



To: Marc Solomon, Equality California

From: Gale Kaufman, Kaufman Campaign Consultants

Date: July 17, 2009

Re: Overturning Prop 8 Ballot Measure

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The devastating loss last year on Prop 8 has generated a tremendous amount of discussion, debate, outreach and review, all of it important for moving forward. I know everyone is focusing on 2010 or 2012. That's fine, but one fact seems more important to me than any other. The next time the issue of marriage equality is on the California ballot- we absolutely cannot afford to lose.

This may seem like a simple statement, but it really isn't.

Of course, like everything else in life, there will never be complete certainty. So, limiting the risks, increasing our advantages and looking for the best opportunity to win should be what leads us to the right conclusion on when to move towards another ballot measure.

Being one of those dreaded political consultants I've read so much about, I try to base my advice on a combination of data, preparation, organization, atmospheric and gut. So, let's take them one at a time:

**Data:** From what I've seen, there is nothing in the current data that says the California electorate has changed their opinion dramatically on this issue since last November. One could argue with me about that statement, point to the progress that has been made in other states, to the publicity and public outrage over the loss. That's all good, but we can't argue with the numbers. So why are we even talking about next year? What has changed in the hearts and minds of a significant number of Californians? Does anyone see changes occurring between now and 2010 to improve our margin enough to feel you are ready to proactively move forward with a winnable Yes campaign?

For the sake of discussion, let's move past the quantitative data (a very hard thing for a political consultant to do, by the way). Let's look at the turnout issues. 2010 will undoubtedly see a much lower turnout than last year's unusually high percentage. The Obama race placed turnout in California at a modern time high. Off-Presidential election year turnout is always lower. For comparison sake, turnout in the 2004 Presidential election was 76%, while the 2006 Gubernatorial election drew just 56% of registered voters. It's very possible we'll see at least a similar drop in 2010 voter turnout percentage.

Why do we think that overturning Prop 8 would fare better in a lower turnout equation? And by what criteria is that conclusion reached? I've probably read all the same discussions many of you are reading,

those that discuss different turnout models. None of them would argue for trying to win a Yes campaign on marriage equality with an older or smaller voter turnout. That just doesn't make good sense if we are trying to assure a win.

**Preparation:** By asking me if I think 2010 is an option, you are asking me if I think we are ready to go right now. To qualify an initiative for next year's ballot (it's really already too late for June so I'm assuming we are talking about November) we need to have it ready to be submitted to the Attorney General's office by no later than the end of September. We should ask ourselves, are we ready for that? Has the perfect initiative been drafted? Is everyone who should be consulted on the legal language, not to mention whatever nuances we want to add, signed off? Is the campaign structure in place to sustain the process that goes along with the beginning stages of an initiative campaign?

I pose these questions because I think I know the answer. And I think the answer is No. If you've taken the responsibility to win a Yes campaign, you can't leave any of these items to chance. You can't make any significant mistakes. You have to move forward with a clear vision that you have put together the best possible team, with the best possible structure to ensure victory. And all your homework has to have been completed.

I'm purposely trying not to rehash last year's lessons from Prop 8 in my analysis here. But suffice it to say I think the preparation component of any Yes campaign is the critical piece. If the prep is done correctly, the campaign should flow directly from it. We can tweak it here and there, but the campaign should be a natural progression. I'm not aware

that this piece exists. So moving forward in 2010 doesn't seem to be an option and preparation for 2012 should be happening right now.

I firmly believe that to be successful in 2012, a serious effort between now and the end of 2011 needs to occur. All of the data and research available regarding what has happened in other states who've successfully passed or didn't pass marriage equality campaigns needs to be collected, analyzed and tested. Language for a ballot measure needs to be drafted, tested and re-drafted until the best possible measure is developed. One that can withstand legal challenges and that is a benefit to the campaign effort. Some of these pieces may be done, but I don't think they all are.

A well-organized outreach to both the formal and informal leadership structure in California needs to happen, particularly with groups and individuals that under-performed on the No side of the 8 campaign. Harnessing these groups and the excitement and commitment they bring would produce tangible results in our favor the next go-round. Research is needed to develop the right messages driven by data, not emotion. We also need to have answers to the questions that were raised by the other side last time. For example, how will the scare tactics, factually inaccurate "teaching in our schools," issues be addressed? Are we confident we know? We need answers to these questions and a strategy to combat this before it can impact the next campaign.

Using earned media to our advantage is always a powerful resource. Every major newspaper in California editorialized against Prop 8. With the next initiative we need to harness this valuable resource. Working these boards and encouraging their outrage whenever the other side is

out of line is important in the next fight. Have we developed a winning earned media strategy?

One last point. We don't know what else will be on the 2010 ballot. At this moment, at least one initiative is in circulation that has the potential to be extremely divisive. Its subject is illegal immigration. While it appears the proponents are attempting to qualify for June, I am not sure it will. What other emotionally charged issues may make it into the mix for November 2010 is a huge ingredient to consider when you are thinking through your own plans and turnout.

**Organization:** You've asked Sue Burnside and others much more talented than me to offer their views. So I'll keep my organizational comments brief. I don't think anyone would argue with me that only one Yes campaign can be sustained moving forward. That means bringing together the many disparate groups, all of whom, with the best of intentions, think that they are the best vehicle for victory. It's impossible for me to see a way to harness all of the incredible energy, emotion, intelligence, expertise and belief in this issue in such a small amount of time, if we were to move forward in 2010.

**Atmospherics:** Many may feel that the environment is ripe because of the backlash that occurred after Prop 8 passed. I don't want to discount this because I know the backlash was real. But we need the atmospherics to change quite a bit to secure a victory. By atmospherics I mean the external environment. We need to harness talent, draft the correct messaging, get all players together in one fluid group and ensure that the public is ready and willing and open to our cause before launching a campaign. I don't see enough evidence of that at this point. If 2012 is the agreed upon target, there is time to

set a much more careful stage, there is the time to put the best possible organization in place and there is the time to do all of the incredible outreach it will take to build and hold the margin we will need.

I would not discount what is happening around us. The victories occurring in other states are a tremendous help to a future California win. Shouldn't we be organizing financial support for the fight in Maine; sending donations and other resources to make sure that we help secure a victory and learn all the lessons there that can help us moving forward?

Finally, at the moment the California electorate is in a collective horrible mood. The last time I saw polling numbers on "Is California going in the right direction?" the Yes number was under 10%. Going to the ballot with a Yes campaign of any kind right now - while voters have been inundated with initiatives - especially on a subject that they have recently voted on - is a particular risk.

**Gut**: The 18,000 LGBT couples who experienced the joy of marriage in California cannot be the only ones. Nothing could be more important than securing this right for all who desire it. So, while I believe in everything I've already written, I also believe that sometimes when the head is saying one thing, the heart, and in this case the "gut", could be saying something else. And the "gut" in a political campaign is one of the important ingredients needed in the decision-making process for all good and winning efforts. I've always believed I had good "gut instincts."

For what it is worth, my "gut" is saying that 2010 is not the right time. That should not be confused with me saying this is never winnable. I believe we will all know when the time is right. Our collective "guts" will know. And when that time is right, we will all scratch, claw, fight and win what was unfortunately lost last year.