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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 Case No. 3:12-cv-05713-TEH
14 ~~PROPOSED~~ ORDER RE EXTENSION
15 OF TEMPORARY RESTRAINING
16 ORDER AND BRIEFING AND
17 HEARING SCHEDULE REGARDING
18 PLAINTIFFS' MOTION FOR A
19 PRELIMINARY INJUNCTION
20 Courtroom: 12
21 Judge: The Honorable Thelton E.
22 Henderson
23 Trial Date: Not Set
24 Action Filed: November 6, 2012

13 JOHN DOE, JACK ROE, AND
14 LAWS, ON BEHALF OF THEMSELVES AND
15 OTHERS SIMILARLY SITUATED,
16 Plaintiffs,

17 v.

18 KAMALA D. HARRIS, ATTORNEY
19 GENERAL OF CALIFORNIA, AND CITY OF
20 ALAMEDA,
21 Defendants.

22 On November 7, 2012, this Court granted Plaintiffs' request for a temporary restraining
23 order ("TRO") pending a hearing on a motion whether a preliminary injunction should issue
24 against Defendant Kamala D. Harris, California Attorney General (the "Attorney General") in
25 this action. In issuing the order, the Court invited the parties to meet and confer to attempt to
26 reach an agreement on an extension of the TRO and a briefing and hearing schedule on the
27 Motion for a Preliminary Injunction. The parties, through their respective counsel, have met and
28

1 conferred and have reached an agreement regarding the continuance of the TRQ, the briefing and
2 hearing schedule for Plaintiffs' Motion for Preliminary Injunction, and other issues.

3 IT IS THEREFORE ORDERED THAT:

4 CLASS CERTIFICATION

5 1. Plaintiffs' Motion for a Preliminary Injunction will be resolved without litigating the
6 issue of class certification at this time and without prejudice to the Attorney General to later
7 challenge class certification.

8 SCOPE AND EXTENSION OF TEMPORARY RESTRAINING ORDER

9 2. Pursuant to the stipulation of the parties, the TRQ and any preliminary injunctive
10 relief granted by the Court will apply both to the named Plaintiffs and to all persons who are
11 required to register under California Penal Code § 290, including those whose duty to register
12 arises during the pendency of the TRQ and any preliminary injunctive relief.

13 3. The application of the TRQ to "all California state and local law enforcement
14 officers" shall be deleted. However, the California Department of Justice and local law
15 enforcement will not require registrants to submit the information covered by the TRQ so long as
16 the TRQ remains in effect.

17 4. The parties agree that the TRQ, as modified by this stipulation, shall remain in effect
18 until the Court issues its ruling on Plaintiffs' Motion for a Preliminary Injunction or January 11,
19 2013, whichever occurs first.

20 PLAINTIFFS' MOTION TO PROCEED ANONYMOUSLY AND FILE UNDER SEAL

21 5. If Plaintiffs are permitted to proceed anonymously, Plaintiffs will provide the
22 Attorney General with the names and dates-of-birth of Plaintiffs Doe and Roe under a stipulated
23 protective order that prohibits her from publicizing or disseminating this information to any other
24 person or entity, including local law-enforcement agencies, or from using it for any purpose other
25 than defending this litigation, so that the Attorney General may evaluate their standing to bring
26 this case.

FACIAL CHALLENGE TO PROPOSITION 35

6 Pursuant to the agreement of the parties, Plaintiffs will litigate this matter only as a facial challenge until further notice, in which case the Attorney General will not take any discovery from Plaintiffs Doe or Roe without leave of court. If Plaintiffs later raise an as-applied challenge to Proposition 35, they will provide the Attorney General with at least 45 days notice before filing any motion or other paper with the Court that raises such a challenge, so that the Attorney General may take any appropriate discovery.

SCHEDULING OF MOTION FOR PRELIMINARY INJUNCTION

7 The hearing on the preliminary injunction shall be set for December 17, 2012, at 10:00 a.m. The Attorney General's opposition papers shall be filed by November 26, 2012. Plaintiffs shall file any reply papers by December 3, 2012.

8 The proponents of Proposition 35 have filed a Motion to Intervene in this action. Consistent with the requirement in the TRQ that any brief by Defendant-Intervenors be filed at the same time as the Attorney General, if permitted to intervene, the proponents of Proposition 35 shall file any opposition papers by the stipulated due date of the Attorney General's opposition papers, November 26, 2012.

PURSUANT TO STIPULATION, IT IS SO ORDERED

HONORABLE JUDGE THELTON E. HENDERSON
By 
Judge Thelton E. Henderson
NORTHERN DISTRICT OF CALIFORNIA UNITED STATES DISTRICT COURT

Dated: November 14, 2012

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