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 10 CITY AND COUNTY OF SAN FRANCISCO

11  
 12 UNITED STATES DISTRICT COURT  
 13 NORTHERN DISTRICT OF CALIFORNIA

14 KRISTIN M. PERRY, SANDRA B. STIER,  
 15 PAUL T. KATAMI, and JEFFREY J.  
 ZARRILLO,

16 Plaintiffs,

17 vs.

18 ARNOLD SCHWARZENEGGER, in his  
 19 official capacity as Governor of California;  
 EDMUND G. BROWN JR., in his official  
 20 capacity as Attorney General of California;  
 MARK B. HORTON, in his official capacity  
 21 as Director of the California Department of  
 Public Health and State Registrar of Vital  
 22 Statistics; LINETTE SCOTT, in her official  
 capacity as Deputy Director of Health  
 23 Information & Strategic Planning for the  
 California Department of Public Health;  
 24 PATRICK O'CONNELL, in his official  
 capacity as Clerk-Recorder for the County of  
 25 Alameda; and DEAN C. LOGAN, in his  
 official capacity as Registrar-Recorder/County  
 26 Clerk for the County of Los Angeles,

27 Defendants.

Case No. 09-CV-2292 VRW

**MOTION FOR LEAVE TO FILE BRIEF OF  
 AMICUS CURIAE CITY AND COUNTY OF  
 SAN FRANCISCO WITH SUPPORTING  
 DECLARATION; [PROPOSED] ORDER**

**AMICUS CURIAE IN SUPPORT OF  
 PLAINTIFFS' MOTION FOR A  
 PRELIMINARY INJUNCTION**

Hearing Date: July 2, 2009  
 Time: 10:00 a.m.  
 Place: Courtroom 6, 17th Fl.,  
 450 Golden Gate Ave.

Trial Date: Not set

28 \* Admission to the Northern District of California pending.

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT the City and County of San Francisco respectfully requests  
3 the Court's leave to participate as *amicus curiae* in the above-captioned case in support of Plaintiffs'  
4 motion for preliminary injunction. *Amicus* has conferred with counsel for the Defendants and  
5 Proposed Intervenors, and all counsel have consented to this motion.

6 **I. STANDARD FOR MOTION FOR LEAVE TO FILE BRIEF OF AMICI CURIAE**

7 The Court has broad discretion to permit third parties to participate in an action as amici curiae.  
8 *Gerritsen v. de la Madrid Hurtado*, 819 F.2d 1511, 1514 n.3 (9th Cir. 1987). Participation of amici  
9 curiae may be particularly appropriate where the legal issues in a case have potential ramifications  
10 beyond the parties directly involved or where amici can offer a unique perspective that may assist the  
11 Court. *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp.2d 919, 925 (N.D. Cal.  
12 2003).

13 **II. STATEMENT OF IDENTITY AND INTEREST OF AMICI CURIAE**

14 The City and County of San Francisco is a unit of local government charged with the  
15 responsibility to issue civil marriage licenses and to solemnize and record marriages. *See* Cal. Fam.  
16 Code §§ 67, 300, 350, 359, 400, 401, 423. Proposition 8 presently compels San Francisco to deny  
17 lesbian and gay couples the marriage licenses that it issues to similarly situated heterosexual couples,  
18 even though San Francisco believes this violates the federal constitutional rights of its lesbian and gay  
19 citizens. *See Lockyer v. City and County of San Francisco*, 33 Cal. 4th 1055, 1080–82, 1085–86  
20 (2004) (city and county officials may not decline to enforce statutory restrictions on marriage until  
21 appellate court holds them unconstitutional). San Francisco therefore has a direct interest in the  
22 vindication Plaintiffs seek in this case.

23 The discriminatory marriage regime imposed by Proposition 8 is also at odds with San  
24 Francisco's fundamental values, which include the belief that its lesbian and gay citizens should be  
25 treated with the same dignity and respect as all other citizens. San Francisco has a large and vibrant  
26 lesbian and gay community and is often a leader in political and legal actions to recognize and protect  
27 the rights of lesbians and gay men. For this reason, too, San Francisco is keenly interested in the  
28 resolution of this case.

1 **III. REASONS WHY *AMICUS CURIAE*'S EXPERTISE WILL BE BENEFICIAL TO THIS COURT**

2 As one of the lead Plaintiffs in *In re Marriage Cases*, 43 Cal. 4th 757 (2008), and *Strauss v.*  
3 *Horton*, 2009 WL 1444594, San Francisco developed extensive knowledge of many of the legal and  
4 factual issues raised in the above-captioned matter. In particular, San Francisco has developed  
5 expertise in the history of discrimination against gay men and lesbians, the use of initiative measures  
6 to repeal advances in equality for gay men and lesbians, and the recent cases regarding marriage  
7 equality in California. San Francisco respectfully suggests that its analysis of these issues could assist  
8 the Court in its deliberations.

9 **IV. CONCLUSION**

10 Wherefore, San Francisco requests this Court's leave to submit an *amicus* brief in support of  
11 Plaintiff's motion for preliminary injunction.

12 Dated: June 18, 2009

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18 By: \_\_\_\_\_ /s/  
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