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November 3, 2011

VIA ECF FILING

Ms. Molly C. Dwyer
Clerk of the Court
United States Court of Appeals
for the Ninth Circuit
P.O. Box 193939
San Francisco, CA 94119-3939

Re: *Perry v. Brown*, No. 10-16696 (Reinhardt, Hawkins, N.R. Smith)

Dear Ms. Dwyer:

On behalf of Plaintiffs-Appellees, I write to correct the record concerning the motion to file an untimely amicus brief submitted by Mr. Gage Raley. In his motion, Mr. Raley represents that “[b]oth parties have granted their consent to the filing of this amicus brief.” Mtn. at 2. Mr. Raley is mistaken. Plaintiffs-Appellees have not consented to the filing of Mr. Raley’s untimely brief. Rather, Plaintiffs-Appellees informed Mr. Raley that the parties previously had consented to those amicus briefs that complied with this Court’s rules. Because Mr. Raley’s brief is filed long after the deadline established by the Court for the submission of amicus briefs, it does not comply with the Court’s rules and Plaintiffs-Appellees do not consent to its filing.

Respectfully submitted,

/s/ Theodore B. Olson
Theodore B. Olson
Attorneys for Plaintiffs-Appellees

cc: All Counsel

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9th Circuit Case Number(s) 10-16696

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/s/Theodore B. Olson

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