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 8 United States of America

9 UNITED STATES DISTRICT COURT
 10 CENTRAL DISTRICT OF CALIFORNIA
 11 EASTERN DIVISION

12	JOHN GARY GIVEN, MICHELE) NO. ED CV 04-00075 RT (MCx)
13	LOUISE GIVEN,)
)
14	Plaintiffs,) ANSWER OF DEFENDANT UNITED STATES
) OF AMERICA
15	v.)
)
16	UNITED STATES OF AMERICA,)
)
17	Defendants.)
)

18
 19
 20 COMES NOW defendant United States of America, utilizing
 21 the same paragraph numbering format as the complaint, in
 22 response to the complaint of plaintiffs John Gary Given and
 23 Michele Louise Given, answers, denies, and alleges as follows:
 24 1. Answering the allegations contained in paragraphs 2,
 25 3, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20,
 26 21, 22, 23, 24, these paragraphs constitute plaintiff's
 27 characterization of the case of which no response is required;
 28 to the extent a response is required, denied.

1 2. Answering the allegations contained in paragraphs 1, 4
2 these paragraphs constitute conclusions of law for which no
3 responses are required. If responses are required, denied.

4 3. Answering the remaining allegations and those
5 contained in plaintiff's prayer for relief, defendant denies
6 that plaintiff is entitled to any relief sought; insofar as an
7 answer may be deemed required, defendant denies the same.

8 4. Any allegation contained in plaintiff's complaint
9 which has not hereinbefore been admitted, denied, or accepted,
10 is hereby denied.

11 FIRST AFFIRMATIVE DEFENSE

12 The Court is without subject matter jurisdiction to hear
13 and adjudicate the action.

14 SECOND AFFIRMATIVE DEFENSE

15 Plaintiff's complaint and each cause of action fails to
16 state a claim upon which relief can be granted.

17 THIRD AFFIRMATIVE DEFENSE

18 Some or all of plaintiff's claims are barred by the
19 statute of limitations.

20 FOURTH AFFIRMATIVE DEFENSE

21 Plaintiff has failed to properly serve the United States
22 of America in this action and so this Court lacks jurisdiction
23 over plaintiff's complaint based on insufficiency of process
24 and insufficiency of service of process.

25 WHEREFORE, defendant United States of America prays that
26 this Court dismiss this action as to the United States of
27 America for lack of subject matter jurisdiction, and for such
28 other and further relief as is just and proper. Defendant

1 further prays that the Court award to defendant costs and
2 disbursements in this action, and for such other and further
3 relief as the Court may deem just and proper.

4 DATED: March 30, 2004

Respectfully submitted,

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6 DEBRA W. YANG
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