

FILED

UNITED STATES COURT OF APPEALS

APR 27 2011

FOR THE NINTH CIRCUIT

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

KRISTIN M. PERRY; et al.,

Plaintiffs - Appellees,

CITY AND COUNTY OF SAN
FRANCISCO,

Intervenor-Plaintiff -
Appellee,

v.

EDMUND G. BROWN, Jr., in his official
capacity as Governor of California; et al.,

Defendants,

and

DENNIS HOLLINGSWORTH; et al.,

Intervenor-Defendants -
Appellants.

No. 10-16696

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

ORDER

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

Appellants have moved this court to order the Plaintiffs and former District Judge Vaughn Walker to return copies of the video recordings of the trial proceedings in this case. Plaintiffs oppose the motion and have moved to unseal the video recordings.

We construe Appellants' motion as a motion to enforce, against Plaintiffs and Judge Walker, the protective order entered by the district court, *see* Doc. No. 425 (at ¶ 7.3) & Doc. No. 672, *Perry v. Schwarzenegger*, No. 3:09-cv-02292 (N.D. Cal.), and Plaintiffs' cross-motion as a motion to lift that order. Although jurisdiction over the merits of the decision below, including the judgment, has passed to this court, the district court has not been divested of its jurisdiction over ancillary matters, such as protective orders. *Cf. Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982) (per curiam) ("The filing of a notice of appeal is an event of jurisdictional significance – it confers jurisdiction on the court of appeals and divests the district court of its control *over those aspects of the case involved in the appeal.*") (emphasis added); *see, e.g., Campbell v. Blodgett*, 982 F.2d 1356, 1357 (9th Cir. 1993) (district court retains jurisdiction to issue discovery order); *Masalosalo v. Stonewall Ins. Co.*, 718 F.2d 955, 957 (9th Cir. 1983) (district court retains jurisdiction to consider motion for attorney's fees).

Because the district court issued the protective order and has the power to grant the parties all the relief they seek, should relief be warranted, we direct the Clerk to TRANSFER Appellants' motion (Doc. No. 338), Plaintiffs' opposition and cross-motion (Doc. No. 340), Appellants' reply and opposition (Doc. No. 346), Plaintiffs' reply (Doc. No. 347), Judge Walker's letter (Doc. No. 339), and Media

Coalition's motion to intervene (Doc. No. 343) and joinder in Plaintiffs' motion to unseal (Doc. No. 345), to the U.S. District Court for the Northern District of California, Case No. 3:09-cv-02292-JW.

IT IS SO ORDERED.