1	COOPER AND KIRK, PLLC Charles J. Cooper (DC Bar No. 248070)*	
2	ccooper@cooperkirk.com	
3	David H. Thompson (DC Bar No. 450503)* dthompson@cooperkirk.com	
	Howard C. Nielson, Jr. (DC Bar No. 473018)*	
4	hnielson@cooperkirk.com Nicole J. Moss (DC Bar No. 472424)*	
5	nmoss@cooperkirk.com	
	Peter A. Patterson (OH Bar No. 0080840)*	
6	ppatterson@cooperkirk.com 1523 New Hampshire Ave. N.W., Washington, D.C.	. 20036
7	Telephone: (202) 220-9600, Facsimile: (202) 220-96	
8	LAW OFFICES OF ANDREW P. PUGNO Andrew P. Pugno (CA Bar No. 206587)	
9	andrew@pugnolaw.com	05620
10	101 Parkshore Drive, Suite 100, Folsom, California Telephone: (916) 608-3065, Facsimile: (916) 608-30	
11	ALLIANCE DEFENSE FUND	
12	Brian W. Raum (NY Bar No. 2856102)* braum@telladf.org	
12	James A. Campbell (OH Bar No. 0081501)*	
13	jcampbell@telladf.org 15100 North 90th Street, Scottsdale, Arizona 85260	
14	Telephone: (480) 444-0020, Facsimile: (480) 444-00	028
15	ATTORNEYS FOR DEFENDANT-INTERVENORS DENNIS	
16	GAIL J. KNIGHT, MARTIN F. GUTIERREZ, HAK-SHING MARK A. JANSSON, and PROTECTMARRIAGE.COM – Y	
10	PROJECT OF CALIFORNIA RENEWAL	
17	* Admitted <i>pro hac vice</i>	
18	•	
19	UNITED STATES DI NORTHERN DISTRIC	
		or Cherron
20	KRISTIN M. PERRY, SANDRA B. STIER, PAUL	CASE NO. 09-CV-2292 VRW
21	T. KATAMI, and JEFFREY J. ZARRILLO,	
22	Plaintiffs,	DEFENDANT-INTERVENORS' PROPOSED FINDINGS OF FACT
23	CITY AND COUNTY OF SAN FRANCISCO,	Pretrial Conference
24	Plaintiff-Intervenor,	Date: December 16, 2009
25		Time: 10:00 a.m. Judge: Chief Judge Vaughn R. Walker
	V.	Location: Courtroom 6, 17th Floor
26	ARNOLD SCHWARZENEGGER, in his official	Trial Date: January 11, 2010
27	capacity as Governor of California; EDMUND G.	
20	BROWN, JR., in his official capacity as Attorney	
28	General of California; MARK B. HORTON, in his	

1	official capacity as Director of the California
2	Department of Public Health and State Registrar of Vital Statistics; LINETTE SCOTT, in her official
3	capacity as Deputy Director of Health Information & Strategic Planning for the California Department
4	of Public Health; PATRICK O'CONNELL, in his
5	official capacity as Clerk-Recorder for the County of Alameda; and DEAN C. LOGAN, in his official
6	capacity as Registrar-Recorder/County Clerk for the County of Los Angeles,
7	Defendants,
8	and
9	PROPOSITION 8 OFFICIAL PROPONENTS
10	DENNIS HOLLINGSWORTH, GAIL J. KNIGHT, MARTIN F. GUTIERREZ, HAK-
11	SHING WILLIAM TAM, and MARK A. JANSSON; and PROTECTMARRIAGE.COM –
12	YES ON 8, A PROJECT OF CALIFORNIA RENEWAL,
13	Defendant-Intervenors.
14	
15	Additional Counsel for Defendant-Intervenors
16	
17	ALLIANCE DEFENSE FUND Timothy Chandler (CA Bar No. 234325)
18	tchandler@telladf.org 101 Parkshore Drive, Suite 100, Folsom, California 95630
19	Telephone: (916) 932-2850, Facsimile: (916) 932-2851
20	Jordan W. Lorence (DC Bar No. 385022)* jlorence@telladf.org
21	Austin R. Nimocks (TX Bar No. 24002695)* animocks@telladf.org
22	801 G Street NW, Suite 509, Washington, D.C. 20001 Telephone: (202) 393-8690, Facsimile: (202) 347-3622
23	* Admitted <i>pro hac vice</i>
24	
25	
26	
27	
28	

1 **Proposed Findings of Fact**¹ 2 The Institution of Marriage Marriage is a complex social institution. 3 1. 2. 4 Marriage forms the foundation of the family and society. 5 3. Marriage has its roots in pair bonding between men and women that emerged early in our 6 evolution as a species. 7 4. Every society has had some form of the institution of marriage. 8 5. Throughout history and across societies, marriage has always been defined, in both law and 9 language, as the union of a man and a woman. 10 6. Marriage is a relationship within which a group socially approves and encourages sexual 11 intercourse and the birth of children. 12 7. A core purpose of marriage is to guarantee that, insofar as possible, each child is emotionally, 13 morally, practically, and legally affiliated with the woman and the man whose sexual union brought the child into the world. 14 15 8. As a matter of biological reality, societies must develop a method to bind men to their offspring. 16 17 9. Although certain aspects of the institution of marriage have varied from society to society, it 18 has universal functions. These universal functions are: 19 Complementing nature with culture to ensure the reproductive cycle; a. 20 b. Providing children with both a mother and a father whenever possible: Providing children with their biological parents whenever possible; 21 C. 22 d. Bringing men and women together for both practical and symbolic purposes; and 23 e. Providing men with a stake in family and society. 24 10. In light of its universal functions, the institution of marriage has been marked by *universal* features. These universal features include: 25 26

¹ In proposing these findings of fact, Defendant-Intervenors reserve the right to argue legal theories that, if adopted by the court, would result in some of the proposed findings being irrelevant to the outcome of this case. By proposing these findings in other words, they do not concede their relevance. Nor do they concede that they constitute adjudicative, as opposed to legislative facts.

27

28

1		a. High social and legal authority and attractive incentives supporting the institution;
2		b. Maleness and femaleness;
3		c. A definition of eligible partners;
4		d. A public dimension;
5		e. Encouragement of procreation under specific conditions;
6		f. Mutual support between men and women and duties toward children; and
7		g. An emphasis on durable parental relationships.
8	11.	Mutual affection and companionship between partners is a common, although not universal,
9		feature of marriage.
10	12.	The doctrine of coverture is not, and has never been, a universal feature of marriage.
11	13.	The doctrine of coverture is not, and has never been, a definitional feature of marriage.
12	14.	Restrictions based on the race of the partners are not, and have never been, a universal feature
13		of marriage.
14	15.	Restrictions based on the race of the partners are not, and have never been, a definitional
15		feature of marriage.
16	16.	Different rules have governed divorce at different times and in different places.
17	17.	A particular set of rules governing divorce is not, and has never been, a universal feature of
18		marriage.
19	18.	A particular set of rules governing divorce is not, and has never been, a definitional feature of
20		marriage.
21	19.	No society has established same-sex marriage as a cultural norm. Leading linguists, lawyers,
22		philosophers, and social scientists have always understood marriage to be uniquely concerned
23		with regulating naturally procreative relationships between men and women and providing for
24		the nurture and care of the children who result from those relationships.
25	20.	The institution of marriage has always been indifferent to sexual orientation.
26	21.	Extending marriage to same-sex couples would result in a profound change to the definition,
27		structure, and public meaning of marriage.
28	22.	Advocates for extending marriage to same-sex couples recognize (and many celebrate) that

1		doing so would radically alter the institution of marriage.
2	23.	Many advocates for extending marriage to same-sex couples recognize the wisdom in taking a
3		cautious approach to making such a significant change to the institution of marriage.
4	24.	Many gays and lesbians recognize that same-sex relationships and opposite-sex relationships
5		differ in important ways.
6	25.	Prominent public figures, including President Obama, support the traditional definition of
7		marriage, and oppose extending marriage to same-sex couples.
8	26.	Numerous individuals, including prominent supporters of gay and lesbian rights, and even
9		many gay and lesbian individuals, oppose recognizing same-sex relationships as marriages in
10		good faith for legitimate reasons that have nothing to do with animus against gays and
11		lesbians.
12	27.	Historically and today, many societies and governments that embrace same-sex relationships
13		and/or strongly affirm gay and lesbian rights have nevertheless determined that same-sex
14		relationships should not be recognized as marriages.
15	Mar	riage in the United States and Across the Globe
16	28.	Massachusetts was the first state to extend marriage to same-sex couples. Massachusetts
17		licensed its first same-sex marriages in 2004.
18	29.	Until 2004, marriage in the United States had always been limited to opposite-sex couples.
19	30.	In addition to Massachusetts, Connecticut, Iowa, and Vermont are the only other states that
20		currently license same-sex marriages. New Hampshire will also begin licensing same-sex
21		marriages in January 2010. In three of these States—Massachusetts, Connecticut, and Iowa—
22		same-sex marriage was imposed by judicial decision.
23	31.	The overwhelming majority of states continue to limit marriage to opposite-sex unions.
24	32.	Twenty-nine states including California have Constitutional provisions defining marriage as
25		the union of a man and a woman. These amendments have all been enacted since 1998;
26		twenty-six of them have been enacted since 2004.
27	33.	Under federal law, the Defense of Marriage Act provides that only the union of a man and a
28		woman is recognized as marriage.

sex couples, and Governor Schwarzenegger again vetoed the bill. In vetoing the bill,

1		organizations, and local governments. In May 2009, the California Supreme Court held that
2		Proposition 8 was a valid amendment to the California Constitution.
3	53.	Supporters of extending marriage to same-sex couples are currently mobilizing to repeal
4		Proposition 8 through the ballot box.
5	54.	California's laws continue to reflect the understanding that marriage is uniquely concerned
6		with regulating naturally procreative relationships between men and women and providing for
7		the nurture and care of the children who result from those relationships.
8	55.	California's marriage laws, including Proposition 8, do not reflect or promote improper
9		gender stereotypes or the supremacy of one sex over the other.
10	56.	Proposition 8 was not designed to reflect or promote improper gender stereotypes or the
11		supremacy of one sex over the other.
12	<u>Don</u>	nestic Partnerships in California
13	57.	Through its domestic partnership laws, California currently makes available to same-sex
14		couples virtually all of the state-level rights and benefits provided by marriage.
15	58.	California's domestic partnerships have developed to their present status over the past 25
16		years.
17	59.	California's domestic partnerships have developed without pressure from the courts and have
18		not faced repeal through ballot initiatives or referenda.
19	60.	California's domestic partnerships have developed with the support and sponsorship of gay
20		and lesbian rights groups.
21	61.	In 1984, the City of Berkeley adopted a law extending employee benefits to same-sex partner
22		of city employees. The next year, 1985, the City of West Hollywood provided legal
23		recognition to same-sex couples in the general public through a domestic partnership
24		ordinance.
25	62.	Over the next 15 years, 18 local governments in California established domestic partnership
26		registries that provided legal recognition to same-sex couples.
27	63.	In 1995, the California Legislature first considered a bill that would establish a state-wide
28		domestic partnership registry.

Child Well-Being

alternative institution.

26

27

28

74. Social science research indicates that, on average, the ideal family structure for a child is a

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

1		consequences that will flow from redefining marriage to include same sex couples, it is likely
2		that such a redefinition would harm the institution and the vital interests it serves.
3	87.	Extending marriage to same-sex couples would change the public meaning of the institution
4		of marriage.
5	88.	The public meaning of the institution of marriage is important to society.
6	89.	A change in the public meaning of marriage will have real world consequences for society.
7	90.	It will take many years, and possibly decades, for all of the consequences of a change in the
8		public meaning of marriage to manifest themselves.
9	91.	Because marriage is a complex institution, it may never be possible to isolate the causal
10		consequences of same sex marriage on marriage rates, out of wedlock birth rates, divorce
11		rates, and other aspects of family relations that are of vital importance to society.
12	92.	Extending marriage to same-sex couples would entail the further, and in some respects full,
13		deinstitutionalization of marriage.
14	93.	Extending marriage to same-sex couples would contribute to significantly changing the legal
15		and public meaning of marriage from an institution with defined legal and social structure and
16		purposes to a right of personal expression.
17	94.	Extending marriage to same-sex couples would likely lead to the further erosion of the
18		institution of marriage, as reflected primarily in lower marriage rates, higher rates of divorce
19		and non-marital cohabitation, and more children raised outside of marriage and separated
20		from at least one natural parent.
21	95.	Extending marriage to same-sex couples would result in explicit public endorsement of the
22		idea that a child does not need both a mother and a father. This would likely result in fewer
23		children growing up with fathers.
24	96.	Extending marriage to same-sex couples would weaken in the culture and eradicate in the law
25		the idea that a natural mother married to a natural father is generally the best environment for
26		raising a child. This would likely result in fewer children being raised by their own married
27		parents.
28	97.	Extending marriage to same-sex couples would weaken the idea that each parent—both

1	believer and being a good citizen.
2	107. Extending marriage to same-sex couples could lead to new state-imposed restrictions of First
3	Amendment freedoms.
4	108. Extending marriage to same-sex couples could curtail the religious liberty of citizens whose
5	religious beliefs lead them to support the traditional definition of marriage.
6	109. Extending marriage to same-sex couples could force some religious organizations that
7	currently receive public support to cease providing charitable services to the poor and others
8	110. Extending marriage to same-sex couples could contribute to the public belief that marriage is
9	politicized.
10	111. Extending marriage to same-sex couples could lead unmarried people to increasingly—and
11	logically—complain that the legal and practical benefits currently attached to marriage
12	properly belong to everyone.
13	112. Extending marriage to same-sex couples would seriously threaten the functions and
14	symbolism of marriage, thereby posing a risk to children and the demographic continuity of
15	society.
16	113. Extending marriage to same-sex couples would send a message to men that they have no
17	significant place in family life, weakening the connection of fathers to their children.
18	114. Extending marriage to same-sex couples would move marriage further away from its
19	grounding in reproduction and the intergenerational cycle.
20	115. Extending marriage to same-sex couples would likely lead to changes in the laws governing
21	marriage and parallel institutions in a manner that undercuts the effectiveness of marriage in
22	achieving its traditional purposes.
23	Motivations for Supporting and Opposing Proposition 8
24	116. Californians voted for Proposition 8 because they thought it would strengthen the institution
25	of marriage.
26	117. Californians voted Proposition 8 because they thought it would strengthen traditional familie
27	118. Californians voted for Proposition 8 because they thought it would benefit children.
28	119. Californians voted for Proposition 8 because they thought the issue of extending marriage to

	same-sex couples should be decided by the people, not by the courts.
120.	Californians voted for Proposition 8 because they thought it would further the interests that
	have been identified by Proponents in this litigation.
121.	Californians who voted on Proposition 8 were aware of the vital interests furthered by the
	traditional definition of marriage.
122.	Californians voted for Proposition 8 in reaction against the tactics—including violence and
	intimidation—engaged in by Proposition 8 opponents.
123.	Californians voted for Proposition 8 because they thought it would protect the ability of
	parents to direct the education and upbringing of their children.
124.	Californians voted for Proposition 8 because they thought it would protect their religious
	liberty and other First Amendment rights.
125.	Gays and lesbians voted for Proposition 8.
126.	Californians voted against Proposition 8 out of animus towards Mormons and the Catholic
	Church.
127.	Californians voted against Proposition 8 out of animus towards organizations, individuals, and
	groups who embrace traditional values.
128.	Californians voted against Proposition 8 out of animus towards its supporters.
129.	Californians voted against Proposition 8 on moral grounds.
130.	Californians voted against Proposition 8 for religious reasons.
131.	Both supporters and opponents of Proposition 8 (and same-sex marriage in general) have
	voiced their opinions forcefully, passionately, and sometimes intemperately.
132.	Gay rights organizations such as the National Gay and Lesbian Task Force actively promote
	support for gay marriage in religious communities.
133.	Interfaith groups in California, such as California Faith for Equality, support extending
	marriage to same-sex couples and thus opposed Proposition 8.
134.	The United Church of Christ supports extending marriage to same-sex couples and thus
	opposed Proposition 8.
135.	The Metropolitan Church supports extending marriage to same-sex marriage and thus opposed

1	Proposition 8.
2	136. The Unitarian Universalist Association supports extending marriage to same-sex couples and
3	thus opposed Proposition 8.
4	137. Reform Judaism supports extending marriage to same-sex couples and thus opposed
5	Proposition 8.
6	138. Reconstructionist Judaism supports extending marriage to same-sex couples and thus opposed
7	Proposition 8.
8	139. The six main Episcopal bishops in California opposed Proposition 8.
9	140. Many California Presbyterians opposed Proposition 8.
10	141. Many individual Catholics, Mormons, Evangelical Christians, and Orthodox Jews support
11	extending marriage to same-sex couples and thus opposed Proposition 8.
12	142. Many religious people who oppose extending marriage to same-sex couples support their
13	position with secular arguments made in good faith.
14	143. The sincerely held moral and religious beliefs of many people require them to love and accep
15	gays and lesbians despite disapproving certain aspects of their conduct.
16	Sexual Orientation
17	144. There is no consensus definition of "sexual orientation" in the general public, the scientific
18	community, among elected officials, and among academics who study sexual orientation.
19	145. Sexual orientation is a complex and amorphous phenomenon that defies consistent and
20	uniform definition.
21	146. The literature uses three basic definitions of sexual orientation.
22	147. One definition of sexual orientation is based on sexual attraction.
23	148. One definition of sexual orientation is based on sexual behavior.
24	149. One definition of sexual orientation is based on self-ascribed sexual identity.
25	150. Within each of these definitions of sexual orientation, distinctions between different sexual
26	orientations are arguable.
27	151. A given individual's sexual orientation may not be consistent across the three basic
28	definitions.

1	152. Researchers have concluded that homosexuality is fundamentally a multidimensional
2	phenomenon that has manifold meanings and interpretations, depending on context and
3	purpose.
4	153. Psychologists' views about homosexuality, including whether it can be changed and whether
5	it is a "disorder" or a normal variant of human sexuality, have varied over time.
6	154. Variations in psychologists' views about homosexuality are not attributable to new factual
7	discoveries or scientific investigation, but rather to changed perspectives.
8	155. Legislatures have defined sexual orientation in law in a variety of ways, looking to factors
9	such as attraction, external perception, social identity, behavior, and relationships.
10	156. Homosexuality is not genetically determined.
11	157. No aspect of sexual orientation has been shown to be immutable.
12	158. An individual's sexual orientation can change over the course of a lifetime.
13	159. Research shows that many individuals' sexual orientation does change over the course of a
14	lifetime.
15	160. Women's sexual orientation tends to be particularly fluid, malleable, shaped by life
16	experiences, and capable of change over time.
17	161. For many people, adopting a particular sexual orientation is a conscious choice.
18	162. Many gays and lesbians have at one time been married to individuals of the opposite sex.
19	Political Power
20	163. Gays and lesbians have substantial political power. This political power manifests itself in
21	numerous ways: the ability to force lawmakers to take actions against their will, the ability to
22	achieve legislative and regulatory victories, the powerful and reliable political allies of the
23	LGBT community (including leading professional organizations, labor unions, the Democratic
24	party, the elite media, traditional civil rights organizations, Hollywood, and numerous
25	politicians), and the ability to attract the attention of lawmakers.
26	164. Many heterosexuals are reliable political allies of gays and lesbians.
27	165. Gays and lesbians are able to mobilize significant financial resources in support of their

28

political agenda.

1	166.	Gays and lesbians in 31 states and the District of Columbia have secured legislation punishing
2		hate crimes based on sexual orientation.
3	167.	Gays and lesbians in 21 states and the District of Columbia have secured legislation
4		prohibiting employment discrimination on the basis of sexual orientation.
5	168.	Gays and lesbians in 22 states and the District of Columbia have secured domestic partnership
6		benefits for state employees.
7	169.	Gays and lesbians in 9 states and the District of Columbia have secured legislation adopting
8		civil unions or domestic partnerships.
9	170.	Gays and lesbians have had increasing success securing election to public office. According
10		to the Gay and Lesbian Victory Fund, in 1991 fewer than 50 served as elected officials,
11		whereas today more than 440 do.
12	171.	In 2008, the Victory Fund endorsed 111 openly LGBT candidates; 80 won their elections. In
13		2009, 49 out of 79 such candidates won their elections.
14	172.	Gays and lesbians have achieved significant political power at the national level.
15	173.	The Democratic Party is closely aligned with the gay and lesbian rights movement.
16	174.	President Obama is a strong advocate for expanding the rights of gays and lesbians.
17	175.	Gays and lesbians have significant influence in Congress.
18	176.	Gays and lesbians have secured national legislation extending hate crimes protection to LGBT
19		people.
20	177.	Gays and lesbians have gained significant Congressional support for repealing the military's
21		Don't Ask, Don't Tell policy, repealing the Defense of Marriage Act, prohibiting employment
22		discrimination on the basis of sexual orientation, and providing domestic partnership benefits
23		to federal employees.
24	178.	Gays and lesbians in California, in other states, and at the national level have demonstrated
25		the ability to attract the attention of lawmakers.
26	179.	Gays and lesbians have achieved the power they need to effectively pursue their goals through
27		democratic institutions.
28	180.	Gays and lesbians in California have the power to extract favorable policy outcomes from the

1		political system.
2	181.	California provides gays and lesbians some of the most comprehensive civil rights protections
3		in the nation.
4	182.	With the exception of extending marriage to same-sex couples, virtually every policy
5		supported by the gay and lesbian lobby in California has been enacted into California law,
6		including enhanced punishment for crimes committed on the basis of the victim's sexual
7		orientation, and prohibitions on sexual-orientation discrimination in public and private
8		employment, business services, education, housing, insurance, medical care, publicly funded
9		programs and activities, public contracting, and a wide array of other contexts.
10	183.	The political power of gays and lesbians in California is reflected by the refusal of the State
11		Defendants, including the Governor, to support Proposition 8.
12	184.	The Attorney General has taken the position that Proposition 8 is unconstitutional.
13	185.	The City and County of San Francisco displayed its active commitment to the interests of the
14		gay and lesbian lobby by intervening in this lawsuit to challenge Proposition 8.
15	186.	The political coalition supporting gay and lesbian rights in California includes leading labor
16		unions, leading corporations, the California Democratic Party, the state's Republican
17		Governor, other statewide elected officials including the Attorney General, stable legislative
18		majorities, local governments including the City and County of San Francisco, local elected
19		officials, the state's largest media outlets, private foundations, bar associations and other
20		professional organizations, and many churches and other faith-based organizations.
21	187.	Other than Propositions 22 and 8, Californians have not used the initiative and referendum
22		processes to establish the state's public policy respecting gay and lesbian rights.
23	188.	The coalition that opposed Proposition 8 raised and spent more money than the proposition's
24		proponents.
25	189.	The public is increasingly accepting of gays and lesbians and increasingly supportive of rights
26		for gay and lesbian individuals and same-sex couples.
27	190.	To the extent the LGBT community sometimes exercises less political power than some might
28		desire, the tactics and statements of members of this community play a contributing role.

1 **History of Discrimination** 2 191. At present, discrimination against gays and lesbians is far less severe and common than in 3 times past, and is growing increasingly rare. 4 192. Gays and lesbians are not subject to official discrimination by the state of California. 5 193. While gays and lesbians continue to experience private discrimination to some degree, 6 instances of such discrimination are increasingly rare, and gays and lesbians in California 7 have secured comprehensive legal protection from such discrimination through the political 8 process. 9 194. California is one of the most gay-friendly states in the United States. 10 195. California is a popular destination for gay and lesbian tourists. Marriage, Procreation, and the Distinct Contribution of Opposite-Sex Couples 11 12 196. Same-sex couples are different than opposite-sex couples in that only opposite-sex couples 13 have the capacity to procreate naturally; same-sex couples are inherently incapable of doing 14 so. 15 197. Only opposite-sex couples have the capacity to raise children that are emotionally, naturally, practically, and legally affiliated with the woman and the man whose sexual union brought the 16 17 child into the world. 18 198. Only opposite-sex couples have the capacity to raise children with both a mother and a father. 199. Society's continued survival depends upon opposite-sex couples having and raising children. 19 20 200. Unintended pregnancies, which can only occur in opposite-sex relationships, present society 21 with unique challenges. 22 201. Society is harmed when mothers and fathers do not take responsibility for raising their children. 23 24 202. Because they lack the natural procreative capacity of opposite-sex relationships, same-sex relationships do not pose the unique benefits and challenges to society that follow from the 25 26 natural procreative capacity of opposite-sex relationships. 27 203. Many developed nations are facing low and declining birthrates inadequate to maintain their

28

populations.

1	204.	The fertility rate in the United States is barely at replacement level.
2	205.	Nations view their low and declining birthrates as a serious crisis that could jeopardize their
3		basic societal foundations and threaten their survival as nations.
4	206.	The traditional institution of marriage promotes formation of naturally procreative
5		relationships.
6	207.	The traditional institution of marriage promotes stability in naturally procreative relationships
7	208.	The traditional institution of marriage promotes enduring and stable family structures for the
8		responsible raising and care of children by their biological parents.
9	209.	Traditional marriage promotes procreation by encouraging stability and commitment in
10		opposite-sex relationships conducive to undertaking the responsibilities associated with
11		raising children.
12	210.	Married opposite-sex couples tend to have more children than non-married opposite-sex
13		couples.
14	211.	Opposite-sex couples are more likely to raise children than same-sex couples.
15	212.	Opposite-sex couples with children raise, on average, more children than same-sex couples
16		who raise children.
17	213.	The relationships of married, opposite-sex couples are, on average, more stable than the
18		relationships of unmarried, opposite-sex couples.
19	214.	There is a natural and mutually beneficial bond between children and their biological parents.
20	215.	Children desire to know and have a relationship with their biological parents.
21	216.	The traditional institution of marriage nurtures and promotes the bond between children and
22		their biological parents.
23	217.	The traditional institution of marriage increases the probability that natural procreation will
24		occur within stable, enduring, and supporting family structures.
25	218.	The traditional institution of marriage increases the probability that each child will be raised
26		by both of his or her biological parents.
27	219.	The traditional institution of marriage increases the probability that each child will be raised
28		by both a mother and a father.

Case3:09-cv-02292-JW Document290 Filed12/07/09 Page21 of 21

1	220. The traditional institution of marriage increases the probability that each child will have a
2	legally recognized mother and father.
3	221. Allowing all opposite-sex couples to marry promotes a stable framework for raising any
4	children that might result when a couple that does not intend to have children has an
5	accidental or intentional change in plans.
6	222. Allowing all opposite-sex couples to marry discourages the fertile partner of a sterile spouse
7	from engaging in irresponsible, potentially procreative activity with other individuals.
8	223. Allowing all opposite-sex couples to marry reinforces cultural norms that heterosexual
9	relationships—which generally are potentially procreative—should take place within the
10	framework of marriage.
11	Dated: December 7, 2009
12	COOPER AND KIRK, PLLC ATTORNEYS FOR DEFENDANT-INTERVENORS
13	Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez, Hak-Shing William Tam, Mark A. Jansson, and ProtectMarriage.com –
14	YES ON 8, A PROJECT OF CALIFORNIA RENEWAL
15	By: /s/Charles J. Cooper
16	Charles J. Cooper
17	
18 19	
20	
20	
22	
23	
24	
25	
26	
27	
28	
-	19
1	