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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
TACOMA DIVISION**

<p>JOHN DOE #1, <i>et al.</i>,</p> <p style="text-align: right;">Plaintiffs,</p> <p style="text-align: center;">vs.</p> <p>SAM REED, <i>et al.</i>,</p> <p style="text-align: right;">Defendants.</p>	<p>No. 3:09-CV-05456-BHS</p> <p>Notice of Motion and Motion to Terminate Stay & Grant Preliminary Injunction, or in the Alternative to Grant Temporary Restraining Order and Memorandum in Support Thereof</p> <p>NOTE ON MOTION CALENDAR: Friday, July 23, 2010</p> <p>The Honorable Benjamin H. Settle</p> <p>ORAL ARGUMENT REQUESTED</p>
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TO DEFENDANTS AND THEIR ATTORNEY(S) OF RECORD:

YOU ARE HEREBY GIVEN NOTICE THAT on Friday, July 23, 2010, before the Honorable Benjamin H. Settle at the United States District Court for the Western District of Washington, Seattle Division, located at 700 Stewart Street, Seattle, Washington 98101, Plaintiffs John Doe #1, John Doe #2, and Protect Marriage Washington, will and hereby do move to terminate the stay issued on October 22, 2009 (Dkt. 101), and renew their previous Request to Issue Order with Respect to the Alternative Ground Set Forth in Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction filed on October 20, 2009. (Dkt. 99.) In the alternative, Plaintiffs will and hereby do move for a temporary restraining order on

1 the second count of Plaintiffs' Verified Complaint until such time as further proceedings can be
2 had on that second count.

3 This motion for a preliminary injunction and, in the alternative, a temporary restraining
4 order, is made pursuant to Fed. R. Civ. P. 65, and on the grounds specified in this Notice of
5 Motion and Motion, and Plaintiffs' Memorandum in Support Thereof, Plaintiffs' previously filed
6 Notice of Motion and Motion for Temporary Injunction and Preliminary Injunction, the Verified
7 Complaint, and such other and further evidence as may be presented to the Court at the time of
8 any hearing the Court may find necessary.

9 In support thereof, Plaintiffs present the following Memorandum in Support of Motion to
10 Terminate Stay and Grant Preliminary Injunction, or in the Alternative to Grant a Temporary
11 Restraining Order.

12 **Facts & Procedural History**

13 This case arises in the wake of events that began in California, surrounding the November
14 2008 election. On November 4, 2008, California voters passed Proposition 8, defining marriage
15 as between one man and one woman. During and after the campaign, Proposition 8 opponents
16 publicized on the Internet the names, employers, and contact information of Proposition 8
17 campaign contributors obtained from public filings to harass and intimidate them. The
18 intimidation efforts were widely reported throughout the country, including here in Washington.
19 *See, e.g.,* Steve Lawrence, *Calif. Gay Marriage Foes Want Donors Anonymous*, Seattle Times,
20 Jan. 9, 2009; Jesse McKinley, *Theater Director Resigns Amid Gay-Rights Ire*, N.Y. Times, Nov.
21 12, 2009. *See also Perry v. Schwarzenegger*, No. 3:09-cv-2292 (N.D. Cal. 2009), Dkt. 187-11,
22 Decl. of Nicole Moss in Supp. of Def.-Intervenors' Mot. for a Protective Order (over seventy
23 articles about Proposition 8 harassment from sources as varied as the L.A. Times, the Wall Street
24 Journal, and the Hollywood Reporter).

25 The intimidation campaign was facilitated by the compelled disclosure of contributors to
26 committees supporting Proposition 8. (*See generally* Dkt. 4, Ex. 12 at 10-15, 27-45, 45-51, 52-
27 57; Dkt. 4, Ex. 13 at 2-6, 35-38, 43-45, 46-51, 70-75, 76-80, 81-118, 119-36, 143-45, 235-38,
28 239-45 (reports or harassment referencing donor's contribution).) Campaign reports facilitated

1 boycotts and blacklists of businesses owned by, or merely employing, traditional marriage
2 supporters. (*See* Dkt. 4, Ex. 12 at 2-9 (organized protest at business and numerous reports of
3 boycotts).)

4 Several websites combined campaign-report information with publicly available contact
5 information enabling Proposition 8 opponents to harass donors at home and work. *See, e.g.*,
6 www.eightmaps.com; www.californiansagainsthate.com. And now individuals armed with a
7 spreadsheet full of names and addresses can create their own “Prop 8 Maps” in any state. *See*
8 www.batchgeo.com (allowing users to upload address information from spreadsheets to create
9 and share their own custom maps).

10 As a result, Proposition 8 supporters became targets of death threats. *See* Andres Araiza,
11 *Prop 8 Threat: Fresno Police Close to Arrest*, ABC-30 (KFSN-TV), Oct. 31, 2008 (death threat
12 directed at Fresno mayor for Proposition 8 support) (*available at* [http://abclocal.go.com/kfsn/
13 story?section=news/local&id=6479879](http://abclocal.go.com/kfsn/story?section=news/local&id=6479879)); (Dkt. 4, Ex. 13 at 120 (email stating “I tolerate you
14 because I don’t come to where you are and slaughter you”). Others feared physical harm to
15 themselves or their family. (*See, e.g.*, Dkt. 4, Ex. 13 at 13-16 (feared physical violence at sign-
16 waving events; worried about future violence to family for supporting similar causes).) *See also*
17 *id.* at 39-42 (incidents “shook” declarant “to the core”); *id.* at 43-45 (donor in Louisiana worried
18 someone “could go after” her family in California); *id.* at 46-51 (would not host wave party
19 without man present over concerns for participants’ safety); *id.* at 58-60 (concerned about safety
20 of children and instructed principal that only he or wife could pick them up from school); *id.* at
21 119-36 (will not speak out publicly in future for “fear for the safety of children”); *id.* at 164-66
22 (did not display a bumper sticker because of aggression directed toward family and friends who
23 supported Proposition 8); *id.* at 194-97 (would have to “seriously consider . . . the safety of
24 family in the future when deciding to support a [similar] cause”); *id.* at 223-34 (fears for safety
25 and safety of daughters).

26 Others saw their car windows broken, homes vandalized, and cars spray-painted and
27 scratched because they supported Proposition 8. (*See, e.g.*, *id.* at 7-9 (rear window of car smashed
28 while parked in front of declarant's house); *id.* at 10-12 (car scratched and tires deflated; staircase

1 from home covered in urine with puddle of urine at bottom); *id.* at 13-16 (car heavily scratched);
2 *id.* at 17-20 (home egged and floured multiple times; car egged, floured, and honeyed multiple
3 times; motorbike tipped over); *id.* at 61-63 (bumper sticker ripped off in shopping area); *id.* at
4 67-69 (bumper sticker ripped off at school).)

5 Others feared that support of Proposition 8 could adversely affect their employment. (*Id.* at
6 31-34.) The fears were premised on several well-reported incidents where individuals were fired
7 or forced to resign for supporting traditional marriage. Reports included a waitress forced to
8 resign after relentless protests outside the restaurant after her \$100 contribution became public,
9 as well as multiple forced resignations in the theater industry. *See* Karen Grigsby Bates, *Backers*
10 *Of Calif. Gay Marriage Ban Face Backlash*, NPR, Mar. 5, 2009 (*available at* [www.npr.org/](http://www.npr.org/templates/story/story.php?storyId=101460517&ft=1&f=100)
11 [templates/story/story.php?storyId=101460517&ft=1&f=100](http://www.npr.org/templates/story/story.php?storyId=101460517&ft=1&f=100)). Moreover, because this information
12 is permanently available on the internet, it facilitates ongoing harassment. *See* Phillip Matier &
13 Andrew Ross, *Prop. 8 Aid Puts Paramount Board Member on Hold*, Deseret News, Jan. 23,
14 2010 (*available at* [www.deseretnews.com/article/705360460/Prop-8-aid-puts-Paramount-](http://www.deseretnews.com/article/705360460/Prop-8-aid-puts-Paramount-board-member-on-hold.html)
15 [board-member-on-hold.html](http://www.deseretnews.com/article/705360460/Prop-8-aid-puts-Paramount-board-member-on-hold.html)). *See also* A.P., *Counselor Wants Gay Marriage Complaint Thrown*
16 *Out*, Bangor Daily News, Nov. 23, 2009 (complaint by National Association of Social Workers
17 against school counselor supporting traditional marriage) (*available at* [www.bangordailynews.](http://www.bangordailynews.com/detail/130565.html)
18 [com/detail/130565.html](http://www.bangordailynews.com/detail/130565.html)).

19 Even peaceable assembly during the Proposition 8 campaign prompted harassment. (*See,*
20 *e.g.*, Dkt. 4, Ex. 13 at 13-16 (participated in 6-7 sign-waving events; at each, people shouted
21 obscenities, made obscene gestures, and argued with Proposition 8 supporters).) (*See also id.* at
22 31-34 (called a “filthy bag of shit” and “bitch” while holding pro-Proposition 8 sign on street
23 corner; unknown object thrown at declarant waving sign); *id.* at 64-66 (people passing peaceful
24 pro-Proposition 8 demonstration made obscene gestures and yelled obscenities); *id.* at 249-52
25 (people regularly made obscene gestures and yelled at people participating at wave parties).

26 Proposition 8 supporters reported that police provided little assistance after receiving theft
27 and vandalism reports related to Proposition 8. (*Id.* at 173-82 (reported yard sign theft and
28 vandalism to police on three separate occasions, but received no response).) Others failed to file

1 reports because they believed the police would be of little assistance. (*Id.* at 198-201 (declarant
2 spoke to police dispatcher).)

3 And while most prevalent in California, intimidation efforts have been directed at supporters
4 of traditional marriage across the country. (*See, e.g., Id.* at 42-44 (Louisiana); *id.* at 69-74
5 (Michigan); *id.* at 80-117 (New York); *id.* at 142-44 (Ohio).)

6 The result of these actions is that individuals are intimidated from engaging in political
7 speech about traditional marriage. Proposition 8 donors report that they will not contribute to
8 similar organizations in the future because of the harassment that occurred when contributions
9 became public. (*See, e.g., Dkt.* 4, Ex. 13 at 13-16 (will hesitate before supporting a similar cause
10 because of worry about harassment, violence, and potential discrimination against family and
11 fear of damage to property); *id.* at 43-45 (will think twice before supporting similar cause); *id.* at
12 70-75 (will be less likely to get involved in similar cause if confidentiality cannot be assured); *id.*
13 at 194-97 (hopes to support similar cause in the future, but will first consider safety of family);
14 *id.* at 219-22 (will hesitate before future giving because no way to ensure confidentiality).) *See*
15 *also, Hollingsworth v. Perry*, 130 S. Ct. 705, 712-13 (2010) (blocking broadcast of Proposition 8
16 trial and noting that witnesses harassed as a result of the broadcast might be less likely to
17 cooperate in future proceedings).

18 **B. Referendum 71**

19 On May 18, 2009, Washington Governor Christine Gregoire signed Engrossed Second
20 Substitute Senate Bill 5688. (Dkt. 63 at 5.) It expands the rights, responsibilities, and obligations
21 accorded state-registered same-sex and senior-domestic partners to equate to those of marriage
22 spouses and is commonly called the “everything but marriage” domestic partnership bill.

23 In May 2009, Protect Marriage Washington began circulating Referendum 71 (“R-71”), a
24 referendum petition on Senate Bill 5688. (*Id.*) The referendum process allows Washington voters
25 to repeal acts of their legislature. Wash. Const. art. II, § 1(b). To do so, proponents must submit a
26 petition evidencing sufficient support to warrant an election. *Id.* At the election, voters are asked
27 to “approve” or “reject” the legislation. RCW § 29A.72.290.

1 On July 25, Protect Marriage Washington submitted more than 138,500 signatures on its R-
 2 71 referendum petition to the Secretary of State (“Secretary”). (Dkt. 5-6.) Plaintiffs John Doe #1
 3 and John Doe #2 signed the petition. (Dkt. 2 at 3 ¶¶ 9-10.) The Secretary conducted an extensive
 4 canvass and verification of the signatures and determined that R-71 qualified for the November
 5 ballot. Janet Tu, *Ref. 71 Certified for Ballot; Foes to Continue Legal Battle*, Seattle Times, Sept.
 6 3, 2009 (*available at* [http://seattletimes.nwsourc.com/html/politics/2009795928_referendum03](http://seattletimes.nwsourc.com/html/politics/2009795928_referendum03m.html)
 7 [m.html](http://seattletimes.nwsourc.com/html/politics/2009795928_referendum03m.html)).

8 While Protect Marriage Washington was collecting signatures, several groups stated their
 9 intent to utilize the Public Records Act (“PRA”), RCW § 42.56.001 et seq., to obtain copies of
 10 the petitions. (Dkt. 63 at 7.) Two groups stated they intended to place the names and addresses of
 11 petition signers on the Internet to encourage “uncomfortable conversations.” (*Id.*) The Secretary,
 12 despite expressing discomfort with such a tactic, indicated that he intended to comply with the
 13 requests. (*See* Dkt. 2, Ex. 4 at 2-3 (“*Nobody* is comfortable with releasing personal information
 14 in situations like this, but it is part of transparency in government. *We hope* people will keep
 15 their cool.”) (emphasis added).) Nick Handy, Washington’s Director of Elections, admitted: “An
 16 unhealthy chilling effect occurs when public debate reaches a point where the passion of some
 17 individuals drives some folks to take actions that are viewed by others as threatening or
 18 intimidating.” (*Id.*)

19 **C. Present Litigation**

20 Fearing Proposition 8 intimidation would repeat in Washington, Plaintiffs brought the
 21 present suit on July 28, 2009, alleging that the PRA violates their First Amendment rights. (Dkt.
 22 2.) In Count I, Plaintiffs allege that the PRA is unconstitutional as applied to referendum
 23 petitions because it violates the interest in privacy of identity, association, and belief. (*Id.* at 10.)
 24 Count II alleges that the PRA is unconstitutional as applied because “there is a reasonable
 25 probability that the signatories . . . will be subjected to threats, harassment, and reprisals.” (*Id.* at
 26 10-11.)

27 Plaintiffs submitted substantial evidence of the harassment directed at Proposition 8
 28 supporters in support of their claims. (*See* Dkt. 4 and supporting exhibits.) Plaintiffs also

1 submitted evidence that history was repeating itself in Washington because individuals publicly
 2 associated with R-71 had been subject to similar intimidation efforts. (Dkt. 1, Dkt. 4, and Dkt.
 3 32.)

4 For example, Larry Stickney, Protect Marriage Washington's campaign manager, received
 5 many harassing and threatening emails. One stated: "You better stay off the olympic peninsula . .
 6 . it's a very dangerous place filled with people who hate racists, gay bashers and anyone who
 7 doesn't believe in equality. Fair is fair." (*Id.*) Another: "Dear God fearing hate mongerers [. . .]
 8 Maybe you just want to feel a cock in your ass and hate yourself for it. Whatever. Praise Jeebus
 9 you retarded fuckholes!" (*Id.*)

10 A local blogger asked supporters: "If Larry Stickney can do 'legal' things to harm OUR
 11 family, why can't we go to Arlington, WA to harm his family?" (*Id.* at 10 ¶ 29.) Stickney took
 12 the threat seriously, reported it to the sheriff, and had his family sleep in an interior room to
 13 protect them. (*Id.* at 9-10 ¶¶ 27, 29.)

14 **D. Procedural History**

15 On July 29, 2009, this Court granted Plaintiffs' request for a temporary restraining order and
 16 set a briefing schedule for Plaintiffs' motion for preliminary injunction, noted for September 3,
 17 2009. (Dkt. 9.) Washington Coalition for Open Government and Washington Families Standing
 18 Together intervened as defendants.¹ (Dkt. 62.)

19 Plaintiffs' motion for preliminary injunction asked this Court to enjoin the release of the R-
 20 71 petition on both grounds advanced in the complaint. (Dkt. 3.) The briefs submitted in support
 21 and opposition to Plaintiffs' motion addressed both counts of their Verified Complaint. (*Id.*; Dkt.
 22 25 (Secretary's Opp'n); Dkt. 31 (Pls.' Reply).)

23 On September 10, 2009, this Court preliminarily enjoined the Secretary from releasing
 24 copies of the R-71 petition sheets. (Dkt. 63 at 17.) The Court applied strict scrutiny, and held that
 25 Plaintiffs established likely success on the merits and satisfied the other preliminary injunction
 26

27 ¹ A Washington citizen, Arthur West, also filed a motion to intervene. (Dkt. 60; Dkt. 61.) His motion was
 28 denied, (Dkt. 73), and his appeal of that decision is currently pending before the Ninth Circuit Court of Appeal. (Dkt.
 75.) *See also Doe v. Reed*, No. 09-35832 (9th Cir.).

1 factors. (*Id.* at 8-17.) Because the Court ruled that Plaintiffs established a likely success on the
 2 merits of Count I, the Court did not reach Count II, which sought an exemption based on a
 3 reasonable probability of threats, harassment, and reprisals. (*Id.* at 16.)

4 On October 15, the Ninth Circuit stayed the preliminary injunction, effective immediately,
 5 stating simply that this Court applied “an incorrect legal standard.” (Dkt. 97 at 3.) On October
 6 19, Justice Kennedy stayed release of the petition. (Dkt. 100.) On October 20, the Supreme Court
 7 extended the stay.² *Doe v. Reed*, No. 09-559 (S. Ct. Oct. 20, 2009) (order extending stay by full
 8 court). The Ninth Circuit issued its opinion on October 22. *Doe v. Reed*, 586 F.3d 671 (9th Cir.
 9 2009). The Ninth Circuit did not consider Count II. *Id.* at 676 n.6.

10 On October 20, 2009, Plaintiffs asked this Court to rule on the second ground presented in
 11 its motion for preliminary injunction, which asks the Court to find that the PRA is
 12 unconstitutional as applied to R-71 because there is a reasonable probability of threats,
 13 harassment, and reprisals. (Dkt. 99.) Plaintiffs noted that the issue had been fully briefed and was
 14 properly before the Court at the September 3 hearing. (*Id.*)

15 On October 22, 2009, the Court stayed all proceedings pending the resolution of the
 16 appellate proceedings, including all proceedings before the Ninth Circuit and the Supreme Court.
 17 (Dkt. 101.) The order stated all pending motions would be removed from the calendar and re-
 18 noted upon the resolution of the appellate proceedings. (*Id.*) Plaintiffs’ request for a ruling on the
 19 alternate ground for a preliminary injunction was one such motion removed from the calendar.

20 The Supreme Court granted Plaintiffs’ petition for writ of certiorari on January 15, 2010, and
 21 held oral argument on April 28. *See Doe v. Reed*, No. 09-559 (S. Ct.). On June 24, 2010, the
 22 Supreme Court affirmed the judgment of the Ninth Circuit. *Doe v. Reed*, 2010 WL 2518466 (S.
 23 Ct. 2010). The Supreme Court held that, as a general matter, the PRA does not violate the First
 24 Amendment with respect to referendum petitions. *Id.* at *4. The Supreme Court did not reach
 25 Plaintiffs’ second count, *id.* at *10, and stated that its holding “does not foreclose [Plaintiffs’]
 26

27 ² The stay issued by the Supreme Court stated, in relevant part, that it “shall terminate upon the sending down
 28 of the judgment of this Court.” *Doe v. Reed*, No. 09-559 (S. Ct. Oct. 20, 2009) (order extending stay by full court).
 The judgment of the Supreme Court is to issue on July 19, 2010. S. Ct. R. 45.

1 success in a narrower [challenge].”*Id.* Thus, the Supreme Court remanded the case to this Court
 2 for consideration of the second ground presented in Plaintiffs’ motion for preliminary injunction,
 3 premised upon the reasonable probability of threats, harassment, and reprisals.

4 **Motion to Terminate Stay**

5 As set forth above, all proceedings in this Court were stayed pending the resolution of the
 6 appellate proceedings.³ (Dkt. 101.) Because those proceedings are now complete, Plaintiffs
 7 respectfully request that the stay be terminated. Moreover, because the Supreme Court’s stay,
 8 which prohibits the Secretary from releasing the R-71 petition, is set to expire on Monday, July
 9 19, *supra* n.2, it is appropriate for this Court to now consider the second ground presented in
 10 Plaintiffs’ motion for preliminary injunction.

11 **Motion for Preliminary Injunction**

12 The Supreme Court’s decision in this case moots the ground upon which the initial
 13 preliminary injunction was issued in this case. However, the Supreme Court’s decision also
 14 stated that this Court can and should reach a decision on the second ground of Plaintiffs’
 15 complaint, that the Public Records Act is unconstitutional as applied to the Referendum 71
 16 petition because there is a reasonable probability of threats, harassment, and reprisals if the
 17 petitions are released.

18 The issues relating to the issuance of a preliminary injunction on Plaintiffs’ second count
 19 have been briefed by both sides. (*See* Dkt. 3; Dkt. 25; Dkt. 31.) Additionally, this Court also held
 20 a preliminary injunction hearing on all counts of Plaintiffs’ Complaint on September 3, 2009.
 21 (Dkt. 59.) Thus, the Court already has the information it needs to determine whether to issue a
 22 preliminary injunction.

23 To fully preserve the issues of this count, it is imperative that this Court continue to prevent
 24 the release of the names of the petition signers. Although the R-71 election has already occurred,
 25 Plaintiffs’ alternative ground for a preliminary injunction, premised on an as-applied exemption
 26 to the PRA, remains a justiciable controversy. If the R-71 petitions are released, petitions signers

27
 28 ³ As set forth above, Arthur West’s appeal of the denial of his motion to intervene is still pending in the Ninth
 Circuit. *Supra* n.1.

1 face a reasonable probalbity of threats, harassment, and reprisals. *See Phillip Matier & Andrew*
 2 *Ross, Prop. 8 Aid Puts Paramount Board Member on Hold*, San Francisco Chronicle, Jan. 20,
 3 2010 (donation to Prop. 8 cost 96-year old theater board member seat he had held on board for
 4 over thirty years more than one year *after* Prop. 8 vote).)

5 Moreover, if the R-71 petitions are released, and this Court later decides that Plaintiffs meet
 6 the standards of the reasonable-probability test, the action of releasing the names cannot be
 7 undone—they will have been given to those who seek to harass and intimidate the R-71 petition
 8 signers, and those names will have been posted on the internet, allowing access to the names
 9 despite the reasonable probability that those individuals will be subjected to threats, harassment,
 10 and reprisals because they signed the R-71 petition. The names have not yet been released, so
 11 continuing to prevent their release merely maintains the status quo.⁴

12 Moreover, the State’s arguments in support of the PRA’s application to referendum petitions
 13 generally, advanced in defense of Count I, demonstrates that the urgency surrounding the release
 14 of the R-71 petitions is greatly diminished now that the election has occurred. For example, the
 15 State argued the PRA is applicable to referendum petitions because it is necessary to protect the
 16 integrity of the election process and to help the Secretary verify the signatures. *See Doe v. Reed*,
 17 2010 WL 2518466 at *7-8. These interests are now moot. The signatures have been verified, the
 18 election has occurred, and R-71 was “approved” by the voters.⁵ Even if the petitions were
 19 somehow flawed, the net result is the same, the “everything but marriage” domestic partnership
 20 law is now law in Washington.

21
 22
 23 ⁴ Currently, a Washington State Court is also enjoining the release of the names of the petition signers. (*Eyman*
 24 *v. Reed*, No. 09-2-02447-0 (Wash. Sup. Ct. for Thurston County Oct. 20, 2009) (Motion Hearing Transcript stating
 25 that state court temporary restraining order based “on what [Judge Settle’s] ruling has been insofar as the first
 26 prong”).) As the state court judge made clear in his ruling enjoining the release of the petition signers, the state court
 relied upon this Court’s preliminary injunction in crafting its own injunctive relief. *Id.* Because of this, the injunction
 in state court could be lifted at any time, and therefore a preliminary injunction is necessary in this case to prevent
 the release of the names of the petition signers.

27 ⁵ Washington Families Standing Together intervened to protect its right to challenge the verification process
 28 pursuant to RCW § 29A.72.240. WAFST’s challenge was denied and they did not appeal the decision. Lornet
 Turnbull & Andrew Garber, *Superior Court Judge Rejects Challenge to R-71*, Seattle Times, Sept. 8, 2009
 (available at http://seattletimes.nwsources.com/html/localnews/2009826615_webref08.html).

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1 However, the harms Plaintiffs have presented, in the form of threats, harassment, and
2 reprisals directed at signers of the R-71 petition and similar causes in the past are still in
3 existence, and if the names are released, any harms coming from that release cannot be undone.
4 Thus, unlike the Defendants, whose interest in the release of the names of the petition signers
5 passed with the results of the election, the potential harms to those who signed the petitions
6 remains in existence if the names of the petition signers are released, even though the election
7 has passed.

8 Plaintiffs therefore respectfully request that this Court grant Plaintiffs a preliminary
9 injunction to protect the names of the petition signers until this case can be resolved based on the
10 arguments already presented in this case.

11 **Alternative Motion for Temporary Restraining Order**

12 In the alternative to the issuance of a preliminary injunction, if this Court believes
13 supplemental briefing is necessary before issuing a ruling on Plaintiffs' motion for preliminary
14 injunction, Plaintiffs respectfully request a temporary restraining order issue, preventing the
15 release of the names of the R-71 petitions, until such time as those issues can be briefed and
16 further arguments can be presented to this Court.

17 Dated this 19th day of July, 2010.

18 Respectfully submitted,

19
20 /s/ Sarah E. Troupis

21 James Bopp, Jr. (Ind. Bar No. 2838-84)*
22 Sarah E. Troupis (Wis. Bar No. 1061515)*
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 **Pro Hac Vice Application Granted*

CERTIFICATE OF SERVICE

I, Sarah E. Troupis, am over the age of 18 years and not a party to the above-captioned action. My business address is 1 South Sixth Street; Terre Haute, Indiana 47807-3510.

On July 19, 2010, I electronically filed the foregoing document described as **Notice of Motion and Motion to Terminate Stay & Grant Preliminary Injunction, or in the Alternative to Grant Temporary Restraining Order and Memorandum in Support Thereof** with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

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I declare under the penalty of perjury under the laws of the State of Indiana that the above is true and correct. Executed this 19th day of July, 2010.

/s/ Sarah E. Troupis
Sarah E. Troupis
Counsel for All Plaintiffs