

**SUPREME COURT OF THE STATE OF CALIFORNIA**

CITY AND COUNTY OF SAN )  
FRANCISCO, et al., )  
 )  
Petitioners, )  
 )  
V. )  
 )  
MARK B. HORTON, in his official )  
Capacity as State Registrar of Vital )  
Statistics, etc., et al. )  
 )  
Respondents. )  
\_\_\_\_\_ )

Case No. S168078

SUPREME COURT  
**FILED**

JAN 15 2009

Frederick K. Ohlrich Clerk

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Deputy

**APPLICATION TO FILE AMICUS BRIEF  
AND AMICUS BRIEF WITH SUPPORTING DECLARATION  
IN SUPPORT OF PROPOSITION 8**

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## **APPLICATION TO FILE AMICUS BRIEF**

Pursuant to Rule 8.520, Michael J. McDermott requests leave to file the attached Amicus Brief, Exhibit and Declaration in Support of Proposition 8. This application is made in timely compliance with the CA Supreme Court order regarding Briefs in this High Profile Case.

### **Interest of Amicus Curia**

As a Voter and financial supporter of Proposition 8, as well as a long term advocate on behalf of the Civil Rights of this nation's Male Minority, I have a deep interest in the defense of the institution of Marriage as being between a Man and a Woman. Like many who openly supported this Proposition, I have been targeted for retaliation for my principled stand, both personally and professionally, and feel the need to defend the validity of my vote and the benefit to the citizens of my home state derived there from.

As a Men's Rights Advocate I represent a perspective not included in other briefs; and see the attack on the validity of Proposition 8 as not just one involving social issues of the culture wars, but also as a fundamental Violation of my rights to the Freedom of Speech and Political Viewpoint. I believe that this amicus brief is necessary to defend my lawful exercise of First Amendment Rights in a manner not served by the briefs of others who may share my goal of preserving Heterosexual Marriage, but not my Ideals.

## BRIEF OF AMICUS CURIA INTRODUCTION

*“Not merely the validity of experience but the very existence of external reality was tacitly denied by their philosophy. The heresy of heresies was common sense.”* George Orwell, 1984 – on the Thought Police.

With the publication of the In re Marriage Cases (2008) 43 Cal.4th 757; the CA Supreme Court not only overturned the Voter Approved Law put in place by Proposition 22, but also sought to institute an era of draconian thought policing in favor of a radical political agenda unprecedented in American history. Although lacking any historical or Constitutional basis for doing so, the Court sought to build upon its past history of support for the separatist / neo-extremist agenda of Misandry (Hatred towards Men, Masculinity & Heterosexuality) inherent in the attack on Heterosexual Marriage. The Court attempted to create out of whole cloth a Supremely Privileged Class of Citizens - with rights far greater than the rest of us; based on their self-assigned membership in to groups described by the Court in only the vaguest of sanitized and gaily misleading euphemisms.

Proposition 8, which simply reaffirmed the truth about Marriage and Gender already inherent in the California Constitution and previously affirmed by Proposition 22, has made that attempt completely Void.

Proposition 8's brevity is matched by its clarity. There are no conditional clauses, exceptions, exemptions, or exclusions: "*Only marriage between a man and a woman is valid or recognized in California.*" All previous rulings by the Courts that contradict with the basic Truths Inherent in the Measure - Stated Simply in the fourteen words of the initiative itself, are void and without force in the State of California.

Marriage is and Always has been between members of the Opposite Gender, meaning the Immutable and Inherited characteristics of birth that make us all Male and Female; as Scientifically Proven by the presence of XY and XX Chromosomes differentiating between Men and Women. Attempts by the Courts to use the Constitution to promote an inherently separatist and exterminationist Agenda of Misandry, denying the fact that Every Child has a Male (XY) Father and a Female (XX) Mother, are invalid and all rulings deriving from such fundamental error Null and Void.

The Constitution of California is clear and unambiguous, Marriage is between a Man and a Woman, and those terms are not subject to judicial activist revision contrary to all history, logic, reason and genetic science. Thus attempts to use comparisons to cases involving Racial Discrimination that sought to ban marriage between Men (XY) and Women (XX) of different races must fail from their own inherent contradictions.

Race, like Gender – is an Immutable Characteristic of Birth and evidenced by scientific proof inherent in the very genetic structure of each human being. Attempts to equate the Choice to engage in Homosex Behaviors, with the immutable condition of race and gender, must fail by fault of reasoned logic and basic genetic science.

Thus with Proposition 8 the People of the State have also instructed the Courts that because All Children have a Mother (XX) and a Father (XY) – that any attempts to deny Children the Right to Know their Biological Parents, whose identities are clearly found in the Child's Own DNA, is a violation of the Equal Protection Rights of All Children.

While adoption laws may provide alternate custody arrangements, a Child's Birth Certificate Must now conform to the Scientific Facts of Biology. Attempts to engage in legal extermination of Male Gender by denying their paternity, such as when a sperm bank (dead beat dad factory) is employed for procreation, while treating differently Fathers who engage in Heterosexual Intercourse with the Child's Mother, must also fail under Equal Protection requirements for both parents and children.

Perhaps most important of all, the Violations of the U. S. Constitution and its guarantee of the Freedom of Speech that is an inherent part of the Marriage Cases – has been rectified by Proposition 8.

Creation of a suspect class with rights superior to all other citizens, based on Choice to engage in Behaviors which the CA Court carefully avoids mention of, fails for numerous reasons – the greatest of which is conflict with the Federal First Amendment right to speak the Truth about Marriage between a Man and a Woman. Proposition 8 simply makes this fact of Constitutional Law unambiguously clear to the California Court.

**I. SAME-SEX MARRIAGES PERFORMED AFTER THIS COURT'S DECISION IN THE MARRIAGE CASES BUT BEFORE PROPOSITION 8 ARE NO LONGER VALID OR RECOGNIZED UNDER CALIFORNIA LAW.**

The clarity of the language of Proposition 8 is matched by its unambiguous nature. There is no wriggle room in the text approved by the Voters, who knew full well the meaning of what they enacted. No Longer Valid or Recognized means just that, and can not be interpreted as creating exemptions for attempts to impose by judicial fiat what the People had Always Rejected; as shown by the proof of Proposition 22 being enacted as a prophylactic measure to prevent just such judicial activist tampering.

The proponents' official ballot arguments made this clear by openly stating that: *“Your YES vote on Proposition 8 means that only marriage between a man and a woman will be valid or recognized in California, regardless of when or where performed.”*



Nothing could be clearer than this statement, and I and millions of other California Voters read it and understood it to mean exactly what it said. For the Court to hold otherwise is to disenfranchise My Vote and that of the Majority of the Electorate, and violates our Franchise under Federal Law.

**II. PROPOSITION 8 IS CONSTITUTIONAL AND IT VOIDS THE ENTIRETY OF THE CALIFORNIA SUPREME COURTS PRIOR GENDER AND MARRIAGE RULINGS.**

**A. THE IN RE MARRIAGE CASES VIOLATE THE EQUAL PROTECTION RIGHTS OF ALL CITIZENS WHO DO NOT CHOOSE TO PERCEIVE THEMSELVES AS INCLINED TO HOMOSEX BEHAVIORS.**

By attempting to create a suspect class with rights superior to all others, based solely on the choice to perceive themselves as oriented towards engaging in homosex behaviors, the Court violates the Equal Protection Rights of all other citizens, particularly Heterosexual Males. As demonstrated in the set of cases foundational to the Court's Marriage jurisprudence, announced together on August 22, 2005 (K.M., v. E.G.: S125643 / Elisa B. v. Superior Court; S125912 / Kristine H. v. Lisa R.: S126945) – the Court attempted to permanently deny the Equal Protection Rights of Heterosexual Males, and All Their Children. Proposition 8 has invalidated all such attempts to disfavor Heterosexuality and reaffirmed the Equal Protection Rights of Heterosexual Males.

Indeed, even justice Werdegar in her dissent touched on one aspect of such Violations of Equal Protection when she said: *"Although the majority denies that its rule depends on sexual orientation the opinion speaks for itself; The majority has chosen to use the term lesbian no less than six times in articulating its holding. Moreover, the majority prevents future courts from applying its holding automatically to persons other than lesbians. I see no rational basis, and the majority articulates none for permitting the enforceability of an ovum donation agreement to depend on the sexual orientation of the parties. Indeed, lacking a rational basis, the rule may well violate equal protection."* K.M., v. E.G.; Werdegar Dissenting at 6.

Even more telling of the Courts attempt to instill Misandry in to the Law is the bizarre ruling in favor of holding Males who engage in Heterosexual behaviors to a different standard than those who Intentionally 'donate' Male Sperm at what are commonly referred to as 'dead beat dad' factories, aka 'sperm banks': *"Usually, whether there is evidence of a parent and child relationship under the UPA does not depend upon the intent of the parent. For example, a man who engages in sexual intercourse with a woman who assures him, falsely, that she is incapable of conceiving children is the father of a resulting child, despite his lack of intent to become a father."* Id. at 4-5

Because Proposition 8 makes it clear that Marriage is between a Man (XY) and a Woman (XX), all such ersatz attempts to create Fatherless Children as a matter of law, must fail. To do otherwise would be to set up such a bizarre double standard that says amongst other things, that Fraternal Twin Brothers have different paternity. Consider the case of a Woman who uses a sperm bank to conceive one Male (XY) Son, and then later engages in Heterosexual Intercourse with the same Man, and conceives another Male (XY) Son – his Fraternal Twin Brother.

The First Boy (who Inherited His Father's Y Chromosome) is held to have No Father – not an absent one or a deadbeat, but No Legally Existing Male Parent, despite the scientific evidence of his own genes. His Twin Brother (exact same Y Chromosome), because he was conceived by Heterosexual Intercourse, does have a Father – and that Man can be sent to prison for failure to pay support for His Son, based on scientific proof of parentage from the same Y Chromosome.

Such insanely contradictory anti scientific Misandry Is made invalid by Proposition 8, which clearly instructs the legal system to recognize Gender as an Inherited and Immutable Characteristic – Because Marriage is between a Man (XY) and a Woman (XX), and both are needed to procreate.

**III. THE MARRIAGE CASES VIOLATE THE FEDERAL FIRST AMENDMENT RIGHTS OF ALL CITIZENS TO REJECT THE BEHAVIORS ASSOCIATED WITH THE RADICAL GENDER FEMINIST / HOMOSEX POLITICAL AGENDA.**

By attempting to create a suspect class with Constitutional Rights superior to all other citizens, based solely on the choice to perceive themselves as oriented towards engaging in homosex behaviors, the Court Violates the Federal First Amendment Rights of all other citizens.

For over a decade the Court's own seat in San Francisco has been the site of an annual tax subsidized Anti Male Hate Riot known as the "San Francisco Dyke March" (exhibit #1). This Hate Riot, led by self avowed / self identified "Dyke Separatists" boasts that it refuses to apply for any permits when it takes over the public streets of San Francisco – and Bans Male Citizens from the public road. They publicly boast that this is done in order to act out their Separatist – Neo Exterminationist Misandry, in service of an agenda that seeks to create "A World Devoid of Men".

By creation of a suspect class (whether self identified as "Dykes" or euphemistically called 'Lesbians', although the Court fails to define the term), with rights greater than all others, this Court essentially upholds a prohibition on Men challenging such rank Misandrist Hatred.

By placing those who act out such Misandry in a privileged position, the Court invites legal retaliation against those who oppose Misandry, under the guise of special protection for a 'lifestyle'. The Court fails to discuss how the decision to act out such Misandry qualifies as an immutable characteristic, and instead lumps the vague euphemistic term 'lesbian' in to the even vaguer and less defined term 'gay', and warns us we all better watch out against offending those who so self identify.

This produces such a great Chilling of Free Speech as to Violate the First Amendment to the United States Constitution, and Proposition 8 also voids this attempt to create this super suspect class and endow it with draconian powers of thought policing whenever its members feel offended.

Likewise, in California it is an openly acknowledged fact that three of every four new first time Aids cases are the direct result of transmission between members of the coprophile homo-anal population. The Court has in essence forbidden factually accurate, clinically correct discussion of this reality by virtue of creating a suspect class receiving strict scrutiny based on such pathological behaviors, although the Court itself again carefully avoids discussion of such behaviors save in the most misleadingly sanitized euphemistic manner. This violates the right of citizens to object to hazards to public health, if they emanate from specially privileged groups.

## CONCLUSION

The Courts Gender / Marriage rulings and the demands of those opposed to proposition 8 are a prime example of Political Correctness run amok to the level of destructive absurdity. This phenomenon was perhaps best explained by Author Theodore Dalrymple in an interview in FrontPageMagazine.com on August 31, 2005, when he said:

*Political correctness is communist propaganda writ small. In my study of communist societies, I came to the conclusion that the purpose of communist propaganda was not to persuade or convince, nor to inform, but to humiliate; and therefore, the less it corresponded to reality the better.*

*When people are forced to remain silent when they are being told the most obvious lies, or even worse when they are forced to repeat the lies themselves, they lose once and for all their sense of probity.*

*To assent to obvious lies is to co-operate with evil, and in some small way to become evil oneself. One's standing to resist anything is thus eroded, and even destroyed.*

*A society of emasculated liars is easy to control. I think if you examine political correctness, it has the same effect and is intended to.*


Proposition 8 has put an end to this attempt to enforce mandatory thought policing in service of a Misandrist political agenda, and cleared up any ambiguity in regard to the fact that the Only Marriages Recognized or Valid in California are between a Man (XY) and a Woman (XX).

This rational, reasonable, historically valid, scientifically accurate fact is one that all Courts in California must adhere to without evasion or equivocation. Any previous rulings in contradiction to this fact are void and have no bearing upon the law, and No Court or Officer of the Government may now assert otherwise.

Submitted this 13<sup>th</sup> Day of January, 2009

Sincerely,

Michael J. McDermott

A handwritten signature in black ink, appearing to read "Michael J. McDermott", is written over a solid horizontal line.

I hereby certify that this brief complies with the requirements of Rule 8.204, it is written in Times New Roman 14 point font and has a word count of 2,536, excluding the declaration in support and sole exhibit which total 8 pages.

APPENDIX

Newspaper Photo and Supporting Information – San Francisco Dyke March..... 1-2  
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**EXHIBIT #1: 6/28/98 San Francisco Dyke March - Anti Male Hate Riot. \*Note Lit  
Torches carried by self avowed Dykes in broad Daylight Takeover of the Public Street.**



6-28-98 EXAMINER/KIM KOMENICH

*Expanding crowd takes over Valencia Street as part of the sixth annual Dyke March on Saturday night. Carrying signs reading "Death to the Patriarchy" and "Lesbians Moms Rock," the marchers chanted and occasionally stripped on the way from Dolores Park to*

*a massive street party at Castro and Market streets "Guys are welcome," said Lisa Roth, one of the organizers, "but the whole thing is about saying this is when we do our thing, when we raise our issues." The event is part of The City's gay pride weekend.*

The actual quote by Lisa Roth is found in her follow up Letter to the S.F. Chronicle of 7/1/98, where she **Explicitly Bans Men from the Streets:** "Many thanks for running a great picture of the 6th Annual Dyke March on the front page of Sunday's paper, but I must correct an error. **I never said, "Guys are welcome." I said, "Guys are welcome to stand on the side and cheer" The Dyke March is a "woman only" event, organized by women for women and about women. As we said at our rally, the Annual San Francisco Dyke March is the best live girl show in town. We've got No Permit, no politicians, no corporate sponsors and No Men. We are fierce and feisty and fat and feminist.**" 7/1/98 Lisa Roth - S. F. Dyke March Organizing Com. / Damn Lesbians

**Women rule the world, if only for a little while .** By Ryan Kim, Chronicle Staff Writer. Sunday, June 27, 2004 San Francisco Chronicle. For a few hours Saturday night, Vicki Noble got a fleeting glimpse of **a world devoid of men --** and she came away excited and deeply moved.

**"This is what the world would look like if women ruled the world, which we intend to do,"** said Noble... "There are no corporate sponsors, no politicians on stage and **no men,**" announced Dyke March founder Lisa Roth, eliciting a huge roar..."

.....

**Men told not to rain on parade Unity key to Dyke March; 50,000 expected at S.F. Dyke March 50,000 expected -- men not advised.**

By Joe Garofoli, S.F. Chronicle Staff Writer - Saturday, June 26, 2004.

A few **simple rules** are expected to attract more than 50,000 participants to today's 12th annual **Dyke March through San Francisco:** no corporate sponsors, no politicians, **no permit to march and no men.**

**Dyke- friendly guys are invited to cheer from the sidewalk** as marchers wind along a **still-secret route** through the Mission and Castro districts and points beyond. It's cutting-edge politics like this that has helped the march blossom... **The biggest donation was a \$5,000 gift from the city's Grants for the Arts.**...

The same goes for calling it a "dyke" and not a "lesbian" march. Organizer Tina D'Elia said it's an effort to reclaim the word "dyke," long considered a derogatory term for lesbians. She said that kind of self- empowerment has fostered a safe space where the more brazen participants have felt comfortable enough to march topless and where the majority has been happy just to swim in what artist Kris Kovick called "three hours of monolithic lesbian unity." - it's become **one of the city's largest winked-at underground events. Though there are no official march permits, the city's police, traffic and transportation officials now plan for it**...

.....

**San Francisco Dyke March 2002 Official Statement**

This grass roots activist event has **neither a permit nor the city's blessing,** but nobody's worried: The parade draws women by the tens of thousands, and **there's nothing the city can do.** Unlike Sunday's official pride parade, the march has no corporate sponsors, no leadership hierarchy, and **no guys, save for the few supportive fellows cheering from the sidelines...** the **march is a return to raw, in-your-face activism...** **the crowd of women takes over the Mission Quadrant, with Dykes on Bikes leading the Charge...**

The 2000 San Francisco Dyke March Website clearly states the requirement for Men to be allowed in the streets when it says: **"It's okay for men to march, but they must first complete two thousand years of evolution"**

## DECLARATION IN SUPPORT OF AMICUS BRIEF

I, Michael J. McDermott, declare as follows:

1. I am a native son of the city of San Francisco and an advocate on behalf of the Civil Rights of this nation's despised and disposable Male Minority. I am also a 2003 graduate of the McGeorge School of Law in Sacramento, who has been summarily stripped by the administration of all my vested alumni rights; without charges, process or appeal, This was done in retaliation for reporting Threats of Extreme Physical Violence against me by a McGeorge Professor, sanctioned by the school's policy of aggressive viewpoint discrimination in favor of the same radical gender feminist / homosex political agenda that is also driving the opposition to Proposition 8 and promoting Misandry (Hatred of Men, Masculinity and Normal Heterosexuality) throughout the California Legal System.

2. In 1989 as a professional firefighter in Santa Barbara County CA, I was terminated as the result of a secret government run star chamber political vendetta, again based on viewpoint discrimination, in retaliation for recommending the establishment of a Commission for Men to parallel the existing Commission for Women, and having allegedly "*Written Letters to the Editor Expressing Negative Views in Current Women's Issues.*"

Additional secret anonymous charges in the star chamber process included retaliation for attending open public lectures at the University of California, and during the Q&A Sessions daring to ask questions that angered the campus feminist / homosex thought police – who used their police powers to reach out in to the community and secretly complain to my employer in order to silence and censor me while remaining anonymous.

3. As a Men's Civil Rights Advocate I have long opposed the Unconstitutional Violation of Equal Protection inherent in the State and Counties subsidizing and granting extraordinary political power to Commissions for Women, while simultaneously Denying Equal Voice to the Male Minority. One example of this occurred on September 17, 2008, when I attended a government-sponsored session labeled as political appointments training - for women. The only other Male present was Alameda County Supervisor Scott Haggerty – who after boasting about their County Commission for Womyn said: **"I would Never Appoint a Man to the Status of Womyn Commission; that would Not be the right thing to do."** Supervisor Haggerty then went on to state that He and the Rest of the Supervisor were Completely Opposed to allowing the establishment of any Similar Commission for Men and had been so for Decades.

The hypocrisy of the CA Attorney General and County Counsels presenting briefs in this case claiming to demonstrate a concern for Equal Protection, is clearly shown by their own egregious Discrimination against allowing any such Equal Representation for the Male Minority.

4. The extent of Institutional Misandry pervading the California Legal System is highlighted by the example of former Attorney General Bill Lockyer while in office. During the spring of 2003 I attended a lecture by this McGeorge graduate during which he engaged in considerable Male Bashing rhetoric. After the lecture I asked him about his public statements supporting Male Prison Rape as a Policy of the State, in regard to his public statements about a then un-indicted target, when he said: *"I would love to Personally Escort Ken Lay to an 8x12 cell that he could share with a tattooed dude who would say, 'Hi, My Name is Spike, Honey"*. Attorney General Lockyer not only confirmed this Official State Policy of Homo-Anal Prison Rape targeting Males as valid, but emphasized that it was only policy for Male citizens and did not under any circumstances apply to Women. When I asked him why the double standard against Men, he swore at me and walked away with his staff and supporters.

5. One of the most important educational moments of my life occurred on June 28, 1998, during the San Francisco Dyke March / Anti Male Hate Riot pictured and described in Exhibit #1. I was going about my business in my home town of San Francisco when, in the process of crossing the public street, I encountered the Misandrist Reality of the San Francisco Dyke March in the form of several Dykes on Bikes using their motorcycles as offensive weapons to clear the streets of Men in advance of the Hate Riot.

I later learned from reading the story that accompanied the picture of these torch bearing hate mongers, as well as research on the internet, that these self avowed “Separatist Dykes” boast that they refuse to even apply for a permit when they take over the public streets and Ban Male Citizens. They even boast in Court Filings that this is as part of their pogrom to bring about their Misandrist / Exterminationist ideal of a **“World Devoid of Men”**.

That the leaders and legal establishment of my home town of San Francisco use tax money to subsidize this Anti Male Hate Riot, and turn a blind eye to the rampant violations of the law and the civil rights of the Male Minority it represents, simply illustrates the hollow and hypocritical nature of their briefs purporting to show such a great concern for ‘Equal Protection’. Support for Separatist / Exterminationist Misandry is a mainstay of the Frisco political establishment, and a shame to the nation.

6. On January 6, 2008, I learned that the San Francisco Catholic Church where my parents were married, Holy Redeemer, was vandalized with spray paint swastikas and anti Catholic Hate speech, by those retaliating against the Church for its principled stand in favor of Proposition 8. As a student of history and particularly the fascist movements of the 20<sup>th</sup> century, the use of Swastikas as a symbol of Radical Homosex Activism struck a chilling cord. Historical truth found in books like The Pink Swastika clearly highlight the connection between Homosex Behaviors and Nazism that gave rise to one of the most hateful Exterminationist regimes in modern history. The stark historical reality is that the Nazi Party was founded and run by butch Homo-Anal Coprophile Ephebophiles, such as Storm Trooper leader Ernst Röhm and his Protégé Adolph Hitler. The predilections that characterized them are demonstrated each year in Frisco during the Folsom Street Fair. Likewise, the Exterminationist Hatred they directed towards the Jews is echoed in the public demands of Dyke Marchers for “A World Devoid of Men.”

7. Thus I find that the campaign of Anti Male Thought Policing and Retaliatory Discrimination that has come to characterize my home state of California is indeed reminiscent of the fall of Weimar Germany and its replacement with a National Homo-Socialist Third Reich.

As one of the Men squarely targeted in the sights of such Exterminationist Misandrists, I am reminded of the episode of the South Park cartoon show, titled "The Death Camp of Tolerance". California is quickly morphing in to a Deeply Misandrist Society where the new political paradigm is that of a 'Cannibal Soup' culture – meaning that one either joins in the orgy of Misandry as a Diner, or is included in the feast as Dinner. Male Citizens who fail to pander to Misandry are targeted by the legal system and other organs of government, and their very right to speak out against such Rank Misandry is being censored in the name of an ersatz fraud of alleged 'tolerance'. The Attack on Marriage is simply one facet of this overall pogrom of Exterminationist Misandry, and whether Male (meaning having the immutable inherited characteristic of Male Gender as proven at birth by the (XY) chromosome), or Female (XX); all citizens have a duty to stand up to such evil; even if it be found in the immoral, irrational, and anti scientific demand that citizens believe or act as if Marriage is Not what it Truly Is – a Bond between a Man and a Woman.

I submit this declaration of the truth under penalty of perjury on 1/14/09.

Sincerely,

Michael J. McDermott

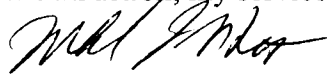


1-13-09



PROOF OF SERVICE

I, Michael J. McDermott, declare: I am a resident of the State of California and over the age of eighteen years, and not a party to the within action; my service address is 7172 Regional Street, #329, Dublin CA 94568.



On January 13, 2009 I served my Amicus Brief on those listed in the attached service list by U. S. Postage Prepaid Mail.

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