

EXHIBIT 10A

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 FILED
 San Francisco County Superior Court

SEP - 2 2004

11 Attorneys for Plaintiff
 12 CITY AND COUNTY OF SAN FRANCISCO

GORDON PARK-LI, Clerk
 BY: _____ Deputy Clerk

13 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 14 COUNTY OF SAN FRANCISCO
 15 UNLIMITED CIVIL JURISDICTION

17 Coordination Proceeding
 Special Title (Rule 1550(b))
 18 MARRIAGE CASES
 19 CITY AND COUNTY OF SAN
 20 FRANCISCO, a charter city and county,
 21 Plaintiff/Petitioner,
 22 vs.
 23 STATE OF CALIFORNIA, et al.
 24 Defendants/Respondents.

JUDICIAL COUNCIL COORDINATION
 PROCEEDING NO. 4365

Case No. 429-539
 (Consolidated with Case No. 504-038)

DECLARATION OF DR. ROBERT
 GALATZER-LEVY IN SUPPORT OF
 CITY AND COUNTY OF SAN
 FRANCISCO'S CONSTITUTIONAL
 CHALLENGE TO MARRIAGE
 STATUTES

Hearing Date: TBD
 Hearing Judge: Richard A. Kramer
 Time: TBD
 Place: 304

Date Action Filed: March 11, 2004
 Trial Date: Not set

1 I, Robert Galatzer-Levy, declare as follows:

2 1. I know the facts stated herein of my own personal knowledge, except those facts
3 known on information and belief, and if called as a witness I could and would testify
4 competently thereto.

5 2. I am a psychiatrist, a psychoanalyst, a child and adolescent psychiatrist and a
6 Lecturer in psychiatry at the University of Chicago. I received an M.D. from the Washington
7 University School of Medicine in 1971. I was licensed as a physician by the State of Illinois in
8 1974 following a Residency in Psychiatry at the University of Chicago. I have maintained a
9 private practice in psychiatry since that time. I have been a member of the American
10 Psychoanalytic Association since 1984 and have served on a number of committees within that
11 organization, including as chair of its Committee on Scientific Activities. I have co-authored or
12 co-edited four books in my field, including *The Course of Gay and Lesbian Lives: Social and*
13 *Psychoanalytic Perspectives*, which was co-authored with Dr. Bertram J. Cohler and published
14 in 2000. A true and correct copy of my *curriculum vitae* is attached hereto as Exhibit A.

15 3. Between 1994 and 2000, I conducted an extensive study of the classification of
16 homosexuality as a disease or mental illness. I conducted this study in my role as a member of
17 the American Psychoanalytic Association's Committee on Scientific Activities. At that time, the
18 American Psychoanalytic Association was the only one of the major mental health providers'
19 professional associations that had failed to adopt the position that homosexuality was not a
20 disease or mental illness. The other major associations, including the American Psychiatric
21 Association and the American Psychological Association, adopted this position in the 1970's.
22 My committee was asked to review existing literature and conduct research on the issue and
23 make a recommendation to the association as to the adoption of an official position.

24 4. In conducting this study, I extensively reviewed the scientific literature on this topic.
25 A complete list of the literature I reviewed in connection with this study can be found in the
26 References section of *The Course of Gay and Lesbian Lives: Social and Psychoanalytic*
27 *Perspectives*. I also relied upon my years of experience in private practice, during which I have
28 treated numerous individuals who happened to be gay or lesbian.

1 5. As a result of the study, I concluded that homosexuality is not a disease or mental
2 illness. Based upon this study, the committee recommended that the American Psychoanalytic
3 Association adopt an official position that homosexuality is not a disease or mental illness. The
4 Association did so shortly thereafter.

5 6. The research conducted in connection with this study later became the basis for my
6 book, *The Course of Gay and Lesbian Lives: Social and Psychoanalytic Perspectives*. Some of
7 the specific conclusions I reached, and their bases, are explained in greater detail below.

8 7. Same-gender sexual orientation is not a disease or mental illness. This conclusion
9 has been widely adopted in the medical community, including, as previously stated, by the major
10 mental health providers' organizations. The conclusion is based upon three primary factors.

11 8. First, same-gender sexual orientation is pervasive. Homosexuality appears in all
12 contexts and is pervasive in the sense that it is found throughout history and all cultures in which
13 it has been studied.

14 9. Second, to be classified as a mental illness or disease, a condition must inherently
15 stress the health of the individual. Homosexuality causes no such inherent stress. Generally, the
16 mental health of homosexuals does not inherently differ from that of heterosexuals. Any
17 additional stress specific to the mental health of homosexuals is the product of being the object
18 of societal disdain and oppression; it is not caused by the same-gender sexual orientation of the
19 individual.

20 10. Third, to be classified as a disease or mental illness, a condition must be discrete.
21 That is, there must be a bright line methodology for determining whether an individual is
22 afflicted with the condition. For example, pneumonia is discrete in the sense that it is possible to
23 medically determine whether an individual has pneumonia or not. A person cannot be suffering
24 from pneumonia somewhat. Rather, he suffers from pneumonia or he does not. This is not true
25 of sexual orientation. The sexual orientation of any given individual falls within a spectrum

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1 their children in my private practice. I have participated as an expert in many child custody
 2 cases involving one or more gay or lesbian parents. I have also reviewed a large volume of
 3 research on this topic, including two outcome studies which examined differences between
 4 children raised in gay and lesbian households and those raised by heterosexual parents. A
 5 chapter in the book *The Scientific Basis of Child Custody Decisions*, which I co-edited, an
 6 extensive review of parenting by gay and lesbian individuals, supports the opinions expressed
 7 here.

8 14. The fact that the institution of marriage has been unavailable to gay and lesbian
 9 parents has and does, in my experience, adversely affect the children of those relationships.
 10 Children form bonds with their caretakers, regardless of the legal status of those caretakers'
 11 relationship. If a couple is not married, the child being raised by that couple loses many legal
 12 protections afforded to children of married parents. If the couple separates, the child of a
 13 homosexual couple can be horribly damaged when one psychological parent loses legal status.
 14 This damage could be prevented by his or her parents being married.

15 I declare under penalty of perjury under the laws of the State of California that the
 16 foregoing is true and correct. Executed this 1st Day of September, 2004.

17 
 18 _____
 ROBERT GALATZER-LEVY

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