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8 Attorneys for Third-Party, Equality California

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

12 KRISTIN M. PERRY, SANDRA B. STIER,  
 13 PAUL T. KATAMI, and JEFFREY J. ZARRILLO,

14 Plaintiffs,

15 v.

16 ARNOLD SCHWARZENEGGER, in his official  
 capacity as Governor of California; EDMUND G.  
 17 BROWN, JR., in his official capacity as Attorney  
 General of California; MARK B. HORTON, in his  
 official capacity as Director of the California  
 Department of Public Health and State Registrar of  
 18 Vital Statistics; LINETTE SCOTT, in her official  
 capacity as Deputy Director of Health Information &  
 Strategic Planning for the California Department of  
 19 Public Health; PATRICK O'CONNELL, in his  
 official capacity as Clerk-Recorder for the County of  
 Alameda; and DEAN C. LOGAN, in his official  
 20 capacity as Registrar-Recorder/County Clerk for the  
 County of Los Angeles,

21 Defendants,

22 and

23 PROPOSITION 8 OFFICIAL PROPONENTS  
 DENNIS HOLLINGSWORTH, GAIL J. KNIGHT,  
 24 MARTIN F. GUTIERREZ, HAK-SHING  
 WILLIAM TAM, and MARK A. JANSSON; and  
 25 PROTECTMARRIAGE.COM – YES ON 8, A  
 PROJECT OF CALIFORNIA RENEWAL,  
 26

27 Defendant-Intervenors.  
28

Case No. 09-CV-2292 VRW

**DECLARATION OF GEOFF KORS  
 IN SUPPORT OF EQUALITY  
 CALIFORNIA'S OPPOSITION TO  
 MOTION TO COMPEL**

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

FENWICK & WEST LLP  
 ATTORNEYS AT LAW  
 SAN FRANCISCO

1 I, Geoff Kors, hereby declare:

2 1. I am the Executive Director of third party Equality California (EQCA). I have  
3 personal knowledge of the facts stated below and, if called upon as a witness, could testify  
4 competently to such facts.

5 2. I submit this declaration in response to the Court’s February 11, 2010 order  
6 (Docket # 589) requesting third party EQCA submit a declaration “identifying the core group of  
7 individuals engaged in the formulation of campaign strategy and messaging.”

8 3. EQCA is an organization dedicated to achieving equality and securing the legal  
9 protection of the lesbian, gay, bisexual and transgender (LGBT) community. Founded in 1998,  
10 EQCA’s activities include sponsoring legislation and coordinating efforts to ensure its passage,  
11 lobbying legislators and policy makers, building coalitions, developing community strength and  
12 empowering individuals and other organizations to engage in the political process. EQCA  
13 Institute is an affiliated organization that educates LGBT people and the public at large about  
14 issues impacting the LGBT community and its allies.

15 4. As Executive Director of EQCA, I lead the legislative efforts, as well as the  
16 political action committee activities and educational work of EQCA. Also as part of my role as  
17 Executive Director of EQCA, I was a member of the Executive Committee of the No on 8 -  
18 Equality for All campaign (“Equality for All”).

19 **Structure of No on 8 Campaign**

20 5. Equality for All was formed in 2005 to prepare to fight any proposition that would  
21 prohibit or eliminate the right of same gender couples to marry. Such a measure qualified for the  
22 November 2008 ballot (it was subsequently labeled Proposition 8). The organization was  
23 originally comprised of representatives of approximately 35 national, state and local  
24 organizations, and it was registered by these representatives with the State of California as a  
25 political action committee. The goal of the organization was to defeat Proposition 8 once it  
26 qualified for the ballot.

27 6. Throughout the summer and fall of 2008, many additional organizations joined  
28 Equality for All’s Statewide Campaign Committee (“Campaign Committee”), and, ultimately,

1 Equality for All served as an umbrella campaign organization for more than 100 member  
2 organizations working to defeat Proposition 8. These organizations included local, statewide, and  
3 national LGBT advocacy organizations, civil rights advocacy organizations, political party  
4 groups, labor unions, and many other concerned citizen groups. The formulation of campaign  
5 strategy and messaging took place at many different levels in what came to be a complex and  
6 sprawling campaign organization.

7 7. The Executive Committee of Equality for All was responsible for managing the  
8 umbrella campaign organization. In that capacity, the Executive Committee coordinated  
9 campaign fundraising, hired campaign consultants and professionals (who were paid fees or  
10 salaries by the Equality for All campaign), and managed the campaign manager and campaign  
11 director. The Executive Committee collectively made decisions of great importance to the  
12 campaign. The Executive Committee met in person every month either in San Francisco or Los  
13 Angeles, and in addition extensively coordinated with one another, as well as campaign  
14 consultants and campaign staff, through email and conference calls.

15 8. Key campaign decisions made by the Executive Committee were ratified by  
16 Equality for All's Campaign Committee. This committee was comprised of the Equality for All  
17 member organizations (including the many organizations that were not represented on the  
18 Executive Committee), as well as representatives of regional and other groups that were working  
19 with Equality for All to defeat Proposition 8. The Campaign Committee met once a month in  
20 person either in San Francisco or Los Angeles, and the rest of the time coordinated with one  
21 another, along with campaign consultants and campaign staff, through email and conference calls.  
22 As the election approached, the Campaign Committee met weekly. Individual staff and board  
23 members of the Campaign Committee member organizations participated in the conference calls  
24 as well as communicated through email.

25 9. The Equality for All campaign staff, which was either paid by the campaign or  
26 donated by one of the member organizations, was led first by a campaign manager and then by a  
27 campaign director. As with most political campaigns, the work of the campaign was organized  
28 topically—into fundraising, field (reaching out to potential voters), political, and advertising.

1 Each of these areas had a director (or sometimes several regional directors), and numerous other  
2 staff.

3 10. Equality for All paid numerous consultants to provide advice and technical support  
4 for a wide array of campaign activity. These consultants included: political consultants who  
5 provided overall advice on campaign strategy; political consultants who provided advice about  
6 specific campaign strategies (such as reaching out to certain targeted voter groups); messaging  
7 consultants in a variety of media; messaging consultants who conducted polling and focus group  
8 research; and technology consultants who, for example, created and managed Equality for All's  
9 website and social media presence.

10 11. The member organizations of Equality for All participated both in the campaign  
11 activities of the umbrella organization, and in campaign activities on behalf of their own  
12 organizations. For example, EQCA was a member of the Equality for All campaign, but EQCA  
13 also worked to defeat Proposition 8 in its own capacity—using its own website to argue against  
14 Proposition 8, sending emails to its own list regarding Proposition 8, and holding its own  
15 fundraisers to defeat Proposition 8. It is my understanding and belief that the many of the other  
16 member organizations of Equality for All worked within and independently of the Equality for  
17 All campaign in the same way EQCA did.

### 18 **Formulation of Campaign Strategy and Messaging**

19 12. Strategy and messaging to defeat Proposition 8 were formulated, debated and  
20 discussed at all levels of the Equality for All campaign. In my role as Executive Director of  
21 EQCA and as a member of the Executive Committee, I communicated regularly with other  
22 members of the Executive Committee, with members of the Campaign Committee, with  
23 consultants hired by Equality for All and with staff of both Equality for All and of the Equality  
24 for All member organizations regarding the formulating of campaign strategy and messaging.  
25 These communications included discussions, among many other things, of the Equality for All  
26 campaign structure, fundraising, advertising, messaging research, and targeted outreach to press,  
27 politicians, and voter groups.

28 13. It is my understanding and belief that all of the individual participants in the

1 Equality for All campaign engaged in some formulation of strategy and messaging. Within each  
 2 area of campaign activity, individuals formulated campaign strategy and messaging and  
 3 communicated with one another about such formulation. For example, outside of the Executive  
 4 Committee, which met and communicated regularly on the strategy and messaging of the  
 5 statewide campaign:

- 6 • The Campaign Committee regularly engaged in the formulation of  
 7 campaign strategy and messaging by (a) adapting the generic messaging  
 8 developed by consultants and campaign staff and approved by the  
 9 Executive Committee to the more than 50 counties of California and  
 10 numerous, discrete voter groups, and (b) developing campaign strategies  
 11 specific to those regions and groups. For example, the messaging and  
 12 strategy used in a particular California county, such as Inyo, or with a  
 13 particular voter group, such as one of the Asian Pacific-Islander (API)  
 14 groups, often looked very different from the generic messaging and  
 15 advertising used in statewide campaign material. The members of the  
 16 Campaign Committee, who were organizations working in these regions or  
 17 with the voter groups, had significant input into how Equality for All  
 18 campaign strategy and messaging was carried out in their communities, and  
 19 they regularly communicated with one another, with the Executive  
 20 Committee, and with Equality for All campaign staff and consultants about  
 21 strategy and messaging.
- 22 • Equality for All campaign staff working in the different topical areas  
 23 regularly engaged in the formulation of campaign strategy and messaging.  
 24 For example: (a) the campaign staff dedicated to working on college  
 25 campuses came up with a unique strategy and different messaging to get  
 26 the “No on 8” message out on campuses (in part, they combined the “No  
 27 on 8” messaging with “No on 4” messaging, another initiative of interest to  
 28 younger voters (involving parental notification for abortion)); (b) the field

1 staff dedicated to hosting phone banks, during which Equality for All  
 2 volunteers would call potential voters, were constantly revising their  
 3 strategies in reaching out to volunteers and in the messaging scripts  
 4 communicated over the phone to voters; and (c) the fundraising staff  
 5 working on getting people to host house parties (to raise money for the  
 6 Equality for All campaign) developed house party tool kits that were  
 7 regionally tailored and that included campaign messaging.

8 14. It is further my understanding and belief that the formulation of campaign strategy  
 9 and messaging took place within each of the member organizations of Equality for All. Outside  
 10 of the work EQCA employees did directly for the campaign, we communicated with one another  
 11 and with EQCA's board members about the formulation of strategy and messaging directed  
 12 toward defeating Proposition 8. EQCA is not claiming that every communication between the  
 13 Equality for All campaign staff and campaign consultants and the Equality for All member  
 14 organization staff involved the formulation of campaign strategy or messaging. In fact, most of  
 15 these communications were likely about much more mundane matters, like coordinating specific  
 16 phone banks or rallies. However, the only way to determine whether a particular communication  
 17 between, for example, an EQCA employee and an Equality for All consultant contains the  
 18 internal, private campaign strategy and messaging information that the Ninth Circuit has held is  
 19 privileged under the First Amendment is to review the communication.

20 15. Identifying a core group of persons involved in the formulation of Equality for All  
 21 campaign strategy and messaging must necessarily include persons who served on the Executive  
 22 Committee, persons and organizations on the Statewide Campaign Committee, Equality for All  
 23 staff, consultants hired by the Executive Committee and individuals at each Campaign Committee  
 24 organization. If the Court requests, EQCA will seek to provide a comprehensive list of all  
 25 persons involved in the Equality for All campaign.

26 **Individual Participants in EQCA Campaign**

27 16. The EQCA Board of Directors was communicated with regarding campaign  
 28 strategy and messaging and involved in formulating EQCA's fundraising efforts to defeat

1 Proposition 8. The members of the EQCA Board of Directors during the 2008 campaign were:  
 2 John Duran; Cary Davidson; Tim Hohmeier; Deb Kinney; Diane Abbitt; Jim Abbott; Dave  
 3 Baron; Xavier Barrera; Brandon Brawner; Betsy Butler; Jody Cole; Larry Colton; Doug Dombek;  
 4 Jeff Haber; Mike Hutcheson; Roslyn Jones; Tom Maddox; Shannon Minter; James Nguyen; Jeff  
 5 Orr; Dennis Rasor; Jaime Rook; Rick Saputo; Linda Scaparotti; Eric Siddall; Alan Uphold; and  
 6 assistants to the named individuals acting on the named individuals' behalf.

7 17. As part of EQCA, the following EQCA staff members were responsible for  
 8 formulating campaign strategy and messaging: Jean Adams, Field Organizer; Ali Bay,  
 9 Communications Manager; Ian Barrera, Intern; Jim Carroll, Managing Director; Maya Scott-  
 10 Chung, Field Organizer; Liam Cooper, Field Organizer; Doug Flater, Regional Manager and  
 11 Major Gifts Officer; Joe Goldman, Communications Intern; Daniel Gould, Heath Network  
 12 Coordinator; Kendra Harris, Government Affairs Manager; Ted Jackson, Field Organizer; Kaitlin  
 13 Karkos, Development Associate; Alice Kessler, Government Affairs Director; Seth Kilbourn,  
 14 Public Policy Director; Hannah Johnson, Field Organizer; Geoff Kors, Executive Director; Erica  
 15 Liscano, Special Events Associate; Shumway Marshall, eCommunications and Graphics  
 16 Manager; Randy Medenwald, Development Director; Miranda Meisenback, Field Intern; Trina  
 17 Olson, Field Director; Michelle Ortiz, Deputy Director of Development; Zorina Price, Office  
 18 Manager; Leanne Pittsford, Database Coordinator; Jennifer Sample, Office Manager; George  
 19 Simpson, Online and Communications Manager; Sean Sullivan, Development Director; Sarah  
 20 Tomastik, Data Input; Clarence Williams, Major Gifts Officer.

21 18. The EQCA Institute Board of Directors was communicated with regarding  
 22 campaign strategy and messaging and involved in formulating EQCA's fundraising efforts to  
 23 defeat Proposition 8. The members of the EQCA Institute Board of Directors during the 2008  
 24 campaign were: Gwyneth Borden, Chris Carnes, Cathy Schwamberger, Hon. José Cisneros,  
 25 Randy Clark, Jody Cole, Troup Coronado, Carrie Farrell, Kelly Ferrero, Mark Goodson, Ben  
 26 Patrick Johnson, Hon. Leslie Katz, Liz Maldonado, Michael Martinez, Shannon Minter, Kimberly  
 27 Nichols, Dennis Rasor, Donna Sachet, Gary Soto, Laura Spanjian, Doug Spearman, Hon. Phil  
 28 Ting, and William Tompkins.

1 I declare under penalty of perjury under the laws of the United States that the foregoing is  
2 true and correct. Executed on February 22, 2010 at Palm Springs, California.

3  
4 /s/ Geoff Kors

Geoff Kors

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8  
9 **Attestation Pursuant to General Order 45**

10 Pursuant to General Order No. 45, Section X.B., I, Lauren Whittmore, hereby attest that I  
11 have obtained concurrence of the signatory, Geoff Kors, indicated by a “conformed” signature  
12 (/s/) within this e-filed document.

13 I declare under penalty of perjury under the laws of the United States of America that the  
14 foregoing is true and correct. Executed on February 22, 2010 at San Francisco, California.

15 Dated: February 22, 2010

FENWICK & WEST LLP

16  
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18 By: /s/ Lauren Whittmore  
Lauren Whittmore

19 Attorneys for Third-Party, Equality California  
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