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NORTHERN DISTRICT OF CALIFORNIA

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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA

10
11 KRISTIN M. PERRY, SANDRA B. STIER,
PAUL T. KATAMI, and JEFFREY J.
12 ZARRILLO,

13 Plaintiffs,

14 CITY AND COUNTY OF SAN FRAN-
CISCO,

15 Plaintiff-Intervenor,

16 v.

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

26 Defendants,

27 and

28 PROPOSITION 8 OFFICIAL PROPONENTS

No. 09-CV-2292 VRW

**MOTION FOR LEAVE TO FILE AN
AMICI CURIAE BRIEF BY THE ASIAN
LAW CAUCUS, ASIAN AMERICAN
JUSTICE CENTER, ASIAN PACIFIC
AMERICAN BAR ASSOCIATION OF
LOS ANGELES COUNTY, ASIAN
PACIFIC AMERICAN LEGAL CENTER,
ASIAN PACIFIC BAR ASSOCIATION OF
SILICON VALLEY, BIENESTAR
HUMAN SERVICES, CALIFORNIA
STATE CONFERENCE OF THE NAACP,
COALITION FOR HUMANE
IMMIGRANT RIGHTS, JAPANESE
AMERICAN BAR ASSOCIATION, LA
RAZA CENTRO LEGAL, MEXICAN
AMERICAN LEGAL DEFENSE AND
EDUCATION FUND, NATIONAL BLACK
JUSTICE COALITION, SOUTH ASIAN
BAR ASSOCIATION OF NORTHERN
CALIFORNIA AND ZUNA INSTITUTE;
AND [PROPOSED] ORDER**

Judge: Chief Judge Vaughn R. Walker
Dept.: Courtroom 6, 17th Floor

A/73285158.1

1 DENNIS HOLLINGSWORTH, GAIL J.
 2 KNIGHT, MARTIN F. GUTIERREZ, HAK-
 SHING WILLIAM TAM, and MARK A.
 3 JANSSON; and
 PROTECTMARRIAGE.COM - YES ON 8, A
 PROJECT OF CALIFORNIA RENEWAL,

4 Defendant-Intervenors.
 5

6 The Asian Law Caucus, Asian American Justice Center, Asian Pacific American Bar As-
 7 sociation of Los Angeles County, Asian Pacific American Legal Center, Asian Pacific Bar
 8 Association of Silicon Valley, Bienestar Human Services, California State Conference of the
 9 NAACP, Coalition for Humane Immigrant Rights, Japanese American Bar Association, La Raza
 10 Centro Legal, Mexican American Legal Defense and Education Fund, National Black Justice
 11 Coalition, South Asian Bar Association of Northern California and Zuna Institute (collectively
 12 “*Amici*”) respectfully move this Court for leave to file an *amici curiae* brief in support of
 13 Plaintiffs in the above captioned case (the “Action”).

14 This Court has broad discretion to appoint *amici curiae*. *Hoptowit v. Ray*, 682 F.2d
 15 1237, 1260 (9th Cir. 1982). In submitting this brief, *Amici* hope that the legal arguments and
 16 empirical data provided will be of assistance to the Court in determining the extent to which the
 17 pervasive prejudice against gay men and lesbians impedes their ability to rely on traditional
 18 political processes used to protect a minority from discriminatory state action so as to warrant
 19 heightened judicial scrutiny of Proposition 8 under the Equal Protection Clause of the United
 20 States Constitution.

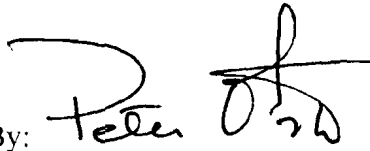
21 A central objective of all *Amici* is to protect constituencies who, as a result of their mi-
 22 nority status, are at risk of being deprived of fundamental rights through the will of the majority,
 23 including the right to marry. Indeed, many of the *Amici* represent communities that have faced
 24 marriage discrimination in the past in the form of anti-miscegenation laws. Furthermore, the
 25 nearly 1.2 million individuals living in same-sex couples in the U.S. come from diverse racial,
 26 ethnic, religious and social backgrounds and are also members of the civil rights organizations,
 27 community groups and bar associations that have joined as *Amici* in this brief. *See* Rubenstein,
 28

1 Sears and Sockloskie, The Williams Project, UCLA School of Law, *Some Demographic*
2 *Characteristics of the Gay Community in the United States*, at 3 (2003).

3 *Amici* are concerned that enactment of Proposition 8's ban on same-sex marriage allows a
4 bare political majority to enshrine discrimination into the California Constitution against a class
5 of persons otherwise accorded heightened judicial scrutiny under California law. *Amici* believe the
6 use of the referendum process to deprive gay men and lesbians of a fundamental right without
7 the protection of heightened scrutiny raises the likelihood that other classes protected under
8 California law—including classes defined by race, ethnicity, national origin or gender—may be
9 similarly deprived of long established civil rights. *Amici* share a common interest in ensuring that
10 the fundamental right of protected classes to be free from discrimination is not at the mercy of
11 an electoral majority's whims.

12
13 DATED: February 3, 2010

Respectfully submitted,

14
15 By: 

16 Bingham McCutchen LLP
17 Peter Obstler
18 Attorneys for *Amici Curiae*

19
20
21 **[PROPOSED] ORDER**

22
23 Good cause appearing, *Amici's* request for leave to file an *amici curiae* brief is
24 GRANTED.

25
26
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Hon. Vaughn R. Walker
United States District Court Judge