

No. 10-16696

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**KRISTIN PERRY, et al.,
*Plaintiffs-Appellees,***

v.

ARNOLD SCHWARZENEGGER, et al.

Defendants.

**Appeal from United States District Court for the Northern
District of California
Civil Case No. 09-CV-2292 VRW (Honorable Vaughn R. Walker)**

**MOTION FOR LEAVE FOR LATE FILING OF BRIEF OF
PROSPECTIVE AMICUS CURIAE CATHOLICS FOR THE
COMMON GOOD
IN SUPPORT OF DEFENDANT-INTERVENORS-
APPELLANTS**

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Good*

Prospective *amicus curiae* Catholics for the Common Good hereby seeks leave of this court pursuant to FRAP 29(e) to permit filing of the corrected version of the proposed *amicus* brief previously e-filed early on September 25, 2010, a little more than three hours after the expiration of seven days after the filing of the opening brief by defendants-intervenors-appellants. At the direction of the Court's staff, the proposed brief submitted by e-filing at that time has been corrected to enlarge the fonts used in footnotes and to perform attendant formatting adjustments and resubmitted to the ECF help staff as directed.

The reason for the late submission of the proposed *amicus* brief was counsel's prior unfamiliarity with e-filing. While he is a member of the bar of this court and has worked on a contract basis on cases in this court for a law firm which regularly employs e-filing, counsel for Catholics for the Common Good registered for the program for the first time less than a week before the *amicus* briefs were due in this case – his application having been expedited by the help staff – but then he encountered unexpected difficulties in converting the application and brief into PDF files and entering a proper password which led to the brief being late.

Prospective *amicus curiae* Catholics for the Common Good believes that the court may benefit from its views about the essential meaning of marriage and issues regarding the separation of church and state raised by the district court's decision, and believes that there has been no prejudice to any interested party or other prospective *amicus* who has been able to ascertain those views already since early morning last Saturday.

Respectfully submitted,

/s/ Richard G. Katerndahl

Richard G. Katerndahl

Attorney for proposed *Amicus Curiae* Catholics for the Common Good