

Exhibit I

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Prop. 8 Judge is Reportedly Gay: What to Make of That?

The lede from an [article out Sunday](#) in the SF Chronicle reads as follows:

The biggest open secret in the landmark trial over same-sex marriage being heard in San Francisco is that the federal judge who will decide the case, Chief U.S. District Judge Vaughn Walker, is himself gay.



Interesting. So, what to make of this fact?

According to the article, folks aren't making much of it. Andy Pugno, general counsel for the group that sponsored the Prop. 8 campaign, rebuffed claims that his group might bring it up if Walker ultimately rules against them. "We are not going to say anything about that," Pugno said.

Others quoted in the article say that Walker, appointed to the bench by George H.W. Bush in 1989, say they don't believe that Walker's sexual orientation will affect his ruling on Prop. 8.

"There is nothing about Walker as a judge to indicate that his sexual orientation, other than being an interesting factor, will in any way bias his view," said Kate Kendell, head of the National Center for Lesbian Rights, to the Chron. Kendell cites the judge's jurisprudential reputation, and says, "There wasn't anyone who thought (overturning Prop. 8) was a cakewalk given his sexual orientation."

Walker has declined to talk about anything involving the Prop. 8 case outside court, and he wouldn't comment to the Chron when we asked about his orientation and whether it was relevant to the lawsuit.

We can certainly understand why the parties might not want to address Walker's sexual orientation: No reason to stir more controversy into a case that will ultimately be settled at the Ninth Circuit or the U.S. Supreme Court. Plus, it's not like Judge Walker raised his hand for the case — it was reportedly randomly assigned to him.

But is Walker's sexual orientation relevant to the trial? Frankly, it's hard to see how it's not, especially if you believe that the opinions of judges, try as they might to divorce their personal opinions from their rulings, are invariably colored and informed by their own experiences, just like the rest of us.

The Chron story quotes a fellow federal judge and friend of Walker's conceding the relevance of the fact. Walker's background, says the judge, is relevant in the same way people would want to know that a judge hearing a discrimination case involving Latinos was Latino or a Jewish judge was ruling in a case involving the Anti-Defamation League.

LBers, any thoughts?

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