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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

KRISTIN M. PERRY, *et al.*,

Plaintiffs,

and

CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff-Intervenor,

v.

ARNOLD SCHWARZENEGGER, *et al.*,

Defendants,

and

PROPOSITION 8 OFFICIAL PROPONENTS DENNIS HOLLINGSWORTH, *et al.*,

Defendant-Intervenors.

Case No. 09-CV-2292 VRW

DECLARATION OF LAUREN WHITTEMORE IN SUPPORT OF STIPULATED REQUEST FOR ORDER SHORTENING TIME

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

I, Lauren Whittemore, hereby declare:

1. I am an attorney in the law firm of Fenwick & West LLP, authorized to practice law in the Northern District of California and I am counsel for Equality California ("EQCA"). I make this declaration based upon my own personal knowledge or upon information and belief and, if called upon to testify, would testify competently to the matters contained herein.

2. On March 8, 2010 I sent an email to counsel for Defendants-Intervenors ("Proponents") and to counsel for Plaintiffs and Plaintiff-Intervenors. The email requested that Proponents stipulate to a stay of Magistrate Judge Spero's March 5, 2010 Order. In the alternative, I asked whether Proponents would agree to a shortened briefing schedule in light of the requirement that EQCA and No on Proposition 8, Campaign for Marriage Equality, A Project of the American Civil Liberties Union ("ACLU") (collectively "Objectors") produce all documents by March 31, 2010.

3. On March 9, 2010 I spoke by phone with Jesse Panuccio, counsel for Proponents. Mr. Panuccio informed me that Proponents would not agree to a stay of Judge Spero's Order, but would agree to a shortened briefing schedule on Objectors' objections to the Order and Objectors' contemplated motion to stay the Order if Objectors would agree to a shortened briefing schedule to Proponents' objections to the Order. After conferring with counsel at ACLU, I informed Mr. Panuccio that Objectors would agree.

4. On March 10 I communicated with counsel for Californians Against Eliminating Basic Rights ("CAEBR") regarding the proposed schedule. Counsel indicated that CAEBR had no objection to a stay or a shortened briefing schedule.

5. The proposed schedule requires that Objectors file objections and a Motion to Stay on March 11. Proponents would then file an opposition to Objectors' objections, an opposition to the motion to stay, and their own objections to the Order on March 15. Objectors would file an opposition to Proponents objections and a reply for the motion to stay on March 17. Objectors intended to request a hearing on March 18 or 19.

6. In light of the fact that Chief Judge Walker's Court Schedule indicates that he will not be available on March 18 or 19, Objectors have chosen to forgo a motion to stay and instead

request a hearing on March 16. By March 16, Proponents will have had the opportunity to respond to Objectors' objections and will have filed their own objections to the Order. If the Court schedules a hearing on March 16, Objectors will conditionally waive their right to oppose Proponents' objections to the Order. Objectors retain the right to file an opposition to Proponents' objections at a later time.

7. In the event the Court cannot schedule a hearing for March 16, Objectors request a hearing date of March 23. Objectors will complete the briefing as scheduled by March 17.

8. On March 11 I spoke with counsel for Proponents. Mr. Panuccio agreed to file an opposition to Objectors' objections on March 15 and agreed to Objectors' request for a hearing date of March 16 or 23.

9. On March 11 I contacted counsel for CAEBR regarding Objectors' request for a hearing date. CAEBR does not object to Objectors' request.

10. Objectors have been required to begin producing documents on a rolling basis immediately and to complete production by March 31. Delay of a hearing and resolution of Objectors and Proponents objections to the Order will allow Objectors only a short window in which to review and produce documents. Producing documents before resolution of the objections to the Order would render those objections moot.

11. The Court previously ordered a shortened briefing schedule for Proponents' Motion to Compel.

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12. The Court has held open the end of the trial until the remaining discovery disputes have been resolved. The shortened time for briefing and hearing would not further delay the end of trial. However, Objectors' request to stay the Order pending resolution of the objections would delay the end of trial. Additionally, in the event the Court does not vacate the March 5 Order, Objectors intend to appeal to the Ninth Circuit and will seek a stay pending appeal. If a stay of the Order is granted by this Court, the stay will have the effect of delaying the end of the trial.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on March 11, 2010 at San Francisco, California.

/s/ Lauren Whittemore
Lauren Whittemore