

# **Exhibit D**

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December 15, 2009

**BY EMAIL and HAND DELIVERY**

Matthew McGill, Esq.  
Ethan Dettmer, Esq.  
1050 Connecticut Ave., N.W.  
Washington, D.C. 20036-5306

Re: *Perry, et. al. v. Schwarzenegger, et. al.*, (U.S.D.C., N.D. Cal., C-09-2292 VRW)

Dear Matt and Ethan:

Enclosed herewith please find a supplemental production of non-privileged documents that we have determined are responsive to Plaintiffs' First Set of Requests for Production.

The bulk of these documents are e-mail communications that one of ProtectMarriage.com's spokespersons, Sonja Eddings Brown, had with individual reporters in the course of distributing press releases and media advisories. Likewise, a handful of the documents are communications from Andrew Pugno to individual reporters or radio and television personnel. We had previously produced the underlying press releases and media advisories, but had not included the surrounding e-mails with reporters. Upon further consideration of Plaintiffs' Request No. 1, we have determined that, under its broadest reading, these communications constitute emails distributed to "members of the media" regarding Proposition 8, even though the emails themselves were clearly not for public distribution.

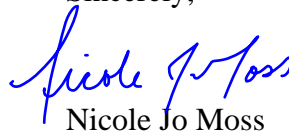
With respect to the above noted communications, I am obliged to bring to your attention one specific document. It is a communication from Mr. Pugno to a member of the press concerning requested corrections to a news article. The communication inadvertently identified a member of the protectmarriage.com executive committee who has otherwise remained anonymous outside of the campaign. This document has not been made public and thus this Doe member's identity is still not publicly known. Pursuant to instructions from this Doe member's counsel, we have produced the document in redacted form.

We are also supplementing our production with some additional materials related to the organization of which Dr. Bill Tam is the Executive Director – the Traditional Family Coalition ("TFC"). In light of Dr. Tam's testimony and requests by counsel at Dr. Tam's deposition, we have concluded that these documents fall outside of a claim of First Amendment privilege. As his deposition makes clear, you are already aware of the existence of TFC's website (<http://tfcus.homestead.com/>), on which it is possible more responsive materials may reside.

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Lastly, many of the remaining documents are “blast” emails and flyers, similar to those previously produced. We could not verify with certainty that these materials were included in our initial production effort that was geared toward identifying and producing all such documents, so out of an abundance of caution, we are providing (or re-providing) them herewith.

Sincerely,



Nicole Jo Moss

Cc: All counsel (w/o enclosures)