

SUPREME COURT
FILED

SEP 26 2007

SUPREME COURT OF THE STATE OF CALIFORNIA Frederick K. Ohlrich Clerk

**Coordination Proceeding Special
Title (Rule 1550(b))
IN RE MARRIAGE CASES**

Case No. S147999

Deputy

Judicial Council Coordination
Proceeding No. 4365

First Appellate District
No. A110449
(Consolidated on appeal with case
nos. A110540, A110451,
A110463, A110651, A110652)

San Francisco Superior Court Case
No. 429539
(Consolidated for trial with San
Francisco Superior Court Case No.
429548)

**APPLICATION FOR LEAVE TO FILE
AMICUS CURIAE BRIEF IN SUPPORT
OF PARTIES CHALLENGING THE
MARRIAGE EXCLUSION**

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Attorney and Amicus Curiae

Pursuant to California Rules of Court rule 8.200(c), Joseph R. Grodin (hereinafter “amicus”) respectfully requests leave to file the attached amicus curiae brief in support of Petitioner and Respondent City and County of San Francisco to be considered in the above-captioned case.

STATEMENT OF INTEREST

Amicus is Distinguished Emeritus Professor at University of California, Hastings College of the Law, where (except for a period of service on the California Court of Appeal and the California Supreme Court from 1979 to 1987) he has been a member of the faculty since 1972. Among his academic interests has been state constitutional law. He has taught both federal and state constitutional law, and is co-author (with Calvin R. Massey and Richard B. Cunningham) of “The California State Constitution: A Reference Guide” (Greenwood Press, 1993). He is the author of numerous articles on state constitutional law, and California state constitutional law in particular, including: *Same-Sex Relationship and State Constitutional Analysis* (2007) 43 *Williamette L.Rev.* 235; *The California Supreme Court and State Constitutional Rights: The Early Years* (2004) 31 *Hastings Const. L.Q.* 141; *Rediscovering the State Constitutional Right to Happiness and Safety* (1997) 25 *Hastings Const. L.Q.* 1; and *State Constitutionalism in Practice* (1996) 30 *Val. U. L.Rev.* 601.

This case presents critical questions regarding the level and nature of scrutiny applicable, under the California Constitution, in determining whether same-sex couples have a constitutional right to the status of marriage. The proposed amicus brief posits a framework for analysis based upon the provisions and history of the state Constitution independent of federal precedent, and argues that the nature of the interests at stake, considered in tandem with the role of the courts in protecting minority

groups, requires a principled and intensive inquiry into the justifications advanced by the State for depriving same-sex couples of that status. The brief argues that on the basis of that analysis, the opinion of the Court of Appeal should be reversed.

Amicus has no personal interest in this matter, and is not being paid for his work on this brief. The brief is submitted in the hope that it will prove useful in the development of the law.

Dated: September 26, 2007

Respectfully submitted,

JOSEPH R. GRODIN

By: 
JOSEPH R. GRODIN

Attorney and Amicus Curiae

PROOF OF SERVICE

I, JOSEPH R. GRODIN, declare as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the within entitled action. My address is 2926 Avalon Avenue, Berkeley, California 94705.

On September 26, 2007, I served:

**APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
IN SUPPORT OF PARTIES CHALLENGING THE MARRIAGE
EXCLUSION**

on the interested parties in said action, by placing a true copy thereof in sealed envelopes addressed as follows:

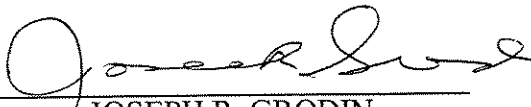
ATTACHED SERVICE LIST

and served the named document on the parties as set forth on the attached list in the manners indicated below:

- BY UNITED STATES MAIL:** Following ordinary business practices, I sealed true and correct copies of the above documents in addressed envelope(s) and placed them for collection and mailing with the United States Postal Service. In the ordinary course of business, the sealed envelope(s) that I placed for collection would be deposited, postage prepaid, with the United States Postal Service that same day.
- BY EXPRESS SERVICES OVERNITE:** I caused true and correct copies of the above documents to be placed and sealed in envelope(s) addressed to the addressee(s) and I caused such envelope(s) to be delivered to EXPRESS SERVICES OVERNITE for overnight courier service to the offices of the addressees.
- BY PERSONAL SERVICE:** I sealed true and correct copies of the above documents in addressed envelopes and caused such envelopes to be delivered by hand at the above locations by a professional messenger service.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed September 26, 2007, at Berkeley, California.



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