

**FILED**

UNITED STATES COURT OF APPEALS

MAY 14 2013

FOR THE NINTH CIRCUIT

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

DAVID H. PICKUP; et al.,

Plaintiffs - Appellants,

v.

EDMUND G. BROWN, JR., Governor of  
the State of California, in his official  
capacity; et al.,

Defendants - Appellees,

and

EQUALITY CALIFORNIA,

Intervenor-Defendant -  
Appellee.

No. 12-17681

D.C. No. 2:12-cv-02497-KJM-EFB  
Eastern District of California,  
Sacramento

ORDER

Before: KOZINSKI, Chief Judge, and GRABER and CHRISTEN, Circuit Judges.

Within 14 days of the filed date of this order, each party shall file a supplemental brief, not to exceed 10 pages, addressing the following question: Should the court undertake plenary review of the legal issues in this case, rather than limiting review to the question whether the district court abused its discretion? See Gorbach v. Reno, 219 F.3d 1087, 1091 (9th Cir. 2000) (en banc). In answering this question, the parties shall discuss whether the evidence relevant to assessing the constitutionality of SB 1172 is limited to the legislative record or also

includes evidence newly submitted to the district court. See Turner Broad. Sys. v. FCC, 520 U.S. 180 (1997); Turner Broad. Sys. v. FCC, 512 U.S. 622 (1994).