

No. 20-16375

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

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KRISTIN M. PERRY, et al.,  
Plaintiffs-Appellees,  
CITY AND COUNTY OF SAN FRANCISCO,  
Intervenor-Plaintiff-Appellee,  
KQED, Inc.  
Intervenor-Appellee,

v.

GAVIN NEWSOM, in his official capacity as Governor of California, et al.,  
Defendants-Appellants,  
DENNIS HOLLINGSWORTH, et al.  
Intervenors-Defendants-Appellants,  
and  
PATRICK O'CONNELL, in his official capacity as Clerk-Recorder for the County  
of Alameda, et al.  
Defendants.

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On Appeal from the United States District Court  
for the Northern District of California  
Civil Case No. 09-CV-2292-WHO (Honorable William Orrick)

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**MOTION OF THE REPORTERS COMMITTEE FOR FREEDOM OF THE  
PRESS AND 32 MEDIA ORGANIZATIONS FOR LEAVE TO FILE AMICI  
CURIAE BRIEF IN SUPPORT OF KQED, INC.'S OPPOSITION TO  
INTERVENORS-DEFENDANTS-APPELLANTS' MOTION FOR STAY  
PENDING APPEAL**

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Pursuant to Federal Rule of Appellate Procedure 29(a)(3) and Circuit Rule 29-3, the Reporters Committee for Freedom of the Press (“Reporters Committee”) and 32 media organizations (collectively, “amici”) move for leave to file an amicus brief in support of KQED, Inc.’s Opposition to Intervenor-Defendants-Appellants’ Motion for Stay Pending Appeal.<sup>1</sup> Counsel for Plaintiffs-Appellees, Intervenor-Plaintiff-Appellee, Intervenor-Appellee, Defendants-Appellants, and Intervenor-Defendants-Appellants have consented to the filing of the amicus brief.

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<sup>1</sup> The amicus brief was previously filed on July 27, 2020. *See Perry v. Newsom*, 20-16375, Dkt. Entry 10. The amici are: The Reporters Committee, the Associated Press, Boston Globe Media Partners, LLC, BuzzFeed, Cable News Network, Inc., California News Publishers Association, Californians Aware, The Center for Investigative Reporting (d/b/a Reveal), Cityside, Dow Jones & Company, Inc., The E.W. Scripps Company, Embarcadero Media, First Amendment Coalition, First Look Media Works, Inc., Fox Television Stations, LLC, Gannett Co., Inc., Inter American Press Association, International Documentary Assn., Investigative Reporting Workshop at American University, Los Angeles Times Communications LLC, The Media Institute, MPA - The Association of Magazine Media, National Press Photographers Association, The New York Times Company, The News Leaders Association, Online News Association, POLITICO LLC, Radio Television Digital News Association, Sinclair Broadcast Group, Inc., Society of Environmental Journalists, Society of Professional Journalists, Tully Center for Free Speech, and Univision Communications Inc. Full descriptions of each of the amici are included in the amicus brief as Appendix A. Corporate disclosure statements for all amici are included before the table of contents in the amicus brief.

The proposed amicus brief addresses matters “relevant to the disposition” of Intervenors-Defendants-Appellants’ Motion for Stay Pending Appeal and is submitted to aid the Court in ruling on that Motion. Fed. R. App. P. 29(a)(3). As members of and advocates for the news media, amici have a strong interest in ensuring that the public obtains access to the videotape recordings of the 12-day trial that took place before the District Court in 2010 to determine the constitutionality of Proposition 8, a ballot measure that denied same-sex couples the right to marry in California, without further undue delay. The trial was—and remains—an historic event of great public interest and importance, and amici have long-supported KQED, Inc.’s efforts to obtain access to those recordings for the benefit of the press and the public.<sup>2</sup>

The proffered amicus brief will aid the Court by explaining the importance of access to the recordings at issue to the ability of journalists and documentarians to completely and accurately inform members of the public who were not able to attend the trial in-person about the events that occurred in the courtroom. Amici

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<sup>2</sup> See Br. of Amici Curiae The Reporters Comm. For Freedom of the Press and 36 Media Orgs. in Support of Media Intervenor KQED, Inc., *Perry v. Schwarzenegger*, No. 09-2292 (N.D. Cal., May 13, 2020), ECF No. 899-2; Br. of Amici Curiae The Reporters Comm. For Freedom of the Press and 35 Media Orgs. in Support of Intervenor-Appellee KQED, Inc. Urging Affirmance, *Perry v. Hollingsworth*, No. 18-15292 (9th Cir., Aug. 8, 2018), ECF No. 37.

urge the Court to deny Intervenor-Defendants-Appellants' Motion to Stay Pending Appeal, as it would unnecessarily further delay access to those recordings.

For these reasons, amici respectfully request leave to file the proposed amicus brief in support of the relief sought by KQED, Inc.

Dated: July 29, 2020

Respectfully Submitted,

/s/ Katie Townsend

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