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15 **UNITED STATES DISTRICT COURT**
16 **NORTHERN DISTRICT OF CALIFORNIA**

17 KRISTIN M. PERRY, SANDRA B. STIER,
PAUL T. KATAMI, and JEFFREY J.
18 ZARRILLO,

19 Plaintiffs,

20 v.

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

28 Defendants.

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**

Date: July 2, 2009
Time: 10:00 a.m.
Judge: Chief Judge Walker
Location: Courtroom 6, 17th Floor

Trial Date: Not Set

1 Additional Counsel:

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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, addressing plaintiffs' likelihood of success on
5 the merits of their equal protection claim. *Amici* have conferred with counsel for Plaintiffs,
6 Defendants, and Proposed Intervenors, and all counsel have consented to this motion.

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

8 "District courts frequently welcome amicus briefs from non-parties concerning legal issues
9 that have potential ramifications beyond the parties directly involved or if the amicus has unique
10 information or perspective that can help the court beyond the help that the lawyers for the parties are
11 able to provide." *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925
12 (N.D. Cal. 2003.) This standard is met here.

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

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

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

25 NCLR is a national non-profit legal organization dedicated to protecting and advancing the
26 civil rights of lesbian, gay, bisexual, and transgender people and their families through litigation,
27 public policy advocacy, and public education. Since its founding in 1977, NCLR has played a
28 leading role in securing fair and equal treatment for LGBT people and their families in cases across

1 the country involving constitutional and civil rights. NCLR has a particular interest in protecting
2 same-sex couples and their children.

3 The ACLU, Lambda Legal, and NCLR have significant experience and interest in the issues
4 presented in this case. Together, the organizations represented plaintiffs in the litigation that
5 culminated in the California Supreme Court's decision in *In re Marriage Cases*, 183 P.3d 384 (Cal.
6 2008). The organizations also collectively filed the lead challenge to Proposition 8 in the California
7 Supreme Court, which resulted in that Court's decision in *Strauss v. Horton*, 207 P.3d 48 (Cal. 2009).

8 **III. CONCLUSION**

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

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13 Dated: June 25, 2009

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Lambda Legal Defense and Education Fund, Inc.

18 SHANNON P. MINTER
National Center For Lesbian Rights

19 MATTHEW A. COLES
20 JAMES D. ESSEKS
LGBT & AIDS Project
American Civil Liberties Union Foundation

22 MARK ROSENBAUM
23 LORI RIFKIN
ACLU Foundation of Southern California

24 DAVID BLAIR-LOY
ACLU Foundation of San Diego and Imperial Counties

25 By: /s/
26 ELIZABETH O. GILL

27 Attorneys for *Amici Curiae*

[PROPOSED] ORDER

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

IT IS SO ORDERED.

Dated: June _____, 2009

Hon. Vaughn R. Walker
United States Chief District Judge