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14 ATTORNEYS FOR PROPOSED INTERVENORS

15 * *Pro hac vice* applications to be filed

16 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA - SOUTHERN DIVISION

17 ARTHUR SMELT *et al.*,

18 Plaintiffs,

19 v.

20 UNITED STATES OF AMERICA *et*
21 *al.*,

22 Defendants,

23 and

24 Proposition 8 Official Proponents
Dennis Hollingsworth, Gail J. Knight,
25 Martin F. Gutierrez, Hak-Shing William
Tam, and Mark A. Jansson; and
26 ProtectMarriage.com – Yes on 8, a
Project of California Renewal,

27 Interveners.
28

Case No. SACV-09-286 DOC
(MLGx)

ANSWER OF PROPOSITION 8
OFFICIAL PROPONENTS AND
CAMPAIGN COMMITTEE

The Honorable David O. Carter

1 Intervenors Proposition 8 Official Proponents Dennis Hollingsworth, Gail J.
2 Knight, Martin F. Gutierrez, Hak-Shing William Tam, and Mark A. Jansson
3 (collectively referred to as “Proponents”), and Proposition 8 Campaign Committee
4 ProtectMarriage.com – Yes on 8, a Project of California Renewal (the “Committee”),
5 by and through counsel, answer Plaintiffs’ Complaint for Declaratory and Injunctive
6 Relief as follows:

7 1. Paragraph 1 of the Complaint contains Plaintiffs’ allegations of
8 jurisdiction, which do not require a response. To the extent a response is required,
9 Intervenors admit that this Court has federal-question jurisdiction pursuant to 28
10 U.S.C. § 1331. Intervenors lack sufficient information to respond to the remaining
11 allegations concerning jurisdiction; thus those allegations are deemed denied.

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

14 3. Intervenors deny the allegations in Paragraph 3 of the Complaint, except
15 to admit that state and federal law imposes many responsibilities and bestows many
16 benefits on married couples.

17 4. Intervenors admit that state and federal law imposes many
18 responsibilities and bestows many benefits on married couples. But Intervenors lack
19 sufficient information regarding each marital responsibility or benefit identified in
20 Paragraph 4 of the Complaint; thus those particular allegations are deemed denied.

21 5. Intervenors lack sufficient information to respond to the allegations
22 about emotional distress, humiliation, and mental anguish in Paragraph 5 of the
23 Complaint; thus they are deemed denied. Intervenors deny the remaining allegations
24 in Paragraph 5 of the Complaint.

25 6. Intervenors deny the allegations in Paragraph 6 of the Complaint, except
26 to admit that the Federal Defense of Marriage Act, 1 U.S.C. § 7, defines the word
27 “marriage” as “a legal union between one man and one woman as husband and wife”
28 and the word “spouse” as “a person of the opposite sex who is a husband or a wife.”

1 7. Intervenors deny the allegations in Paragraph 7 of the Complaint, except
2 to admit that the Federal Defense of Marriage Act, 28 U.S.C. § 1738c, states that
3 “[n]o State . . . shall be required to give effect to any public act, record, or judicial
4 proceeding of any other State . . . respecting a relationship between persons of the
5 same sex that is treated as a marriage under the laws of such other State . . . or a right
6 or claim arising from such relationship.”

7 8. Intervenors acknowledge that Plaintiffs request a very broad injunction
8 in Paragraph 8 of the Complaint, but Intervenors deny that Plaintiffs are entitled to
9 such relief and further deny that this Court has jurisdiction to grant such relief.
10 Intervenors acknowledge that Plaintiffs request a declaratory judgment in Paragraph
11 8 of the Complaint, but Intervenors deny that Plaintiffs are entitled to such relief and
12 further deny that this Court has jurisdiction to grant such relief.

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

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

17 11. Intervenors acknowledge that Plaintiffs have asserted claims against the
18 United States of America and DOES 1 through 1,000, but Intervenors deny that
19 Plaintiffs are entitled to any remedy or relief against those Defendants.

20 12. The allegations in Paragraph 12 of the Complaint are directed solely at
21 DOES 1 through 1,000; thus Intervenors need not respond to those allegations. To
22 the extent a response is required, Intervenors deny that Plaintiffs are entitled to any
23 relief against DOES 1 through 1,000.

24 13. The allegations in Paragraph 13 of the Complaint are directed solely at
25 Defendants; thus Intervenors need not respond to those allegations. To the extent a
26 response is required, Intervenors lack sufficient information to respond to those
27 allegations; thus they are deemed denied.

28 14. The allegations in Paragraph 14 of the Complaint are directed solely at

1 Defendants; thus Intervenors need not respond to those allegations. To the extent a
2 response is required, Intervenors deny those allegations.

3 15. Intervenors admit the allegations in Paragraph 15 of the Complaint.

4 16. Intervenors admit the allegations in Paragraph 16 of the Complaint,
5 except to note that Plaintiffs have slightly misquoted the language of 28 U.S.C. §
6 1738c.

7 17. Intervenors deny the allegations in Paragraph 17 of the Complaint.

8 18. Intervenors deny the allegations in Paragraph 18 of the Complaint.

9 19. Intervenors deny the allegations in Paragraph 19 of the Complaint.

10 20. Intervenors deny the allegations in Paragraph 20 of the Complaint.

11 21. Intervenors deny the allegations in Paragraph 21 of the Complaint.

12 22. Intervenors deny the allegations in Paragraph 22 of the Complaint.

13 23. Intervenors deny the allegations in Paragraph 23 of the Complaint.

14 24. Intervenors deny the allegations in Paragraph 24 of the Complaint.

15 25. Intervenors deny the allegations in Paragraph 25 of the Complaint.

16 26. Intervenors deny the allegations in Paragraph 26 of the Complaint.

17 27. Intervenors deny the allegations in Paragraph 27 of the Complaint.

18 28. Intervenors deny the allegations in Paragraph 28 of the Complaint.

19 29. Intervenors deny the allegations in Paragraph 29 of the Complaint,
20 except to admit that Proposition 8 appeared on California's November 2008 ballot,
21 and that Proposition 8 amended the California Constitution to state that "[o]nly
22 marriage between a man and a woman is valid or recognized in California." Cal.
23 Const. art. I, § 7.5.

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

28 31. Intervenors deny each and every allegation not expressly admitted

1 herein.

2 **First Affirmative Defense**

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

4 **Second Affirmative Defense**

5 Plaintiffs lack standing to assert the claims in their Complaint.

6 **Third Affirmative Defense**

7 Defendants are immune from suit.

8 **Fourth Affirmative Defense**

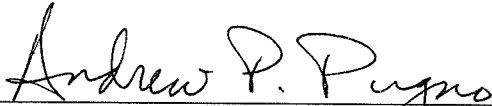
9 Defendants' acts were not the proximate cause of Plaintiffs' alleged injuries.

10 **Fifth Affirmative Defense**

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

13
14 WHEREFORE, Intervenors respectfully request that this Court dismiss
15 Plaintiffs' claims with prejudice, deny Plaintiffs' prayer for relief, order Plaintiffs to
16 pay Intervenors' costs and attorneys' fees, and grant other relief deemed just and
17 proper.

18
19 Dated: April 8, 2009

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21 
22 Andrew P. Pugno (CA Bar No. 206587)
23 ATTORNEYS FOR PROPOSED INTERVENORS
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Case No. SACV-09-286 DOC
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PROOF OF SERVICE

The Honorable David O. Carter

1 I, Joshua Tijerina, declare that I am over the age of 18 years and not a party to this
2 case. I also declare that on April 9, 2009, I served the *Answer of Proposition 8*
3 *Official Proponents and Campaign Committee* via United States First-Class Mail on
4 the following parties to this action:

5
6 Richard C. Gilbert
7 GILBERT & MARLOWE
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9 Santa Ana, CA 92706-3573

Attorney for Plaintiffs

9 W. Scott Simpson
10 U.S. DEPARTMENT OF JUSTICE
11 Civil Division - Federal Programs Branch
12 Post Office Box 883
13 Room 7210
14 Washington, DC 20044

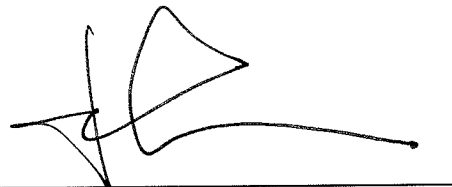
*Attorney for Defendant United
States of America*

14 Mark Beckington
15 OFFICE OF THE ATTORNEY GENERAL
16 300 South Spring Street
17 Suite 1702
18 Los Angeles, CA 90013-1230

*Attorney for Defendant State
of California*

18 I declare under penalty of perjury under the laws of the United States of America
19 that the foregoing is true and correct. Executed on April 9, 2009, at Scottsdale,
20 Arizona.

21
22 Dated: April 9, 2009



23
24 Joshua Tijerina