

FILED

UNITED STATES COURT OF APPEALS

MAR 23 2011

FOR THE NINTH CIRCUIT

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

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

Plaintiffs - Appellees,

CITY AND COUNTY OF SAN FRANCISCO,

Intervenor-Plaintiff -

Appellee,

v.

EDMUND G. BROWN, Jr., in his official capacity as Governor of California; KAMALA D. HARRIS, in her 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,

No. 10-16696

D.C. No. 3:09-cv-02292-VRW
Northern District of California,
San Francisco

ORDER

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, as official proponents of Proposition 8,

Intervenor-Defendants -
Appellants.

Before: REINHARDT, HAWKINS, and N.R. SMITH, Circuit Judges.

Having considered all of the factors set forth in *Nken v. Holder*, 129 S. Ct. 1749, 1756 (2009), and all of the facts and circumstances surrounding Plaintiffs' motion to vacate the stay pending appeal, as well as the standard for vacatur set forth in *Southeast Alaska Conservation Council v. U.S. Army Corps of Engineers*, 472 F.3d 1097, 1101 (9th Cir. 2006), we deny Plaintiffs' motion at this time.