

FILED

FOR PUBLICATION

DEC 16 2009

UNITED STATES COURT OF APPEALS

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

KRISTIN M. PERRY; SANDRA B.
STIER; PAUL T. KATAMI; JEFFREY J.
ZARRILLO,

Plaintiffs - Appellees,

and

CITY AND COUNTY OF SAN
FRANCISCO,

Plaintiff-intervenor,

v.

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 & 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,

No. 09-17241

D.C. No. 3:09-cv-02292-VRW

ORDER

Defendants,

and

DENNIS HOLLINGSWORTH; GAIL J. KNIGHT; MARTIN F. GUTIERREZ; HAK-SHING WILLIAM TAM; MARK A. JANSSON; PROTECTMARRIAGE.COM - YES ON 8, A PROJECT OF CALIFORNIA RENEWAL,

Defendant-intervenors - Appellants.

KRISTIN M. PERRY; SANDRA B. STIER; PAUL T. KATAMI; JEFFREY J. ZARRILLO,

Plaintiffs - Appellees,

and

OUR FAMILY COALITION; LAVENDER SENIORS OF THE EAST BAY; PARENTS, FAMILIES, AND FRIENDS OF LESBIANS AND GAYS, CITY AND COUNTY OF SAN FRANCISCO,

Plaintiff-intervenors - Appellees,

v.

ARNOLD SCHWARZENEGGER;

No. 09-17551

D.C. No. 3:09-cv-02292-VRW

EDMUND G. BROWN, Jr.; MARK B.
HORTON; LINETTE SCOTT; PATRICK
O'CONNELL; DEAN C. LOGAN,

Defendants,

and

DENNIS HOLLINGSWORTH; GAIL J.
KNIGHT; MARTIN F. GUTIERREZ;
HAK-SHING WILLIAM TAM; MARK
A. JANSSON;
PROTECTMARRIAGE.COM - YES ON
8, A PROJECT OF CALIFORNIA
RENEWAL,

Defendant-intervenors -
Appellants.

Before: WARDLAW, FISHER and BERZON, Circuit Judges.

A judge of this court has called for a vote to determine whether this case will be reheard en banc under Federal Rule of Appellate Procedure 35(a). The parties are requested to file simultaneous briefs setting forth their respective positions on whether this case should be reheard en banc, including whether rehearing en banc is warranted in light of *Mohawk Industries, Inc. v. Carpenter*, 558 U.S. —, No. 08-678 (Dec. 8, 2009).

The briefs shall be filed on or before December 24, 2009. Parties who are registered for ECF must file the brief electronically without submission of paper

copies. Parties who are not registered ECF filers must file the original brief plus 50 paper copies.

IT IS SO ORDERED.