

URGENT MOTION UNDER CIRCUIT RULE 27-3(b)

No. 13-57095

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

REBECCA FRIEDRICHS, et al.,
Plaintiff-Appellants,

v.

CALIFORNIA TEACHERS ASSOCIATION, et al.,
Defendant-Appellees,

KAMALA D. HARRIS, Attorney General of California,
Defendant-Intervenor,

On Appeal from the United States District Court
for the Central District of California, Santa Ana
No. 8:13-cv-00676-JLS-CW
Judge Josephine L. Staton

**APPELLANTS' URGENT MOTION TO RECONSIDER MOTION FOR
SUMMARY AFFIRMANCE OR TO SUBMIT ON THE PAPERS**

Action Necessary by October 31, 2014

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Appellants filed an urgent motion for summary affirmance in this proceeding on October 3, 2014, shortly after briefing was completed. That same day, the Clerk's Office disposed of that motion "pursuant to" a prior Order the Clerk's Office issued on July 16, 2014 concerning Appellants' request to expedite this appeal. (Dkt. 49.) Because that prior Order on Appellants' request to expedite this appeal does not control their current request for Summary Affirmance, and because the Clerk's Office appears to lack authority under the Ninth Circuit's rules to dispose of a Motion for Summary Affirmance, Appellants respectfully request reconsideration of their request by the Motions Panel. And because that Motion is now fully briefed by all parties, Appellants request such consideration by October 31, 2014, in accordance with the request in their initial filing.

The Circuit Advisory Committee Note to Circuit Rule 27-1 (the Rule governing motions) specifies that: "*The motions panel shall rule on substantive motions, including motions to dismiss, for summary affirmance, and similar motions.*" Circuit Advisory Committee Note to Rule 27-1(3)(a) (emphases added). Because Appellants are suffering irreparable harm for the reasons explained in their Motion for Summary Affirmance and Reply on the same, urgent consideration of that Motion by the Motions Panel in accordance with Circuit Rule 27-1 is warranted.

Dated: October 16, 2014

Respectfully submitted:

/s/ Michael A. Carvin

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CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2014, on behalf of Plaintiff-Appellants, I electronically filed the foregoing document with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, for delivery within 3 calendar days to the following non-CM/ECF participants:

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