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18 **UNITED STATES DISTRICT COURT**  
 19 **NORTHERN DISTRICT OF CALIFORNIA**

20 KRISTIN M. PERRY, *et al.*,  
 21 Plaintiffs,  
 and  
 22 CITY AND COUNTY OF SAN FRANCISCO,  
 23 Plaintiff-Intervenor,  
 v.  
 24 ARNOLD SCHWARZENEGGER, *et al.*,  
 25 Defendants,  
 and  
 26 PROPOSITION 8 OFFICIAL PROPONENTS  
 27 DENNIS HOLLINGSWORTH, *et al.*,  
 28 Defendant-Intervenors.

CASE NO. 09-CV-2292 VRW  
**PLAINTIFFS' STATEMENT  
 CONCERNING PROPONENTS'  
 MOTIONS TO COMPEL**  
 Trial Date: January 11, 2010  
 Judge: Chief Judge Walker  
 Magistrate Judge Joseph C. Spero  
 Location: Courtroom 6, 17th Floor

1 Pursuant to this Court’s January 26, 2010 order, Doc #526, Plaintiffs respectfully submit this  
 2 statement concerning the various motions to compel filed by Proponents’ seeking to enforce  
 3 non-party subpoenas. Plaintiffs take no position regarding the specific issues presented by these  
 4 motions, but note that, aside from one internet advertisement (DIX2308) and three press releases  
 5 (DIX2472, DIX2500, DIX2502), Proponents did not seek to introduce into evidence publicly  
 6 disseminated campaign messages urging voters to vote “no” on Proposition 8, despite ample  
 7 opportunity to do so and, apparently, the production of significant quantities of documents relating to  
 8 these issues by non-parties. See Doc #503 (Proponents’ Third Supplemental Exhibit List, which  
 9 identified over 300 documents produced by various third parties, including the ACLU, Californians  
 10 Against Eliminating Basic Rights, and Equality California).

11 Accordingly, the Proponents’ argument that this non-party discovery is somehow necessary to  
 12 allow them to put before the Court the full “mix” of information does not withstand scrutiny.  
 13 Doc #472 at 3-4. Proponents made a tactical decision not to make a record on that issue during trial,  
 14 and this factor weighs against compelling further discovery from the non-parties.

15 Respectfully submitted,

16 DATED: February 2, 2010

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21 By: \_\_\_\_\_/s/  
 22 Theodore J. Boutrous, Jr.

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