

Nos. 10-16696, 11-16577

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

KRISTIN M. PERRY, et al.,

Plaintiffs-Appellees,

v.

EDMUND G. BROWN, JR., et al.,

Defendants,

and

DENNIS HOLLINGSWORTH, et al.,

Defendants-Intervenors-Appellants.

On Appeal From The United States District Court
For The Northern District Of California
No. CV-09-02292 JW (Honorable James Ware)

PLAINTIFFS-APPELLEES' RESPONSE TO MOTION TO CONSOLIDATE

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Proponents assert that consolidation of this appeal with the appeal in case 10-16696, the pending appeal of the district court's decision invalidating Proposition 8, will not "result in any *undue* delay in the resolution of either appeal." Mot. 5 (emphasis added). Plaintiffs oppose any measure that will result in any further delay of Proponents' appeal of the district court's decision on the merits. Further delay is inconsistent with the commitment to expedited treatment that the Court made when it overturned the district court's decision denying a stay of its judgment pending appeal.

Accordingly, consolidation should be ordered only if it may be accomplished without further delaying the prompt resolution of the earlier-filed appeal. To avoid such delay, the Court may wish to schedule oral argument in this appeal on December 8, 2011, when the panel is scheduled to hear oral arguments in Proponents' related appeal of the district court's order to unseal the video recording of the trial proceedings below.

Dated: November 18, 2011

Respectfully submitted,

/s/ Theodore B. Olson

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9th Circuit Case Number(s) 10-16696, 11-16577

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