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JAN 15 2009

No. S168047

CLERK SUPREME COURT

IN THE
SUPREME COURT OF CALIFORNIA

KAREN L. STRAUSS, *et al.*,

Petitioners,

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, *et al.*,

Respondents.

APPLICATION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE*
IN SUPPORT OF PETITIONERS KAREN L. STRAUSS, ET AL.

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CENTER; SAN DIEGO LESBIAN, GAY, BISEXUAL, TRANSGENDER
COMMUNITY CENTER; SAN FRANCISCO LGBT COMMUNITY CENTER;
SANTA CRUZ COUNTY LESBIAN, GAY, BISEXUAL AND TRANSGENDER
COMMUNITY CENTER; THE CENTER ORANGE COUNTY

**APPLICATION FOR LEAVE TO FILE BRIEF OF *AMICI CURIAE* IN SUPPORT OF PETITIONERS
KAREN L. STRAUSS, ET AL.**

TO THE HONORABLE RONALD D. GEORGE, CHIEF JUSTICE OF
THE SUPREME COURT OF CALIFORNIA:

Pursuant to Rule 8.520 of the California Rules of Court, the Billy DeFrank LGBT Community Center; the L.A. Gay & Lesbian Center; the Pacific Pride Foundation; the Sacramento Gay & Lesbian Center; the San Diego Lesbian, Gay, Bisexual, Transgender Community Center; the San Francisco LGBT Community Center; the Santa Cruz County Lesbian, Gay, Bisexual and Transgender Community Center; and The Center Orange County respectfully request leave to file the accompanying brief of *amici curiae* in support of Petitioners Karen L. Strauss, *et al.*

STATEMENT OF INTEREST OF *AMICI CURIAE*

Applicant Billy DeFrank LGBT Community Center (“Billy DeFrank Center”) provides community, leadership, advocacy, support and services to Silicon Valley’s lesbian, gay, bisexual and transgender (“LGBT”) people and allies. Founded in 1981 in response to the repeal of local laws that prohibited discriminatory housing practices, the Billy DeFrank Center provides a wide range of services to same-sex couples and their families, including recreational activities, public forums, educational venues, support groups and senior services. It is the Billy DeFrank Center’s mission to support LGBT families and advocate for laws that protect them.

Applicant L.A. Gay & Lesbian Center (“L.A. Center”) provides a broad array of services for the LGBT community of Los Angeles. The L.A. Center offers legal, social, cultural, and educational services, and provides

unique programs for seniors, families, and youth, including a 24-bed transitional living program for homeless youth. The L.A. Center's Family Services Program provides support, education, advocacy, and an array of social and educational programming to LGBT parents and their children, as well as to prospective parents, singles and couples interested in creating a family. Examples of activities and services include family days, support groups for LGBT parents, hosting meetings of the Los Angeles Unified School District's LGBT Parent Advisory Group, and organizing family retreats. The L.A. Center's primary goal is to build a stronger community, one family at a time. As a result of its extensive involvement in the lives of same-sex couples and their families, the L.A. Center is keenly aware of the difficult decisions same-sex couples must make with regard to protecting their relationships, as well as the burdensome trade-off unique to same-sex couples who must choose between legal protections and informational privacy.

With a commitment to serving a diverse spectrum of constituencies, Applicant Pacific Pride Foundation (“Pacific Pride”) delivers vital services and resources to the lesbian, gay, bisexual and transgender communities. Since 1975, Pacific Pride has provided a strong voice in local government, law enforcement and in the business, social and faith communities throughout the County of Santa Barbara, fostering visibility, self-care and pride through a wide range of programs and activities. Programs and services provided from Pacific Pride’s offices in Santa Barbara and Santa Maria encompass all of Santa Barbara County. Those serving the LGBT communities include: counseling and recovery services, youth services, discussion and support groups, the Safe Schools Project, LGBT sensitivity and awareness trainings, the Santa Barbara Lesbian and Gay Film Festival,

Families of Pride serving LGBT families with children, speakers bureau, LGBT community resources and referrals and the Santa Barbara Annual County Pride Festival. Pacific Pride Foundation has been the center throughout Santa Barbara County for the marriage equality movement and hosted the 'Let California Ring' educational campaign from its offices.

Applicant Sacramento Gay & Lesbian Center ("Sacramento Center") serves same-sex couples and their families and LGBT persons in the City and County of Sacramento and surrounding counties. Founded in 1986, the Sacramento Center is the heart of Sacramento's LGBT community. The Sacramento Center sponsors community events, provides meeting space for LGBT-related organizations, and hosts programs for the families of same-sex couples. The Sacramento Center seeks to protect and advocate for the many married same-sex couples and their families in the greater Sacramento area and surrounding counties and to protect the rights of all LGBT persons to marry.

Applicant San Diego Lesbian, Gay, Bisexual, Transgender Community Center ("San Diego Center") serves the LGBT community of San Diego by providing activities, programs, and services that create community, empower community members, provide essential resources, advocate for civil and human rights, and embrace, promote and support the cultural diversity of the San Diego LGBT community. The San Diego Center sponsors Family Matters, the LGBT parenting group of San Diego, a program which serves over 1,000 families. The San Diego Center assists same-sex households with adoption, hosts infant and toddler playgroups and childcare, and conducts parenting workshops. The San Diego Center also provides referrals to social and legal services providers. It is a goal of the San Diego Center, through its Marriage Equality and Education Project,

to educate all Californians on issues of marriage equality and the rights of same-sex couples, as well as to advocate for full marriage rights.

Applicant San Francisco LGBT Community Center (“San Francisco Center”) provides San Francisco with a vast array of programs and services for LGBT people, their friends and families. The San Francisco Center serves tens of thousands of LGBT persons in the San Francisco area and particularly caters to same-sex couples with families. The San Francisco Center’s Children, Youth, and Families Programs specifically are designed to meet the needs of LGBT parents in handling both the common challenges of parenting and the specific challenges of parenting in the face of the social, economic and legal barriers they face as LGBT people. Among these barriers are Proposition 8’s marriage restrictions and the risks associated with public disclosure of one’s sexual orientation through domestic partnership registration. The San Francisco Center is deeply concerned that its members be treated equally under the law.

Applicant Santa Cruz County Lesbian, Gay, Bisexual and Transgender Community Center (“The Diversity Center”) serves the lesbian, gay, bisexual, transgender, intersex, and questioning community of Santa Cruz County. A prime component of its mission is building a healthy LGBTIQ community. The Diversity Center accomplishes this through a variety of programs that serve same-sex couples and their families. The Diversity Center produces social and educational events as well as support groups serving youth, seniors, transgender people, as well as the broader LGBTIQ community. The Diversity Center provides many resources and referrals to a wide range of culturally competent service providers. The Diversity Center also produces the annual LGBTIQ Pride Celebration in Santa Cruz, a family friendly, alcohol and smoke free event celebrating the

strengths of its community. Advancing the social justice of its constituents is another prime component of The Diversity Center's mission. The loss of marriage rights for same sex couples is of grave concern for The Diversity Center as it diminishes social justice and adversely impacts the health and well being of its community.

Applicant The Center Orange County provides a wide continuum of services to the Orange County LGBT community, including support groups, counseling, youth programs, HIV/AIDS prevention, social activities, newsletter, web site, referrals, library, special events, and meeting space for community groups. Since its inception almost 35 years ago, The Center Orange County has taken a leading role in advocating for the civil rights of LGBT people on issues such as marriage and parental rights for same-gender couples, youth issues, HIV testing, HIV/AIDS discrimination, hate crimes, health care and more. The Center Orange County has worked diligently through the community to ensure that rights of LGBT people in Orange County and throughout the state of California are not ignored or marginalized.

**THE ACCOMPANYING BRIEF WILL ASSIST THE COURT IN
DECIDING THIS MATTER**

The Applicants' accompanying brief will assist the Court in resolving this Petition. Applicants address a serious constitutional deficiency that would arise should Proposition 8 be deemed to apply to existing marriages: namely, the Applicants show that application of Proposition 8 to existing marriages would run afoul of California's Contract Clause, Cal. Const., art. I, § 9.

Under the plain language of the Clause — “A bill of attainders, ex post facto law, or law impairing the obligation of contracts may not be passed” — and established California authority, Proposition 8's application to existing marriages would raise substantial and troubling Contract Clause questions. California has long recognized the contractual nature of marital relationships, and Proposition 8's possible changing or invalidating of existing marriage contracts must pass an exacting scrutiny to survive a Contract Clause challenge. As shown in the accompanying brief, Proposition 8 does not purport to effect such changes, and would fail such exacting scrutiny even if it did.

Consideration of the points raised by Applicants would assist this Court, as the parties have not thoroughly addressed the Contract Clause arguments raised in the accompanying brief. Furthermore, the issues have not been briefed from the unique perspective of Applicants, who advocate every day on behalf of same-sex couples, provide services to them, and witness the effects of hatred and violence directed at them. For these

reasons, Applicants respectfully request leave to file the attached brief as *amici curiae* in support of Petitioners.

Dated: January 15, 2009

Respectfully submitted,

By: 
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PROOF OF SERVICE

I, Rebecca Torres, declare:

I am over the age of eighteen years and not a party to the within action; I am employed by Paul, Hastings, Janofsky & Walker, LLP whose business address is 55 Second Street, 24th Floor, San Francisco, CA 94105

On January 15, 2009, I served the following:

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IN SUPPORT OF PETITIONERS KAREN L. STRAUSS, ET AL.**

by placing true and correct copies in sealed envelopes addressed as follows:

See Attached Service List

I am readily familiar with the firm's practice of collection and processing of correspondence for mailing. Under that practice such sealed envelope would be deposited with the U.S. postal service on the date specified above, with postage thereon fully prepaid, at San Francisco, California.

I declare under penalty of perjury that the foregoing is true and correct. Executed on January 15, 2009, at San Francisco, California.



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