDS. II AND XIV; 42 U.S.C. §1983).**

14 26. This paragraph requires no response.

15 27. Flathead County objects the paragraph is argumentative and calls for a legal
16 conclusion, and therefore denies the same.

17 **FOR ALL COUNTS**

18 28. This paragraph requires no response.

19 29. Admit.

20 30. Flathead County objects this statement calls for a legal conclusion and is vague, and
21 therefore denies the same.

22 31. Flathead County objects this statement is vague and duplicative to paragraph 30, and
23 therefore denies the same.

24 32. Admit.

25 33. Admit insofar as the current laws in Montana prevent a non-citizen from obtaining a
26 concealed carry permit. To the extent these laws impact Lenka Knutson or SAF
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1 members, Flathead County is without sufficient knowledge or information to form a
2 belief as to the truth of all of the allegations contained therein and, therefore, denies
3 the same.

4 34. Flathead County is without sufficient knowledge or information to form a belief as to
5 the truth of all of the allegations contained therein and, therefore, denies the same.

6 35. Admit only to the extent Flathead County agrees this case does not allege monetary
7 damages.

8 **AFFIRMATIVE DEFENSES**

- 9 1. The Complaint fails to state a claim upon which relief can be granted.
10 2. The Plaintiffs lack standing.
11 3. The Complaint named the wrong party Defendant and should have included the State
12 of Montana.

13 The affirmative defenses are raised in this Answer so as not to be waived by Flathead
14 County and are in response to the allegations in the Complaint. Discovery and trial preparation
15 may render one or more of the affirmative defenses inapplicable. Flathead County will dismiss
16 any affirmative defenses which do not appear reasonably supported by the facts and/or the
17 applicable law when appropriate.

18 Flathead County reserves the right to assert and add additional affirmative defenses,
19 additional parties, and cross-claims which may be appropriate following further investigation and
20 discovery.

21 WHEREFORE, Defendant Flathead County prays for relief as follows:

- 22 1. That the Petition be dismissed with prejudice and Petitioner take nothing by way of his
23 Petition; and
24 2. For attorney's fees and costs; and
25 3. For such other and further relief as the Court deems just and appropriate in the
26
27

1 premises.

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3 DATED this 1ST Day of August, 2016.

4 OFFICE OF THE COUNTY ATTORNEY
5 Flathead County, Montana

6 By: /s/ Caitlin Overland
7 Attorney for Defendant

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