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March 2, 2011

ELECTRONIC FILING

Molly C. Dwyer
Clerk of the Court
United States Court of Appeals
For The Ninth Circuit
95 Seventh Street
San Francisco, CA 94103-1526

Re: *Perry, et al. v. Schwarzenegger, et al.*, No. 10-16696

Dear Ms. Dwyer:

I write on behalf of *amicus curiae* California Faith for Equality and pursuant to Ninth Circuit Rule 29-1, which provides that “[a]mici who wish to join in the arguments or factual statements of a party or other amici are encouraged to file and serve on all parties a short letter so stating in lieu of a brief.”

California Faith for Equality accordingly wishes to express its support for, and to join the arguments and factual statements in, the recently filed Motion to Vacate Stay Pending Appeal of Plaintiffs-Appellees Kristin M. Perry, et al. (Docket Entry 303), and the Attorney General’s Amended Statement in Support of Motion to Vacate Stay Pending Appeal (Docket Entry 311).

California Faith for Equality wishes to add that lifting the stay will facilitate the ability of California clergy to serve their congregations, by permitting them to officiate the legal marriages of committed same-sex couples to whom they minister.

In 2008, after the California Supreme Court’s decision in *In re Marriage Cases*, 43 Cal. 4th 757 (2008), and before Proposition 8 took effect, California clergy were free to officiate legal marriages of same-sex couples, and many did so. Some were affiliated with denominations and movements, such as the United Church of Christ, the Universal Fellowship of Metropolitan Community Churches, the Unitarian Universalist Association, Reform Judaism, and Reconstructionist Judaism, while others were affiliated with wholly independent churches, such as Christ Chapel of North Park.

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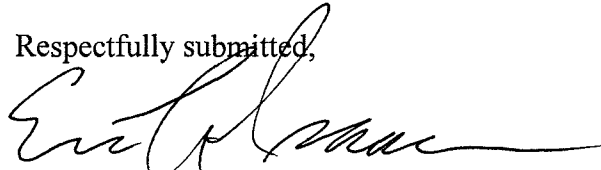
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The continued enforcement of Proposition 8 infringes upon their religious liberty, as well as upon the liberty and rights of the same-sex couples who desire to marry, but who cannot so long as the unconstitutional measure is enforced. Proposition 8 deprives clergy of the freedom to minister to their congregations, and their congregants of the right “to have their official family relationship accorded the same dignity, respect, and stature as that accorded to all other officially recognized family relationships.” *Id.* at 831.

As in *Perez v. Sharp*, 198 P.2d 17 (Cal. 1948), “the law is discriminatory and irrational,” and it “unconstitutionally restricts not only religious liberty but the liberty to marry as well.” *Id.* at 18; *see also id.* at 34 (Edmonds, J., concurring) (emphasizing that a mixed-race couple’s right to marry “is protected by the constitutional guarantee of religious freedom”).

Proposition 8 should not be enforced while this appeal is pending.

Respectfully submitted,



ERIC ALAN ISAACSON
COUNSEL FOR *AMICUS CURIAE*
CALIFORNIA FAITH FOR EQUALITY

EAI:

9th Circuit Case Number(s) 10-16696

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See attached service list.

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