

Appeal No. 10-16696

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

KRISTIN PERRY, et al.,

Plaintiffs-Appellees,

vs.

ARNOLD SCHWARZENEGGER, et al.,

Defendants-Appellees.

and

DENNIS HOLLINGSWORTH, et al.,

Defendant-Intervenors-Appellants.

On Appeal From the United States District Court
for the Northern District of California
Hon. Vaughn R. Walker
Case No. 09-cv-2292

**MOTION OF CONSTITUTIONAL LAW AND CIVIL PROCEDURE
PROFESSORS ERWIN CHEMERINSKY, PAMELA S. KARLAN,
ARTHUR MILLER, AND JUDITH RESNIK, ET AL., FOR LEAVE TO
FILE BRIEF AMICUS CURIAE**

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*On behalf of Amici Curiae, Professors Bryan Adamson, Janet Cooper Alexander,
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MOTION FOR LEAVE TO FILE AMICUS BRIEF

Pursuant to Federal Rule of Appellate Procedure 29(b), Professors Bryan Adamson, Janet Cooper Alexander, Barbara A. Atwood, Barbara Babcock, Erwin Chemerinsky, Joshua P. Davis, David L. Faigman, Pamela S. Karlan, Toni M. Massaro, Arthur Miller, David Oppenheimer, Judith Resnik, Fred Smith, and Larry Yackle seek permission to file the accompanying brief *Amicus Curiae* in support of affirmance of the decision below. *Amici* are law professors who teach and write in the area of constitutional law and civil procedure. *Amici* have a strong interest in the outcome of these proceedings, as this Court's decision could have a significant impact upon the jurisprudence of constitutional factfinding and judicial review in constitutional cases.

This brief will aid the Court in its analysis of the district court's factual findings. Specifically, the attached brief explains role of legislative factfinding in constitutional litigation. It also highlights the propriety of evidentiary findings in rational basis review cases. Finally, the brief examines the proceedings in this case to show that the district court's fair and impartial approach supports the conclusion that its factfinding is entitled to significant respect and weight. *Amici* believe that the points they develop in their proposed brief will prove valuable to this Court.

Dated: October 25, 2010

Respectfully submitted,

/s/ Elizabeth J. Cabraser
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