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8 Attorneys for Third-Party, Equality California

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA  
 11 SAN FRANCISCO DIVISION

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

14 Plaintiffs,

15 v.

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

22 Defendants,

23 and

24 PROPOSITION 8 OFFICIAL PROPONENTS  
 DENNIS HOLLINGSWORTH, GAIL J. KNIGHT,  
 25 MARTIN F. GUTIERREZ, HAK-SHING  
 WILLIAM TAM, and MARK A. JANSSON; and  
 26 PROTECTMARRIAGE.COM – YES ON 8, A  
 PROJECT OF CALIFORNIA RENEWAL,

27 Defendant-Intervenors.  
28

Case No. 09-CV-2292 VRW

**SUPPLEMENTAL DECLARATION  
 OF JAMES BRIAN CARROLL IN  
 SUPPORT OF EQUALITY  
 CALIFORNIA'S OPPOSITION TO  
 MOTION TO COMPEL**

Trial: January 11, 2010  
 Judge: Chief Judge Vaughn R. Walker  
 Location: Courtroom 6, 17th Floor

FENWICK & WEST LLP  
 ATTORNEYS AT LAW  
 SAN FRANCISCO

FENWICK & WESS, LLP  
ATTORNEYS AT LAW  
SAN FRANCISCO, CA

1 I, James Brian Carroll, hereby declare:

2 1. I am the Managing Director of third party Equality California (EQCA). I have  
3 personal knowledge of the facts stated below and, if called upon as a witness, could testify  
4 competently to such facts.

5 2. As described in the declaration of Geoff Kors submitted to the Court on February  
6 22, 2010, and which I herein incorporate by reference as it pertains to the structure of Equality for  
7 All, the Equality for All campaign involved over 100 member organizations and discussion of  
8 campaign strategy and messaging took place at many levels of the campaign.

9 3. EQCA was one of the member organizations of the No on 8 Equality for All  
10 Campaign Committee. Members of the Campaign Committee engaged in open, spirited and wide  
11 ranging discussion of the issues involved in the No on 8 campaign including the strategy  
12 employed by the proponents of Proposition 8, how to respond to the Yes on 8 campaign regarding  
13 the effect of Proposition 8, how to target discrete groups of voters with appropriate messaging,  
14 and potential targets for fundraising for the campaign. The issues in the campaign were deeply  
15 personal for many of us and our discussions touched on very deeply held views and beliefs.

16 4. It is my opinion that the ability to freely express our individual views and debate  
17 how to best communicate those views to the voters played an invaluable role in the campaign.  
18 Vigorous debate took place at all levels of the campaign, during meetings and over email. Those  
19 debates were essential to determining the campaign strategy and messaging adopted by the  
20 campaign. I also personally engaged in frank discussions with people at all levels of the  
21 campaign – it was vital that people tasked with carrying out specific strategies had a full  
22 understanding of what they were being asked to do. If I had known that my communications  
23 could become public or could be provided to our opponents in the campaign I would not have  
24 expressed myself so freely. Public dissemination of those communications will undoubtedly limit  
25 the ability of large and diverse campaigns to vigorously debate the issues, will limit expression of  
26 my views and will undoubtedly prevent the free flow of information in future political campaigns.

27 5. While those of us in leadership roles in LGBT organizations are comfortable with  
28 being publicly affiliated with LGBT causes, some individuals provided valuable advice regarding

1 campaign strategy prefer to remain anonymous. Public disclosure of communications with such  
 2 individuals would limit EQCA's ability to communicate with individuals who fear that public  
 3 affiliation with LGBT causes would have a negative impact on their professional lives.

4 6. While the litigation over Proposition 8 continues, new efforts are underway to  
 5 place another initiative regarding the right of same gender couples to marry on the ballot in  
 6 California. Disclosure of private internal communications regarding campaign strategy would be  
 7 very valuable to the opponents of the right of same gender couples to marry. Such disclosure  
 8 would inhibit the ability of future political campaign organizations to effectively recruit workers  
 9 and volunteer and would inhibit the free flow of information among campaign staff and  
 10 volunteers. In this case, while EQCA and the other third parties involved in the campaign will  
 11 not have access to any documents produced by the defendants to the plaintiffs in this litigation,  
 12 the very people who placed Proposition 8 on the ballot and could likely be involved in future  
 13 campaigns would have access to any documents produced by EQCA.

14 7. EQCA has been involved in many political campaigns in the past and continues to  
 15 work for ballot initiatives that advance the cause of equal rights for the LGBT community.  
 16 However, the prospect of being required to gather, search, review, log and produce tens of  
 17 thousands of documents as a result of litigation after each campaign would severely limit  
 18 EQCA's ability to advocate for the rights of the LGBT community in this manner. This exercise  
 19 would require a significant investment of time and money on the part of EQCA.

20 8. EQCA has a webpage which identifies certain donors to the organization. One of  
 21 the donors to EQCA, Jim Abbott of Abbott & Associates and Abbott Realty Group, received a  
 22 letter from the Executive Committee of Yes on 8 ProtectMarriage.com during the Proposition 8  
 23 campaign. The letter asked Abbott & Associates and Abbott Realty Group to withdraw its  
 24 support of EQCA and donate "a like amount" to ProtectMarriage.com. If Abbott & Associates  
 25 and Abbott Realty Group did not comply, ProtectMarriage.com would publish their names.  
 26 While donors to EQCA are publicly identified and the threat of exposure is not as significant as  
 27 for advisors who wish to remain anonymous, no business wants to be targeted by an organization  
 28 claiming to represent a majority of the population. Disclosure of internal EQCA emails could



1 result in further contacts from organizations such as ProtectMarriage.com and would make it  
2 more challenging for EQCA to recruit new supporters and build positive relationships with  
3 current supporters. Attached as Exhibit A is a true and correct copy of the letter sent by  
4 ProtectMarriage.com to Jim Abbott on October 20, 2008.

5  
6 I declare under penalty of perjury under the laws of the United States that the foregoing is  
7 true and correct. Executed on February 24, 2010 at San Francisco, California.

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10 James Brian Carroll

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