

## UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

## Circuit Mediation Office

Phone (415) 355-7900 Fax (415) 355-8566

<http://www.ca9.uscourts.gov/mediation>**MEDIATION QUESTIONNAIRE**

The purpose of this questionnaire is to help the court's mediators provide the best possible mediation service in this case; it serves no other function. Responses to this questionnaire are **not** confidential. Appellants/Petitioners must electronically file this document within 7 days of the docketing of the case. 9th Cir. R. 3-4 and 15-2. Appellees/Respondents may file the questionnaire, but are not required to do so.

Any party may provide additional information **in confidence** directly to the Circuit Mediation Office at [ca09\\_mediation@ca9.uscourts.gov](mailto:ca09_mediation@ca9.uscourts.gov). Please provide the case name and Ninth Circuit case number in your message. Additional information might include interest in including this case in the mediation program, the case's settlement history, issues beyond the litigation that the parties might address in a settlement context, or future events that might affect the parties' willingness or ability to mediate the case.

|                                       |  |
|---------------------------------------|--|
| 9th Circuit Case Number(s):           | <input type="text" value="10-16696"/>  |
| District Court/Agency Case Number(s): | <input type="text" value="3:09-cv-02292-VRW"/>   |
| District Court/Agency Location:       | <input type="text" value="N.D. Cal."/>   |
| Case Name:                            | <input type="text" value="Kristin Perry et al."/> v. <input type="text" value="Arnold Schwarzenegger et al."/> |

**Please briefly describe the dispute that gave rise to this lawsuit.**

In 2008, the people of California enacted a constitutional amendment (Proposition 8) providing that "[o]nly marriage between a man and a woman is valid or recognized in California." CAL. CONST. art. I, § 7.5. Plaintiffs in this action, members of two same-sex couples, claim that Proposition 8 violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution.

(Please continue to next page.)

**Briefly describe the procedural history, the result below, and the main issues on appeal.**

Plaintiffs filed their suit on May 22, 2009. On June 30, the district court permitted Appellants, official proponents of Proposition 8 and the primarily formed ballot committee designated by the official proponents as the official Yes on 8 campaign, to intervene to defend Proposition 8's constitutionality. On October 14, the district court denied Appellants' motion for summary judgment. The case was tried from January 11 through January 27, 2010, and closing arguments were held on June 16. On August 4, the district court ruled that Proposition 8 violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. The main issues on appeal will be whether Proposition 8 violates the Due Process or Equal Protection Clauses of the Fourteenth Amendment.

On August 4, the district court denied the motion of Imperial County, its Board of Supervisors, and Deputy County Clerk Isabel Vargas (collectively, Imperial County) to intervene as defendants. Imperial County has also appealed the district court's ruling on the merits as well as its ruling denying intervention. That appeal has been docketed as Case No. 10-16751.

Case Nos. 09-16959, 09-17241, 09-17551, 10-15649, and 10-70063, which also arose out of the same district court action, are no longer active.

**Describe any proceedings remaining below or any related proceedings in other tribunals.**

On August 3, 2010, Appellants filed a motion for stay pending appeal with the district court. On August 4, the district court entered a temporary stay of its judgment and invited the other parties to respond to Appellants' motion by August 6. The motion has been submitted since that date, and the district court has ordered that the temporary stay remain in place until it rules on the motion.

On January 9, 2010, Appellants filed a motion to stay the Northern District of California's order permitting the broadcast of the Perry v. Schwarzenegger bench trial with the Supreme Court. The Supreme Court granted the motion on January 13, 2010 pending the resolution of a timely filed petition for writ of certiorari or mandamus. Appellants have filed a petition for certiorari, but the Supreme Court has yet to act on it. The matter is docketed as No. 09-1238 in the Supreme Court.

Provide any other information that might affect the suitability of this case for mediation.

### CERTIFICATION OF COUNSEL

I certify that:

a current service list with telephone and fax numbers and email addresses is attached (see 9th Circuit Rule 3-2).

I understand that failure to provide the Court with a completed form and service list may result in sanctions, including dismissal of the appeal.

Signature

("s/" plus attorney name may be used in lieu of a manual signature on electronically-filed documents.)

Counsel for

**Note:** Use of the Appellate ECF system is mandatory for all attorneys filing in this Court, unless they are granted an exemption from using the system. **File this document electronically** in Appellate ECF by choosing Forms/Notices/Disclosure > File a Mediation Questionnaire.

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