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9 **UNITED STATES DISTRICT COURT**
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 EDWARD PERUTA,

12 Plaintiff,

13 v.

14 COUNTY OF SAN DIEGO, WILLIAM D.
15 GORE, INDIVIDUALLY AND IN HIS
16 CAPACITY AS SHERIFF,

17 Defendants.

11 USSD No. **09-CV-2371 IEG (BLM)**

12 **DEFENDANT WILLIAM D. GORE'S**
13 **NOTICE OF MOTION AND MOTION**
14 **TO DISMISS COMPLAINT**
15 [Fed.R.Civ.P., 12(b)(6)]

16 Date: December 21, 2009
17 Time: 10:30 a.m.
18 Dept: 1 – Courtroom of the
Hon. Irma E. Gonzalez

19 PLEASE TAKE NOTICE that on December 21, 2009, at 10:30 a.m., or as soon
20 thereafter as the matter may be heard, in the courtroom of the Honorable Irma E.
21 Gonzalez, United States District Judge, located at 940 Front Street, San Diego,
22 California, Defendant William D. Gore in his official capacity as Sheriff will move to
23 dismiss Plaintiff's Complaint on grounds that it fails to state a claim upon which relief
24 can be granted pursuant to Federal Rules of Civil Procedure, rule 12(b)(6).

25 The motion will be based upon this notice, upon the accompanying memorandum
26 of points and authorities, and upon all papers and pleadings on file in this action.

27 DATED: November 12, 2009

JOHN J. SANSONE, County Counsel

28 By: s/ JAMES M. CHAPIN, Senior Deputy
Attorneys for Defendant William D. Gore

Declaration of Service

I, the undersigned, declare:

I, the undersigned, declare under penalty of perjury that I am over the age of eighteen years and not a party to the case; I am employed in, or am a resident of, the County of San Diego, California, where the service occurred; and my business address is: 1600 Pacific Highway, Room 355, San Diego, California.

On November 12, 2009, I served the following documents: (1) **DEFENDANT WILLIAM D. GORE'S NOTICE OF MOTION AND MOTION TO DISMISS COMPLAINT**; (2) **DEFENDANT WILLIAM D. GORE'S POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO DISMISS COMPLAINT** [Fed.R.Civ.P., 12(b)(6)] in the following manner:

By placing a copy in a separate envelope, with postage fully prepaid, for each addressee named below and depositing each in the U. S. Mail at San Diego, California.

By electronic filing, I served each of the above referenced documents by E-filing, in accordance with the rules governing the electronic filing of documents in the United States District Court for the Southern District of California, as to the following parties:

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(Attorney for Plaintiff)

I declare under penalty of perjury that the foregoing is true and correct.
Executed on November 12, 2009, at San Diego, California.

By: s/ JAMES M. CHAPIN
E-mail: james.chapin@sdcounty.ca.gov