

FILED

FOR PUBLICATION

JUN 05 2012

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,

No. 10-16696

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

Plaintiffs - Appellees,

ORDER

CITY AND COUNTY OF SAN  
FRANCISCO,

Intervenor-Plaintiff -  
Appellee,

v.

EDMUND G. BROWN, Jr., in his official  
capacity as Governor of California;  
KAMALA D. HARRIS, in her 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,

Defendants,

HAK-SHING WILLIAM TAM,

Intervenor-Defendant,

and

DENNIS HOLLINGSWORTH; GAIL J.  
KNIGHT; MARTIN F. GUTIERREZ;  
MARK A. JANSSON;  
PROTECTMARRIAGE.COM - YES ON  
8, A PROJECT OF CALIFORNIA  
RENEWAL, as official proponents of  
Proposition 8,

Intervenor-Defendants -  
Appellants.

KRISTIN M. PERRY; SANDRA B.  
STIER; PAUL T. KATAMI; JEFFREY J.  
ZARRILLO,

Plaintiffs - Appellees,

CITY AND COUNTY OF SAN  
FRANCISCO,

Intervenor-Plaintiff -  
Appellee,

v.

EDMUND G. BROWN, Jr., in his official  
capacity as Governor of California;  
KAMALA D. HARRIS, in her official  
capacity as Attorney General of California;  
MARK B. HORTON, in his official  
capacity as Director of the California

No. 11-16577

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

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,

Defendants,

HAK-SHING WILLIAM TAM,

Intervenor-Defendant,

and

DENNIS HOLLINGSWORTH; GAIL J. KNIGHT; MARTIN F. GUTIERREZ; MARK A. JANSSON; PROTECTMARRIAGE.COM - YES ON 8, A PROJECT OF CALIFORNIA RENEWAL, as official proponents of Proposition 8,

Intervenor-Defendants -  
Appellants.

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

A majority of the panel has voted to deny the petition for rehearing en banc.

Judge N.R. Smith would grant the petition.

The full court was advised of the petition for rehearing en banc. A judge requested a vote on whether to rehear the matter en banc. The matter failed to receive a majority of the votes of the non-recused active judges in favor of en banc consideration. Fed. R. App. P. 35. The petition for rehearing en banc is DENIED.

The mandate is stayed for ninety days pending the filing of a petition for writ of certiorari in the Supreme Court. If such a petition is filed, the stay shall continue until final disposition by the Supreme Court.