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15 ATTORNEYS FOR DEFENDANT-INTERVENORS DENNIS HOLLINGSWORTH,
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 16 PROTECTMARRIAGE.COM – YES ON 8, A
 PROJECT OF CALIFORNIA RENEWAL

17 * Admitted *pro hac vice*

18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**

20 KRISTIN M. PERRY, SANDRA B. STIER,
 21 PAUL T. KATAMI, and JEFFREY J.
 ZARRILLO,

22 Plaintiffs,

23 v.

24 ARNOLD SCHWARZENEGGER, in his official
 25 capacity as Governor of California; EDMUND
 26 G. BROWN, JR., in his official capacity as
 Attorney General of California; MARK B.
 27 HORTON, in his official capacity as Director of
 the California Department of Public Health and
 28 State Registrar of Vital Statistics; LINETTE

CASE NO. 09-CV-2292 VRW

**DEFENDANT-INTERVENORS
 DENNIS HOLLINGSWORTH, GAIL
 KNIGHT, MARTIN GUTIERREZ,
 MARK JANSSON, AND
 PROTECTMARRIAGE.COM'S
 MOTION TO SHORTEN TIME FOR
 RESPONSE TO AND HEARING OF
 MOTION TO COMPEL**

Trial Date: January 11, 2010
 Judge: Chief Judge Vaughn R. Walker
 Location: Courtroom 6, 17th Floor

1 SCOTT, in her official capacity as Deputy
2 Director of Health Information & Strategic
3 Planning for the California Department of Public
4 Health; PATRICK O'CONNELL, in his official
5 capacity as Clerk-Recorder for the County of
6 Alameda; and DEAN C. LOGAN, in his official
7 capacity as Registrar-Recorder/County Clerk for
8 the County of Los Angeles,

9 Defendants,

10 and

11 PROPOSITION 8 OFFICIAL PROPONENTS
12 DENNIS HOLLINGSWORTH, GAIL J.
13 KNIGHT, MARTIN F. GUTIERREZ, HAK-
14 SHING WILLIAM TAM, and MARK A.
15 JANSSON; and PROTECTMARRIAGE.COM –
16 YES ON 8, A PROJECT OF CALIFORNIA
17 RENEWAL,

18 Defendant-Intervenors.

19 Additional Counsel for Defendant-Intervenors

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TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Local Rule 6-3 Defendant Intervenors Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez, Mark A. Jansson, and ProtectMarriage.com (“Proponents”) will and hereby do move this Court for an Order shortening the time within which the Court may hear Proponents Motion to Compel Compliance with Nonparty Document Subpoenas.

Proponents have moved for an order compelling production of documents by non-parties Californians Against Eliminating Basic Rights (“CAEBR”), Equality California, and No on Proposition 8, Campaign for Marriage Equality, A Project of the American Civil Liberties Union of Northern California (“ACLU”) (collectively, “the No on 8 groups”). Proponents have so moved because they wish to have these documents available for use at trial, which has already commenced.

This motion is based upon this Notice of Motion; the following Memorandum of Points and Authorities; the concurrently filed declaration of Jesse Panuccio in support; the complete files in these actions; the concurrently filed Motion to Compel; argument of counsel; and such other and further matters as this Court may consider.

MEMORANDUM AND POINTS OF AUTHORITIES

The parties have engaged in a long dispute over the permissible scope of discovery in this action. Plaintiffs propounded sweeping document requests on Proponents, seeking nearly every document in Proponents’ possession. Proponents objected on burden, relevance, and First Amendment grounds, but made clear that—in order to build a complete record in this case—to whatever extent they are required to produce such documents, they would seek similar documents from the No on 8 groups. *See, e.g.*, Doc # 187 at 3-4. To that end, Proponents served Rule 45 document subpoenas on the No on 8 groups. On January 6, the Court conducted the latest in a series of hearings regarding the scope of permissible discovery. Following that hearing, the Court ruled on the permissible scope of discovery and the bounds of the First Amendment privilege in this case. *See* Doc # 372. Proponents apprised the No on

1 8 groups of this new ruling and its implications for the scope of documents now discoverable in this
2 case. The No on 8 groups have objected and are refusing to produce documents that are relevant and
3 nonprivileged under this Court's January 8 order. Because trial has already commenced, Proponents
4 require immediate production of these documents so that they may review them and potentially enter
5 them into evidence. Accordingly, counsel for the No on 8 groups were notified by email on the
6 morning of January 15 of Proponents' intention to seek relief in the form of this motion to shorten
7 time. *See* Decl. of Jesse Panuccio in Supp. of Defendant-Intervenors' Mot. to Shorten Time.

9 **I. Substantial Prejudice Will Occur If Proponents Are Not Permitted to Obtain, Review,
10 and Potentially Introduce Documents In the Possession of the No on 8 Groups.**

11 Federal Rule of Civil Procedure 6(e) allows the Court to order a motion to be heard on an
12 accelerated basis "for good cause." Fed. R. Civ. P. 6(c)(1)(C). Moreover, N.D. Cal. Civ. L.R. 6-
13 3(a)(3) provides that a court may shorten time if "substantial harm or prejudice ... would occur if the
14 Court did not change the time"

15 Proponents have kept the No on 8 groups continually apprised of both this Court's and the Ninth
16 Circuit's rulings regarding the permissible scope of discovery in this case. The Court's most recent
17 ruling was not announced until January 8, just a few days before the start of trial. Doc # 372.
18 Proponents stand ready to review production from the No on 8 groups as soon as it comes in, so as to
19 be able to introduce the documents into evidence to build the "complete record," Doc # 76 at 5, of "the
20 mix of information before and available to the voters," Doc # 214 at 14. Allowing the normal timeline
21 for response and hearing on this motion would not allow this matter to be resolved while the trial is still
22 ongoing and thus would preclude the Court's ability to review a "complete record" and prejudice
23 Proponents' ability to plan and present their case. It is imperative that Proponents receive a
24 determination as to whether the No on 8 groups must comply with the subpoenas. Accordingly,
25 Proponents respectfully request that the Court order the No on 8 groups to file a response, if any, to the
26 motion to compel by 5 p.m. on January 18, 2010, and that the Court hear the motion as soon as is
27
28

1 practicable given the trial schedule.

2 **CONCLUSION**

3 For the foregoing reasons, Proponents respectfully request that the Court grant this motion to
4 shorten time.

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6 Dated: January 15, 2009

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By: /s/ Charles J. Cooper
Charles J. Cooper