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Immigration Equality

**IN THE UNITED STATES DISTRICT COURT
 DISTRICT OF UTAH, CENTRAL DIVISION**

Utah Coalition of La Raza, *et al.*,

Plaintiffs,

v.

Gary R. Herbert, *et al.*,

Defendants.

**MOTION FOR LEAVE TO
 INTERVENE AS *AMICUS CURIAE***

Case No.: 2:11-CV-401 CW

Judge Clark Waddoups

Immigration Equality respectfully submits this motion for leave to intervene exclusively for the purpose of submitting an *amicus curiae* memorandum in support of the plaintiffs in the above-captioned case.

I. Interest of Amicus

Immigration Equality is a national organization that works to end discrimination in immigration law against those in the gay, lesbian, bisexual, and transgender (“LGBT”) community and immigrants who are living with HIV or AIDS. Incorporated in 1994, Immigration Equality helps those affected by discriminatory practices through education,

outreach, advocacy, and the maintenance of a nationwide resource network and a heavily-trafficked website. Immigration Equality also runs a *pro bono* asylum program and provides technical assistance and advice to hundreds of attorneys nationwide on sexual orientation, transgender, and HIV-based asylum matters.

Immigration Equality is particularly concerned by Utah’s Illegal Immigration Enforcement Act (“HB 497”), as lesbian and gay United States citizens may not sponsor a foreign-born same-sex spouse or partner to immigrate lawfully. By recent estimates, nearly 260 such families live in Utah, many with children. HB 497 makes it likely that many of these families will be torn apart.

II. Reason for Intervention in Order to Submit *Amicus Curiae* Memorandum

Immigration Equality believes its intervention for the exclusive purpose of filing an *amicus curiae* memorandum will assist the Court in understanding the ways in which enforcement of Utah Ann. Code § 76-10-2901(2)(b)—the Utah alien harboring statute—raises troubling constitutional issues for binational couples¹ living in Utah. Section 76-10-2901(2)(b) purports to break apart a protected intimate relationship by criminalizing mere cohabitation with an alien spouse or partner who lacks legal status. Immigration Equality’s clients are particularly vulnerable to the destructive force of Section 76-10-2901(2)(b) because, as same-sex couples, sponsorship by the citizen partner for the adjustment of immigration status of the non-citizen partner to lawful permanent residence is unavailable.

III. Conclusion

For the foregoing reasons, Immigration Equality respectfully requests the Court to grant leave to intervene for the single purpose of submitting an *amicus curiae* memorandum.

¹ Binational couples are couples in which one partner is a U.S. citizen or permanent resident, and the other is a foreign national.

Immigration Equality is contemporaneously filing a motion for leave to file its *amicus curiae* brief, together with the brief itself. A proposed Order granting this motion is attached.

Dated May 31, 2011

Respectfully submitted,
/s/ Brian M. Barnard
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CERTIFICATE OF SERVICE

I hereby certify that on May 31, 2011, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF system for filing, and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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Dated May 31, 2011

Signed: /s/ Brian M. Barnard