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Office of Secretary of State and Selvi Stanislaus,
8 *Executive Officer of the Franchise Tax Board*

9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE EASTERN DISTRICT OF CALIFORNIA
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13 **KNOWN DOE PLAINTIFFS, 1-4, and**
14 **UNKNOWN DOE PLAINTIFFS, 5 through**
15 **1,000,000, individuals,**

16 Plaintiffs,

17 v.

18 **KERN COUNTY, CALIFORNIA, CLERK,**
19 **MARY B. BEDARD, an individual;**
20 **CALIFORNIA SECRETARY OF STATE,**
21 **DEBRA BOWEN, an individual;**
22 **EXECUTIVE OFFICER OF THE**
23 **CALIFORNIA FRANCHISE TAX BOARD,**
24 **SELVI STANISLAUS, an individual;**
25 **UNITED STATES OF AMERICA;**
26 **INTERNAL REVENUE SERVICE, an**
27 **agency of the United States of America;**
28 **ACTING COMMISSIONER OF**
INTERNAL REVENUE, DANIEL I.
WERFEL, in his official and individual
capacities; and Doe Defendants 1 through
1000, inclusive,

Defendants.

1:13-CV-00965-LJO-JLT

**STIPULATION AND [PROPOSED]
ORDER CONTINUING MANDATORY
SCHEDULING CONFERENCE,
EXTENDING THE DEADLINE FOR
THE SECRETARY OF STATE AND
SELVI STANISLAUS TO FILE
RESPONSIVE PLEADINGS, AND
ALLOWING PLAINTIFFS TO AMEND
THE COMPLAINT**

Judge: The Honorable Lawrence J.
O'Neill

Action Filed: June 24, 2013

1 WHEREAS, UPON INFORMATION AND BELIEF:

2 A. Known Doe Plaintiffs filed the instant action on June 24, 2013. The instant action
3 raises questions about the way opposite sex and same sex partnerships are recognized under
4 federal and state law.

5 B. On June 26, 2013, the United States Supreme Court issued decisions in *Hollingsworth*
6 *v. Perry*, 133 S.Ct. 2652 (2013) (finding that California's Proposition 8, which amended the
7 California Constitution to define marriage as only between a man and a woman, violated the
8 United States Constitution) and *U.S. v. Windsor*, 133 S.Ct. 2675 (2013) (finding that the federal
9 Defense of Marriage Act, which defined marriage under federal law as only between a man and a
10 woman, violated the United States Constitution), which made significant changes to the legal
11 landscape regarding how opposite sex partnerships are recognized in both California and
12 throughout the United States.

13 C. Plaintiffs experienced unanticipated difficulties in serving both the California
14 defendants (the California Secretary of State, Debra Bowen, and the Executive Officer of the
15 California Franchise Tax Board, Selvi Stanislaus) and United States defendants (the United States
16 of America, the Internal Revenue Service, and Acting Commissioner of Internal Revenue, Daniel
17 I. Werfel) named in this action. In fact, the United States defendants have still not been served,
18 though Plaintiffs' counsel believes he has identified the source of the problems with service and
19 plans to effect service soon.

20 D. Under Federal Rule of Civil Procedure, Rule 12(a) the United States defendants will
21 have more time from the date they are served in which to respond than the California defendants.

22 E. The court has set a mandatory scheduling conference in this matter for October 8,
23 2013, with a joint statement of all the parties due on October 1, 2013. However, due to service
24 problems mentioned above, the Secretary of State's response to the complaint currently is not due
25 until October 3, 2013 and Stanislaus's response to the complaint currently is not due until
26 October 4, 2013. That is, both California Defendants' responses to the complaint are not due
27 until after the deadline to file a joint statement. Additionally, once the United States defendants
28 are served, Plaintiffs will likely amend the complaint to more accurately reflect the current state

1 of the law as Plaintiffs see it in light of the decisions in *Hollingsworth* and *Windsor*. If no
2 amendment is made, the Complaint will be the subject of a motion to strike and a dispositive
3 motion for judgment on the pleadings.

4 F. The California Defendants and Plaintiffs all believe it would be easier for all parties
5 to coordinate their schedules in this matter if the defendants were operating with the same
6 deadlines.

7 AS SUCH PLAINTIFFS AND THE STATE DEFENDANTS STIPULATE AS
8 FOLLOWS:

9 1. Plaintiffs may amend to the complaint in this action in light of recent changes in the
10 law which transpired after the instant action was filed;

11 2. Debra Bowen, the California Secretary of State and Selvi Stanislaus, Executive
12 Officer of the California Franchise Tax Board and all the United States Entities shall have until
13 the latest date a responsive pleading is due from any of the defendants to file their responsive
14 pleadings so that all parties will be on the same schedule; and

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3. The mandatory scheduling conference currently set for December 5, 2013 shall be continued to January 8, 2014 at 9:30 a.m.

IT IS SO ORDERED.

Dated: October 2, 2013

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE