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 16 and 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, PAUL  
 21 T. KATAMI, and JEFFREY J. ZARRILLO,

22 Plaintiffs,

23 CITY AND COUNTY OF SAN FRANCISCO,

24 Plaintiff-Intervenor,

25 v.

26 ARNOLD SCHWARZENEGGER, in his official  
 27 capacity as Governor of California; EDMUND G.  
 BROWN, JR., in his official capacity as Attorney  
 28 General of California; MARK B. HORTON, in his

CASE NO. 09-CV-2292 VRW

**DEFENDANT-INTERVENORS  
 DENNIS HOLLINGSWORTH, GAIL  
 J. KNIGHT, MARTIN F. GUTIERREZ,  
 MARK A. JANSSON,  
 AND PROTECTMARRIAGE.COM'S  
 ADMINISTRATIVE MOTION FOR  
 SEALING ORDER PURSUANT TO  
 LOCAL RULES 7-11 AND 79-5**

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

11  
12 Defendants,

13 and

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

21 Defendant-Intervenors.

22  
23 Additional Counsel for Defendant-Intervenors

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**NOTICE OF MOTION AND MOTION**

Pursuant to Northern District of California Civil Local Rules 7-11 and 79-5(b), Defendant-Intervenors Dennis Hollingsworth, Gail Knight, Martin Gutierrez, Mark Jansson, and ProtectMarriage.com (“Proponents”) hereby move for an administrative order sealing (1) their Motion to Supplement the Record and (2) the exhibits that motion offers for admission into the evidentiary record. Pursuant to Civil Local Rule 79-5(b), Proponents are today lodging with the Clerk a proposed order sealing the documents as well as the documents themselves.<sup>1</sup> Proponents are also lodging a second copy of the documents with the Clerk for the Court’s chambers.

At the close of trial, this Court granted Proponents’ request to hold the evidentiary record open pending resolution of Proponents’ motion to compel discovery against groups that opposed Proposition 8, including No on Proposition 8, Campaign for Marriage Equality, A Project of the American Civil Liberties Union (“ACLU”) and Equality California. In light of the resolution of these motions, this Court on April 28, 2010 ordered that Proponents “shall serve and file any supplement to the evidentiary record not later than May 5, 2010 at 5 PM PDT.” Doc # 650 at 1.

Proponents have prepared a motion to supplement the record with exhibits consisting of records produced by the ACLU and Equality California, and now ask this Court for an order sealing both the motion and the exhibits. Such an order is necessary because it is our understanding that the ACLU and Equality California designated the exhibits “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” under the protective order governing this case. *See* Amended Protective Order, Doc # 425; March 5, 2010 Order, Doc # 610 at 14 (granting Proponents’ motion to compel production from No-on-8 groups including ACLU and Equality California, and providing that the groups “may produce documents pursuant to the terms of the protective order”); March 22, 2010 Order, Doc # 623 (denying objections to Doc # 610). Under the terms of the protective order, absent an agreement or court order to the contrary, “a Party may not file in the public record in this action any Protected Material. A Party that seeks to file under seal any Protected Material must comply with

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<sup>1</sup> Proponents are also today serving these items on Plaintiffs and Plaintiff-Intervenor; we will serve any other party that represents that it desires service and that it will adhere to the provisions of the protective order governing this case. *See* Doc # 425.

1 Civil Local Rule 79-5.” Doc # 425 at 12; *see also id.* at 3 (defining “Protected Material” as “any  
2 Disclosure or Discovery Material that is designated as ‘Confidential’ or ‘Highly Confidential –  
3 Attorneys’ Eyes Only’ ”); *cf.* Civ. L.R. 79-5(d). Proponents must also request leave to file their  
4 motion to supplement the record under seal, as it consists chiefly of references to and quotations  
5 from the exhibits designated for protection. *See* Doc # 425 at 3 (“The protections conferred by this  
6 Order cover not only Protected Material (as defined above), but also any information copied or  
7 extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus  
8 testimony, conversations, or presentations by parties or counsel to or in court or in other settings that  
9 might reveal Protected Material.”).

10 Proponents do not concede that the ACLU and Equality California have properly designated the  
11 exhibits as protected under the terms of the protective order. Proponents are in the midst of  
12 reviewing the documents for the purpose of making that determination, as well as conferring with  
13 the ACLU and Equality California regarding their designations. Should we be unable to reach  
14 agreement with the ACLU and Equality California, we reserve our rights to challenge their  
15 designations. *See* Doc # 425 at 7-8.

16 For these reasons, Proponents respectfully request an order sealing (1) their Motion to  
17 Supplement the Record and (2) the exhibits that motion offers for admission into the evidentiary  
18 record.

19  
20  
21 Dated: May 5, 2010

22 COOPER AND KIRK, PLLC  
23 ATTORNEYS FOR DEFENDANTS-INTERVENORS  
24 DENNIS HOLLINGSWORTH, GAIL J. KNIGHT,  
25 MARTIN F. GUTIERREZ, MARK A. JANSSON, and  
26 PROTECTMARRIAGE.COM – YES ON 8, A PROJECT  
27 OF CALIFORNIA RENEWAL

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