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9 *Application Pending for Admission to U. S. District Court, Northern District of California

10 ATTORNEYS FOR PROPOSED INTERVENORS COUNTY OF IMPERIAL
11 OF THE STATE OF CALIFORNIA, BOARD OF SUPERVISORS OF IMPERIAL
12 COUNTY, AND ISABEL VARGAS IN HER OFFICIAL CAPACITY AS DEPUTY
13 CLERK/DEPUTY COMMISSIONER OF CIVIL MARRIAGES FOR THE COUNTY OF
14 IMPERIAL

15 **UNITED STATES DISTRICT COURT**

16 **NORTHERN DISTRICT OF CALIFORNIA**

17 KRISTIN M. PERRY, SANDRA B. STIER,
18 PAUL T. KATAMI, and JEFFREY J.
19 ZARRILLO,

20 Plaintiffs,

21 CITY AND COUNTY OF SAN FRANCISCO,

22 Plaintiff-Intervenor,

23 v.

24 ARNOLD SCHWARZENEGGER, in his official
25 capacity as Governor of California; EDMUND G.
26 BROWN, JR., in his official capacity as Attorney
27 General of California; MARK B. HORTON, in his
28 official capacity as Director of the California
Department of Public Health and State Registrar
of Vital Statistics; LINETTE SCOTT, in her
official capacity as Deputy Director of Health
Information & Strategic Planning for the

CASE NO. 09-CV-2292 VRW

**[PROPOSED] ANSWER OF
PROPOSED INTERVENORS
COUNTY OF IMPERIAL, THE
BOARD OF SUPERVISORS OF
IMPERIAL COUNTY, AND
ISABEL VARGAS IN HER
OFFICIAL CAPACITY AS
DEPUTY CLERK/DEPUTY
COMMISSIONER OF CIVIL
MARRIAGES FOR THE COUNTY
OF IMPERIAL TO PLAINTIFFS'
COMPLAINT**

Date: January 21, 2010

Time: 10:00 a.m.

Judge: Chief Judge Vaughn R. Walker

Location: Courtroom 6, 17th Floor

1 California Department of Public Health;
 2 PATRICK O'CONNELL, in his official capacity
 3 as Clerk-Recorder for the County of Alameda; and
 4 DEAN C. LOGAN, in his official capacity as
 Registrar-Recorder/County Clerk for
 the County of Los Angeles,

5 Defendants,

6
 7 DENNIS HOLLINGSWORTH, GAIL J.
 8 KNIGHT, MARTIN F. GUTIERREZ, HAK-
 9 SHING WILLIAM TAM, and MARK A.
 JANSSEN, as official proponents of
 Proposition 8,

10 Defendant-Intervenors,

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 12 PROPOSED INTERVENORS COUNTY OF
 13 IMPERIAL OF THE STATE OF CALIFORNIA,
 14 BOARD OF SUPERVISORS OF IMPERIAL
 15 COUNTY, AND ISABEL VARGAS IN HER
 16 OFFICIAL CAPACITY AS DEPUTY
 CLERK/DEPUTY COMMISSIONER OF CIVIL
 MARRIAGES FOR THE COUNTY OF
 IMPERIAL

17 Proposed-Intervenors

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 19 Proposed Intervenors, the County of Imperial of the State of California, the Board of
 20 Supervisors of Imperial County, and Isabel Vargas in her official capacity as Deputy
 21 Clerk/Deputy Commissioner of Civil Marriages for the County of Imperial, answer Plaintiffs'
 22 Complaint for Declaratory, Injunctive, or Other Relief as follows:

23 1. Proposed Intervenors deny the allegations in Paragraph 1 of the Complaint
 24 except to admit that the Supreme Court of the United States wrote in *Loving v. Virginia*, 388
 25 U.S. 1, 12 (1967), that "[m]arriage is one of the 'basic civil rights of man,' fundamental to our
 26 very existence and survival," that Proposition 8 passed in November 2008, and that
 27 Proposition 8 amended the California Constitution to state that "[o]nly marriage between a
 28 man and a woman is valid or recognized in California." Cal. Const. art. I, § 7.5.

1 2. Proposed Intervenor's acknowledge that Plaintiffs request an injunction in
2 Paragraph 2 of the Complaint, but deny that Plaintiffs are entitled to such relief.

3 3. The allegations in Paragraph 3 of the Complaint set forth conclusions of law
4 which require no answer.

5 4. The allegations in Paragraph 4 of the Complaint contain conclusions of law
6 which require no answer. Proposed Intervenor's lack sufficient information to respond to any
7 factual allegations in Paragraph 4 of the Complaint; thus they are deemed denied.

8 5. Proposed Intervenor's acknowledge that Plaintiffs request a declaratory judgment
9 in Paragraph 5 of the Complaint, but deny that Plaintiffs are entitled to such relief. Proposed
10 Intervenor's acknowledge that Plaintiffs request an injunction in Paragraph 5 of the Complaint,
11 but deny that Plaintiffs are entitled to such relief.

12 6. Proposed Intervenor's acknowledge that Plaintiffs request a declaratory judgment
13 in Paragraph 6 of the Complaint, but deny that Plaintiffs are entitled to such relief. Proposed
14 Intervenor's acknowledge that Plaintiffs request an injunction in Paragraph 6 of the Complaint,
15 but deny that Plaintiffs are entitled to such relief.

16 7. Proposed Intervenor's lack sufficient information to respond to the allegations
17 about the identities of the Plaintiffs and their desires in Paragraph 7 of the Complaint; thus
18 they are deemed denied. Proposed Intervenor's deny the remaining allegations in Paragraph 7
19 of the Complaint.

20 8. Proposed Intervenor's acknowledge that Plaintiffs seek declaratory and injunctive
21 relief, attorneys' fees, costs, and expenses in Paragraph 8 of the Complaint, but deny that
22 Plaintiffs are entitled to the relief requested.

23 9. Proposed Intervenor's lack sufficient information to respond to the allegations in
24 Paragraph 9 of the Complaint; thus they are deemed denied.

25 10. Proposed Intervenor's lack sufficient information to respond to the allegations in
26 Paragraph 10 of the Complaint; thus they are deemed denied.

27 11. Proposed Intervenor's lack sufficient information to respond to the allegations in
28 Paragraph 11 of the Complaint; thus they are deemed denied.

1 12. Proposed Intervenor lack sufficient information to respond to the allegations in
2 Paragraph 12 of the Complaint; thus they are deemed denied.

3 13. Proposed Intervenor admit that Defendant Arnold Schwarzenegger is the
4 Governor of the State of California. The second and third sentences of paragraph 13 of the
5 Complaint set forth legal conclusions that do not require a response. Proposed Intervenor
6 lack sufficient information to respond to the remaining allegations in Paragraph 13 of the
7 Complaint; thus they are deemed denied.

8 14. Proposed Intervenor admit that Defendant Edmund G. Brown, Jr., is the
9 Attorney General of the State of California. The second and third sentences of paragraph 14 of
10 the Complaint set forth legal conclusions that do not require a response. Proposed Intervenor
11 lack sufficient information to respond to the remaining allegations in Paragraph 14 of the
12 Complaint; thus they are deemed denied.

13 15. Proposed Intervenor admit that Defendant Mark B. Horton is the Director of the
14 California Department of Public Health. The remaining allegations of paragraph 15 of the
15 Complaint set forth legal conclusions that do not require a response.

16 16. Proposed Intervenor admit that Defendant Linette Scott is the Deputy Director
17 of Health Information & Strategic Planning for the California Department of Public Health.
18 Proposed Intervenor lack sufficient information to respond to the remaining allegations in
19 Paragraph 16 of the Complaint; thus they are deemed denied.

20 17. Proposed Intervenor admit that Defendant Patrick O'Connell is the Clerk-
21 Registrar for the County of Alameda. The remaining allegations of paragraph 17 of the
22 Complaint set forth legal conclusions that do not require a response.

23 18. Proposed Intervenor admit that Defendant Dean C. Logan is the Registrar-
24 Recorder/County Clerk for the County of Los Angeles. The remaining allegations of
25 paragraph 18 of the Complaint set forth legal conclusions that do not require a response.

26 19. The first sentence of Paragraph 19 of the Complaint sets forth legal conclusions
27 that do not require a response. Proposed Intervenor acknowledge that Plaintiffs, as stated in
28 Paragraph 19 of the Complaint, seek relief against Defendants Arnold Schwarzenegger,

1 Edmund G. Brown, Jr., Mark B. Horton, Linette Scott, Patrick O'Connell, and Dean C. Logan,
2 as well as against other individuals, but deny that Plaintiffs are entitled to such relief.

3 20. The allegations in Paragraph 20 of the Complaint contain conclusions of law
4 which require no answer. Proposed Intervenor lack sufficient information to respond to any
5 factual allegations in Paragraph 20 of the Complaint; thus they are deemed denied.

6 21. The allegations in Paragraph 21 of the Complaint contain conclusions of law
7 which require no answer. Proposed Intervenor admit that some same-sex couples requested
8 marriage licenses from California county clerks in the 1970s. Proposed Intervenor lack
9 sufficient information to respond to any remaining factual allegations in Paragraph 21 of the
10 Complaint; thus they are deemed denied.

11 22. Proposed Intervenor admit that California has laws recognizing "domestic
12 partnerships." The features of California's laws governing domestic partnerships are matters
13 of law which require no answer. Proposed Intervenor lack sufficient information to respond
14 to any remaining factual allegations in Paragraph 22 of the Complaint; thus they are deemed
15 denied.

16 23. Proposed Intervenor admit that California law provides many benefits and
17 privileges to persons registered as "domestic partners." The features of California's laws
18 governing domestic partnerships are matters of law which require no answer.

19 24. Proposed Intervenor deny the allegations set forth in the first sentence of
20 Paragraph 24, but admit the remaining allegations set forth in Paragraph 24.

21 25. Proposed Intervenor lack sufficient information to respond to the allegations in
22 Paragraph 25 of the Complaint; thus they are deemed denied, except to admit that Proposition
23 8 appeared on California's November 2008 ballot.

24 26. Proposed Intervenor admit the allegations in Paragraph 26 of the Complaint.

25 27. Proposed Intervenor admit that language similar to that quoted in Paragraph 27
26 appeared in the November 4, 2008 California General Election Voter Information Guide.
27 Proposed Intervenor deny the allegations in Paragraph 27 regarding the purpose of
28

1 Proposition 8. Proposed Intervenor lack sufficient information to respond to the remaining
2 allegations in Paragraph 27; thus they are deemed denied.

3 28. Proposed Intervenor admit the allegations in Paragraph 28 of the Complaint.

4 29. The allegations in Paragraph 29 of the Complaint contain conclusions of law
5 which require no answer.

6 30. Proponents admit that the traditional definition of marriage embodied in
7 Proposition 8 restricts civil marriage to opposite-sex relationships and that there is a symbolic
8 difference between the designation "marriage," which enjoys a long history and uniform
9 recognition, and any other type of designation for an intimate relationship. Proposed
10 Intervenor deny the remaining allegations in Paragraph 42 of the Complaint.

11 31. Proposed Intervenor lack sufficient information to respond to the allegations in
12 Paragraph 31 of the Complaint; thus they are deemed denied.

13 32. Proposed Intervenor lack sufficient information to respond to the allegations in
14 Paragraph 32 of the Complaint; thus they are deemed denied.

15 33. Proposed Intervenor lack sufficient information to respond to the allegations in
16 Paragraph 33 of the Complaint; thus they are deemed denied.

17 34. Proposed Intervenor lack sufficient information to respond to the allegations
18 about the Plaintiffs' wishes in Paragraph 34 of the Complaint; thus they are deemed denied.
19 Proposed Intervenor deny the remaining allegations in Paragraph 34 of the Complaint.

20 35. Proposed Intervenor deny the allegations in Paragraph 35 of the Complaint
21 except to admit that marriage is a supremely important social institution, and that the Supreme
22 Court of the United States wrote in *Loving v. Virginia*, 388 U.S. 1, 12 (1967), that "freedom to
23 marry has long been recognized as one of the vital personal rights essential to the orderly
24 pursuit of happiness by free men."

25 36. Proposed Intervenor deny the allegations in the first sentence Paragraph 36 of
26 the Complaint. Proposed Intervenor admit that Plaintiffs seek declaratory and injunctive
27 relief against the various Government Defendants in this case but deny that they are entitled to
28 such relief.

1 37. Proposed Intervenor incorporate their responses to Paragraphs 1 through 36 of
2 the Complaint.

3 38. Proposed Intervenor deny the allegations in Paragraph 38 of the Complaint.

4 39. Proposed Intervenor deny the allegations in Paragraph 39 of the Complaint.

5 40. Proposed Intervenor incorporate their responses to Paragraphs 1 through 39 of
6 the Complaint.

7 41. Proposed Intervenor deny the allegations in Paragraph 41 of the Complaint.

8 42. Proponents admit that the traditional definition of marriage embodied in
9 Proposition 8 restricts civil marriage to opposite-sex relationships and that there is a symbolic
10 difference between the designation "marriage," which enjoys a long history and uniform
11 recognition, and any other type of designation for an intimate relationship. Proposed
12 Intervenor deny the remaining allegations in Paragraph 42 of the Complaint.

13 43. Proposed Intervenor deny the allegations in Paragraph 43 of the Complaint.

14 44. Proposed Intervenor admit that Proposition 8 distinguishes between couples
15 consisting of a man and a woman and any other type of intimate relationship. Proposed
16 Intervenor deny the remaining allegations in Paragraph 44 of the Complaint.

17 45. Proposed Intervenor incorporate their responses to Paragraphs 1 through 44 of
18 the Complaint.

19 46. Proposed Intervenor deny the allegations in Paragraph 46 of the Complaint.

20 47. Proposed Intervenor incorporate their responses to Paragraphs 1 though 46 of
21 the Complaint.

22 48. Proposed Intervenor deny the allegations in Paragraph 48 of the Complaint.

23 49. Whether or not this case presents a judicially cognizable controversy is a
24 conclusion of law that requires no response. Proposed Intervenor deny the remaining
25 allegations in Paragraph 49 of the Complaint.

26 50. The remainder of the Complaint is a prayer for relief that does not require a
27 response. To the extent that a response is required, Proposed Intervenor deny that Plaintiffs
28 are entitled to, or that this Court has jurisdiction to grant, the relief requested.

51. Proposed Intervenor deny each and every allegation not expressly admitted herein.

First Affirmative Defense

Plaintiffs have failed to state a claim upon which relief can be granted.

Second Affirmative Defense

Neither the challenged provisions nor Defendants have deprived Plaintiffs of any right or privilege guaranteed by the United States Constitution.

WHEREFORE, Proposed Intervenor respectfully request that this Court dismiss Plaintiffs' claims with prejudice, deny Plaintiffs' prayer for relief, order Plaintiffs to pay Proposed Intervenor's costs and attorneys' fees, and grant other relief deemed just and proper.

DATED: December 15, 2009

ADVOCATES FOR FAITH AND FREEDOM
ATTORNEYS FOR PROPOSED
INTERVENORS COUNTY OF IMPERIAL
OF THE STATE OF CALIFORNIA, BOARD
OF SUPERVISORS OF IMPERIAL
COUNTY, AND ISABEL VARGAS IN HER
OFFICIAL CAPACITY AS DEPUTY
CLERK/DEPUTY COMMISSIONER OF
CIVIL MARRIAGES FOR THE COUNTY
OF IMPERIAL

By: 

Jennifer L. Monk

I, Jennifer L. Monk, declare as follows:

I am employed in the State of California; I am over the age of eighteen years and am not a party to this action; my business address is 24910 Las Brisas Road, Suite 110, Murrieta, California 92562. On December 15, 2009, I served the following document(s):

1. **[PROPOSED] ANSWER OF PROPOSED INTERVENORS COUNTY OF IMPERIAL, THE BOARD OF SUPERVISORS OF IMPERIAL COUNTY, AND ISABEL VARGAS IN HER OFFICIAL CAPACITY AS DEPUTY CLERK/DEPUTY COMMISSIONER OF CIVIL MARRIAGES FOR THE COUNTY OF IMPERIAL TO PLAINTIFFS' COMPLAINT**

on the parties stated below by the following means of service:

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BY ELECTRONIC MAIL: I caused the following documents to be transmitted via electronic mail to the attorneys of record at the email addresses listed above pursuant to an agreement in writing between the parties that such service is appropriate under Federal Rule of Civil Procedure 5(b)(2)(E).

I declare under penalty of perjury that the foregoing is true and correct, and that this Declaration was executed in Murrieta, California, December 15, 2009.


Jennifer L. Monk