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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID PICKUP, CHRISTOPHER H.  
ROSIK, PH.D., JOSEPH NICOLSI, PH.D.,  
ROBERT VAZZO, NATIONAL ASSOCIATION  
FOR RESEARCH AND THERAPY OF  
HOMOSEXUALITY, AMERICAN  
ASSOCIATION OF CHRISTIAN COUNSELORS,  
JOHN DOE 1, by and through JACK AND JANE  
DOE 1, JACK DOE 1, individually, and JANE  
DOE 1, individually, JOHN DOE 2, by and  
through JACK AND JANE DOE 2, JACK  
DOE 2, individually, and JANE DOE 2,  
individually

Plaintiffs,

No. CIV S-12-2497 KJM-EFB

vs.

EDMUND G. BROWN, Jr., Governor of the  
State of California, *in his official capacity*;  
ANNA M. CABALLERO, Secretary of the State  
and Consumer Services Agency of the State of  
California, *in her official capacity*, KIM  
MADSEN, Executive Officer of the California  
Board of Behavioral Sciences, *in her official  
capacity*; MICHAEL ERICKSON, PH.D.,  
President of the California Board of Psychology,  
*in his official capacity*; SHARON LEVINE,  
President of the Medical Board of California, *in  
her official capacity*.

Defendants.

ORDER

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1           On October 19, 2012, Equality California filed a Motion to Intervene as a Party  
2 Defendant in the above-captioned case, scheduled for hearing on November 30, 2012. (ECF 24.)  
3 More recently, on November 9, 2012, while the motion to intervene is pending, Equality  
4 California has submitted a Motion for Leave to File an Amicus Brief in Opposition to Plaintiffs’  
5 Amended Motion for Preliminary Injunction, also scheduled for hearing on November 30, 2012.  
6 (ECF 55.) Equality California also requests that the court grant it five minutes of oral argument  
7 time during the November 30 hearing. (*Id.*) On November 16, 2012, plaintiffs filed oppositions  
8 to both of Equality California’s motions. (ECF 56; ECF 57.) The State defendants have not  
9 opposed Equality California’s request for amicus status. In this order, the court GRANTS  
10 Equality California’s Motion for Leave to File an Amicus Brief, as explained below, while  
11 maintaining the hearing previously set on the Motion to Intervene.

12           In their opposition to Equality California’s Motion for Leave to File an Amicus  
13 Brief, plaintiffs argue that the motion violates Eastern District of California Local Rule 230(b),  
14 which requires that a motion shall be set for hearing no less than twenty-eight days after service  
15 and filing of the motion. As Equality California’s motion is “related to the general subject  
16 matter” of the Motion for Preliminary Injunction and Motion to Intervene previously set for  
17 hearing on November 30, it could be timely filed until the November 16 deadline for opposition  
18 to the primary motions, assuming Equality California is subject to the same rules as a party if  
19 granted amicus status. Local Rule 230(e). As noted above, Equality California filed the instant  
20 motion, accompanied by the proposed amicus brief, well in advance of November 16. For the  
21 reasons discussed below, the court grants Equality California amicus curiae status, and deems its  
22 motion and amicus brief timely.

23           Plaintiffs contend that Equality California should not be allowed to participate as  
24 an amicus because it would not bring a unique perspective to the issues before court. The district  
25 court has broad discretion regarding the appointment of amici. *Hoptowit v. Ray*, 682 F.2d 1237,  
26 1260 (9th Cir. 1982), *abrogated on other grounds by Sandin v. Conner*, 515 U.S. 472 (1995); *In*

1 *re Roxford Foods Litig.*, 790 F. Supp. 987, 997 (E.D. Cal. 1991). “An amicus brief should  
2 normally be allowed” when, among other considerations, “the amicus has unique information or  
3 perspective that can help the court beyond the help that the lawyers for the parties are able to  
4 provide.” *Cnty. Ass'n for Restoration of Env't (CARE) v. DeRuyter Bros. Dairy*, 54 F. Supp. 2d  
5 974, 975 (E.D. Wash. 1999) (citing *Northern Sec. Co. v. United States*, 191 U.S. 555, 556  
6 (1903)). Here, as the sponsor of the legislation plaintiffs seek to enjoin, Equality California can  
7 provide information related to the legislative history that may be helpful to the court.

8           Plaintiffs further assert it would be inappropriate to grant Equality California  
9 amicus status because it is not a neutral party. While “[h]istorically, amicus curiae is an  
10 impartial individual who suggests the interpretation and status of the law, gives information  
11 concerning it, and advises the Court in order that justice may be done, rather than to advocate a  
12 point of view so that a cause may be won by one party or another,” *Cnty. Ass'n for Restoration*  
13 *of Env't (CARE)*, 54 F. Supp. 2d at 975, the Ninth Circuit has said “there is no rule that amici  
14 must be totally disinterested.” *Funbus Sys., Inc. v. State of Cal. Pub. Utils. Comm'n*, 801 F.2d  
15 1120, 1125 (9th Cir. 1986); *Hoptowit*, 682 F.2d at 1260 (upholding district court's appointment  
16 of amicus curiae, even though amicus entirely supported only one party's arguments). The court  
17 has the ability to glean any useful information from Equality California’s filing without being  
18 swayed by any pure advocacy.

19           Because Equality California’s proposed amicus brief has been on the court’s  
20 docket since November 9, and in light of plaintiffs’ characterization of the brief as largely  
21 duplicating the arguments made in the State defendants’ papers, plaintiffs will not be prejudiced  
22 by the court’s allowing formal filing of the brief.

23           The court hereby GRANTS Equality California’s Motion for Leave to File an  
24 Amicus Brief in Opposition to Plaintiffs’ Amended Motion for Preliminary Injunction, and also  
25 GRANTS Equality California’s request for five minutes of argument on November 30, 2012.

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1 Equality California is directed to file on the docket its proposed amicus brief, in the form  
2 presented on November 9, by the close of business on November 23, 2012.

3 DATED: November 21, 2012.

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6 UNITED STATES DISTRICT JUDGE

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