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**United States District Court
Western District of Washington
Tacoma Division**

<p>John Doe #1, et al., Plaintiffs, v. Sam Reed, et al., Defendants.</p>	<p>No. 3:09-CV-05456-BHS The Honorable Benjamin H. Settle Plaintiffs’ Response to Intervenor Washington Coalition for Open Government’s Motion for Summary Judgment</p>
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1 Come now Plaintiffs in response to Intervenor-Defendant Washington Coalition for Open
2 Government's ("WCOG") Motion for Summary Judgment, and make the following rebuttal.¹

3 **Argument**

4 **I. WCOG's "Minor Party" Argument Fails.**

5 WCOG tries to argue, initially, that an exposure exemption is per se beyond the reach of
6 Plaintiffs because they are not "members of a 'minor' party." (WCOG's Mot. for Summ. J.
7 (hereinafter "WCOG's MSJ") 9.) In support, WCOG points to an exposure exemption granted to a
8 minor political party (the Socialist Workers Party of Ohio) whose candidate in a federal election in
9 1980 received less than 2% of the vote (WCOG's MSJ 6)—the implication being that Plaintiffs do
10 not warrant an exemption because, if for no other reason, they were able to garner significantly more
11 than 2% of the R-71 vote, and thus they are not an extreme minority.

12 WCOG misapprehends the underlying purpose of the exposure exemption itself. As spelled out
13 in Plaintiffs' opening brief, the exemption is available as a safeguard to liberty, to free speech, and
14 to our civil society, *regardless of who stands in need of its protection*. Furthermore, WCOG's
15 argument, even on its own terms, is not as clean-cut as WCOG would have it. Census records reveal
16 that in 1950, in the State of Alabama, the Black population represented approximately one-third of
17 the total Alabama population.² One-third is a far cry from 2%, and yet, the Supreme Court
18 recognized the need for an exposure exemption and (unanimously) granted one in *NAACP v.*
19 *Alabama ex rel. Patterson*, 357 U.S. 449, 462–63 (1958).

20 But the most definitive court case on this question is the Supreme Court's recent *Doe v. Reed*

21 ¹ In rebuttal to WCOG's motion for summary judgment, Plaintiffs rely on all the evidence Plaintiffs relied on in
22 support of their own motion for summary judgment. In this brief, all direct citations to Exhibits 1 through 6 (i.e.,
23 "Ex. 4-191") are to those exhibits Plaintiffs filed together with their own motion for summary judgment. In addition,
24 Plaintiffs note, for clarity's sake, that they have submitted seven new exhibits (Exhibits 7 through 13) together with
25 their brief in opposition to the State's motion for summary judgment (filed concurrently with this brief). To avoid
unnecessary and redundant filing of documents, Plaintiffs have not re-submitted those new exhibits with this briefing.
WCOG attorneys are ECF participants and are able to fully access the exhibits as filed. Moreover, Plaintiffs are
sending courtesy (paper) copies of all exhibits to all parties, including the two intervenors.

26 Plaintiffs also note that some of the incidents documented in this brief have been set forth in a report
previously published by The Heritage Foundation. (*See* Ex. 4-1.) Restatements of parts of that report in this
document are used with permission of Thomas M. Messner.

27 ² *See* Alabama Department of Archives & History, Alabama History Timeline (1901–1950),
28 <http://www.archives.state.al.us/timeline/al1901.html> (last visited July 7, 2011) (reporting that in 1950, Alabama's
"White population" was 2,079,591, and its "African-American population" was 979,617).

1 decision. *Doe v. Reed*, 130 S. Ct. 2811 (2010). In that case, the Court never so much as hinted that
 2 the exposure exemption would not be available to Plaintiffs. To the contrary, a clear majority of the
 3 Court agreed that an exemption was indeed available to Plaintiffs (although the Justices differed
 4 widely as to the threshold showing of threats, harassment, or reprisals that would be required to grant
 5 an exemption). The majority opinion (signed onto by seven Justices) said:

6 In related contexts, we have explained that those resisting disclosure can prevail under
 7 the First Amendment if they can show “a reasonable probability that the compelled
 8 disclosure [of personal information] will subject them to threats, harassment, or reprisals
 9 from either Government officials or private parties.”

10
 11 In [rejecting Plaintiffs’ broad challenge], we note—as we have in other election law
 12 disclosure cases—that upholding the law against a broad-based challenge does not
 13 foreclose a litigant’s success in a narrower one [based on evidence of threats, harassment,
 14 or reprisals].

15 *Id.* at 2820–21 (citations omitted).

16 To further buttress this point, Justice Stevens (joined by Justice Breyer) acknowledged that the
 17 Court was “correct,” as “a matter of law,” to “keep open the possibility” that Plaintiffs may prevail
 18 in their as-applied challenge (though he was quick to add that he “would demand strong evidence”
 19 before granting an exposure exemption and doubted that Plaintiffs could produce such evidence).
 20 *Id.* at 2831 (Stevens, J., concurring in part and concurring in the judgment).

21 **II. WCOG’s Attempt to Downplay the Evidence Is Unconvincing.**

22 WCOG spends the bulk of its brief trying to show that Plaintiffs’ evidence boils down to “a
 23 variety of minor incidents.” (WCOG’s MSJ 8.) It paints the evidence as consisting of nothing more
 24 than “broken yard signs, uncomfortable conversations, and profane gestures.” (WCOG’s MSJ 8.) It
 25 is difficult to see how WCOG came to this conclusion. In addition to death threats (*e.g.*, Ex. 1-3, at
 26 54:1–7), threats of violence (*e.g.*, Ex. 4-189), and actual instances of violence (*e.g.*, Ex. 4-24), there
 27 is a mountain of other evidence that does not even remotely resemble benign, civil-but-
 28 “uncomfortable” conversations.

29 **A. Anti-Religious Hostility: Vandalism and Overt Threats.**

30 WCOG points out that many of Plaintiffs’ named witnesses are pastors who publicly stood for
 31 traditional marriage in fighting against SB 5688. (WCOG’s MSJ 9.) Indeed, a good portion of the
 32 reprisals documented in this case were aimed at churches and church members who took a stand for

1 traditional marriage.

2 Anti-religious hostility was manifested in hateful words as well as overt threats and destructive
 3 acts.³ Many emails, for example, echoed the crude sentiment that traditional marriage supporters are
 4 “irrational believers in bullshit gods.”⁴ Others alluded to the (presumed) Christian beliefs of
 5 traditional marriage supporters before denouncing them as “Un-American,”⁵ a “version of the
 6 KKK,”⁶ “Nazi-like,”⁷ and “no different than those who stormed the ghettos of poland to liquidate
 7 the lives of those who were unlike themselves.”⁸ The common thread through so many of the emails
 8 was intense contempt for religious adherents (most often aimed at Christians) who stood up for
 9 traditional marriage—exemplified by epithets such as “fucking Christians,”⁹ “hateful bigots,”¹⁰ “you
 10 fucking righteous assholes,”¹¹ “self righteous bastards,”¹² and “hypocritical bigots.”¹³

11 An email from someone calling himself “your worst nightmare” expounded,

12 how Christian of you to be so tolerant and so loving of everyone. . . . you are causing
 13 physical pain to others and might as well just kill yourself now for being a waste of human
 14 flesh. i hope that every family member of yours gets cancer and dies and leaves you
 homeless and without anyone to love or talk to. . . . You all should be ashamed to even be

15 ³ In Washington, it is a felony, punishable by up to five years in prison, to threaten a person or a group (or their
 16 property) based on the perception of the victim’s religion. Wash. Rev. Code §§ 9A.20.021(7)(c) (felony penalties),
 9A.36.080(1)(c) (“A person is guilty of malicious harassment if he or she,” because of the “perception of the victim’s
 17 . . . religion,” “maliciously and intentionally” “[t]hreatens a specific person or group of persons and places that
 person, or members of the specific group of persons, in reasonable fear of harm to persons or property”).

18 ⁴ Ex. 3-1, at 24 (email from Paul, godlesspinko@yahoo.com, to R71Team@ProtectMarriageWa.com (Nov. 9,
 2009 2:04 PM)); *see also, e.g.*, Ex. 3-1, at 24 (email from Stickney Fuck YOU, hypocritessuck@hotmail.com, to
 R71Team@ProtectMarriageWa.com (Nov. 9, 2009 12:03 AM) (“Fuck you all, you arrogant, ignorant idiots.”)).

19 ⁵ Ex. 3-1, at 228–29 (email from Glen Speck, Gspeck@roadrunner.com, to
 R71Team@ProtectMarriageWa.com (Oct. 5, 2009, 7:51 PM)).

20 ⁶ Ex. 3-1, at 57 (email from KJ, hiphopkayj@msn.com, to R71Team@ProtectMarriageWa.com (Nov. 2, 2009,
 12:05 PM)).

21 ⁷ Ex. 3-1, at 229 (email from john kneeland, john_kneeland@hotmail.com, to
 R71Team@ProtectMarriageWa.com (Oct. 4, 2009, 12:18 PM)).

22 ⁸ Ex. 3-1, at 229–30 (email from Jeffrey M. McCallister, aaabtae@gmail.com, to
 R71Team@ProtectMarriageWa.com (Sept. 30, 2009, 3:56 PM)).

23 ⁹ Ex. 3-1, at 243 (email from Dave, dwalter@yahoo.com, to R71Team@ProtectMarriageWa.com (Sept. 1,
 2009, 7:31 PM)).

24 ¹⁰ Ex. 3-1, at 254 (email from Nicole McEvoy, Nopenname@gmail.com, to
 R71Team@ProtectMarriageWa.com (July 30, 2009, 1:15 PM)).

25 ¹¹ Ex. 3-1, at 254 (email from fuck you, screwyourchristianasses@yahoo.com, to
 R71Team@ProtectMarriageWa.com (July 30, 2009, 8:08 PM)).

26 ¹² Ex. 3-1, at 253 (email from Travis, guitravis@comcast.net, to R71Team@ProtectMarriageWa.com (Aug. 3,
 2009, 1:15 PM)).

27 ¹³ Ex. 3-1, at 270 (email from Ed Thomas, m2young450@yahoo.com, to R71Team@ProtectMarriageWa.com
 28 (May 19, 2009, 8:45 AM)).

1 alive right now. how dare you. how dare you take rights away from other people. i hope you
 2 live to see a day where you and your children are rapped by your own family members. then
 3 think about your faith and whether or not you made the right choice. . . . trust me justice
 4 will prevail and you will get your karma. maybe a car accident, get fired at work, have a
 5 miscarriage, or better yet i hope you give birth to a boy that tells you 15 years later that he
 6 wants to go to homecoming with his best friend he met in the boys locker room. trust me,
 7 you need to get a reality check. I hope that your reality check is as painful as being burned
 8 alive. and i hope that you are burned alive if you decide not to change your ways. die¹⁴

9 Ugly expressions like these were hardly the culminating point. In April 2009 (the same month
 10 SB 5688 passed the legislature), vandals spray-painted graffiti messages all over the walls and
 11 poured glue in all the locks of the Crossroads Bible Church in Bellevue, Washington. (Ex. 1-14, at
 12 50:11–13; Ex. 1-13, at 23:15–18.) The incident was reported to the police. (Ex. 1-13, at 30:15–22.)
 13 Before the incident, another church (whose pastor was to speak at a “Worldview Conference” at the
 14 Crossroads Bible Church) was “monitor[ing] the [homosexual] blogs out there” and learned that
 15 some homosexual activists intended to “do damage to Crossroads Bible Church because [a certain
 16 pastor—one classified as “the great homophobe” (Ex. 1-14, at 70:21–22)] was speaking there, and
 17 they did.” (Ex. 1-13, at 23:9–13.)

18 After the incident, a militant homosexual group called “Bash Back!” took credit for the
 19 vandalism in what can only be described as a terroristic statement. In a proclamation posted on the
 20 Internet on April 20, 2009, the group said,

21 Bash Back! responds to [Pastor _____’s] connection to Watchmen on the Walls and
 22 the Puget Sound community’s failure to hold him accountable. They do it by spray painting
 23 his church and gluing all of the doors shut.¹⁵

24 The group’s statement seemed to address two different audiences. First, this one, addressed to the
 25 world at large:

26 To Everyone:

27 Last night the Bash Back Unwelcoming Committee greeted the Worldview
 28 Apologetics Conference attendees. The conference is being held today through Saturday
 at Crossroads Bible Church in Bellevue, Washington.

[W]e remember the countless others that have been murdered as a result of the sick bigotry

¹⁴ Ex. 3-1, at 227 (email from your worst nightmare, smarter.thanyou@genius.com, to
 R71Team@ProtectMarriageWa.com (Oct. 7, 2009, 4:46 PM)).

¹⁵ Ex. 4-42; *see also* Ex. 4-43 (archiving events tending toward anarchy in the Pacific Northwest, including this
 report dated April 27, 2009: “A Bash Back! Cell glues the locks at the Crossroads Bible Church. They also spray
 paint messages all over the walls. This action was taken in response to the churches homophobic views.”)

1 spewing from [Pastor _____]’s pulpit. He may not have tied the noose, pulled the trigger
2 or thrown his fist, but his words have encouraged others to do so.

3 The Worldview Apologetics Conference was another opportunity for well-known
4 queer haters to spread their bullshit. With titles like, “The Difference Between Boys and
5 Girls; Exposing the Lies of Feminism and It’s Cost to Society” and “It’s Not Like Being
6 Black; Why Homosexual Marriage is Not a Civil Rights Issue” these workshops promised
7 a slanted view from a sick few.

8 (Ex. 4-42.)

9 Then the group addressed “queer haters” specifically:

10 To Queer Haters Everywhere:

11 Starting with last night’s action, we’re re-writing the “playbook”. “Smear the Queer”
12 may be your favorite pastime, but honey let me tell you, we fucking reclaimed the word
13 Queer 15-fucking-years ago and we’ve got a diversity of tactics. When we wrote “Up
14 Anarchist Queers”, “Watchmen Are Killers”, “We Are Beauty” [apparently the messages
15 spray-painted on the walls of the Bellevue church] and glued all the doors shut, we threw
16 open our own doors and tattooed those words on our hearts. Welcome to our world
17 shitheads. We may have written on your walls, but you’ve written anti-queer rhetoric into
18 law.

19 We hope your homophobic and transphobic hearts continue to sink as you are met with
20 more resistance. Ours continue to beat, steady and strong as we dance in the streets and
21 continue to make our liberation movement irresistible. We don’t need permission from the
22 government to build our families. WE build communities where gender self-determination,
23 healthy bodies and open sexuality are loved. We walk with confidence and know our
24 inherent self-worth. Our queer brilliance and fabulousness will always outshine the stink
25 of shit you throw our way.

26 We would never settle for equality with you, we want liberation and nothing less.
27 Queers around the world take note, the bigger the church, the bigger your canvas. We are
28 here, among you, we are queer, every-fucking-where and we didn’t start this war but was
are BASHING BACK!

Sodomy in the ashes of [Pastor _____]’s “playbook”,
BASH BACK!

(Ex. 4-42.)

1 A slew of similar acts of vandalism occurred in the days and weeks immediately before and after
2 Proposition 8 passed in California. Offices of the Cornerstone Church in Fresno were egged. (Ex.
3 4-44.) Perpetrators used orange paint to vandalize a statue of the Virgin Mary outside a California
4 church. (Ex. 9-14 (John Doe 23).) Swastikas and other graffiti were scrawled on the walls of the
5 Most Holy Redeemer Catholic Church in San Francisco. (Exs. 4-45, 4-46.) A Mormon church in
6 Orangeville, California, was spray-painted with the words “No on 8” and “hypocrites.” (Ex. 4-47.)
7 In San Luis Obispo, the Assembly of God Church was egged and toilet-papered, and a Mormon
8 church had an adhesive poured onto a doormat and keypad. (Ex. 4-7.) Within days of the Prop 8
9 vote, at least seven Mormon church buildings in Utah had their glass doors and windows shattered

1 (Ex. 4-48), and another one had graffiti spray-painted in large letters across a wall that read “Nobody
 2 is born a biggot!!!” followed by a smiley face and a heart (Ex. 4-49). Signs supporting Prop 8 were
 3 twisted into a swastika at Our Lady of Perpetual Help Catholic Church in Riverside. (Exs. 4-50, 4-
 4 51.) And at the Messiah Lutheran Church in Southern California, a “Yes on 8” sign was wrapped
 5 around a heavy object and used to smash the window of the pastor’s office.¹⁶ (Ex. 4-7.)

6 In Lansing, Michigan, just days after Prop 8 passed, the radical group Bash Back! invaded a
 7 Christian church during its Sunday service. Before the invasion, the group sent out a call for
 8 participants to help pull off their act: “We need people to do anything from just engaging in
 9 conversation, to tossing some glitter, to playing spin the bottle, to a more “militant”-looking presence
 10 out side of the building. I can tell you that we are targeting a well-known anti-queer, anti-choice
 11 radical right wing establishment.” (Ex. 11-5.) Then this band of activists took action:

12 [M]embers of the group dressed in militant garb staged a protest outside the church during
 13 a worship service to distract security personnel, blocking access to the building and parking
 14 lot at various times. Other members of the group dressed in plain clothes then deceptively
 15 entered the building. At a coordinated time, they sprang up to disrupt the service, terrifying
 many attendees. The group shouted religious slurs, unfurled a sign, and threw fliers around
 the sanctuary while two women began kissing near the podium. The group pulled fire
 alarms as they ran out of the building.

16 (Ex. 4-53; *see also* Ex. 11-3.)

17 The group’s web site featured photos of members dressed like terrorists and brandishing various
 18 objects as weapons. (Ex. 4-53; Ex. 11-5.) In accounts posted on the Internet after the invasion, Bash
 19 Back! claimed the deed and described the Mount Hope Church as a “deplorable, anti-queer
 20 mega-church” that is “complicit in the repression of queers in Michigan and beyond” and cited the
 21 church’s “stance on queer identities” as one reason for the attack. (Ex. 4-54.) The incident, including
 22 video of the actual invasion, was covered by multiple news outlets. (Exs. 5-11, 5-12.) For its deeds,
 23 the group found itself the object of a federal suit, which ultimately resulted in a permanent injunction
 24 banning the group from invading churches anywhere in the country, and notifying the group that
 25 future violations will be punished as contempt of court and fined \$10,000. (Exs. 11-3, 11-4.)

26 On several occasions, threatening letters were left on church property and on the windshields

27
 28 ¹⁶ Other incidents of church vandalism have also been reported. According to one news source, for example, ten
 Mormon church buildings in the Sacramento region were vandalized in the first week after Prop 8 passed. (Ex. 4-52.)

1 of cars parked at a Vancouver, Washington, church that had actively supported the R-71 petition
2 drive. (Ex. 1-9, at 5:15–24, 8:13–18.) The letters said things like, “You’re worst than the fascists.
3 Get out of here. Nothing is going to come of this for you. Your children will be just like us . . . they
4 will be homosexuals. We’ll make them” (Ex. 1-9, at 11:25–12:20.) After the R-71 signature
5 gathering phase had ended, the pastor of the same Vancouver church “heard a lot of testimony [from
6 his parishioners] about threats,” to the effect that there would be “consequences” for those “people
7 who signed” the petition, “that [those supporting same-sex marriage] will get vengeance.” (Ex. 1-9,
8 at 18:10–24.)

9 Another Washington pastor personally viewed on the Internet malicious comments targeting the
10 Biblical-based marriage views held by his congregation. The comments had an additional racial
11 component, as many of them were directed overtly at a particular ethnic group (i.e., at immigrants
12 from a particular Eastern European country where most of the pastor’s parishioners hailed from). The
13 pastor reported, “Some people made open threats and expressed their hate and willingness to hurt
14 Christian people.” (Ex. 7-2, at 85:24–86:3.)

15 Months after the R-71 election, a third Washington pastor found post-it notes etched with coarse
16 vulgarities stuck to the windshields of both his personal vehicles. The notes were not attached to any
17 of the neighboring vehicles. He believes the notes were left in response to his public position on R-
18 71. (Ex. 7-1, at 28:12–30:21.)

19 Advocates also threatened financial repercussions against churches that publicly stood for
20 traditional marriage, vowing to press for the revocation of their tax-exempt status. Official petitions
21 to that effect were widely circulated on the Internet.¹⁷ One man emailed Protect Marriage
22 Washington on behalf of a group that had “been trying to organize a statewide initiative” in
23 Washington “to strip these [churches] of their tax exempt status.” He expressed thanks (sarcastically)
24 for Protect Marriage Washington’s “wonderful” efforts to repeal SB 5688 because, before R-71 had
25 become an issue, they “had been unable to get people interested” in the initiative. Because of the
26 publicity stirred up by R-71, he continued, “I’m pleased to announce we have already received over
27

28 ¹⁷ Several web sites, for example, openly called for the revocation of the Mormon church’s tax-exempt status
because of its support for traditional marriage. *See, e.g.*, Exs. 4-177, 4-179, 4-180.

1 20,000 signatures in 24 hours seeking to tax these organizations. God Bless You.”¹⁸

2 Following the passage of pro-traditional-marriage constitutional amendments in California,
3 Arizona, and Florida in 2008, comments on homosexual blogs openly called for arson, physical
4 violence, and even killing. Much of it was aimed at religious groups. One blogger wrote, typical of
5 the anger and hatred expressed by many others:

6 Fuck you Mormons. Yeah you heard me. Fuck you. Fuck you and your narrow minded
hypocritical asses. Fuck you for putting money into taking away a persons right. . . .

7 Fuck you LDS church. Now it’s MY turn. You have no idea how much I’ve held back
all of these years

8 Fuck you LDS church. Fuck you [LDS President] Monson. Fuck all of you. If you were
9 afraid that your kids learning about homosexuals would corrupt them, you have no IDEA
what I’m going to do to them.

10 (Ex. 4-55.)

11 Others were even more explicit in their call for violence and retribution:

12 “Can someone in CA please go burn down the Mormon temples there, PLEASE. I mean
seriously. DO IT.”

13 “I’m going to give them something to be f--ing scared of....I’m a radical who is now on a
14 mission to make them all pay for what they’ve done.”

15 “Burn their f--ing churches to the ground, and then tax the charred timbers”

16 “I hope the No on 8 people have a long list and long knives.”

17 “Trust me. I’ve got a big list of names of mormons and catholics that were big supporters
18 of Prop 8....As far as mormons and catholics...I warn them to watch their backs.”

(Ex. 4-56; *see also* Ex. 4-57.)

19 Responding to these violent blog posts, one commentator wrote, “This is not free speech; this is
20 criminal activity. Imagine if Christian web sites were advocating such violence against homosexuals.
21 There’d be outrage, and rightfully so. It’d be national front-page news.” (Ex. 4-56.)

22 Mormons have been particularly and systematically targeted. One leading homosexual rights
23 activist in West Hollywood said, “The main finger we are pointing is at the Mormon church.” (Ex.
24 4-58.) Joe Solmonese, head of the Human Rights Campaign, echoed this sentiment on the Dr. Phil
25 show when, in response to a question from a Mormon audience member asking why his church was
26

27 ¹⁸ Ex. 3-1, at 26–27 (email from Devon Frost, devonfrost58@gmail.com, to
28 R71Team@ProtectMarriageWa.com (Nov. 6, 2009, 10:58 PM)).

1 being targeted, he reportedly declared, “We are going to go after your church every day for the next
2 two years unless and until Prop 8 is overturned.” (Ex. 4-59.) Several web sites targeting Prop 8
3 donors focus specifically on Mormons.¹⁹ And one anti-Prop-8 activist filed a complaint asking
4 California officials to investigate the Church of Jesus Christ of Latter-Day Saints for its support for
5 the marriage amendment. (Ex. 4-61; *see also* Ex. 4-62.)

6 The “Home Invasion” television ad, in particular, sought to exploit anti-Mormon bigotry for
7 political gain. The ad, which aired during the lead-up to Prop 8, depicts two Mormon missionaries
8 invading the home of two lesbian partners, ransacking their belongings, and tearing up their marriage
9 license. “Hi, we’re from the Church of Jesus Christ of Latter-Day Saints,” says one of the Mormon
10 missionaries. “We’re here to take away your rights,” says the other. The ad concludes with script and
11 a voiceover stating, “Say NO to a Church taking over your government. Vote NO on Proposition 8.”
12 (Ex. 5-13.) This manifestation of undisguised religious bigotry undoubtedly caused great concern
13 to many people. The *Los Angeles Times*, on the other hand, lamented that same-sex marriage
14 activists had failed to air more “hard-hitting” ads like it.²⁰

15 After Prop 8 passed, crowds of same-sex marriage activists congregated for protests at Mormon
16 houses of worship throughout the nation.²¹ One video shows same-sex marriage activists massed
17 outside the Mormon temple in New York City crying “fascist church” repeatedly. (Ex. 5-14.)
18 Another video appears to show angry activists rattling the gates of the temple in Los Angeles and
19 chanting “shame on you.” (Ex. 5-15 (see footage from 5:01 to 6:04).) Images from various protests
20
21

22 ¹⁹ *See* Ex. 4-60. According to this source, “One Web site run by a Prop. 8 opponent, Mormonsfor8.com,
23 identifies the name and hometown of every Mormon donor.” *Id.* The source also reported that, “[o]n the Daily Kos,
the nation’s most popular liberal blog, there is a campaign to use that information to look into the lives of Mormons
24 who financially support Prop. 8.” *Id.*

25 ²⁰ Ex. 4-63. The editorial discussed the “many mistakes” made by Prop 8 foes, and stated, “Same-sex marriage
advocates produced only one hard-hitting commercial, depicting a pair of Mormon missionaries ripping up the
26 wedding license of a married gay couple, but didn’t air it until election day.” *Id.*

27 ²¹ Protests in the City of Los Angeles prompted the Los Angeles Police Department to call a “tactical alert.” Ex.
4-64. A protest in Long Beach, though characterized as mostly peaceful, reportedly involved the arrest of 15 people,
a smashed police car window, and roughly 100 protestors who refused to leave, blocked traffic at an intersection, and
28 attempted to incite others to riot. Ex. 4-65. Same-sex marriage supporters also protested in other cities throughout
California and the nation. *See, e.g.*, Exs. 4-66, 4-67, 4-68, 4-69. In addition, protestors organized at least two
homosexual “kiss-ins” in front of Mormon temples in Salt Lake City and San Diego. Exs. 4-70, 4-71.

1 show signs like “Mormon Scum,”²² “Get your filthy church off me,”²³ “Keep your hate in Salt
2 Lake,”²⁴ “Go back to Utah,”²⁵ and “Stop the Christo-Fascists.”²⁶ Protesters at the Los Angeles temple
3 vandalized the temple gates, scrawling “LIARS” and various heart-shaped symbols across several
4 of the concrete pillars.²⁷

5 One woman at a same-sex rally in Sacramento acknowledged the widespread vandalism
6 occurring in the wake of Prop 8, but refused to condemn it. Instead, she dismissed it, saying, “same-
7 sex marriage opponents have no right to complain about any physical and verbal attacks they’ve
8 encountered since election day.” “Get over it,” she said. “It’s easier to wash a paint stain off a church
9 than to take off the stain they left on the California Constitution.” (Ex. 11-1.)

10 The *San Francisco Chronicle* reported that at a same-sex marriage rally in Sacramento in
11 November 2008, Margaret Cho performed “a song she wrote slamming Mormons for their support
12 of [Prop 8.]” (Ex. 11-1.) Here are the actual lyrics she sang to the delight of cheering crowds:

13 Whatever happened to democracy?
14 Everything equal and fair?
15 Mormons deny our humanity,
16 And they wear weird underwear.

17 All that we ask for is family,
18 Freedom from a homophobic complaint.
19 Spare me your holy insanity—
20 I protest the church of latter-day saints.

21 (chorus)
22 Don’t let the Mormons get away with it,
23 Don’t let their legislation pass.
24 Why do you think that they give a shit?
25 Shove Proposition 8 up their ass!

26 Maybe we can get them audited,
27 Cut the whole church down to size.
28 They hate gays ’cause they’re all closeted,

23 ²² E.g., Ex. 4-72 (reporting that protestors chanted “Mormon scum” outside the Mormon temple in Los Angeles). See also the picture on page 299 of Exhibit 4 and, generally, the photographs compiled in Exhibit 4-73.

24 ²³ Ex. 5-16. The sign can be seen during the period, roughly, from 0:51 to 0:56 in the video.

25 ²⁴ Ex. 5-14. The sign can be seen during the period, roughly, from 2:51 to 2:55. Another sign sports a hand-drawn swastika. It can be seen during the period, roughly, from 3:40 to 3:44 in the same video. The swastika was placed inside the letter “o” in the message “H8 IS TOXIC.” *Id.* A similar sign was posted at another rally. See picture on page 288 of Exhibit 4.

26 ²⁵ See picture at page 294 of Exhibit 4.

27 ²⁶ See picture at page 297 of Exhibit 4.

28 ²⁷ See pictures at pages 294, 299, 301 of Exhibit 4.

1 Protect our kids from their lies!

2 I want them to suffer for what they've done,
3 What would the lord on high say?
4 A true Christian tries to love everyone—
5 And Jesus was probably gay.

6 They crowded our airwaves with blasphemy,
7 Distortion, and misuse of wealth.
8 They try to deny their polygamy—
9 Oh Mormons, go fuck yourselves!

10 Don't let the Mormons get away with it,
11 Don't let their legislation pass.
12 Why do you think that they give a shit?
13 Shove Proposition 8 up their ass!
14 Shove Proposition 8 up their ass!
15 Shove Proposition 8 up their ass!²⁸

16 Cho gave the same performance at a same-sex marriage rally in Cincinnati, Ohio, and several
17 videos of her performance there are posted on the Internet. (Ex. 5-19.)

18 Anti-Mormon malice reached a new level when someone mailed packages containing suspicious
19 white powder to Mormon temples in California and Utah and to a Catholic fraternity in Connecticut.
20 (Exs. 4-75, 4-76; *see also* Ex. 4-77.) At least one of the packages sent to the Mormon temples
21 triggered a domestic terrorism investigation by the FBI. (Ex. 4-78.) Meanwhile, in Colorado,
22 perpetrators placed a Book of Mormon on the steps of a Mormon church and lit it on fire. (Exs. 4-79,
23 4-80.) Police reportedly investigated the incident as a “bias-motivated arson” related to the church’s
24 position on Prop 8. (Ex. 4-120; *see also* Ex. 4-79.)

25 The Mormon church responded in a public statement,

26 [P]laces of worship have been targeted by opponents of Proposition 8 with demonstrations
27 and, in some cases, vandalism. People of faith have been intimidated for simply exercising
28 their democratic rights. These are not actions that are worthy of the democratic ideals of our
29 nation. . . .

30
31 Attacks on churches and intimidation of people of faith have no place in civil discourse
32 over controversial issues. People of faith have a democratic right to express their views in
33 the public square without fear of reprisal. Efforts to force citizens out of public discussion
34 should be deplored by people of goodwill everywhere.

35 (Ex. 4-81.)

36 In 2008, a Bash Back! chapter in Olympia, Washington, bragged that they had vandalized a
37

38 ²⁸ Ex. 5-17. Cho also created a music video of the same song. Ex. 5-18.

1 Mormon church where they glued their door locks and sprawled anarchist messages in spray paint
2 “over their boring veneer.” “The Mormon church (just like most churches) is a cesspool of filth,”
3 the group wrote in a statement justifying its attack. “It is a breeding ground for oppression of all sorts
4 and needs to be confronted, attacked, subverted and destroyed.” To the church they warned:
5 “Dissolve completely or be destroyed.” (Exs. 4-34, 4-82.)

6 On July 31, 2009 (just three months before the R-71 election), a Washington man posted an
7 Internet post (entitled “Burning Down the Houses of the ‘Holy’”) on a website called Queer Equality
8 Revolution, putting certain religious groups on notice that retribution awaits them:

9 Dear Catholic, Mormon, and Christian Right Religious-Tyrannists,
10 Your “religion” persecutes our families and your “beliefs” have burrowed themselves
11 like maggots into U.S. law.
12 ALL religions against marriage equality are Hate Groups, and will need to accept
13 responsibility for their political actions, including accepting how some may react to hate
14 with their own hatred (such as burning down and/or vandalizing hate-churches).
15 When you fan the flames of HATE, you get burned.
16 Accept Responsibility
17 H8 breeds more Hate.

18 (Ex. 4-83.) At the end of his post, he writes, “Buddy, you gotta match?” (Ex. 4-83.)

19 Days later, he followed that post with another explicit call for violence against churches: “I
20 FULLY SUPPORT VIOLENCE against churches who are politically-active as ANTI-GAY”
21 (Ex. 4-84.) And again, “When my family’s freedom, honor, safety, and dignity as Americans is at
22 stake, it is time for individuals to use violence against property!” (Ex. 4-84.) At the top of the web
23 page in large red letters was the title “Queer Equality Revolution” with a caption beneath it that said:
24 “You will not vote on my family’s civil rights anymore! We have every right to defend our families
25 from religious terrorists and bullies.” (Ex. 4-84.) Scattered throughout the same web page were
26 pictures of handguns beneath captions that said things like, “ANTI-GAY LEGAL HATE = Terrorism
27 and Bullying.” (Ex. 4-84.)

28 Since the time of those postings, there have been several arsons and acts of vandalism on church
buildings—Mormon church buildings in particular. Investigators determined that arson was the cause
of a fire that destroyed a Mormon meetinghouse in Mukilteo, Washington, in 2010. (Ex. 4-85.) The
fire was started when someone threw a Molotov cocktail into the building. (Ex. 4-86.) Arson was
also identified as the likely cause of fires at a Mormon meetinghouse in Utah (Ex. 4-87), as well as

1 at the Mormon temple in Los Angeles (Ex. 4-88).

2 In one of a “about a dozen” separate incidents of vandalism at a Mormon church building in
3 West Lynn, Oregon (about fifteen miles outside Portland), in 2010, vandals spray-painted on a brick
4 wall in large red letters, “Fuck Mormons.”²⁹ And in Sacramento, a man went out to his car in the
5 morning only to find that overnight it had been vandalized with a black permanent marker, with the
6 message “Damn Mormons” written on the vehicle. Police are “treating the incident as a hate crime.”
7 (Ex. 4-90.)

8 And the Mormon temple in Richland, Washington, continues to be the target of repeated
9 vandalism. The most recent incident was May 7, 2011, and that incident was the *seventh* since
10 January 2011. Five of the incidents involved someone throwing rocks or bricks through glass
11 windows or doors, and the other two incidents involved slashed tires on vehicles parked at the
12 temple. (Ex. 4-91.)

13 The acts of anti-religious violence and intimidation that erupted in the wake of Prop 8 prompted
14 a full-page ad in *The New York Times*, signed by thirteen national leaders, which declared that the
15 “violence and intimidation” against the Mormon church and other religious organizations, and
16 against individual believers, “simply because they supported Proposition 8 is an outrage that must
17 stop.” The commentary rebuked the “thugs” who resorted to such tactics as well as those “public
18 voices” who “fail[ed] to condemn” and, in some cases, “seem[ed] to condone” them: “Consciously
19 or not, they are numbing the public conscience, which endangers all of us.” (Ex. 4-92.)

20 The U.S. Conference of Catholic Bishops wrote a public letter to the President of the Mormon
21 Church, expressing “prayerful support and steadfast solidarity” and noting that they were “especially
22 troubled by the reports of explicit and direct targeting of [Mormon] church personnel and facilities
23 as the objects of hostility and abuse.” (Ex. 4-93.)

24 And Rabbi Nachum Shifren wrote a piece affirming, “We who are friends of the Mormons, their
25 patriotism, their family values, will not falter in our continued support of these dear Americans.” He
26 argued that acts of intimidation against the Mormons in reality erode everyone’s freedom. Recalling

27 ²⁹ Ex. 4-89. The words “Fuck Mormons” painted in large red letters can be seen in the video accompanying the
28 news story.

1 Niemoller’s prose—“When they came for the gypsies, I said nothing, because I wasn’t a gypsy”—the
 2 Rabbi insisted that for liberty’s sake, “we all are Mormons!” (Exs. 4-94, 4-95.)

3 **B. Stolen and Vandalized Signs.**

4 Other vandalism was, of course, not directed at religious adherents per se. One of the vandals’
 5 common targets was yard signs. One woman, a candidate for Washington state office who signed
 6 an R-71 petition and whose views against SB 5688 were publicly known, had dozens of signs stolen
 7 or vandalized. (Ex. 1-3, at 35:15–22.) Some of the vandalized signs were run over with vehicles. (Ex.
 8 1-3, at 35:20.) Others were “sliced off of their stakes with a very, very sharp instrument.” (Ex. 1-3,
 9 at 35:17–19.) Still others were completely “mangled”—that is, “slashed repeatedly and left to kind
 10 of dangle” (Ex. 1-3, at 35:19–20), “just kind of hanging in shreds” (Ex. 1-3, at 108:25). The signs
 11 were made of “very firm material”—to mutilate them in such a way would require “some kind of a
 12 machete” or some other “extremely sharp instrument.” (Ex. 1-3, at 109:8–11, 109:20.)

13 The slashed signs carried with them an emotionally chilling effect. The candidate admitted that
 14 the mangled signs “bother[ed]” her. (Ex. 1-3, at 109:14.) She found it “quite frightening to come
 15 across a sign like that.” (Ex. 1-3, at 109:13–14.) To her, “the fact that the sign [wa]s not just merely
 16 stolen show[ed] fury and anger.” And, she added, “I . . . perceive those kind of signs as physical
 17 threats to me. It’s as if they’re slashing my face when I see a sign like that.” (Ex. 1-3, at 109:21–25.)

18 These anecdotes were repeated in almost countless incidents across the State. Many awoke in
 19 the morning to find their signs stolen or spray-painted, often with obscene and vicious words and
 20 symbols. (*E.g.*, Ex. 1-6, at 43:17–44:16; Ex. 2-1; Ex. 3-2, at 272–78; Ex. 7-2, at 84:13–16.) Signs
 21 urging voters to reject R-71 were spray-painted with swastikas and messages like, “Fuck you
 22 homophobe.” (Ex. 3-2, at 272–78.) Larry Stickney, campaign manager for Protect Marriage
 23 Washington, estimated that 90% of the 6,000 signs put up statewide in support of repealing SB 5688
 24 were stolen, broken, torn up, slashed, or vandalized in some way. (Ex. 1-11, at 105:11–17.) “They
 25 would go up overnight and they’d be gone the next day. . . .” (Ex. 1-11, at 105:16–17.) One church
 26 reported that its signs were stolen or destroyed multiple times, and each time the church replaced a
 27 sign, vandals would destroy it again. (Ex. 7-2, at 82:9–20.) Sign vandalism and theft became so
 28 prevalent that supporters eventually decided to forgo putting up any more signs. (Ex. 1-11, at

1 105:8–10.)

2 Similarly, reports of Yes on Prop 8 signs being defaced, damaged, dislocated, or stolen are
 3 almost too numerous to track reliably. (*See, e.g.*, Ex. 9-14 (John Does 13, 14, 16, 18, 20, 22, 24, 25,
 4 26, 31, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 55, 57, 58); *see also, e.g.*,
 5 Exs. 4-29, 4-30, 4-31.) The Yes on 8 campaign estimated that about one-third of an estimated 25,000
 6 signs distributed in California were stolen or vandalized before the campaign ended. (Ex. 4-32.) And,
 7 as was the case in Washington, Prop 8 supporters who replaced stolen signs often had their signs
 8 stolen again. (*E.g.*, Ex. 9-14 (John Does 45, 47).) One man had his seven-foot wooden sign stolen
 9 the day after it was put up. He replaced it with a steel sign. (Ex. 4-33.)

10 **C. Trespassing**

11 Sign theft and vandalism, by its nature, also often involved the added element of trespass or fear
 12 of trespass. (Ex. 2 (after sign on private property was vandalized overnight, she felt “very alarmed
 13 and uncomfortable” and “feared the vandalism could escalate and that [her] home could be the next
 14 target”); Ex. 9-14 (John Doe 41).) In some cases, perpetrators crossed fences and tall walls to steal
 15 signs, many that had been securely fastened in place. (Ex. 9-14 (John Does 13, 26, 33, 46).) One
 16 individual reported coming home late and hearing male voices outside her home. (Ex. 9-14 (John
 17 Doe 45).) Another reported that a suspected perpetrator quickly drove away when spotted through
 18 the front window of his house. (Ex. 9-14 (John Doe 47).)

19 **D. Vandalized Vehicles, Homes, and Commercial Buildings**

20 Vandals targeted more than just yard signs. One Washington man who placed a Reject R-71
 21 bumper sticker on his car, returned from a walk around the park with his wife to find that vandals
 22 had bashed in the side window of his car. (Ex. 7-2, at 76:18–25.) Similarly, a senior citizen in
 23 California who placed a pro-traditional-marriage bumper sticker on her car had her car’s rear
 24 window smashed in. (Ex. 9-14 (John Doe 11).) And an elderly couple who put a Yes on 8 sign in
 25 their yard had a block thrown through their window. (Ex. 4-34.) Others with pro-traditional-marriage
 26 bumper stickers had their cars keyed. (Ex. 4-35; Ex. 9-14 (John Does 12, 13).)

27 One man who placed signs in his yard and stickers on his cars and motorbike reported that
 28 someone egged and floured his home three times and egged, floured, and honeyed his car twice.

1 Someone also pushed over the man’s motorbike and scraped the bumper stickers off the back glass
 2 windows of his cars. (Ex. 9-14 (John Doe 14).) Several other individuals reported that their bumper
 3 stickers were scraped or ripped off their vehicles, or defaced. (Ex. 9-14 (John Does 24, 25, 31).)

4 Several individuals found their property vandalized with spray paint. Vandals spray-painted
 5 vehicles, garages, fences, and Yes on 8 signs in Yucaipa, California. (Ex. 4-36.) An Alta Loma
 6 resident who placed a Yes on 8 sign in her yard found the words “love for all” and “no on 8”
 7 spray-painted in large letters on her fifth-wheel trailer. (Ex. 4-37.) In San Jose, vandals spray-painted
 8 in large letters “No on 8” on the garage doors of two neighboring homeowners who displayed signs
 9 supporting Prop 8 (they also tagged the homeowners’ yard signs as well as the minivan belonging
 10 to one of the neighbors). (Exs. 4-38, 4-39, 4-40.) And in Fullerton, vandals spray-painted anti-Prop-8
 11 messages on commercial and residential buildings. (Ex. 4-41.)

12 **E. Harassing and Intimidating Telephone Calls**

13 Several individuals reported receiving harassing phone calls. For example, one Washingtonian,
 14 a state senator, received at her home telephone number—over a several-day period during the R-71
 15 campaign—“several harassing, nasty messages” via fax, phone, and answering machine, in which
 16 she was called a “bigot” and a “bitch.”(Ex. 1-5, at 26:18–24, 28:17–29:13, 68:22–25.) She received
 17 so many of these calls that she was forced to forward her phone calls to her fax number to keep the
 18 callers from tying up her phone line. (Ex. 1-5, at . 32:12–33:4.) She described it as a “very, very
 19 chilling experience” (Ex. 1-5, at 28:15-16) that was a threat to her emotional safety (Ex. 1-5, at
 20 93:17–23).

21 Others reported receiving phone calls calling them “bigot” (*e.g.*, Ex. 9-14 (John Doe 56)) and
 22 using vulgar language (*e.g.*, Ex. 9-14 (John Doe 28)). One man called his neighbor and left a short
 23 voice message, signing off, “What a scum-fuck!” (Ex. 9-14 (John Doe 28).) Sometimes hecklers
 24 called in the middle of the night. (*E.g.*, Ex. 8-1 ¶ 30.) Other times they called at work. (*E.g.*, Ex. 9-14
 25 (John Does 53, 56); Ex. 9-13 (John Doe 1).) A public relations firm hired by the Yes on 8 Campaign
 26 received so many harassing phone calls from one angry person that business over the telephone
 27 became impossible and the sheriff’s office was contacted. (Ex. 9-14 (John Doe 52).)

28 Sometimes they called at church. One caller left voice messages for the pastor of a Washington

1 church. (Ex. 1-7, at 47:5–22; Ex. 10-3 ¶12; Ex. 10-2 ¶ 19.) When the pastor’s wife returned the call
 2 (Ex. 10-3 ¶ 13), the caller asked why she was involved in R-71 (Ex. 1-7, at 49:49:2–3). After the
 3 pastor’s wife expressed her views on homosexuality, the caller went on a “verbal tirade,” calling the
 4 pastor’s wife “‘stupid’ and other names.” (Ex. 10-3 ¶ 18.) The caller then hung up, but called back
 5 and left three voice messages (Ex. 10-3 ¶ 19), threatening to disrupt the church’s services, saying,
 6 in effect, that the caller and all the caller’s homosexual and transgender friends were going to show
 7 up at their church services; that the caller wanted “to make sure you guys have plenty of seating
 8 [because] . . . [w]e’ve got a lot of people coming”; and that “something tells me you’re going to have
 9 a tough time finding members” because of the church’s position on homosexuality. (Ex. 2-2; Ex. 10-
 10 3 ¶¶ 17–20.) The caller added, “I will not stop from dealing with you, sir, from here until the day I
 11 croak.” (Ex. 2-2.)

12 The threatening phone calls and messages were reported to the manager of the hotel where the
 13 church held its services, who worried that the threatened disruption might potentially cause a loss
 14 of business. (Ex. 10-3 ¶¶ 20–21; Ex. 10-2 ¶ 20.) They were also reported to the police who contacted
 15 the caller and told the caller to cease all contact with the pastor, his wife, and the pastor’s church.
 16 (Ex. 10-2 ¶ 21; Ex. 1-6, at 40:21–42:1.) Despite being instructed to cease contact, the caller
 17 subsequently emailed the pastor’s wife, and continued to express displeasure with R-71 and the
 18 pastor’s wife’s stance on homosexuality. (Ex. 10-3 ¶ 25; Ex. A to Exhibit 10-3.)

19 The pastor of a Lutheran church, also in Washington, received a telephone call from an
 20 individual identifying herself as “a transgender woman who had previously been in special forces,”
 21 and asking how the pastor would like it if her and her friends picketed the church. (Ex. 1-2, at
 22 20:3–17; *see also* Ex. 10-1 ¶¶ 3–4.) The caller indicated the pastor’s “stand justified some kind of
 23 retaliatory action.” (Ex. 1-2, at 21:1–5; *see also* Ex. 10-1 ¶ 5.) The pastor understood “special forces”
 24 to mean “[p]eople who are trained in doing harm . . . [or] special tactics to be able to carry out killing
 25 missions.” (Ex. 1-2, at 43:11–13.)

26 **F. Emails, Letters, and Postcards**

27 Many others received harassing and intimidating emails, letters, and postcards using vulgar
 28 language (*e.g.*, Ex. 8-2, at 35; Ex. 8-4, at 53, 55, 57; Ex. 9-14 (John Doe 54)) and offensive labels

1 like “gay hater” (*e.g.*, Ex. 9-14 (John Doe 51)), “bigot” (*e.g.*, Ex. 8-2, at 24, 36), “gay bashers” (*e.g.*,
2 Ex. 8-2, at 25), and “hate mongerers” (*e.g.*, Ex. 8-2, at 35).

3 One Washington couple who publicly opposed SB 5688 received—about a month before the
4 November 2009 election—an anonymous letter in the mail, at their home address, that read simply,
5 “christian BIGOT,” with the word “christian” in very small type and the word “BIGOT” in very large
6 type. (Ex. 1-6, at 45:23–46:12; Ex. 1-7, at 57:22–60:3; Ex. 4 to Ex. 1-7.) The letter, which had a
7 postmark from Tacoma-Olympia, purported to be from “Tax Services of Washington,” but upon
8 inquiry, the letter turned out to be from a bogus business (with a false return address). The husband
9 serves as a pastor for his church and he has never received any letter of this kind during his fifteen
10 years as a pastor. (Ex. 1-6, at 46:22–23.) During the Secretary of State’s verification process (*i.e.*,
11 reviewing R-71 petition signatures), the wife served for an extensive period over the course of
12 several weeks as an official observer. One day, she “mentioned” to one of the supervisors at the
13 Secretary of State’s office that one of the things she and her husband needed to do was to “file [their]
14 taxes because [they] . . . were late on filing [their] taxes.” After receiving the “christian BIGOT”
15 letter, she thought it “was interesting that whoever sent [the letter] used this Tax Services of
16 Washington to kind of like throw us off, thinking it was some tax services.” (Ex. 1-7, at 61:18–21.)

17 Some emails spoke in metaphors. One typical email called R-71 an “action of hatred” carried
18 forward by “American terrorists” who were “bound for a special hell.” (Ex. 8-2, at 39; *see also, e.g.*,
19 Ex. 9-13 (Exhibit B to John Doe 4).) Others left less to the imagination. For example, one man from
20 San Francisco emailed a traditional marriage supporter: “I tolerate you because I don’t come to
21 where you are and slaughter you.” (Ex. 9-14 (John Doe 30).)

22 Another email was sent to a traditional marriage supporter in Connecticut who was employed
23 at a local school. After calling the supporter a “rotten” person, the person sending the email
24 threatened to tell “all the parents” of students at the school where the supporter worked that she had
25 supported traditional marriage with a financial contribution. The supporter found “the effect of this
26 to be chilling and very upsetting.” (Ex. 9-14 (John Doe 10).)

27 One man even received a book, sent anonymously through Amazon.com, that contained “the
28 greatest homosexual love stories of all time.” He contacted Amazon to ask who sent it, but Amazon

1 would not tell him. (Ex. 9-14 (John Doe 23).)

2 After the names of Prop 8 donors were released in California, there was a rash of hostile and
3 intimidating emails and letters. One previously undisclosed donor received this correspondence:

4 The judge released the names today of the donors who supported Prop 8, and your
5 name is on the list as having donated . . . to keep same-sex couples from marrying.
6 Someday you will have to account for the fact that you refused to love they [sic] neighbor,
7 but in the meantime I hope your hateful little life is full of oppression and injustice as this
8 is the kind of life you wish for others. You're a queer-hating douchebag. Fuck you. Best,
9 Julia

10 (Ex. 9-14 (John Doe 54).)

11 The same man, a 65-year-old veteran, also received a handwritten letter, at his home address,
12 that read in its entirety, "STUPID MOTHER FUCKER. MAKE A DONATION Like that AND
13 YOU ARE LISTED." (Ex. 9-14 (John Doe 54).)

14 Another man reported that he and his co-workers began receiving harassing phone calls at work
15 shortly after his donation was made public. (Ex. 9-14 (John Doe 53).) And there are many other
16 examples of individuals who were singled out after their financial support became public. (E.g., Ex.
17 9-13 (John Does 2, 4, 5, 6); Ex. 9-14 (John Does 10, 17, 19, 20, 27, 28, 29, 30, 32).)

18 Similarly, within hours of the release of the Supreme Court's decision in *Doe v. Reed*, 130 S.
19 Ct. 2811, (2010), a string of gloating emails was sent to Protect Marriage Washington. Some hinted
20 at retribution. Others promised it. One person wrote (revealing his misunderstanding of the import
21 of the Supreme Court's decision),

22 You lost at the Supreme Court and now must release the names of those who signed your
23 bigoted petition! I hope business are boycotted, people are shunned and shame is felt by
24 those who signed this petition!³⁰

25 Louis expressed satisfaction in knowing that "you cockroaches won't be hiding in darkness."³¹ And
26 WeTheSheeple wrote, "YOU LOST!!!!!! Hahahahahahahahaha Get ready for retribution all you
27 bigots!!!!!!"³²

28 ³⁰ Ex. 3-1, at 14 (email from Don't Worry About It!, dontworryaboutit@youlost.com, to
R71Team@ProtectMarriageWa.com (June 24, 2010, 8:37 AM)).

³¹ Ex. 3-1, at 13 (email from Louis, lbatter@aol.com, to R71Team@ProtectMarriageWa.com (June 24, 2010,
2:02 PM)).

³² Ex. 3-1, at 13 (email from WeTheSheeple, jeedlh@charter.net, to R71Team@ProtectMarriageWa.com (June
24, 2010, 10:12 AM)).

1 **G. Other Acts of Intimidation**

2 Harassment sometimes took other forms. In one case, two women painted an arrow and the
3 words “Bigots live here” on the window of an SUV and parked the vehicle in front of a household
4 that had supported traditional marriage. (Ex. 4-60.)

5 Maureen Mullarkey, an artist from New York, donated more than \$500 to support traditional
6 marriage. She recounted her experience: “One night in early February, I drove home to find two cars,
7 two men, waiting for me, unannounced, in the dark.” The men were reporters for the *Daily News*,
8 who told Mullarkey they were publishing a story on her. She could sense the men’s visit to her home
9 had a different purpose: “This was intimidation, not fact-gathering.” Mullarkey’s name was printed
10 in the *Daily News* story, and within twenty-four hours, her name was subsequently dragged through
11 the mud. In her own words, she had become “a class enemy,” “up there with Halliburton and Big
12 Oil.” Her “home address and email were repeated in comment sections [of the article] in which
13 readers egged each other on to ‘make the bitch pay.’” (Ex. 4-96.)

14 Others sought to intimidate through the use of photography. One individual who supported Prop
15 8 found himself the subject of a flyer distributed in his town. The flyer included a photo of him,
16 labeled him a “Bigot,” and stated his name, the amount of his donation to Prop 8, and his association
17 with a particular Catholic Church. (Ex. 9-13 (John Doe 2); Ex. 9-13 (Ex. A to John Doe 2).)

18 In another case, while two Washingtonians were gathering R-71 signatures outside a Walmart
19 in Auburn, Washington, a young lady approached them and took pictures and video of them with her
20 cell phone. (Ex. 1-6, at 21:7–15; Ex. 10-3 ¶¶ 8–9.) The young lady then threatened to post the
21 pictures on her Facebook and MySpace pages so all her homosexual friends would know what they
22 looked like. (Ex. 10-2 ¶¶ 15–16; Ex. 10-3 ¶ 9.)

23 Others were more invasive. The pastor of a Washington church that publicly advocated the
24 rejection of R-71 discovered two women taking pictures of his house, his garage, his car, and his
25 wife’s car. (Ex. 7-2, at 42:11–43:2, 46:17–47:3.) One of the women took photos while she hid
26 behind a tree. (Ex. 7-2, at 46:17–25.) When the pastor attempted to confront the women they left
27 immediately. (Ex. 7-2, at 42:23–25, 46:21–25.)

28 In another case, the names and pictures of several Prop 8 supporters were posted on an online

1 message board. People responded with the following comments: “Let’s go get ‘em”; “I’m having a
 2 hard enough time fighting the urge to put on my construction boots, hop on a plane and kick some
 3 right-wing ass!”; “I can take out the doped up chick, no problem”; “I’ve been trying to locate
 4 them...”; “I’m actually so enraged right now I want to go punch a Mormon.” Several posters posted
 5 the addresses, home phone numbers, work phone numbers, and email addresses of the pictured
 6 supporters. One poster claimed to have left the following message on a supporter’s answering
 7 machine:

8 Hi Amanda, I just wanted to call and let you know what a great picture that was of you
 9 and the other Nazi’s in the newspaper. It’s nice to see you getting out and supporting
 10 discrimination. Don’t worry though, we have plans for you and your friends. When you
 11 have one of your basic rights taken away from you, you’ll know how it feels to be
 12 discriminated against.

13 I hope you rot in hell, you fckuing c**t.

14 (Ex. 4-97.)

15 *The Stranger* (a Seattle-based “alternative” newspaper) published the pictures of Larry Stickney
 16 and “four other conservative leaders” on its front-page under the headline “Know Thy Enemy.” (Ex.
 17 1-11, at 55:2–8.) *The Stranger* also chose to get involved in mudslinging aimed at Larry Stickney
 18 and his family. An article in *The Stranger* reported that Larry had been divorced twice, and went on
 19 to make allegations of domestic violence in one of Larry’s marriages.³³ (Ex. 1-11, at 143:15–144:16;
 20 Ex. 8-4.) Several activists took their cue and followed suit. Finn Jackman, for instance, emailed,
 21 “Stickney, stick you hypocrisy up your ass. Married 3 times, you’re a disgusting, white trash, small
 22 brained piece of shit. FUCK YOU!”³⁴ When Larry’s son defended his father in online comments, he
 23 (the son) was rebuffed by comments like this one: “unsubstantiated claims my ass! . . . I saw the

24 ³³ Those supporting SB 5688 were apparently paying attention. At a rally in Yakima, Larry was heckled by a
 25 “high-profile opponent of R-71” and her supporters. (Ex. 1-11, at 100:21, 101:5–11.) The heckler made reference to
 26 Larry’s past divorces, asking him “which wife is with you tonight?” (Ex. 1-11, at 101:20–24.) And after the R-71
 27 election was over, Larry wrote a number of articles (unrelated to R-71) for a conservative blog (Ex. 1-11, at
 28 83:21–25), and whenever his name appeared on an article, he would experience residual harassment stemming from
 the R-71 campaign. (Ex. 1-11, at 83:25–84:3.) For example, people posted comments calling him a “homophobic
 bigot” and mentioning that he was divorced in 1994—things that had nothing to do with his columns but had been
 dragged out (initially) in an attempt to smear him during the R-71 campaign. (Ex. 1-11, at 84:7–15.)

³⁴ Ex. 3-1, at 20 (email from Finn Jackman, info@faithandfreedom.us, to R71Team@ProtectMarriageWa.com
 (Nov. 10, 2009, 2:23 AM)); see also, e.g., Ex. 3-1, at 24 (email from Stickney Fuck YOU,
 hypocritessuck@hotmail.com, to R71Team@ProtectMarriageWa.com (Nov. 9, 2009, 12:03 AM) (“Stickney is a
 fucking hypocrite. Has to be married 3 times, and counting.”)).

1 bruises. So [addressing Larry's son], your willful ignorance is endearing, but, you are full of shit.
2 Why dont larrys beat up boyfriends come forward is my question? fuck this guy. he would like it.”³⁵

3 **H. The Carrie Prejean Story**

4 Another widely reported case involved Carrie Prejean, the Miss USA beauty contestant. Ms.
5 Prejean was competing in the final round of the Miss USA pageant when she drew a question from
6 pageant judge Perez Hilton about legalizing same-sex marriage.³⁶ Ms. Prejean's answer—that, in her
7 view, marriage should be between a man and a woman—generated a tidal wave of “vicious attacks
8 on her character, intelligence, and religious beliefs” (Ex. 4-149) by bloggers and the media, including
9 from Mr. Hilton, who later described Ms. Prejean in crude and derogatory terms in a video blog on
10 his web site (Ex. 4-148). Even “high-ranking gay British politician Alan Duncan . . . called [Prejean]
11 a ‘silly bitch’ and said that if she turns up murdered, ‘you know it was me.’”³⁷ A co-director of the
12 Miss California association also condemned Ms. Prejean, stating that “[r]eligious beliefs have no
13 place in politics in the Miss CA family.” (Ex. 4-197.) Both Ms. Prejean and Mr. Hilton have
14 speculated that her answer cost her the crown. (Ex. 4-151.)

15 **I. Harassment and Intimidation on Campus and in the Classroom**

16 Students who held traditional beliefs regarding marriage and family life were also the object of
17 harassment, intimidation, and reprisals. Some examples may seem relatively benign—like the
18 student group at the University of California, Davis, who, while sitting at a Yes on 8 table on the
19 campus quad, was attacked by another group of students throwing water balloons and shouting “you
20 teach hate.” (Ex. 4-35.) But even the example of the water-ballooning students is indicative of a
21 deeper level of animus on campuses across the country that is being exhibited toward the “bigots”
22 who oppose same-sex marriage and other similar measures.

23 **1. Professor to College Student: “Ask God what your grade is.”**

24
25 ³⁵ Ex. 8-4, at 55; *see also* Ex. 1-12, at 13:3–14:3 (others left comments, directed at Larry's son, to the effect that
26 Larry was a “bigot” and an “asshole” and that he should burn in hell).

27 ³⁶ Ex. 4-147. According to one source, “Perez [Hilton] had actually written the question hoping Miss Utah
28 would answer it, thereby bringing attention to the Mormon Church's financing of the Yes on Prop. 8 campaign.” (Ex.
4-148.)

³⁷ Ex. 4-149. The *Post-Dispatch* article (Ex. 4-149) censored the term “bitch,” but it can be found in the article
included as Exhibit 4-150.

Jonathan Lopez was a student at Los Angeles City College enrolled in a speech 101 class. (Ex. 4-100 (article).) After Prop 8 passed in California, his professor told the entire class, “If you voted yes on Proposition 8, you are a fascist bastard.” (Ex. 4-100 (complaint ¶ 42).) Later in the semester, Mr. Lopez was tasked with presenting an informative speech on a topic of his choice. Mr. Lopez, who is a Christian, chose to present a speech on his faith. In the middle of his speech, he mentioned the dictionary definition of marriage and recited two Bible verses. At that point, his professor interrupted him, called him a “fascist bastard” in front of the entire class, told the other students that they could leave if they were offended, and when no one left, dismissed the class. The professor refused to grade the assigned speech and wrote on Mr. Lopez’s evaluation, “Ask God what your grade is.” (Ex. 4-100 (complaint ¶ 39); Ex. 4-100 (Ex. 2 to complaint).) Mr. Lopez discussed the event with a college dean (who did nothing to intervene). His professor saw him speaking to the dean and later told him that he (the professor) would make sure that he (Mr. Lopez) was expelled from school. (Ex. 4-100 (complaint ¶ 49).)

2. Students Investigated and Disciplined for Christian Views on Homosexuality

University students across the country have been investigated, threatened with expulsion, and actually expelled—all for doing nothing more than expressing their opinions favoring traditional notions of marriage and family life. One young lady, a senior at Missouri State University, received an assignment in one of her classes to sign a letter to the state legislature in support of foster care and adoptions by same-sex partners. When she approached her professor and respectfully requested a different assignment (as that assignment contravened her moral stance on the issue), her professor responded by filing charges with a faculty ethics committee. The committee questioned her for hours about her Christian faith and insisted that she undertake a “remediation” program to change her views.³⁸

Another young woman enrolled in Eastern Michigan University’s graduate school counseling program was just four requirements short of graduation when she was dismissed from the program because her religious beliefs regarding homosexual behavior clashed with the views of the school’s

³⁸ Ex. 4-101; *see also generally* *Brooker v. Franks, et al.*, No. 6:06-cv-03432-RED, Verified Complaint (W.D. Mo. Oct. 30, 2006), *available at* <http://oldsite.alliancedefensefund.org/userdocs/BrookerComplaint.pdf>.

1 counseling department. The school’s counseling department required students to affirm or validate
 2 homosexual conduct when counseling, but also (ostensibly) allowed students to “refer” clients when
 3 conflicts arose, including in circumstances where a student counselor’s values clashed with the
 4 client’s values or goals. When a client sought counseling regarding a homosexual relationship, this
 5 Christian student reasonably believed that affirming the client’s homosexual conduct would violate
 6 her religious beliefs, and therefore she sought and received permission to refer the client to a
 7 different counselor.

8 Shortly thereafter, disciplinary proceedings were initiated against her. She was given three
 9 options: (1) voluntarily leave the program; (2) enter a “remediation” program designed to help her
 10 “see the error of her ways” and change her “belief system”; or (3) undergo a formal review hearing.
 11 Unwilling to change her fundamental religious beliefs (and desiring to remain in the program), she
 12 requested a formal hearing. At the formal review, EMU faculty denigrated her Christian views and
 13 asked “several inappropriate and intrusive questions” about her religious beliefs. And following the
 14 review, a faculty committee dismissed Ms. Ward from the counseling program.³⁹

15 Similar incidents of institutional harassment and intimidation played out in scenes across the
 16 country, from high schools in California⁴⁰ and Maine⁴¹—to college campuses in the South.⁴²

17 Conclusion

18 WCOG has not made the showing necessary to warrant granting its motion for summary
 19 judgment, and accordingly Plaintiffs pray the Court to deny its motion.

22 ³⁹ Ex. 4-103; Ex. 5-4; *see also generally Ward v. Wilbanks*, No. 2:09-cv-11237-GCS-PJK, Verified Compl. for
 23 Injunctive and Declaratory Relief and Damages (E.D. Mich. Apr. 2, 2009), *available at*
 24 <http://oldsite.alliancedefensefund.org/userdocs/WardComplaint.pdf>.

⁴⁰ Ex. 4-102 (student publicly harassed by teacher).

⁴¹ Exs. 4-105, 4-106 (school counselor under fire for airing ad, on his own time, favoring traditional marriage).

⁴² Ex. 4-104 (graduate student at Augusta State University ordered to change her beliefs on homosexuality, or
 25 face expulsion); *see also generally Keeton v. Anderson-Wiley*, No. 1:10-cv-00099-JRH-WLB, Verified Compl. (S.D.
 26 Ga. July 21, 2010), *available at* <http://oldsite.alliancedefensefund.org/userdocs/KeetonComplaint.pdf>. Exs. 5-21, 5-
 27 22 (after speaking against the morality of homosexuality, two young women—both undergraduate students at
 28 Georgia Tech—faced harassment and intimidation from school administrators, and threats of rape and murder from
 their peers); *see also generally Sklar v. Clough*, No. 1:06-cv-00627-JOF, Verified Compl. (N.D. Ga. Mar. 16, 2006),
available at <http://oldsite.alliancedefensefund.org/userdocs/GeorgiaTechComplaint.pdf>.

1 Dated this 18th day of July, 2011.

2 Respectfully submitted,

3
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Certificate of Service

I, Jared Haynie, am over the age of eighteen years and not a party to the above-captioned action. My business address is 1 South Sixth Street, Terre Haute, Indiana 47807.

On July 18, 2011, I electronically filed the foregoing document, described as Plaintiffs' Response to Intervenor Washington Coalition for Open Government's Motion for Summary Judgment, 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 18th day of July, 2011.

/s/ Jared Haynie
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