Exhibit J

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Theodore J. Boutrous, Jr.
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Re: Perry v. Schwarzenneger, et al.

Dear Ted:

Thank you for your letter yesterday regarding future proceedings in respect to the district court's orders directing ACLU and Equality California to produce documents to Proponents. We appreciate the fact that you – like Proponents – say that you agree in principle with an amendment to the Court's March 22nd Order in light of the Ninth Circuit's ruling earlier this week. However, again like Proponents, your approval is enmeshed with the issues between your clients and Proponents regarding production of the Proponents' documents. Thus, you condition your approval on the "right to weigh in with the district court regarding the content of any such amendment."

It was not our intention to try to dictate any particular language to the Court, although if – as now appears highly unlikely, to say the least – there were complete agreement among all parties, we might have tried to fashion a proposed stipulation for the Court's consideration. As things now stand, it seems that the most we can hope for is to make the Court aware of our views regarding the amendments that would allow the ACLU and EQCA to produce responsive documents without further delay.

To be more specific, if the Court were to amend its earlier order to acknowledge the fact that, as the Ninth Circuit said, its opinion in *Perry* "[does] not hold that the [First Amendment] privilege cannot apply to a core group of associated persons spanning more than one entity", and, for that reason, the statement at page 13 of the District Court's March 22 Order that "as a matter of law . . . 'the First Amendment privilege does not cover communications between [or among] organizations' (Doc #623 at 13 (brackets in original)" (April 12, 2010 Order at 8-9) does not accurately reflect the Court's decision in *Perry*, the ACLU and EQCA would deem that sufficient.

We understand that you and the Proponents will still have issues regarding plaintiffs' document request and the orders of the Court with respect thereto. As we advised Mr. Panuccio a short while ago, those issues do not involve ACLU or EQCA and we take no position with regard to them. It

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may well be, as you go on to say in your letter, that there are sound reasons why any amendment to the March 22nd Order to make it conform to the Ninth Circuit's decision should have no effect on the orders made with respect to Proponents. However, it is our view that those issues are independent of the modest modifications that ACLU and EQCA seek. They certainly do not require you to "weigh in" with respect to any factual findings supposedly made by the District Court regarding ACLU and EQCA's evidentiary showing in support of their objections to Proponents' motion to compel. It is, indeed, precisely that kind of debate that ACLU and EQCA are hoping to avoid with their proposed compromise as set forth in my letter yesterday to Mr. Panuccio that was copied to you.

As we also advised Mr. Panuccio in our letter to him earlier today, we believe that in light of the Court's Order to Show Cause, plus our letters which he says he will put before the Court in his filing in response to the OSC, we should await the Court's ruling before taking any further action. However, we reiterate that ACLU and EQCA do stand ready – in fact, eager – to bring this aspect of the litigation to a prompt conclusion without the need for further appellate proceedings. We hope that you will take whatever steps are within your power to promote that outcome.

Very truly yours,

Stephen V. Bomse (per mlm)

Stephen V. Bomse

cc: Jesse Panuccio
Lauren Whittemore
James Esseks