

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

BEFORE THE HONORABLE VAUGHN R. WALKER

KRISTIN M. PERRY, ET AL.	)	
	)	
PLAINTIFFS,	)	
	)	
VS.	)	NO. C 09-2292 VRW
	)	
ARNOLD SCHWARZENEGGER, ET	)	
AL.,	)	
	)	SAN FRANCISCO, CALIFORNIA
DEFENDANTS.	)	WEDNESDAY, APRIL 28, 2010
	)	

**TRANSCRIPT OF PROCEEDINGS**

**APPEARANCES:**

<b>FOR PLAINTIFFS</b>	GIBSON, DUNN & CRUTCHER, LLP 555 MISSION STREET SAN FRANCISCO, CALIFORNIA 94105
<b>BY:</b>	<b>CHRISTOPHER D. DUSSEAULT, ESQUIRE</b> <b>ENRIQUE A. MONAGAS, ESQUIRE</b>

<b>FOR PROPOSITION 8 OFFICIAL PROPONENTS</b>	COOPER & KIRK 1523 NEW HAMPSHIRE, N.W. WASHINGTON, D.C. 20036
<b>BY:</b>	<b>JESSE PANUCCIO, ESQUIRE</b>

<b>FOR ACLU FOUNDATION OF NORTHERN CALIFORNIA</b>	ORRICK, HERRINGTON & SUTCLIFFE 405 HOWARD STREET SAN FRANCISCO, CALIFORNIA 94105
<b>BY:</b>	<b>STEPHEN V. BOMSE, ESQUIRE</b> <b>ELIZABETH O. GILL, ESQUIRE</b>

(FURTHER APPEARANCES ON FOLLOWING PAGE)

**REPORTED BY: JOAN MARIE COLUMBINI, CSR #5435, RPR**  
**OFFICIAL COURT REPORTER, U.S. DISTRICT COURT**

1 APPEARANCES (CONTINUED) :

2 **FOR CALIFORNIA**  
3 **ATTORNEY GENERAL**

STATE OF CALIFORNIA  
DEPARTMENT OF JUSTICE  
OFFICE OF THE ATTORNEY GENERAL  
455 GOLDEN GATE AVENUE, SUITE 11000  
SAN FRANCISCO, CALIFORNIA 94102

5 **BY: TAMAR PACHTER**  
**DEPUTY ATTORNEY GENERAL**

6 **FOR EQUALITY**  
7 **CALIFORNIA**

FENWICK & WEST  
555 CALIFORNIA STREET  
SAN FRANCISCO, CALIFORNIA 94104

8 **BY: LYNN PASAHOW, ESQUIRE**  
**LESLIE KRAMER, ESQUIRE**

9  
10 **FOR CITY AND COUNTY**  
11 **OF SAN FRANCISCO**

DENNIS J. HERRERA  
OFFICE OF THE CITY ATTORNEY  
1300 MARKET STREET, SEVENTH FLOOR  
SAN FRANCISCO, CALIFORNIA

12 **BY: RONALD P. FLYNN, ESQUIRE**  
**MOLLIE LEE, ESQUIRE**

13 **FOR ADMINISTRATIVE**  
14 **DEFENDANTS**

MENNEMEIER, GLASSMAN & STROUD  
980 NINTH STREET, SUITE 1700  
SACRAMENTO, CALIFORNIA 95814

15 **BY: ANDREW W. STROUD, ESQUIRE**

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PROCEEDINGS; WEDNESDAY, APRIL 28, 2010

**THE CLERK:** CALLING CIVIL CASE 09-2292, KRISTIN M. PERRY, ET AL. VERSUS ARNOLD SCHWARZENEGGER, ET AL.

WILL COUNSEL STATE YOUR APPEARANCES?

**MR. BOMSE:** GOOD MORNING, YOUR HONOR. STEPHEN BOMSE AND ELIZABETH GILL FOR THE ACLU.

**THE COURT:** GOOD MORNING, MR. BOMSE.

**MR. BOMSE:** THANK YOU, YOUR HONOR.

**MR. PASAHOW:** GOOD MORNING, YOUR HONOR. LYNN PASAHOW AND LESLIE KRAMER FOR EQUALITY CALIFORNIA.

**THE COURT:** MR. PASAHOW.

**MR. PANUCCIO:** GOOD MORNING, YOUR HONOR. JESSE PANUCCIO FOR DEFENDANT INTERVENORS.

**THE COURT:** MR. PANUCCIO, GOOD MORNING.

**MR. DUSSEAULT:** GOOD MORNING, YOUR HONOR. CHRIS DUSSEAULT AND ENRIQUE MONAGAS ON BEHALF OF THE PLAINTIFFS.

**THE COURT:** MR. DUSSEAULT.

**MR. FLYNN:** GOOD MORNING, YOUR HONOR. RON FLYNN AND MOLLIE LEE ON BEHALF OF PLAINTIFF INTERVENORS, CITY AND COUNTY OF SAN FRANCISCO.

**THE COURT:** MR. FLYNN, GOOD MORNING.

**MS. PACTER:** GOOD MORNING, YOUR HONOR. DEPUTY ATTORNEY GENERAL TAMAR PACTER ON BEHALF OF THE CALIFORNIA ATTORNEY GENERAL.

1           **THE COURT:** GOOD MORNING.

2           ANY OTHER APPEARANCES?

3           **MR. STROUD:** YES, YOUR HONOR. THIS IS ANDREW STROUD,  
4 MENNEMEIER, GLASSMAN & STROUD, APPEARING ON BEHALF OF THE  
5 ADMINISTRATION DEFENDANTS.

6           **THE COURT:** THAT IS THE GOVERNOR?

7           **MR. STROUD:** YES, YOUR HONOR.

8           **THE COURT:** ALL RIGHT.

9           **MR. STROUD:** THANK YOU.

10          **THE COURT:** VERY WELL.

11          LET ME ASK MR. PANUCCIO AND MR. DUSSEAULT: IN VIEW  
12 OF THE COMMUNICATION WHICH THE COURT RECEIVED YESTERDAY FROM THE  
13 OBJECTORS, OR THE NO ON 8 GROUPS, HAVE THEY COMPLIED WITH THE  
14 MARCH 5 AND MARCH 22 ORDERS? MR. DUSSEAULT?

15          **MR. DUSSEAULT:** THANK YOU, YOUR HONOR.

16          WE HAVE NOT YET ACTUALLY SEEN THE DOCUMENTS THAT WERE  
17 PRODUCED. THEY WERE SENT BY OVERNIGHT DELIVERY TODAY, AND  
18 APPARENTLY HAVE BEEN RECEIVED AT MY OFFICE, BUT COUNSEL HAS  
19 REPRESENTED THEY ARE IN FULL COMPLIANCE WITH THE ORDERS, AND WE  
20 HAVE NO REASON TO QUESTION THAT, YOUR HONOR. WE ARE HOPEFUL  
21 THAT AT THIS POINT WE CAN, THEREFORE, MOVE FORWARD.

22          **THE COURT:** MR. PANUCCIO.

23          **MR. PANUCCIO:** THANK YOU, YOUR HONOR.

24          LIKewise, I DID NOT -- THE E-MAIL COMMUNICATION OR  
25 THE LETTER COMMUNICATION COMMISSION CAME WHILE I WAS ACTUALLY ON

1 THE PLANE OUT HERE, SO I HAVE NOT SEEN ANY OF THESE DOCUMENTS.

2 **THE COURT:** YOU WERE COMING HERE, AND THE DOCUMENTS  
3 WERE GOING THERE.

4 **MR. PANUCCIO:** EXACTLY. THEY, ACTUALLY, WENT TO TWO  
5 PLACES. ONE SET OF DOCUMENTS HAVE GONE TO ARIZONA --

6 **THE COURT:** YOU HAVE SOME COLLEAGUES ON THE EAST  
7 COAST WHO CAN OPEN UP THE --

8 **MR. PANUCCIO:** YES, THIS IS TRUE.

9 WE HAVE NOT BEEN THROUGH THE DOCUMENTS YET. BUT,  
10 AGAIN, THE REPRESENTATION HAS BEEN THERE HAS BEEN COMPLIANCE.

11 I WOULD JUST NOTE, ON THE FACE OF THE LETTER, FROM  
12 THE ACLU ANYWAY, IT'S CLEAR THAT OF THE 25- TO 60,000 DOCUMENTS  
13 THEY REPRESENTED THAT WOULD BE RESPONSIVE TO THE SUBPOENAS, THEY  
14 HAVE PRODUCED ABOUT 400 PAGES OF DOCUMENTS. THAT SEEMS LIKE A  
15 SMALL PORTION GIVEN THE AMOUNT THAT THEY HAD TO REVIEW, ALTHOUGH  
16 IT MAY BE A CONSEQUENCE OF THEIR UNILATERALLY CHOOSING THE  
17 SEARCH TERMS, AS WE PREVIOUSLY OBJECTED TO --

18 **THE COURT:** THEIR WHAT?

19 **MR. PANUCCIO:** THEIR UNILATERALLY CHOOSING THE SEARCH  
20 TERMS THEY WOULD USE FOR THEIR DOCUMENTS, WHICH HAS BEEN THE  
21 SUBJECT OF PREVIOUS OBJECTIONS, BUT WE HAVE NO REASON TO  
22 QUESTION THE REPRESENTATIONS THAT HAVE BEEN MADE.

23 **THE COURT:** WELL, MR. BOMSE, MR. PASAHOW, WHAT LIGHT  
24 CAN YOU SHED ON THIS?

25 **MR. BOMSE:** YOUR HONOR, WE HAVE, AS WE INDICATED IN

1 OUR SUBMISSION TO THE COURT YESTERDAY, PRODUCED THE DOCUMENTS  
2 RESPONSIVE TO THE MARCH 5TH ORDER, AS CONFIRMED BY YOUR HONOR.  
3 THE REPRESENTATION WAS NEVER MADE THAT THERE WAS ANYWHERE CLOSE  
4 TO THAT NUMBER OF RESPONSIVE DOCUMENTS.

5 THE REPRESENTATION THAT WAS MADE, AT LEAST AS FAR AS  
6 THE ACLU WAS CONCERNED, WAS THAT THAT NUMBER OF DOCUMENTS WOULD  
7 NEED TO BE REVIEWED. THEY WERE REVIEWED, AND DOCUMENTS THAT ARE  
8 RESPONSIVE UNDER THE MARCH 5TH ORDER HAVE BEEN PRODUCED.

9 **THE COURT:** THAT'S YOUR REPRESENTATION TO THE COURT.

10 **MR. BOMSE:** IT IS MY REPRESENTATION TO THE COURT,  
11 YOUR HONOR.

12 **THE COURT:** ALL RIGHT. MR. PASAHOW?

13 **MR. PASAHOW:** YES, YOUR HONOR. FOLLOWING THE VERY  
14 EXACT PRESCRIPTION OF THE MARCH 5TH ORDER, MY FIRM'S I.T.  
15 DEPARTMENT REVIEWED FIRST ELECTRONICALLY THE DOCUMENTS ON THE  
16 SERVER THAT WE WERE DIRECTED TO SEARCH. THOSE DOCUMENTS WERE  
17 THEN -- THE HITS OF THOSE DOCUMENTS WERE THEN REVIEWED BY PEOPLE  
18 TO MAKE SURE THEY MET THE SUBJECT MATTER QUALIFICATION, AND  
19 THOSE DOCUMENTS HAVE ALL BEEN PRODUCED.

20 SO WE BELIEVE WE HAVE COMPLIED EXACTLY WITH THE  
21 MAGISTRATE JUDGE'S PRESCRIPTION OF WHAT WAS TO BE PRODUCED.

22 **THE COURT:** THAT IS YOUR REPRESENTATION TO THE COURT,  
23 IS IT?

24 **MR. PASAHOW:** YES, YOUR HONOR.

25 **THE COURT:** OKAY. HOW LONG, MR. DUSSEAULT AND

1 MR. PANUCCIO, DO YOU THINK YOU NEED TO REVIEW THESE DOCUMENTS TO  
2 DETERMINE WHETHER, IN YOUR VIEW, THERE HAS BEEN COMPLIANCE WITH  
3 THE ORDERS?

4 **MR. DUSSEAULT:** YOUR HONOR, I DON'T THINK IT WOULD  
5 TAKE A LOT OF TIME. AND I THINK, IN THE INTEREST OF ALL  
6 PARTIES, WE WOULD LIKE TO MOVE FORWARD AS QUICKLY AS WE COULD.

7 WHAT I WOULD SUGGEST IS WE SET A DEADLINE OF ONE WEEK  
8 FROM TODAY, MAY 5TH, AS THE DEADLINE FOR ANY SHOWING OF ANY  
9 DOCUMENTS THAT OUGHT TO BE CONSIDERED FOR SUPPLEMENTATION OF THE  
10 RECORD, GIVEN THAT THE PREVIOUS DEADLINE THAT WAS SET FOR THAT  
11 WAS DURING THE PERIOD -- WAS DELAYED GIVEN THE LACK OF  
12 PRODUCTION PREVIOUSLY.

13 **THE COURT:** MR. PANUCCIO, WHAT SUGGESTION DO YOU HAVE  
14 IN THAT REGARD?

15 **MR. PANUCCIO:** THANK YOU, YOUR HONOR.

16 WELL, I WOULD JUST NOTE, TO START, AGAIN, WE KNOW  
17 FROM THE FACE OF THE ACLU'S LETTER, THE QUANTITY OF DOCUMENTS,  
18 AND CERTAINLY THAT WOULD NOT TAKE US VERY LONG TO REVIEW. IT'S  
19 ABOUT 400 DOCUMENTS. SO A WEEK IS CERTAINLY SUFFICIENT FOR  
20 THAT.

21 I SUPPOSE I WOULD JUST HAVE A QUESTION FROM MY  
22 FRIENDS FROM EQUALITY CALIFORNIA, WHICH IS HOW MANY -- DO THEY  
23 KNOW HOW MANY DOCUMENTS THEY'VE SENT ALONG? I'M JUST NOT  
24 ADVISED OF THAT NUMBER YET, AND I WOULD BE ABLE TO GIVE YOU A  
25 BETTER ANSWER IF I KNEW THAT.

1           **THE COURT:** MR. PASAHOW.

2           **MR. PASAHOW:** I BELIEVE IT IS IN THE RANGE OF 4500  
3 PAGES.

4           **THE COURT:** OKAY.

5           **MR. BOMSE:** YOUR HONOR, IF I MAY? THERE SEEMS TO BE  
6 A MODEST MISUNDERSTANDING WHICH I'M -- I UNDERSTAND HOW  
7 MR. PANUCCIO WOULD HAVE HAD IT. BUT THE NUMBER OF DOCUMENTS  
8 THAT WE ACTUALLY PRODUCED WERE APPROXIMATELY 450 ADDITIONAL  
9 PAGES, PLUS SOME ONE THOUSAND E-MAILS WHICH ARE NOT IN A FORM  
10 THAT THEY CAN BE COUNTED AS PAGES, BUT THAT IS THE NATURE OF THE  
11 PRODUCTION THAT WAS MADE YESTERDAY AND WHICH I REPRESENTED TO  
12 THE COURT CONSTITUTES COMPLIANCE WITH THE MARCH 5TH ORDER.

13           **MR. PANUCCIO:** I'M JUST ADDING IN MY HEAD.

14           I APOLOGIZE FOR THE MISUNDERSTANDING. I WAS JUST  
15 GOING ON THE BATES NUMBER IN THE LETTER, BUT I UNDERSTAND HOW  
16 THAT HAPPENS.

17           I THINK THE ORIGINAL ORDER CONTEMPLATED THAT WE WOULD  
18 HAVE 12 DAYS FROM THE FINAL INSTALLMENT OF A ROLLING PRODUCTION  
19 SO THAT WE WOULD HAVE HAD TIME IN ADVANCE OF THAT. WE THINK  
20 SOMETHING SIMILAR TO THAT WOULD BE REASONABLE. AT LEAST A WEEK,  
21 CERTAINLY WITHIN TWO WEEKS I THINK THIS COULD BE DONE. JUST OFF  
22 THE TOP OF MY HEAD, IT SOUNDS LIKE THERE ARE 5- TO 6000  
23 DOCUMENTS, PERHAPS. SO ASSUMING WE COULD REVIEW --

24           **THE COURT:** HERE'S WHAT I WAS THINKING. LET ME LAY  
25 OUT THE SCHEDULE THAT I HAD IN MIND AND SEE HOW THAT FITS WITH



1 THE PRACTICALITIES THAT YOU CONFRONT.

2 I WAS THINKING ABOUT GIVING MR. DUSSEAULT AND  
3 MR. PANUCCIO UNTIL MAY 3 TO DETERMINE -- WELL, NO, ACTUALLY,  
4 HERE IS, I THINK, PERHAPS A BETTER SCHEDULE:

5 THAT THE PLAINTIFFS AND THE PROPONENT WILL HAVE UNTIL  
6 FRIDAY OF THIS WEEK, THAT IS APRIL 30, WITHIN WHICH TIME TO  
7 CONFIRM OR TO DENY THAT THE NO ON 8 GROUPS' PRODUCTION COMPLIES  
8 WITH THE MARCH 5TH AND MARCH 22ND ORDERS.

9 IF, BY THAT TIME, THEY INDICATE THAT, IN THEIR VIEW,  
10 THERE HAS NOT BEEN COMPLIANCE, THEN THE PARTIES ARE DIRECTED TO  
11 APPEAR HERE ON MONDAY, MAY 3, AT 10:00 A.M. FOR A FURTHER  
12 HEARING ON THE ORDER TO SHOW CAUSE RE: CONTEMPT.

13 IF THE PLAINTIFFS AND THE PROPONENTS DETERMINE THAT  
14 THERE HAS BEEN COMPLIANCE, THEN THE PROPONENTS WILL HAVE UNTIL  
15 MAY 5 AT NOON TO SERVE AND FILE A SUPPLEMENT TO THE EVIDENTIARY  
16 RECORD WHICH THEY INTEND TO OFFER TO THE COURT.

17 THEN THE PLAINTIFFS WILL HAVE UNTIL MAY 7, AT WHICH  
18 TIME THEY MAY FILE OBJECTIONS TO THE PROPONENTS' NEW OFFERED  
19 EVIDENCE, AT WHICH TIME THE PROPONENTS' PROFFER AND THE  
20 PLAINTIFFS' OBJECTIONS WILL BE SUBMITTED, AND THE EVIDENTIARY  
21 RECORD WILL BE CLOSED IN THIS CASE.

22 NOW, I'M ALSO INCLINED AT THIS TIME TO SET A SCHEDULE  
23 WITH RESPECT TO THE PROPONENTS' MOTION FOR RECONSIDERATION AND  
24 ALSO DR. TAM'S MOTION FOR RECONSIDERATION. BUT LET ME ASK,  
25 BEFORE WE SET THE REST OF THAT SCHEDULE.

1 MR. DUSSEAULT AND MR. PANUCCIO, IS WHAT I'VE OUTLINED  
2 WITH RESPECT TO THE NO ON 8 GROUPS' DOCUMENTS A PRACTICAL  
3 SCHEDULE IN YOUR VIEW? MR. DUSSEAULT?

4 **MR. DUSSEAULT:** YES, IT IS, YOUR HONOR.

5 **THE COURT:** MR. PANUCCIO?

6 **MR. PANUCCIO:** I SUPPOSE THE ONLY AMENDMENT I MIGHT  
7 MAKE IS IF WE COULD HAVE UNTIL THE END OF THE DAY ON MAY 5, I  
8 BELIEVE IT WAS, TO MAKE OUR SUBMISSION.

9 **THE COURT:** THIS COMING FRIDAY?

10 **MR. PANUCCIO:** I'M SORRY. ASSUMING THERE WAS  
11 COMPLIANCE, I BELIEVE THE SECOND DATE WAS THAT WE COULD MAKE THE  
12 EVIDENTIARY PROFFER ON MAY 5TH AT NOON, YOUR HONOR SAID.

13 **THE COURT:** OH, UNTIL 5:00 P.M. ON MAY 5, IS THAT --  
14 THAT'S FINE. OF COURSE.

15 **MR. PANUCCIO:** AND THEN MY ONLY OTHER QUESTION FOR  
16 YOUR HONOR WOULD BE WHETHER THE PROONENTS WOULD HAVE AN  
17 OPPORTUNITY TO RESPOND TO OBJECTIONS. I SUPPOSE IF THIS WERE IN  
18 A TRIAL SETTING AND A PARTY OBJECTED TO EVIDENCE COMING IN, WE  
19 WOULD HAVE SOME OPPORTUNITY TO MAKE A RESPONSE TO OBJECTIONS.

20 **THE COURT:** I THINK THAT'S FAIR. LET'S SEE.

21 THE PROONENTS WILL MAKE THEIR PROFFER ON MAY 5. THE  
22 PLAINTIFFS WILL SERVE AND FILE THEIR OBJECTIONS ON MAY 7. AND  
23 WOULD YOU LIKE UNTIL THE 11TH OR THE 12TH TO FILE A RESPONSE TO  
24 THE OBJECTIONS?

25 **MR. PANUCCIO:** THE 12TH WOULD BE FINE, YOUR HONOR.

1           **THE COURT:** WHAT'S THAT?

2           **MR. PANUCCIO:** THE 12TH WOULD BE, YES, GREAT, YOUR  
3 HONOR.

4           **THE COURT:** THAT WILL BE FINE.

5           **MR. PANUCCIO:** OKAY.

6           **THE COURT:** MAY 12 FOR THE PROPONENTS TO FILE THEIR  
7 REPLY TO THE PLAINTIFFS' OBJECTIONS.

8           **MR. PANUCCIO:** THANK YOU, YOUR HONOR.

9           **THE COURT:** AND AT WHICH POINT THEN THE EVIDENTIARY  
10 RECORD IN THE CASE WOULD BE CLOSED.

11           **MR. PANUCCIO:** THANK YOU, YOUR HONOR.

12           ONE FURTHER POINT, I'M SORRY.

13           **THE COURT:** SURE.

14           **MR. PANUCCIO:** WE DID, AT THE END OF TRIAL -- WE  
15 DON'T ANTICIPATE AT THIS POINT -- WELL, LET ME GO BACK AND SAY,  
16 AT THE END OF TRIAL WHEN MR. THOMPSON BROUGHT THIS ISSUE UP, HE  
17 SAID THERE MAY BE A NEED TO CALL WITNESSES ON A SUBJECT MATTER  
18 BASED ON WHAT THE DOCUMENTS SHOW. WE DON'T ANTICIPATE THAT AT  
19 THIS TIME, BUT I DON'T WANT MY -- WITHOUT HAVING -- WITHOUT OUR  
20 HAVING REVIEWED THE DOCUMENTS, I DON'T WANT MY AGREEMENT HERE TO  
21 THE SCHEDULE TO BE SEEN AS A WAIVER OF THAT RESERVATION AT THIS  
22 TIME.

23           **THE COURT:** ALL RIGHT. THAT'S FAIR ENOUGH. I WILL  
24 UNDERSTAND YOUR AGREEMENT TO THIS SCHEDULE IS CONSISTENT WITH  
25 THAT LIMITATION.

1           **MR. PANUCCIO:** THANK YOU, YOUR HONOR.

2           **THE COURT:** WELL, THAT BEING --

3           **MR. PASAHOW:** I'M SORRY, YOUR HONOR. ONE QUESTION  
4 ABOUT OUR MINOR PART OF THIS, AND THAT IS, IF THERE ARE  
5 OBJECTIONS ABOUT OUR PRODUCTION, SHOULD WE HAVE A MEET AND  
6 CONFER BUILT INTO THIS, BEFORE WE ALL WIND UP BACK BEFORE YOUR  
7 HONOR TO SEE IF WE CAN RESOLVE WHATEVER THE QUESTION IS?

8           **THE COURT:** WHY NOT MEET AND CONFER THAT MORNING OF  
9 THE 3RD?

10          **MR. PASAHOW:** THAT'S FINE, YOUR HONOR.

11           SO, WE WILL HEAR FROM THE PARTIES ABOUT ANY CONCERNS,  
12 THOUGH, BEFORE THEY FILE SOME OBJECTIONS?

13          **THE COURT:** YOU WILL HEAR ABOUT THAT ON FRIDAY, AND  
14 YOU CAN OBVIOUSLY CONFER BEFORE THE 3RD, WHICH IS MONDAY, BUT IF  
15 YOU'VE NOT BEEN ABLE TO WORK THINGS OUT, LET'S COME HERE AND SIT  
16 DOWN AND IF YOU NEED ANY JUDICIAL ASSISTANCE IN THIS ENDEAVOR.  
17 I'LL BE HAPPY TO TRY TO BE OF ASSISTANCE, OR THE MAGISTRATE  
18 JUDGE WILL TRY TO BE OF ASSISTANCE.

19           I'M HOPEFUL THAT WHAT WE WILL HEAR FROM THE  
20 PROPONENTS AND THE PLAINTIFFS ON FRIDAY IS THEIR VIEW THAT THERE  
21 HAS BEEN COMPLIANCE, AND, IN THAT EVENT, THEN I'LL DISCHARGE THE  
22 ORDER TO SHOW CAUSE.

23          **MR. BOMSE:** YOUR HONOR, I FULLY EXPECT THAT IS WHAT  
24 YOU WILL HEAR, BUT IN THE EVENT THAT THERE ARE QUESTIONS OR  
25 ISSUES, IT DOES SEEM TO ME THAT THERE IS SOME UTILITY IN HAVING

1 AN ACTUAL CONVERSATION, SUFFICIENT IN ADVANCE SO THAT IF THERE'S  
2 SOMETHING MORE THAT WE NEED TO DO, WE CAN HAVE IT DONE BY THE  
3 TIME WE APPEAR HERE ON MONDAY MORNING, OR OBTAIN THE NECESSITY  
4 FOR THAT APPEARANCE, AND I WAS GOING TO SUGGEST IF THE COURT  
5 COULD SET A SATURDAY MORNING CONVERSATION, THAT MIGHT BE USEFUL  
6 IN THE EVENT, WHICH, AS I SAY, I DON'T EXPECT TO HAPPEN.

7 **THE COURT:** A SATURDAY MORNING CONVERSATION AMONG THE  
8 LAWYERS?

9 **MR. BOMSE:** AMONG THE LAWYERS. ALTHOUGH WE HAVE  
10 RECEIVED ORDERS FROM YOUR HONOR OVER THE WEEKENDS SUGGESTING  
11 THAT YOU ARE NOT CONFINING YOUR WORKDAY TO MONDAY TO FRIDAY. WE  
12 CERTAINLY DON'T INTEND TO IMPOSE UPON YOUR HONOR'S SCHEDULE.  
13 THIS WAS MY SUGGESTION JUST FOR THE COUNSEL.

14 **THE COURT:** WELL, IS THAT AGREEABLE, MR. PANUCCIO?

15 **MR. PANUCCIO:** YES, YOUR HONOR.

16 **THE COURT:** AND MR. DUSSEAULT?

17 **MR. DUSSEAULT:** THAT'S FINE.

18 **THE COURT:** ALL RIGHT.

19 **MR. BOMSE:** THANK YOU VERY MUCH, YOUR HONOR.

20 **THE COURT:** ONE HOPES IT WILL NOT BE NECESSARY. IF  
21 IT IS, IT'S A GOOD IDEA. THANK YOU, MR. BOMSE.

22 ALL RIGHT. WELL, THE CLERK HAS REMINDED ME THAT SHE  
23 WOULD LIKE TO BE SURE THAT THE PROPONENTS AND THE PLAINTIFFS CAN  
24 FILE THEIR SUBMISSIONS BY NOON ON FRIDAY. IS THAT AGREEABLE,  
25 MR. DUSSEAULT AND MR. PANUCCIO?

1           **MR. DUSSEAULT:** YES.

2           **MR. PANUCCIO:** YES, YOUR HONOR.

3           **MR. DUSSEAULT:** YOUR HONOR, MAY WE CLARIFY WHICH  
4 FRIDAY?

5           **THE COURT:** FRIDAY, THE 30TH.

6           **MR. DUSSEAULT:** FRIDAY THE 30TH, SUBMISSION BY NOON,  
7 ABSOLUTELY.

8           **THE COURT:** OKAY.

9           ALL RIGHT. I THINK THAT WILL TAKE CARE OF THE MATTER  
10 WITH RESPECT TO THE NO ON 8 GROUPS' PRODUCTION OF DOCUMENTS.

11           NOW, WITH RESPECT TO THE OTHER MATTERS, WHAT I'D LIKE  
12 TO DO IS SET A SCHEDULE FOR THE REMAINDER OF THE CASE, AND  
13 HERE'S WHAT I HAVE IN MIND:

14           THAT I AM INCLINED TO GRANT THE PROPONENTS' AND  
15 DR. TAM'S MOTION FOR RECONSIDERATION AND SO WOULD, THEREFORE,  
16 ASK THE PLAINTIFFS TO SERVE AND FILE THEIR OPPOSITION TO THE  
17 PROPONENTS' AND DR. TAM'S MOTION FOR RECONSIDERATION ON OR  
18 BEFORE MAY 6, WITH THE PROPONENTS AND DR. TAM TO SERVE AND FILE  
19 THEIR REPLY BY MAY 10 AT NOON ON BOTH DAYS, AND THEN TO SET  
20 CLOSING ARGUMENT IN THE CASE FOR JUNE 16 AT 10:00 A.M.

21           WHAT I WILL DO PRIOR TO THAT JUNE 16 DAY DATE IS TO  
22 ISSUE AN ORDER WITH SOME ISSUES THAT WILL BE HELPFUL TO THE  
23 COURT IN DECIDING WHAT SHOULD BE ARGUED ON JUNE 16, SO THAT MAY  
24 GIVE WHOEVER DOES THE ARGUMENTS SOME GUIDANCE, BUT I'M HOPEFUL  
25 THAT WE CAN PUT THE CASE ON THAT TRACK TO A DISPOSITION ON THE

1 16TH OF JUNE.

2 NOW, WHAT YOU, MR. DUSSEAULT AND MR. PANUCCIO, SHOULD  
3 DO IS CONFER WITH YOUR COLLEAGUES, AND IF THAT JUNE 16 DATE IS  
4 NOT PRACTICAL, TO CONTACT THE COURT CLERK AND GIVE US SOME  
5 SUGGESTED DATES WHEN YOUR COLLEAGUES ARE ABLE TO APPEAR FOR  
6 CLOSING ARGUMENTS.

7 MR. PANUCCIO?

8 **MR. PANUCCIO:** JUST ONE QUESTION. IF THAT DATE DOES  
9 NOT WORK -- AND I DON'T KNOW -- BUT IS THERE ANY RANGE OF DATES  
10 YOU WOULD PREFER SUGGESTED DATES TO COME WITHIN?

11 **THE COURT:** I THINK IT WILL HAVE TO BE IN JUNE AS A  
12 PRACTICAL MATTER. IT'S GOING TO TAKE SOME TIME TO GET READY.

13 IN ADDITION, I'D LIKE TO GET ALL OF THE MATTERS  
14 ASSOCIATED WITH THESE DOCUMENTS THAT ARE COMING IN FROM THE  
15 NO ON 8 GROUPS TAKEN CARE OF, AND THAT'S GOING TO TAKE SOME  
16 TIME. SO I THINK, AS A PRACTICAL MATTER, WE ARE GOING TO HAVE  
17 TO GO INTO JUNE FOR THE CLOSING ARGUMENTS, BUT THAT'S THE  
18 TIMEFRAME I HAVE IN MIND.

19 **MR. PANUCCIO:** THANK YOU, YOUR HONOR.

20 **THE COURT:** MR. DUSSEAULT?

21 **MR. DUSSEAULT:** YOUR HONOR, YOUR PROPOSAL IS  
22 ACCEPTABLE TO PLAINTIFFS. THANK YOU.

23 **THE COURT:** ALL RIGHT. ANYTHING FURTHER? MR. BOMSE?  
24 MR. PASAHOW?

25 **MR. BOMSE:** NO, YOUR HONOR.





**CERTIFICATE OF REPORTER**

I, JOAN MARIE COLUMBINI, OFFICIAL REPORTER FOR THE UNITED STATES COURT, NORTHERN DISTRICT OF CALIFORNIA, HEREBY CERTIFY THAT THE FOREGOING PROCEEDINGS IN C 09-2292 VRW, KRISTIN M. PERRY, ET AL. V. ARNOLD SCHWARZENEGGER, ET AL., WERE REPORTED BY ME, A CERTIFIED SHORTHAND REPORTER, AND WERE THEREAFTER TRANSCRIBED UNDER MY DIRECTION INTO TYPEWRITING; THAT THE FOREGOING IS A FULL, COMPLETE AND TRUE RECORD OF SAID PROCEEDINGS AS BOUND BY ME AT THE TIME OF FILING.

THE VALIDITY OF THE REPORTER'S CERTIFICATION OF SAID TRANSCRIPT MAY BE VOID UPON DISASSEMBLY AND/OR REMOVAL FROM THE COURT FILE.

S/B JOAN MARIE COLUMBINI

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JOAN MARIE COLUMBINI, CSR 5435, RPR

MONDAY, MAY 3, 2010

**JOAN MARIE COLUMBINI, CSR, RPR  
OFFICIAL COURT REPORTER, U.S. DISTRICT COURT  
415-255-6842**