

# **Exhibit O**

Hak-Shing William Tam

December 1, 2009

San Francisco, CA

1 invitations? Did you -- how did they --

2 **A I receive invitations.**

3 Q I see. So you would receive an  
4 invitation to go speak at a church and you would  
5 go speak at the church?

6 **A Yes.**

7 Q Can you say about how many such  
8 meetings you attended during that time period,  
9 January to November 2008?

10 MS. MOSS: I am going to -- again I am  
11 going to object on First Amendment grounds to the  
12 extent that you are asking him to discuss things  
13 that were not public and that were part of his  
14 sort of private, personal political activities  
15 that are not publicly known. If you want to ask  
16 him about things that he did that were public with  
17 radio, media, television, that sort of thing, that  
18 is fine. But I think we are getting into areas  
19 where his answer is going to necessarily require  
20 him to reveal his private associational  
21 activities.

22 MR. DETTMER: Okay. And, you know, I  
23 know we -- just we are going to have a lawyer  
24 discussion here for just a second, and you are  
25 obviously welcome to listen.

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1 I mean, I do want to know those things  
2 and I think we have a right to it. But obviously  
3 that is being litigated right now.

4 MS. MOSS: Understood.

5 MR. DETTMER: I think maybe one thing  
6 that we should just as a housekeeping matter work  
7 out, I don't want to waste our time asking a whole  
8 bunch of questions that you are going to instruct  
9 him not to answer. But I also don't want you to  
10 argue later that I have waived the right to ask  
11 those questions. So can we just have an agreement  
12 that I don't have to ask him a whole bunch of  
13 questions that you are going to object to,  
14 instruct him not to answer?

15 MS. MOSS: I think that is fair. I  
16 think we both understand that this issue is beyond  
17 us, it is being decided today down in Pasadena  
18 potentially. And then we will obviously --

19 MR. DETTMER: Okay. So you are not  
20 going to argue waiver just because we have not  
21 gone through all the steps?

22 MS. MOSS: I am not going to argue  
23 waiver. I am very clear I am going to object to  
24 any question that we believe would intrude upon  
25 the First Amendment privileges that we have

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1 asserted. I understand we have a disagreement  
2 over that. I understand that Judge Walker has  
3 made clear that if we ultimately do not prevail on  
4 this that it may mean that you would have to  
5 redepose Mr. Tam. And I am not going to argue  
6 that -- I know you have to ask every question.

7 MR. PUGNO: Can I confer with her just  
8 a moment?

9 MR. DETTMER: Sure. Shall we go off  
10 the record?

11 THE VIDEOGRAPHER: The time is  
12 9:24 a.m., and we are off the record.

13 (Recess 9:24 a.m.-9:28 a.m.)

14 THE VIDEOGRAPHER: The time is  
15 9:28 a.m., and we are back on the record.

16 MR. DETTMER: Okay. So we just have  
17 had a brief discussion off the record about this  
18 paragraph 27 and sort of the extent of the First  
19 Amendment privilege that defendant-intervenors are  
20 asserting.

21 And what I have explained what I want  
22 to get into is basically just sort of the  
23 explanation behind this paragraph 27 and what  
24 Dr. Tam did. And I made clear that I don't want  
25 to get into the contents of his -- specific

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1 contents of his communications at this point  
2 because of the First Amendment discussions that we  
3 have been having a disagreement about. However, I  
4 do want to get into the extent of his  
5 communications, how often he had meetings with  
6 people, you know, how many people attended,  
7 basically fleshing out this first sentence of  
8 paragraph 27, and actually all of paragraph 27.

9 I am not going to ask you about the  
10 identities of specific individuals right now based  
11 on, you know, the notion that I can come back  
12 later and ask about those if we prevail on the  
13 First Amendment issue and on the understanding  
14 that you are not going to argue there is any kind  
15 of waiver around that. And I understand that you  
16 do not want me to get into even how many meetings  
17 there were, how many people attended, or anything  
18 like that.

19 MS. MOSS: Okay. To be clear, general,  
20 general responses about the sorts of activities  
21 that he was involved in as reflected in  
22 paragraph 27 I don't believe are objectionable.  
23 But to the extent that the answer would require  
24 him to discuss the groups or organizations or  
25 persons who he was meeting with, I believe that

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1 that information is covered by the associational  
2 privilege of the First Amendment.

3 So to the extent that the answer is  
4 about public activities, things that were publicly  
5 known that he -- and by public, I mean open to --  
6 available to the general public, not to specific  
7 groups, I will let him answer those questions.  
8 And so, you know, it may be that we have to do it  
9 on a question by question basis. But as a general  
10 matter I do not think that you have the right to  
11 inquire into how many meetings he had or who he  
12 spoke with or how many people were there if it is  
13 private and not publicly available because it  
14 implicates his associational political rights.

15 MS. STEWART: If we just have an  
16 understanding for the record of what his private  
17 versus what is public? Because if I am  
18 understanding his earlier testimony, he said he  
19 spoke to church groups. If he spoke to a  
20 congregation of 100 people, is that public or  
21 private? If the church was open to the public,  
22 was that public or private? Let's get down to  
23 brass tacks here. What is the deal?

24 MS. MOSS: I believe that that is  
25 private.

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1 Q Let me read this second paragraph into  
2 the record. It says, I hope we all wake up now  
3 and really work to pass Prop 8. We have only 48  
4 days left. Even if you have church building  
5 projects, mission projects, concert projects, et  
6 cetera, please consider postponing them and put  
7 all the church man/woman power to work on Prop 8.  
8 We cannot lose this critical battle. If we lose,  
9 this will very likely happen -- and then there is  
10 an ellipsis.

11 Point 1 under that is -- and I will  
12 read it into the record -- same sex marriage will  
13 be a permanent law in California. One by one,  
14 other states would fall into Satan's hand.

15 Do you believe that to be true?

16 MS. MOSS: On First Amendment grounds I  
17 am going to instruct him not to answer.

18 **A I am not going to answer that.**

19 BY MR. DETTMER:

20 Q Okay. Let me ask you a slightly, I  
21 guess, broader question. Do you believe that  
22 Satan is behind the same sex marriage movement?

23 **A I'm not going to answer that.**

24 MS. MOSS: Again I am going to object  
25 on First Amendment grounds.