

FILED

FOR PUBLICATION

DEC 16 2009

UNITED STATES COURT OF APPEALS

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

FOR THE NINTH CIRCUIT

<p>KRISTIN M. PERRY; SANDRA B. STIER; PAUL T. KATAMI; JEFFREY J. ZARRILLO,</p> <p>Plaintiffs - Appellees,</p> <p>and</p> <p>CITY AND COUNTY OF SAN FRANCISCO,</p> <p>Plaintiff-intervenor,</p> <p>v.</p> <p>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,</p>
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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.