

1 OFFICE OF THE COUNTY COUNSEL  
 ELIZABETH M. CORTEZ, Assistant County Counsel  
 2 JUDY W. WHITEHURST, Principal Deputy County Counsel  
 (SBN 182855) • *jwhitehurst@counsel.lacounty.gov*  
 3 648 Kenneth Hahn Hall of Administration  
 500 West Temple Street  
 4 Los Angeles, California 90012-2713  
 Telephone: (213) 974-1845 · Fax: (213) 617-7182

5 Attorneys for DEAN C. LOGAN,  
 6 REGISTRAR-RECORDER/COUNTY  
 CLERK FOR LOS ANGELES COUNTY

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 8 **UNITED STATES DISTRICT COURT**  
 9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

11 KRISTIN M. PERRY, SANDRA B.  
 STIER, PAUL T. KATAMI, and  
 12 JEFFREY J. ZARRILLO,

13 Plaintiffs,

14 v.

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

25 Defendants.

CASE NO. 09-CV-2292 VRW

**ANSWER TO COMPLAINT FOR  
 DECLARATORY, INJUNCTIVE,  
 OR OTHER RELIEF**

Judge: Chief Judge Vaughn R. Walker  
 Location: Courtroom 6, 17<sup>th</sup> Floor

1 Defendant Dean C. Logan, in his capacity as Los Angeles County  
2 Registrar-Recorder/County Clerk ("LA County Registrar"), hereby answers  
3 Plaintiffs' Complaint for Declaratory, Injunctive or other relief as follows:  
4

5 **INTRODUCTION**

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

11 **JURISDICTION AND VENUE**

12 2. Answering paragraph 3, Defendant LA County Registrar  
13 contends that said paragraphs contain conclusions of law and not averments of fact  
14 to which an answer may be required, but insofar as an answer may be deemed  
15 required, this answering Defendant generally and specifically denies each and every  
16 allegation in said paragraph.

17 3. Answering paragraph 4, as to the information pertaining to  
18 Defendant O'Connell's and all other Defendants' residences, and that a substantial  
19 part of the events giving rise to the claim occurred in the Northern District,  
20 Defendant LA County Registrar lacks sufficient information or knowledge to enable  
21 him to answer the allegations contained in said paragraph, and basing his denial on  
22 that ground, generally and specifically denies each and every allegation related  
23 thereto. Defendant LA County Registrar admits that he resides in the State of  
24 California.

25 **NATURE OF DISPUTE**

26 4. Answering paragraphs 5 and 6, Defendant LA County Registrar  
27 contends that said paragraphs contain conclusions of law and not averments of fact

1 to which an answer may be required, but insofar as an answer may be deemed  
2 required, this answering Defendant generally and specifically denies each and every  
3 allegation in said paragraphs.

4           5.       Answering paragraph 7, Defendant LA County Registrar lacks  
5 sufficient information or knowledge to enable him to answer the allegations  
6 contained in said paragraph, and basing his denial on that ground, generally and  
7 specifically denies each and every allegation related thereto.

8           6.       Answering Paragraph 8, Defendant LA County Registrar  
9 contends that said paragraph contain conclusions of law and not averments of fact to  
10 which an answer may be required, but insofar as an answer may be deemed  
11 required, this answering Defendant generally and specifically denies each and every  
12 allegation in said paragraphs.

13           7.       Answering Paragraphs 9 through 12, Defendant LA County  
14 Registrar lacks sufficient information or knowledge to enable him to answer the  
15 allegations contained in said paragraphs, and basing his denial on that ground,  
16 generally and specifically denies each and every allegation contained in said  
17 paragraphs.

18           8.       Answering Paragraph 13, Defendant LA County Registrar admits  
19 that Arnold Schwarzenegger is the Governor of the State of California. Answering  
20 all other factual allegations contained in said paragraph, Defendant LA County  
21 Registrar lacks sufficient information or knowledge to enable him to answer the  
22 allegations contained in said paragraphs, and basing his denial on that ground,  
23 generally and specifically denies each and every allegation contained in said  
24 paragraphs. In addition, Defendant LA County Registrar contends that said  
25 paragraph also contains conclusions of law pertaining to the responsibilities of the  
26 Governor and not averments of fact to which an answer may be required, but insofar  
27 an answer may be deemed required, this answering Defendant generally and

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1 specifically denies each and every allegation in said paragraph.

2           9.       Answering Paragraph 14, Defendant LA County Registrar admits  
3 that Edmund G. Brown, Jr., is the Attorney General of the State of California.  
4 Answering all other factual allegations, contained in said paragraph, Defendant LA  
5 County Registrar lacks sufficient information or knowledge to enable him to answer  
6 the allegations contained in said paragraph, and basing his denial on that ground,  
7 generally and specifically denies each and every allegation contained in said  
8 paragraph. In addition, Defendant LA County Registrar contends that said  
9 paragraph also contains conclusions of law pertaining to the legal responsibilities of  
10 the Attorney General and not averments of fact to which an answer may be required,  
11 but insofar an answer may be deemed required, this answering Defendant generally  
12 and specifically denies each and every allegation in said paragraph.

13           10.     Answering paragraph 15, Defendant LA County Registrar admits  
14 that Mark B. Horton is the Director of the California Department of Public Health.  
15 Answering all other factual allegations, contained in said paragraph, Defendant LA  
16 County Registrar lacks sufficient information or knowledge to enable him to answer  
17 the allegations contained in said paragraph, and basing his denial on that ground,  
18 generally and specifically denies each and every allegation contained in said  
19 paragraph. In addition, Defendant LA County Registrar contends that said  
20 paragraph also contains conclusions of law pertaining to the legal responsibilities of  
21 the Director of Public Health and/or the State Registrar of Vital Statistics and not  
22 averments of fact to which an answer may be required, but insofar an answer may be  
23 deemed required, this answering Defendant generally and specifically denies each  
24 and every allegation in said paragraph.

25           11.     Answering Paragraph 16, Defendant LA County Registrar admits  
26 that Linette Scott is the Deputy Director of Health Information & Strategic Planning  
27 for the California Department of Health. Answering all other factual allegations,

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1 contained in said paragraph, Defendant LA County Registrar lacks sufficient  
2 information or knowledge to enable him to answer the allegations contained in said  
3 paragraph, and basing his denial on that ground, generally and specifically denies  
4 each and every allegation contained in said paragraph. In addition, Defendant LA  
5 County Registrar contends that said paragraph also contains conclusions of law  
6 pertaining to the legal responsibilities of the Deputy Director of Health Information  
7 & Strategic Planning for the California Department and not averments of fact to  
8 which an answer may be required, but insofar an answer may be deemed required,  
9 this answering Defendant generally and specifically denies each and every  
10 allegation in said paragraph.

11           12. Answering Paragraph 17, Defendant LA County Registrar denies  
12 generally and specifically that Patrick O'Connell is the Registrar for the County of  
13 Alameda. Defendant LA County Registrar admits that Patrick O'Connell is the  
14 Clerk for the County of Alameda. As to all other allegations contained therein,  
15 Defendant LA County Registrar lacks sufficient information or knowledge to enable  
16 him to answer the allegations contained in said paragraph, and basing her denial on  
17 that ground, generally and specifically denies each and every allegation contained in  
18 said paragraph.

19           13. Answering Paragraph 18, Defendant LA County Registrar admits  
20 that he is the Registrar-Recorder/County Clerk for the County of Los Angeles. In  
21 addition, Defendant LA County Registrar admits that his office is responsible for  
22 maintaining vital records of marriages, issuing marriage licenses, and performing  
23 civil ceremonies in Los Angeles County.

24           14. Answering Paragraph 19, Defendant LA County Registrar denies  
25 generally and specifically that he is responsible for the enforcement of Prop. 8. As  
26 to all other allegations contained therein, Defendant LA County Registrar lacks  
27 sufficient information or knowledge to enable him to answer the allegations

1 contained in said paragraph, and basing his denial on that ground, generally and  
2 specifically denies each and every allegation contained in said paragraph.

3 **FACTS**

4 15. Answering Paragraph 20, Defendant LA County Registrar lacks  
5 sufficient information or knowledge to enable him to answer the allegations  
6 contained in said paragraphs, and basing his denial on that ground, generally and  
7 specifically denies each and every allegation contained in said paragraph.

8 16. Answering Paragraph 21, the California Family Code section  
9 300 speaks for itself. Defendant LA County Registrar denies that Family Code  
10 section 300 was enacted in 1977. As to all other allegations contained in Paragraph  
11 21, Defendant LA County Registrar lacks sufficient information or knowledge to  
12 enable him to answer the allegations contained in said paragraphs, and basing his  
13 denial on that ground, generally and specifically denies each and every allegation  
14 contained in said paragraph.

15 17. Answering paragraph 22, 23, 24, and 25, the California Code  
16 Sections speak for themselves. As to all allegations contained therein, Defendant  
17 LA County Registrar lacks sufficient information or knowledge to enable him to  
18 answer the remaining allegations contained in said paragraphs, and basing his denial  
19 on that ground, generally and specifically denies each and every allegation  
20 contained in said paragraphs.

21 18. Answering paragraph 26, Defendant LA County Registrar admits  
22 the allegations contained therein.

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

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20. Answering paragraph 29, Defendant LA County Registrar admits the allegations contained therein.

21. Answering paragraph 30, Defendant LA County Registrar admits that Proposition 8 restricted marriage to opposite sex couples in California. As to all other allegations contained that therein, Defendant LA County Registrar 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 paragraph.

22. Answering paragraphs 31, 32 and 33, Defendant LA County Registrar 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 paragraphs.

23. Answering paragraphs 34, 35, and 36, Defendant LA County 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.

**CLAIMS FOR RELIEF**

**CLAIM ONE: DUE PROCESS**

24. Answering Paragraph 37, Defendant LA County Registrar incorporates by reference his responses to paragraphs 1 through 36 as though fully restated herein.

25. Answering Paragraphs 38 and 39 of Plaintiffs' Claims for Relief, Defendant LA County Registrar contends that said paragraphs do not contain averments of fact to which an answer may be required, but insofar as an answer may

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1 be deemed required, Defendant LA County Registrar generally and specifically  
2 denies each and every allegation in said paragraphs.

3 **CLAIM TWO: EQUAL PROTECTION**

4 26. Answering paragraph 40, Defendant LA County Registrar  
5 incorporates by reference his responses to paragraphs 1 through 39 as though fully  
6 restated herein.

7 27. Answering Paragraphs 41, 42, 43, and 44, Defendant LA County  
8 Registrar contends that said paragraphs do not contain averments of fact to which an  
9 answer may be required, but insofar as an answer may be deemed required,  
10 Defendant LA County Registrar generally and specifically denies each and every  
11 allegation in said paragraphs.

12 **CLAIM THREE: VIOLATION OF 42 U.S.C. § 1983**

13 28. Answering paragraphs 45, Defendant LA County Registrar  
14 incorporates by reference his responses to paragraphs 1 through 44 as though fully  
15 restated herein.

16 29. Answering Paragraph 46, Defendant LA County Registrar  
17 contends that said paragraph does not contain averments of fact to which an answer  
18 may be required, but insofar as an answer may be deemed required, Defendant LA  
19 County Registrar generally and specifically denies each and every allegation in said  
20 paragraph.

21 **IRREPARABLE INJURY**

22 30. Answering paragraph 47 Defendant LA County Registrar  
23 incorporates by reference his responses to paragraphs 1 through 46 as though fully  
24 restated herein.

25 31. Answering paragraphs 48 and 49, Defendant LA County  
26 Registrar contends that said paragraphs do not contain averments of fact to which an  
27 answer may be required, but insofar as an answer may be deemed required,

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1 Defendant LA County Registrar generally and specifically denies each and every  
2 allegation in said paragraph.

3  
4 **PRAYER FOR RELIEF**

5 32. Answering paragraphs 1, 2, and 3 of Plaintiffs ' Prayer for  
6 Relief, this answering Defendant contends that said paragraphs do not contain  
7 averments of fact to which an answer may be required.

8 **AFFIRMATIVE DEFENSES**

9 **FIRST AFFIRMATIVE DEFENSE**

10 1. The Complaint fails to state facts sufficient to constitute claims  
11 upon which relief can be granted against Defendant LA County Registrar as he has a  
12 ministerial duty to abide by the laws of the State of California and has no authority  
13 to disregard the law pursuant to *Lockyer v. City and County of San Francisco* (2004)  
14 33 Cal.4<sup>th</sup> 1055..

15 **SECOND AFFIRMATIVE DEFENSE**

16 2. The Complaint fails to state facts sufficient to constitute claims  
17 upon which relief can be granted against Defendant LA County Registrar in that he  
18 has no discretion to issue marriage licenses in any other manner than in accordance  
19 with State law. *Lockyer v. City and County of San Francisco* (2004) 33 Cal.4th  
20 1055.

21 **THIRD AFFIRMATIVE DEFENSE**

22 3. The Complaint fails to state facts sufficient to constitute claims  
23 upon which relief can be granted against Defendant LA County Registrar in that he  
24 acted in good faith in performing his duties in issuing marriage licenses in  
25 conformity with State law.

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WHEREFORE, Defendant Dean C. Logan prays for judgment as

follows:

- 1. That Plaintiffs' action against him be dismissed;
- 2. That Plaintiffs take nothing against him by way of their Complaint;
- 3. That Defendant be awarded his costs of suit, including attorney fees; and,
- 4. For such other relief as the Court deems proper.

DATED: June 15, 2009

Respectfully submitted,

OFFICE OF THE COUNTY COUNSEL

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

Attorneys for DEAN C. LOGAN,  
 REGISTRAR-RECORDER/COUNTY  
 CLERK FOR LOS ANGELES COUNTY

**DECLARATION OF SERVICE**  
**USDC – Northern District Case No. 09-CV-2292 VRW**  
***Perry, et al. v. Schwarzenegger, et al.***

STATE OF CALIFORNIA, County of Los Angeles:

Hazel T. Bataclan states: I am employed in the County of Los Angeles, State of California, over the age of eighteen years and not a party to the within action. My business address is 648 Kenneth Hahn Hall of Administration, 500 West Temple Street, Los Angeles, California 90012-2713.

That on June 15, 2009, I served the attached

**1. DEAN C. LOGAN'S ANSWER TO COMPLAINT FOR  
DECLARATORY, INJUNCTIVE, OR OTHER RELIEF**

upon the *non-CM/ECF participants/Interested Party(ies)* by placing  the original  a true copy thereof enclosed in a sealed envelope addressed  as follows  as stated on the attached mailing list:

**(BY MAIL)** by sealing and placing the envelope for collection and mailing on the date and at the place shown above following our ordinary business practices. I am readily familiar with this office's practice of collection and processing correspondence for mailing. Under that practice the correspondence would be deposited with the United States Postal Service that same day with postage thereon fully prepaid.

I declare that I am employed in the offices of a member of this court at whose direction the service was made.

Executed on June 15, 2009, at Los Angeles, California.

Hazel T. Bataclan

Type or Print Name of Declarant

/s/ Hazel T. Bataclan

Signature

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include the name of the Messenger Service

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**SERVICE LIST**

David Boies, Esquire  
Theodore Hideyuki Uno, Esquire  
Boies Schiller & Flexner, LLP  
333 Main Street Armonk, NY 10504

James A. Campbell, Esquire  
Alliance Defense Fund  
15100 North 90<sup>th</sup> Street  
Scottsdale, AZ 85260

Theane Evangelis Kapur, Esquire  
Gibson Dunn & Crutcher LLP  
333 South Grand Avenue  
Los Angeles, CA 90071