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21 Attorneys for Plaintiffs

22 **UNITED STATES DISTRICT COURT**

23 **NORTHERN DISTRICT OF CALIFORNIA (OAKLAND DIVISION)**

24 MICHAEL DRAGOVICH, MICHAEL  
25 GAITLEY, ELIZABETH LITTERAL,  
26 PATRICIA FITZSIMMONS, CAROLYN  
27 LIGHT, CHERYL LIGHT, DAVID BEERS,  
28 CHARLES COLE, RAFAEL V. DOMINGUEZ,  
and JOSE G. HERMOSILLO, on behalf of  
themselves and all others similarly situated,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF THE  
TREASURY, TIMOTHY GEITHNER, in his  
official capacity as Secretary of the Treasury,  
United States Department of the Treasury,  
INTERNAL REVENUE SERVICE, DOUGLAS  
SHULMAN, in his official capacity as  
Commissioner of the Internal Revenue Service,  
BOARD OF ADMINISTRATION OF  
CALIFORNIA PUBLIC EMPLOYEES'  
RETIREMENT SYSTEM, and ANNE  
STAUSBOLL, in her official capacity as Chief  
Executive Officer, CalPERS,

Defendants.

Case No. CV 4:10-01564-CW

**PARTIES' STIPULATION AND ~~PROPOSED~~  
ORDER REGARDING BRIEFING SCHEDULE  
FOR MOTION FOR SUMMARY JUDGMENT**

1 WHEREAS, plaintiffs filed this action as a putative class on April 13, 2010, alleging  
2 constitutional claims on behalf of three gay and lesbian couples, all three of whom were married  
3 in 2008, and two of whom were registered as domestic partners;

4 WHEREAS, following extensions granted by the plaintiffs, the defendants Board of  
5 Administration of CalPERS and Anne Stausboll (“the state defendants”) answered the  
6 complaint on July 2, 2010;

7 WHEREAS, following an extension granted by the plaintiffs, the defendants United  
8 States Department of the Treasury, Timothy Geithner, the Internal Revenue Service, and  
9 Douglas Shulman (“the federal defendants”) filed a motion to dismiss on July 2, 2010;

10 WHEREAS, on January 18, 2011, the Court issued an order denying the federal  
11 defendants’ motion to dismiss;

12 WHEREAS, on March 1, 2011, the Court entered a stipulated order granting plaintiffs  
13 leave to file their First Amended Complaint, adding plaintiffs Joanne Schmidt, Reide Garnett,  
14 Charles Cole, and David Beers and plaintiffs filed their First Amended Complaint on March 1,  
15 2011;

16 WHEREAS, on May 2, 2011, counsel for the federal defendants filed a motion to  
17 dismiss Plaintiffs’ First Amended Complaint with respect to its claims on behalf of registered  
18 domestic partners under California law;

19 WHEREAS, on July 15, 2011, this Court denied defendants’ motion to dismiss  
20 Plaintiffs’ First Amended Complaint without prejudice.

21 WHEREAS, on June 10, 2011, the Court entered an order granting the Bipartisan Legal  
22 Advisory Group of the House of Representatives (BLAG) leave to intervene as follows: “The  
23 group may intervene for the limited purpose of litigating--in the context of a motion or cross-  
24 motions for summary judgment—the constitutionality of Section III of DOMA under the equal  
25 protection component of the Fifth Amendment's Due Process Clause, and/or noticing an appeal  
26 from any final judgment of this Court holding that DOMA is not constitutional under the equal  
27 protection component of the Fifth Amendment's Due Process Clause.”;

1           WHEREAS, on July 15, 2011, this Court granted Plaintiff's Motion for Class  
2 Certification, certifying the class as follows: Present and future CalPERS members who are in  
3 legally recognized same-sex marriages and registered domestic partnerships together with their  
4 spouses and partners, who as couples and families are denied access to the CalPERS Long-  
5 Term Care Program on the same basis as similarly situated present and future CalPERS  
6 members who are in opposite-sex marriages, and their spouses.

7           WHEREAS, on August 19, 2011, this Court entered a stipulated order granting plaintiffs  
8 leave to file their Second Amended Complaint, replacing Plaintiffs Schmidt and Garnett with  
9 Plaintiffs Rafael V. Dominguez and Jose G. Hermosillo;

10           WHEREAS, plaintiffs filed their Second Amended Complaint on September 7, 2011;

11           WHEREAS, on September 16, 2011, counsel for the federal defendants filed a motion  
12 to dismiss Plaintiffs' Second Amended Complaint with respect to its claims on behalf of  
13 registered domestic partners under California law;

14           WHEREAS, on October 27, 2011, this Court held a hearing regarding Defendants'  
15 Motion to Dismiss Plaintiff's Second Amended Complaint with respect to the domestic partner  
16 claim;

17           WHEREAS, during the hearing the parties discussed the briefing schedule for Plaintiffs'  
18 Motion for Summary Judgment;

19           WHEREAS, this Court's Order of October 27, 2011, directed the parties to meet and  
20 confer regarding a briefing schedule and hearing date for the Plaintiffs' Motion for Summary  
21 Judgment and file a stipulation;

22           WHEREAS, the parties have met and conferred

23           THEREFORE, IT IS HEREBY STIPULATED AND AGREED AS FOLLOWS:

24           January 19, 2012: Plaintiffs file Motion for Summary Judgment and the federal  
25 defendants file any supporting brief

26           February 21, 2012: Federal defendants and BLAG file any opposition and cross motion;  
27  
28

1 March 22, 2012: Plaintiffs file reply and opposition to cross motion and federal  
2 defendants file any supporting brief;

3 April 12, 2012: Federal defendants and BLAG file any reply to opposition to cross  
4 motion;

5 April 26, 2012: hearing on Motions for Summary Judgment

6 So stipulated,

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8 LEGAL AID SOCIETY –  
9 EMPLOYMENT LAW CENTER

10 Dated: November \_\_, 2011

11 By: \_\_\_\_\_ /s/  
12 Claudia Center, Counsel for Plaintiffs

13 STEPTOE & JOHNSON LLP

14 Dated: November \_\_, 2011

15 By: \_\_\_\_\_  
16 Edward Gregory, Counsel for Defendants CalPERS  
17 and Stausboll

18 U.S. DEPARTMENT OF JUSTICE  
19 CIVIL DIVISION

20 Dated: November 21, 2011

21 By:  \_\_\_\_\_  
22 Jean Lin, Counsel for Federal Defendants

23 BIPARTISAN LEGAL ADVISORY GROUP  
24 OF THE HOUSE OF REPRESENTATIVES

25 Dated: November \_\_, 2011

26 By: \_\_\_\_\_  
27 H. Christopher Bartolomucci, Counsel for BLAG

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3 April 12, 2012: Federal defendants and BLAG file any reply to opposition to cross  
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5 April 26, 2012: hearing on Motions for Summary Judgment

6 So stipulated,

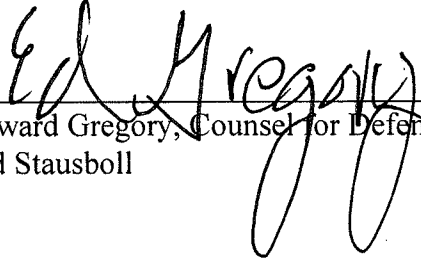
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8 LEGAL AID SOCIETY –  
EMPLOYMENT LAW CENTER

9  
10 Dated: November \_\_, 2011

By: \_\_\_\_\_ /s/  
Claudia Center, Counsel for Plaintiffs

11  
12 STEPTOE & JOHNSON LLP

13  
14 Dated: November 21, 2011

By:  \_\_\_\_\_  
Edward Gregory, Counsel for Defendants CalPERS  
and Stausboll

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16  
17 U.S. DEPARTMENT OF JUSTICE  
18 CIVIL DIVISION

19 Dated: November \_\_, 2011

By: \_\_\_\_\_  
Jean Lin, Counsel for Federal Defendants

20  
21 BIPARTISAN LEGAL ADVISORY GROUP  
22 OF THE HOUSE OF REPRESENTATIVES

23  
24 Dated: November \_\_, 2011

By: \_\_\_\_\_  
H. Christopher Bartolomucci, Counsel for BLAG





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ORDER

It is so ordered.

11/23/2011

Dated

  
UNITED STATES DISTRICT JUDGE