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EQUALITY CALIFORNIA

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12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15

16 KRISTIN M. PERRY et al.,  
17 Plaintiffs,  
18 v.  
19 ARNOLD SCHWARZENEGGER et al.,  
20 Defendants.

Case No. 09-CV-2292 VRW

**MOTION FOR LEAVE TO FILE  
BRIEF OF AMICUS CURIAE  
EQUALITY CALIFORNIA**

Date: July 2, 2009  
Time: 10:00 a.m.  
Place: Ctrm. 6, 17th Floor

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1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Equality California requests the Court's leave to file, as  
3 *amicus curiae*, a brief addressing Plaintiffs' likelihood of success on the merits of their equal  
4 protection claim. Equality California has conferred with counsel for all parties and Proposed  
5 Intervenor, and all counsel have consented to this motion.

6 **I. STANDARD**

7 The Court has broad discretion to permit a non-party to participate in an action as *amicus*  
8 *curiae*. See, e.g., *Gerritson v. de la Madrid Hurtado*, 819 F.2d 1511, 1514 n.3 (9th Cir. 1987);  
9 *Nat. Res. Def. Council v. Evans*, 243 F. Supp. 2d 1046, 1047 (N.D. Cal. 2003) (amici "may file  
10 briefs and may possibly participate in oral argument" in district court actions). As this Court has  
11 noted, "[d]istrict courts frequently welcome amicus briefs from non-parties concerning legal  
12 issues that have potential ramifications beyond the parties directly involved or if the amicus has  
13 'unique information or perspective that can help the court beyond the help that the lawyers for the  
14 parties are able to provide.'" *Sonoma Falls Dev., LLC v. Nevada Gold & Casinos, Inc.*,  
15 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003) (quoting *Cobell v. Norton*, 246 F Supp 2d 59, 62  
16 (D.D.C. 2003) (citation omitted); see also *In re Nat'l Sec. Agency Tele. Records Litig.*, No. 06-  
17 1791 VRW, 2009 WL 1561818, at \*9-10 (N.D. Cal. June 3, 2009) (relying on submissions of  
18 *amici curiae* regarding proper interpretation of statute).

19 **II. IDENTITY AND INTEREST OF AMICUS CURIAE**

20 Equality California is a state-wide advocacy group protecting the needs and interests of  
21 same-sex couples and their children in California. It is also California's largest lesbian, gay,  
22 bisexual, and transgender civil rights organization, with tens of thousands of members. Equality  
23 California's members include registered voters in every county in the State of California. The  
24 issues raised by Plaintiffs' motion for preliminary injunction will directly affect Equality  
25 California's members and supporters. Equality California thus has a substantial interest in  
26 participating in these proceedings.

27 Equality California has also developed extensive expertise regarding the legal and factual  
28 issues raised by Plaintiffs' motion. Equality California has participated in other judicial

1 proceedings concerning marriage equality. For example, Equality California was a petitioner in  
2 *Strauss v. Horton*, 207 P.3d 48, 68 (Cal. 2009). Equality California also spearheaded the “No” on  
3 Proposition 8 campaign, and was one of the leading fund-raising organizations for the campaign.  
4 Geoffrey Kors, the Executive Director of Equality California, was a co-chair of “No-On-8.” As a  
5 result of its involvement in marriage equality advocacy, Equality California has developed  
6 significant expertise in the gay rights movement, the marriage equality movement, the legal issues  
7 surrounding same-sex marriage rights in the states and at the federal level, and state and federal  
8 constitutional issues specific to Proposition 8.

9 For these reasons, the Court should grant Equality California leave to file the  
10 accompanying *amicus curiae* brief and to participate in the proceedings.

11 Dated: June 26, 2009

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16 By: /s/ James J. Brosnahan  
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