

# Exhibit B

1 DENNIS J. HERRERA, State Bar #139669  
City Attorney  
2 THERESE M. STEWART, State Bar #104930  
Chief Deputy City Attorney  
3 DANNY CHOU, State Bar #180240  
Chief of Complex and Special Litigation  
4 RONALD P. FLYNN, State Bar #184186  
VINCE CHHABRIA, State Bar #208557  
5 ERIN BERNSTEIN, State Bar #231539  
CHRISTINE VAN AKEN, State Bar #241755  
6 MOLLIE M. LEE, State Bar #251404  
Deputy City Attorneys  
7 City Hall, Room 234  
One Dr. Carlton B. Goodlett Place  
8 San Francisco, California 94102-4682  
Telephone: (415) 554-4708  
9 Facsimile: (415) 554-4699

10 Attorneys for Plaintiff-Intervenor  
11 CITY AND COUNTY OF SAN FRANCISCO

12  
13 UNITED STATES DISTRICT COURT  
14 NORTHERN DISTRICT OF CALIFORNIA

15 KRISTIN M. PERRY, SANDRA B. STIER,  
16 PAUL T. KATAMI, and JEFFREY J.  
ZARRILLO,

17 Plaintiffs,

18 vs.

19 ARNOLD SCHWARZENEGGER, in his official  
20 capacity as Governor of California; EDMUND G.  
BROWN JR., in his official capacity as Attorney  
21 General of California; MARK B. HORTON, in  
his official capacity as Director of the California  
22 Department of Public Health and State Registrar  
of Vital Statistics; LINETTE SCOTT, in her  
23 official capacity as Deputy Director of Health  
Information & Strategic Planning for the  
24 California Department of Public Health;  
PATRICK O'CONNELL, in his official capacity  
25 as Clerk-Recorder for the County of Alameda;  
and DEAN C. LOGAN, in his official capacity as  
26 Registrar-Recorder/County Clerk for the County  
of Los Angeles,

27 Defendants,  
28

Case No. 09-CV-2292 VRW

**PLAINTIFF-INTERVENOR CITY AND  
COUNTY OF SAN FRANCISCO'S  
RESPONSES TO DEFENDANT-  
INTERVENORS' PROPOSITION 8  
PROPONENTS' SECOND SET OF  
DOCUMENT REQUESTS**

Trial Date: Not set

1 and

2 PROPOSITION 8 OFFICIAL PROPONENTS  
3 DENNIS HOLLINGSWORTH, GAIL J.  
4 KNIGHT, MARTIN F. GUTIERREZ, HAK-  
5 SHING WILLIAM TAM, and MARK A.  
6 JANSSON; and PROTECTMARRIAGE.COM –  
7 YES ON 8, A PROJECT OF CALIFORNIA  
8 RENEWAL,

9 Defendant-Intervenors.

10 CITY AND COUNTY OF SAN FRANCISCO,

11 Plaintiff-Intervenor

12 vs.

13 ARNOLD SCHWARZENEGGER, in his official  
14 capacity as Governor of California; EDMUND G.  
15 BROWN JR., in his official capacity as Attorney  
16 General of California; MARK B. HORTON, in  
17 his official capacity as Director of the California  
18 Department of Public Health and State Registrar  
19 of Vital Statistics; and LINETTE SCOTT, in her  
20 official capacity as Deputy Director of Health  
21 Information & Strategic Planning for the  
22 California Department of Public Health,

23 Defendants.

24 **PROPOUNDING PARTY: Defendant-Intervenors Proposition 8 Proponents**

25 **RESPONDING PARTY: Plaintiff-Intervenor City and County of San Francisco**

26 **SET NUMBER: Two (2)**

27 Plaintiff-Intervenor City and County of San Francisco ("the City" or "Plaintiff-Intervenor"),  
28 hereby responds to Defendant-Intervenors Proposition 8 Proponents' Second Request for Production of  
Documents, as follows:

1           1.       Plaintiff-Intervenor objects to each Request as unduly burdensome and oppressive on  
2 the grounds that it purports to require Plaintiff-Intervenor to procure and search for documents that  
3 would not reasonably be expected to be in their possession, custody, or control. The responses are  
4 thus based upon a reasonable search, given the time allocated to respond to the Requests, of facilities  
5 and files that could reasonably be expected to contain responsive information. The subject matter of  
6 these Requests is under continuing investigation. Plaintiff-Intervenor expressly reserves the right to  
7 use or rely upon documents not produced in response to these Requests, if such documents are  
8 uncovered during the course of their ongoing investigation.

9           2.       Plaintiff-Intervenor objects to these Requests to the extent they seek to alter the  
10 schedule imposed by the Court’s August 19, 2009 and August 24, 2009 pretrial scheduling orders.  
11 Doc ##160, 164. Specifically, the identity of proposed exhibits and witnesses is due on December 2,  
12 2009. Doc #164 at 1-2.

13           3.       Plaintiff-Intervenor objects to each Request on the grounds that it purports to impose  
14 any requirement or discovery obligation on Plaintiffs other than those set forth in the Federal Rules of  
15 Civil Procedure, Civil Local Rules of the Northern District of California, or any applicable Orders  
16 from Chief Judge Walker.

17           4.       Plaintiff-Intervenor objects to each Request to the extent that it seeks documents that  
18 are protected by the attorney/client privilege, the work product doctrine, and/or any other applicable  
19 privilege or immunity.

20           5.       Plaintiff-Intervenor objects to the “Definitions” and “Instructions” contained in the  
21 Document Requests to the extent that they are inconsistent with or seek to impose obligations beyond  
22 those imposed by the Federal Rules of Civil Procedure, Civil Local Rules of the Northern District of  
23 California, or any applicable Orders of Chief Judge Walker.

24           6.       Plaintiff-Intervenor objects to the definition of “Document” as overly broad, unduly  
25 burdensome, and oppressive. Plaintiff-Intervenor objects to that definition as vague and ambiguous.

26           7.       By stating in these responses that Plaintiff-Intervenor will produce documents,  
27 Plaintiff-Intervenor does not intend to represent that any responsive documents actually exist, but  
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1 rather that Plaintiff-Intervenor will make a reasonable, good faith search and attempt to ascertain  
2 whether responsive documents do in fact exist.

3 8. Plaintiff-Intervenor will respond to these Document Requests with its current  
4 knowledge and reserve the right to supplement these responses if any additional information is  
5 identified at a later time and to make any additional objections that may become apparent. Plaintiff-  
6 Intervenor also reserves the right to make any use of, or introduce at any hearing or at trial, any  
7 documents or information not known or thought to be responsive at the time of response.

8 **OBJECTIONS AND RESPONSES TO SPECIFIC REQUESTS**

9 **REQUEST FOR PRODUCTION NO. 4:**

10 Produce all documents constituting literature, pamphlets, flyers, direct mail, advertisements,  
11 emails, text messages, press releases, or other materials that you distributed to voters, donors,  
12 potential donors, or members of the media regarding Proposition 8.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

14 In addition to their General Objections, Plaintiff-Intervenor further objects to this Request on  
15 the grounds that it is vague and ambiguous. Plaintiff-Intervenor also objects to this Request on the  
16 grounds that it seeks documents or materials equally available to Defendant-Intervenors. Plaintiff-  
17 Intervenor further objects to this Request on the grounds that it is overly broad and unduly  
18 burdensome. Plaintiff-Intervenor also objects to this Request on the grounds that it is unlikely to lead  
19 to the discovery of relevant material, as neither Plaintiff-Intervenor nor its agents were at any time  
20 acting in their official capacity as an opponent of Proposition 8.

21 Subject to these objections, Plaintiff-Intervenor will produce non-privileged, reasonably  
22 responsive documents to the extent they exist and are in Plaintiff-Intervenor's possession, custody, or  
23 control and reflect any documents distributed by the Plaintiff-Intervenor and its agents acting in their  
24 official capacities on or before June 18, 2009, the date that Plaintiff-Intervenor filed an amicus brief in  
25 this action.

26 **REQUEST FOR PRODUCTION NO. 5:**

27 Produce all documents constituting communications related to Proposition 8 that you prepared  
28 for public distribution.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

2 In addition to their General Objections, Plaintiff-Intervenor further objects to this Request on  
3 the grounds that it is vague and ambiguous. Plaintiff-Intervenor also objects to this Request on the  
4 grounds that it seeks documents or materials equally available to Defendant-Intervenors. Plaintiff-  
5 Intervenor further objects to this Request on the grounds that it is overly broad and unduly  
6 burdensome. Plaintiff-Intervenor also objects to this Request on the grounds that it is unlikely to lead  
7 to the discovery of relevant material, as neither Plaintiff-Intervenor nor its agents were at any time  
8 acting in their official capacity as an opponent of Proposition 8.

9 Subject to these objections, Plaintiff-Intervenor will produce non-privileged, reasonably  
10 responsive documents to the extent they exist and are in Plaintiff-Intervenor's possession, custody, or  
11 control and reflect any documents prepared by the Plaintiff-Intervenor and its agents acting in their  
12 official capacities on or before June 18, 2009, the date that Plaintiff-Intervenor filed an amicus brief in  
13 this action.

14 **REQUEST FOR PRODUCTION NO. 6:**

15 Produce all documents constituting postings related to Proposition 8 that were made by you on  
16 social networking websites, including but not limited to Facebook, MySpace, and Twitter.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

18 In addition to their General Objections, Plaintiff-Intervenor further object to this Request on  
19 the grounds that it is vague and ambiguous. Plaintiff-Intervenor also objects to this Request on the  
20 grounds that it seeks documents or materials equally available to Defendant-Intervenors. Plaintiff-  
21 Intervenor further objects to this Request on the grounds that it is overly broad and unduly  
22 burdensome. Plaintiff-Intervenor also objects to this Request on the grounds that it is unlikely to lead  
23 to the discovery of relevant material, as neither Plaintiff-Intervenor nor its agents were at any time  
24 acting in their official capacity as an opponent of Proposition 8.

25 Subject to these objections, Plaintiff-Intervenor will produce non-privileged, reasonably  
26 responsive documents to the extent they exist and are in Plaintiff-Intervenor's possession, custody, or  
27 control and reflect any documents by the Plaintiff-Intervenor and its agents acting in their official  
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1 capacities on or before June 18, 2009, the date that Plaintiff-Intervenor filed an amicus brief in this  
2 action.

3 **REQUEST FOR PRODUCTION NO. 7:**

4 The following request is limited to you and those who provided you with advice,  
5 counseling, information, or services with respect to Proposition 8, including about your position on  
6 and understanding of its meaning, intent, effects if enacted, or effects if rejected; including  
7 communications among or between any two or more of the following persons or entities: Plaintiff-  
8 Intervenor City and County of San Francisco, including attorney Dennis Herrera and Mayor Gavin  
9 Newsom and any other person acting or purporting to act on its behalf; Defendant Edmund G. Brown,  
10 Jr., in his personal capacity or in his official capacity as Attorney General of California; Defendant  
11 Arnold Schwarzenegger, in his official capacity as Governor of California; and organizations opposed  
12 to Proposition 8, including but not limited to the Human Rights Campaign, Californians Against  
13 Eliminating Basic Rights, the Courage Campaign, Lambda Legal, National Center for Lesbian Rights,  
14 Equality Federation, Freedom to Marry, Gay and Lesbian Alliance Against Defamation, National Gay  
15 and Lesbian Task Force, the American Civil Liberties Union, and Gay & Lesbian Advocates &  
16 Defenders.

17 Produce all documents that constitute analysis of, or communications related to, one or both  
18 of the following topics: (1) campaign or communications strategy in connection with Proposition 8,  
19 before or after the election; and (2) messages to be conveyed to voters regarding Proposition 8,  
20 before or after the election, without regard to whether the voter or voter groups were viewed as  
21 likely supporters or opponents or undecided about Proposition 8 and without regard to whether the  
22 messages were actually disseminated or merely contemplated.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

24 In addition to their General Objections, Plaintiff-Intervenor further objects to this Request on  
25 the grounds that it is vague and ambiguous. Plaintiff-Intervenor further objects to this Request to the  
26 extent it calls for communications between the City Attorney's Office and its co-counsel in *Marriage*  
27 *Cases* and *Strauss v. Horton* and related litigation concerning such litigation on the grounds that such  
28 communications are protected by the attorney-client privilege and work product doctrines. Plaintiff-





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**PROOF OF SERVICE**

I, Martina Hassett, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above-entitled action. I am employed at the City Attorney's Office of San Francisco, Fox Plaza Building, 1390 Market Street, Seventh Floor, San Francisco, CA 94102.

On September 18, 2009, I served the following document(s):

**PLAINTIFF-INTERVENOR CITY AND COUNTY OF SAN FRANCISCO'S RESPONSES TO  
DEFENDANT-INTERVENORS' PROPOSITION 8 PROPONENTS' SECOND SET OF  
DOCUMENT REQUESTS**

on the following persons at the locations specified:

GIBSON, DUNN & CRUTCHER LLP  
1050 Connecticut Avenue, N.W.  
Washington, D.C. 20036  
T: (202) 955-8500  
F: (202) 467-0539  
*TOlson@gibsondunn.com*  
*MMcGill@gibsondunn.com*  
*ATayrani@gibsondunn.com*

*Attorneys for Plaintiffs Kristin M. Perry,  
Sandra B. Stier, Paul T. Katami, and Jeffrey J.  
Zarrillo*

BOIES, SCHILLER & FLEXNER LLP  
1999 Harrison Street, Suite 900  
Oakland, CA 94612  
T: (510) 874-1000  
F: (510) 874-1460  
*dboies@bsflp.com*  
*jgoldman@bsflp.com*  
*tuno@bsflp.com*  
*brichardson@bsflp.com*  
*rbettan@bsflp.com*  
*jischiller@bsflp.com*

*Attorneys for Plaintiffs Kristin M. Perry,  
Sandra B. Stier, Paul T. Katami, and Jeffrey J.  
Zarrillo*

GIBSON, DUNN & CRUTCHER LLP  
333 S. Grand Avenue  
Los Angeles, CA 90071  
T: (213) 229-7000  
F: (213) 229-7520  
*TBoutrous@gibsondunn.com*  
*CDusseault@gibsondunn.com*  
*TKapur@gibsondunn.com*  
*SMalzahn@gibsondunn.com*

*Attorneys for Plaintiffs Kristin M. Perry,  
Sandra B. Stier, Paul T. Katami, and Jeffrey J.  
Zarrillo*

GIBSON, DUNN & CRUTCHER LLP  
555 Mission Street, Suite 3000  
San Francisco, CA 94105  
T: (415) 393-8200  
F: (415) 393-8306  
*EDettmer@gibsondunn.com*  
*SPiepmeier@gibsondunn.com*  
*EMonagas@gibsondunn.com*  
*RJustice@gibsondunn.com*  
*MJanky@gibsondunn.com*

1 Kenneth C. Mennemeier  
2 Andrew W. Stroud  
3 MENNEMEIER, GLASSMAN & STROUD  
4 LLP  
5 980 9<sup>th</sup> Street, Suite 1700  
6 Sacramento, CA 95814-2736  
7 T: (916) 553-4000  
8 F: (916) 553-4011  
9 *kcm@mgsllaw.com*  
10 *gosling@mgsllaw.com*  
11 *aknight@mgsllaw.com*  
12 *lbailey@mgsllaw.com*  
13 *stroud@mgsllaw.com*

14 *Attorneys for The Administration Defendants*

15  
16 Judy W. Whitehurst  
17 THE OFFICE OF COUNTY COUNSEL  
18 500 West Temple Street, Rm. 652  
19 Los Angeles, CA 90012-2713  
20 T: (213) 974-1845  
21 F: (213) 617-7182  
22 *jwhitehurst@counsel.lacounty.gov*

23 *Attorneys for Defendant Dean C. Logan*  
24 *Registrar-Recorder/County Clerk,*  
25 *County of Los Angeles*

26  
27 Charles J. Cooper  
28 David H. Thompson  
COOPER AND KIRK, PLLC  
1523 New Hampshire Ave. N.W.  
Washington, D.C. 20036  
T: (910) 270-8768  
F: (202) 220-9601  
M: (202) 423-3237  
*ccooper@cooperkirk.com*  
*dthompson@cooperkirk.com*  
*hnielson@cooperkirk.com*  
*nmoss@cooperkirk.com*  
*ppatterson@cooperkirk.com*  
*jpanuccio@cooperkirk.com*  
*jcampbell@telladf.org*  
*BRaum@telladf.org*

*Attorneys for Defendants-Intervenors Prop 8*  
*Proponents and Protectmarriage.com*

in the manner indicated below:



**BY E-MAIL:** I sent true and correct copies of the above document in PDF format by e-mail to the above addresses.

Deputy Attorney General  
Government Law Section  
California Department of Justice  
455 Golden Gate Avenue, Suite 11000  
San Francisco, CA 94102-7004  
T: (415) 703-5970  
F: (415) 703-1234  
*Gordon.Burns@doj.ca.gov*  
*Tamar.Pachter@doj.ca.gov*

*Attorneys for Defendant Attorney General*  
*Edmund G. Brown Jr.*

Brian E. Washington  
Claude F. Kolm  
THE OFFICE OF THE COUNTY COUNSEL  
1221 Oak Street, Suite 450  
Oakland, CA 94612  
T: (510) 272-6700  
F: (510) 272-5020  
*Brian.washington@acgov.org*  
*Claude.kolm@acgov.org*  
*Lindsey.stern@acgov.org*  
*Judith.martinez@acgov.org*  
*Manuel.martinez@acgov.org*

*Attorneys for Defendant Patrick O'Connell*  
*Clerk-Recorder of the County of Alameda*

1 I declare under penalty of perjury pursuant to the laws of the State of California that the  
foregoing is true and correct.

2 Executed September 18, 2009, at San Francisco, California.

3 /s/

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Martina Hassett

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