

1 ALAN L. SCHLOSSER (SBN 49957)
ELIZABETH O. GILL (SBN 218311)
2 ACLU FOUNDATION OF NORTHERN CALIFORNIA
39 Drumm Street
3 San Francisco, CA 94111
T: (415) 621-2493/F: (415) 255-8437
4 E-mail: egill@aclunc.org

5 JON W. DAVIDSON (SBN 89301)
JENNIFER C. PIZER (SBN 152327)
6 TARA BORELLI (SBN 216961)
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.
7 3325 Wilshire Boulevard, Suite 1300
Los Angeles, CA 90010
8 T: (213) 382-7600/F: (213) 351-6050
E-mail: jpizer@lambdalegal.org

9 SHANNON P. MINTER (SBN 168907)
10 ILONA M. TURNER (SBN 256219)
CHRISTOPHER P. STOLL (SBN 179046)
11 NATIONAL CENTER FOR LESBIAN RIGHTS
870 Market Street, Suite 370
12 San Francisco, CA 94102
T: (415) 392-6257/F: (415) 392-8442
13 E-mail: sminter@nclrights.org

14 Attorneys for Proposed Plaintiff-Intervenors Our Family Coalition;
Lavender Seniors of the East Bay; and Parents, Families, and Friends of Lesbians and Gays

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,

Plaintiffs,

20 v.

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

28 Defendants,

CASE NO. 09-CV-2292 VRW

**DECLARATION OF JUDITH K. APPEL IN
SUPPORT OF MOTION TO INTERVENE**

The Honorable Chief Judge Vaughn R. Walker

Date: September 3, 2009
Time: 10:00 a.m.
Location: Courtroom 6, 17th Floor

Trial Date: Not Set

1 and

2 Proposition 8 Official Proponents Dennis
3 Hollingsworth, Gail J. Knight, Martin F. Gutierrez,
4 Hakshing William Tam, and Mark A. Jansson; and
ProtectMarriage.com – Yes on 8, a Project of
California Renewal,

5 Defendant-Intervenors.

6
7 Additional Counsel for Proposed Plaintiff-Intervenors:

8 MARK ROSENBAUM (SBN 59940)
9 LORI RIFKIN (SBN 244081)
10 ACLU FOUNDATION OF SOUTHERN CALIFORNIA
11 1313 W. 8th Street
Los Angeles, CA 90017
T: (213) 977-9500/ F: (213) 250-3919
E-mail: mrosenbaum@aclu-sc.org

12 DAVID BLAIR-LOY (SBN 229235)
13 ACLU FOUNDATION OF SAN DIEGO AND IMPERIAL COUNTIES
14 P.O. Box 87131
San Diego, CA 92138
T: (619) 232-2121/F: (619) 232-0036
E-mail: dblairloy@aclusandiego.org

15 MATTHEW A. COLES (SBN 76090)
16 JAMES D. ESSEKS (SBN 159360)
17 LGBT & AIDS PROJECT
18 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad Street, 18th Floor
New York, NY 10005
T: (212) 549-2500/F: (212) 549-2650
19 E-mail: jesseks@aclu.org
20
21
22
23
24
25
26
27
28

1 I, Judith K. Appel, declare:

2 1. I have personal knowledge of the facts set forth in this declaration and, if called as a
3 witness, I could and would testify competently to these facts under oath.

4 2. I am the executive director of Our Family Coalition ("OFC"), a San Francisco Bay
5 Area organization dedicated to promoting the civil rights and well-being of families headed by
6 lesbian, gay, bisexual, and transgender ("LGBT") parents and prospective parents through education,
7 advocacy, social networking and community organizing.

8 3. Our Family Coalition has a membership of more than 750 families, representing
9 thousands of individuals and organizations in Northern California. A great many of our member
10 families are headed by same-sex couples who are raising small children. These families are diverse
11 in many ways, including age, race, ethnicity, socio-economic class and disability.

12 4. Our Family Coalition organizes social and educational events each month to inform
13 our members and the broader LGBT community about legal and social issues related to parenting and
14 family life. Our Family Coalition places special emphasis on providing help and support for families
15 headed by LGBT parents and same-sex couples who are planning to become parents to assist these
16 families in coping with the legal barriers, practical difficulties and emotional stresses that arise both
17 from being deemed second-class citizens in California because of the state's exclusion of same-sex
18 couples from marriage, as well as the larger national context of pervasive legal and social
19 discrimination against LGBT individuals and their families.

20 5. Because so much of Our Family Coalition's work aims to support families with small
21 children, the organization and our members are especially knowledgeable about the harassment,
22 stigmatization, bullying and other discrimination faced by children who have LGBT parents. Our
23 membership has reported a rise in such abuse of children being raised by same-sex couples—and
24 abuse of children and youth perceived by others as possibly lesbian or gay themselves—during last
25 year's campaign to pass Proposition 8 and since the measure's passage. As an organization we
26 prioritize helping parents to support children who are struggling against anti-gay stigma and
27 mistreatment because younger people often lack the perspective and confidence with which adults
28 resist negative messages and maintain self-esteem. Our Family Coalition believes the experiences of

1 our member families can be an invaluable addition as the court makes a record about the purposes
2 and effects of Proposition 8, and especially about issues concerning the needs of families with
3 younger children.

4 6. Our Family Coalition greatly values the racial, ethnic, religious, age and socio-
5 economic diversity of our membership and community. The organization recognizes that anti-LGBT
6 discrimination often causes different harms for our members and community as a function of social
7 dynamics related to personal traits other than sexual orientation and gender identity. We strive to
8 make our educational and social support services available and helpful for the full diversity of our
9 members and community, including those who are disabled and whose children are disabled, many of
10 whom face additional barriers and social marginalization..

11 7. Our Family Coalition's work also provides us with information about the effects on
12 LGBT-headed families of anti-LGBT bias on the part of health care providers and the barriers to
13 health for LGBT people caused by the social and legal disrespect of same-sex couples and their
14 children. More specifically, OFC's work conducting educational programming and advocating for
15 the needs of LGBT-headed families within the health care community enables us to understand and
16 describe how these biases are manifested and impact these families. We also know from our
17 members that some LGBT parents fear exposing their children to negative interactions and
18 discrimination resulting from providers' failure to understand and respect their family relationships.
19 This fear impedes the establishment of the trusting provider-patient relationships that strengthen child
20 and family health.

21 8. Because of the practical problems and emotional harms inflicted because California
22 law relegates lesbian and gay couples and their families to the lesser family status of registered
23 domestic partnership, Our Family Coalition has been actively involved in challenging the
24 constitutionality of the exclusion of same-sex couples from the right to marry. We were a
25 plaintiff/petitioner in *Woo v. Lockyer*, San Francisco Superior Court Case No. CPF-04 504038, which
26 was consolidated with five other cases in the *In re Marriage Cases* action, California Supreme Court
27 Case No. S147999. We also filed an amicus brief in the legal challenge to Proposition 8, *Strauss v.*
28 *Horton*, California Supreme Court Case No. S168047.

1 9. Many of our members married last year after the California Supreme Court's ruling in
2 *In re Marriage Cases* required equal treatment of lesbian and gay couples under the state's marriage
3 laws. But many others did not do so in the months before passage of Proposition 8 re-imposed the
4 anti-gay exclusion. Some did not marry because they did not wish to celebrate such an important life
5 event on an accelerated time frame imposed by others, with the threat of a ballot measure looming
6 over the experience, and some had other personal reasons for deciding the time was not right. Yet,
7 many of our members who did not marry last year very much want the same freedom to marry
8 enjoyed by other Californians, without regard to sexual orientation, and now are denied the ability to
9 exercise that basic right by Proposition 8. These OFC members intend to and would marry but for
10 Proposition 8's preventing them from doing so.

11 10. Many of our members who did marry last year when California allowed same-sex
12 couples to do so continue to experience discrimination and emotional harm as a result of Proposition
13 8 because the anti-gay marriage rule causes others to doubt the validity of their marriages,
14 notwithstanding the California Supreme Court's decision that they remain validly married, and
15 because Proposition 8 has reinstated a sexual orientation-based class system within California's
16 marriage laws that causes anti-gay social stigma even for those LGBT people who are married to a
17 same-sex spouse.

18 11. Our Family Coalition first learned of this legal challenge to Proposition 8 through
19 media reports after it was filed in late May, 2009. This week we learned that there would be a trial
20 that could require evidentiary presentations about a variety of issues involving LGBT individuals,
21 same-sex couples, and their families.

22 12. Our Family Coalition wishes to intervene in this case to advocate for the interests of
23 our members and other similarly situated California families headed by same-sex couples – including
24 those raising small children and those coping with additional forms of discrimination – to help ensure
25 that these interests are represented as the court makes findings about the harms inflicted on us by
26 Proposition 8 and the need to restore the freedom to marry for all Californians, regardless of sex and
27 sexual orientation.

28 //

1 I declare under penalty of perjury under the laws of the State of California that the foregoing
2 is true and correct. Executed in San Francisco, California on July 8, 2009.

3
4 
5 JUDITH K. APPEL
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28