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17 **UNITED STATES DISTRICT COURT**
 18 **NORTHERN DISTRICT OF CALIFORNIA**

19 KRISTIN M. PERRY, *et al.*,

20 Plaintiffs,

21 and

CITY AND COUNTY OF SAN FRANCISCO,

22 Plaintiff-Intervenor,

23 v.

24 ARNOLD SCHWARZENEGGER, *et al.*,

25 Defendants,

and

26 PROPOSITION 8 OFFICIAL PROPONENTS

27 DENNIS HOLLINGSWORTH, *et al.*,

28 Defendant-Intervenors.

CASE NO. 09-CV-2292 VRW

**NOTICE OF MOTION AND MOTION FOR
 LEAVE TO FILE BRIEF OF *AMICI CURIAE*
 AMERICAN CIVIL LIBERTIES UNION,
 LAMBDA LEGAL DEFENSE AND
 EDUCATION FUND, INC., AND
 NATIONAL CENTER FOR LESBIAN
 RIGHTS; [PROPOSED] ORDER**

Judge: Chief Judge Walker

Location: Courtroom 6, 17th Floor

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT the American Civil Liberties Union, Lambda Legal Defense
3 and Education Fund, Inc. and the National Center for Lesbian Rights hereby move the Court for leave
4 to file a brief *amici curiae* in the above-captioned case, explaining several reasons why Proposition 8
5 is unconstitutional that are complementary to those presented by Plaintiffs, but that have not been the
6 focus of previous briefing in this case. *Amici* have conferred with counsel for Plaintiffs, Defendant-
7 Intervenors, and Defendant Governor Schwarzenegger, and counsel for those parties have consented
8 to this motion. Defendant Attorney General Brown has submitted a general notice that he will not
9 oppose the filing of any amicus briefs (Docket # 359).

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

11 “District courts frequently welcome amicus briefs from non-parties concerning legal issues
12 that have potential ramifications beyond the parties directly involved or if the amicus has unique
13 information or perspective that can help the court beyond the help that the lawyers for the parties are
14 able to provide.” *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925
15 (N.D. Cal. 2003.) This standard is met here—indeed, this Court previously accepted an amicus brief
16 regarding Plaintiffs’ preliminary injunction motion submitted by *Amici* in June 2009 (Docket # 68).

17 **II. IDENTITY AND INTERESTS OF AMICI CURIAE**

18 The American Civil Liberties Union (ACLU) is a nationwide, nonpartisan organization with
19 more than 550,000 members dedicated to the defense and promotion of the guarantees of individual
20 liberty secured by state and federal Constitutions and civil rights statutes. The ACLU Foundation of
21 Northern California, the ACLU Foundation of Southern California, and the ACLU Foundation of San
22 Diego and Imperial Counties are the three California affiliates of the ACLU.

23 Lambda Legal Defense and Education Fund, Inc. (Lambda Legal) is the nation’s oldest and
24 largest nonprofit legal advocacy organization dedicated to achieving full civil rights for lesbian, gay,
25 bisexual and transgender (LGBT) people and those living with HIV through impact litigation,
26 education, and public policy work. With offices in Los Angeles, Atlanta, Chicago, Dallas, and New
27 York, Lambda Legal litigates cases and engages in public advocacy in all areas of sexual orientation
28 and gender identity discrimination law and policy.

1 NCLR is a national non-profit legal organization dedicated to protecting and advancing the
2 civil rights of lesbian, gay, bisexual, and transgender people and their families through litigation,
3 public policy advocacy, and public education. Since its founding in 1977, NCLR has played a
4 leading role in securing fair and equal treatment for LGBT people and their families in cases across
5 the country involving constitutional and civil rights. NCLR has a particular interest in protecting
6 same-sex couples and their children.

7 The ACLU, Lambda Legal, and NCLR have significant experience and interest in the issues
8 presented in this case. Together, the organizations represented plaintiffs in the litigation that
9 culminated in the California Supreme Court's decision in *In re Marriage Cases*, 183 P.3d 384 (Cal.
10 2008). The organizations also collectively filed the lead challenge to Proposition 8 in the California
11 Supreme Court, which resulted in that Court's decision in *Strauss v. Horton*, 207 P.3d 48 (Cal. 2009).

12 **III. CONCLUSION**

13 For the foregoing reasons, the American Civil Liberties Union, Lambda Legal Defense and
14 Education Fund, and the National Center for Lesbian Rights respectfully request this Court's leave to
15 submit a brief *amici curiae*.

1 Dated: February 3, 2010

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TARA BORELLI
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10 MARK ROSENBAUM
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12 DAVID BLAIR-LOY
ACLU Foundation of San Diego and Imperial Counties

14 By: /s/
ELIZABETH O. GILL

15 Attorneys for *Amici Curiae* American Civil Liberties
16 Union, Lambda Legal Defense and Education Fund,
Inc., and National Center for Lesbian Rights

[PROPOSED] ORDER

1
2 Good cause appearing, the motion of American Civil Liberties Union, Lambda Legal Defense
3 and Education Fund, and National Center for Lesbian Rights for leave to file a brief *amici curiae* is
4 hereby GRANTED.

5 IT IS SO ORDERED.

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8 Dated: February _____, 2010

9 Hon. Vaughn R. Walker
10 United States Chief District Judge
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