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

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

CASE NO. 09-CV-2292 VRW

**PLAINTIFFS' MOTION TO SHORTEN  
TIME FOR PLAINTIFFS'  
ADMINISTRATIVE MOTION TO SEAL  
DOCUMENTS PURSUANT TO CIVIL  
LOCAL RULE 6-3 AND PLAINTIFFS'  
MOTION FOR LEAVE TO REOPEN  
DEPOSITION OF RONALD PRENTICE**

Trial Date: January 11, 2010  
Judge: Chief Judge Walker  
Location: Courtroom 6, 17th Floor

**NOTICE OF MOTION AND MOTION**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that pursuant to Local Rule 6-3 Plaintiffs will and hereby do move this Court for an Order shortening the time within which the Court may hear Plaintiffs' Administrative Motion to Seal Documents and Motion for Leave to Reopen the Deposition of Ronald Prentice in his Personal Capacity and .as the Rule 30(b)(6) Representative for ProtectMarriage.com.

Pursuant to Northern District of California Civil Local Rules ("Civil Local Rules") 7-11 and 79-5(d), and the Protective Order entered in this action on January 7, 2010, *see* Doc #361, Plaintiffs have concurrently filed a motion for administrative relief to file the following documents, or portions thereof, under seal because they have been designated "Highly Confidential" by Proponents or they describe documents that have been designated "Highly Confidential" by Proponents:

- Plaintiffs' Motion for Leave to Reopen the Deposition of Ronald Prentice in his Personal Capacity and as the Rule 30(b)(6) Representative for ProtectMarriage.com ("Motion for Leave to Reopen the Deposition of Ronald Prentice");
- DEFINT\_PM\_025241-025242 (Exhibit C to Declaration of Rebecca Justice Lazarus in Support of Plaintiffs' Motion to Reopen the Deposition of Ronald Prentice);
- DEFINT\_PM\_005385-005399 (Exhibit D to Declaration of Rebecca Justice Lazarus in Support of Plaintiffs' Motion to Reopen the Deposition of Ronald Prentice);
- DEFINT\_PM\_013429 (Exhibit F to Declaration of Rebecca Justice Lazarus in Support of Plaintiffs' Motion to Reopen the Deposition of Ronald Prentice); and
- DEFINT\_PM\_005745-005746 (Exhibit H to Declaration of Rebecca Justice Lazarus in Support of Plaintiffs' Motion to Reopen the Deposition of Ronald Prentice).

Civil Local Rule 79-5(d) provides that: "If a party wishes to file a document that has been designated confidential by another party pursuant to a protective order, or if a party wishes to refer in a memorandum or other filing to information so designated by another party, the submitting party must file and serve an Administrative Motion for sealing order . . . ." The Rule requires that the designating party file and serve "a declaration with the Court establishing that the designated information is sealable, and must lodge and serve a narrowly tailored sealing order, or must withdraw

1 the designation of confidentiality” within seven days after the submitting party files its  
2 Administrative Motion.

3 Pursuant to Rule 30(a)(2)(A)(ii) of the Federal Rules of Civil Procedure, this Court’s January  
4 8, 2010 Order, and this Court’s rulings at the hearing held on January 6, 2010 by Magistrate Judge  
5 Spero, Plaintiffs have also concurrently filed a Motion for Leave to Reopen the Deposition of Ronald  
6 Prentice in his Personal Capacity and .as the Rule 30(b)(6) Representative for ProtectMarriage.com.

7 Plaintiffs have concurrently submitted the Administrative Motion because they wish to file  
8 above-referenced documents in support of their Motion for Leave to Reopen the Deposition of  
9 Ronald Prentice. Plaintiffs have concurrently submitted the Motion for Leave to Reopen the  
10 Deposition of Ronald Prentice because Proponents have recently produced documents in response to  
11 this Court’s January 8, 2010 order that contains new information that Plaintiffs were not aware of at  
12 the time Mr. Prentice was originally deposed in December 2009.

13 Given the ongoing trial, Plaintiffs request that the Court order that Proponents file and serve  
14 the declaration required under Rule 79-5 in response to Plaintiffs’ Administrative Motion no later  
15 than January 19, 2010 by 12:00 PM and that the Court issue an order concerning the treatment of the  
16 documents as soon as possible thereafter. Plaintiffs request that the Court also Order Proponents to  
17 file any opposition to Plaintiffs’ Motion for Leave to Reopen Deposition of Ronald Prentice no later  
18 than 5:00 p.m. on January 19, 2010.

19 This motion is based upon this Notice of Motion; the following Memorandum of Points and  
20 Authorities; the concurrently filed Declaration of Rebecca Justice Lazarus in support; the complete  
21 files in these actions; the concurrently filed Administrative Motion to Seal Documents; the  
22 concurrently filed Motion for Leave to Reopen the Deposition of Ronald Prentice; argument of  
23 counsel; and such other and further matters as this Court may consider.

#### 24 **MEMORANDUM OF POINTS AND AUTHORITIES**

25 Federal Rule of Civil Procedure 6(c) allows the court to order a motion to be heard on an  
26 accelerated basis “for good cause.” Fed. R. Civ. P. 6(c)(1)(C). Moreover, Civil Local Rule 6-3(a)(3)  
27 provides that a court may shorten time if “substantial harm or prejudice . . . would occur if the Court  
28 did not change the time . . . .”

1 Given the ongoing trial, Plaintiffs request that the Court issue an order concerning the  
2 treatment of the document as soon as practicable so that this Court may consider and rule on the  
3 pending Motion for Leave to Reopen the Deposition of Ronald Prentice. Pursuant to this Court's  
4 January 8, 2010 Order, *see* Doc #372, Proponents have made several rolling productions of  
5 documents to Plaintiffs between January 10 and 17, 2010. Based on Plaintiffs' review of these  
6 documents, Plaintiffs seek to reopen the deposition Mr. Prentice and also request that the Court issue  
7 an Order regarding the deadline for any opposition by Proponents to Plaintiffs' Motion for Leave to  
8 Reopen Deposition of Ronald Prentice no later than 5:00 p.m. on January 19, 2010.

9 Proponents were notified by email on the morning of January 19, 2010, of Plaintiffs' intention  
10 to seek relief in the form of this motion to shorten time. *See* Decl. of Rebecca Justice Lazarus in  
11 Supp. of Pls.' Mot. to Shorten Time at ¶ 4, Exh. A. Allowing the procedure for filing documents  
12 designated confidential by another party to run its course would force Plaintiffs to wait seven days for  
13 Proponents' response: such a delay would significantly impede Plaintiffs' ability to plan and present  
14 their case. It is imperative that Plaintiffs receive a determination as to whether Plaintiffs will be  
15 allowed to reopen the deposition of Mr. Prentice and use such testimony as evidence in trial.

16  
17 Respectfully submitted,

18 DATED: January 19, 2010

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25 By: \_\_\_\_\_ /s/  
Ethan Dettmer

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and

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**DECLARATION OF SERVICE**

I, Robin McBain, declare as follows:

I am employed in the County of San Francisco, State of California; I am over the age of eighteen years and am not a party to this action; my business address is 555 Mission St., Suite 3000, San Francisco, California, 94105, in said County and State. On January 19, 2010, I served the within:

**PLAINTIFFS' MOTION TO SHORTEN TIME FOR PLAINTIFFS' ADMINISTRATIVE MOTION FOR SEALING ORDER; DECLARATION OF REBECCA JUSTICE LAZARUS IN SUPPORT; [PROPOSED] ORDER**

to all named parties as follows:



**BY ECF (ELECTRONIC CASE FILING):** Where specified below, I e-filed the above-detailed documents utilizing the United States District Court, Northern District of California's mandated ECF (Electronic Case Filing) service on January 15, 2010. Counsel of record are required by the Court to be registered e-filers, and as such are automatically e-served with a copy of the documents upon confirmation of e-filing.



**BY ELECTRONIC MAIL (E-MAIL):** On the above-mentioned date, I caused a true .PDF copy of the above-referenced document[s] to be transmitted by electronic mail to Charles Cooper ( ) at the indicated e-mail address. I am readily familiar with this office's practice for transmissions by e-mail. Transmissions are sent as soon as possible and are repeated, if necessary, until they are reported as completed and without error. In sending the foregoing document by e-mail, I followed this office's ordinary business practices. The sending e-mail address is RMcBain@gibsondunn.com.

I certify under penalty of perjury that the foregoing is true and correct, that the foregoing document(s) were printed on recycled paper, and that this Declaration of Service was executed by me on January 19, 2010, at San Francisco, California.

/s:/Robin McBain

Robin McBain