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11 **Pro Hac Vice Application Pending*
 12 *** Designated Counsel for Service*

13 **United States District Court**
 14 **Eastern District of California**
 15 **Sacramento Division**

<p>16 ProtectMarriage.com, et al., 17 <i>Plaintiffs,</i> 18 <i>v.</i> 19 Debra Bowen, et al., 20 <i>Defendants.</i></p>	<p>Case No. 2:09-CV-00058-MCE-DAD</p> <p>AFFIDAVIT OF SCOTT F. BIENIEK IN SUPPORT OF PLAINTIFFS’ OPPOSITION TO STATE DEFENDANTS’ EX PARTE APPLICATION FOR RECONSIDERATION OF ORDER SHORTENING TIME ON MOTION FOR PRELIMINARY INJUNCTION</p> <p>Judge England</p>
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27 **Affidavit of Scott F. Bieniek in Support**
 28 **of Plaintiffs’ Opposition to State Defendants’**
Ex Parte Application for Reconsideration of
Order Shortening Time on Motion for Preliminary
Injunction

1 I, Scott F. Bieniek, being duly sworn, depose and state:

2 1. I am a resident of the state of Indiana over 18 years of age, and my statements herein
3 are based on personal knowledge.

4 2. This affidavit is made in support of Plaintiffs' Opposition to State Defendants' *Ex*
5 *Parte* Application for Reconsideration of Order Shortening Time on Motion for Preliminary
6 Injunction.

7 3. On Saturday, January 10, 2009, I faxed copies of the First Amended Complaint to
8 Defendants Debra Bowen, California Secretary of State, Edmund G. Brown, Jr., California
9 Attorney General, and Members of the FPPC ("State Defendants").

10 4. True and correct copies of the fax confirmations are attached as Exhibit A.

11 5. On Saturday, January 10, 2009, I attempted to fax copies of all remaining documents
12 filed with the Court on Friday, January 9, 2009, to State Defendants. However, I was unable to
13 successfully transmit the documents via fax transmission because of transmission problems.

14 6. True and correct copies of the fax reports, indicating failed transmissions are attached
15 as Exhibit B.

16 7. On Monday, January 12, 2009, I contacted all State Defendants to obtain electronic
17 addresses so as to provide State Defendants with courtesy copies of all documents filed on
18 Friday, January 9, 2009, while Plaintiffs attempted to perfect service in accordance with Fed. R.
19 Civ. P. 4(c).

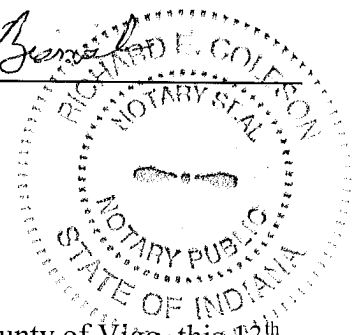
20 8. On the evening of Monday, January 12, 2009, I emailed each of the State Defendants
21 copies of: (1) Order Granting Plaintiffs *Ex Parte* Motion to Shorten Time, (2) Order Granting
22 Plaintiffs' *Ex Parte* Motion to Exceed Page Limit, (3) Order Denying Plaintiffs' Motion to
23 Expedite, and (4) redacted versions of all declarations filed in support of Plaintiffs' Motion for
24 Preliminary Injunction.

25 9. True and correct copies of said emails are attached as Exhibit C.

1 I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
2 AND CORRECT.

3
4 Executed this 13th day of January, 2009, in Terre Haute, Indiana.

5
6
7 Scott F. Bieniek
8 Scott F. Bieniek



9 State of Indiana)
10 County of Vigo) SS

11 Subscribed and sworn before me, a notary public in and for the County of Vigo, this 13th
12 day of January 2009.

13
14
15 Richard E. Coleson
16 Notary Public, State of Indiana

17 My Commission Expires: 4-19-2015

18 Richard E. Coleson
19 Notary Public printed name

1 **PROOF OF SERVICE**

2 I, Timothy D. Chandler, am over the age of 18 and not a party to the within action. My
3 business address is 101 Parkshore Drive, Suite 100, Folsom, California 95630.

4 On January 13, 2009, I electronically filed the foregoing document described as Affidavit
5 of Scott F. Bieniek in Support of Plaintiffs' Opposition to State Defendants' *Ex Parte* Applicaiton
6 for Reconsideration of Order Shortening Time on Motion for Preliminary Injunction, which will
7 be served on all Defendants along with the Summons and Amended Complaint.

8 I declare under the penalty of perjury under the laws of the State of California that the
9 above is true and correct. Executed on January 13, 2009 at Folsom, California.

10
11 /s/ Timothy D. Chandler
12 Timothy D. Chandler (SBN 234325)
13 Attorney for Plaintiffs
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