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8 California Department of Public Health and State Registrar of Vital  
Statistics, and Linette Scott, in her official capacity as Deputy Director  
9 of Health Information & Strategic Planning for the California Department  
of Public Health

10 **UNITED STATES DISTRICT COURT**  
11 **NORTHERN DISTRICT OF CALIFORNIA**  
12 **SAN FRANCISCO DIVISION**  
13

14 KRISTIN M. PERRY, et al., ) Case No. 09-CV-02292 VRW  
15 Plaintiffs, )  
16 CITY AND COUNTY OF SAN ) **THE ADMINISTRATION DEFENDANTS'**  
FRANCISCO, ) **TRIAL MEMORANDUM**  
17 Plaintiff-Intervenor, ) Pre-Trial Conference: December 16, 2009  
18 v. ) Time: 10:00 a.m.  
19 ARNOLD SCHWARZENEGGER, in his ) Trial Date: January 11, 2010  
20 official capacity as Governor of California, ) Time: 8:30 a.m.  
21 et al., ) Courtroom: 6  
22 Defendants, )  
23 and )  
24 PROPOSITION 8 OFFICIAL )  
PROPOSERS DENNIS )  
25 HOLLINGSWORTH, et al., )  
26 Defendant-Intervenors. )

1 Pursuant to this Court's Pretrial Scheduling Order (Docket No. 164), Defendants  
 2 Arnold Schwarzenegger in his official capacity as Governor of California, Mark B. Horton, in his  
 3 official capacity as Director of the California Department of Public Health and State Registrar of  
 4 Vital Statistics, and Linette Scott, in her official capacity as Deputy Director of Health  
 5 Information & Strategic Planning for the California Department of Public Health (collectively  
 6 "the Administration Defendants") hereby respectfully submit this Trial Memorandum.

7 **TRIAL MEMORANDUM**

8 This matter presents important constitutional questions that require and warrant  
 9 judicial determination. In a constitutional democracy, it is the role of the courts to determine and  
 10 resolve such questions. To the extent that Plaintiffs have stated a justiciable controversy, setting  
 11 forth federal constitutional challenges to Proposition 8, it is appropriate for the federal courts to  
 12 determine and resolve those challenges. The Administration Defendants encourage the Court to  
 13 resolve the merits of this action expeditiously.

14 The Administration Defendants intend to appear before this Court at trial through  
 15 trial counsel, Kenneth C. Mennemeier or Andrew W. Stroud of the law firm Mennemeier,  
 16 Glassman & Stroud, LLP. However, the Administration Defendants take no position on the  
 17 merits of Plaintiffs' claims regarding the validity of Proposition 8 as alleged in this matter.  
 18 Accordingly, the Administration Defendants do not presently anticipate presenting any evidence  
 19 or calling any witnesses at trial, but reserve the right to object to any evidence presented or to call  
 20 witnesses as may be necessary for rebuttal to any evidence presented.

21 Dated: December 7, 2009

MENNEMEIER, GLASSMAN & STROUD LLP  
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 LANDON D. BAILEY

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 25 By: /s/ Kenneth C. Mennemeier  
 26 Kenneth C. Mennemeier  
 27 Attorneys for Defendants Arnold Schwarzenegger,  
 28 Mark B. Horton, and Linette Scott

1 Case Name: *Perry, et al. v. Schwarzenegger, et al.*;  
2 Case No: US District Court, Northern District, Case No. 3:09-cv-2292 VRW

3 **CERTIFICATE OF SERVICE**

4 I declare as follows:

5 I am a resident of the State of California and over the age of eighteen years, and  
6 not a party to the within action; my business address is 980 9th Street, Suite 1700, Sacramento,  
California 95814. On December 7, 2009, I served the within document(s):

7 **THE ADMINISTRATION DEFENDANTS' TRIAL MEMORANDUM**

8  by placing the document(s) listed above in a sealed Federal Express  
9 envelope and affixing a pre-paid air bill, and delivering to a Federal  
Express agent for delivery.

10  by placing the document(s) listed above in a sealed envelope, with postage  
11 thereon fully prepared, in the United States mail at Sacramento, California  
12 addressed as set forth below.

13 **SEE ATTACHED SERVICE LIST**

14 I am readily familiar with the firm's practice of collection and processing  
15 correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal  
Service on that same day with postage thereon fully prepared in the ordinary course of business.

16 I declare that I am employed in the office of a member of the bar of this Court at  
whose direction this service was made.

17 Executed on December 7, 2009, at Sacramento, California.

18 /s/ Angela Knight  
19 Angela Knight

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**SERVICE LIST**

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