THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN DOE #1, an individual, JOHN DOE #2, an individual, and PROTECT MARRIAGE WASHINGTON, Plaintiffs, v. SAM REED, in his official capacity as Secretary of State of Washington, BRENDA GALARZA, in her official capacity as Public Records Officer for the Secretary of State of Washington, Defendants.	No. 3:09-CV-05456-BHS DECLARATION OF KEVIN J. HAMILTON IN SUPPORT OF INTERVENOR WASHINGTON FAMILIES STANDING TOGETHER'S RESPONSE TO PLAINTIFFS' MOTION FOR PROTECTIVE ORDER

I, Kevin J. Hamilton, declare as follows:

1. I am an attorney with Perkins Coie LLP, counsel for Intervenor Washington Families Standing Together ("WAFST") in this lawsuit. I have personal knowledge of the facts set forth in this declaration and am competent to testify to them.

2. On August 20, 2010, I participated in a Rule 26(f) conference with plaintiffs and the other parties in this matter. At that conference, the parties discussed plaintiffs' initial disclosures. The parties agreed that plaintiffs would disclose to the other parties in this lawsuit individuals who will or may be called as a witness or declarant by plaintiffs in this matter no later than August 23, 2010.

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3. The parties also discussed whether the witness list and the identity of the witnesses would be maintained as confidential, as plaintiffs insisted. I objected, and instead proposed that the parties agree to treat the identity of any witnesses disclosed by plaintiffs as confidential temporarily. If plaintiffs filed a motion during that time period seeking to maintain such witnesses' identities as confidential, the parties further agreed not to retain the identities of such witnesses as confidential until the Court had heard and ruled on the motion. The other parties agreed to this approach, which was commemorated in the parties' Joint Proposed Scheduling Order (Dkt. #118).

4. At no time during this Rule 26(f) conference did plaintiffs request or the parties discuss that *all* information disclosed in discovery—regardless of whether it had any bearing on the identity of plaintiff's witnesses—would be treated as confidential. To my knowledge, the parties have never discussed plaintiffs' present request to preclude the disclosure of all discovery exchanged in this matter. Plaintiffs have therefore not conferred with WAFST in an effort to resolve the present dispute before filing their motion.

5. On September 1, the State of Washington took the deposition of two of plaintiffs' witnesses. I attended and conducted additional examination of these witnesses. Attached as Exhibits A and B are true and correct copies of excerpts of those depositions. While WAFST does *not* believe that such excerpts contain information that should be shielded from public view, Exhibits A and B to this declaration are filed under seal pursuant to the parties' agreement to retain the confidentiality of the identity of plaintiffs' witnesses until the Court resolves the present motion.

I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

SIGNED at Seattle, Washington, this 15th day of September, 2010.

s/ Kevin J. Hamilton,WSBA #15648
Kevin J. Hamilton

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CERTIFICATE OF SERVICE

I hereby certify that on the 15th day of September, 2010, I electronically filed the Declaration of Kevin J. Hamilton In Support of Intervenor Washington Families Standing Together's Response to Plaintiffs' Motion for Protective Order in the above-referenced case with the Court via CM/ECF, which system will send notification of such filing to counsel of record.

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I certify under penalty of perjury that the foregoing is true and correct.

DATED this 15th day of September, 2010.

s/ Kevin J. Hamilton

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FILED UNDER SEAL

EXHIBITS A AND B

Served on Counsel for Defendants and Intervenor Washington Coalition for Open Government and Provided to Court with "Judge's Working Copies"

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