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

18 \* Admitted *pro hac vice*

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

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

22  
 23 Plaintiffs,

24 v.

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

CASE NO. 09-CV-2292 VRW

**DEFENDANT-INTERVENORS'  
 DENNIS HOLLINGSWORTH, GAIL  
 KNIGHT, MARTIN GUTIERREZ,  
 MARK JANSSON, AND  
 PROTECTMARRIAGE.COM'S  
 MOTION FOR A STAY PENDING  
 PETITION FOR WRIT OF  
 MANDAMUS**

Date: January 11, 2010

Time: 10:00 a.m.

Judge: Chief Judge Vaughn R. Walker

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

Location: Courtroom 6, 17th Floor

Defendants,

and

10 PROPOSITION 8 OFFICIAL PROPONENTS  
11 DENNIS HOLLINGSWORTH, GAIL J.  
12 KNIGHT, MARTIN F. GUTIERREZ, HAK-  
13 SHING WILLIAM TAM, and MARK A.  
14 JANSSON; and PROTECTMARRIAGE.COM –  
15 YES ON 8, A PROJECT OF CALIFORNIA  
16 RENEWAL,

Defendant-Intervenors.

17 Additional Counsel for Defendant-Intervenors

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\* Admitted *pro hac vice*

1           **TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:** PLEASE TAKE  
2 NOTICE that on January 11, 2010 at 8:30 a.m., or at anytime the Court may hear the matter before that  
3 date, before the Honorable Vaughn R. Walker, United States District Court, Northern District of  
4 California, 450 Golden Gate Avenue, San Francisco, California, Defendant-Intervenors will move the  
5 Court for a stay pending resolution of their petition for writ of mandamus.  
6

7           For the following reasons, Defendant-Intervenors respectfully seek a stay of the Court's order  
8 directing that the trial proceedings in this case will be recorded and webcast on the Internet.

9           The issue to be decided is: Are Defendant-Intervenors entitled to a stay pending resolution of a  
10 petition for writ of mandamus?  
11

12           On January 6, 2010, the Court ordered that the trial proceedings in this case would be  
13 recorded and made available for a "webcast" on YouTube. Four factors inform whether a federal  
14 court should issue a stay pending appellate review: (1) the appellants' likelihood of success on the  
15 merits; (2) the possibility of irreparable harm absent a stay; (3) the possibility of substantial injury  
16 to other parties if a stay is issued; and (4) the public interest. *See Golden Gate Rest. Ass'n v. San*  
17 *Francisco*, 512 F.3d 1112, 1115 (9th Cir. 2008) (citing *Hilton v. Braunskill*, 481 U.S. 770, 776  
18 (1987)). For the reasons Proponents have already stated to this Court, and for the reasons  
19 explained in the attached petition for writ of mandamus or prohibition (Ex. 1), the Court's order is  
20 contrary to law and thus Proponents are correct on the merits of their challenge. Also for reasons  
21 previously stated, and for the reasons stated in the attached mandamus petition, Proponents will be  
22 irreparably harmed if the trial proceedings, due to commence on January 11, 2010, are publicly  
23 broadcast. The other parties to this action will not be substantially injured if a stay is issued, as  
24 there is no right to public broadcast of a trial and, indeed, public broadcast—as explained by the  
25 Judicial Conference of the United States—is likely to negatively affect the fairness of a trial. The  
26  
27  
28

1 public interest weighs heavily in favor of fair trials in the federal courts, and in favor of federal  
2 courts' following the proper, legal procedures in promulgating rules of practice. The public  
3 interest in access to the trial will not be diminished by a stay because, as explained in the attached  
4 petition, there is no public right to public broadcast of a trial and the trial here will remain open to  
5 the public and the press.  
6

7 **CONCLUSION**

8 For the foregoing reasons, the Court should grant this motion for a stay.

9  
10 Dated: January 8, 2010

COOPER AND KIRK, PLLC  
ATTORNEYS FOR DEFENDANTS-INTERVENORS  
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8, A PROJECT OF CALIFORNIA RENEWAL

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13 By: /s/Charles J. Cooper  
14 Charles J. Cooper  
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