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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, 17th 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.4th 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

and, for personal service by a Messenger Service,
include the name of the Messenger Service

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