

1 Steven N.H. Wood, Esq. (CA SBN 161291)
 Christopher J. Schweickert, Esq. (CA SBN 225942)
 2 **BERGQUIST, WOOD & ANDERSON, LLP**
 1470 Maria Lane, Suite 300
 3 Walnut Creek, CA 94596
 Telephone: (925) 938-6100
 4 Facsimile: (925) 938-4354
 wood@wcjuris.com
 5 cjs@wcjuris.com

6 Attorneys for *Amicus Curiae* Paul R. McHugh, M.D.

7
 8 **UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**

12 KRISTIN M. PERRY, et al.,

13 Plaintiffs,

14 and

15 CITY AND COUNTY OF SAN FRANCISCO,

16 Plaintiff-Intervenor,

17 v.

19 ARNOLD SCHWARZENEGGER, et al.,

20 Defendants,

21 and

22 PROPOSITION 8 OFFICIAL PROPONENTS
 DENNIS HOLLINGSWORTH, GAIL J.
 23 KNIGHT, MARTIN F. GUTIERREZ, HAK-
 SHING WILLIAM TAM, and MARK A.
 24 JANSSON; and PROTECTMARRIAGE.COM –
 YES ON 8, A PROJECT OF CALIFORNIA
 RENEWAL,

25 Defendant-Intervenors.
 26

CASE NO. 09-CV-2292 VRW

**MOTION FOR LEAVE TO FILE
 BRIEF OF *AMICUS CURIAE* PAUL
 R. MCHUGH, M.D.**

Date: To Be Determined By The Court
 Time: To Be Determined By The Court
 Location: Courtroom 6, 17th Floor
 Judge: Chief Judge Vaughn R. Walker
 Trial Date: January 11, 2010

1 TO THE PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE that Paul R. McHugh, M.D. moves this Court for an order
3 granting leave to participate *amicus curiae* in the above-captioned case in support of Defendant-
4 Intervenors. Counsel for *Amicus* has conferred with counsel for Plaintiffs and Plaintiff-Intervenor,
5 who consent to the filing of this application for leave but reserve judgment on whether to consent to
6 the motion. Counsel for *Amicus* has complied with this Court's brevity requirement (under 15
7 pages) and, to Counsel's knowledge, the brief not being duplicative of other evidence as it uniquely
8 addresses the issue of sexual orientation.
9

10 **I. STANDARD FOR MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE**

11 The Court has broad discretion to permit third parties to participate in an action as *amicus*
12 *curiae*. *Gerritsen v. de la Madrid Hurtado*, 819 F.2d 1511, 1514 n.3 (9th Cir. 1987). Participation
13 of *amicus curiae* may be particularly appropriate where the legal issues in a case have potential
14 ramifications beyond the parties directly involved or where *amicus* can offer a unique perspective
15 that may assist the Court. *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp.2d
16 919, 925 (N.D. Cal. 2003).
17

18 **II. STATEMENT OF INTEREST AND IDENTITY OF AMICUS CURIAE**

19 *Amicus* is a scholar of psychiatry with a professional interest in orientation issues, and offers
20 scientific information that is directly relevant to this court in assessing whether orientation as a
21 category is sufficiently similar to race and gender to merit analogous treatment in Constitutional
22 law.
23

24 **Paul R. McHugh, M.D.** is the University Distinguished Service Professor of Psychiatry at
25 the Johns Hopkins University School of Medicine. He was the Henry Phipps Professor of
26 Psychiatry, Director of the Department of Psychiatry and Behavioral Sciences at the Johns Hopkins
27 University School of Medicine, and psychiatrist-in-chief at the Johns Hopkins Hospital from 1975-
28

1 2001. Dr. McHugh received his undergraduate degree from Harvard in 1952 and his medical degree
2 at Harvard Medical School in 1956. He served as head of the department of psychiatry at the
3 University of Oregon Medical School in the early 1970s. He is the author of four books and more
4 than 150 papers.

5
6 **III. REASONS WHY AMICUS CURIAE’S EXPERTISE WILL BE BENEFICIAL TO THIS COURT**

7 *Amicus* seeks to provide information to this Court bearing on its decision of whether to
8 endorse a legal declaration that orientation is a fixed and immutable characteristic similar to race or
9 gender. In the proposed brief, *Amicus* points out two highly relevant facts: (1) there is no scientific
10 consensus on what homosexuality is, and the number of people who fit in the class “gay and
11 lesbian” varies widely, depending on which definition of homosexuality is used and (2) there is no
12 scientific consensus that homosexuality is exclusively or primarily genetic in origin.

13
14 **IV. CONCLUSION**

15 Wherefore, *Amicus* Paul R. McHugh, M.D. requests this Court’s leave to submit a brief in
16 support of Defendant-Intervenors.

17 Respectfully submitted, /s/

18 Dated: January 8, 2010

19 _____
20 Steven N.H. Wood, Esq. (CA SBN 161291)
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Attorneys for *Amicus Curiae* Paul R. McHugh, M.D.