

1 James Bopp, Jr. (Ind. State Bar No. 2838-84)\*  
 Richard E. Coleson (Ind. State Bar No. 11527-70)\*  
 2 Barry A. Bostrom (Ind. State Bar No.11912-84)\*  
 Sarah E. Troupis (Wis. State Bar No. 1061515)\*  
 3 Scott F. Bieniek (Ill. State Bar No. 6295901)\*  
 BOPP, COLESON & BOSTROM  
 4 1 South Sixth Street  
 Terre Haute, IN 47807-3510  
 5 Telephone: (812) 232-2434  
 Facsimile: (812) 235-3685  
 6 Counsel for All Plaintiffs

7 Benjamin W. Bull (AZ Bar No. 009940)\*  
 ALLIANCE DEFENSE FUND  
 8 15100 North 90th Street  
 Scottsdale, Arizona 85260  
 9 Telephone: (480) 444-0020  
 Facsimile: (480) 444-0028  
 10 Counsel for All Plaintiffs

11 Timothy D. Chandler (Cal. State Bar No. 234325)\*\*  
 ALLIANCE DEFENSE FUND  
 12 101 Parkshore Drive, Suite 100  
 Folsom, CA 95630  
 13 Telephone: (916) 932-2850  
 Facsimile: (916) 932-2851  
 14 Counsel for All Plaintiffs

15 \* *Admitted Pro Hac Vice*  
 16 \*\* *Designated Counsel for Service*

**United States District Court  
 Eastern District of California  
 Sacramento Division**

<p>19 <b>PROTECTMARRIAGE.COM, et al.,</b></p> <p style="text-align: center;">20 <b>Plaintiffs,</b></p> <p style="text-align: center;">21 <b>vs.</b></p> <p>22 <b>DEBRA BOWEN, et al.,</b></p> <p style="text-align: center;">23 <b>Defendants.</b></p>	<p>Case No. 2:09-CV-00058-MCE-DAD</p> <p><b>PLAINTIFFS’ NOTICE OF MOTION          AND MOTION FOR CERTIFICATION          OF CLASS ACTION</b></p> <p>Date: Aug. 13, 2009          Time: 2:00 P.M.          Courtroom: 7, 14th Floor          Judge Morrison C. England, Jr.</p> <p><b>ORAL ARGUMENT REQUESTED</b></p>
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1 TO DEFENDANTS AND THEIR ATTORNEYS OF RECORD:

2 YOU ARE HEREBY GIVEN NOTICE THAT on Thursday, August 13, 2009, at 2:00 P.M.,  
3 before the Honorable Morrison C. England, Jr. in Courtroom 7, 14th Floor, of the United States  
4 District Court for the Eastern District of California, Sacramento Division, located at 501 I Street,  
5 Sacramento California 95814, Plaintiffs ProtectMarriage.com—Yes on 8, a Project of California  
6 Renewal (“**ProtectMarriage.com**”), National Organization for Marriage California—Yes on 8,  
7 Sponsored by National Organization for Marriage (“**NOM-California**”), John Doe #1, an  
8 individual, and as a representative of the proposed Class of Major Donors (“**Major Donors**”),  
9 and National Organization for Marriage California PAC (“**NOM-California PAC**”), will and  
10 hereby do move for an order directing that the instant action proceed as a class action and  
11 determining the class.

12 This motion is made pursuant to Fed. R. Civ. P. 23(c), and on the grounds specified in this  
13 Notice of Motion and Motion for Certification of Class Action, Plaintiffs’ Memorandum in  
14 Support of Motion for Certification of Class Action, the pleadings, files, and other records in this  
15 action, and such further evidence as may be presented to the Court at the time of the hearing.

16 Pursuant to this notice, Plaintiffs ProtectMarriage.com, NOM-California, John Doe #1, and  
17 NOM-California PAC hereby move for an order that the above-entitled action be maintained as a  
18 class action under Fed. R. Civ. P. 23:

- 19 (1) On behalf of Plaintiff John Doe #1 and all other individuals and organizations that  
20 contributed ten thousand dollars (\$10,000) or more to Plaintiff ProtectMarriage.com or  
21 Plaintiff NOM-California who are similarly situated.
- 22 (2) Against Defendant Jan Scully, District Attorney for Sacramento County, California, and  
23 all other District Attorneys in the State of California who are similarly situated.
- 24 (3) Against Defendant Dennis J. Herrera, City Attorney for the City and County of San  
25 Francisco, and all other Elected City Attorneys in the State of California who are  
26 similarly situated.

1 **Plaintiffs respectfully request oral argument on this motion.**

2 Dated this 3rd day of June, 2009.

3 Respectfully submitted,

4 /s/ Scott F. Bieniek

5 Benjamin W. Bull (Ariz. State Bar No. 009940)  
6 ALLIANCE DEFENSE FUND  
7 15100 North 90th Street  
8 Scottsdale, Arizona 85260  
9 Counsel for All Plaintiffs

James Bopp, Jr. (Ind. Bar No. 2838-84)  
Barry A. Bostrom (Ind. Bar No. 11912-84)  
Sarah E. Troupis (Wis. Bar No. 1061515)  
Scott F. Bieniek (Ill. Bar No. 6295901)  
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1 South Sixth Street  
Terre Haute, IN 47807-3510  
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8 Timothy D. Chandler (Cal. Bar No. 234325)  
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12 Counsel for All Plaintiffs  
13 Designated Counsel for Service  
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1 **CERTIFICATE OF SERVICE**

2 I, Scott F. Bieniek, am over the age of 18 years and not a party to the within action. My  
3 business address is 1 South Sixth Street, Terre Haute, Indiana 47807.

4 On June 3, 2009, I electronically filed the foregoing document described as Plaintiffs'  
5 Notice of Motion and Motion for Certification of Certification of Class Action, with the Clerk of  
6 Court using the CM/ECF system which will send notification of such filing to:

7 Zackery P. Morazzini  
8 zackery.morazzini@doj.ca.gov  
*Attorney for Defendants Debra Bowen and Edmund G. Brown, Jr.*

9 Judy W. Whitehurst  
10 jwhitehurst@counsel.lacounty.gov  
*Attorney for Defendant Dean C. Logan*

11 Terence J. Cassidy  
12 tcassidy@porterscott.com  
*Attorney for Defendant Jan Scully*

13 Mollie M. Lee  
14 mollie.lee@sfgov.org  
*Attorney for Defendants Dennis J. Herrera and  
15 Department of Elections - City and Count of San Francisco*

16 Lawrence T. Woodlock  
17 lwoodlock@fppc.ca.gov  
*Attorney for Defendant Members of the Fair Political  
Practices Commission*

18 I declare under the penalty of perjury under the laws of the State of Indiana that the above is  
19 true and correct. Executed this 3rd day of June, 2009.

20  
21 /s/ Scott F. Bieniek  
22 Scott F. Bieniek (Ill. State Bar No. 6295901)  
Counsel for All Plaintiffs