

FILED

FOR PUBLICATION

DEC 30 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,

No. 09-17241

Plaintiffs - Appellees,

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

and

ORDER

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,**

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 -

No. 09-17551

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

Appellees,

v.

**ARNOLD SCHWARZENEGGER;
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: THOMAS, Circuit Judge and En Banc Coordinator.

A judge of this court called for this case to be reheard en banc. A vote was taken, and a majority of the nonrecused active judges of the court did not vote in favor of en banc consideration. The call for rehearing en banc is DENIED. The case is returned to the three-judge panel.