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 13 California, Mark B. Horton, in his official capacity as Director of the
 14 California Department of Public Health and State Registrar of Vital
 15 Statistics, and Linette Scott, in her official capacity as Deputy Director
 16 of Health Information & Strategic Planning for the California Department
 17 of Public Health

18 **UNITED STATES DISTRICT COURT**
 19 **NORTHERN DISTRICT OF CALIFORNIA**
 20 **SAN FRANCISCO DIVISION**

14	KRISTIN M. PERRY, et al.,)	Case No. 09-CV-02292 VRW
15	Plaintiffs,)	
16	CITY AND COUNTY OF SAN FRANCISCO,)	THE ADMINISTRATION DEFENDANTS'
17	Plaintiff-Intervenor,)	TRIAL MEMORANDUM
18	v.)	Pre-Trial Conference: December 16, 2009
19	ARNOLD SCHWARZENEGGER, in his)	Time: 10:00 a.m.
20	official capacity as Governor of California,)	Trial Date: January 11, 2010
21	et al.,)	Time: 8:30 a.m.
22	Defendants,)	Courtroom: 6
23	and)	
24	PROPOSITION 8 OFFICIAL)	
25	PROPOSERS DENNIS HOLLINGSWORTH, et al.,)	
26	Defendant-Intervenors.)	

1 Pursuant to this Court’s Pretrial Scheduling Order (Docket No. 164), Defendants
2 Arnold Schwarzenegger in his official capacity as Governor of California, Mark B. Horton, in his
3 official capacity as Director of the California Department of Public Health and State Registrar of
4 Vital Statistics, and Linette Scott, in her official capacity as Deputy Director of Health
5 Information & Strategic Planning for the California Department of Public Health (collectively
6 “the Administration Defendants”) hereby respectfully submit this Trial Memorandum.

7 **TRIAL MEMORANDUM**

8 This matter presents important constitutional questions that require and warrant
9 judicial determination. In a constitutional democracy, it is the role of the courts to determine and
10 resolve such questions. To the extent that Plaintiffs have stated a justiciable controversy, setting
11 forth federal constitutional challenges to Proposition 8, it is appropriate for the federal courts to
12 determine and resolve those challenges. The Administration Defendants encourage the Court to
13 resolve the merits of this action expeditiously.

14 The Administration Defendants intend to appear before this Court at trial through
15 trial counsel, Kenneth C. Mennemeier or Andrew W. Stroud of the law firm Mennemeier,
16 Glassman & Stroud, LLP. However, the Administration Defendants take no position on the
17 merits of Plaintiffs’ claims regarding the validity of Proposition 8 as alleged in this matter.
18 Accordingly, the Administration Defendants do not presently anticipate presenting any evidence
19 or calling any witnesses at trial, but reserve the right to object to any evidence presented or to call
20 witnesses as may be necessary for rebuttal to any evidence presented.

21 Dated: December 7, 2009

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25 By: /s/ Kenneth C. Mennemeier
26 Kenneth C. Mennemeier
27 Attorneys for Defendants Arnold Schwarzenegger,
28 Mark B. Horton, and Linette Scott

1 Case Name: *Perry, et al. v. Schwarzenegger, et al.*;
2 Case No: US District Court, Northern District, Case No. 3:09-cv-2292 VRW

3 **CERTIFICATE OF SERVICE**

4 I declare as follows:

5 I am a resident of the State of California and over the age of eighteen years, and
6 not a party to the within action; my business address is 980 9th Street, Suite 1700, Sacramento,
California 95814. On December 7, 2009, I served the within document(s):

7 **THE ADMINISTRATION DEFENDANTS' TRIAL MEMORANDUM**

- 8 by placing the document(s) listed above in a sealed Federal Express
9 envelope and affixing a pre-paid air bill, and delivering to a Federal
10 Express agent for delivery.
- 11 by placing the document(s) listed above in a sealed envelope, with postage
12 thereon fully prepared, in the United States mail at Sacramento, California
addressed as set forth below.

13 **SEE ATTACHED SERVICE LIST**

14 I am readily familiar with the firm's practice of collection and processing
15 correspondence for mailing. Under that practice, it would be deposited with the U.S. Postal
Service on that same day with postage thereon fully prepared in the ordinary course of business.

16 I declare that I am employed in the office of a member of the bar of this Court at
whose direction this service was made.

17 Executed on December 7, 2009, at Sacramento, California.

18 /s/ Angela Knight
19 Angela Knight

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