

# **EXHIBIT 4**

**ACLU Responses & Objections  
09/17/09 & 11/20/09**

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6 Attorneys for NO ON PROPOSITION 8, CAMPAIGN FOR  
MARRIAGE EQUALITY: A PROJECT OF THE AMERICAN  
CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA  
7

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION  
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12 KRISTIN M. PERRY, et al.,  
13 Plaintiffs,  
14 v.  
15 ARNOLD SCHWARZENEGGER, et al.,  
16 Defendants.  
17

Case No. C-09-CV-2292 VRW

**RESPONSES AND OBJECTIONS OF  
NO ON PROPOSITION 8, CAMPAIGN  
FOR MARRIAGE EQUALITY: A  
PROJECT OF THE AMERICAN CIVIL  
LIBERTIES UNION OF NORTHERN  
CALIFORNIA TO INTERVENOR-  
DEFENDANTS PROPOSITION 8  
OFFICIAL PROPONENTS' AND  
PROTECTMARRIAGE.COM'S  
SUBPOENA DATED NOVEMBER 16,  
2009**

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20 Pursuant to Rule 45(c)(2)(B), No on Proposition 8, Campaign for Marriage  
21 Equality, A Project of the American Civil Liberties Union of Northern California ("ACLU")  
22 hereby objects to the subpoena served on it dated November 16, 2009 in the above-entitled  
23 matter:  
24

- 25 1. The Subpoena seeks information that is irrelevant to the issues in the case.  
26 2. The Subpoena seeks material that is protected and privileged from disclosure  
27 pursuant to the First Amendment to the United States Constitution.  
28 3. The Subpoena seeks documents that are not subject to discovery within the

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scope of the Court’s October 1, 2009 Order.

4. The Subpoena seeks documents that ACLU previously has produced.

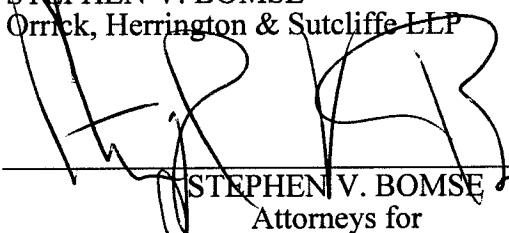
5. Compliance with the Subpoena would impose an undue burden on ACLU.

6. The Subpoena fails to provide a reasonable time for compliance.

ACLU further incorporates by reference its “Responses and Objections of No on Proposition 8, Campaign for Marriage Equality: A Project of the American Civil Liberties Union of Northern California to Intervenor-Defendants Proposition 8 Official Proponents’ and ProtectMarriage.com’s Subpoena,” dated September 17, 2009, a copy of which is attached hereto.

ACLU hereby offers to meet and confer with respect to the above objections at a time convenient to both parties.

Dated: November 20, 2009

STEPHEN V. BOMSE  
Orrick, Herrington & Sutcliffe LLP  
  
STEPHEN V. BOMSE  
Attorneys for  
NO ON PROPOSITION 8, CAMPAIGN FOR  
MARRIAGE EQUALITY: A PROJECT OF THE  
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CAMPAIGN FOR MARRIAGE EQUALITY:  
7 A PROJECT OF THE AMERICAN CIVIL  
LIBERTIES UNION OF NORTHERN  
8 CALIFORNIA

9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12 SAN FRANCISCO DIVISION

13 KRISTIN M. PERRY, et al.

14 Plaintiffs,

15 v.

16 ARNOLD SCHWARZENEGGER, et al.,

17 Defendants.

Case No. C-09-CV-2292 VRW

**RESPONSES AND OBJECTIONS OF NO ON  
PROPOSITION 8, CAMPAIGN FOR  
MARRIAGE EQUALITY: A PROJECT OF  
THE AMERICAN CIVIL LIBERTIES UNION  
OF NORTHERN CALIFORNIA TO  
INTERVENOR-DEFENDANTS  
PROPOSITION 8 OFFICIAL PROPONENTS'  
AND PROTECTMARRIAGE.COM'S  
SUBPOENA**

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20 Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, No On Proposition 8,  
21 Campaign for Marriage Equality: A Project of the American Civil Liberties Union of Northern  
22 California ("ACLU NO ON 8") hereby objects to the Subpoena ("the Subpoena") issued by  
23 Defendant-Intervenors Proposition 8 Official Proponents and Protectmarriage.com  
24 ("Proponents") and dated August 27, 2009 as follows:

25 **GENERAL OBJECTIONS**

26 ACLU NO ON 8 makes the following general objections to the Subpoena:

- 27 1. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
28 therein on the ground that the information and/or documents sought in the requests are irrelevant.

1 All of the requests in the Subpoena seek information and documents related to ACLU NO ON 8's  
2 opposition to Proposition 8, but this information and these documents are not relevant to any  
3 claims or defenses in the litigation, nor are they reasonably calculated to lead to the discovery of  
4 admissible evidence. Fed. R. Civ. P. 26(b)(1). First, Proponents describe the very materials they  
5 are seeking from ACLU NO ON 8—the same materials Plaintiffs seek from Proponents in  
6 connection with their support of Proposition 8—as “legally irrelevant.” (See Proponents’ Supp.  
7 Case Management Stmt. at 7 (Docket No. 159, filed Aug. 17, 2009); see also Defendant-  
8 Intervenors’ Motion for Protective Order at 4-8 (Docket No. 187, filed Sept. 15, 2009).)

9 Second, the rationale invoked by Plaintiffs in seeking materials from Proponents does not  
10 apply to ACLU NO ON 8’s *opposition* to Proposition 8. Plaintiffs contend that their discovery on  
11 Proponents is sought in the context of proving (a) that Proposition 8 was “driven by irrational  
12 considerations, including but not limited to misconceptions, animus and moral disapproval of gay  
13 and lesbian individuals,” and (b) “that some or all of the rationales offered to the voters in support  
14 of Prop. 8 do not bear any rational nexus to what Prop. 8 actually does.” (See Pls.’ Supp. Case  
15 Management Stmt. at 9 (Docket No. 157, filed Aug. 17, 2009).) Such evidence may be relevant  
16 to Plaintiffs’ equal protection claim, under the analysis set forth by the Supreme Court in *Romer*  
17 *v. Evans*, 517 U.S. 620 (1996). But materials advocating *against* Proposition 8 cannot  
18 demonstrate why Proposition 8 was enacted, or on what basis it was enacted, and therefore such  
19 materials are not relevant to any legal claim or defense, nor are they reasonably calculated to lead  
20 to the discovery of admissible evidence.

21 2. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
22 therein to the extent it seeks information and documents that were not publicly distributed on  
23 grounds of relevance, privacy, and other protections guaranteed by the United States Constitution  
24 and the California Constitution. Pursuant to the cover letter attached to the Subpoena, ACLU NO  
25 ON 8 interprets the Subpoena and each and every request therein as seeking only information and  
26 documents that were publicly distributed, thereby excluding internal communications and  
27 documents, including communications between ACLU NO ON 8 and its agents, contractors,  
28 attorneys or others in a similarly private and confidential relationship with ACLU NO ON 8. For

1 the purpose of these responses, ACLU NO ON 8 defines “public” to mean over 200 individuals.  
2 See Cal. Gov’t Code § 82041.5 (defining “mass mailing” as more than 200 pieces of mail).  
3 ACLU NO ON 8 will not produce any information or documents that were not publicly  
4 distributed.

5 3. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
6 therein to the extent that it seeks information and documents already in Proponents’ possession or  
7 equally available to Proponents from other sources that are more convenient, less burdensome,  
8 and/or less expensive. Much of the information and documents that ACLU NO ON 8 publicly  
9 distributed in opposition to Proposition 8 are publicly available. Along with a number of other  
10 organizations, ACLU NO ON 8 participated in a campaign to defeat Proposition 8—the official  
11 name of which was No on 8, Equality for All. The campaign coordinated the production of most  
12 of the information and documents sought by the Subpoena, some of which were then distributed  
13 by the individual organizations that participated in the campaign. As a result, ACLU NO ON 8  
14 believes that Proponents already possess much of the material they seek in the Subpoena, and/or  
15 much of the material may be easily and inexpensively found on the Internet.

16 4. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
17 therein as duplicative and unduly burdensome to the extent that it seeks the same documents and  
18 information requested from parties to the litigation and other third parties subpoenaed by  
19 Proponents. It is ACLU NO ON 8’s understanding that Proponents are seeking the same  
20 information and documents sought in the Subpoena not only from Plaintiffs and Plaintiff-  
21 Intervenor the City of San Francisco, but also from five other third parties that participated in the  
22 No on 8, Equality for All campaign. Given the structure of the No on 8, Equality for All  
23 campaign, much of the information and documents publicly distributed by the organizations that  
24 participated in the campaign—including the campaign entity itself, which has also been  
25 subpoenaed—are identical.

26 5. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
27 therein as unduly burdensome to the extent it seeks documents and electronically-stored  
28 information not reasonably accessible by ACLU NO ON 8. Producing a complete set of all the

1 materials that ACLU NO ON 8 publicly distributed would require undue resources and subject  
2 ACLU NO ON 8 to substantial burden and costs. ACLU NO ON 8 will only produce responsive,  
3 publicly distributed information that is reasonably accessible. To the extent ACLU NO ON 8 is  
4 required to produce documents that are not reasonably accessible and/or is required to undertake  
5 unduly burdensome measures in response to the Subpoena, the cost of any such production  
6 (including, but not limited to, any electronic data restoration and processing, scanning, exporting,  
7 compact disc, or other media, purchase and creation, and all paper copying) would be borne by  
8 Proponents.

9         6. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
10 therein to the extent that it seeks information or documents that no longer exist, or seeks  
11 information or documents that have been destroyed pursuant to ordinary business practices. An  
12 objection based on this ground should not be construed as a representation that such documents  
13 exist or existed. Such objections indicate only that the requests are of such a scope as to embrace  
14 information or documents that may no longer exist.

15         7. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
16 therein to the extent that it seeks the disclosure of documents and information protected from  
17 disclosure by the attorney-client privilege, the attorney work product doctrine or any other  
18 applicable privilege or protection as provided by law. ACLU NO ON 8 does not intend to  
19 produce such privileged or protected documents or information, and any inadvertent disclosure of  
20 any privileged or protected document or information shall not be deemed a waiver of any  
21 privilege.

22         8. ACLU NO ON 8 objects to the Subpoena and each and every request contained  
23 therein and to the definitions and instructions included therewith, to the extent that it purports to  
24 impose upon ACLU NO ON 8 obligations broader than, or inconsistent with, the Federal Rules of  
25 Civil Procedure or the Local Rules and Orders of this Court.

26         9. A statement in these responses to the effect that particular documents or categories  
27 of documents will be provided is not to be construed as a representation that such documents in  
28 fact exist.



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**SPECIFIC OBJECTIONS AND RESPONSES**

ACLU NO ON 8 expressly incorporates the above general objections as though set forth fully in response to the following request for documents and things, and, to the extent that they are not raised in the particular response, ACLU NO ON 8 does not waive those objections.

**REQUEST NO. 1:**

Produce all documents constituting literature, pamphlets, flyers, direct mail, advertisements, emails, text messages, press releases, or other materials that you distributed to voters, donors, potential donors, or members of the media regarding Proposition 8.

**RESPONSE TO REQUEST NO. 1:**

ACLU NO ON 8 specifically objects to this request as irrelevant and unduly burdensome, in that it seeks "all documents" of a certain type distributed by ACLU NO ON 8 regarding Proposition 8. Many of these documents publicly distributed by ACLU NO ON 8 regarding Proposition 8 contain the exact same information about Proposition 8. ACLU NO ON 8 further objects to this request to the extent it seeks production of materials that no longer exist or are no longer in ACLU NO ON 8's possession, custody, or control.

Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that it will produce responsive, non-privileged, public documents in its possession, custody, and control.

**REQUEST NO. 2:**

Produce all versions of any internet advertisement relating to Proposition 8 that you had any involvement producing, creating, or distributing.

**RESPONSE TO REQUEST NO. 2:**

ACLU NO ON 8 specifically objects to this request as unduly burdensome, in that the internet advertisements related to Proposition 8 are publicly available on the Internet.

Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that it was not involved in producing, creating, or distributing any internet advertisement related to Proposition 8. ACLU NO ON 8 does not have possession, custody, or control of the internet advertisements produced, created, or distributed by the No on 8, Equality for All campaign

1 beyond what is publicly available on the Internet.

2 **REQUEST NO. 3:**

3 Produce all versions of any television advertisement relating to Proposition 8 that you had  
4 any involvement producing, creating, or distributing.

5 **RESPONSE TO REQUEST NO. 3:**

6 ACLU NO ON 8 specifically objects to this request as unduly burdensome, in that the  
7 television advertisements related to Proposition 8 are publicly available.

8 Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that  
9 it was not involved in producing, creating, or distributing any television advertisement related to  
10 Proposition 8. ACLU NO ON 8 does not have possession, custody, or control of the television  
11 advertisements produced, created, or distributed by the No on 8, Equality for All campaign  
12 beyond what is publicly available on the Internet.

13 **REQUEST NO. 4:**

14 Produce all versions of any radio advertisement relating to Proposition 8 that you had any  
15 involvement producing, creating, or distributing.

16 **RESPONSE TO REQUEST NO. 4:**

17 Subject to the foregoing General Objections, ACLU NO ON 8 responds that it was not  
18 involved in producing, creating, or distributing any radio advertisement related to Proposition 8.  
19 ACLU NO ON 8 does not have possession, custody, or control of radio advertisements produced,  
20 created, or distributed by the No on 8, Equality for All campaign.

21 **REQUEST NO. 5:**

22 Produce all plans, schematics, and versions of websites relating to Proposition 8 that you  
23 hosted, paid for, or sponsored.

24 **RESPONSE TO REQUEST NO. 5:**

25 ACLU NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
26 in that it seeks "all plans, schematics, and versions" of websites hosted, paid for, or sponsored by  
27 ACLU NO ON 8 regarding Proposition 8. Many of the versions of ACLU NO ON 8's public  
28 website contain the exact same information about Proposition 8. ACLU NO ON 8 further objects

1 to this request to the extent it seeks production of materials that no longer exist or are no longer in  
2 ACLU NO ON 8's possession, custody, or control.

3 Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that  
4 it will produce responsive, non-privileged, public documents in its possession, custody, and  
5 control.

6 **REQUEST NO. 6:**

7 Produce all documents constituting communications that you prepared for public  
8 distribution relating to Proposition 8, including but not limited to speeches, scripts, talking points,  
9 articles, notes and automated telemarketing phone calls.

10 **RESPONSE TO REQUEST NO. 6:**

11 ACLU NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
12 in that it seeks "all documents" of a certain type distributed by ACLU NO ON 8 regarding  
13 Proposition 8. Many of these documents publicly distributed by ACLU NO ON 8 regarding  
14 Proposition 8 contain the exact same information about Proposition 8. ACLU NO ON 8 further  
15 objects to this request to the extent it seeks production of materials that no longer exist or are no  
16 longer in ACLU NO ON 8's possession, custody, or control.

17 Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that  
18 it will produce responsive, non-privileged, public documents in its possession, custody, and  
19 control.

20 **REQUEST NO. 7:**

21 Produce all documents reflecting your postings related to Proposition 8 on social  
22 networking websites, including but not limited to Facebook, MySpace, and Twitter.

23 **RESPONSE TO REQUEST NO. 7:**

24 ACLU NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
25 in that seeks "all documents" of a certain type distributed by ACLU NO ON 8 regarding  
26 Proposition 8. Many of these documents publicly distributed by ACLU NO ON 8 regarding  
27 Proposition 8 contain the exact same information about Proposition 8. ACLU NO ON 8 further  
28 objects to this request to the extent it seeks production of materials that no longer exist or are no

1 longer in ACLU NO ON 8's possession, custody, or control.

2 Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that  
3 it will produce responsive, non-privileged, public documents in its possession, custody, and  
4 control, to the extent such materials are reasonably accessible.

5 **REQUEST NO. 8:**

6 Produce all versions of any documents that reflect communications relating to  
7 Proposition 8 between you and any third party, including but not limited to members of the  
8 media.

9 **RESPONSE TO REQUEST NO. 8:**

10 ACLU NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
11 in that it seeks "all versions" of documents that reflect communications relating to Proposition 8  
12 between ACLU NO ON 8 and "any third party." Many of the public communications by ACLU  
13 NO ON 8 regarding Proposition 8 contain the exact same information about Proposition 8.

14 Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that  
15 it will produce responsive, non-privileged, public documents in its possession, custody, and  
16 control.

17 **REQUEST NO. 9:**

18 Produce documents showing the name and title of every employee of your organization  
19 since January 2008 who was involved in your campaign against Proposition 8, including but not  
20 limited to organizational charts.

21 **RESPONSE TO REQUEST NO. 9:**

22 ACLU NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
23 in that an organizational chart is not necessary to describe the names and titles of the individuals  
24 who were involved in the ACLU NO ON 8 organization. ACLU further specifically objects to  
25 this request as overbroad, in that it seeks information starting in January 2008, although  
26 Proposition 8 did not qualify for the November 2008 ballot until June 2008.

27 Subject to the foregoing General and Specific Objections, ACLU NO ON 8 responds that  
28 the following employees were involved in ACLU NO ON 8 between June and November 2008:

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- Maya Harris, Executive Director, American Civil Liberties Union of Northern California
- Skyler Porras, Director San Jose office, American Civil Liberties Union of Northern California
- Elizabeth Gill, Staff Attorney, LGBT & AIDS Project, American Civil Liberties Union Foundation
- Shayna Gelender, Field Organizer, American Civil Liberties Union of Northern California
- Ashley Morris, Field Organizer, American Civil Liberties Union of Northern California

**REQUEST NO. 10:**

Produce all documents reflecting public media coverage of Proposition 8 referring or related to your organization.

**RESPONSE TO REQUEST NO. 10:**

ACLU NO ON 8 specifically objects to this request as unduly burdensome, in that all public media coverage of Proposition 8 that refers to ACLU NO ON 8 is publicly available.

Subject to the foregoing General and Specific Objections, ACLU NO ON 8 will not produce any documents reflecting public media coverage of Proposition 8 referring or related to ACLU NO ON 8 as those documents are equally available to Proponents or are not in ACLU NO ON 8's possession, custody, or control.

Dated: September 17, 2009

ACLU of NORTHERN CALIFORNIA  
FOUNDATION

By:   
Elizabeth Gill

Attorneys for NO ON PROPOSITION 8,  
CAMPAIGN FOR MARRIAGE EQUALITY:  
A PROJECT OF THE AMERICAN CIVIL  
LIBERTIES UNION OF NORTHERN  
CALIFORNIA

**PROOF OF SERVICE**

I, Nishan Bhaumik, declare as follows:

I am employed in the County of San Francisco, State of California, at the following business address: ACLU of Northern California Foundation, 39 Drumm Street, San Francisco, CA 94111. I am over the age of 18 and not a party to this action.

On September 17, 2009, the following document

**OBJECTIONS AND RESPONSES OF NO ON PROPOSITION 8, CAMPAIGN FOR MARRIAGE EQUALITY: A PROJECT OF THE AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA TO INTERVENOR-DEFENDANTS PROPOSITION 8 OFFICIAL PROPONENTS' AND PROTECTMARRIAGE.COM'S SUBPOENA**

was served on the counsel for Defendant-Intervenors Proposition 8 Official Proponents and Protectmarriage.com by placing true copies thereof for delivery as indicated below, addressed as follows:

The Law Firm of J. Hector Moreno, Jr. and Associates  
51 E. Campbell Ave., Suite 128  
Campbell, CA 95008

James A. Campbell  
15100 N. 90<sup>th</sup> Street  
Scottsdale, Arizona 85260  
[jcampbell@telladf.org](mailto:jcampbell@telladf.org)  
(480) 444-0020

- BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY PERSONAL SERVICE:** by causing such documents to be personally delivered to the above-listed addressee(s) at the address(es) set forth above.
- BY E-MAIL:** by causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 17, 2009

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**PROOF OF SERVICE BY MAIL**

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I am more than eighteen years old and not a party to this action. My business address is Orrick, Herrington & Sutcliffe LLP, The Orrick Building, 405 Howard Street, San Francisco, CA 94105. On November 20, 2009, I served the following document:

**RESPONSES AND OBJECTIONS OF NO ON PROPOSITION 8, CAMPAIGN FOR MARRIAGE EQUALITY: A PROJECT OF THE AMERICAN CIVIL LIBERTIES UNION OF NORTHERN CALIFORNIA TO INTERVENOR-DEFENDANTS PROPOSITION 8 OFFICIAL PROPONENTS' AND PROTECTMARRIAGE.COM'S SUBPOENA DATED NOVEMBER 16, 2009**

on the interested parties in this action by placing true and correct copies thereof in sealed envelopes addressed as follows:

The Law Firm of J. Hector Moreno, Jr.  
and Associates  
51 E. Campbell Avenue, Suite 128  
Campbell, CA 95008

James A. Campbell  
15100 N. 90th Street  
Scottsdale, Arizona 85260  
[jcampbell@telladf.org](mailto:jcampbell@telladf.org)  
(480) 444-0020

I am employed in the county from which the mailing occurred. On the date indicated above, I placed the sealed envelope for collection and mailing at this firm's office business address indicated above. I am readily familiar with this firm's practice for the collection and processing of correspondence for mailing with the United States Postal Service. Under that practice, the firm's correspondence would be deposited with the United States Postal Service on this same date with postage thereon fully prepaid in the ordinary course of business.

Executed on November 20, 2009, at San Francisco, California.

I declare under penalty of perjury that the foregoing is true and correct.

\_\_\_\_\_  
Stella Bates

**CAEBR Responses & Objections**  
**09/10/09**



1 JAMES C. HARRISON, State Bar No. 161958  
KARI KROGSENG, State Bar No. 215263  
2 REMCHO, JOHANSEN & PURCELL, LLP  
201 Dolores Avenue  
3 San Leandro, CA 94577  
Phone: (510) 346-6200  
4 Fax: (510) 346-6201  
Email: kkrogseng@rjp.com  
5

6 Attorneys for Third Party Subpoena Recipients  
Californians Against Eliminating Basic Rights  
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8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 KRISTIN M. PERRY, et al.,

12 Plaintiffs,

13 vs.

14 ARNOLD SCHWARZENEGGER, et al.,

15 Respondents.  
16

) No.: 09-cv-2292 VRW

) **OBJECTIONS TO SUBPOENA TO**  
) **PRODUCE DOCUMENTS,**  
) **INFORMATION, OR OBJECTS OR TO**  
) **PERMIT INSPECTION OF PREMISES**

1 Pursuant to Federal Rules of Civil Procedure Rule 45, third party Californians Against  
2 Eliminating Basic Rights hereby objects to the subpoena served upon it by intervenors-defendants  
3 Proposition 8 Proponents and ProtectMarriage.com.

4 **GENERAL STATEMENTS**

5 1. Californians Against Eliminating Basic Rights has not completed its factual  
6 investigation in connection with the Subpoena. Accordingly, these objections are provided without  
7 prejudice to Californians Against Eliminating Basic Rights's right to produce subsequently discovered  
8 documents and materials, or to modify, change or amend in any way these responses. The information  
9 provided in these objections is nevertheless true and correct to the best knowledge of Californians  
10 Against Eliminating Basic Rights at this time.

11 2. The general objections set forth below are incorporated into the responses to the  
12 specific requests propounded by intervenors-defendants. The fact that a specific response may  
13 mention one or more of the general objections does not mean that the other general objections do not  
14 apply to that request.

15 **GENERAL OBJECTIONS**

16 1. Californians Against Eliminating Basic Rights objects to the Subpoena because  
17 it seeks production of documents which are not relevant to the claims or defenses of a party of this  
18 action and are not reasonably calculated to lead to the discovery of admissible evidence. The  
19 Subpoena was issued for improper tactical purposes and not for the purpose of obtaining discoverable  
20 information.

21 2. Californians Against Eliminating Basic Rights objects to the Subpoena on the  
22 grounds that it is unduly burdensome.

23 3. Californians Against Eliminating Basic Rights objects to the Subpoena to the  
24 extent that it requires disclosing confidential research and proprietary information.

25 4. Californians Against Eliminating Basic Rights objects to the Subpoena because  
26 instead of limiting the scope of its requests in the Subpoena itself, intervenors-defendants improperly  
27 state in a cover letter accompanying the Subpoena that the requests should be limited with "narrowing  
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1 constructions” so that “the requests contained in this subpoena do not include the organization’s  
2 internal communications and documents, including communications between the organization and its  
3 agents, contractors, attorneys, or others in a similarly private and confidential relationship with the  
4 organization” and “to the extent [the requests] call for communications or documents prepared for  
5 public distribution, include only documents that were actually disclosed to the public.” Nevertheless,  
6 Californians Against Eliminating Basic Rights hereby incorporates intervenors-defendants’ narrowing  
7 constructions, and will not produce any documents that fall outside of the above limitations.

8           5.       To the extent that the Subpoena may be construed, in spite of the narrowing  
9 constructions, to call for the production of documents or information that is subject to any claim of  
10 privilege, including but not limited to the attorney-client privilege, the work-product doctrine, and the  
11 right to privacy, Californians Against Eliminating Basic Rights hereby asserts that doctrine or privilege  
12 and objects to the Subpoena on that basis.

13           6.       Inadvertent production of any document subject to any applicable privilege shall  
14 not operate as a waiver of the right to object to any use of such document or of the information  
15 contained therein.

16           7.       To the extent not objected to herein, and to the extent that the documents  
17 referred to in intervenors-defendants’ Subpoena are in the possession, custody or control of  
18 Californians Against Eliminating Basic Rights, documents will be produced on September 17, 2009 at  
19 the Law Firm of J. Hector Moreno, Jr. and Associates, or at such time and place as shall be agreed  
20 upon by counsel for intervenors-defendants and Californians Against Eliminating Basic Rights.

21           8.       The response set forth below, and production of documents pursuant hereto, is  
22 made without waiver of, and is subject to, any applicable objection set forth herein.

**DOCUMENTS TO BE PRODUCED**

**REQUEST NO. 1:**

Produce all documents constituting literature, pamphlets, flyers, direct mail, advertisements, emails, text messages, press releases, or other materials that you distributed to voters, donors, potential donors, or members of the media regarding Proposition 8.

**RESPONSE TO REQUEST NO. 1:**

Californians Against Eliminating Basic Rights incorporates by reference herein its general statements and general objections. Californians Against Eliminating Basic Rights further objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks documents that are not relevant to this action. Notwithstanding these objections, Californians Against Eliminating Basic Rights will produce all documents in its possession that are responsive to this request, subject to its objections and the narrowing constructions set forth in intervenors-defendants' cover letter.

**REQUEST NO. 2:**

Produce all versions of any internet advertisement relating to Proposition 8 that you had any involvement [sic] producing, creating, or distributing.

**RESPONSE TO REQUEST NO. 2:**

Californians Against Eliminating Basic Rights incorporates by reference herein its general statements and general objections. Californians Against Eliminating Basic Rights further objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not produce documents in response to this request because it did not produce, create, or distribute internet advertisements relating to Proposition 8.

**REQUEST NO. 3:**

Produce all versions of any television advertisement relating to Proposition 8 that you had any involvement [sic] producing, creating, or distributing.

1 **RESPONSE TO REQUEST NO. 3:**

2 Californians Against Eliminating Basic Rights incorporates by reference herein its  
3 general statements and general objections. Californians Against Eliminating Basic Rights further  
4 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
5 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
6 produce documents in response to this request because it did not produce, create, or distribute  
7 television advertisements relating to Proposition 8.

8 **REQUEST NO. 4:**

9 Produce all versions of any radio advertisement relating to Proposition 8 that you had  
10 any involvement in producing, creating, or distributing.

11 **RESPONSE TO REQUEST NO. 4:**

12 Californians Against Eliminating Basic Rights incorporates by reference herein its  
13 general statements and general objections. Californians Against Eliminating Basic Rights further  
14 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
15 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
16 produce documents in response to this request because it did not produce, create, or distribute radio  
17 advertisements relating to Proposition 8.

18 **REQUEST NO. 5:**

19 Produce all plans, schematics, and versions of websites relating to Proposition 8 that  
20 you hosted, paid for, or sponsored.

21 **RESPONSE TO REQUEST NO. 5:**

22 Californians Against Eliminating Basic Rights incorporates by reference herein its  
23 general statements and general objections. Californians Against Eliminating Basic Rights further  
24 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
25 documents that are not relevant to this action. Notwithstanding these objections, Californians Against  
26 Eliminating Basic Rights will produce all documents in its possession that are responsive to this  
27

1 request, subject to its objections and the narrowing constructions set forth in intervenors-defendants'  
2 cover letter.

3 **REQUEST NO. 6:**

4 Produce all documents constituting communications that you prepared for public  
5 distribution relating to Proposition 8, including but not limited to speeches, scripts, talking points,  
6 articles, notes, and automated telemarketing phone calls.

7 **RESPONSE TO REQUEST NO. 6:**

8 Californians Against Eliminating Basic Rights incorporates by reference herein its  
9 general statements and general objections. Californians Against Eliminating Basic Rights further  
10 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
11 documents that are not relevant to this action. Notwithstanding these objections, Californians Against  
12 Eliminating Basic Rights will produce all documents in its possession that are responsive to this  
13 request, subject to its objections and the narrowing constructions set forth in intervenors-defendants'  
14 cover letter.

15 **REQUEST NO. 7:**

16 Produce all documents reflecting your postings related to Proposition 8 on social  
17 networking websites, including but not limited to Facebook, MySpace, and Twitter.

18 **RESPONSE TO REQUEST NO. 7:**

19 Californians Against Eliminating Basic Rights incorporates by reference herein its  
20 general statements and general objections. Californians Against Eliminating Basic Rights further  
21 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
22 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
23 produce documents in response to this request because it made no postings related to Proposition 8 on  
24 social networking websites.

1 **REQUEST NO. 8:**

2 Produce all versions of any documents that reflect communications relating to  
3 Proposition 8 between you and any third party, including but not limited to members of the media.

4 **RESPONSE TO REQUEST NO. 8:**

5 Californians Against Eliminating Basic Rights incorporates by reference herein its  
6 general statements and general objections. Californians Against Eliminating Basic Rights further  
7 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
8 documents that are not relevant to this action. Notwithstanding these objections, Californians Against  
9 Eliminating Basic Rights will produce all documents in its possession that reflect communications  
10 relating to Proposition 8 between it and members of the media or the general public, subject to its  
11 objections and the narrowing constructions set forth in intervenors-defendants' cover letter.

12 **REQUEST NO. 9:**

13 Produce documents showing the name and title of every employee of your organization  
14 since January 2008 who was involved in your campaign against Proposition 8, including but not  
15 limited to organizational charts.

16 **RESPONSE TO REQUEST NO. 9:**

17 Californians Against Eliminating Basic Rights has had no paid employees, so it has no  
18 documents responsive to this request.

19 **REQUEST NO. 10:**

20 Produce all documents reflecting public media coverage of Proposition 8 referring or  
21 related to your organization.

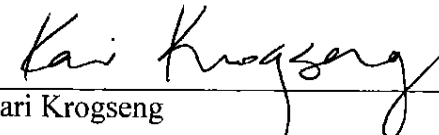
22 **RESPONSE TO REQUEST NO. 10:**

23 Californians Against Eliminating Basic Rights incorporates by reference herein its  
24 general statements and general objections. Californians Against Eliminating Basic Rights further  
25 objects on the grounds that the request is overbroad, unduly burdensome, and vague, seeks documents  
26 that are not relevant to this action, and are documents that intervenors-defendants could just as easily  
27 access themselves. Notwithstanding these objections, Californians Against Eliminating Basic Rights

1 will produce all documents in its possession that are responsive to this request, subject to its objections  
2 and the narrowing constructions set forth in intervenors-defendants' cover letter.

3 Dated: September 10, 2009

James C. Harrison  
Kari Krogseng  
REMCHO, JOHANSEN & PURCELL, LLP

6 By:   
7 Kari Krogseng

8 Attorneys for Third Party Subpoena Recipients  
9 Californians Against Eliminating Basic Rights

10 (00088781-3)



**PROOF OF SERVICE**

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause or action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On September 10, 2009, I served a true copy of the following document(s):

**Objections to Subpoena to Produce Documents,  
Information, or Objects or to Permit  
Inspection of Premises**

on the following party(ies) in said action:

James A. Campbell  
15100 N. 90th Street  
Scottsdale, AZ 85260  
Phone: (480) 444-0020  
Fax: (480) 444-0028  
Email: jcampbell@telladf.org  
(By Overnight Delivery, Facsimile & Email)

*Attorneys for The Proposition 8 Proponents  
and ProtectMarriage.com*

The Law Firm of J. Hector Moreno, Jr.  
and Associates  
51 E. Campbell Avenue, Suite 128  
Campbell, CA 95008  
Phone: (408) 370-6160  
Fax: (408) 370-6161  
(By Facsimile)

*Courtesy Copy*

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
  - depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
  - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the businesses' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.

**BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

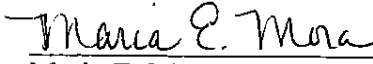
**BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.

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**BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.

**BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on September 10, 2009, in San Leandro, California.

  
\_\_\_\_\_  
Maria E. Mora

**CAEBR Responses & Objections**  
**11/23/09**

1 JAMES C. HARRISON, State Bar No. 161958  
KARI KROGSENG, State Bar No. 215263  
2 REMCHO, JOHANSEN & PURCELL, LLP  
201 Dolores Avenue  
3 San Leandro, CA 94577  
Phone: (510) 346-6200  
4 Fax: (510) 346-6201  
Email: kkrogseng@rjp.com

5 Attorneys for Third Party Subpoena Recipient  
6 Californians Against Eliminating Basic Rights

7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 KRISTIN M. PERRY, et al.,

12 Plaintiffs,

13 vs.

14 ARNOLD SCHWARZENEGGER, et al.,

15 Respondents.

) No.: 09-cv-2292 VRW

) **OBJECTIONS TO SUBPOENA TO**  
) **PRODUCE DOCUMENTS,**  
) **INFORMATION, OR OBJECTS OR TO**  
) **PERMIT INSPECTION OF PREMISES**

1 Pursuant to Federal Rules of Civil Procedure Rule 45, third party Californians Against  
2 Eliminating Basic Rights hereby objects to the subpoena served upon it by intervenors-defendants  
3 Proposition 8 Proponents and ProtectMarriage.com.

4 **GENERAL STATEMENTS**

5 1. Californians Against Eliminating Basic Rights has not completed its factual  
6 investigation in connection with the Subpoena. Accordingly, these objections are provided without  
7 prejudice to Californians Against Eliminating Basic Rights's right to produce subsequently discovered  
8 documents and materials, or to modify, change or amend in any way these responses. The information  
9 provided in these objections is nevertheless true and correct to the best knowledge of Californians  
10 Against Eliminating Basic Rights at this time.

11 2. The general objections set forth below are incorporated into the responses to the  
12 specific requests propounded by intervenors-defendants. The fact that a specific response may  
13 mention one or more of the general objections does not mean that the other general objections do not  
14 apply to that request.

15 **GENERAL OBJECTIONS**

16 1. Californians Against Eliminating Basic Rights objects to the Subpoena because  
17 it seeks production of documents which are not relevant to the claims or defenses of a party to this  
18 action and are not reasonably calculated to lead to the discovery of admissible evidence. The  
19 Subpoena was issued for improper tactical purposes and not for the purpose of obtaining discoverable  
20 information.

21 2. Californians Against Eliminating Basic Rights objects to the Subpoena on the  
22 grounds that it is unduly burdensome.

23 3. Californians Against Eliminating Basic Rights objects to the Subpoena to the  
24 extent that it requires disclosing confidential research and proprietary information.

25 4. To the extent that the Subpoena may be construed to call for the production of  
26 documents or information that is subject to any claim of privilege, including but not limited to the  
27 attorney-client privilege, the work-product doctrine, and the right to privacy and freedom of

1 association, Californians Against Eliminating Basic Rights hereby asserts that doctrine or privilege and  
2 objects to the Subpoena on that basis.

3 6. Inadvertent production of any document subject to any applicable privilege shall  
4 not operate as a waiver of the right to object to any use of such document or of the information  
5 contained therein.

6 7. Californians Against Eliminating Basic Rights already produced documents in  
7 response to substantially similar requests on September 23, 2009. The Proposition 8 Proponents  
8 accordingly already have responsive documents in their possession, and Californians Against  
9 Eliminating Basic Rights will not produce those documents again in response to these requests.

10 8. The response set forth below, and production of documents pursuant hereto, is  
11 made without waiver of, and is subject to, any applicable objection set forth herein.

12 **DOCUMENTS TO BE PRODUCED**

13 **REQUEST NO. 1:**

14 Produce all documents constituting literature, pamphlets, flyers, direct mail,  
15 advertisements, emails, text messages, press releases, or other materials that you distributed to voters,  
16 donors, potential donors, or members of the media regarding Proposition 8.

17 **RESPONSE TO REQUEST NO. 1:**

18 Californians Against Eliminating Basic Rights incorporates by reference herein its  
19 general statements and general objections. Californians Against Eliminating Basic Rights further  
20 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
21 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
22 produce any further documents in response to this request.

23 **REQUEST NO. 2:**

24 Produce all versions of any internet advertisement relating to Proposition 8 that you had  
25 any involvement [sic] producing, creating, or distributing.

1 **RESPONSE TO REQUEST NO. 2:**

2 Californians Against Eliminating Basic Rights incorporates by reference herein its  
3 general statements and general objections. Californians Against Eliminating Basic Rights further  
4 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
5 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
6 produce documents in response to this request because it did not produce, create, or distribute internet  
7 advertisements relating to Proposition 8.

8 **REQUEST NO. 3:**

9 Produce all versions of any television advertisement relating to Proposition 8 that you  
10 had any involvement [sic] producing, creating, or distributing.

11 **RESPONSE TO REQUEST NO. 3:**

12 Californians Against Eliminating Basic Rights incorporates by reference herein its  
13 general statements and general objections. Californians Against Eliminating Basic Rights further  
14 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
15 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
16 produce documents in response to this request because it did not produce, create, or distribute  
17 television advertisements relating to Proposition 8.

18 **REQUEST NO. 4:**

19 Produce all versions of any radio advertisement relating to Proposition 8 that you had  
20 any involvement [sic] producing, creating, or distributing.

21 **RESPONSE TO REQUEST NO. 4:**

22 Californians Against Eliminating Basic Rights incorporates by reference herein its  
23 general statements and general objections. Californians Against Eliminating Basic Rights further  
24 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
25 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
26 produce documents in response to this request because it did not produce, create, or distribute radio  
27 advertisements relating to Proposition 8.

1 **REQUEST NO. 5:**

2 Produce all plans, schematics, and versions of websites relating to Proposition 8 that  
3 you hosted, paid for, or sponsored.

4 **RESPONSE TO REQUEST NO. 5:**

5 Californians Against Eliminating Basic Rights incorporates by reference herein its  
6 general statements and general objections. Californians Against Eliminating Basic Rights further  
7 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
8 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
9 produce any further documents in response to this request.

10 **REQUEST NO. 6:**

11 Produce all documents constituting communications that you prepared for public  
12 distribution relating to Proposition 8, including but not limited to speeches, scripts, talking points,  
13 articles, notes, and automated telemarketing phone calls.

14 **RESPONSE TO REQUEST NO. 6:**

15 Californians Against Eliminating Basic Rights incorporates by reference herein its  
16 general statements and general objections. Californians Against Eliminating Basic Rights further  
17 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
18 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
19 produce any further documents in response to this request.

20 **REQUEST NO. 7:**

21 Produce all documents reflecting your postings related to Proposition 8 on social  
22 networking websites, including but not limited to Facebook, MySpace, and Twitter.

23 **RESPONSE TO REQUEST NO. 7:**

24 Californians Against Eliminating Basic Rights incorporates by reference herein its  
25 general statements and general objections. Californians Against Eliminating Basic Rights further  
26 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
27 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not



1 produce documents in response to this request because it made no postings related to Proposition 8 on  
2 social networking websites.

3 **REQUEST NO. 8:**

4 Produce all versions of any documents within your possession, custody, or control that  
5 reflect communications related to (1) campaign strategy in connection with Proposition 8, or  
6 (2) messages to be conveyed to voters regarding Proposition 8 (without regard to whether the voters or  
7 voter groups were viewed as likely supporters or opponents or undecided about Proposition 8 and  
8 without regard to whether the messages were actually disseminated or merely contemplated), between  
9 or among (1) those who had any role in managing or directing No on 8, Equality for All or the No on 8  
10 campaign, or (2) those who provided advice, counseling, information, or services with respect to the  
11 efforts to encourage persons to vote for or against Proposition 8, or otherwise to educate persons about  
12 Proposition 8, including its meaning, intent, effects if enacted, or effects if rejected; persons or entities  
13 falling within these descriptions include, but are not limited to, persons who served on the executive  
14 committee of No on 8, Equality for All, Patrick Guerriero, Steve Smith, Geoff Kors, Kate Kendall,  
15 Julie Davis, Armour Griffin Media Group, LLC, Dewey Square Group, LLC, AC Public Affairs, Inc.,  
16 Lake Research Partners, Inc., David Binder Research, Inc., Storefront Political Media, Skyy  
17 Consulting Inc. (d.b.a. CallFire), and Meringcarson.

18 **RESPONSE TO REQUEST NO. 8:**

19 Californians Against Eliminating Basic Rights incorporates by reference herein its  
20 general statements and general objections. Californians Against Eliminating Basic Rights further  
21 objects on the grounds that the request is overbroad, unduly burdensome, and vague, and seeks  
22 documents that are not relevant to this action. Californians Against Eliminating Basic Rights will not  
23 produce any further documents in response to this request.

1 **REQUEST NO. 9:**

2 Produce documents showing the name and title of every employee of your organization  
3 since January 2008 who was involved in your campaign against Proposition 8, including but not  
4 limited to organizational charts.

5 **RESPONSE TO REQUEST NO. 9:**

6 Californians Against Eliminating Basic Rights has had no paid employees, so it has no  
7 documents responsive to this request.

8 **REQUEST NO. 10:**

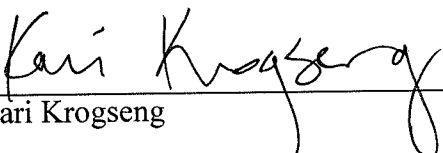
9 Produce all documents reflecting public media coverage of Proposition 8 referring or  
10 related to your organization.

11 **RESPONSE TO REQUEST NO. 10:**

12 Californians Against Eliminating Basic Rights incorporates by reference herein its  
13 general statements and general objections. Californians Against Eliminating Basic Rights further  
14 objects on the grounds that the request is overbroad, unduly burdensome, and vague, seeks documents  
15 that are not relevant to this action, and are documents that intervenors-defendants could just as easily  
16 access themselves. Californians Against Eliminating Basic Rights will not produce any further  
17 documents in response to this request.

18 Dated: November 23, 2009

James C. Harrison  
Kari Krogseng  
REMCHO, JOHANSEN & PURCELL, LLP

21 By:   
Kari Krogseng

22 Attorneys for Third Party Subpoena Recipients  
23 Californians Against Eliminating Basic Rights

24 (00095717-3)

**PROOF OF SERVICE**

I, the undersigned, declare under penalty of perjury that:

I am a citizen of the United States, over the age of 18, and not a party to the within cause or action. My business address is 201 Dolores Avenue, San Leandro, CA 94577.

On November 23, 2009, I served a true copy of the following document(s):

**Objections to Subpoena to Produce Documents,  
Information, or Objects or to Permit  
Inspection of Premises**

on the following party(ies) in said action:

James A. Campbell  
Alliance Defense Fund  
15100 N. 90th Street  
Scottsdale, AZ 85260  
Phone: (480) 444-0020  
Fax: (480) 444-0028  
Email: jcampbell@telladf.org  
(By Mail and Email)

*Attorneys for The Proposition & Proponents  
and ProtectMarriage.com*

The Law Firm of J. Hector Moreno, Jr.  
and Associates  
51 E. Campbell Avenue, Suite 128  
Campbell, CA 95008  
Phone: (408) 370-6160  
Fax: (408) 370-6161  
(By Facsimile)

*Courtesy Copy*

- BY UNITED STATES MAIL:** By enclosing the document(s) in a sealed envelope or package addressed to the person(s) at the address above and
  - depositing the sealed envelope with the United States Postal Service, with the postage fully prepaid.
  - placing the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with the businesses' practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, located in San Leandro, California, in a sealed envelope with postage fully prepaid.
- BY OVERNIGHT DELIVERY:** By enclosing the document(s) in an envelope or package provided by an overnight delivery carrier and addressed to the persons at the addresses listed. I placed the envelope or package for collection and overnight delivery at an office or a regularly utilized drop box of the overnight delivery carrier.

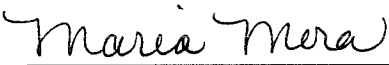
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**BY MESSENGER SERVICE:** By placing the document(s) in an envelope or package addressed to the persons at the addresses listed and providing them to a professional messenger service for service.

**BY FACSIMILE TRANSMISSION:** By faxing the document(s) to the persons at the fax numbers listed based on an agreement of the parties to accept service by fax transmission. No error was reported by the fax machine used. A copy of the fax transmission is maintained in our files.

**BY EMAIL TRANSMISSION:** By emailing the document(s) to the persons at the email addresses listed based on a court order or an agreement of the parties to accept service by email. No electronic message or other indication that the transmission was unsuccessful was received within a reasonable time after the transmission.

I declare, under penalty of perjury, that the foregoing is true and correct. Executed on November 23, 2009, in San Leandro, California.

  
\_\_\_\_\_  
Maria E. Mora

# **Equality California Responses & Objections 09/17/09**

1 LYNN H. PASAHOW (CSB No. 054283)  
(lpasahow@fenwick.com)  
2 CAROLYN CHANG (CSB No. 217933)  
(cchang@fenwick.com)  
3 FENWICK & WEST LLP  
801 California Street  
4 Mountain View, CA 94041  
Telephone: 650.988.8500  
5 Facsimile: 650 938.5200

6 Attorneys for  
EQUALITY CALIFORNIA ISSUES PAC  
7 (formerly known as No on 8 – Equality California)

8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

11 KRISTIN M. PERRY, et al.  
12 Plaintiffs,  
13 v.  
14 ARNOLD SCHWARZENEGGER, et al.,  
15 Defendants.

Case No. C-09-CV-2292 VRW

**EQUALITY CALIFORNIA ISSUES PAC'S  
RESPONSES AND OBJECTIONS TO  
INTERVENOR-DEFENDANTS  
PROPOSITION 8 OFFICIAL PROPONENTS'  
AND PROTECTMARRIAGE.COM'S  
SUBPOENA**

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
MOUNTAIN VIEW

16  
17 Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, Equality California  
18 Issues PAC ("EQCA NO ON 8") hereby objects to the Subpoena ("the Subpoena") issued by  
19 Defendant-Intervenors Proposition 8 Official Proponents and Protectmarriage.com  
20 ("Proponents") and dated August 27, 2009 as follows:

21 **GENERAL OBJECTIONS**

22 EQCA NO ON 8 makes the following general objections to the Subpoena:

23 1. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
24 therein on the ground that the information and/or documents sought in the requests are irrelevant.  
25 All of the requests in the Subpoena seek information and documents related to EQCA NO ON 8's  
26 opposition to Proposition 8, but such information and documents are not relevant to any claims or  
27 defenses in the litigation, nor are they reasonably calculated to lead to the discovery of admissible  
28 evidence. Fed. R. Civ. P. 26(b)(1). EQCA NO ON 8 therefore objects for at least the following

1 reasons. First, Proponents describe the very materials they are seeking from EQCA NO ON 8—  
 2 the same materials Plaintiffs seek from Proponents in connection with their support of  
 3 Proposition 8—as “legally irrelevant.” (See Proponents’ Supp. Case Management Stmt. at 7  
 4 (Docket No. 159, filed Aug. 17, 2009) (“hereinafter Proponents’ CMC Stmt.”)).

5 Second, the rationale invoked by Plaintiffs in seeking materials from Proponents does not  
 6 apply to EQCA NO ON 8’s *opposition* to Proposition 8. Plaintiffs contend that their discovery on  
 7 Proponents is sought in the context of proving (a) that Proposition 8 was “driven by irrational  
 8 considerations, including but not limited to misconceptions, animus and moral disapproval of gay  
 9 and lesbian individuals,” and (b) “that some or all of the rationales offered to the voters in support  
 10 of Prop. 8 do not bear any rational nexus to what Prop. 8 actually does.” (See Pls.’ Supp. Case  
 11 Management Stmt. at 9 (Docket No. 157, filed Aug. 17, 2009).) Such evidence would be  
 12 relevant to Plaintiffs’ equal protection claim, under the analysis set forth by the Supreme Court in  
 13 *Romer v. Evans*, 517 U.S. 620 (1996). But materials advocating *against* Proposition 8 cannot  
 14 demonstrate why Proposition 8 was enacted, or on what basis it was enacted, and therefore such  
 15 materials are not relevant to any legal claim or defense, nor are they reasonably calculated to lead  
 16 to the discovery of admissible evidence

17 2. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 18 therein to the extent it seeks information and documents that were not publicly distributed on  
 19 privacy grounds and to the extent it violates protections guaranteed by the United States  
 20 Constitution and/or California Constitution. Pursuant to the cover letter attached to the Subpoena,  
 21 EQCA NO ON 8 interprets the Subpoena and each and every request therein as seeking only  
 22 information and documents that were publicly distributed, thereby excluding internal  
 23 communications and documents, including communications between EQCA NO ON 8 and its  
 24 agents, contractors, attorneys or others in a similarly private and confidential relationship with  
 25 EQCA NO ON 8. For the purpose of these responses, EQCA NO ON 8 defines “public” to mean  
 26 over 200 individuals. See Cal. Gov’t Code § 82041.5 (defining “mass mailing” as more than 200  
 27 pieces of mail) EQCA NO ON 8 will not produce any information or documents that were not  
 28 publicly distributed.

1           3.       EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 2 therein to the extent that it seeks information and documents already in Proponents' possession or  
 3 equally available to Proponents from other sources that are more convenient, less burdensome,  
 4 and/or less expensive. Much of the information and documents that EQCA NO ON 8 distributed  
 5 in opposition to Proposition 8 are publicly available. Along with a number of other organizations,  
 6 EQCA NO ON 8 participated in a campaign to defeat Proposition 8—the official name of which  
 7 was No on 8, Equality for All. The campaign coordinated the production of most of the  
 8 information and documents sought by the Subpoena, which were then distributed by all the  
 9 individual organizations that participated in the campaign. As a result, EQCA NO ON 8 believes  
 10 that Proponents already possess much of the material they seek in the Subpoena, and/or much of  
 11 the material may be easily and inexpensively found on the Internet.

12           4.       EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 13 therein to the extent that it seeks the same documents and information requested from parties to  
 14 the litigation and other third parties subpoenaed by Proponents as duplicative and unduly  
 15 burdensome. It is EQCA NO ON 8's understanding that Proponents are seeking the same  
 16 information and documents sought in the Subpoena not only from Plaintiffs and Plaintiff-  
 17 Intervenor the City of San Francisco, but also from five other third parties that participated in the  
 18 No on 8, Equality for All campaign. Given the structure of the No on 8, Equality for All  
 19 campaign, much of the information and documents publicly distributed by the organizations that  
 20 participated in the campaign—including the campaign entity itself, which has also been  
 21 subpoenaed—are identical.

22           5.       EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 23 therein to the extent it seeks documents and electronically-stored information not reasonably  
 24 accessible by EQCA NO ON 8 as unduly burdensome. Producing a complete set of all the  
 25 materials that EQCA NO ON 8 publicly distributed would require undue resources and subject  
 26 EQCA NO ON 8 to substantial burden and costs. EQCA NO ON 8 will only produce responsive  
 27 publicly distributed information that is reasonably accessible. To the extent EQCA NO ON 8 is  
 28 required to produce documents that are not reasonably accessible and/or is required to undertake



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1 unduly burdensome measures in response to the Subpoena, the cost of any such production  
2 (including, but not limited to, any electronic data restoration and processing, scanning, exporting,  
3 compact disc, or other media, purchase and creation, and all paper copying) would be borne by  
4 Proponents.

5 6. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
6 therein to the extent that it seeks information or documents that no longer exist, or seeks  
7 information or documents that have been destroyed pursuant to ordinary business practices. An  
8 objection based on this ground should not be construed as a representation that such documents  
9 exist or existed. Such objections indicate only that the requests are of such a scope as to embrace  
10 information or documents that no longer exist.

11 7. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
12 therein to the extent that it seeks the disclosure of documents and information protected from  
13 disclosure by the attorney-client privilege, the attorney work product doctrine or any other  
14 applicable privilege or protection as provided by law. EQCA NO ON 8 does not intend to  
15 produce such privileged or protected documents or information, and any inadvertent disclosure of  
16 any privileged or protected document or information shall not be deemed a waiver of any  
17 privilege.

18 8. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
19 therein and to the definitions and instructions included therewith, to the extent that it purports to  
20 impose upon EQCA NO ON 8 obligations broader than, or inconsistent with, the Federal Rules of  
21 Civil Procedure or the Local Rules and Orders of this Court.

22 9. A statement in these responses to the effect that particular documents or categories  
23 of documents will be provided is not to be construed as a representation that such documents in  
24 fact exist.

25 **SPECIFIC OBJECTIONS AND RESPONSES**

26 EQCA NO ON 8 expressly incorporates the above general objections as though set forth  
27 fully in response to the following request for documents and things, and, to the extent that they  
28 are not raised in the particular response, EQCA NO ON 8 does not waive those objections.

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1 **REQUEST NO. 1:**

2 Produce all documents constituting literature, pamphlets, flyers, direct mail,  
3 advertisements, emails, text messages, press releases, or other materials that you distributed to  
4 voters, donors, potential donors, or members of the media regarding Proposition 8.

5 **RESPONSE TO REQUEST NO. 1:**

6 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome.  
7 EQCA NO ON 8 further objects to this request in that it seeks “all documents” of a certain type  
8 distributed by EQCA NO ON 8 regarding Proposition 8. Many of these documents publicly  
9 distributed by EQCA NO ON 8 regarding Proposition 8 are duplicative and contain the exact  
10 same information about Proposition 8. EQCA NO ON 8 further objects to this request to the  
11 extent it seeks production of materials and information that no longer exist and/or are not within  
12 EQCA NO ON 8’s possession, custody, or control.

13 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
14 it will produce responsive non-privileged public documents in its possession, custody, and  
15 control.

16 **REQUEST NO. 2:**

17 Produce all versions of any internet advertisement relating to Proposition 8 that you had  
18 any involvement producing, creating, or distributing.

19 **RESPONSE TO REQUEST NO. 2:**

20 EQCA NO ON 8 specifically objects to this request as unduly burdensome, in that the  
21 internet advertisements related to Proposition 8 are publicly available on the Internet. EQCA NO  
22 ON 8 further objects to this request as duplicative, overly broad, irrelevant, and unduly  
23 burdensome in that it seeks “all versions” of internet advertisements relating to Proposition 8. To  
24 the extent EQCA NO ON 8 was involved in producing, creating, or distributing any internet  
25 advertisement related to Proposition 8, such materials are duplicative of materials distributed by  
26 the No on 8, Equality for All campaign, and EQCA NO ON 8 therefore objects to the request as  
27 unduly burdensome and duplicative.

28 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 will produce

1 response non-privileged public documents in its possession, custody, and control.

2 **REQUEST NO. 3:**

3 Produce all versions of any television advertisement relating to Proposition 8 that you had  
4 any involvement producing, creating, or distributing.

5 **RESPONSE TO REQUEST NO. 3:**

6 EQCA NO ON 8 specifically objects to this request as unduly burdensome, in that the  
7 television advertisements related to Proposition 8 are publicly available. EQCA NO ON 8 further  
8 objects to this request as duplicative, overly broad, irrelevant, and unduly burdensome in that it  
9 seeks "all versions" of television advertisements relating to Proposition 8.

10 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
11 as an organization it was not involved in producing, creating, or distributing any television  
12 advertisement related to Proposition 8. EQCA NO ON 8 does not have possession, custody, or  
13 control of the television advertisements produced, created, or distributed by the campaign beyond  
14 what is publicly available on the Internet.

15 **REQUEST NO. 4:**

16 Produce all versions of any radio advertisement relating to Proposition 8 that you had any  
17 involvement producing, creating, or distributing.

18 **RESPONSE TO REQUEST NO. 4:**

19 EQCA NO ON 8 specifically objects to this request as duplicative, overly broad,  
20 irrelevant, and unduly burdensome in that it seeks "all versions" of radio advertisements relating  
21 to Proposition 8. Subject to the foregoing General Objections, EQCA NO ON 8 responds that as  
22 an organization it was not involved in producing, creating, or distributing any radio advertisement  
23 related to Proposition 8. EQCA NO ON 8 does not have possession, custody, or control of radio  
24 advertisements produced, created, or distributed by the campaign.

25 **REQUEST NO. 5:**

26 Produce all plans, schematics, and versions of websites relating to Proposition 8 that you  
27 hosted, paid for, or sponsored.

28

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1 **RESPONSE TO REQUEST NO. 5:**

2 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
3 in that it seeks “*all* plans, schematics, and versions” of websites hosted, paid for, or sponsored by  
4 EQCA NO ON 8 regarding Proposition 8. Many of the versions of EQCA NO ON 8’s public  
5 website contain the exact same information about Proposition 8. EQCA NO ON 8 further objects  
6 to this request to the extent it seeks production of materials that no longer exist or are no longer in  
7 EQCA NO ON 8’s possession, custody, or control. EQCA NO ON 8 did not publicly distribute  
8 plans or schematics for its website, and it cannot produce exact versions of its website, as it did  
9 not systematically save these versions beyond what is publicly available on the Internet.

10 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
11 it will produce responsive non-privileged public documents in its possession, custody, or control.

12 **REQUEST NO. 6:**

13 Produce all documents constituting communications that you prepared for public  
14 distribution relating to Proposition 8, including but not limited to speeches, scripts, talking points,  
15 articles, notes and automated telemarketing phone calls.

16 **RESPONSE TO REQUEST NO. 6:**

17 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
18 in that it seeks “*all* documents” of a certain type distributed by EQCA NO ON 8 regarding  
19 Proposition 8. Many of these documents publicly distributed by EQCA NO ON 8 regarding  
20 Proposition 8 contain the exact same information about Proposition 8. EQCA NO ON 8 further  
21 objects to this request to the extent it seeks production of materials that no longer exist or are no  
22 longer in EQCA NO ON 8’s possession, custody, or control.

23 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
24 it will produce responsive non-privileged public documents in its possession, custody, or control.

25 **REQUEST NO. 7:**

26 Produce all documents reflecting your postings related to Proposition 8 on social  
27 networking websites, including but not limited to Facebook, MySpace, and Twitter.

28

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1 **RESPONSE TO REQUEST NO. 7:**

2 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
3 in that seeks “*all* documents” of a certain type distributed by EQCA NO ON 8 regarding  
4 Proposition 8. Many of these documents publicly distributed by EQCA NO ON 8 regarding  
5 Proposition 8 contain the exact same information about Proposition 8.

6 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
7 it will produce responsive non-privileged public documents in its possession, custody, or control  
8 including Facebook, MySpace, and Twitter, to the extent such materials are reasonably accessible  
9 to EQCA NO ON 8.

10 **REQUEST NO. 8:**

11 Produce all versions of any documents that reflect communications relating to  
12 Proposition 8 between you and any third party, including but not limited to members of the  
13 media.

14 **RESPONSE TO REQUEST NO. 8:**

15 EQCA NO ON 8 specifically objects to this request as overly broad, irrelevant, and  
16 unduly burdensome, in that it seeks “*all* versions” of documents that reflect communications  
17 relating to Proposition 8 between EQCA NO ON 8 and “*any* third party.” Many of the public  
18 communications by EQCA NO ON 8 regarding Proposition 8 contain the exact same information  
19 about Proposition 8.

20 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
21 it will produce responsive non-privileged documents in its possession, custody, or control.

22 **REQUEST NO. 9:**

23 Produce documents showing the name and title of every employee of your organization  
24 since January 2008 who was involved in your campaign against Proposition 8, including but not  
25 limited to organizational charts.

26 **RESPONSE TO REQUEST NO. 9:**

27 EQCA NO ON 8 specifically objects to this request as irrelevant and not likely to lead to  
28 the discovery of admissible evidence. EQCA NO ON 8 further objects to this request to the

1 extent it seeks non-public confidential information.

2 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
3 information regarding employees of EQCA NO ON 8 involved in the campaign against  
4 Proposition 8 is publicly available.

5 **REQUEST NO. 10:**

6 Produce all documents reflecting public media coverage of Proposition 8 referring or  
7 related to your organization.

8 **RESPONSE TO REQUEST NO. 10:**

9 EQCA NO ON 8 specifically objects to this request as unduly burdensome, irrelevant, and  
10 overly broad. EQCA NO ON 8 further objects to this request in that all public media coverage of  
11 Proposition 8 that refers to EQCA NO ON 8 is publicly available.

12 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
13 any documents reflecting public media coverage of Proposition 8 referring or related to EQCA  
14 NO ON 8 are public and/or equally available to Proponents and/or are not in EQCA NO ON 8's  
15 possession, custody, or control.

16  
17 Dated: September 17, 2009

FENWICK & WEST LLP

18 By:   
19 Carolyn Chang

20 Attorneys for  
21 EQUALITY CALIFORNIA ISSUES PAC

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22  
23  
24  
25  
26  
27  
28

**PROOF OF SERVICE**

I, Valerie Schmitt, declare as follows:

I am employed in the County of Santa Clara, State of California, at the following business address: Fenwick & West LLP, 801 California Street, Mountain View, CA 94041. I am over the age of 18 and not a party to this action.

On **September 17, 2009**, the following document

**EQUALITY CALIFORNIA ISSUES PAC'S OBJECTIONS AND RESPONSES TO INTERVENOR-DEFENDANTS PROPOSITION 8 OFFICIAL PROPONENTS' AND PROTECTMARRIAGE.COM'S SUBPOENA**

was served on the counsel for Defendant-Intervenors Proposition 8 Official Proponents and Protectmarriage.com by placing true copies thereof for delivery as indicated below, addressed as follows:

The Law Firm of J. Hector Moreno, Jr. and Associates  
51 E. Campbell Ave., Suite 128  
Campbell, CA 95008

James A. Campbell  
15100 N. 90<sup>th</sup> Street  
Scottsdale, Arizona 85260  
[jcampbell@telladf.org](mailto:jcampbell@telladf.org)  
(480) 444-0020

- (X) **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- ( ) **BY PERSONAL SERVICE:** by causing such documents to be personally delivered to the above-listed addressee(s) at the address(es) set forth above.
- (X) **BY E-MAIL:** by causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: September 17, 2009

  
\_\_\_\_\_  
Valerie Schmitt

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# **Equality California Responses & Objections 11/23/09**



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8 Attorneys for  
EQUALITY CALIFORNIA ISSUES PAC  
9 (formerly known as No on 8 – Equality California)

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

13 KRISTIN M. PERRY, et al.

14 Plaintiffs,

15 v.

16 ARNOLD SCHWARZENEGGER, et al.,

17 Defendants.

Case No. C-09-CV-2292 VRW

**EQUALITY CALIFORNIA ISSUES PAC'S  
RESPONSES AND OBJECTIONS TO  
INTERVENOR-DEFENDANTS  
PROPOSITION 8 OFFICIAL PROPONENTS'  
AND PROTECTMARRIAGE.COM'S  
SUBPOENA**

18  
19 Pursuant to Rules 26 and 45 of the Federal Rules of Civil Procedure, Equality California  
20 Issues PAC ("EQCA NO ON 8") hereby objects to the Subpoena ("the Subpoena") issued by  
21 Defendant-Intervenors Proposition 8 Official Proponents and Protectmarriage.com  
22 ("Proponents") and dated November 16, 2009 as follows:

23 **GENERAL OBJECTIONS**

24 EQCA NO ON 8 makes the following general objections to the Subpoena:

25 EQCA NO ON 8 objects to the Subpoena and each and every request contained therein on  
26 the ground that the information and/or documents sought in the requests are irrelevant. All of the  
27 requests in the Subpoena seek information and documents related to EQCA NO ON 8's  
28 opposition to Proposition 8, but such information and documents are not relevant to any claims or

1 defenses in the litigation, nor are they reasonably calculated to lead to the discovery of admissible  
 2 evidence. Fed. R. Civ. P. 26(b)(1). EQCA NO ON 8 therefore objects for at least the following  
 3 reasons. The rationale invoked by Plaintiffs in seeking materials from Proponents does not apply  
 4 to EQCA NO ON 8's *opposition* to Proposition 8. Plaintiffs contend that their discovery on  
 5 Proponents is sought in the context of proving (a) that Proposition 8 was "driven by irrational  
 6 considerations, including but not limited to misconceptions, animus and moral disapproval of gay  
 7 and lesbian individuals," and (b) "that some or all of the rationales offered to the voters in support  
 8 of Prop. 8 do not bear any rational nexus to what Prop. 8 actually does." (*See* Pls.' Supp. Case  
 9 Management Stmt. at 9 (Docket No. 157, filed Aug. 17, 2009).) Such evidence would be  
 10 relevant to Plaintiffs' equal protection claim, under the analysis set forth by the Supreme Court in  
 11 *Romer v. Evans*, 517 U.S. 620 (1996). But materials advocating *against* Proposition 8 cannot  
 12 demonstrate why Proposition 8 was enacted, or on what basis it was enacted, and therefore such  
 13 materials are not relevant to any legal claim or defense, nor are they reasonably calculated to lead  
 14 to the discovery of admissible evidence.

15 1. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 16 therein to the extent it seeks information and documents that were not publicly distributed on  
 17 privacy grounds and to the extent it violates protections guaranteed by the United States  
 18 Constitution and/or California Constitution. For the purpose of these responses, EQCA NO ON 8  
 19 defines "public" to mean over 200 individuals. *See* Cal. Gov't Code § 82041.5 (defining "mass  
 20 mailing" as more than 200 pieces of mail). EQCA NO ON 8 will not produce any information or  
 21 documents that were not publicly distributed.

22 2. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 23 therein to the extent that it seeks information and documents already in Proponents' possession or  
 24 equally available to Proponents from other sources that are more convenient, less burdensome,  
 25 and/or less expensive. Much of the information and documents that EQCA NO ON 8 distributed  
 26 in opposition to Proposition 8 are publicly available. Along with a number of other organizations,  
 27 EQCA NO ON 8 participated in a campaign to defeat Proposition 8—the official name of which  
 28 was No on 8, Equality for All. The campaign coordinated the production of most of the

1 information and documents sought by the Subpoena, which were then distributed by all the  
 2 individual organizations that participated in the campaign. As a result, EQCA NO ON 8 believes  
 3 that Proponents already possess much of the material they seek in the Subpoena, and/or much of  
 4 the material may be easily and inexpensively found on the Internet.

5 3. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 6 therein to the extent that it seeks the same documents and information requested from parties to  
 7 the litigation and other third parties subpoenaed by Proponents as duplicative and unduly  
 8 burdensome. It is EQCA NO ON 8's understanding that Proponents are seeking the same  
 9 information and documents sought in the Subpoena not only from Plaintiffs and Plaintiff-  
 10 Intervenor the City of San Francisco, but also from other third parties that participated in the No  
 11 on 8, Equality for All campaign. Given the structure of the No on 8, Equality for All campaign,  
 12 much of the information and documents publicly distributed by the organizations that participated  
 13 in the campaign—including the campaign entity itself, which has also been subpoenaed—are  
 14 identical.

15 4. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 16 therein to the extent it seeks documents and electronically-stored information not reasonably  
 17 accessible by EQCA NO ON 8 as unduly burdensome. Producing a complete set of all the  
 18 materials that EQCA NO ON 8 publicly distributed would require undue resources and subject  
 19 EQCA NO ON 8 to substantial burden and costs. EQCA NO ON 8 will only produce responsive  
 20 publicly distributed information that is reasonably accessible. To the extent EQCA NO ON 8 is  
 21 required to produce documents that are not reasonably accessible and/or is required to undertake  
 22 unduly burdensome measures in response to the Subpoena, the cost of any such production  
 23 (including, but not limited to, any electronic data restoration and processing, scanning, exporting,  
 24 compact disc, or other media, purchase and creation, and all paper copying) would be borne by  
 25 Proponents.

26 5. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
 27 therein to the extent that it seeks information or documents that no longer exist, or seeks  
 28 information or documents that have been destroyed pursuant to ordinary business practices. An

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1 objection based on this ground should not be construed as a representation that such documents  
2 exist or existed. Such objections indicate only that the requests are of such a scope as to embrace  
3 information or documents that no longer exist.

4 6. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
5 therein to the extent that it seeks the disclosure of documents and information protected from  
6 disclosure by the attorney-client privilege, the attorney work product doctrine or any other  
7 applicable privilege or protection as provided by law. EQCA NO ON 8 does not intend to  
8 produce such privileged or protected documents or information, and any inadvertent disclosure of  
9 any privileged or protected document or information shall not be deemed a waiver of any  
10 privilege.

11 7. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
12 therein and to the definitions and instructions included therewith, to the extent that it purports to  
13 impose upon EQCA NO ON 8 obligations broader than, or inconsistent with, the Federal Rules of  
14 Civil Procedure or the Local Rules and Orders of this Court.

15 8. EQCA NO ON 8 objects to the Subpoena and each and every request contained  
16 therein to the extent it is duplicative of the August 27, 2009 Subpoena issued to EQCA NO ON 8  
17 by Proponents. EQCA NO ON 8 expressly incorporates its objections and responses to the  
18 August 27, 2009 Subpoena.

19 9. A statement in these responses to the effect that particular documents or categories  
20 of documents will be provided is not to be construed as a representation that such documents in  
21 fact exist.

22 **SPECIFIC OBJECTIONS AND RESPONSES**

23 EQCA NO ON 8 expressly incorporates the above general objections as though set forth  
24 fully in response to the following request for documents and things, and, to the extent that they  
25 are not raised in the particular response, EQCA NO ON 8 does not waive those objections.

26 **REQUEST NO. 1:**

27 Produce all documents constituting literature, pamphlets, flyers, direct mail,  
28 advertisements, emails, text messages, press releases, or other materials that you distributed to

1 voters, donors, potential donors, or members of the media regarding Proposition 8.

2 **RESPONSE TO REQUEST NO. 1:**

3 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome.  
4 EQCA NO ON 8 further objects to this request in that it seeks “all documents” of a certain type  
5 distributed by EQCA NO ON 8 regarding Proposition 8. Many of these documents publicly  
6 distributed by EQCA NO ON 8 regarding Proposition 8 are duplicative and contain the exact  
7 same information about Proposition 8. EQCA NO ON 8 further objects to this request to the  
8 extent it seeks production of materials and information that no longer exist and/or are not within  
9 EQCA NO ON 8’s possession, custody, or control. EQCA NO ON 8 further objects to this  
10 request to the extent it is duplicative of Proponents’ August 27, 2009 Subpoena.

11 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
12 its response to this request in Proponents’ August 27, 2009 Subpoena and reiterates that it will  
13 produce responsive non-privileged public documents in its possession, custody, and control.

14 **REQUEST NO. 2:**

15 Produce all versions of any internet advertisement relating to Proposition 8 that you had  
16 any involvement producing, creating, or distributing.

17 **RESPONSE TO REQUEST NO. 2:**

18 EQCA NO ON 8 specifically objects to this request as unduly burdensome, in that the  
19 internet advertisements related to Proposition 8 are publicly available on the Internet. EQCA NO  
20 ON 8 further objects to this request as duplicative, overly broad, irrelevant, and unduly  
21 burdensome in that it seeks “all versions” of internet advertisements relating to Proposition 8. To  
22 the extent EQCA NO ON 8 was involved in producing, creating, or distributing any internet  
23 advertisement related to Proposition 8, such materials are duplicative of materials distributed by  
24 the No on 8, Equality for All campaign, and EQCA NO ON 8 therefore objects to the request as  
25 unduly burdensome and duplicative. EQCA NO ON 8 further objects to this request to the extent  
26 it is duplicative of Proponents’ August 27, 2009 Subpoena.

27 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
28 its response to this request in Proponents’ August 27, 2009 Subpoena and reiterates that it will

1 produce responsive non-privileged public documents in its possession, custody, and control.

2 **REQUEST NO. 3:**

3 Produce all versions of any television advertisement relating to Proposition 8 that you had  
4 any involvement producing, creating, or distributing.

5 **RESPONSE TO REQUEST NO. 3:**

6 EQCA NO ON 8 specifically objects to this request as unduly burdensome, in that the  
7 television advertisements related to Proposition 8 are publicly available. EQCA NO ON 8 further  
8 objects to this request as duplicative, overly broad, irrelevant, and unduly burdensome in that it  
9 seeks “all versions” of television advertisements relating to Proposition 8. EQCA NO ON 8  
10 further objects to this request to the extent it is duplicative of Proponents’ August 27, 2009  
11 Subpoena.

12 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
13 its response to this request in Proponents’ August 27, 2009 Subpoena and reiterates that as an  
14 organization it was not involved in producing, creating, or distributing any television  
15 advertisement related to Proposition 8. EQCA NO ON 8 does not have possession, custody, or  
16 control of the television advertisements produced, created, or distributed by the campaign beyond  
17 what is publicly available on the Internet.

18 **REQUEST NO. 4:**

19 Produce all versions of any radio advertisement relating to Proposition 8 that you had any  
20 involvement producing, creating, or distributing.

21 **RESPONSE TO REQUEST NO. 4:**

22 EQCA NO ON 8 specifically objects to this request as duplicative, overly broad,  
23 irrelevant, and unduly burdensome in that it seeks “all versions” of radio advertisements relating  
24 to Proposition 8. EQCA NO ON 8 further objects to this request to the extent it is duplicative of  
25 Proponents’ August 27, 2009 Subpoena.

26 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
27 its response to this request in Proponents’ August 27, 2009 Subpoena and reiterates that as an  
28 organization it was not involved in producing, creating, or distributing any radio advertisement

1 related to Proposition 8. EQCA NO ON 8 does not have possession, custody, or control of radio  
2 advertisements produced, created, or distributed by the campaign.

3 **REQUEST NO. 5:**

4 Produce all plans, schematics, and versions of websites relating to Proposition 8 that you  
5 hosted, paid for, or sponsored.

6 **RESPONSE TO REQUEST NO. 5:**

7 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
8 in that it seeks “*all* plans, schematics, and versions” of websites hosted, paid for, or sponsored by  
9 EQCA NO ON 8 regarding Proposition 8. Many of the versions of EQCA NO ON 8’s public  
10 website contain the exact same information about Proposition 8. EQCA NO ON 8 further objects  
11 to this request to the extent it seeks production of materials that no longer exist or are no longer in  
12 EQCA NO ON 8’s possession, custody, or control. EQCA NO ON 8 did not publicly distribute  
13 plans or schematics for its website, and it cannot produce exact versions of its website, as it did  
14 not systematically save these versions beyond what is publicly available on the Internet. EQCA  
15 NO ON 8 further objects to this request to the extent it is duplicative of Proponents’ August 27,  
16 2009 Subpoena.

17 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
18 its response to this request in Proponents’ August 27, 2009 Subpoena and reiterates that it will  
19 produce responsive non-privileged public documents in its possession, custody, and control.

20 **REQUEST NO. 6:**

21 Produce all documents constituting communications that you prepared for public  
22 distribution relating to Proposition 8, including but not limited to speeches, scripts, talking points,  
23 articles, notes and automated telemarketing phone calls.

24 **RESPONSE TO REQUEST NO. 6:**

25 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
26 in that it seeks “*all* documents” of a certain type distributed by EQCA NO ON 8 regarding  
27 Proposition 8. Many of these documents publicly distributed by EQCA NO ON 8 regarding  
28 Proposition 8 contain the exact same information about Proposition 8. EQCA NO ON 8 further

1 objects to this request to the extent it seeks production of materials that no longer exist or are no  
2 longer in EQCA NO ON 8's possession, custody, or control. EQCA NO ON 8 further objects to  
3 this request to the extent it is duplicative of Proponents' August 27, 2009 Subpoena.

4 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
5 its response to this request in Proponents' August 27, 2009 Subpoena and reiterates that it will  
6 produce responsive non-privileged public documents in its possession, custody, and control

7 **REQUEST NO. 7:**

8 Produce all documents reflecting your postings related to Proposition 8 on social  
9 networking websites, including but not limited to Facebook, MySpace, and Twitter.

10 **RESPONSE TO REQUEST NO. 7:**

11 EQCA NO ON 8 specifically objects to this request as irrelevant and unduly burdensome,  
12 in that seeks "*all* documents" of a certain type distributed by EQCA NO ON 8 regarding  
13 Proposition 8. Many of these documents publicly distributed by EQCA NO ON 8 regarding  
14 Proposition 8 contain the exact same information about Proposition 8. EQCA NO ON 8 further  
15 objects to this request to the extent it is duplicative of Proponents' August 27, 2009 Subpoena.

16 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
17 its response to this request in Proponents' August 27, 2009 Subpoena and reiterates that it will  
18 produce responsive non-privileged public documents in its possession, custody, or control  
19 including Facebook, MySpace, and Twitter, to the extent such materials are reasonably accessible  
20 to EQCA NO ON 8.

21 **REQUEST NO. 8:**

22 Produce all versions of any documents within your possession, custody, or control that  
23 reflect communications related to (1) campaign strategy in connection with Proposition 8, or (2)  
24 messages to be conveyed to voters regarding Proposition 8 (without regard to whether the voters  
25 or voter groups were viewed as likely supporters or opponents or undecided about Proposition 8  
26 and without regard to whether the messages were actually disseminated or merely contemplated),  
27 between or among (1) those who had any role in managing or directing No on 8, Equality for All  
28 or the No on 8 campaign, or (2) those who provided advice, counseling, information, or services



1 with respect to the efforts to encourage persons to vote for or against Proposition 8, or otherwise  
 2 to educate persons about Proposition 8, including its meaning, intent, effects if enacted, or effects  
 3 if rejected; persons or entities falling within these descriptions include, but are not limited to,  
 4 persons who served on the executive committee of No on 8, Equality for All, Patrick Guerriero,  
 5 Steve Smith, Geoff Kors, Kate Kendall, Julie Davis, Armour Griffin Media Group, LLC, Dewey  
 6 Square Group, LLC, AC Public Affairs, Inc., Lake Research Partners, Inc., David Binder  
 7 Research, Inc., Storefront Political Media, Skyy Consulting Inc. (d.b.a. CallFire), and  
 8 Meringcarson.

9 **RESPONSE TO REQUEST NO. 8:**

10 EQCA NO ON 8 specifically objects to this request as overly broad, irrelevant, and  
 11 unduly burdensome. As explained in the General Objections, materials advocating *against*  
 12 Proposition 8 cannot demonstrate why Proposition 8 was enacted, or on what basis it was enacted,  
 13 and therefore such materials are not relevant to any legal claim or defense, nor are they  
 14 reasonably calculated to lead to the discovery of admissible evidence. Further, many of the  
 15 public communications, which EQCA NO ON 8 has already agreed to produce, regarding  
 16 Proposition 8 contain the exact same information about Proposition 8. EQCA NO ON 8 objects  
 17 to the extent this request seeks documents protected by the right to privacy and any state or  
 18 federal constitutional right, including but not limited to the First Amendment. EQCA NO ON 8  
 19 further objects to the term “campaign strategy” as vague and ambiguous. EQCA NO ON 8  
 20 objects to this request as duplicative, overly broad, irrelevant, and unduly burdensome in that it  
 21 seeks “all versions” of documents.

22 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 responds that  
 23 it will produce responsive non-privileged public documents in its possession, custody, or control.

24 **REQUEST NO. 9:**

25 Produce documents showing the name and title of every employee of your organization  
 26 since January 2008 who was involved in your campaign against Proposition 8, including but not  
 27 limited to organizational charts.  
 28

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ATTORNEYS AT LAW  
MOUNTAIN VIEW

1 **RESPONSE TO REQUEST NO. 9:**

2 EQCA NO ON 8 specifically objects to this request as irrelevant and not likely to lead to  
3 the discovery of admissible evidence. EQCA NO ON 8 further objects to this request to the  
4 extent it seeks non-public confidential information. EQCA NO ON 8 further objects to this  
5 request to the extent it is duplicative of Proponents' August 27, 2009 Subpoena.

6 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
7 its response to this request in Proponents' August 27, 2009 Subpoena and reiterates that  
8 information regarding employees of EQCA NO ON 8 involved in the campaign against  
9 Proposition 8 is publicly available.

10 **REQUEST NO. 10:**

11 Produce all documents reflecting public media coverage of Proposition 8 referring or  
12 related to your organization.

13 **RESPONSE TO REQUEST NO. 10:**

14 EQCA NO ON 8 specifically objects to this request as unduly burdensome, irrelevant, and  
15 overly broad. EQCA NO ON 8 further objects to this request in that all public media coverage of  
16 Proposition 8 that refers to EQCA NO ON 8 is publicly available. EQCA NO ON 8 further  
17 objects to this request to the extent it is duplicative of Proponents' August 27, 2009 Subpoena.

18 Subject to the foregoing General and Specific Objections, EQCA NO ON 8 incorporates  
19 its response to this request in Proponents' August 27, 2009 Subpoena and reiterates that any  
20 documents reflecting public media coverage of Proposition 8 referring or related to EQCA NO  
21 ON 8 are public and/or equally available to Proponents and/or are not in EQCA NO ON 8's  
22 possession, custody, or control.

23  
24 Dated: November 23, 2009

FENWICK & WEST LLP

25 By: Leslie Kramer  
26 Leslie Kramer

27 Attorneys for  
28 EQUALITY CALIFORNIA ISSUES PAC

**PROOF OF SERVICE**

I, Tomi Palmerino, declare as follows:

I am employed in the County of San Francisco, State of California, at the following business address: Fenwick & West LLP, 555 California Street, 12th Floor, San Francisco, CA 94104. I am over the age of 18 and not a party to this action.

On **November 23, 2009**, the following document

**EQUALITY CALIFORNIA ISSUES PAC'S OBJECTIONS AND RESPONSES TO INTERVENOR-DEFENDANTS PROPOSITION 8 OFFICIAL PROPONENTS' AND PROTECTMARRIAGE.COM'S SUBPOENA**

was served on the counsel for Defendant-Intervenors Proposition 8 Official Proponents and Protectmarriage.com by placing true copies thereof for delivery as indicated below, addressed as follows:

The Law Firm of J. Hector Moreno, Jr.  
and Associates  
51 E. Campbell Ave., Suite 128  
Campbell, CA 95008

James A. Campbell  
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- BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope for collection and mailing following our ordinary business practices. I am readily familiar with our ordinary business practices for collecting and processing mail for the United States Postal Service, and mail that I place for collection and processing is regularly deposited with the United States Postal Service that same day with postage prepaid.
- BY PERSONAL SERVICE:** by causing such documents to be personally delivered to the above-listed addressee(s) at the address(es) set forth above.
- BY E-MAIL:** by causing to be transmitted via e-mail the document(s) listed above to the addressee(s) at the e-mail address(es) listed above.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: November 23, 2009

  
Tomi Palmerino

FENWICK & WEST LLP  
ATTORNEYS AT LAW  
MOUNTAIN VIEW