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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 KRISTIN M. PERRY, SANDRA B. STIER,
18 PAUL T. KATAMI, and JEFFREY J.
19 ZARRILLO,

Plaintiffs,

20 v.

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

28 Defendants,

CASE NO. 09-CV-2292 VRW

**NOTICE OF MOTION AND MOTION TO
SHORTEN TIME; [PROPOSED] ORDER**

The Honorable Chief Judge Vaughn R. Walker

Judge: Chief Judge Walker
Location: Courtroom 6, 17th Floor

Trial Date: Not Set

1 and

2 Proposition 8 Official Proponents Dennis
3 Hollingsworth, Gail J. Knight, Martin F. Gutierrez,
4 Hakshing William Tam, and Mark A. Jansson; and
ProtectMarriage.com – Yes on 8, a Project of
California Renewal,

5 Defendant-Intervenors.

6
7 Additional Counsel for Proposed Plaintiff-Intervenors:

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Proposed-Intervenor Plaintiffs Our Family Coalition,
3 Lavender Seniors of the East Bay (“Lavender Seniors”), and Parents, Families, and Friends of
4 Lesbians and Gays (“PFLAG”) (collectively, “Proposed Intervenors”) hereby move this Court
5 pursuant to L.R. 6-3 for an order shortening time on their Motion to Intervene.

6 The motion of Proposed Intervenors is based on this Notice of Motion and Motion; the
7 Motion to Intervene; the Declaration of Mark Rosenbaum in support of the Motion to Shorten Time;
8 all pleadings and other documents filed in this case; and any and all arguments of counsel at a hearing
9 on the Motion to Shorten Time.

10 **ARGUMENT**

11 Proposed Intervenors today filed a Motion to Intervene as party plaintiffs. (Declaration of
12 Elizabeth Gill, ¶ 1 (“Gill Dec.”).) As is set forth in the Motion, the parties are seeking to intervene at
13 the onset of this litigation, and, in particular, they are seeking to intervene prior to the parties’
14 preparation of a joint case management conference statement, currently due on August 7, 2009.
15 (Minute Entry (Jul. 2, 2009).)

16 Proposed Intervenors filed their motion to intervene as soon as reasonably practicable upon
17 learning through the Court’s June 30, 2009 Order and the Court’s July 2, 2009 case management
18 conference about the possible need for evidentiary presentations concerning certain factual issues of
19 enormous importance to Proposed Intervenors and their members, and to the lesbian, gay, bisexual
20 and transgender community generally. (Gill Dec. ¶ 2.) Unfortunately, however, this Court does not
21 list an available law and motion hearing date on its online schedule until September 3, 2009 (Gill
22 Dec. ¶ 3), and given the 35-day notice period for civil motions required by L.R. 7-2, Proposed
23 Intervenors’ Motion could not be heard in any event in time for them to participate in preparing the
24 joint case management conference statement, a schedule to which they wish to adhere in order not to
25 delay progress of the case.

26 Proposed Intervenors would be prejudiced if they were unable to participate in the parties’
27 joint case management conference statement and in the second case management conference
28 scheduled for August 19, 2009. (Minute Entry (Jul. 2, 2009).) At the first case management

1 conference on July 2, 2009, the Court ordered the parties to include in their joint case management
2 conference statement a description of “what facts [the parties] think can be determined by the Court
3 without necessity of further proceedings, those facts that [the parties] think may require discovery,
4 those facts which may require resolution by some means other than judicial notice, and a plan of
5 action, whether it’s a motion for summary judgment or motions, plural, for summary judgment on
6 one side or the other.” (Hr’g Tr. at 34:1-12.) Inasmuch as Proposed Intervenors seek to intervene in
7 this action in part based on their and their counsel’s experience and expertise with regard to the
8 factual issues presented in the case, their exclusion from the parties’ preparation of the joint case
9 management conference statement and the second case management conference would compromise
10 their ability to participate effectively in the action. (Gill Dec. ¶ 4.)

11 Moreover, according to the Court’s online civil law and motion schedule, the Court is
12 unavailable during the period of July 20, 2009 through July 24, 2009. (Gill Dec. ¶ 3.) To ensure that
13 they would be able to participate fully in the August 7, 2009 joint case management conference
14 statement, should the Court allow them to intervene in the action, Proposed Intervenors respectfully
15 request the following expedited schedule for the Motion to Intervene:

- 16 • Any opposition to the Motion to Intervene must be filed no later than **July 14, 2009**;
- 17 • A reply, if any, in support of the Motion to Intervene must be filed no later than **July 16,**
18 **2009**; and
- 19 • A hearing on the Motion to Intervene set for **July 17, 2009**, or on such other date as the
20 Court may set.

21 In compliance with L.R. 6-3(a)(2), Proposed Intervenors have contacted counsel for all the
22 parties in the litigation and asked them to stipulate to the requested expedited schedule on the Motion
23 to Intervene. (Gill Dec. ¶¶ 6-9.) No party has so stipulated. (*Id.*) Proposed Intervenors have also
24 sought the other parties’ approval to intervene. (*Id.*) Through their counsel, Plaintiffs have informed
25 Proposed Intervenors that they will oppose the Motion to Intervene, and Defendant-Intervenors are
26 likely to oppose as well. (*Id.* at ¶¶ 6-7.) The Attorney General and the Administration have not
27 indicated whether they will oppose the Motion. (*Id.* at ¶¶ 8-9.)

28 To date, there have been no time modifications sought or ordered in the case. If this Motion
to Shorten Time is granted, and intervention is permitted, Proposed Intervenors will be able to

1 participate in the case on the schedule currently set by the Court and without prejudice to their ability
2 to be heard on the issues to be addressed in the parties' case management statements.

3
4 Dated: July 8, 2009

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ELIZABETH O. GILL
ACLU Foundation of Northern California

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7 JENNIFER C. PIZER
TARA BORELLI
8 Lambda Legal Defense and Education Fund, Inc.

9 SHANNON P. MINTER
10 ILONA M. TURNER
CHRISTOPHER P. STOLL
National Center for Lesbian Rights

11 MARK ROSENBAUM
12 LORI RIFKIN
ACLU Foundation of Southern California

13 DAVID BLAIR-LOY
14 ACLU Foundation of San Diego and Imperial Counties

15 MATTHEW A. COLES
16 JAMES D. ESSEKS
LGBT & AIDS Project
American Civil Liberties Union Foundation

17
18 By: /s/
 ELIZABETH O. GILL

19 Attorneys for Our Family Coalition; Lavender Seniors
20 of the East Bay; and Parents, Families, and Friends of
21 Lesbians and Gays
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[PROPOSED] ORDER

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2 Good cause appearing, the Motion of Proposed Plaintiff-Intervenors Our Family Coalition,
3 Lavender Seniors, and PFLAG for shortened time on their Motion to Intervene is hereby GRANTED.

4 Any opposition to the Motion to Intervene must be filed no later than: _____ .

5 A reply in support of the Motion to Intervene must be filed no later than: _____ .

6 A hearing on the Motion to Intervene is set for _____ at _____ .

7 IT IS SO ORDERED.

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10 Dated: July _____, 2009

11 Hon. Vaughn R. Walker
12 United States Chief District Judge
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