

1 EDMUND G. BROWN JR., State Bar No. 37100
Attorney General of California
2 DOUGLAS J. WOODS, State Bar No. 161531
Supervising Deputy Attorney General
3 ZACKERY P. MORAZZINI, State Bar No. 204237
Deputy Attorney General
4 1300 I Street, Suite 125
P.O. Box 944255
5 Sacramento, CA 94244-2550
Telephone: (916) 445-8226
6 Fax: (916) 324-5567
E-mail: Zackery.Morazzini@doj.ca.gov
7 *Attorneys for Defendants Debra Bowen, California*
Secretary of State; Edmund G. Brown Jr., California
8 *Attorney General*

9 SCOTT HALLABRIN, General Counsel, SBN: 076662
LAWRENCE T. WOODLOCK, SBN: 137676
10 Fair Political Practices Commission
428 J Street, Suite 800
11 Sacramento, CA 95814
Telephone: (916) 322-5660
12 Fax: (916) 327-2026
E-mail: lwoodlock@fppc.ca.gov
13 *Attorneys for Defendants Members of the Fair*
Political Practices Commission
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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA

18 **PROTECTMARRIAGE.COM, et al.,**

19 Plaintiff,

20 v.

21 **DEBRA BOWEN, SECRETARY OF**
22 **STATE FOR THE STATE OF**
23 **CALIFORNIA, et al.,**

24 Defendants.

2:09-cv-00058-MCE-DAD

**DECLARATION OF ZACKERY P.
MORAZZINI**

Date: TBD

Time: TBD

Courtroom: 7, 14th Floor

The Honorable Morrison C. England, Jr.

Trial Date: March 14, 2011

Action Filed: January 7, 2009

1 I, Zackery P. Morazzini, counsel of record for the State Defendants in this matter, make the
2 following declaration in support of the State Defendants *ex parte* Application to Shorten Time to
3 be Heard on Rule 56(f) Motion:

- 4 1. I am a resident of the State of California, over 18 years of age, and make this
5 declaration based upon personal knowledge and belief.
- 6 2. On June 5, 2009, I contacted Scott Bieniek, counsel of record for Plaintiffs in this
7 matter, by telephone, requesting that he stipulate to shortening time on the State
8 Defendants' rule 56(f) motion. Mr. Bieniek stated that he had no objection to
9 shortening time on the hearing to a date no later than June 19, 2009. I further informed
10 him that I would be filing this *ex parte* application on June 5, 2009.
- 11 3. Plaintiffs have noticed their Motion for Summary Judgment for hearing on August
12 13, 2009.
- 13 4. The State Defendants' opposition to such motion would be due 17 days prior to the
14 hearing (July 27, 2009) pursuant to local rule.
- 15 5. The State Defendants have not had sufficient opportunity to engage in discovery
16 regarding the complex issues presented in this matter. Pursuant to the Joint Status
17 Report, agreed to and executed by all parties to this action and filed with the Court on
18 March 6, 2009 [docket no. 95], Plaintiffs agreed to a discovery period running for no
19 less than six months, ending no sooner than October 1, 2009. See Docket 95, ¶ (f)(2).
- 20 6. Through the Pretrial Scheduling Order [Docket no. 96], the Court extended the
21 discovery period to May 14, 2010. See Docket 96, ¶ IV.
- 22 7. As will be set forth more fully in their rule 56(f) motion, the State Defendants believe
23 that they cannot adequately oppose Plaintiffs' Motion for Summary Judgment absent
24 discovery, including extensive review of Plaintiffs' multiple post-election reports which
25 are not due to be filed until July 31, 2009, and the possible retention of expert
26 witnesses. Therefore, the State Defendants will be filing a rule 56(f) motion
27 immediately in response to Plaintiff's Motion for Summary Judgment.
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8. Given the upcoming hearing on Plaintiffs’ Motion for Summary Judgment, and the date for the State Defendants’ opposition thereto, the State Defendants do not have sufficient time to notice a rule 56(f) motion under the local rules, and obtain resolution of said motion, without being prejudiced with regard to otherwise opposing Plaintiffs’ Motion for Summary Judgment.

9. The State Defendants believe that a hearing date on their rule 56(f) motion of no later than June 19, 2009, would provide them with sufficient time to obtain a ruling on their rule 56(f) motion without being prejudiced with regard to otherwise opposing Plaintiffs’ Motion for Summary Judgment.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 5, 2009.

/s/ Zackery P. Morazzini
Zackery P. Morazzini