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November 17, 2008

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CLERK SUPREME COURT

California Supreme Court  
350 McAllister Street  
San Francisco, CA 94102

RE: *Karen L. Strauss, Ruth Borenstein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen and Equality California v. Mark D. Horton, in his official capacity as State Registrar of Vital Statistics of the State of California and Director of the California Department of Public Health, Linette Scott, in her official capacity as Deputy Director of Health Information & Strategic Planning for the California Department of Public Health, and Edmund G. Brown, Jr., in his official capacity as Attorney General for the State of California*  
California Supreme Court Case No. S168047  
**Joinder in Amici Curiae Letter in Support of Petition for Extraordinary Relief, Including Writ of Mandate and Request for Immediate Injunctive Relief**

To the Honorable Chief Justice and Associate Justices:

We write on behalf of Amici: Alameda County Bar Association; Asian American Bar Association of the Greater Bay Area; Asian American Justice Center; Asian Pacific American Bar Association of Los Angeles County; AIDS Legal Referral Panel; Bay Area Lawyers for Individual Freedom; Black Women Lawyers Association of Los Angeles, Inc.; California Employment Lawyers Association; Chinese for Affirmative Action; Consumer Attorneys of San Diego; East Bay La Raza Lawyers Association; Japanese American Bar Association of Greater Los Angeles; Korean American Bar Association of Northern California; Korean American Bar Association of Southern California; Latina Lawyers Bar Association; Law Foundation of Silicon Valley; Lawyer's Club of San Francisco; Lesbian and Gay Lawyers Association of Los Angeles; Mexican American Bar Association; Minority Bar Coalition; National Lawyers Guild San Francisco Bay Area Chapter; National LGBT Bar Association; San Francisco La Raza Lawyers Association; San Francisco Trial Lawyers Association; South Asian Bar Association of Northern California; South Asian Bar Association of San Diego; Tom Homann Law Association; and Transgender Law Center (collectively "amici").

Amici join in the letter brief filed on November 10, 2008 by the Bar Association of San Francisco (“BASF”), Legal Aid Society – Employment Law Center (“LAS-ELC”), Lawyers’ Committee for Civil Rights of the San Francisco Bay Area (“LCCR”), and the Impact Fund in support of Petitioners’ Petition for Writ of Mandate in the above-referenced case.

**STATEMENT OF INTEREST OF THE AMICI CURIAE**

Amici are familiar with the issues in the case and wholeheartedly support the arguments of Petitioners. Amici are primarily organizations of lawyers who regularly rely on the courts to enforce the Constitution’s guarantee of equal protection and fundamental rights for their clients, and have a particular interest in ensuring the vitality of the Court’s continued role in enforcing the constitutional guarantee of equal protection.

Alameda County Bar Association (“ACBA”), established in 1877, is a nonprofit voluntary membership organization of 2,200 attorneys, judges, paralegals, law students, and other professionals in Alameda County. ACBA has a strong interest in having courts ensure equal protection under the law for all people. One of the core tenets of the ACBA mission is to promote civil rights and the fair and equitable administration of justice. In response to Proposition 8 and its threat to the basic constitutional guarantee of equal protection to all the people of California, the ACBA board of directors, on September 4, 2008, passed a resolution affirming its support of the California Supreme Court decision regarding same-sex marriage and urging its constituent groups to join the ACBA in efforts to defeat Proposition 8. Through the work of its board of directors, committees, sections and its court appointed and pro bono programs, the ACBA has worked to promote access to justice for all people, oppose discrimination in all forms, and advocate for the protection of the fundamental rights of all people.

The Asian American Bar Association of the Greater Bay Area (“AABA”), founded in 1976, is a non-profit professional membership organization of Asian American lawyers. AABA is the largest, and one of the oldest, local Asian American bar associations in the nation, and is one of the largest minority bar associations in California. AABA provides a vehicle for the unified expression of opinions and positions on matters of concern to all Asian American attorneys, encourages and promotes the professional growth of its members, serves the Asian American and minority community, and fosters the exchange of ideas and information among its members and the legal community at large. AABA was born from its founders’ commitments to civil rights and community service, and over the years, AABA has played an important role in various civil rights cases and social issues affecting Asian Americans, including the *Korematsu v. United States* case, the Japanese-American redress and reparations movement, and the *Wen Ho Lee* case. AABA’s interest in having courts ensure equal protection under the law is central to its mission. Through its board of directors, committees, and community efforts, AABA has worked to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

The Asian American Justice Center (“AAJC”) is a national nonprofit, nonpartisan organization whose mission is to advance the legal and civil rights of Asian Americans. Collectively, AAJC and its affiliates, the Asian American Institute, Asian Law Caucus, and the Asian Pacific American Legal Center, have over 50 years of experience in providing legal, public policy, advocacy, and community education on discrimination issues. AAJC and its affiliates have a long-standing interest in discrimination issues that have an impact on the Asian American community, and this interest has resulted in AAJC’s participation in a number of amicus briefs before the courts.

The Asian Pacific American Bar Association of Los Angeles County (“APABA”) is a member organization comprised of attorneys, judges, commissioners and law students throughout Los Angeles County and serves as a voice for issues of concern to the Asian and Pacific Islander (API) community. APABA provides legal education and assistance to underserved API communities and also sponsors programs in professional development, community education, and law student mentorship. As an API organization, APABA well knows the history of discrimination against Asians and Pacific Islanders and its activities seek to ensure access and justice for those without a voice. As an organization that believes in civil rights, APABA believes that protecting marriage equality furthers the civil rights interests of not only members of the API community but all Americans. APABA’s interest in having courts ensure equal protection under the law is central to its mission.

The AIDS Legal Referral Panel (“ALRP”) is a non-profit legal services agency that advances the legal and civil rights of low-income, immigrant, African American, Latino, Asian/Pacific American, female, lesbian/gay/bisexual/transgender, and persons living with HIV/AIDS through litigation, direct legal services, and education. ALRP has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

Bay Area Lawyers for Individual Freedom (“BALIF”) is the nation’s oldest and largest association of lesbian, gay men, bisexual and transgendered (LGBT) persons in the field of law. BALIF serves to take action on questions of law and justice that affect the LGBT community; to strengthen professional and social ties among LGBT members of the legal profession; to build coalitions with other legal organizations to combat all forms of discrimination; to promote the appointment of LGBT attorneys to the judiciary, public agencies and commissions in the Bay Area; and to provide a forum for the exchange of ideas and information of concern to members of the LGBT legal community. BALIF has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Black Women Lawyers Association of Los Angeles, Inc. (“BWL”) is a non-profit professional membership organization of lawyers. While membership in BWL is open to any law student or attorney, our membership is predominantly comprised of African American attorneys. The Black Women Lawyers Association of Los Angeles, Inc.’s interest in having courts ensure equal protection under the law is central to its mission. Through its board of

directors, committees and community efforts, BWL has worked to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

The California Employment Lawyers Association (“CELA”) is a non-profit employee rights organization whose mission is to advance the rights of working people and the lawyers who represent them. CELA advances the legal and civil rights of all workers, including low-income, immigrant, African American, Latino, Asian/Pacific American, male and female, lesbian/gay/bisexual/transgender, and other traditionally underrepresented clients through litigation and education. CELA has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

Chinese for Affirmative Action (“CAA”) is a non-profit civil rights organization that advances the civil and political rights of Asian and Pacific American clients through direct services, media advocacy, grassroots organizing, and public education. CAA has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Consumer Attorneys of San Diego (“CASD”) is a non-profit organization of more than 700 attorneys who represent working people, families, and consumers as plaintiffs in various types of legal matters involving consumer rights. CASD promotes access to justice and equal rights under the law for all through support services for our members, continuing legal education, and community outreach. CASD has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of those constitutional guarantees.

The East Bay La Raza Lawyers Association (“EBLRLA”) was founded in 1978, and is the county bar association of Latina/o lawyers in Alameda and Contra Costa counties. The EBLRLA is dedicated to expanding legal access to the Latina/o community, provides annual scholarships to Latina/o law students, supports Latina/o attorneys with a local professional network, and advocates for increased Latina/o representation in the judiciary. As a professional association of Latina and Latino lawyers, judges, law students and other legal workers, EBLRLA’s interest in having courts ensure equal protection under the law is central to its mission. Through its board of directors, the EBLRLA has worked to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

The Japanese American Bar Association of Greater Los Angeles (“JABA”) is one of the oldest Asian Pacific American bar associations in the country and consists of a diverse membership of nearly 300 attorneys, judicial officers, and law students of Japanese and Asian Pacific Islander ancestry in the greater Los Angeles area, including some who are gay or lesbian. With a deep appreciation of the unique history of Japanese Americans in the United States and

the failure of constitutional protections that led to their internment during World War II, JABA has a proud history of actively advocating and devoting resources to issues of civil rights and social justice, especially for those members of society who continue to suffer from discrimination and unequal treatment.

The Korean American Bar Association of Northern California (“KABANC”) is a professional membership organization of Korean American lawyers. KABANC’s interest in having courts ensure equal protection under the law is central to its mission. Through its board of directors, committees and community efforts, KABANC has worked to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

The Korean American Bar Association of Southern California (“KABASC”) is a non-profit professional membership organization of Korean American lawyers. KABASC’s interest in having courts ensure equal protection under the law is central to its mission. Through its community efforts, KABASC has worked to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

The Latina Lawyers Bar Association is a non-profit legal organization that is dedicated to the advancement of Latinas in the legal field and the community at large. The Latina Lawyers Bar Association has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Law Foundation of Silicon Valley is a non-profit public interest organization that advances the civil rights of low-income, immigrant, African American, Latino, Asian/Pacific American, female, lesbian/gay/bisexual/transgender, and other clients through litigation, direct legal services, and education. The Law Foundation has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Lawyer’s Club of San Francisco is a non-profit voluntary association of lawyers, primarily but not exclusively, in practice in San Francisco. The membership historically and at present represents the multi-ethnic, racial and religious diversity of San Francisco. Throughout its history and for well more than half a century, The Lawyer’s Club has had a distinguished history of active participation in a full range of public activities affecting lawyers and the legal profession. Among the Club’s leadership have been Presidents of the State Bar of California, Judges of the Federal and State Courts, leaders of major law firms, elected officials at State and Municipal levels, as well as a full breadth of lawyers serving the public in every area in which the Law affects the rights of individuals. The guiding principal of this association is a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Lesbian and Gay Lawyers Association of Los Angeles (“LGLA”) is a non-profit voluntary membership bar association of attorneys, law students, and legal professionals in the greater Los Angeles area. LGLA is an affiliate of the Los Angeles County Bar Association. Founded in 1979, LGLA continues its mission of providing a strong leadership presence of and for lesbian, gay, bisexual, and transgendered (LGBT) persons in the legal profession and in the community at large, through education, legal advocacy, and participation in political and civic activities and social functions. LGLA has fought for equal justice for all persons without regard for their sexual orientation for almost thirty years. LGLA’s interest in having the California Constitution continue to guarantee equal protection under the law to LGBT persons is central to its mission.

The Mexican American Bar Association (“MABA”) is a non-profit professional membership organization of Latino attorneys and others involved in the legal profession. MABA is committed to the advancement of Latinos in the legal profession and the empowerment of the Latino community through service and advocacy. MABA is also committed to promoting constitutional principles of equal protection and fundamental rights, and to opposing discrimination in all forms.

The Minority Bar Coalition (“MBC”) is a coalition of more than 20 Bay Area mainstream, specialty, ethnic and minority bar associations working together on issues of law and social justice. The MBC deals with issues specifically impacting the minority lawyer. The MBC takes the lead in speaking out with a unified voice on issues impacting minority communities such as diversity, the death penalty and marriage equality. The MBC hosts an annual conference and awards reception to address legal issues impacting the minority legal community and to recognize individual lawyers in the Bay Area minority legal community who have done the most to advance the causes of diversity and service to the community. At present, the Minority Bar Coalition includes, among other bar associations: Asian American Bar Association of the Greater Bay Area, Asian Pacific Bar Association of Silicon Valley, Bay Area Association of Muslim Lawyers, Bar Association of San Francisco, Bay Area Lawyers for Individual Freedom, Charles Houston Bar Association, Filipino Bar Association of Northern California, Korean American Bar Association of Northern California, Queen’s Bench Bar Association, San Francisco La Raza Lawyers Association, South Asian Bar Association of Northern California, and Vietnamese American Bar Association of Northern California. MBC has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The National Lawyers Guild San Francisco Bay Area Chapter (“NLGSF”) is a membership organization that brings together lawyers, law students and legal workers to collaborate in the process of using the law for political, economic and social justice. The NLGSF actively seeks to eliminate discrimination and to maintain and protect civil rights and liberties in the face of persistent attacks upon them. Through public education projects and litigation support, the NLGSF has consistently supported the rights of individuals in the LGBT community to be free from discrimination on the basis of sexual orientation and gender identity.

The National LGBT Bar Association (“NLGBTBA”) (formerly National Lesbian Gay Law Association), founded in 1988, is the nation’s only professional bar association of lesbian, gay, bisexual, transsexual, and straight allies. Members include prominent lawyers, judges and other legal professionals as well as law students, activists and over 26 affiliated local, state and regional LGBT voluntary bar associations across the nation, and over 100 LGBT law student organizations. The NLGBTBA is the bar association that educates the profession about issues of concern to LGBT legal professionals and students. NLGBTBA works to promote diversity and justice in and through the legal profession for the LGBT community by supporting affiliated political and legal advocacy organizations; disseminating public information on legal issues of concern to LGBT people and their straight allies; convening the only national annual LGBT legal issues continuing legal education conference; and hosting the only annual national career fair for LGBT law students. Since its inception, NLGBTBA has advocated for the equal protection of all LGBT people including the ability to participate fully in the institution of civil marriage. As NLGBTBA’s interest in having courts ensure equal protection under the law is central to its mission, it strongly advocates for the California judiciary to be deemed the final arbiter of constitutional legal issues. Moreover, the judiciary must remain an independent and authoritative arm of government, subject to principles of *stare decisis*, in order to ensure protections for the California citizenry, even when the passions of a slim majority may disagree.

San Francisco La Raza Lawyers Association (“SFLRLA”) is a professional membership organization of Latino attorneys. SFLRLA’s core mission is to serve the public interest by cultivating the science of jurisprudence, promoting reform in the law, facilitating the administration of justice, and cooperating with other professional and community organizations in the furtherance of our mission. SFLRLA’s interest in having courts ensure equal protection for under the law is central to its mission. SFLRLA works to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

San Francisco Trial Lawyers Association (“SFTLA”) is a professional membership organization of trial attorneys, now from a broad range of backgrounds, although this was not always the case. SFTLA developed a strong mission statement embracing and promoting diversity within the organization. SFTLA’s interest in having courts ensure equal protection under the law is central to its mission. Through its Board of Directors, community outreach, legal and social events, publications and continuing education programs, SFTLA has worked to promote the core constitutional principles of equal protection and fundamental rights, and to oppose discrimination in all forms.

The South Asian Bar Association of Northern California (“SABA-NC”) is proud to serve as an advocate for the South Asian community in Northern California and beyond. As part of that mission, SABA-NC has promoted the core constitutional principles of equal protection and fundamental rights, and has opposed discrimination in all forms. SABA-NC recognizes that minority communities often face similar challenges at various points throughout their histories. The South Asian community has felt the burden of laws and policies that limit their marriage rights in its past. For several decades starting at the beginning of the 20th century, South Asian immigrants and their progeny in California were relegated to second-class citizen status by virtue

of anti-miscegenation laws popular throughout the United States, which prevented them from marrying the partner of their choice regardless of race. In 1948, the California Supreme Court took the bold step of becoming the first high court in the nation to strike down an anti-miscegenation statute in the landmark decision *Perez v. Sharp*. Today, SABA-NC stands with the gay and lesbian community – both inside and outside the South Asian community – as they face similar discrimination, and together we ask that the courts not allow discrimination to be written into our Constitution on a mere majority vote.

The South Asian Bar Association of San Diego (“SABA-SD”) is a voluntary bar association dedicated to the advancement and development of attorneys and law students interested in issues affecting the South Asian community. Part of SABA-SD’s mission is to support the provision of legal services to the South Asian community, and to serve as an advocate for the concerns and opinions of South Asians in the community generally, and in the legal profession in particular. SABA-SD has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Tom Homann Law Association is a non-profit public interest organization that advances the legal and civil rights of lesbian/gay/bisexual/transgender members of the legal community and the community at-large. The Tom Homann Law Association has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.

The Transgender Law Center is a non-profit civil rights organization that advances the civil rights of transgender clients throughout California through direct legal services, litigation and public education. The Transgender Law Center has a strong interest in protecting the integrity of the core constitutional principles of equal protection and fundamental rights, and ensuring the courts’ role as final arbiter of these constitutional guarantees.


### **CONCLUSION**

For the reasons set forth in the November 10, 2008 amicus curiae letter brief of the Bar Association of San Francisco, Impact Fund, Lawyers’ Committee for Civil Rights Under Law of the San Francisco Bay Area, and Legal Aid Society - Employment Law Center, Amici hereby respectfully urge this Court to grant the relief sought in the Petition for Extraordinary Relief.

Dated: November 17, 2008

Respectfully submitted,

ELIZABETH J. CABRASER  
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By: \_\_\_\_\_  
Kelly M. Dermody

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## PROOF OF SERVICE

I, Bobby Gomez, declare that I am over the age of eighteen years and I am not a party to this action. My business address is 275 Battery Street, 30th Floor, San Francisco, California 94111-3339.

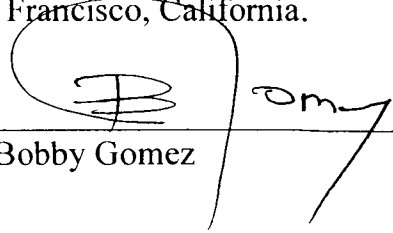
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**Joinder in Amici Curiae Letter in Support of Petition for Extraordinary Relief, Including Writ of Mandate and Request for Immediate Injunctive Relief**

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct; that this declaration is executed on November 17th, 2008, at San Francisco, California.

  
Bobby Gomez

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