

EDMUND G. BROWN JR.
Attorney General

State of California
DEPARTMENT OF JUSTICE



455 GOLDEN GATE AVENUE, SUITE 11000
SAN FRANCISCO, CA 94102-7004

Public: (415) 703-5500
Telephone: (415) 703-5970
Facsimile: (415) 703-1234
E-Mail: Tamar.Pachter@doj.ca.gov

October 2, 2009

BY HAND AND E-FILING

Molly C. Dwyer
Clerk of the Court
Ninth Circuit Court of Appeals
95 Seventh Street
San Francisco, CA 94103-1526

RE: Perry v. Schwarzenegger,
Case No. 09-16959

Dear Ms. Dwyer:

I write to inform the court that the Attorney General will not file a brief in opposition to the Campaign for California Families' (the Campaign) appeal of the decision denying its motion to intervene. See Ninth Circuit Rule 31-2.3. The Attorney General did not oppose the motion in the District Court and similarly will not oppose the appeal.

For the record, however, the Attorney General objects to the Campaign's repeated mischaracterization of the record regarding his position in the case below, as set forth in the opening brief. The facts are these: the Attorney General admitted the material allegations of the complaint and nominally opposed the Defendant-Intervenors' motion for summary judgment. The Attorney General has not, however, asked the district court to grant relief of any kind, indicated that he will present any evidence, or advanced any particular argument.

To the extent that the Attorney General's intentions in the case are an issue this Court considers material to the appeal, the Attorney General urges the Court to disregard the

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Campaign's characterizations and to rely exclusively on the record of what the Attorney General has stated in filed documents or at hearing before the District Court.

Sincerely,

/s/Tamar Pachter

TAMAR PACHTER
Deputy Attorney General

For EDMUND G. BROWN JR.
Attorney General

TP:

cc: All counsel of record by e-filing

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