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17 **UNITED STATES DISTRICT COURT**
18 **NORTHERN DISTRICT OF CALIFORNIA**

19 KRISTIN M. PERRY, *et al.*,
20 Plaintiffs,
21 and
CITY AND COUNTY OF SAN FRANCISCO,
22 Plaintiff-Intervenor,
23 v.
24 EDMUND G. BROWN, *et al.*,
Defendants,
25 and
26 PROPOSITION 8 OFFICIAL PROPONENTS
DENNIS HOLLINGSWORTH, *et al.*,
27 Defendant-Intervenors.
28

CASE NO. 09-CV-2292 JW

**NOTICE OF MOTION AND MOTION FOR
LEAVE TO FILE BRIEF OF AMICI CURIAE
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC., ACLU
FOUNDATION OF NORTHERN
CALIFORNIA, NATIONAL CENTER FOR
LESBIAN RIGHTS, AND EQUALITY
CALIFORNIA; [PROPOSED] ORDER**

Judge: Chief Judge Ware
Courtroom: Courtroom 5, 17th Floor

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 PLEASE TAKE NOTICE THAT Lambda Legal Defense and Education Fund, Inc., ACLU
3 Foundation of Northern California, the National Center for Lesbian Rights, and Equality California
4 hereby move the Court for leave to file an *amici curiae* brief, explaining why granting Proponents'
5 motion to vacate the judgment (Doc. No. 768) would constitute an unprecedented departure from the
6 normal disqualification rules that govern cases raising constitutional issues and would uniquely harm
7 lesbian, gay, and bisexual people as well as the judiciary. *Amici* have conferred with counsel for
8 Plaintiffs, Plaintiff-Intervenor City and County of San Francisco, Proponents, and Defendants
9 Governor Brown, Attorney General Harris, and Los Angeles County Clerk Logan, who do not oppose
10 this motion.

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

12 “District courts frequently welcome amicus briefs from non-parties concerning legal issues
13 that have potential ramifications beyond the parties directly involved or if the amicus has unique
14 information or perspective that can help the court beyond the help that the lawyers for the parties are
15 able to provide.” *Sonoma Falls Devs., LLC v. Nev. Gold & Casinos, Inc.*, 272 F. Supp. 2d 919, 925
16 (N.D. Cal. 2003). This standard is met here because of the significant implications of the
17 disqualification rule advanced by Proponents. The parties submitting this brief have been allowed to
18 submit *amici* briefs in this case on multiple previous occasions. *See* Doc. Nos. 62, 65, 661.

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

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

26 The ACLU Foundation of Northern California (ACLU-NC) is the largest affiliate of the
27 American Civil Liberties Union, a nationwide, nonpartisan organization with more than 550,000
28 members dedicated to the defense and promotion of the guarantees of individual liberty secured by

1 state and federal Constitutions and civil rights statutes. ACLU-NC works on behalf of lesbians, gay
2 men, bisexuals, and transgender people to win even-handed treatment by government; protection
3 from discrimination in jobs, schools, housing, and public accommodations; and equal rights for same-
4 sex couples and LGBT families.

5 The National Center for Lesbian Rights (NCLR) is a national non-profit legal organization
6 dedicated to protecting and advancing the civil rights of lesbian, gay, bisexual, and transgender
7 people and their families through litigation, public policy advocacy, and public education. Since its
8 founding in 1977, NCLR has played a leading role in securing fair and equal treatment for LGBT
9 people and their families in cases across the country involving constitutional and civil rights. NCLR
10 has a particular interest in protecting same-sex couples and their children.

11 Equality California is a state-wide advocacy group protecting the needs and interests of
12 same-sex couples and their children in California. It is also California's largest lesbian, gay,
13 bisexual, and transgender civil rights organization, with tens of thousands of members throughout the
14 state. Many Equality California members are in committed same-sex relationships and wish to
15 marry. Equality California has a substantial interest in participating in these proceedings, because the
16 issues raised here will directly affect Equality California's members and supporters.

17 *Amici* have significant experience and interest in the issues presented in this case. Lambda
18 Legal, the ACLU of Northern California, and NCLR represented plaintiffs, including Equality
19 California, in the litigation that culminated in the California Supreme Court's decision in *In re*
20 *Marriage Cases*, 183 P.3d 384 (Cal. 2008). These organizations also collectively filed the lead
21 challenge to Proposition 8 in the California Supreme Court, which resulted in that Court's decision in
22 *Strauss v. Horton*, 207 P.3d 48 (Cal. 2009).

1 **III. CONCLUSION**

2 For the foregoing reasons, Lambda Legal, ACLU Foundation of Northern California, NCLR,
3 and Equality California respectfully request this Court's leave to file the *amici curiae* brief submitted
4 herewith.

5 Dated: May 13, 2011

Respectfully submitted,

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17 By: /s/ Peter Renn

18 Attorneys for *Amici Curiae* Lambda Legal Defense and
19 Education Fund, Inc., ACLU Foundation of Northern
20 California, National Center for Lesbian Rights, and
21 Equality California

[PROPOSED] ORDER

Good cause appearing, the motion of Lambda Legal Defense and Education Fund, ACLU Foundation of Northern California, the National Center for Lesbian Rights, and Equality California for leave to file a brief of *amici curiae* is hereby GRANTED. IT IS SO ORDERED.

Dated: _____, 2011

Hon. James Ware
United States Chief District Judge

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