

1 RAYMOND G. FORTNER, JR., County Counsel
 JUDY W. WHITEHURST, Principal Deputy County Counsel
 2 (SBN 182855) • *jwhitehurst@counsel.lacounty.gov*
 648 Kenneth Hahn Hall of Administration
 3 500 West Temple Street
 Los Angeles, California 90012-2713
 4 Telephone: (213) 974-1845 · Fax: (213) 617-7182

5 Attorneys for Dean C. Logan, Los Angeles
 Registrar-Recorder/County Clerk
 6

7 **UNITED STATES DISTRICT COURT**
 8 **EASTERN DISTRICT OF CALIFORNIA, SACRAMENTO DIVISION**

9 ProtectMarriage.com - Yes on 8, a
 Project of California Renewal; National
 10 Organization for Marriage California -
 Yes on 8, Sponsored by National
 11 Organization for Marriage, John Doe
 #1, an individual, and as a
 12 representative of the Class of Major
 Donors,

13 Plaintiffs,

14 v.

15 **Debra Bowen**, Secretary of State for
 the State of California, her official
 capacity; **Edmund G. Brown, Jr.**,
 16 Attorney General for the State of
 California, in his official capacity;
 17 **Dean C. Logan**, Registrar-Recorder of
 Los Angeles County, California in his
 18 official capacity; **Department of**
Elections - City and County of San
 19 **Francisco, Jan Scully**, District
 Attorney for Sacramento County,
 20 California, in her official capacity and
 as a representative of the class of
 21 District Attorneys in the State of
 California; **DENNIS J. HERRERA**,
 22 City Attorney for the city and county fo
 San Francisco, California in his official
 23 capacity and as a representative of the
 Class of Elected City Attorneys in the
 24 State of California; **Ross Johnson**,
Timothy Hodson, Eugene Huguenin,
 25 **Jr., Robert Leidigh, and Ray Remy**,
 members of the California Fair Political
 26 Practices Commission, in their official
 capacities, Commission, in their official
 27 capacities,

Defendants.

CASE NO. 2:09-CV-0058-MCE-DAD
**ANSWER OF DEFENDANT DEAN
 C. LOGAN TO SECOND
 AMENDED COMPLAINT**

28

1 Defendant Dean Logan, in his capacity as Los Angeles County Registrar-
2 Recorder/County Clerk, hereby answers Plaintiffs' Second Amended Complaint as
3 follows:
4

5 1. Answering paragraphs 1, 2, 3 and 4, this answering Defendant contends
6 that said paragraphs contain conclusions of law and not averments of fact to which
7 an answer may be required, but insofar as an answer may be deemed required, this
8 answering Defendant generally and specifically denies each and every allegation in
9 said paragraphs.
10

11 I.

12 **JURISDICTION AND VENUE**

13
14 2. Answering paragraphs 5, 6 and 7, this answering Defendant contends
15 that said paragraphs contain conclusions of law and not averments of fact to which
16 an answer may be required, but insofar as an answer may be deemed required, this
17 answering Defendant generally and specifically denies each and every allegation in
18 said paragraphs.
19

20 II.

21 **PARTIES**

22
23
24 3. Answering paragraphs 8, 9, 10, 11 and 12, this answering Defendant
25 lacks sufficient information or knowledge to enable him to answer the allegations
26 contained in said paragraph, and basing his denial on that ground, generally and
27 specifically denies each and every allegation contained in said paragraphs.
28

1 4. Answering paragraph 13, this answering Defendant admits that Debra
2 Bowen is the Secretary of State of California. Answering the remaining allegations
3 contained in said paragraph, this answering Defendant contends that said paragraph
4 contains conclusions of law and not averments of fact to which an answer may be
5 required, but insofar as an answer may be deemed required, this answering
6 Defendant generally and specifically denies each and every allegation in said
7 paragraph. 5.

10 5. Answering Paragraph 14, this answering Defendant admits that
11 Edmund Brown, Jr., is the Attorney General of California. Answering the remaining
12 allegations contained in said paragraph, this answering Defendant contends that said
13 paragraph contains conclusions of law and not averments of fact to which an answer
14 may be required, but insofar
15 an answer may be deemed required, this answering Defendant generally and
16 specifically denies each and every allegation in said paragraph.

19 6. Answering Paragraphs 15, 16, and 17, this answering Defendant lacks
20 sufficient information or knowledge to enable him to answer the allegations
21 contained in said paragraphs, and basing his denial on that ground, generally and
22 specifically denies each and every allegation contained in said paragraphs.

25 7. Answering paragraph 15, this answering Defendant admits that he is
26 the duly appointed Registrar-Recorder/County Clerk of Los Angeles County.

28 Answering the remaining allegations contained in said paragraph, this answering

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV.

FACTS

10. Answering paragraphs 22, 23, 24,25,26,27 and 28, this answering Defendant lacks sufficient information or knowledge to enable him to answer the remaining allegations contained in said paragraphs, and basing his denial on that ground, generally and specifically denies each and every allegation contained in said paragraphs.

V.

COUNT 1

11. Answering paragraph 63, this answering Defendant incorporates by reference his responses to paragraphs 1 through 62 as though fully restated herein.

12. Answering paragraphs 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74 and 75 (including footnotes), this answering Defendant contends that said paragraphs contain conclusions of law and not averments of fact to which an answer may be required, but insofar as an answer may be deemed required, this answering Defendant generally and specifically denies each and every allegation in said paragraphs.

13. Answering paragraphs 76, 77, 78, 79, 80, 81 and 82, this answering Defendant lacks sufficient information or knowledge to enable him to answer the allegations contained in said paragraphs, and basing his denial on that ground, generally and specifically denies each and every allegation contained in said

1 paragraphs. In addition, Defendant contends that said paragraphs contain
2 conclusions of law and not averments of fact to which an answer may be required,
3 but insofar as an answer may be deemed required, this answering Defendant
4 generally and specifically denies each and every allegation in said paragraphs.
5

6 **Prayer for Relief**
7

8 14. Answering paragraph 83 and its subparagraphs of Plaintiffs' Prayer for
9 Relief, this answering Defendant contends that said paragraphs do not contain
10 averments of fact to which an answer may be required, but insofar as an answer may
11 be deemed required, Defendant generally and specifically denies each and every
12 allegation in said paragraphs.
13

14 VI.
15

16 **COUNT 2**

17 15. Answering paragraph 84, this answering Defendant incorporates by
18 reference his responses to paragraphs 1 through 83 as though fully restated herein.
19

20 16. Answering paragraphs 85, 86, 87, 88, 89, 90, 91, 92, 93, 94 and 95,
21 this answering Defendant lacks sufficient information or knowledge to enable him
22 to answer the allegations contained in said paragraphs, and basing his denial on that
23 ground, generally and specifically denies each and every allegation contained in said
24 paragraphs. In addition, Defendant contends that said paragraphs contain
25 conclusions of law and not averments of fact to which an answer may be required,
26 but insofar as an answer may be deemed required, this answering Defendant
27
28

1 generally and specifically denies each and every allegation in said paragraphs.

2 **Prayer for Relief**

3
4 17. Answering paragraph 96 and its subparagraphs of Plaintiffs' Prayer for
5 Relief, this answering Defendant contends that said paragraphs do not contain
6 averments of fact to which an answer may be required, but insofar as an answer may
7 be deemed required, Defendant generally and specifically denies each and every
8 allegation in said paragraphs.
9

10 VII.

11 **COUNT 3**

12
13 18. Answering paragraph 97, this answering Defendant incorporates by
14 reference his responses to paragraphs 1 through 96 as though fully restated herein.

15
16 19. Answering paragraphs 98, 99, 100, 101, 102, 103, 104, 105 and 106,
17 this answering Defendant lacks sufficient information or knowledge to enable him
18 to answer the allegations contained in said paragraphs, and basing his denial on that
19 ground, generally and specifically denies each and every allegation contained in said
20 paragraphs. In addition, Defendant contends that said paragraphs contain
21 conclusions of law and not averments of fact to which an answer may be required,
22 but insofar as an answer may be deemed required, this answering Defendant
23 generally and specifically denies each and every allegation in said paragraphs.
24
25

26 **Prayer for Relief**

27
28 20. Answering paragraph 107 and its subparagraphs of Plaintiff's Prayer

1 for Relief, this answering Defendant contends that said paragraphs do not contain
2 averments of fact to which an answer may be required, but insofar as an answer may
3 be deemed required, Defendant generally and specifically denies each and every
4 allegation in said paragraphs.
5

6 VIII.

7
8 **COUNT 4**

9 21. Answering paragraph 108, this answering Defendant incorporates by
10 reference his responses to paragraphs 1 through 107 as though fully restated herein.
11

12 22. Answering paragraph 109, 110, 111, 112, 113, 114, 115, 116, 117 and
13 118, this answering Defendant lacks sufficient information or knowledge to enable
14 him to answer the allegations contained in said paragraphs, and basing his denial on
15 that ground, generally and specifically denies each and every allegation contained in
16 said paragraphs. In addition, Defendant contends that said paragraphs contain
17 conclusions of law and not averments of fact to which an answer may be required,
18 but insofar as an answer may be deemed required, this answering Defendant
19 generally and specifically denies each and every allegation in said paragraphs.
20
21

22 **Prayer for Relief**

23
24 23. Answering paragraph 119 and its subparagraphs of Plaintiffs ' Prayer
25 for Relief, this answering Defendant contends that said paragraphs do not contain
26 averments of fact to which an answer may be required, but insofar as an answer may
27 be deemed required, Defendant generally and specifically denies each and every
28

1 allegation in said paragraphs.

2 **AFFIRMATIVE DEFENSES**

3 **FIRST AFFIRMATIVE DEFENSE**

4
5 The Complaint fails to state facts sufficient to constitute claims upon which
6 relief can be granted against this answering Defendant as a State mandated filing
7 officer.
8

9 **SECOND AFFIRMATIVE DEFENSE**

10 Defendant is mandated by statute to perform the ministerial duty as a
11 filing officer therefore this action against him is without basis in law.

12 Plaintiffs' claims and each of them are barred on the grounds that
13 Plaintiffs lack any remedy and therefore the Court lacks jurisdiction over any such
14 claims.

15 WHEREFORE, Defendant Dean C. Logan prays for judgment as
16 follows:

- 17 1. That Plaintiffs' action be dismissed;
18 2. That Plaintiffs take nothing by way of their Complaint;
19 3. That Defendant be awarded her costs of suit, including attorney
20 fees; and,
21 4. For such other relief as the Court deems proper.
22
23
24
25
26
27
28

1 DATED: February 5, 2009

Respectfully submitted,

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RAYMOND G. FORTNER, JR.
County Counsel

By /s/ Judy W. Whitehurst
JUDY W. WHITEHURST
Principal Deputy County Counsel

Attorneys for Dean C. Logan, Los Angeles
Registrar-Recorder/County Clerk