

FILED

FOR PUBLICATION

JAN 04 2010

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 AMENDING OPINION
AND DENYING PETITION FOR
REHEARING AND
REHEARING EN BANC

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.

The opinion filed December 11, 2009 is amended, and the amended opinion is filed concurrently with this Order.

The panel has voted to deny the petition for rehearing and rehearing en banc. A judge requested a vote on whether to rehear the matter en banc, and the matter failed to receive a majority of the votes of the nonrecused active judges in favor of en banc consideration. Fed. R. App. P. 35.

Appellees' petition for rehearing and rehearing en banc, filed December 24, 2009, is **DENIED**.

No further petitions for rehearing will be permitted.

IT IS SO ORDERED.