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 8

9 UNITED STATES DISTRICT COURT
 10 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION
 11

12 KRISTIN M. PERRY, SANDRA B. STIER,
 13 PAUL R. KATAMI, and JEFFREY J.
 ZARRILLO,

14 Plaintiffs,

15 v.

16 ARNOLD SCHWARTZENEGGER, in his
 official capacity as Governor of California;
 17 EDMUND G. BROWN, JR. in his official
 capacity as Attorney General of California;
 18 MARK B. HORTON, in his official capacity
 as Director of the California Department of
 19 Public Health and State Registrar of Vital
 Statistics; LINETTE SCOTT, in her official
 20 capacity as Deputy Director of Health
 Information and Strategic Planning for the
 21 California Department of Public Health;
 22 PATRICK O'CONNELL in his official
 capacity as Clerk-Recorder for the County
 23 of Alameda; and DEAN C. LOGAN, in his
 official capacity as Registrar-
 24 Recorder/County Clerk for the County of
 Los Angeles,

25 Defendants.
 26

Case No.: CV 09 2292 VRW

**TRIAL MEMORANDUM OF
 DEFENDANT PATRICK
 O'CONNELL, CLERK-RECORDER
 OF THE COUNTY OF ALAMEDA**

Trial Date: January 11, 2010

Action Filed: May 27, 2009

27 As stated in the answer of Defendant Patrick O'Connell, Alameda County Clerk-
 28 Recorder ("Clerk-Recorder"), the Clerk-Recorder has a ministerial duty to carry out
Perry v. Schwartzenegger et al, Case No. CV 09 2292
 Trial Memorandum 1


1 the law. As of yet, no court has determined that Proposition 8 is invalid, and the
2 California Supreme Court has upheld the validity of Proposition 8 against an attack
3 on grounds not before this Court. Should this action result in a determination that
4 Proposition 8 is invalid, the Clerk-Recorder, following his ministerial duty, shall
5 cease to carry out the provisions of Proposition 8.

6 Other than providing any necessary defense of his actions in abiding by
7 Proposition 8 upon passage, the Clerk-Recorder, takes no position on the merits of
8 the case with respect to the validity of Proposition 8. The Clerk-Recorder does not
9 foresee presenting any evidence or arguments on the merits, but reserves the right
10 to provide a defense as to any asserted wrongdoing as a result of his obeying
11 Proposition 8 once it became effective.

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13 Respectfully submitted,

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15 DATED: December 4, 2009

RICHARD E. WINNIE, County
Counsel in and for the County of
Alameda, State of California

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19 By: 
20 Claude F. Kolm
21 Deputy County Counsel

22 Attorneys for Patrick O'Connell,
23 Clerk Recorder for the County of
24 Alameda

CERTIFICATE OF SERVICE

PERRY, et al. v. SCHWARZENEGGER, et al.
 United States District Court, Northern District, Case No. CV 09 2292 VRW

I, the undersigned, say:

I am employed in the County of Alameda, State of California, over the age of 18 years and not a party to the within cause. My business address is 1221 Oak Street, Suite 450, Oakland, CA 94612-4296.

On the date listed below, I served a true and accurate copy of the documents entitled:

1. TRIAL MEMORANDUM OF DEFENDANT PATRICK O'CONNELL, CLERK-RECORDER OF THE COUNTY OF ALAMEDA; and
2. CERTIFICATE OF SERVICE.

on the party in this action as indicated as follows:

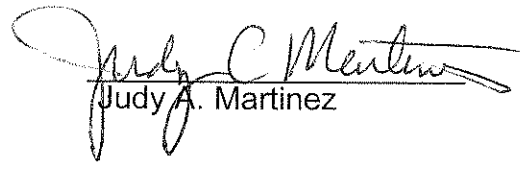
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5 (X) BY MAIL: I caused such envelope with postage thereon fully prepaid and to be
6 placed in the United States mail, in the City of Oakland, California.

7 (X) BY ECF: I caused a copy/s of such document/s to be sent via ECF transmission
8 to the office/s of the addressee/s.

9 I declare under penalty of perjury that the foregoing is true and correct and that
10 this declaration was executed at Oakland, California, on December 4, 2009.

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12 Judy A. Martinez
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