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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

CASE NO. 09-CV-2292 VRW

**[PROPOSED] ANSWER OF  
PROPOSED INTERVENORS  
COUNTY OF IMPERIAL, THE  
BOARD OF SUPERVISORS OF  
IMPERIAL COUNTY, AND  
ISABEL VARGAS IN HER  
OFFICIAL CAPACITY AS  
DEPUTY CLERK/DEPUTY  
COMMISSIONER OF CIVIL  
MARRIAGES FOR THE COUNTY  
OF IMPERIAL TO PLAINTIFFS'  
COMPLAINT**

Date: January 21, 2010

Time: 10:00 a.m.

Judge: Chief Judge Vaughn R. Walker

Location: Courtroom 6, 17th Floor

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

5 Defendants,

6  
7 DENNIS HOLLINGSWORTH, GAIL J.  
8 KNIGHT, MARTIN F. GUTIERREZ, HAK-  
9 SHING WILLIAM TAM, and MARK A.  
JANSSON, as official proponents of  
Proposition 8,

10 Defendant-Intervenors,

11  
12 PROPOSED INTERVENORS COUNTY OF  
13 IMPERIAL OF THE STATE OF CALIFORNIA,  
14 BOARD OF SUPERVISORS OF IMPERIAL  
15 COUNTY, AND ISABEL VARGAS IN HER  
16 OFFICIAL CAPACITY AS DEPUTY  
CLERK/DEPUTY COMMISSIONER OF CIVIL  
MARRIAGES FOR THE COUNTY OF  
IMPERIAL

17 Proposed-Intervenors

18  
19 Proposed Intervenors, the County of Imperial of the State of California, the Board of  
20 Supervisors of Imperial County, and Isabel Vargas in her official capacity as Deputy  
21 Clerk/Deputy Commissioner of Civil Marriages for the County of Imperial, answer Plaintiffs'  
22 Complaint for Declaratory, Injunctive, or Other Relief as follows:

23 1. Proposed Intervenors deny the allegations in Paragraph 1 of the Complaint  
24 except to admit that the Supreme Court of the United States wrote in *Loving v. Virginia*, 388  
25 U.S. 1, 12 (1967), that “[m]arriage is one of the ‘basic civil rights of man,’ fundamental to our  
26 very existence and survival,” that Proposition 8 passed in November 2008, and that  
27 Proposition 8 amended the California Constitution to state that “[o]nly marriage between a  
28 man and a woman is valid or recognized in California.” Cal. Const. art. I, § 7.5.

1           2.       Proposed Intervenors acknowledge that Plaintiffs request an injunction in  
2 Paragraph 2 of the Complaint, but deny that Plaintiffs are entitled to such relief.

3           3.       The allegations in Paragraph 3 of the Complaint set forth conclusions of law  
4 which require no answer.

5           4.       The allegations in Paragraph 4 of the Complaint contain conclusions of law  
6 which require no answer. Proposed Intervenors lack sufficient information to respond to any  
7 factual allegations in Paragraph 4 of the Complaint; thus they are deemed denied.

8           5.       Proposed Intervenors acknowledge that Plaintiffs request a declaratory judgment  
9 in Paragraph 5 of the Complaint, but deny that Plaintiffs are entitled to such relief. Proposed  
10 Intervenors acknowledge that Plaintiffs request an injunction in Paragraph 5 of the Complaint,  
11 but deny that Plaintiffs are entitled to such relief.

12          6.       Proposed Intervenors acknowledge that Plaintiffs request a declaratory judgment  
13 in Paragraph 6 of the Complaint, but deny that Plaintiffs are entitled to such relief. Proposed  
14 Intervenors acknowledge that Plaintiffs request an injunction in Paragraph 6 of the Complaint,  
15 but deny that Plaintiffs are entitled to such relief.

16          7.       Proposed Intervenors lack sufficient information to respond to the allegations  
17 about the identities of the Plaintiffs and their desires in Paragraph 7 of the Complaint; thus  
18 they are deemed denied. Proposed Intervenors deny the remaining allegations in Paragraph 7  
19 of the Complaint.

20          8.       Proposed Intervenors acknowledge that Plaintiffs seek declaratory and injunctive  
21 relief, attorneys' fees, costs, and expenses in Paragraph 8 of the Complaint, but deny that  
22 Plaintiffs are entitled to the relief requested.

23          9.       Proposed Intervenors lack sufficient information to respond to the allegations in  
24 Paragraph 9 of the Complaint; thus they are deemed denied.

25          10.       Proposed Intervenors lack sufficient information to respond to the allegations in  
26 Paragraph 10 of the Complaint; thus they are deemed denied.

27          11.       Proposed Intervenors lack sufficient information to respond to the allegations in  
28 Paragraph 11 of the Complaint; thus they are deemed denied.

1           12. Proposed Intervenors lack sufficient information to respond to the allegations in  
2 Paragraph 12 of the Complaint; thus they are deemed denied.

3           13. Proposed Intervenors admit that Defendant Arnold Schwarzenegger is the  
4 Governor of the State of California. The second and third sentences of paragraph 13 of the  
5 Complaint set forth legal conclusions that do not require a response. Proposed Intervenors  
6 lack sufficient information to respond to the remaining allegations in Paragraph 13 of the  
7 Complaint; thus they are deemed denied.

8           14. Proposed Intervenors admit that Defendant Edmund G. Brown, Jr., is the  
9 Attorney General of the State of California. The second and third sentences of paragraph 14 of  
10 the Complaint set forth legal conclusions that do not require a response. Proposed Intervenors  
11 lack sufficient information to respond to the remaining allegations in Paragraph 14 of the  
12 Complaint; thus they are deemed denied.

13           15. Proposed Intervenors admit that Defendant Mark B. Horton is the Director of the  
14 California Department of Public Health. The remaining allegations of paragraph 15 of the  
15 Complaint set forth legal conclusions that do not require a response.

16           16. Proposed Intervenors admit that Defendant Linette Scott is the Deputy Director  
17 of Health Information & Strategic Planning for the California Department of Public Health.  
18 Proposed Intervenors lack sufficient information to respond to the remaining allegations in  
19 Paragraph 16 of the Complaint; thus they are deemed denied.

20           17. Proposed Intervenors admit that Defendant Patrick O'Connell is the Clerk-  
21 Registrar for the County of Alameda. The remaining allegations of paragraph 17 of the  
22 Complaint set forth legal conclusions that do not require a response.

23           18. Proposed Intervenors admit that Defendant Dean C. Logan is the Registrar-  
24 Recorder/County Clerk for the County of Los Angeles. The remaining allegations of  
25 paragraph 18 of the Complaint set forth legal conclusions that do not require a response.

26           19. The first sentence of Paragraph 19 of the Complaint sets forth legal conclusions  
27 that do not require a response. Proposed Intervenors acknowledge that Plaintiffs, as stated in  
28 Paragraph 19 of the Complaint, seek relief against Defendants Arnold Schwarzenegger,

1 Edmund G. Brown, Jr., Mark B. Horton, Linette Scott, Patrick O’Connell, and Dean C. Logan,  
2 as well as against other individuals, but deny that Plaintiffs are entitled to such relief.

3 20. The allegations in Paragraph 20 of the Complaint contain conclusions of law  
4 which require no answer. Proposed Intervenor lack sufficient information to respond to any  
5 factual allegations in Paragraph 20 of the Complaint; thus they are deemed denied.

6 21. The allegations in Paragraph 21 of the Complaint contain conclusions of law  
7 which require no answer. Proposed Intervenor admit that some same-sex couples requested  
8 marriage licenses from California county clerks in the 1970s. Proposed Intervenor lack  
9 sufficient information to respond to any remaining factual allegations in Paragraph 21 of the  
10 Complaint; thus they are deemed denied.

11 22. Proposed Intervenor admit that California has laws recognizing “domestic  
12 partnerships.” The features of California’s laws governing domestic partnerships are matters  
13 of law which require no answer. Proposed Intervenor lack sufficient information to respond  
14 to any remaining factual allegations in Paragraph 22 of the Complaint; thus they are deemed  
15 denied.

16 23. Proposed Intervenor admit that California law provides many benefits and  
17 privileges to persons registered as “domestic partners.” The features of California’s laws  
18 governing domestic partnerships are matters of law which require no answer.

19 24. Proposed Intervenor deny the allegations set forth in the first sentence of  
20 Paragraph 24, but admit the remaining allegations set forth in Paragraph 24.

21 25. Proposed Intervenor lack sufficient information to respond to the allegations in  
22 Paragraph 25 of the Complaint; thus they are deemed denied, except to admit that Proposition  
23 8 appeared on California’s November 2008 ballot.

24 26. Proposed Intervenor admit the allegations in Paragraph 26 of the Complaint.

25 27. Proposed Intervenor admit that language similar to that quoted in Paragraph 27  
26 appeared in the November 4, 2008 California General Election Voter Information Guide.  
27 Proposed Intervenor deny the allegations in Paragraph 27 regarding the purpose of  
28

1 Proposition 8. Proposed Intervenor lack sufficient information to respond to the remaining  
2 allegations in Paragraph 27; thus they are deemed denied.

3 28. Proposed Intervenor admit the allegations in Paragraph 28 of the Complaint.

4 29. The allegations in Paragraph 29 of the Complaint contain conclusions of law  
5 which require no answer.

6 30. Proponents admit that the traditional definition of marriage embodied in  
7 Proposition 8 restricts civil marriage to opposite-sex relationships and that there is a symbolic  
8 difference between the designation "marriage," which enjoys a long history and uniform  
9 recognition, and any other type of designation for an intimate relationship. Proposed  
10 Intervenor deny the remaining allegations in Paragraph 42 of the Complaint.

11 31. Proposed Intervenor lack sufficient information to respond to the allegations in  
12 Paragraph 31 of the Complaint; thus they are deemed denied.

13 32. Proposed Intervenor lack sufficient information to respond to the allegations in  
14 Paragraph 32 of the Complaint; thus they are deemed denied.

15 33. Proposed Intervenor lack sufficient information to respond to the allegations in  
16 Paragraph 33 of the Complaint; thus they are deemed denied.

17 34. Proposed Intervenor lack sufficient information to respond to the allegations  
18 about the Plaintiffs' wishes in Paragraph 34 of the Complaint; thus they are deemed denied.  
19 Proposed Intervenor deny the remaining allegations in Paragraph 34 of the Complaint.

20 35. Proposed Intervenor deny the allegations in Paragraph 35 of the Complaint  
21 except to admit that marriage is a supremely important social institution, and that the Supreme  
22 Court of the United States wrote in *Loving v. Virginia*, 388 U.S. 1, 12 (1967), that "freedom to  
23 marry has long been recognized as one of the vital personal rights essential to the orderly  
24 pursuit of happiness by free men."

25 36. Proposed Intervenor deny the allegations in the first sentence Paragraph 36 of  
26 the Complaint. Proposed Intervenor admit that Plaintiffs seek declaratory and injunctive  
27 relief against the various Government Defendants in this case but deny that they are entitled to  
28 such relief.

1 37. Proposed Intervenors incorporate their responses to Paragraphs 1 through 36 of  
2 the Complaint.

3 38. Proposed Intervenors deny the allegations in Paragraph 38 of the Complaint.

4 39. Proposed Intervenors deny the allegations in Paragraph 39 of the Complaint.

5 40. Proposed Intervenors incorporate their responses to Paragraphs 1 through 39 of  
6 the Complaint.

7 41. Proposed Intervenors deny the allegations in Paragraph 41 of the Complaint.

8 42. Proponents admit that the traditional definition of marriage embodied in  
9 Proposition 8 restricts civil marriage to opposite-sex relationships and that there is a symbolic  
10 difference between the designation "marriage," which enjoys a long history and uniform  
11 recognition, and any other type of designation for an intimate relationship. Proposed  
12 Intervenors deny the remaining allegations in Paragraph 42 of the Complaint.

13 43. Proposed Intervenors deny the allegations in Paragraph 43 of the Complaint.

14 44. Proposed Intervenors admit that Proposition 8 distinguishes between couples  
15 consisting of a man and a woman and any other type of intimate relationship. Proposed  
16 Intervenors deny the remaining allegations in Paragraph 44 of the Complaint.

17 45. Proposed Intervenors incorporate their responses to Paragraphs 1 through 44 of  
18 the Complaint.

19 46. Proposed Intervenors deny the allegations in Paragraph 46 of the Complaint.

20 47. Proposed Intervenors incorporate their responses to Paragraphs 1 though 46 of  
21 the Complaint.

22 48. Proposed Intervenors deny the allegations in Paragraph 48 of the Complaint.

23 49. Whether or not this case presents a judicially cognizable controversy is a  
24 conclusion of law that requires no response. Proposed Intervenors deny the remaining  
25 allegations in Paragraph 49 of the Complaint.

26 50. The remainder of the Complaint is a prayer for relief that does not require a  
27 response. To the extent that a response is required, Proposed Intervenors deny that Plaintiffs  
28 are entitled to, or that this Court has jurisdiction to grant, the relief requested.

1 51. Proposed Intervenors deny each and every allegation not expressly admitted  
2 herein.

3 **First Affirmative Defense**

4 Plaintiffs have failed to state a claim upon which relief can be granted.


5 **Second Affirmative Defense**

6 Neither the challenged provisions nor Defendants have deprived Plaintiffs of any right  
7 or privilege guaranteed by the United States Constitution.

8 WHEREFORE, Proposed Intervenors respectfully request that this Court dismiss  
9 Plaintiffs' claims with prejudice, deny Plaintiffs' prayer for relief, order Plaintiffs to pay  
10 Proposed Intervenors' costs and attorneys' fees, and grant other relief deemed just and  
11 proper.

12 DATED: December 15, 2009

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

23 By:   
24 Jennifer L. Monk  
25  
26  
27  
28



1 I, Jennifer L. Monk, declare as follows:

2 I am employed in the State of California; I am over the age of eighteen years and am  
3 not a party to this action; my business address is 24910 Las Brisas Road, Suite 110, Murrieta,  
4 California 92562. On December 15, 2009, I served the following document(s):

5 1. [PROPOSED] ANSWER OF PROPOSED INTERVENORS COUNTY OF  
6 IMPERIAL, THE BOARD OF SUPERVISORS OF IMPERIAL COUNTY,  
7 AND ISABEL VARGAS IN HER OFFICIAL CAPACITY AS DEPUTY  
8 CLERK/DEPUTY COMMISSIONER OF CIVIL MARRIAGES FOR THE  
9 COUNTY OF IMPERIAL TO PLAINTIFFS' COMPLAINT

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

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*Attorneys for Plaintiff Kristin M. Perry*

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

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

  
\_\_\_\_\_  
Jennifer L. Monk