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November 30, 2007

Honorable Ronald M. George, Chief Justice  
and the Associate Justices  
California Supreme Court  
350 McAllister Street  
San Francisco, California 94102

Dear Chief Justice George and Associate Justices:

Re: *Mileikowsky v. West Hills Hospital Medical Center*, No. S156986

We represent Dr. Gil Mileikowsky, appellant in the above-captioned appeal, and we submit this letter on his behalf. Specifically, we write to provide additional information concerning some of the amicus letters submitted to the Court in support of Respondent West Hills Hospital Medical Center's Petition for Review.

All of the amicus letters profess interest in the disposition of Dr. Mileikowsky's appeal against West Hills, which is the subject of the present Petition for Review (*Mileikowsky v. West Hills Hospital and Medical Center* (2007) 154 Cal.App.4th 752), and in the earlier decision of the Second District Court of Appeal in *Mileikowsky v. Tenet Healthsystem* (2005) 128 Cal.App.4th 531. However, some of the letters do not fully disclose the writer's personal involvement in these cases.

Mr. Daniel Willick, in his letter of November 8, 2007, properly identifies himself as the hearing officer who summarily terminated, to Dr. Mileikowsky's prejudice, the administrative proceeding that resulted in the *Tenet Healthsystem* appeal. However, in his letter of November 26, 2007, Mr. Lowell Brown does not inform the Court that he was Mr. Willick's predecessor as hearing officer in that

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same administrative proceeding. Nor does he acknowledge that he submitted directly to the hearing panel the question of whether the *Tenet* proceeding should be summarily terminated because of Dr. Mileikowsky's supposed failure to produce documents concerning earlier proceedings at Cedars-Sinai Hospital – precisely what the Court of Appeal below held, in precisely the same circumstances, should have been done in the present case. (128 Cal.App.4th at 538-39; 154 Cal.App.4th at 776-77.) Further, Mr. Brown writes on behalf of the California Hospital Association, but he does not mention that both West Hills Hospital Medical Center and Encino-Tarzana Regional Medical Center, the two hospitals that conducted the administrative proceedings that were summarily terminated to Dr. Mileikowsky's prejudice, are members of that organization. (See member list at [http://www.calhealth.org/Download/hospitalmems\\_072.pdf](http://www.calhealth.org/Download/hospitalmems_072.pdf).)

Similarly, in her letter of November 10, 2007, Ms. Suzanne van Hall mentions that she is a past advisor to the California Hospital Association, but otherwise represents only that she has “been retained by other hospitals to serve as a hearing officer in medical staff peer review hearings . . . .” Van Hall Letter at 1. She does not disclose that she was the hearing officer chosen to replace Mr. John Harwell in a proceeding against Dr. Mileikowsky at Century City Hospital, when Mr. Harwell was forced to recuse himself because he was sitting as hearing officer in the proceeding against Dr. Mileikowsky at West Hills Hospital – the very proceeding that is the subject of the present Petition for Review. (Administrative Record at P004080-85.)

Thus, although the amicus letters profess a broad interest in the questions raised by the Petition, they actually appear to drive home the fact that these questions principally are of interest to Dr. Mileikowsky and to those who have in the past proceeded against him.

Sincerely yours,



Charles M. Kagay

**DECLARATION OF SERVICE BY MAIL**

RE: **MILEIKOWSKY v. WEST HILLS HOSPITAL MEDICAL CENTER, et al.**  
(Los Angeles County - Superior Court # BS091943)  
Court of Appeal, 2<sup>nd</sup> Appellate District, Div. 8, No. B186238

I, Charles Rockroad, declare that I am over 18 years of age, employed in the county of San Francisco, and not a party to the within action; my business address is 388 Market Street, Suite 900, San Francisco, California 94111. I am readily familiar with my employer's business practice for collection and processing of correspondence for mailing with the United States Postal Service.

On December 3, 2007, I served a true copy of the following document(s):

**LETTER RESPONDING TO AMICUS LETTERS**

on all the party or parties named below, in this action, by placing a true copy thereof in a sealed envelope, for collection and mailing with the United States Postal Service where it would be deposited for first class delivery, postage fully prepaid, in the United States Postal Service that same day in the ordinary course of business, addressed as follows:

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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, and that this declaration was executed on December 3, 2007, at San Francisco, California.

Charles Rockroad  
(Typed name)

  
(Signature)