

# Cooper & Kirk

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The Honorable Vaughn R. Walker  
Chief Judge of the United States District Court  
for the Northern District of California  
450 Golden Gate Ave.  
San Francisco, CA 94102

Re: *Perry v. Schwarzenegger, et al.*, N.D. Cal. Case No. C-09-2292 VRW

Dear Chief Judge Walker:

I write to raise a technical concern about the Court's order permitting recording and public broadcast of the trial in this case. When the Court first raised the issue of publicly broadcasting the trial, it explained that the video image "would be counsel, the witness, and the judge on a split screen." Hr'g of Sept. 25, 2009, Tr. at 71. At the hearing of January 6, 2010, the parties were first shown an example of what this would mean in practice. See Hr'g of Jan. 6, 2010, Tr. at 4. The test video shown at that hearing is available at <http://www.youtube.com/usdccand>. It appears from the test video that the camera angle showing counsel at the podium also captures a full image of Defendants' counsel table. In other words, it appears that all of the activity occurring at Defendants' counsel table will be made a part of the recording and public broadcast in this case.

As the Court is no doubt aware, during the course of a trial, much occurs at counsel table that is not a part of the public record in a case, including and especially privileged conversations among and between lawyers and clients. Defendant-Intervenors believe that capturing and broadcasting images of Defendants' counsel table would place undue and unequal burdens solely on Defendant-Intervenors' counsel to ensure that privileged conferences are hidden from view.

Respectfully, we object to this procedure and request that the Court alter the camera angle to exclude the image of Defendants' counsel table.

Thank you very much for your attention to this matter.

Respectfully submitted,

/s/ Charles J. Cooper

Charles J. Cooper

Counsel for Defendant-Intervenors

Cc: Counsel of Record