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6 REGISTRAR-RECORDER/COUNTY
CLERK, COUNTY OF LOS ANGELES
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8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION**

10
11 KRISTIN M. PERRY, SANDRA B.
12 STIER, PAUL T. KATAMI, and
13 JEFFREY J. ZARRILLO,

14 Plaintiffs,

15 v.

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

CASE NO. 09-CV-2292 VRW

**SUPPLEMENTAL CASE
MANAGEMENT STATEMENT BY
DEFENDANT DEAN C. LOGAN,
LOS ANGELES COUNTY
REGISTRAR-RECORDER/
COUNTY CLERK**

Date: 08/19/2009
Time: 10:00 a.m.
Judge: Chief Judge Vaughn R. Walker
Location: Courtroom 6, 17th Floor

Action Filed: May 22, 2009

1 Recorder/County Clerk for the County
2 of Los Angeles,

3 Defendants.
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5 Pursuant to this Court's order of August 12, 2009, this supplemental case
6 management statement is filed on behalf of the Defendants Dean C. Logan, Los
7 Angeles County Registrar Recorder/County Clerk ("County Clerk"). The specific
8 items requested by the Court and the County Clerk's responses are below.

9 (1) The specific elements of the claims plaintiffs assert and the defenses, if
10 any, defendants and intervenors contend apply.

11 Plaintiffs contend that the County Clerk of Los Angeles violated Plaintiffs'
12 federal constitutional rights of due process and equal protection by failing to grant
13 marriage licenses after the passage of Proposition 8 and the California Supreme
14 Court decision of *Strauss v. Horton* (2009) 46 Cal.4th 364.

15 The County Clerk asserts the First, Second and Third affirmative defenses
16 described in his answer. Namely, the First affirmative defense is that he has a
17 ministerial duty to abide by the laws of the State of California and has no authority
18 to disregard the law pursuant to *Lockyer v. City and County of San Francisco*
19 (2004) 33 Cal.4th 1055. The Second affirmative defense is that he has no discretion
20 to issue marriage licenses in any other manner than in accordance with State law.
21 *Lockyer v. City and County of San Francisco* (2004) 33 Cal.4th 1055. Lastly, the
22 Third affirmative defense is that he acted in good faith in performing his duties in
23 issuing marriage licenses in conformity with State law.

24 (2) Admissions and stipulations that the parties are prepared to enter with
25 respect to the foregoing elements and applicable defenses at issue.

26 The County Clerk of Los Angeles County is willing to stipulate:

27 (1) The voters of California adopted Proposition 8 on November 4, 2008,

1 and it took effect on November 5, 2008.

2 (2) Beginning November 5, 2008, County Clerk Logan has not issued
3 marriage licenses to same-sex couples as a result of the enactment of Proposition 8.

4 (3) County Clerk, Logan took this position under color of law.

5 (4) The County of Los Angeles was a co-petitioner in *Strauss v. Horton*
6 (2009) 46 Cal. 4th 364, and pursuant to that case and *Lockyer v. City and County of*
7 *San Francisco*, supra, County Clerk Logan had no discretion to issue marriage
8 licenses to same-sex couples after November 4, 2008.

9 (5) County Clerk Logan was a defending party in *In re Marriage Cases*
10 (2008) 43 Cal.4th 757 (originating in the case *Tyler v. County of Los Angeles BS-*
11 *088506*).

12 (6) Proposition 8 eliminated Plaintiffs' rights to marry under the
13 California Constitution, and in that sense, infringed on Plaintiffs' fundamental right
14 to marry under the California Constitution.

15 (7) The County Clerk of Los Angeles has no record of the specific
16 plaintiffs requesting a marriage license in Los Angeles County as it does not keep a
17 record of the names of same-sex individuals that attempted to receive marriage
18 licenses, but is willing to stipulate to that fact after plaintiffs provide specific details
19 of the occurrence.

20 (3) Discovery that the parties seek that may lead to the discovery of
21 admissible evidence with reference to:

22 (A) Level of scrutiny relevent to plaintiffs' claims;

23 (B) The campaign by which Proposition 8 was adopted;

24 (C) Character of the rights plaintiffs contend are infringed or
25 violated;

26 (D) Effect of Proposition 8 upon Plaintiffs;

27 (E) Effect of Proposition 8 on opposite-sex couples and others;

28 HOA.635968.1

09-CV-2292 VRW
SUPPLEMENTAL CASE MANAGEMENT STATEMENT OF
DEAN C. LOGAN

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(F) Other issues pertinent to the parties' claims or defenses;

The County Clerk of Los Angeles does not intend to perform discovery.

(4) Subject matter (by discipline or expertise) of the opinion/expert evidence that the parties intend to present.

The County Clerk of Los Angeles does not intend to present expert witnesses.

DATED: August 17, 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, COUNTY OF LOS ANGELES

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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 August 17, 2009, I served the attached

**SUPPLEMENTAL CASE MANAGEMENT STATEMENT BY DEFENDANT
DEAN C. LOGAN, LOS ANGELES COUNTY REGISTRAR-RECORDER/
COUNTY CLERK**

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 August 17, 2009, at Los Angeles, California.

Hazel T. Bataclan	/s/ Hazel T. Bataclan
Type or Print Name of Declarant	Signature
and, for personal service by a Messenger Service, include the name of the Messenger Service	

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