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7 Attorneys for Defendants
 Department of Elections - City and County of San Francisco and
 8 Dennis J. Herrera, City Attorney for the City and County of San Francisco

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 10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA
 12 SACRAMENTO DIVISION

13 **ProtectMarriage.com - Yes on 8, a Project**
 14 **of California Renewal; National**
 15 **Organization for Marriage California - Yes**
 16 **on 8, Sponsored by National Organization**
 17 **for Marriage, John Doe #1, an individual,**
 18 **and as a representative of the Class of Major**
 19 **Donors,**

20 Plaintiffs,
 21
 22 vs.

23 **Debra Bowen**, Secretary of State for the State
 24 of California, in her official capacity; **Edmund**
 25 **G. Brown, Jr.**, Attorney General for the State
 26 of California, in his official capacity; **Dean C.**
 27 **Logan**, Registrar-Recorder of Los Angeles
 County, California, in his official capacity;
Department of Elections - City and County
of San Francisco; Jan Scully, District
 Attorney for Sacramento County, California, in
 her official capacity and as a representative of
 the Class of District Attorneys in the State of
 California; **Dennis J. Herrera**, City Attorney
 for the City and County of San Francisco,
 California, in his official capacity and as a
 representative of the Class of Elected City
 Attorneys in the State of California; **Ross**

Case No. 2:09-CV-00058-MCEDAD

SAN FRANCISCO DEFENDANTS' NOTICE
OF JOINDER IN STATE DEFENDANTS'
RULE 56(F) MOTION

Date: July 16, 2009
 Time: 2:00 p.m.
 Courtroom: 7, 14th Floor
 Judge: Morrison C. England, Jr.
 Trial Date: March 14, 2011
 Action Filed: January 7, 2009

1 **Johnson, Timothy Hodson, Eugene**
2 **Huguenin, Jr., Robert Leidigh, and Ray**
3 **Remy**, members of the California Fair Political
Practices Commission, in their official
capacities,

4 Defendants.

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7 Defendants Department of Elections - City and County of San Francisco and Dennis J. Herrera,
8 City Attorney for the City and County of San Francisco ("San Francisco Defendants") hereby join in
9 the Rule 56(f) Motion filed by State Defendants Debra Bowen, Edmund G. Brown, Jr., and members
10 of the Fair Political Practices Commission. San Francisco Defendants join in and adopt State
11 Defendants' Motion in its entirety, including all arguments and statements of issue or fact contained
12 therein, and all exhibits incorporated therein.

13 Plaintiffs seek summary judgment on all four counts in their Third Amended Complaint: (1)
14 that the Political Reform Act (the "PRA") is unconstitutional as applied to Plaintiffs because there is a
15 reasonable probability that compliance with the PRA will subject Plaintiffs' supporters to threats,
16 harassment and reprisals; (2) that the PRA's \$100 threshold for disclosure is unconstitutionally
17 overbroad; (3) that post-election reporting requirements are unconstitutional facially and as applied;
18 (4) and that post-election disclosure of reported information is unconstitutional facially and as applied.

19 As State Defendants explain in their Rule 56(f) motion, further factual development is
20 necessary to respond to Plaintiffs' arguments that disclosure requirements have a chilling effect on
21 Plaintiffs and their contributors, that the State lacks a sufficiently compelling interest in disclosure,
22 and that the disclosure requirements of the PRA are not narrowly tailored to the State's interests in
23 disclosure. San Francisco Defendants agree that the factual record the State Defendants seek to
24 develop is essential to oppose these arguments in Plaintiffs' Motion for Summary Judgment.

25 San Francisco Defendants also may seek to discover additional facts regarding Plaintiffs'
26 argument that Plaintiffs are entitled to an exemption from disclosure requirements because there is a
27 reasonable probability that disclosure will result in threats, harassment or reprisals toward their

1 supporters. As described in the declaration of Mollie M. Lee, filed concurrently herewith, Plaintiffs
2 have filed 58 redacted declarations in support of their motion for summary judgment. In each such
3 declaration served on Defendants, Plaintiffs have redacted the name of the declarant. Plaintiffs have
4 provided the declarants' identities to the Court, but thus far have failed to provide the same basic
5 information to Defendants. In many of the declarations, Plaintiffs have also redacted other details,
6 such as the amount of a contribution, the name of a group or institution with which the declarant is
7 affiliated, or the date or location of a relevant event. Because of the redactions, Defendants do not
8 know the identities of the declarants and, in some instances, details of the facts alleged in the
9 declarations. Without this information, Defendants cannot assess whether Plaintiffs' assertions have
10 evidentiary support and cannot adequately plan discovery.

11 San Francisco Defendants have requested that Plaintiffs' counsel provide unredacted versions
12 of the declarations for review by Defendants' counsel. If Plaintiffs' counsel rejects this request,
13 Defendants will seek a modified protective order from the Court that would permit counsel to review
14 unredacted declarations, subject to an appropriate protective order. San Francisco Defendants believe
15 that a continuance to December 18, 2009, as proposed by State Defendants, would allow sufficient
16 time for resolution of this issue, review of any unredacted declarations that are disclosed, and
17 additional discovery after review of the unredacted declarations.

18 Therefore, San Francisco Defendants respectfully request that the Court grant State
19 Defendants' request to deny Plaintiffs' Motion for Summary Judgment or, in the alternative, to
20 continue the hearing date on Plaintiffs' motion to December 18, 2009.

1 Dated: June 11, 2009

2 DENNIS J. HERRERA
3 City Attorney
4 WAYNE SNODGRASS
5 MOLLIE LEE
6 Deputy City Attorneys

7 By: _____ /s/
8 MOLLIE LEE

9 Attorneys for Defendants
10 DEFENDANTS CITY AND COUNTY OF SAN
11 FRANCISCO AND DENNIS HERRERA
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