

**FILED**

**FOR PUBLICATION**

DEC 30 2009

**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-**

No. 09-17241

D.C. No. 3:09-cv-02292-VRW

**ORDER**

**Recorder/County Clerk for the County  
of Los Angeles,**

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 -

No. 09-17551

D.C. No. 3:09-cv-02292-VRW

Appellees,

v.

**ARNOLD SCHWARZENEGGER;  
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: THOMAS, Circuit Judge and En Banc Coordinator.

A judge of this court called for this case to be reheard en banc. A vote was taken, and a majority of the nonrecused active judges of the court did not vote in favor of en banc consideration. The call for rehearing en banc is DENIED. The case is returned to the three-judge panel.