

FEB 28 2013

William K. Suter,
Clerk

IN THE SUPREME COURT OF THE UNITED STATES

No. 12-144

DENNIS HOLLINGSWORTH, ET AL., PETITIONERS

v.

KRISTIN M. PERRY, ET AL.

ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

MOTION OF THE UNITED STATES FOR LEAVE TO
PARTICIPATE IN ORAL ARGUMENT AS AMICUS CURIAE
AND FOR DIVIDED ARGUMENT

Pursuant to Rules 28.4 and 28.7 of the Rules of this Court, the Solicitor General, on behalf of the United States as amicus curiae, respectfully moves that the United States be granted leave to participate in oral argument in this case and that the United States be allowed ten minutes of argument time. The United States has filed a brief as amicus curiae supporting respondents. Respondents have consented to cede ten minutes of their argument time to the United States.

In its amicus brief, the United States addressed the following question presented by this case: whether Proposition 8 violates

the Equal Protection Clause of the Fourteenth Amendment. The United States has a substantial interest in the Court's resolution of that question, particularly in light of its participation in United States v. Windsor, No. 12-307 (cert. granted Dec. 7, 2012), now pending before the Court. The President and Attorney General have determined that classifications based on sexual orientation should be subject to heightened scrutiny for equal protection purposes. 12-307 J.A. 183-194 (Letter from Eric H. Holder, Jr., Attorney General of the United States, to John A. Boehner, Speaker, U.S. House of Representatives (Feb. 23, 2011)). This case, like Windsor, presents the Court with the opportunity to address the question whether laws that target gay and lesbian people for discriminatory treatment should be subject to heightened scrutiny. Certain interests articulated in support of Proposition 8 in this case have also been raised in Windsor in support of Section 3 of the Defense of Marriage Act, and the Court's approach when examining those interests therefore is of significance to the United States.

Because participation in oral argument by the United States will provide the Court with the government's unique perspective on the question presented, division of the argument will be of material assistance to the Court.

Respectfully submitted.

DONALD B. VERRILLI, JR.
Solicitor General
Counsel of Record

FEBRUARY 2013