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 Bay Area Lawyers for Individual Freedom *et al.*

8 UNITED STATES DISTRICT COURT
 9
 10 NORTHERN DISTRICT OF CALIFORNIA

11 KRISTIN M. PERRY, *et al.*,
 12
 Plaintiffs,
 13
 and
 14
 CITY AND COUNTY OF SAN
 15 FRANCISCO,
 Plaintiff-Intervenor,
 16

CASE NO. 09-CV-2292 VRW

**MOTION FOR LEAVE TO FILE AN
 AMICUS BRIEF BY BAY AREA
 LAWYERS FOR INDIVIDUAL
 FREEDOM (“BALIF”) ET AL.**

Judge: Hon. Vaughn R. Walker
 Dept: Courtroom 6

17 vs.

18 ARNOLD SCHWARZENEGGER, *et al.*,
 19
 Defendants
 20

and
 21 PROPOSITION 8 OFFICIAL
 PROPONENTS DENNIS
 22 HOLLINGSWORTH, *et al.*,
 23
 Defendant-Intervenors.

1 Bay Areas Lawyers for Individual Freedom (“BALIF”), together with the organizations
2 identified below, hereby move the Court for leave to file an *amicus* brief in support of Plaintiffs
3 in the above-captioned matter.

4 This Court has broad discretion to permit third parties to participate in an action as *amici*
5 *curiae*. See, e.g., *Gerritson v. de la Madrid Hurtado*, 819 F.2d 1511, 1514 n.3 (9th Cir. 1987).
6 “District courts frequently welcome amicus briefs from non-parties concerning legal issues that
7 have potential ramifications beyond the parties directly involved or if the amicus has unique
8 information or perspective that can help the court beyond the help that the lawyers for the parties
9 are able to provide.” *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d
10 919, 925 (N.D. Cal. 2003.)

11 The following *amici* provide services to, and advocate on behalf of, a wide array of
12 individuals who have suffered unequal treatment, including gay and lesbian individuals:

13 **Bay Area Lawyers for Individual Freedom** (“BALIF”) is the nation’s oldest
14 and largest bar association of lesbian, gay, bisexual, and transgender persons
15 (“LGBT”). BALIF serves to take action on questions of law and justice that
16 affect the LGBT community, strengthen ties among LGBT legal professionals,
17 build coalitions to combat discrimination, and provide a forum for members of the
18 LGBT legal community.

19 The **AIDS Legal Referral Panel** (“ALRP”) is a non-profit organization that helps
20 people living with HIV/AIDS maintain or improve their health by resolving their
21 legal issues. ALRP was founded in 1983 and has handled more than 50,000 legal
22 matters for its clients over the last 27 years. ALRP’s goals are to provide counsel
23 and representation on legal issues for a community of individuals who might
24 otherwise not be able to afford or obtain legal assistance, and to leverage the
25 resources of the private bar for the public good. ALRP is dedicated to addressing
26 discrimination against people with HIV/AIDS and members of the LGBT
27 community, including working to ensure their marriage rights.

28 **API Equality – Northern California** is a coalition of organizations and
individuals that is committed to working in the Asian and Pacific Islander (“API”) community in California and nationally for equal marriage rights and fair treatment of LGBT families through education and advocacy.

Asian American Bar Association of the Greater Bay Area (“AABA”) represents the interests of Asian Pacific American attorneys in the Greater San Francisco Bay Area. It is one of the largest Asian Pacific American bar associations in the nation and one of the largest minority bar associations in the State of California. From its inception in 1976, AABA has been actively involved in civil rights issues and has advocated on issues regarding minority communities, diversity, and equal protection. Among other things, AABA filed an amicus brief in the *Bakke* affirmative action case in the United States Supreme Court in 1977 and in *In re Marriage Cases* in the California Supreme Court in 2007.

1 The **Bar Association of San Francisco** (“BASF”) is a nonprofit voluntary
2 membership organization of attorneys, law students, and legal professionals in the
3 San Francisco Bay Area. Founded in 1872, BASF enjoys the support of more
4 than 7,500 individuals, law firms, corporate legal departments, and law schools.
5 Through its board of directors, its committees, and its volunteer legal services
6 programs and other community efforts, BASF has worked to promote and achieve
7 equal justice for all and oppose discrimination in all its forms, including, but not
8 limited to, discrimination based on race, sex, disability, and sexual orientation.

9 Founded in 1989, the **California Women’s Law Center** (“CWLC”) is dedicated
10 to addressing the comprehensive and unique legal needs of women and girls.
11 Through systemic change, CWLC seeks to ensure that opportunities for women
12 and girls are free from unjust social, economic, and political constraints. CWLC
13 is committed to eradicating invidious discrimination, including eliminating laws
14 that stigmatize non-traditional gender roles.

15 **Chinese for Affirmative Action** (“CAA”) is a 40-year old, membership-based
16 nonprofit organization whose mission is to defend and promote the civil rights of
17 Asian Americans, including the right to marriage equality, within the context of
18 advancing a multiracial democracy.

19 The **East Bay La Raza Lawyers Association** (“EBLRLA”) is the county bar
20 association of Latina/o lawyers in Alameda and Contra Costa counties. Dedicated
21 to expanding legal access, the EBLRLA provides annual scholarships to Latina/o
22 law students, supports Latina/o attorneys with a local professional network and
23 advocates for increased Latina/o representation in the judiciary. EBLRLA’s
24 interest in having courts ensure equal protection under the law and respecting the
25 fundamental privacy of right of marriage equality is central to its mission.
26 Through its board of directors, committees and membership, the EBLRLA
27 opposes all forms of invidious discrimination and promotes respect for human
28 dignity, equal protection of the law and fundamental rights for all persons.

Equal Justice Society is a national organization of scholars, advocates and
citizens that seek to promote equality and enduring social change, with a primary
mission of combating the continuing scourge of racial discrimination and
inequality in America. The Equal Justice Society has a strong interest in
protecting the integrity of the core constitutional principle of equal protection of
the laws for all California citizens.

Family Equality Council, founded in 1979, is a national organization working to
achieve social and legal equality for LGBT families by providing direct support,
educating the American public, and advancing policy reform that ensures full
recognition and protection under the law. Family Equality Council has more than
50,000 supporters, thousands of which are located in California. As a national
organization, Family Equality Council has broad experience protecting the rights
of LGBT-headed families and serving the over 200 local parents groups that
support them.

The **Filipino Bar Association of Northern California** (“FBANC”) is an
association of Filipino and Filipino American attorneys, students and legal
professionals in Northern California. It is our mission to support, educate,
encourage, and empower the members of our association to excel and succeed in
their educational and professional endeavors. It is further our mission to guard
against injustices affecting our community.

1 **Freedom to Marry** is the gay and non-gay partnership working to end marriage
2 discrimination nationwide. Together with people and organizations around the
3 country, Freedom to Marry works to secure the right to marry in more states,
4 continue moving hearts and minds, and build a majority for marriage. Freedom to
5 Marry is based in New York, and has participated as amicus curiae in several
6 marriage cases in the U.S. and abroad.

7 Founded in 1974, the **Law Foundation of Silicon Valley** is a private nonprofit
8 corporation in San Jose that sponsors five free legal services and advocacy
9 programs. Our mission is to secure justice and protect human rights by providing
10 legal advocacy, counseling and access to the legal system for those who would
11 otherwise be underrepresented. The Law Foundation has a strong interest in
12 protecting the equal protection rights of our clients and members of the
13 communities that we serve, and assuring that they are protected from
14 discrimination, particularly as to their fundamental rights.

15 The **Lawyers' Committee for Civil Rights of the San Francisco Bay Area**
16 ("LCCR") is affiliated with the national Lawyers' Committee for Civil Rights
17 Under Law, established in 1963 at the urging of President John F. Kennedy.
18 LCCR was formed to support the rights of minority and low-income persons by
19 offering free legal assistance in civil matters and by litigating cases on behalf of
20 the traditionally underrepresented. In addition, LCCR monitors judicial
21 proceedings and legislation that affect the traditionally disadvantaged and
22 frequently files amicus briefs in cases challenging discriminatory policies and
23 practices. Since advancing the rights of LGBT individuals is integral to any civil
24 rights agenda, LCCR's amicus work has encompassed these issues as well.

25 The **Legal Aid Society–Employment Law Center** ("LAS-ELC") is a non-profit
26 public interest law firm whose mission is to protect, preserve, and advance
27 workplace rights of individuals from traditionally under-represented communities.
28 Since 1970, LAS-ELC has represented plaintiffs in employment cases,
particularly those of special import to communities of color, women, recent
immigrants, individuals with disabilities, and LGBT individuals.

The **Lesbian and Gay Lawyers Association of Los Angeles** ("LGLA") is a non-
profit voluntary membership bar association of attorneys, law students, and legal
professionals in the greater Los Angeles area. LGLA is an affiliate of the Los
Angeles County Bar Association. Founded in 1979, LGLA continues its mission
of providing a strong leadership presence of and for LGBT persons in the legal
profession and in the community at large, through education, legal advocacy, and
participation in political and civic activities and social functions. LGLA has
fought for equal justice for all persons without regard for their sexual orientation
for almost thirty years. LGLA's interest in having the federal Constitution's Equal
Protection Clause apply to guarantee marriage equality for LGBT persons is
central to LGLA's mission.

Marriage Equality USA ("MEUSA") is a national, not-for-profit, all-volunteer
corporation that leads a nonpartisan, grassroots educational effort to secure legally
recognized civil marriage equality at the federal and state level without regard to
gender identity or sexual orientation. MEUSA employs educational and outreach
programs, media presentations, partnerships with other organizations that support
equality, and a strong membership that engages in local events, including asking
for marriage licenses for same-sex couples on Valentine's Day. MEUSA has a
strong presence in California, with 23 chapters, as well as chapters in Arizona,
Florida, Iowa, New Hampshire, Ohio, Pennsylvania, and Indiana.

1 The **National LGBT Bar Association** is a national association of LGBT lawyers,
2 judges, law students, activists, and affiliated LGBT voluntary bar associations.
3 The LGBT Bar promotes justice in and through the legal profession for the LGBT
4 community through its annual Lavender Law Career Fair and Conference, the
5 Family Law Institute, its Out & Proud Corporate Counsel Division, and other
6 programs. As the voice of the LGBT community, that National LGBT Bar
7 Association works to defend vulnerable minorities from the tyranny of the majority
8 and does not believe fundamental rights should be determined by popular contest.

9 **Parents, Families and Friends of Lesbians and Gays** (“PFLAG”) is a national
10 non-profit organization with more than 300 chapters and over 200,000 members
11 and supporters in all 50 states. PFLAG has 39 chapters and representatives in the
12 state of California. We promote the health and well-being of lesbian, gay,
13 bisexual and transgender persons, their families and friends through: support,
14 to cope with an adverse society; education, to enlighten an ill-informed public; and
15 advocacy, to end discrimination and to secure equal civil rights. As a family-
16 based organization, we are deeply committed to supporting and advocating for the
17 rights of same-sex couples, and to ensuring that our families are honored with the
18 same rights and responsibilities granted to heterosexual couples and their families.

19 **People For the American Way Foundation** (“PFAWF”) is a nationwide, non-
20 profit, non-partisan citizens’ organization established to promote and protect civil
21 and constitutional rights. Founded in 1981 by a group of religious, civic, and
22 educational leaders devoted to our nation’s heritage of tolerance, pluralism, and
23 liberty, PFAWF now has hundreds of thousands of members and activists across
24 the country. We frequently represent parties and file amicus curiae briefs in cases
25 defending fundamental constitutional rights, including cases involving the 14th
26 Amendment which guarantees equal protection of the law.

27 **Pride At Work** is a constituency group of the American Federation of Labor and
28 Congress of Industrial Organizations. Its membership is comprised of both union
and non-union workers in a variety of public and private sector employment
settings, including school, college and university employees, state and local
municipal employees, health care workers, workers in the manufacturing, utilities
and building trades. Its purpose is to mobilize mutual support between the
organized Labor Movement and the lesbian, gay, bisexual and transgender
community in order to achieve social and economic justice. Pride At Work strives
to attain equality for LGBT workers and to create a Labor Movement that
cherishes diversity, encourages openness, and ensures safety and dignity.

Sacramento Lawyers for the Equality of Gays and Lesbians (“SacLEGAL”) is
a voluntary bar association, an affiliate of the Sacramento County Bar Association
and an affiliate of the National LGBT Bar Association. The mission of
SacLEGAL is to achieve equality and to provide a leadership presence for LGBT
persons through legal advocacy, education and participation in professional,
social and political activities. Ensuring that all people have equal marriage rights
is a cornerstone of our mission to achieve equality for all people.

1 Founded in 1850, the **San Francisco Chamber of Commerce** (“Chamber”) is the
2 oldest business organization in California, representing 1,500 San Francisco
3 businesses of all sizes from every industry. These businesses employ over
4 200,000 persons in San Francisco, representing half of the city’s workforce.
5 Chamber has a long history of supporting workplace diversity and equal rights.
6 Chamber believes ending marriage discrimination against same-sex couples
7 would improve the ability of California businesses to recruit and retain talented
8 employees, a key to increased business development and economic growth.

9 Founded in 1971, **San Francisco La Raza Lawyers Association** was the first
10 Latino bar association founded in the country. La Raza’s mission is to serve the
11 public interest by promoting the science of jurisprudence; promoting reform in the
12 law and facilitating the administration of justice. La Raza has a long history of
13 advocating for equality under the law. La Raza continues this tradition in signing
14 this *amicus* brief.

15 **San Francisco Trial Lawyers Association** (“SFTLA”) is a professional
16 membership organization of trial attorneys from a broad range of backgrounds.
17 SFTLA has a strong mission statement embracing and promoting diversity within
18 the organization. SFTLA’s interest in having courts ensure equal protection under
19 the law is central to its mission. Through its Board of Directors, community
20 outreach, legal and social events, publications and continuing education programs,
21 SFTLA has worked to promote the core constitutional principles of equal
22 protection and fundamental rights, and to oppose discrimination in all forms.

23 Founded in 1917, the **Santa Clara County Bar Association** (“SCCBA”) is a
24 nonprofit membership association of approximately 3400 legal professionals. The
25 SCCBA is committed to promoting full and equal access to the legal system by all
26 individuals, and is a leader in opposing discrimination against gay men and
27 lesbians. The SCCBA, through its formal resolutions and commitment to amicus
28 briefs in prior relevant litigation, opposes Proposition 8 as an unconstitutional
infringement of the inalienable, fundamental right of all citizens to marry the
person of their choosing, regardless of gender.

The **Transgender Law Center** (“TLC”) is a civil rights organization advocating
for transgender communities. We connect transgender people and their families to
technically sound and culturally competent legal services, increase acceptance and
enforcement of laws and policies that support transgender communities, and work
to change laws and systems that fail to incorporate the needs and experiences of
transgender people. TLC has an interest in protecting minorities from being
stripped of their civil rights by majority vote.

The **Vietnamese American Bar Association of Northern California**
 (“VABANC”) was founded in 1998 to provide Vietnamese American attorneys in
Northern California with a vehicle for the unified expression of opinions and
positions on matters of concern to all Vietnamese American attorneys, to
encourage and promote the professional growth of its members, and to foster the
exchange of ideas and information among its members and with the community at
large. VABANC strives not only to meet the professional needs of our members,
but also to use our resources and expertise to serve the public interest.

1 Devoted to protecting civil rights and defending the core constitutional principles of equal
2 protection of the law, these organizations (collectively “*Amici*”) seek to brief this Court on the
3 disfavored status imposed, as well as the tangible and intangible injuries inflicted, upon gay and
4 lesbian individuals by virtue of Proposition 8 and its prohibition on their being able to marry.
5 *Amici* respectfully request leave to file the *amicus* brief in support of Plaintiffs attached hereto.

6
7
8 Dated: January 29, 2010

MUNGER, TOLLES & OLSON, LLP
JEROME C. ROTH

9
10
11 By  _____

JEROME C. ROTH

12 Attorneys for *Amici Curiae*
13 Bay Area Lawyers for Individual Freedom *et al.*