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10 * *Designated Counsel for Service*

11
 12 **United States District Court**
Eastern District of California

14 **ProtectMarriage.com, et al.,**

15 *Plaintiffs,*

16 v.

17 **Debra Bowen, et al.,**

18 *Defendants.*

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

**STIPULATION TO AMEND
 COMPLAINT; ORDER REGARDING
 THE SAME**

Judge Morrison C. England, Jr.

19
 20 Plaintiffs ProtectMarriage.com - Yes on 8, a Project of California Renewal
 21 (“ProtectMarriage.com”) and National Organization for Marriage California - Yes on 8,
 22 Sponsored by National Organization for Marriage (“NOM-California”), pursuant to Fed. R. Civ.
 23 P. 15(a)(2) submit the following stipulation for the Court’s approval.

24 Plaintiffs filed their complaint in this mater on Wednesday, January 7, 2009.

25 On Friday, January 9, 2009, pursuant to Fed. R. Civ. P. 15(a), Plaintiffs filed their First
 26 Amended Complaint, adding Plaintiff John Doe #1, an individual, and as a representative of the
 27 Class of Major Donors.

1 Plaintiffs, after conferring with Defendant Eileen Teichert, have determined that she is
2 not a proper Defendant in this action because she lacks enforcement authority under the Political
3 Reform Act of 1974 (the “Act”), Cal. Gov’t Code § 81000 *et seq.*, because she is not an “elected
4 city attorney.” CGC § 91001.5 (granting enforcement authority to elected city attorneys).
5 Therefore, her inclusion constitutes misjoinder.

6 Proposed Defendant Dennis J. Herrera, the city attorney for the City and County of San
7 Francisco, California, is an elected city attorney and therefore does, or would have if authorized
8 by the Charter for the City and County of San Francisco, the authority to enforce provisions of
9 the Act pursuant to CGC § 91001.5.¹

10 Therefore, Plaintiffs ProtectMarriage.com, NOM-California, and the Class of Major
11 Donors have determined that the First Amended Complaint should be amended.

12 Defendants have consented to Plaintiffs amending their First Amended Complaint.
13 Defendants stipulate to the filing of the Second Amended Complaint attached as Exhibit A.²

14 **So Stipulated:**

15 Date: January 20, 2009

15 /s/ Timothy D. Chandler
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23 ¹ Proposed Defendant Herrera specifically reserves the right to challenge his appointment
24 as the representative of the Class of Elected City Attorneys if Plaintiffs make a motion under
25 Fed. R. Civ. P. 23(c)(1) to certify the Class of Elected City Attorneys.

26 ² Proposed Defendant Herrera, as the City Attorney for the City and County of San
27 Francisco, has been involved in these proceedings as counsel for the Department of Elections for
28 the City and County of San Francisco; adding him as a Defendant to this suit at this stage of the
litigation will not prejudice his preparation for the hearing on Plaintiffs’ Motion for Preliminary
Injunction.

1 Date: January 15, 2009

2 Zackery P. Morazzini, State Bar No. 204237
3 Attorney for Defendant Edmund G. Brown Jr.
California Attorney General

4 Date: January 15, 2009

5 Zackery P. Morazzini, State Bar No. 204237
6 Attorney for Defendant Debra Bowen
California Secretary of State

7 Date: January 15, 2009

8 Judy Whitehurst
9 Attorney for Defendant Dean C. Logan
Los Angeles County Reistrar-Recorder

10 Date: January 15, 2009

11 Wayne Snodgrass
12 Attorney for Defendant Department of Elections - City
and County of San Francisco

13 Date: January 15, 2009

14 Albert Locher
15 Attorney for Defendant Jan Scully
Sacramento County District Attorney

16 Date: January 15, 2009

17 Brett Witter
18 Attorney for Defendant Eileen Teichert
City Attorney for the City of Sacramento

19 Date: January 15, 2009

20 Heather M. Rowan, State Bar No. 232415
21 Attorney for Defendant Members of the Fair Political
Practices Commission
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23 IT IS SO ORDERED.

24 Dated: January 21, 2009

25 
26 MORRISON C. ENGLAND, JR.
27 UNITED STATES DISTRICT JUDGE