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Attorneys for Defendant City of San Diego

UNITED STATES DISTRICT COURT
THE SOUTHERN DISTRICT OF CALIFORNIA

PHIL THALHEIMER; ASSOCIATED BUILDERS &
CONTRACTORS PAC SPONSORED BY
ASSOCIATED BUILDERS & CONTRACTORS,
INC. SAN DIEGO CHAPTER; LINCOLN CLUB OF
SAN DIEGO COUNTY; REPUBLICAN PARTY OF
SAN DIEGO; and JOHN NIENSTEDT, SR.,

Plaintiffs,

v.

CITY OF SAN DIEGO; CITY OF SAN DIEGO
ETHICS COMMISSIONERS RICHARD M.
VALDEZ, CHAIR, W. LEE BIDDLE, GUILLERMO
("GILL") CABRERA, CLYDE FULLER, DOROTHY
LEONARD, and LARRY S. WESTFALL, ALL SUE
IN THEIR OFFICIAL CAPACITY; THE
HONORABLE JERRY SANDERS, MAYOR OF
SAN DIEGO, SUED IN HIS OFFICIAL CAPACITY;
JAN GOLDSMITH, CITY ATTORNEY FOR CITY
OF SAN DIEGO, SUED IN HIS OFFICIAL
CAPACITY; AND ELIZABETH MALAND, CITY
CLERK OF SAN DIEGO, SUED IN HER OFFICIAL
CAPACITY,

Defendants

CASE NO. 09CV2862IEG

NOTICE OF MOTION AND MOTION
OF DEFENDANT CITY OF SAN
DIEGO FOR IMMEDIATE STAY OF
ENFORCEMENT OF PORTION OF
FEBRUARY 16, 2010 ORDER
GRANTING IN PART AND
DENYING IN PART PLAINTIFFS'
MOTION FOR PRELIMINARY
INJUNCTION AND FEBRUARY 19,
2010 ORDER (1) GRANTING THE
CITY OF SAN DIEGO'S EX PARTE
MOTION FOR CLARIFICATION
AND (2) GRANTING IN PART
PLAINTIFFS' REQUEST TO
PRELIMINARILY ENJOIN ECCO §
27.2951

Date:
Time: No oral argument requested
Location: Courtroom 1
Judge: Hon. Irma E. Gonzalez

1 Defendant City of San Diego (“City”) respectfully moves for this Court to **immediately**
2 stay portions of this Court’s February 16, 2010 Order Granting in Part and Denying In Part
3 Plaintiffs’ Motion for Preliminary Injunction and this Court’s February 19, 2010 Order (1)
4 Granting the City of San Diego’s Ex Parte Motion for Clarification and (2) Granting in Part
5 Plaintiffs’ Request to Preliminarily Enjoin ECCO § 27.2951.

6 Specifically, the City moves, pursuant to Federal Rule of Civil Procedure 62(c), for this
7 Court to stay the following orders of the Court:

8 1. The order and clarification of order preliminarily enjoining the City from taking
9 any action to enforce ECCO section 27.2936(b), which requires that money spent by committees
10 to support or oppose a candidate must be attributable to contributions from individuals (not over
11 the \$500 limit), with respect to contributions from individuals and non-individual entities to
12 committees that make only independent expenditures.

13 2. The order preliminarily enjoining the city from taking any action to enforce ECCO
14 section 27.2935(a), to the extent it imposes a \$500 limit on contributions for City candidate
15 elections upon committees making only independent expenditures.

16 3. The order preliminarily enjoining the City from taking any action to enforce
17 ECCO section 27.2951, to the extent that it prohibits committees making only independent
18 expenditures from accepting contributions drawn against a checking account or credit card
19 account belonging to a non-individual entity.

20 The City requests that this Court issue a stay to remain in effect pending resolution of the
21 appeals in the case. In the alternative, the City requests that this court issue a stay to remain in
22 effect until the United States Court of Appeals may rule upon an application for a stay pending
23 appeal addressed to that court.

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This motion is based upon the attached Memorandum of Points and Authorities, and the
Declarations of Stacey Fulhorst and Dick Semerdjian attached thereto.

Respectfully submitted,

Dated: March 8, 2010

SCHWARTZ SEMERDJIAN HAILE
BALLARD & CAULEY LLP

By: /s/ Dick A. Semerdjian
Dick A. Semerdjian
Kristen T. Dalessio

RICHARD L. HASEN, ESQ.

Attorneys for Defendant City of San Diego