

1 COOPER AND KIRK, PLLC
 Charles J. Cooper (DC Bar No. 248070)*
 2 *ccooper@cooperkirk.com*
 David H. Thompson (DC Bar No. 450503)*
 3 *dthompson@cooperkirk.com*
 Howard C. Nielson, Jr. (DC Bar No. 473018)*
 4 *hnielson@cooperkirk.com*
 Nicole J. Moss (DC Bar No. 472424)*
 5 *nmoss@cooperkirk.com*
 Peter A. Patterson (OH Bar No. 0080840)*
 6 *ppatterson@cooperkirk.com*
 1523 New Hampshire Ave. N.W., Washington, D.C. 20036
 7 Telephone: (202) 220-9600, Facsimile: (202) 220-9601

8 LAW OFFICES OF ANDREW P. PUGNO
 Andrew P. Pugno (CA Bar No. 206587)
 9 *andrew@pugnotlaw.com*
 101 Parkshore Drive, Suite 100, Folsom, California 95630
 10 Telephone: (916) 608-3065, Facsimile: (916) 608-3066

11 ALLIANCE DEFENSE FUND
 Brian W. Raum (NY Bar No. 2856102)*
 12 *braum@telladf.org*
 James A. Campbell (OH Bar No. 0081501)*
 13 *jcampbell@telladf.org*
 15100 North 90th Street, Scottsdale, Arizona 85260
 14 Telephone: (480) 444-0020, Facsimile: (480) 444-0028

15 ATTORNEYS FOR DEFENDANT-INTERVENORS DENNIS HOLLINGSWORTH,
 GAIL J. KNIGHT, MARTIN F. GUTIERREZ, MARK A. JANSSON,
 16 and PROTECTMARRIAGE.COM – YES ON 8, A
 PROJECT OF CALIFORNIA RENEWAL

17 * Admitted *pro hac vice*

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

20 KRISTIN M. PERRY, SANDRA B. STIER, PAUL
 21 T. KATAMI, and JEFFREY J. ZARRILLO,

22 Plaintiffs,

23 CITY AND COUNTY OF SAN FRANCISCO,

24 Plaintiff-Intervenor,

25 v.

26 ARNOLD SCHWARZENEGGER, in his official
 27 capacity as Governor of California; EDMUND G.
 BROWN, JR., in his official capacity as Attorney
 28 General of California; MARK B. HORTON, in his

CASE NO. 09-CV-2292 VRW

**DEFENDANT-INTERVENORS
 DENNIS HOLLINGSWORTH, GAIL
 J. KNIGHT, MARTIN F. GUTIERREZ,
 MARK A. JANSSON,
 AND PROTECTMARRIAGE.COM'S
 ADMINISTRATIVE MOTION FOR
 SEALING ORDER PURSUANT TO
 LOCAL RULES 7-11 AND 79-5**

1 official capacity as Director of the California
2 Department of Public Health and State Registrar of
3 Vital Statistics; LINETTE SCOTT, in her official
4 capacity as Deputy Director of Health Information
5 & Strategic Planning for the California Department
6 of Public Health; PATRICK O'CONNELL, in his
7 official capacity as Clerk-Recorder for the County
8 of Alameda; and DEAN C. LOGAN, in his official
9 capacity as Registrar-Recorder/County Clerk for
10 the County of Los Angeles,

11
12
13 Defendants,

14 and

15 PROPOSITION 8 OFFICIAL PROPONENTS
16 DENNIS HOLLINGSWORTH, GAIL J.
17 KNIGHT, MARTIN F. GUTIERREZ, HAK-
18 SHING WILLIAM TAM, and MARK A.
19 JANSSON; and PROTECTMARRIAGE.COM –
20 YES ON 8, A PROJECT OF CALIFORNIA
21 RENEWAL,

22
23 Defendant-Intervenors.

24
25
26
27
28
Additional Counsel for Defendant-Intervenors

ALLIANCE DEFENSE FUND
Timothy Chandler (CA Bar No. 234325)
tchandler@telladf.org
101 Parkshore Drive, Suite 100, Folsom, California 95630
Telephone: (916) 932-2850, Facsimile: (916) 932-2851

Jordan W. Lorence (DC Bar No. 385022)*
jlorence@telladf.org
Austin R. Nimocks (TX Bar No. 24002695)*
animocks@telladf.org
801 G Street NW, Suite 509, Washington, D.C. 20001
Telephone: (202) 393-8690, Facsimile: (202) 347-3622

* Admitted *pro hac vice*

1 **NOTICE OF MOTION AND MOTION**

2 Pursuant to Northern District of California Civil Local Rules 7-11 and 79-5(b), Defendant-
3 Intervenor Dennis Hollingsworth, Gail Knight, Martin Gutierrez, Mark Jansson, and
4 ProtectMarriage.com (“Proponents”) hereby move for an administrative order sealing (1) their
5 Motion to Supplement the Record and (2) the exhibits that motion offers for admission into the
6 evidentiary record. Pursuant to Civil Local Rule 79-5(b), Proponents are today lodging with the
7 Clerk a proposed order sealing the documents as well as the documents themselves.¹ Proponents are
8 also lodging a second copy of the documents with the Clerk for the Court’s chambers.

9 At the close of trial, this Court granted Proponents’ request to hold the evidentiary record open
10 pending resolution of Proponents’ motion to compel discovery against groups that opposed
11 Proposition 8, including No on Proposition 8, Campaign for Marriage Equality, A Project of the
12 American Civil Liberties Union (“ACLU”) and Equality California. In light of the resolution of
13 these motions, this Court on April 28, 2010 ordered that Proponents “shall serve and file any
14 supplement to the evidentiary record not later than May 5, 2010 at 5 PM PDT.” Doc # 650 at 1.

15 Proponents have prepared a motion to supplement the record with exhibits consisting of records
16 produced by the ACLU and Equality California, and now ask this Court for an order sealing both the
17 motion and the exhibits. Such an order is necessary because it is our understanding that the ACLU
18 and Equality California designated the exhibits “Confidential” or “Highly Confidential – Attorneys’
19 Eyes Only” under the protective order governing this case. *See* Amended Protective Order, Doc #
20 425; March 5, 2010 Order, Doc # 610 at 14 (granting Proponents’ motion to compel production
21 from No-on-8 groups including ACLU and Equality California, and providing that the groups “may
22 produce documents pursuant to the terms of the protective order”); March 22, 2010 Order, Doc #
23 623 (denying objections to Doc # 610). Under the terms of the protective order, absent an
24 agreement or court order to the contrary, “a Party may not file in the public record in this action any
25 Protected Material. A Party that seeks to file under seal any Protected Material must comply with
26

27 ¹ Proponents are also today serving these items on Plaintiffs and Plaintiff-
28 Intervenor; we will serve any other party that represents that it desires service and that it
will adhere to the provisions of the protective order governing this case. *See* Doc # 425.

1 Civil Local Rule 79-5.” Doc # 425 at 12; *see also id.* at 3 (defining “Protected Material” as “any
2 Disclosure or Discovery Material that is designated as ‘Confidential’ or ‘Highly Confidential –
3 Attorneys’ Eyes Only’ ”); *cf.* Civ. L.R. 79-5(d). Proponents must also request leave to file their
4 motion to supplement the record under seal, as it consists chiefly of references to and quotations
5 from the exhibits designated for protection. *See* Doc # 425 at 3 (“The protections conferred by this
6 Order cover not only Protected Material (as defined above), but also any information copied or
7 extracted therefrom, as well as all copies, excerpts, summaries, or compilations thereof, plus
8 testimony, conversations, or presentations by parties or counsel to or in court or in other settings that
9 might reveal Protected Material.”).

10 Proponents do not concede that the ACLU and Equality California have properly designated the
11 exhibits as protected under the terms of the protective order. Proponents are in the midst of
12 reviewing the documents for the purpose of making that determination, as well as conferring with
13 the ACLU and Equality California regarding their designations. Should we be unable to reach
14 agreement with the ACLU and Equality California, we reserve our rights to challenge their
15 designations. *See* Doc # 425 at 7-8.

16 For these reasons, Proponents respectfully request an order sealing (1) their Motion to
17 Supplement the Record and (2) the exhibits that motion offers for admission into the evidentiary
18 record.

19
20
21 Dated: May 5, 2010

22 COOPER AND KIRK, PLLC
23 ATTORNEYS FOR DEFENDANTS-INTERVENORS
24 DENNIS HOLLINGSWORTH, GAIL J. KNIGHT,
25 MARTIN F. GUTIERREZ, MARK A. JANSSON, and
26 PROTECTMARRIAGE.COM – YES ON 8, A PROJECT
27 OF CALIFORNIA RENEWAL

28 By: /s/ Charles J. Cooper
Charles J. Cooper