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9
10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 KRISTIN M. PERRY, SANDRA B. STIER,
14 PAUL T. KATAMI, and JEFFREY J.
ZARRILLO,

15 Plaintiffs,

16 v.

17 CITY AND COUNTY OF SAN FRANCISCO,

18 Plaintiff-Inventor,

19 v.

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

28 Defendants,

CASE NO. 09-CV-2292 JW

**MOTION FOR LEAVE TO FILE
BRIEF OF AMICI CURIAE BAY
AREA LAWYERS FOR
INDIVIDUAL FREEDOM, ET AL. IN
OPPOSITION TO PROPONENTS'
MOTION TO VACATE JUDGMENT**

Chief Judge James Ware

Date: June 13, 2011
Time: 9:00 a.m.
Location: Courtroom 5, 17th Floor

1 and

2 PROPOSITION 8 OFFICIAL PROPONENTS
3 DENNIS HOLLINGSWORTH, GAIL J.
4 KNIGHT, MARTIN F. GUTIERREZ, HAK-
5 SHING WILLIAM TAM, and MARK A.
6 JANSSON; and PROTECTMARRIAGE.COM –
7 YES ON 8, A PROJECT OF CALIFORNIA
8 RENEWAL,

9 Defendant-Intervenors.

10 Additional Amici Curiae:

11 AIDS Legal Referral Panel, API Equality – LA, API Equality – Northern California,
12 Asian American Bar Association of the Greater Bay Area, Asian American Institute, Asian
13 American Justice Center, Asian Law Caucus, Asian Pacific American Bar Association of Los
14 Angeles County, Asian Pacific American Bar Association of Silicon Valley, Asian Pacific
15 American Legal Center, Asian Pacific Islander Legal Outreach, Bay Area Association of Muslim
16 Lawyers, The Black Women Lawyers Assn. of Northern California, The California Employment
17 Lawyers Association, The Charles Houston Bar Association, Courage Campaign, Equal Justice
18 Society, Family Equality Council, Fred T. Korematsu Center for Law and Equality, Freedom to
19 Marry, Gay & Lesbian Advocates & Defenders, Impact Fund, Iranian American Bar Association,
20 Korean American Bar Association of Northern California, Korean American Bar Association of
21 Southern California, Law Foundation of Silicon Valley, Lawyers’ Committee for Civil Rights of
22 the San Francisco Bay Area, Lesbian & Gay Lawyers Association of Los Angeles, Marin County
23 Bar Association, Marriage Equality USA, National Asian Pacific American Bar Association,
24 Philippine American Bar Association of Los Angeles, Queen’s Bench Bar Association,
25 Sacramento Lawyers for the Equality of Gays and Lesbians, San Francisco La Raza Lawyers
26 Association, Santa Clara County Bar Association, Santa Clara County Black Lawyers
27 Association, Society of American Law Teachers, Transgender Law Center, Vietnamese American
28 Bar Association of Northern California, and Women Lawyers of Alameda County.

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 **PLEASE TAKE NOTICE THAT** Bay Area Lawyers for Individual Freedom, AIDS
 3 Legal Referral Panel, API Equality – LA, API Equality – Northern California, Asian American
 4 Bar Association of the Greater Bay Area, Asian American Institute, Asian American Justice
 5 Center, Asian Law Caucus, Asian Pacific American Bar Association of Los Angeles County,
 6 Asian Pacific American Bar Association of Silicon Valley, Asian Pacific American Legal Center,
 7 Asian Pacific Islander Legal Outreach, Bay Area Association of Muslim Lawyers, The Black
 8 Women Lawyers Assn. of Northern California, The California Employment Lawyers Association,
 9 The Charles Houston Bar Association, Courage Campaign, Equal Justice Society, Family
 10 Equality Council, Fred T. Korematsu Center for Law and Equality, Freedom to Marry, Gay &
 11 Lesbian Advocates & Defenders, Impact Fund, Iranian American Bar Association, Korean
 12 American Bar Association of Northern California, Korean American Bar Association of Southern
 13 California, Law Foundation of Silicon Valley, Lawyers’ Committee for Civil Rights of the San
 14 Francisco Bay Area, Lesbian & Gay Lawyers Association of Los Angeles, Marin County Bar
 15 Association, Marriage Equality USA, National Asian Pacific American Bar Association,
 16 Philippine American Bar Association of Los Angeles, Queen’s Bench Bar Association,
 17 Sacramento Lawyers for the Equality of Gays and Lesbians, San Francisco La Raza Lawyers
 18 Association, Santa Clara County Bar Association, Santa Clara County Black Lawyers
 19 Association, Society of American Law Teachers, Transgender Law Center, Vietnamese American
 20 Bar Association of Northern California, and Women Lawyers of Alameda County respectfully
 21 request the Court’s leave to participate as *amici curiae* in the above-captioned case in opposition
 22 to Defendant-Intervenors Dennis Hollingsworth, Gail J. Knight, Martin F. Guiterrez, Mark A.
 23 Jansson, and ProtectMarriage.com’s Motion to Vacate Judgment.

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

25 “District courts frequently welcome amicus briefs from non-parties concerning legal
 26 issues that have potential ramifications beyond the parties directly involved or if the amicus has
 27 ‘unique information or perspective that can help the court beyond the help that the lawyers for the
 28 parties are able to provide.’” *NGV Gaming, Ltd. v. Upstream Pont Molate, LLC*, 355 F. Supp. 2d

1 1061, 1067 (N.D.Cal.2005) (quoting *Sonoma Falls Devs., LLC v. Nevada Gold & Casinos, Inc.*,
2 272 F. Supp. 2d 919, 925 (N.D. Cal. 2003)). Participation of *amici* is particularly appropriate
3 where the legal issues in a case have potential ramifications beyond the parties directly involved
4 or where *amici* can offer a unique perspective that may assist the Court. *Sonoma Falls*, 272 F.
5 Supp. 2d at 925.

6 **II. IDENTITY AND INTEREST OF AMICI CURIAE**

7 **Bay Area Lawyers For Individual Freedom** (“BALIF”) is the nation’s oldest and
8 largest bar association of lesbian, gay, bisexual and transgender (“LGBT”) persons. Founded in
9 1980, BALIF serves to take action on questions of law and justice that affect the LGBT
10 community; strengthen ties among LGBT legal professionals; build coalitions to combat
11 discrimination; promote the appointment of LGBT attorneys to the judiciary, public agencies, and
12 commissions; fund scholarships for LGBT laws students and fellowships for public interest
13 lawyers working on LGBT issues; and provide a forum for the exchange of ideas and information
14 of concern to members of the LGBT legal community.

15 The **AIDS Legal Referral Panel** (“ALRP”) supports the independence of the judicial
16 branch and does not believe that a judge’s membership in a minority group or protected class
17 should prevent her from presiding over a case. A judge living with a disability, including
18 HIV/AIDS, should not be precluded from deciding issues related to disability discrimination just
19 as an African-American judge should not be barred from deciding a case involving race
20 discrimination. To hold otherwise would effectively negate the very important value of
21 promoting diversity within the judicial branch.

22 **API Equality–LA** advocates in the Greater Los Angeles Asian and Pacific Islander (API)
23 community for fair treatment of lesbian, gay, bisexual, and transgender (LGBT) people and
24 marriage equality. API Equality–LA recognizes that the long history of discrimination against
25 the API community, especially California’s history of anti-miscegenation laws and exclusionary
26 efforts targeted at Asian immigrants, parallels the contemporary exclusion of lesbians and gay
27 men from marriage in California. Because API Equality–LA is dedicated to achieving mutual
28

1 respect and security for all loving families, including those of devoted same-sex couples, it has an
2 interest in this litigation and seeks to participate as an amicus curiae.

3 **API Equality – Northern California** is a coalition of Asian Pacific Islander (API) and
4 Lesbian, Gay, Bisexual, Trans, Intersex, and Queer/Questioning (LGBTIQ) of organizations and
5 individuals that is committed to reducing and eliminating prejudice and oppression based on
6 gender, gender identity, and/or sexual orientation in the diverse ethnic communities of the API
7 populace and to reducing and eliminating racially-motivated or xenophobic prejudice and
8 oppression in the LGBTIQ community. API Equality – Northern California is dedicated to
9 empowering community members, advancing civil rights protections, and promoting respect and
10 understanding for cultural and community diversity.

11 The **Asian American Bar Association of the Greater Bay Area** (“AABA”) was founded
12 in 1976 to provide Asian American attorneys in the San Francisco Bay Area with a vehicle for the
13 unified expression of opinions and positions on matters of concern to all Asian Pacific Americans
14 (APA). Throughout its history, AABA has led and supported efforts to overturn discrimination
15 against minority communities on all fronts. For the past five years, AABA has played an active
16 role in supporting marriage equality for all Californians. AABA has a special interest in
17 challenging discrimination by and in the government.

18 **Asian American Institute, Member of Asian American Center for Advancing Justice**
19 (“AAI”), is a pan-Asian, non-partisan, not-for-profit organization located in Chicago, Illinois,
20 whose mission is to empower and advocate for the Asian American community through
21 advocacy, coalition-building, education, and research. AAI is a member of the Asian American
22 Center for Advancing Justice, whose other members include Asian American Justice Center,
23 Asian Law Caucus, and Asian Pacific American Legal Center. AAI’s programs include
24 community organizing, leadership development, and legal advocacy. AAI is deeply concerned
25 about the discrimination and lack of fair representation faced by minorities and marginalized
26 communities. Accordingly, AAI has a strong interest in this case.

27 The **Asian American Justice Center, Member of the Asian American Center for**
28 **Advancing Justice** (“AAJC”), is a national non-profit, non-partisan organization in Washington,

1 D.C., whose mission is to advance the civil and human rights of Asian Americans and build and
2 promote a fair and equitable society for all. Founded in 1991, AAJC engages in litigation, public
3 policy, advocacy, and community education and outreach on a range of issues, including anti-
4 discrimination. AAJC is committed to challenging barriers to equality for all sectors of our
5 society and has supported marriage rights for same-sex partners as an *amicus curiae* in other
6 cases on this issue.

7 **The Asian Law Caucus, Member of the Asian American Center for Advancing**
8 **Justice** (“ALC”), is the oldest Asian American legal rights organization devoted to protecting the
9 civil rights of all racial and ethnic minorities. The mission of ALC is to promote, advance, and
10 represent the legal and civil rights of Asian and Pacific Islander communities. Recognizing that
11 social, economic, political and racial inequalities continue to exist in the United States, ALC is
12 committed to the pursuit of equality and justice for all sectors of our society. ALC has a strong
13 interest in protecting the integrity of the core constitutional principle of equal protection of the
14 law for all Americans.

15 **The Asian Pacific American Bar Association of Los Angeles County** (“APABA-LA”)
16 is comprised of attorneys, judges, commissioners and law students throughout Los Angeles
17 County. APABA-LA provides legal education and assistance to underserved communities;
18 sponsors programs in professional development, community education, and law student
19 mentorship; and addresses issues that impact Asian Pacific Americans and other minorities. In
20 furtherance of its mission, APABA-LA has and continues to advocate for equal rights for
21 members of the LGBT community and to oppose discrimination based upon sexual orientation.

22 **The Asian Pacific American Bar Association of Silicon Valley** (“APABA-SV”), formed
23 over 20 years ago, serves to foster professional development, advocacy, and community
24 involvement for Silicon Valley's Asian Pacific American legal community, and to promote justice
25 and equality for all. APABA-SV members will be affected by any decision concerning whether
26 membership in a minority group prevents a judge from presiding in litigation involving that
27 minority group. Additionally, many LGBT individuals are Asian Americans and affected by
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1 Proposition 8, so the outcome of this case directly affects people within the Asian American
2 community. APABA-SV, therefore, has an interest in this motion to vacate trial judgment.

3 The **Asian Pacific American Legal Center, Member of the Asian American Center**
4 **for Advancing Justice** (“APALC”), is a nonprofit legal organization that serves the Asian and
5 Pacific Islander communities through impact litigation, direct services, leadership development,
6 and public policy advocacy. Since its founding in 1983, APALC has been a leading civil rights
7 voice, advocating against discrimination and working across diverse communities to promote
8 justice, on issues ranging from race to language and immigration to sexual orientation. APALC
9 also works to increase diversity in the legal profession and judiciary. APALC joins this amicus
10 brief because it strongly believes that diverse members of the judiciary contribute to a legal
11 system that promotes equality and justice, and any attempt to suggest otherwise is contrary to
12 basic notions of fairness.

13 **Asian Pacific Islander Legal Outreach** (“API Legal Outreach”) is a community-based,
14 social justice organization serving the Asian and Pacific Islander communities of the Greater Bay
15 Area. Founded in 1975, our mission is to promote culturally and linguistically appropriate
16 services for the most marginalized segments of the API community. Our work is currently
17 focused in the areas domestic violence, violence against women, immigration and immigrant
18 rights, senior law and elder abuse, human trafficking, public benefits, and social justice
19 issues. API Legal Outreach has been fighting against all forms of discrimination, especially
20 against the LGBTQ community, for many years. API Legal Outreach is a member of API
21 Equality, and also was the lead author of an amicus brief for the 2006 *Woo v. Lockyer* case
22 advocating for the rights of same-sex marriage. The brief represented 28 Asian American
23 organizations and was joined by over 60 Asian American organizations.

24 The **Bay Area Association of Muslim Lawyers** believe in the exercise of judicial
25 freedom. Judicial opinions should not be scrutinized based on the sexual orientation, race or
26 religion of our Judicial officers. Judge Vaughn Walker has upheld the law of the United States by
27 serving on the Federal Bench for over twenty years. His record does not in any way show that he
28

1 has compromised a judicial opinion based on his own bias. We hope the court will stand by it's
2 decision to strike down prop 8 because it violates the civil and human rights of our citizens.

3 The **Black Women Lawyers Association of Northern California** (“BWLNC”) is a non-
4 profit organization founded in 1979 representing the interests of African American women
5 attorneys, judges and law students throughout Northern California. The mission of the BWLNC
6 is to provide professional, financial, educational, social, and moral support for Black women in
7 the legal profession. Part of this goal necessarily includes combating bias wherever it may occur.
8 Dr. Martin Luther King, Jr. once said that “Injustice anywhere is a threat to justice everywhere.”
9 BWLNC firmly believes that the attack on Judge Vaughn Walker based on his sexual orientation
10 is no different than the racist attacks in the past and present on Black women seeking to practice
11 in this esteemed profession. Thus, we find it completely and totally abhorrent that Proposition 8
12 proponents now argue that Judge Walker should have recused himself from the case at
13 issue because he is gay and has been in a long-term relationship for the past 10 years with another
14 man. We join Bay Area Lawyers for Individual Freedom (BALIF) in their amicus brief to the
15 court on the basis that judiciary independence should never be thwarted by looking at a judge's
16 personal beliefs and/or status and that no member of a minority group should be disqualified from
17 ruling on or participating in any litigation that is of major consequence to that particular group.

18 The **California Employment Lawyers Association** (“CELA”) is an organization
19 composed of approximately 1000 attorneys who represent primarily plaintiffs in employment
20 discrimination cases and other matters arising in the workplace. Ensuring civil rights lies at the
21 core of CELA's mission. CELA has participated in amicus coalitions in both the
22 California litigation and federal litigation relating to Proposition 8.

23 The **Charles Houston Bar Association** (“CHBA”) is a non-profit organization founded
24 in 1955 representing the interests of African American attorneys, judges and law students
25 throughout Northern California. The mission of the Association is to improve access to justice; to
26 promote equal protection under the law; to be proactive in increasing diversity within the legal
27 community and to the bench; to bring services to the community; and to support the Association's
28 judges, attorneys and law students. One of our core values is to eradicate injustice within and

1 throughout the legal community. Thus, we find it completely and totally abhorrent that
2 Proposition 8 proponents now argue that Judge Walker should have recused himself from the case
3 at issue because he is gay and has been in a long-term relationship for the past 10 years with
4 another man. We join Bay Area Lawyers for Individual Freedom (BALIF) in their amicus brief
5 to the court on the basis that judiciary independence should never be thwarted by looking at a
6 judge's personal beliefs and/or status and that no member of a minority group should be
7 disqualified from ruling on or participating in any litigation that is of major consequence to that
8 particular group.

9 The **Courage Campaign** is a nonprofit California-based social justice organization
10 comprised of hundreds of thousands of Californians and is supported by thousands of small
11 financial donors. In January 2010, Courage Campaign created a website to follow the trial,
12 prop8trialtracker.com, that has been viewed more an 4 million times and more than 138,000
13 Courage Campaign members submitted comments in Perry v. Schwarzenegger asking the court to
14 broadcast the trial on YouTube.

15 The **Equal Justice Society** (“EJS”) is a national organization of scholars, advocates, and
16 citizens that seeks to promote equal opportunity and progressive social change through law,
17 public policy, public education, and research. The primary mission of EJS is to combat the
18 continuing scourge of racial discrimination and inequality in America. Consistent with that
19 mission, EJS works to confront all manifestations of invidious discrimination and second-class
20 citizenship. Such threats to dignity spring from a common source and endanger everyone, no
21 matter the context in which they arise.

22 **Family Equality Council**, founded in 1979, is a national organization working to achieve
23 social and legal equality for LGBT families by providing direct support, educating the American
24 public, and advancing policy reform that ensures full recognition and protection under the law.
25 Family Equality Council has more than 65,000 supporters, thousands of which are located in
26 California. As a national organization, Family Equality Council has broad experience protecting
27 the rights of LGBT-headed families and serving the over 200 local parents groups that support
28 them.

1 The **Fred T. Korematsu Center for Law and Equality** (“Korematsu Center”) is a
2 nonprofit organization based at Seattle University School of Law and works to advance justice
3 through research, advocacy, and education. The Korematsu Center is dedicated to advancing the
4 legacy of Fred Korematsu, who defied the military orders during World War II that ultimately led
5 to the internment of 110,000 Japanese Americans. He took his challenge of the military orders to
6 the United States Supreme Court, which upheld his conviction in 1944 on the ground that the
7 removal of Japanese Americans was justified by “military necessity.” Fred Korematsu went on to
8 successfully challenge his conviction and to champion the cause of civil liberties and civil rights
9 for all people. The Korematsu Center, inspired by his example, works to advance his legacy by
10 promoting justice for all. It has a strong interest in protecting the integrity of the core
11 constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role
12 as final arbiter of these constitutional guarantees. It has a strong interest in improving judicial
13 diversity as well as ensuring judicial independence. We note that the Korematsu Center does not,
14 in this brief or otherwise, represent the official views of Seattle University.

15 **Freedom to Marry** is the national campaign to end marriage discrimination in the United
16 States. Freedom to Marry works with partner organizations and individuals to win the right to
17 marry in more states, solidify and diversify the majority for marriage, and challenge and end
18 federal marriage discrimination. Freedom to Marry is based in New York, with offices in Oregon
19 and DC, and has participated as *amicus curiae* in several marriage cases in the United States and
20 abroad.

21 **Gay & Lesbian Advocates & Defenders** (“GLAD”) is a leading legal rights organization
22 dedicated to ending discrimination based upon sexual orientation, HIV status, and gender identity
23 and expression. GLAD has challenged discrimination in marriage in several states. Most
24 notably, these cases include *Goodridge v. Dept. of Public Health*, 798 N.E.2d 941 (Mass. 2003),
25 and *Kerrigan v. Dept. of Public Health*, 957 A.2d 407 (Conn. 2008) (establishing the right of
26 same-sex couples to marry under the Massachusetts and Connecticut constitutions). In addition,
27 GLAD has appeared as counsel or *amicus curiae* in numerous litigations involving discrimination
28 based on sexual orientation, HIV status, and gender identity and expression.

1 The **Impact Fund** is a non-profit foundation that provides funding, training, and co-
2 counsel to public interest litigators across the country. It is a State Bar Legal Services Trust Fund
3 Support Center, providing services to legal services projects across California. The Impact Fund
4 is counsel in a number of major civil rights class actions and is lead counsel in *Dukes v. Wal-Mart*
5 *Stores, Inc.*, 603 F.3d 571 (9th Cir.), *cert. granted*, 131 S. Ct. 795 (2010), the largest employment
6 discrimination class action in history.

7 Incorporated in 2000 in the District of Colombia, the **Iranian American Bar Association**
8 (“IABA”) is a non-profit organization of more than 1,500 attorneys in over 9 official chapters
9 nationwide. IABA is the only national association of Iranian judges, lawyers, and law students
10 organized for the specific purpose of protecting the rights of the Iranian American community.
11 IABA’s core mission is to promote the “social, economic, professional and educational
12 advancement of the Iranian American community and the community at large.” Additionally,
13 IABA advocates nationally on legal issues that are of widespread interest to the Iranian American
14 community. To accomplish these goals, one of IABA's primary tasks is to prevent discrimination
15 based on ethnic, cultural or religious background.

16 The **Korean American Bar Association of Northern California** (“KABANC”) has
17 served Korean American lawyers and the local Korean community since the mid-1980s and was
18 founded to encourage and promote the professional growth of Korean-American lawyers and law
19 students in Northern California; to foster networking, support, and the exchange of ideas and
20 information among its members and with the local Korean-American community; and to work
21 with other Asian, minority, and community organizations on matters of common concern.

22 KABANC joins this amicus brief to further the protection of minority rights, including those of
23 gays and lesbians.

24 The **Korean American Bar Association of Southern California** (“KABA”) is the
25 largest and oldest organization of Korean-American attorneys, judges, professors, law students,
26 and community leaders in the country. Since the civil unrest in Los Angeles in 1992, KABA has
27 been a leading advocate for the Korean-American community and has worked tirelessly to
28

1 promote reconciliation, understanding and peace within the greater Los Angeles region and
2 beyond. KABA supports the effort to ensure justice and equality for all persons.

3 Founded in 1974, the **Law Foundation of Silicon Valley** is a private nonprofit
4 corporation in San Jose that sponsors five free legal services and advocacy programs. Its mission
5 is to secure justice and protect human rights by providing legal advocacy, counseling, and access
6 to the legal system for those who would otherwise be underrepresented. The Law Foundation has
7 a strong interest in protecting the equal protection rights of our clients and members of the
8 communities that we serve, and assuring that they are protected from discrimination, particularly
9 as to their fundamental rights such as the right to marry.

10 The **Lawyers' Committee for Civil Rights of the San Francisco Bay Area** ("LCCR") is
11 affiliated with the national Lawyers' Committee for Civil Rights Under Law, established in 1963
12 at the urging of President John F. Kennedy. LCCR was formed to support the rights of minority
13 and low-income persons by offering free legal assistance in civil matters and by litigating cases
14 on behalf of the traditionally underrepresented. In addition, LCCR monitors judicial proceedings
15 and legislation that affect the traditionally disadvantaged and frequently files *amicus* briefs in
16 cases challenging discriminatory policies and practices. Because advancing the rights of LGBT
17 individuals is integral to any civil rights agenda, LCCR's *amicus* work has encompassed these
18 issues as well.

19 The **Lesbian and Gay Lawyers Association of Los Angeles** ("LGLA") was formed in
20 the aftermath of a bitter battle over the 1978 Proposition 6, a California ballot measure backed by
21 State Senator John Briggs seeking to ban homosexuals from the profession of teaching in
22 California. Since its first meeting in 1979, LGLA, the only bar association of its kind in Southern
23 California, has served lesbian, gay, bisexual and transgender ("LGBT") legal professionals
24 through traditional bar association programs including judicial endorsements, networking events,
25 continual legal education programs, student mentoring, scholarships, etc. In addition, LGLA is
26 active in advocating equality and justice for the LGBT legal professionals and LGBT community
27 at-large through *amicus* briefing, education forums, and active leadership or affiliation in other
28 influential bars such as the Los Angeles County Bar Association programs, the State Bar of

1 California, the National LGBT Bar Association, which is itself an affiliate of the American Bar
2 Association.

3 The **Marin County Bar Association** (the “MCBA”) is a voluntary organization of almost
4 700 members. A primary mission of the MCBA is to promote the rational and coherent
5 administration of justice, which includes supporting an independent judiciary and educating the
6 public on the importance of the judicial system. Since its establishment in 1937, the MCBA has
7 declined to take any position or action that might be considered political in nature or that involves
8 an issue before the electorate. Proposition 8 changed that. The importance of the civil rights and
9 judicial independence issues raised by Proposition 8 prompted our organization to adopt a formal
10 position in opposition to the proposition, a position approved both by board action and a full
11 membership vote in 2008. The fundamental importance of an independent judiciary to our
12 justice system again prompts us to take a position by joining in this brief. The status of a judge
13 should never be used as a shield or a sword by those who disagree with that judge’s rulings.

14 **Marriage Equality USA** (“MEUSA”) is a national, not-for-profit, all-volunteer
15 corporation that leads a nonpartisan, grassroots educational effort to secure legally recognized
16 civil marriage equality at the federal and state level without regard to gender identity or sexual
17 orientation. MEUSA employs educational and outreach programs, media presentations,
18 partnerships with other organizations that support equality, and a strong membership that engages
19 in local events, including asking for marriage licenses for same-sex couples on Valentine’s Day.
20 MEUSA has a strong presence in California, with 26 county-based chapters, as well as chapters in
21 Arizona, Florida, Iowa, New Hampshire, Ohio, Pennsylvania, and Virginia.

22 The **National Asian Pacific American Bar Association** (“NAPABA”) is the national
23 association of Asian Pacific American attorneys, judges, law professors, and law students.
24 NAPABA represents the interests of over 40,000 attorneys and 60 local and regional Asian
25 Pacific American bar associations. Our members work variously in solo practices, large firms,
26 corporations, legal services organizations, non-profit organizations, law schools, and government
27 agencies. Since its inception in 1988, NAPABA has been at the forefront of national and local
28

1 activities in the areas of civil rights. NAPABA joins amici to oppose the challenging of jurist's
2 impartiality based solely on the individual's race, sex, or sexual orientation.

3 The **Philippine American Bar Association of Los Angeles** (“PABA”) addresses the
4 legal issues confronting the Filipino-American community as well as the professional concerns of
5 Filipino-American lawyers in Southern California. PABA, whose membership includes LGBT
6 professionals, is an ardent supporter of equal rights for members of the LGBT community.
7 PABA believes that progress in civil rights for insular minorities is most effective while working
8 in coalition with the broader community. Thus, PABA partners with other civil-rights minded
9 organizations to advance the cause of justice and the protection of the legal process.

10 **Queen’s Bench Bar Association** is a non-profit voluntary membership organization made
11 up of judges, lawyers and law students in the San Francisco Bay Area. Established in 1921,
12 Queen’s Bench is one of the oldest women’s bar associations in the country. Queen’s Bench
13 seeks to advance the interests of women in law and society, and to serve the professional needs of
14 women lawyers, judges and law students. The Queen’s Bench Bylaws include among its
15 purposes the promotion and maintenance of “a skilled, humane and independent judiciary” and
16 the “sound administration of justice,” as well as the furtherance of equal opportunity in the legal
17 profession and the judiciary. Queen’s Bench has a strong and demonstrated interest in the
18 preservation of the Constitutional right to equal protection of the laws and judicial independence.

19 **Sacramento Lawyers for the Equality of Gays and Lesbians** (“SacLEGAL”) is a
20 professional association of attorneys, legal professionals, and legislative advocates, affiliated with
21 the Sacramento County Bar Association and the National LGBT (Lesbian, Gay, Bisexual and
22 Transgender) Bar Association. SacLEGAL’s mission is to promote equality for members of the
23 LGBT community through providing strong leadership, legislative advocacy, education, and
24 participation in civic and social activities within the legal community and community at large.
25 Specifically, SacLEGAL’s mission statement includes as among the purposes of the existence of
26 the organization to defend and expand the legal rights of LGBT people to ensure equality, and to
27 secure for LGBT individuals basic human and civil rights, such as the right to be free from
28 discrimination. As such, SacLEGAL members have a strong interest in the legal status of LGBT

1 individuals, couples and families, and in efforts to promote legal equality and nondiscrimination
2 for the LGBT community. SacLEGAL believes this case implicates those goals and purposes.
3 SacLEGAL construes Proposition 8 as a major retrenchment and reduction of legal rights of gay
4 people, changing the nondiscriminatory rules of law which promoted LGBT equality set forth in
5 the *Marriage Cases*, into a legal climate that requires official State discrimination against gay
6 people with a resulting inequality and second-class status. SacLEGAL considers this inequality
7 and second-class status to be highly injurious to the broader community of gay people, as well as
8 specifically to those who wish to marry. SacLEGAL believes the motion to vacate the trial
9 judgment would inflict further injury upon the gay community and thus is directly in conflict with
10 SacLEGAL's goals and mission.

11 Since our founding in 1971, **San Francisco La Raza Lawyers Association** ("SFLRLA")
12 has served the public interest by promoting legal reform in order to serve the interests of justice
13 for all persons and by otherwise facilitating the administration of justice. SFLRLA has a proud
14 history of advocating for civil rights, equality under the law, and fair representation for the
15 Latino/a and other diverse communities. SFLRLA continues this tradition in signing this amicus
16 brief.

17 Founded in 1917, the **Santa Clara County Bar Association** ("SCCBA") is a nonprofit
18 membership association of approximately 3,400 legal professionals. The SCCBA is committed to
19 promoting full and equal access to the legal system by all individuals, and is a leader in opposing
20 discrimination against gay men and lesbians. The SCCBA, through its formal resolutions and
21 commitment to amicus briefs in prior relevant litigation, opposes the Motion to Vacate Judgment
22 that based on the bias of Federal District Judge Vaughn Walker as the SCCBA believes that a
23 judge's minority status does not per se disqualify that judge from hearing a case involving that
24 minority and that to do so undermines judicial independence and equality.

25 The **Santa Clara County Black Lawyers Association** is an advocate for equal
26 opportunity and justice for all citizens of the United States. The right of a judge to participate
27 fully in the judicial system must be safeguarded against perceived notions that the race,
28 sex, creed, or sexual orientation of such judge renders them unable to be impartial and

1 unbiased to issues encompassing their race, sex, creed, or sexual orientation. The mere fact that a
2 judge is African-American should not preclude them from hearing all cases where an African-
3 American is a party to the case or where issues concerning African-American's are at stake. In the
4 same manner, a Caucasian male judge should not be barred from hearing a case where majority-
5 minority race issues or male-female gender issues are at stake.

6 The **Society of American Law Teachers** ("SALT") is an association of law faculty,
7 administrators, and legal education professionals from law schools across the nation.
8 Incorporated in 1974, SALT was founded by a group of leading law professors dedicated to
9 improving the quality of legal education by making it more responsive to societal concerns.
10 SALT has worked within the legal academy to develop a jurisprudence to end discrimination of
11 historically underrepresented groups, including discrimination based on sexual orientation and
12 has appeared as *amicus curiae* in federal and state courts to further these claims to equal access to
13 education, employment, and to full participation in civic life.

14 The **Transgender Law Center** ("TLC") is a civil rights organization advocating for
15 transgender communities. TLC connects transgender people and their families to technically
16 sound and culturally competent legal services, increase acceptance and enforcement of laws and
17 policies that support transgender communities, and work to change laws and systems that fail to
18 incorporate the needs and experiences of transgender people. TLC has an interest in protecting
19 minorities from being stripped of their civil rights by majority vote.

20 The **Vietnamese American Bar Association of Northern California** ("VABANC") was
21 founded in 1998 to provide Vietnamese American attorneys with a vehicle for the unified
22 expression of opinions and positions on matters of concern to all Vietnamese American attorneys,
23 to encourage and promote the professional growth of its members, and to foster the exchange of
24 ideas and information among its members and with the community at large. As such, VABANC
25 is concerned on issues of diversity and equality. VABANC supports that judiciary independence
26 should never be thwarted by looking at a judge's personal beliefs and/or status and membership in
27 a minority group should not prevent a judge from presiding in litigation involving that minority
28 group.

1 **Women Lawyers of Alameda County** (“WLAC”) has been “a voice for women in the
2 law” since 1980. Born out of necessity to address gender bias and gender discrimination in both
3 the application of law and the practice of law, in our thirty years of existence, WLAC has worked
4 tirelessly to advance the needs, desires, and interests of all women in Alameda County. Drawing
5 upon our core values, and as a member of the Minority Bar Association, WLAC recognizes that
6 discrimination and bias against one is discrimination and bias against all. We proudly join in this
7 amicus brief.

8 **III. CONCLUSION**

9 For the foregoing reasons, Bay Area Lawyers for Individual Freedom, AIDS Legal
10 Referral Panel, API Equality – LA, API Equality – Northern California, Asian American Bar
11 Association of the Greater Bay Area, Asian American Institute, Asian American Justice Center,
12 Asian Law Caucus, Asian Pacific American Bar Association of Los Angeles County, Asian
13 Pacific American Bar Association of Silicon Valley, Asian Pacific American Legal Center, Asian
14 Pacific Islander Legal Outreach, Bay Area Association of Muslim Lawyers, The Black Women
15 Lawyers Assn. of Northern California, The California Employment Lawyers Association, The
16 Charles Houston Bar Association, Courage Campaign, Equal Justice Society, Family Equality
17 Council, Fred T. Korematsu Center for Law and Equality, Freedom to Marry, Gay & Lesbian
18 Advocates & Defenders, Impact Fund, Iranian American Bar Association, Korean American Bar
19 Association of Northern California, Korean American Bar Association of Southern California,
20 Law Foundation of Silicon Valley, Lawyers’ Committee for Civil Rights of the San Francisco
21 Bay Area, Lesbian & Gay Lawyers Association of Los Angeles, Marin County Bar Association,
22 Marriage Equality USA, National Asian Pacific American Bar Association, Philippine American
23 Bar Association of Los Angeles, Queen’s Bench Bar Association, Sacramento Lawyers for the
24 Equality of Gays and Lesbians, San Francisco La Raza Lawyers Association, Santa Clara County
25 Bar Association, Santa Clara County Black Lawyers Association, Society of American Law
26 Teachers, Transgender Law Center, Vietnamese American Bar Association of Northern
27 California, and Women Lawyers of Alameda County respectfully request the Court’s leave to
28 submit a brief *amici curiae*.

