

United States District Court  
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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

Plaintiffs,

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 and  
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 of the County of  
Alameda; and DEAN C LOGAN, in his  
official capacity as Registrar-  
Recorder/County Clerk for the  
County of Los Angeles,

Defendants,

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

Defendant-Intervenors.

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No C 09-2292 VRW  
ORDER

1           Plaintiffs and plaintiff-intervenor move to enlarge time  
2 to file their motion for attorney fees and costs until thirty days  
3 after all appeals are final. Doc ##729, 742. The Governor,  
4 Attorney General and Alameda County do not oppose the motion. Doc  
5 ##735, 739, 741. Proponents oppose any enlargement of time. Doc  
6 #743.

7           Under FRCP 54(d), a prevailing party must file its motion  
8 for attorney fees and costs not later than fourteen days after  
9 entry of judgment. The court may, however, extend time to file the  
10 motion. FRCP 54(d)(2)(B); see Advisory Committee Notes to 1993  
11 Amendments (noting that the court may permit claims for fees and  
12 costs to be filed after resolution of the appeals process).

13           Proponents ask the court to retain the fourteen day  
14 deadline to provide the government defendants with an opportunity  
15 to consider their potential liability for fees and costs before the  
16 time to appeal has run. Doc #743 at 7-8. Proponents also seek to  
17 ensure the court will have the opportunity to decide the motion for  
18 fees and costs while the memory of the case remains fresh. Id at  
19 8.

20           Here, however, prudence dictates that the court wait to  
21 consider any motion for fees and costs until all appeals from the  
22 judgment are final. The Ninth Circuit is considering proponents'  
23 appeal on an expedited schedule, requiring the parties' full  
24 attention and potentially generating additional fees. Moreover,  
25 the government defendants do not oppose an extension of time,  
26 suggesting that the amount of attorney fees sought by plaintiffs  
27 will not inform their decisions whether to appeal. Finally, the  
28 case is unlikely to fade quickly from the court's memory. Any

1 motion for fees and costs can be resolved fully and fairly after  
2 all appeals from the judgment are final.

3 Accordingly, plaintiffs' motion to extend time is  
4 GRANTED. Doc ##729, 742. Plaintiffs' related motion to shorten  
5 time is DENIED AS MOOT. Doc #732. Any motion for fees and costs  
6 pursuant to FRCP 54(d) shall be filed not later than thirty days  
7 after all appeals of the August 12, 2010 judgment, Doc #728, are  
8 final.

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10 IT IS SO ORDERED.

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13 VAUGHN R WALKER  
14 United States District Chief Judge  
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