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11
 12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA
 14 SACRAMENTO DIVISION

15 **ProtectMarriage.com, et al.,**
 16 Plaintiffs,
 17 vs.
 18 **Debra Bowen, et al.,**
 19 Defendants.

Case No. 2:09-CV-00058-MCE-DAD

**APPLICATION TO SHORTEN TIME TO
 HEAR DEFENDANTS' MOTION TO MODIFY
 SCHEDULING ORDER TO EXTEND
 DEADLINES**

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1 Pursuant to Local Rule 144, Defendants City and County of San Francisco, San Francisco City
2 Attorney Dennis J. Herrera, California Secretary of State Debra Bowen, California Attorney General
3 Edmund G. Brown, Jr., and the members of the Fair Political Practices Commission (collectively
4 “Defendants”) hereby apply to the Court to shorten time for consideration of Defendants’ motion to
5 modify the Court’s scheduling order, filed concurrently herewith. Defendants state in support thereof:

6 Concurrently with this motion, Defendants are filing a motion to modify the Court’s May 15,
7 2009 scheduling order. Under the Court’s current scheduling order, all non-expert discovery in this
8 case must be complete by May 14, 2010. But as described in Defendants’ motion, Defendants have
9 not been able to complete discovery despite diligent efforts. Defendants anticipate that the parties will
10 file a joint statement in the next several days to resolve a significant dispute regarding the sufficiency
11 of Plaintiffs’ responses to Defendants’ discovery requests. *See Lee Decl.* ¶ 4. Defendants believe that
12 the dispute might not be resolved before the May 14 deadline. Moreover, Defendants have noticed
13 five depositions – two individual depositions and three organizational depositions under Federal Rule
14 of Civil Procedure 30(b)(6) – and Plaintiffs have indicated that those witnesses will not be available to
15 testify until two weeks *after* the discovery deadline. *See id.* ¶ 2.

16 Because the non-expert discovery deadline is now less than three weeks away, Defendants seek
17 an order shortening time so that the Court can resolve the outstanding timing questions before the
18 deadline passes. Without an order shortening time, the Court will not have the opportunity to consider
19 Defendants’ motion to modify the scheduling order until after the discovery deadline passes.
20 Defendants did not seek an order modifying the discovery deadlines earlier because the need for a
21 modification of the scheduling order became apparent only recently. Plaintiffs responded to
22 Defendants’ discovery requests on March 23 and only informed Defendants of their witnesses’
23 unavailability for depositions on April 19. *See id.* ¶ 2. Despite the looming deadline, the unresolved
24 discovery disagreements and the unavailability of critical witnesses, Plaintiffs oppose Defendants’
25 proposed modification of the scheduling order and will not stipulate to the issuance of an order

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1 shortening time. *See id.* ¶ 3. To allow the resolution of these questions before the expiration of the
2 discovery period, Defendants request that the Court consider their motion on shortened time.

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4 Dated: April 27, 2010

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6 By /s/Jonathan Givner
7 JONATHAN GIVNER

8 Attorney for Defendants
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10 Francisco and Dennis J. Herrera
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