

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

NO. 10-70063

IN RE: DENNIS HOLLINGSWORTH, GAIL J. KNIGHT, MARTIN F.
GUTIERREZ, MARK A. JANNSON, AND PROTECT-MARRIAGE.COM—
YES ON 8, A PROJECT OF CALIFORNIA RENEWAL

DENNIS HOLLINGSWORTH, et al.,
Petitioners,

vs.

UNITED STATES DISTRICT COURT FOR THE NORTHERN
DISTRICT OF CALIFORNIA,
Respondent,

KRISTEN M. PERRY, SANDRA B. STIER, PAUL K. KATAMI, JEFFREY J.
ZARRILLO, CITY AND COUNTY OF SAN FRANCISCO, NON-PARTY THE
MEDIA COALITION, ARNOLD SCHWARZENEGGER, in his official capacity
as Governor of California, EDMUND G. BROWN, JR., in his official capacity as
Attorney General of California, MARK B. HORTON, in his official capacity as
Director of the California Department of Public Health and State Registrar of
Vital Statistics, LINETTE SCOTT, in her official capacity as Deputy Director of
Health Information & Strategic Planning for the California Department of Public
Health, PATRICK O'CONNELL, in his official capacity as Clerk-Recorder for
the County of Alameda, DEAN C. LOGAN, in his official capacity as
Registrar-Recorder/County Clerk for the County of Los Angeles,
and HAK-SHING WILLIAM TAM,
Real Parties in Interest.

On Appeal from the United States District Court
for the Northern District of California

**ANSWER BY NON-PARTY MEDIA COALITION TO EMERGENCY
PETITION UNDER RULE 27-3 FOR A WRIT OF MANDAMUS OR
PROHIBITION TO THE NORTHERN DISTRICT OF CALIFORNIA**

THOMAS R. BURKE

(State Bar No. 141930)

thomasburke@dwt.com

ROCHELLE L. WILCOX

(State Bar No. 197790)

rochellewilcox@dwt.com

DAVIS WRIGHT TREMAINE LLP

505 Montgomery Street, Suite 800

San Francisco, California 94111

(415) 276-6500; (415) 276-6599 fax

Attorneys for Non-Party Media Coalition
ABC NEWS; KGO TV; KABC TV;
CABLE NEWS NETWORK; IN SESSION
(formerly known as "COURT TV"); FOX
NEWS; NBC UNIVERSAL, INC.; CBS
NEWS; HEARST CORPORATION; DOW
JONES & COMPANY, INC.; THE
ASSOCIATED PRESS; and NORTHERN
CALIFORNIA CHAPTER OF RADIO &
TELEVISION NEWS DIRECTORS
ASSOCIATION

ABC News, KGO TV, KABC TV, Cable News Network, In Session (formerly known as “Court TV”), FOX News, NBC Universal, Inc., CBS News, Hearst Corporation, Dow Jones & Company, Inc., The Associated Press, and the Northern California Chapter of the Radio & Television News Directors Association (“The Non-Party Media Coalition”) respectfully submit this Answer to the Emergency Petition under Circuit Rule 27-3 for a Writ of Mandamus or Prohibition to the Northern District of California (the “Writ Petition”). The Order issued by the district court, the Honorable Chief Judge Vaughn Walker presiding, is well within that court’s authority and discretion, and consistent with the unanimous decision by the Judicial Council of the Ninth Circuit to adopt a pilot program permitting camera access to certain federal proceedings. This decision was issued after many years of consideration. The Media Coalition urges the Court to deny the Writ Petition, and permit camera access to the trial at issue here, for the reasons set forth in the Media Coalition’s brief filed below.

The district court proceedings scheduled to begin Monday will try a federal constitutional challenge to California’s Proposition 8, which banned same-sex marriage – an issue of profound interest to millions of individuals throughout California, the nation and the world. The district court’s decision is consistent with the hope stated by Chief Judge Alex Kozinski in a press release issued on December 17, 2009, announcing the pilot program permitting experimental use of

cameras in district courts, that “being able to see and hear what transpires in the courtroom will lead to a better public understanding of our judicial processes and enhanced confidence in the rule of law.” The district court’s decision to allow camera coverage of these historic trial proceedings will permit everyone interested in these proceedings to see, first hand, the trial of this social issue of the day. By accommodating the public’s substantial interest in observing these trial proceedings, including the evidence offered by the parties, the district court will enhance the legitimacy of the decision ultimately rendered in this case. The district court appropriately recognized the tremendous public significance of this case in deciding that it should be the first trial to be televised under this Court’s pilot program.

Each of the issues raised in the Writ Petition were presented to and carefully considered by the district court. The court announced a nuanced approach to allowing camera access designed to accommodate each of petitioners’ concerns. Petitioners reiterate in this Court their concerns about witness intimidation, raised below. (Petition at 16-17.) Petitioners grossly underestimate the ability of this experienced district court judge to exercise his inherent powers, and expressed willingness to take all appropriate steps to protect participants in this proceeding.

In the end, none of petitioners' arguments warrant this Court's intervention. The Media Coalition, therefore, respectfully requests that the Court deny the Writ Petition in its entirety.

RESPECTFULLY SUBMITTED this 8th day of January, 2010.

DAVIS WRIGHT TREMAINE LLP
THOMAS R. BURKE
ROCHELLE L. WILCOX

By /S/ _____
Thomas R. Burke

Attorneys for Non-Party Media Coalition
ABC NEWS; KGO TV; KABC TV;
CABLE NEWS NETWORK; IN
SESSION (formerly known as "COURT
TV"); FOX NEWS; NBC UNIVERSAL,
INC.; CBS NEWS; HEARST
CORPORATION; DOW JONES &
COMPANY, INC.; THE ASSOCIATED
PRESS; and NORTHERN CALIFORNIA
CHAPTER OF RADIO & TELEVISION
NEWS DIRECTORS ASSOCIATION

