

BREAKING NEWS: PERRY PROP 8 STAY GRANTED BY 9TH CIRCUIT

The [order granting the Proponents/Appellants request for stay](#) in Perry v. Schwarzenegger was just sent to me by the 9th Circuit. The docket text is as follows:

Filed order (EDWARD LEAVY, MICHAEL DALY HAWKINS and SIDNEY R. THOMAS)
Appellants' motion for a stay of the district court's order of August 4, 2010 pending appeal is GRANTED. The court sua sponte orders that this appeal be expedited pursuant to Federal Rule of Appellate Procedure 2. The provisions of Ninth Circuit Rule 31-2.2(a) (pertaining to grants of time extensions) shall not apply to this appeal. This appeal shall be calendared during the week of December 6, 2010, at The James R. Browning Courthouse in San Francisco, California. The previously established briefing schedule is vacated. The opening brief is now due September 17, 2010. The answering brief is due October 18, 2010. The reply brief is due November 1, 2010. In addition to any issues appellants wish to raise on appeal, appellants are directed to include in their opening brief a discussion of why this appeal should not be dismissed for lack of Article III standing. See *Arizonans For Official English v. Arizona*, 520 U.S. 43, 66 (1997). IT IS SO ORDERED.

Well, I thought there was a very good chance that there would be an accelerated briefing and consideration if there was to be consideration on the merits. And there will be consideration on the merits, even if it is concurrent with consideration of the standing issue ([here is a](#)

[very good](#) and detailed discussion of the standing issues and law).

This is a bit of a new wrinkle and, safe to say, gives more life to Proponents/Appellants than many people were giving them recently. And it appears there will be oral argument in San Francisco during the second week of December. Now the next question is what panel for the merits will the appeal be handed to – will it be [Wardlaw, Fisher and Berzon](#) – or will it be a new panel? Time will tell, and we should know that very soon. Exciting!