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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
California Department of Public Health;

CASE NO. 09-CV-2292 VRW

PROPOSED INTERVENORS'
NOTICE OF MOTION AND MOTION
TO SHORTEN TIME

Judge: Chief Judge Vaughn R. Walker
Location: Courtroom 6, 17th Floor

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

6 Defendants,

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

12 Defendant-Intervenors,

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

21 Proposed-Intervenors

22 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

23 **PLEASE TAKE NOTICE THAT** Proposed Intervenors, the County of Imperial of the State
24 of California ("County"), the Board of Supervisors of Imperial County ("Board"), and Isabel Vargas in
25 her official capacity as Deputy Clerk/Deputy Commissioner of Civil Marriages/Recordable Document
26 Examiner ("Clerk"), hereby move this Court for an order shortening time on their Motion to Intervene.

27 The motion of Proposed Intervenors is based on this Notice of Motion and Motion, Motion to
28 Intervene, Declaration of Jennifer L. Monk in support of the Motion to Shorten Time, all pleadings
and other documents filed in this case, and any and all arguments of counsel at a hearing on the
Motion to Shorten Time.

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2 **ARGUMENT**

3 Pursuant to Civil Local Rule 6-3, Proposed Intervenors respectfully seek the Court's leave for a
4 hearing on their Motion to Intervene at the pretrial conference on December 16, 2009 or as soon
5 thereafter as reasonably possible. Proposed Intervenors likewise respectfully submit that the time for
6 briefing should be shortened to expedite the Court's consideration of this matter. With trial set to
7 begin on January 11, 2010, time does not permit the usual briefing and hearing schedule on the Motion
8 to Intervene.

9 As set forth in the Motion to Intervene and supporting Memorandum, the standing of the
10 Official Proponents to appeal has been called into question because they are not a governmental entity
11 or official. Given that the governmental Defendants all either agree with Plaintiffs that Proposition 8
12 is unconstitutional or have declined to defend it actively, there is a distinct possibility that they will
13 choose not to notice an appeal, let alone seek Supreme Court review, of a ruling holding Proposition 8
14 unconstitutional. Thus, it is possible that none of the current parties to the case would be both willing
15 and able to appeal from a ruling by this Court that Proposition 8 is unconstitutional, or to seek
16 Supreme Court review of such a ruling by the Court of Appeals. The intervention of Proposed
17 Intervenors may thus be essential to ensure the possibility of appellate and Supreme Court review
18 regardless of the outcome of this case.

19 Moreover, Proposed Intervenors do not seek to conduct discovery, present evidence at trial, or
20 otherwise participate substantively in the litigation before this Court. Proposed Intervenors have no
21 evidence relevant to plaintiffs' claims, but will comply as quickly as possible with any reasonable
22 discovery requests. And while Proposed Intervenors reserve the right to submit post-trial briefing on
23 the merits, they most likely will largely adopt the arguments of the Official Proponents. The requested
24 expedited schedule will allow quick resolution of this critically important technicality before the press
25 of trial is upon the parties and this Court.

26 Proposed Intervenors have conferred with the parties about the instant motion. Plaintiffs have
27 indicated that they oppose this motion, as well as Proposed Intervenors intervention. Plaintiff-
28 Intervenors have also indicated they oppose this motion, as well as intervention. Counsel for

1 Defendants SCHWARZENEGGER, HORTON, and SCOTT has not returned a message regarding this
 2 motion. Defendant BROWN has indicated he will not oppose the Motion to Intervene or the Motion
 3 to Shorten Time. Defendant O'CONNELL has indicated he will not oppose the Motion to Intervene
 4 or the Motion to Shorten Time. Defendant LOGAN has also indicated he will not oppose the Motion
 5 to Intervene or the Motion to Shorten Time. Defendant-Intervenors have indicated they would
 6 stipulate to shorten time on the Motion to Intervene and that they would not oppose the Motion to
 7 Intervene.

8 This case plainly presents momentous issues of importance not only to the parties to this
 9 litigation, but also to the State of California and the Nation as a whole. The constitutional issues
 10 presented surely warrant definitive resolution by the Court of Appeals and perhaps even the Supreme
 11 Court. It is therefore essential to ensure that the enormous efforts and resources being expended on
 12 these proceedings by the parties and the Court not result in an unappealable, nonprecedential ruling
 13 applicable only to the parties to this case. Any ambiguity on this front should be resolved as soon as
 14 reasonably possible.

15 CONCLUSION

16 For these reasons, Proposed Intervenors respectfully request that this motion be granted.

17 DATED: December 15, 2009

18 ADVOCATES FOR FAITH AND FREEDOM
 19 ATTORNEYS FOR PROPOSED
 20 INTERVENORS COUNTY OF IMPERIAL
 21 OF THE STATE OF CALIFORNIA, BOARD
 22 OF SUPERVISORS OF IMPERIAL
 23 COUNTY, AND ISABEL VARGAS IN HER
 24 OFFICIAL CAPACITY AS DEPUTY
 25 CLERK/DEPUTY COMMISSIONER OF
 26 CIVIL MARRIAGES FOR THE COUNTY
 27 OF IMPERIAL

28 By: 

Jennifer L. Monk

DECLARATION OF SERVICE

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):

- PROPOSED INTERVENORS' NOTICE OF MOTION AND MOTION TO SHORTEN TIME; DECLARATION OF JENNIFER L. MONK IN SUPPORT OF MOTION TO SHORTEN TIME; AND [PROPOSED] ORDER GRANTING MOTION TO SHORTEN TIME**

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

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Attorneys for Plaintiff Kristin M. Perry

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

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

21 
22 Jennifer L. Monk