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6 Universalist Legislative Ministry Action Network, CA; Unitarian Universalist Association;  
7 California Faith for Equality; California Council of Churches; California Council of Churches  
8 Church IMPACT; Northern California Nevada Conference of the United Church of Christ;  
9 Southern California Nevada Conference of the United Church of Christ; General Synod of the  
10 United Church of Christ; Universal Fellowship of Metropolitan Community Churches; Pacific  
11 Association of Reform Rabbis; and Progressive Jewish Alliance

12 UNITED STATES DISTRICT COURT

13 NORTHERN DISTRICT OF CALIFORNIA

|    |                                   |   |  |
|----|-----------------------------------|---|--|
| 14 | KRISTIN M. PERRY, et al.,         | ) | No. 09-cv-02292-VRW                        |
| 15 |                                   | ) |  |
| 16 | Plaintiffs,                       | ) | NOTICE OF MOTION AND MOTION FOR            |
| 17 |                                   | ) | LEAVE TO FILE <i>AMICI CURIAE</i> BRIEF OF |
| 18 | - and -                           | ) | UNITARIAN UNIVERSALIST                     |
| 19 |                                   | ) | LEGISLATIVE MINISTRY CALIFORNIA;           |
| 20 | CITY AND COUNTY OF SAN FRANCISCO, | ) | UNITARIAN UNIVERSALIST                     |
| 21 |                                   | ) | LEGISLATIVE MINISTRY ACTION                |
| 22 | Plaintiff-Intervenor,             | ) | NETWORK, CA; UNITARIAN                     |
| 23 |                                   | ) | UNIVERSALIST ASSOCIATION;                  |
| 24 | vs.                               | ) | CALIFORNIA FAITH FOR EQUALITY;             |
| 25 |                                   | ) | CALIFORNIA COUNCIL OF CHURCHES;            |
| 26 | ARNOLD SCHWARZENEGGER, et al.,    | ) | CALIFORNIA COUNCIL OF CHURCHES             |
| 27 |                                   | ) | CHURCH IMPACT; NORTHERN                    |
| 28 | Defendants,                       | ) | CALIFORNIA NEVADA CONFERENCE OF            |
|    |                                   | ) | THE UNITED CHURCH OF CHRIST;               |
|    | - and -                           | ) | SOUTHERN CALIFORNIA NEVADA                 |
|    |                                   | ) | CONFERENCE OF THE UNITED CHURCH            |
|    | PROPOSITION 8 OFFICIAL PROPONENTS | ) | OF CHRIST; GENERAL SYNOD OF THE            |
|    | DENNIS HOLLINGSWORTH, et al.      | ) | UNITED CHURCH OF CHRIST;                   |
|    |                                   | ) | UNIVERSAL FELLOWSHIP OF                    |
|    | Defendant-Intervenors.            | ) | METROPOLITAN COMMUNITY                     |
|    |                                   | ) | CHURCHES; PACIFIC ASSOCIATION OF           |
|    |                                   | ) | REFORM RABBIS; AND PROGRESSIVE             |
|    |                                   | ) | JEWISH ALLIANCE, IN SUPPORT OF             |
|    |                                   | ) | PLAINTIFFS                                 |

DATE: To be determined  
TIME: To be determined  
JUDGE: Chief Judge Walker  
LOCATION: Courtroom 6, 17th Floor

**NOTICE OF MOTION AND MOTION FOR LEAVE TO FILE BRIEF AS  
AMICI CURIAE**

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD, PLEASE TAKE NOTICE THAT as soon as the matter may be heard before the Honorable Vaughn R. Walker, in Courtroom 6 of the above-entitled Court, located at United States Courthouse, 450 Golden Gate Avenue, San Francisco, California. The Unitarian Universalist Legislative Ministry California, Unitarian Universalist Action Network California, Unitarian Universalist Association, California Faith for Equality, California Council of Churches, California Council of Churches Church IMPACT, Northern California Nevada Conference of the United Church of Christ, Southern California Nevada Conference of United Church of Christ (SCNC), General Synod of the United Church of Christ, Universal Fellowship of Metropolitan Community Churches, Pacific Association of Reform Rabbis, and Progressive Jewish Alliance respectfully seek leave to file the accompanying brief as *amici curiae*.

As explained below, *amici curiae* have a profound interest both in honoring marriage as a fundamental civil right that cannot be abrogated at the ballot box, and in restoring the freedom of California’s clergy, who choose to do so, to officiate at the legal marriages of members of their congregations. While every faith tradition has the right to define its own doctrines concerning religious rites of marriage, none should be able to impose those doctrines on others by law.

No party’s counsel authored any part of the proposed brief. No one other than *amici* and their counsel contributed money to fund the preparation or submission of the brief.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. IDENTITY AND INTEREST OF AMICI CURIAE**

**A. Identity of Amici Curiae**

The identities of proposed *amici curiae*, are as follows:

1. *Amicus curiae* **Unitarian Universalist Legislative Ministry California (UULM CA)** is a statewide justice ministry that cultivates and connects leaders and communities to empower the public voice of those who share Unitarian Universalist values and Principles – upholding the worth and dignity of every person, furthering justice, equity, and compassion, promoting democracy

1 and religious freedom. Over 5,000 individuals and many of California's 76 Unitarian Universalist  
2 congregations have affiliated with the UULM CA in order to advance the values of their faith. As  
3 the General Assembly of the Unitarian Universalist Association, since 1970, has passed 24  
4 resolutions urging support for lesbian, gay, bisexual and transgender ("LGBT") rights, including  
5 support for civil marriage for same-sex couples, UULM CA places a high priority on organizing on  
6 behalf marriage equality. Hundreds of same-sex couples were legally married by Unitarian  
7 Universalist clergy in California between June 17, 2008, and November 4, 2008.

8       2.       *Amicus curiae* **Unitarian Universalist Legislative Ministry Action Network, CA**,  
9 and its **UULM Action Network, CA PAC** compose the UULM CA's 501(c)4 public advocacy arm,  
10 organizing in support and/or opposition to ballot measures and legislation in order to support  
11 Unitarian Universalist values of justice, equity, compassion, religious liberty, and sustainable living.  
12 For the fiscal year ending June 2008, it had total revenues of \$34,232 and assets of \$17,759. For the  
13 fiscal year ending June 2009 it had total revenues of \$91,709 and total assets of \$25,186. In 2008,  
14 **UULM Action Network PAC** funded interfaith organizing against Proposition 8; its expenditures  
15 opposing Proposition 8 were less than \$60,000.

16       3.       *Amicus curiae* **Unitarian Universalist Association of Congregations (UUA)** is a  
17 denomination comprising more than 1,000 congregations nationwide, among them many of  
18 America's founding churches organized in the early 1600s, and has 76 congregations in the State of  
19 California. Since 1970, the UUA General Assembly has adopted 24 resolutions supporting equal  
20 rights for LGBT people, including the 1996 resolution in support of legal marriage between same-  
21 sex couples. Clergy in Unitarian Universalist congregations officiated at the legal marriages of  
22 same-sex couples before Proposition 8's enactment, and wish to do so again.

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24       4.       *Amicus curiae* **California Faith for Equality** is a multi-faith coalition whose mission  
25 is to educate, support and mobilize California's faith communities to promote equality for LGBT  
26 people, many of whom have been deeply wounded by their own faith communities, and to safeguard  
27 religious freedom. As a multi-faith organization, it respects and values the wisdom and perspectives  
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1 of every faith tradition, several of which recognize same-sex marriage as a religious rite, but many of  
2 which do not. Formed in 2005, California Faith for Equality formally incorporated in October 2009.

3         5.         *Amicus curiae* **California Council of Churches** is an organization of California's  
4 Christian churches representing the theological diversity in the state's mainstream and progressive  
5 communities of faith. Its membership includes over 4,000 California congregations, numbering  
6 more than 1.5 million members, drawn from 21 denominations spanning the mainstream Protestant  
7 and Orthodox Christian communities, as well as allies from other faith traditions. Churches in two  
8 of those denominations, the **United Church of Christ** (Northern California Nevada Conference;  
9 Southern California Nevada Conference), and the **Universal Fellowship of Metropolitan**  
10 **Community Churches** (Region 1; Region 6) have endorsed same-sex marriages within their  
11 religious liturgy, and generally opened their doors to same-sex couples to be legally married in  
12 religious rites of marriage. The Council's position on same-sex marriage is pro-religious freedom  
13 and pro-church autonomy. Joining an *amicus* brief in the *Marriage Cases*, the California Council of  
14 Churches declared: "Our commitment to religious liberty for all and equal protection under the law  
15 leads us to assert that the State may not rely on the views of particular religious sects as a basis for  
16 denying civil marriage licenses to same-gender couples." *In re Marriage Cases*, No. S147999, Brief  
17 of the Unitarian Universalist Association of Congregations, et al., at xv-xvi (filed Sept. 26, 2007).  
18 As a 501(c)3, the California Council of Churches devoted no resources at all to opposing  
19 Proposition 8.

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22         6.         The California Council of Churches' public advocacy arm, *amicus curiae* **California**  
23 **Church IMPACT**, was incorporated as a separate 501(c)4 non-profit in 1996. California Church  
24 IMPACT advocates for social justice on behalf of the Council's member congregations and  
25 denominations, publishing an electronic ACTION ALERT, and formulating ballot-proposition  
26 recommendations based on the faith-based Legislative Principles set forth through the California  
27 Council of Churches. Church IMPACT's expenditure on its November 2008 ballot-  
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1 recommendations pamphlet, which covered Proposition 8 as just one of 12 measures on the ballot,  
2 came to just \$2,489.55 (which may be itemized as follows: \$75.00 for graphic design/layout,  
3 \$675.00 for printing, \$500 for mailing services, \$1,187.24 for postage, and \$52.31 for tax). Church  
4 IMPACT also posted a ballot recommendation to its website urging a “No” vote on Proposition 8,  
5 explaining that notwithstanding the “liturgical issues around same-sex marriage, we can be united in  
6 supporting civil marriage as a secular right. No church would be forced to conduct a wedding that is  
7 contrary to its beliefs, but no church or individual should be barred from the right to marry if they  
8 choose to do so.”<sup>1</sup> Public records show that Church IMPACT’s total revenues for the calendar year  
9 2008 were \$50,501, and that its net assets came to \$4,450. It expended less than \$3,000 opposing  
10 Proposition 8.

11       7.     *Amicus curiae* **The Metropolitan Community Churches (“MCC”)**, with 43,000  
12 adherents and 250 local congregations located in 23 countries around the world, is the largest  
13 Christian denomination ministering primarily to lesbians and gays, among others. For almost four  
14 decades, MCC has actively worked on behalf of marriage equality as an integral part of its spiritual  
15 commitment to social justice. In 1969, MCC clergy performed the first public marriage between  
16 persons of the same sex in the United States, and in 1970 MCC filed the first lawsuit seeking legal  
17 recognition for marriages between persons of the same sex. Each year, MCC clergy perform 6,000  
18 wedding ceremonies for same-sex couples. MCC believes these marriages are recognized and  
19 blessed by God and a community of faith, and seeks State recognition of the ceremonies performed  
20 at MCC churches.

21       8.     *Amicus curiae* **Northern California Nevada Conference United Church of Christ**  
22 is a manifestation of the Church of Jesus Christ and a constituting body of the **United Church of**  
23 **Christ (UCC)**. Members of the Conference include 130 local churches in the state of California.  
24 Within the state of California the Conference extends from the Oregon border to the southern  
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27 <sup>1</sup> California Council of Churches Church IMPACT, *How Would Jesus Vote? The California*  
28 *Council of Churches IMPACT Recommendations for the 2008 State Ballot Propositions*.

1 borders of Inyo, Tulare, Kings, and Monterey counties. Until Proposition 8 became law, clergy in  
2 those churches solemnized legal marriages of same-sex couples in religious rites of marriage.

3 9. *Amicus curiae* **Southern California Nevada Conference of the United Church of**  
4 **Christ (SCNC)** is a faith community gathered in over 130 diverse congregations. The purpose of  
5 the SCNC is to be a united and uniting community of the people of God, covenanting together for  
6 mutual support and common mission. Until Proposition 8 became law, clergy in those churches  
7 solemnized legal marriages of same-sex couples in religious rites of marriage.  
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9 10. *Amicus curiae* **General Synod of the United Church of Christ** is the representative  
10 body of the national setting of the **United Church of Christ (UCC)** and is composed of delegates  
11 chosen by its Conferences from member churches, voting members of Boards of Directors of  
12 Covenanted Ministries who have been elected by General Synod as described in the Bylaws of the  
13 UCC, and of *ex officio* delegates. The UCC was formed in 1957, by the union of the **Evangelical**  
14 **and Reformed Church** and **The General Council of the Congregational Christian Churches of**  
15 **the United States** in order to express more fully the oneness in Christ of the churches composing it,  
16 to make more effective their common witness in Christ, and to serve God's people in the world. The  
17 UCC has 5,600 churches in the United States, with more than 200 in California. The General Synod  
18 of the UCC, various settings of the UCC, and its predecessor denominations, have a rich heritage of  
19 standing in solidarity with those who are marginalized, oppressed, and who suffer under the tyranny  
20 of injustice. For more than three decades, the General Synod of the UCC has set a clear course of  
21 welcome, inclusion, equality, and justice for lesbian, gay, bisexual, and transgender people. In 1975,  
22 the General Synod pronounced its support for the full civil rights of gay and lesbian people. On July  
23 4, 2005, the General Synod adopted a resolution affirming equal marriage rights for couples  
24 regardless of gender and declared that the government should not interfere with couples, regardless  
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1 of gender, who choose to marry and share fully and equally in the rights, responsibilities and  
2 commitment of legally recognized marriage.

3       11. *Amicus curiae* **Progressive Jewish Alliance (PJA)**, is a non-profit, California-based  
4 membership organization, with over 4,000 members, which educates, advocates and organizes on  
5 issues of peace, equality, diversity and justice. Founded in 1999 and with offices in Los Angeles and  
6 the San Francisco Bay Area, PJA serves as a vehicle connecting Jews to the critical social justice  
7 issues of the day, to the life of the cities in which they live, and to the Jewish tradition of working for  
8 *tikkun olam* (the repair of the world). As an integral part of its social justice agenda, PJA supports  
9 equal access to civil marriage for all. Representing a people who have long known the sting of  
10 marginalization and inferior citizenship, PJA opposes any efforts to discriminate against same-sex  
11 couples. PJA's views on this subject are grounded in the Jewish legal tradition that the law should  
12 be applied equally to all, citizen and stranger alike. When it comes to officiating at the weddings of  
13 same-sex couples, a multiplicity of views exists among and within Jewish denominations, with an  
14 emphasis in the Conservative and Reform Movements upon the autonomy of individual rabbis and  
15 their congregations.<sup>2</sup>

16       12. *Amicus curiae* **PARR-the Pacific Association of Reform Rabbis** is the Western  
17 Region of the Central Conference of American Rabbis ("CCAR"). Dedicated to the principals of  
18 Reform Judaism, PARR is the organization of over 350 Reform rabbis in 13 states, 1 province and  
19 New Zealand. This includes all of California. It opposed Proposition 8 based on its beliefs and  
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24 <sup>2</sup> See Central Conference of American Rabbis, "Resolution on Same Gender Officiation,  
25 March 2000," as found at: <http://data.ccarnet.org/cgi-bin/resodisp.pl?file=gender&year=2000>,  
26 accessed on Feb. 3, 2010; and Rabbis Elliot N. Dorff, Daniel S. Nevins and Avram I. Reisner,  
27 "Homosexuality, Human Dignity & Halakhah: A Combined Responsum for the Committee on  
28 Jewish Law and Standards, December 2006" The Rabbinical Assembly as found  
at: [http://www.rabbinicalassembly.org/teshuvot/docs/20052010/dorff\\_nevins\\_reisner\\_dignity.pdf](http://www.rabbinicalassembly.org/teshuvot/docs/20052010/dorff_nevins_reisner_dignity.pdf)  
accessed on Feb. 3, 2010.

1 resolutions. In 1996 the CCAR endorsed civil marriage for gay people and in 2000 it recognized the  
2 right of Reform rabbis to perform religious marriage ceremonies for gay and lesbian Jews.

3 **II. ARGUMENT**

4 *Amici* respectfully request leave to file the accompanying *amicus curiae* brief, which  
5 addresses issues raised by the arguments and evidence presented at trial in this case.

6 The Unitarian Universalist Legislative Ministry California (UULM CA); California Faith for  
7 Equality, Progressive Jewish Alliance, and California Council of Churches are faith-based  
8 organizations that support, and have organized on behalf of, religious freedom and access to civil  
9 marriage for same-sex couples. The Northern California Nevada Conference and Southern  
10 California Nevada Conference of the United Church of Christ; General Synod of the United Church  
11 of Christ; and Universal Fellowship of Metropolitan Community Churches and Unitarian  
12 Universalist Association represent faith traditions whose clergy were solemnizing legal marriages for  
13 same-sex couples in their California congregations – until Proposition 8 passed. The California  
14 Council of Churches’ membership comprises more than 4,000 of California’s Christian  
15 congregations from 21 denominations, including both mainstream and progressive Protestant and  
16 Orthodox Christian communities, two of which recognize same-sex marriage in their religious rites.  
17 The Pacific Association of Reform Rabbis includes rabbis who solemnized legal marriages for same-  
18 sex couples prior to the passing of Proposition 8. The Unitarian Universalist Legislative Ministry  
19 Action Network, CA PAC and California Council of Churches Church IMPACT engaged in political  
20 lobbying and together spent under \$63,000 opposing Proposition 8.

21 *Amici* are united in believing that Proposition 8 impermissibly seeks to impose anti-  
22 homosexual attitudes and doctrines of certain sects. They believe the accompanying brief may be  
23 useful to the Court both in evaluating the testimony of Proponents’ expert witness, Professor  
24 Kenneth P. Miller, in considering the status and relative power in our society of gay and lesbian  
25 citizens, and in weighing the religious-liberty interests at stake.

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1 **III. CONCLUSION**

2 For the foregoing reasons, leave to file the accompanying *amicus curiae* brief should be  
3 granted.

4 DATED: February 3, 2010

Respectfully submitted,

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18 Council of Churches Church IMPACT; Northern  
19 California Nevada Conference of the United  
20 Church of Christ; Southern California Nevada  
21 Conference of the United Church of Christ;  
22 General Synod of the United Church of Christ;  
23 Universal Fellowship of Metropolitan  
24 Community Churches; Pacific Association of  
25 Reform Rabbis; and Progressive Jewish Alliance  
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on February 3, 2010, I electronically filed the foregoing with the Clerk  
3 of the Court using the CM/ECF system which will send notification of such filing to the e-mail  
4 addresses denoted on the attached Electronic Mail Notice List, and I hereby certify that I have  
5 mailed the foregoing document or paper via the United States Postal Service to the non-CM/ECF  
6 participants indicated on the attached Manual Notice List.

7 I certify under penalty of perjury under the laws of the United States of America that the  
8 foregoing is true and correct. Executed on February 3, 2010.

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