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18 UNITED STATES DISTRICT COURT
19 EASTERN DISTRICT OF CALIFORNIA
20 SACRAMENTO DIVISION

21 **ProtectMarriage.com, et al.,**

22 *Plaintiffs,*

23 v.

24 **Debra Bowen, et al.,**

25 *Defendants.*
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Case No. 2:09-CV-00058-MCE-DAD

JOINT STATUS REPORT

Judge Morrison C. England, Jr.

27
28 **Joint Status Report**

1 Pursuant to this Court’s order of January 8, 2009, Plaintiffs ProtectMarriage.com - Yes
2 on 8, a Project of California Renewal (“ProtectMarriage.com”); National Organization for
3 Marriage California - Yes on 8, Sponsored by National Organization for Marriage (“NOM-
4 California”), and John Doe #1, and Defendants Debra Bowen, Edmund G. Brown, Jr., Dean C.
5 Logan, Jan Scully, San Francisco Department of Elections, Dennis J. Herrera, Ross Johnson,
6 Timothy Hodson, Eugene Huguenin, Jr., Robert Leidigh, and Ray Remy, now file their Joint
7 Status Report.

8 **(a) a brief summary of the claims:**

9 This is a pre-enforcement, facial, and as-applied constitutional challenge to Califor-
10 nia’s Political Reform Act of 1974 (“the Act”), California Government Code § 81000 et seq.
11 Plaintiffs ProtectMarriage.com, NOM-California, and John Doe #1 seek declaratory and
12 injunctive relief with respect to portions of the Act on the ground that they violate the First
13 Amendment to the United States Constitution, as incorporated to the states by the Fourteenth
14 Amendment to the United States Constitution.

15 Specifically, Plaintiffs ProtectMarriage.com, NOM-California, and John Doe #1,
16 challenge all of the Act’s disclosure requirements as applied to them and all similarly situated
17 persons on the ground that there is a reasonable probability that the Act’s disclosure require-
18 ments will result in threats, harassment, and reprisals.

19 Furthermore, Plaintiffs ProtectMarriage.com and NOM-California challenge the Act’s
20 threshold for reporting contributors, Cal. Gov’t Code section § 84211, both facially and as
21 applied to them, on the grounds that the threshold is not narrowly tailored to serve a compel-
22 ling government interest, in violation of the First Amendment to the United States Constitu-
23 tion, as incorporated to the State of California by the Fourteenth Amendment.

24 Finally, Plaintiffs, ProtectMarriage.com, NOM-California, and John Doe #1, challenge
25 the Act’s disclosure requirements, both facially and as applied, to the extent that the Act
26 requires Plaintiffs to file reports after the election and to the extent that California continues to
27

1 make said reports available to the public after the election. Plaintiffs further allege that
2 post-election reporting with respect to ballot measures is not narrowly tailored to serve a
3 compelling government interest in violation of the First Amendment to the United States
4 Constitution, as incorporated by the Fourteenth Amendment.

5 **(b) status of service upon all defendants:**

6 Service has been effected on all defendants.

7 **(c) possible joinder of additional parties:**

8 At this time, Plaintiffs contemplate the possibility of joining additional parties and/or
9 amending their complaint to reflect changes in the purpose and organizational structure of
10 some of the party organizations. Joinder of additional parties should be effected by July 31,
11 2009.

12 **(d) contemplated amendments to the pleadings:**

13 At this time, Plaintiffs contemplate the possibility of joining additional parties and/or
14 amending their complaint to reflect changes in the purpose and organizational structure of
15 some of the party organizations.

16 **(e) the statutory basis for jurisdiction and venue:**

17 This action arises under 42 U.S.C. § 1983 and the First and Fourteenth Amendments to
18 the United States Constitution. This court has subject matter jurisdiction to adjudicate all of
19 Plaintiffs' claims by reason of 28 U.S.C. §§ 1331 and 1343(a). The Eastern District of
20 California is the proper venue for this case under 11 U.S.C. § 1391(b) because Defendants
21 Bowen, Brown, and Scully, among others, perform their official duties in the Eastern District
22 of California, Committee Plaintiffs have their principal place of business in California, and
23 John Doe #1 resides in California.

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2 **(f) anticipated discovery and the scheduling of discovery, including:**

3 **(1) what changes, if any, should be made in the timing, form, or**
4 **requirement for disclosures under Rule 26(a), including a statement**
5 **as to when disclosures under Rule 26(a)(1) were made or will be**
6 **made:**

7 Initial disclosures under Rule 26(a)(1) should be made by April 1, 2009. Any disclo-
8 sures made under Rule 26(a)(1) should be consistent with this Court's previously issued
9 protective order, subject to Defendants' reserved right to object.

10 **(2) the subjects on which discovery may be needed; when discovery**
11 **should be completed, and whether discovery should be conducted**
12 **in phases:**

13 The parties have agreed on a six month discovery period, running until October 1,
14 2009. Should any party discover the existence of new witnesses or other evidence after the
15 close of this period, Defendants reserve the right to conduct limited discovery as to this new
16 evidence and to conduct depositions of said witnesses.

17 **(3) what changes, if any, should be made in the limitations on**
18 **discovery imposed under the Civil Rules and what other**
19 **limitations, if any, should be imposed:**

20 Any disclosures made under Rule 26(a)(1) should be consistent with this Court's
21 previously issued protective order.

22 **(4) the timing of the disclosure of expert witnesses and information**
23 **required by Rule 26(a)(2):**

24 Disclosure of expert witnesses and information required by Rule 26(a)(2) should be
25 effected by July 1, 2009.
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1 **(5) proposed dates for discovery cut-off:**

2 October 1, 2009.

3 **(g) proposed date by which all non-discovery motions shall be filed:** All non-
4 discovery motions, including motions for summary judgment, shall be filed by November 16,
5 2009.

6 **(h) proposed dates for final pretrial conference and trial:**

7 The parties believe that all issues in this action can be resolved by cross-motions for
8 summary judgment, which should be filed by November 16, 2009. In the event a trial is
9 necessary, the parties would propose the pretrial conference be held on January 15, 2010.

10 **(i) estimate of days of trial, and whether any party has demanded a jury:**

11 While parties believe that this action can be resolved absent the need for trial, should a
12 trial be necessary, Defendants have demanded a jury in this case. The parties estimate that, if
13 necessary, a trial would take approximately three weeks.

14 **(j) appropriateness of special procedures such as reference to a special master
15 or agreement to try the matter before a magistrate judge pursuant to
16 28 U.S.C. 636(c):**

17 The parties do not believe special procedures such as reference to a special master or
18 trial before a magistrate judge are appropriate in this case.

19 **(k) proposed modification of standard pretrial procedures due to the special
20 nature of the case:**

21 None.

22 **(l) whether the case is related to any other case, including any matter
23 involving bankruptcy:**

24 This case is not related to any other currently pending case.

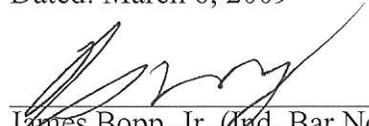
25 **(m) prospects for settlement, including whether a settlement conference should
26 be scheduled:**

1 The parties do not believe settlement is feasible or appropriate in this case.

2 **(n) any other matters that may be conducive to the just and expeditious**
3 **disposition of the case, including whether counsel will waive any**
4 **disqualification and stipulate to the trial judge acting as a settlement judge:**

5 The parties do not believe this is either necessary or appropriate in this case.
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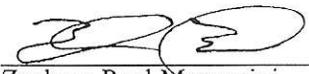
1 Dated: March 6, 2009

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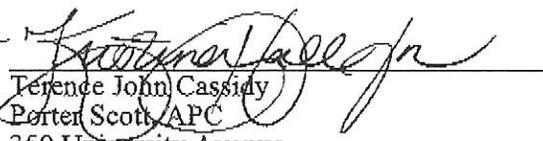
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