

S156986

**IN THE
SUPREME COURT OF CALIFORNIA**

GIL N. MILEIKOWSKY, M.D.,

Plaintiff and Appellant,

vs.

WEST HILLS HOSPITAL MEDICAL CENTER, ET AL.

Defendants and Respondents,

AFTER A DECISION BY THE COURT OF APPEAL
SECOND APPELLATE DISTRICT, DIVISION EIGHT
CASE NO. B186238

**APPLICATION FOR LEAVE TO FILE AMICUS BRIEF, AND
BRIEF OF AMICUS KAISER FOUNDATION HEALTH PLAN,
INC.; KAISER FOUNDATION HOSPITALS; THE
PERMANENTE MEDICAL GROUP, INC.; AND THE
SOUTHERN CALIFORNIA PERMANENTE MEDICAL
GROUP IN SUPPORT OF DEFENDANTS AND
RESPONDENTS**

ARENT FOX LLP

LOWELL C. BROWN (SBN 108253)
PATRICIA M. KOSICH (SBN 230523)
555 W. FIFTH STREET, 48TH FLOOR
LOS ANGELES, CALIFORNIA 90013-1065
TELEPHONE: (213) 629-7400
FACSIMILE: (213) 629-7401

**ATTORNEYS FOR AMICI CURIAE
KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION
HOSPITALS; THE PERMANENTE MEDICAL GROUP, INC.; AND THE
SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP**

APPLICATION FOR LEAVE TO FILE BRIEF

TO THE HONORABLE CHIEF JUSTICE RONALD M. GEORGE
AND ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME
COURT,

Leave is hereby requested to file the accompanying Brief of Amicus Curiae on behalf of Kaiser Foundation Health Plan, Inc.; Kaiser Foundation Hospitals; The Permanente Medical Group, Inc.; and The Southern California Permanente Medical Group in support of Defendants and Respondents, West Hills Hospital Medical Center, *et al.* in this action.

APPLICANTS' INTEREST

The organization known as Kaiser Permanente (“Kaiser”) is California’s largest integrated healthcare delivery system and managed care organization, serving over 6.5 million patient members in the state. In other words, one of every six Californians is a Kaiser member. Comprised of four distinct legal entities, Kaiser in California includes Kaiser Foundation Health Plan, Inc., a nonprofit corporation (“Health Plan”); Kaiser Foundation Hospitals, a separate nonprofit public benefit corporation (“Kaiser Hospitals”); and the two independent Permanente Medical Groups in California, The Permanente Medical Group, Inc. (“TPMG”), a professional corporation, serving Health Plan members (“Members”) in Northern California; and the Southern California Permanente Medical Group (“SCPMG”), a general partnership, serving

Health Plan members in Southern California. Kaiser Hospitals operates 27 hospitals in California. The Health Plan, TPMG, SCPMG and Kaiser Hospitals (collectively, “Kaiser”) credential and privilege over 13,000 physicians to serve Kaiser’s California patients.

If allowed to stand, the Court of Appeal’s holding in *Mileikowsky v. West Hills Hospital Medical Center* (2007) 154 Cal.App.4th 752, review granted Dec. 12, 2007, No. S156986, will create a substantial and needless burden for all four of Kaiser’s California peer review bodies. Because Kaiser’s unique integrated structure requires a different approach to peer review hearings than that used by other California peer review bodies, that burden will have a cascading effect throughout the organization and will seriously hamper Kaiser’s ability to oversee the quality of care Kaiser physicians provide.

Kaiser in California is an integrated healthcare delivery system, meaning generally that it provides to its members all three essential healthcare services – physician care, hospital care, and payor services – through an integrated arrangement. It is widely considered the only successful such system in the United States.

Kaiser’s interest in the present case is therefore unique. Although hospitals, multi-specialty medical groups, and health plans may each have an interest in the overarching issue presented here, none has the interest of

Kaiser's integrated system, which combines the obligations of all three provider types.

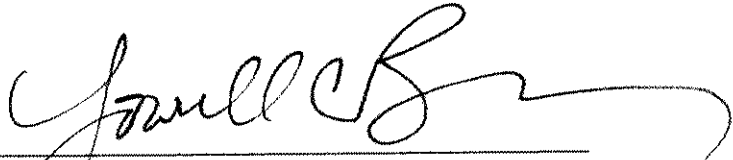
HOW THE BRIEF WILL ASSIST THE COURT

Kaiser's perspective on the issues involved in this action is unique. The organization is a significant member of California's healthcare delivery system, and faces issues that other providers never confront. Kaiser's brief will thus assist the Court in analyzing all aspects of the issue presented.

Dated: August 27, 2008

Respectfully submitted,

ARENT FOX LLP
Lowell C. Brown
Patricia M. Kosich



Lowell C. Brown
Attorneys for Amicus Curiae Kaiser
Foundation Health Plan, Inc.; Kaiser
Foundation Hospitals; The Permanente
Medical Group, Inc.; and The Southern
California Permanente Medical

PROOF OF SERVICE

I, Ann Mierisch, declare:

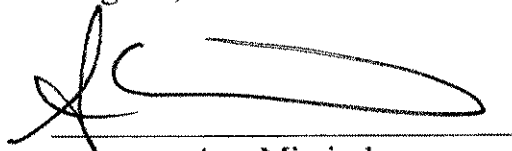
I am employed in the County of Los Angeles, State of California and over the age of eighteen years. I am not a party to the within action. I am employed by Arent Fox LLP, and my business address is 555 West Fifth Street, 48th Floor, Los Angeles, California 90013-1065. I am readily familiar with the practice of Arent Fox LLP for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, such correspondence would be deposited with the United States Postal Service, with postage thereon fully prepaid, the same day I submit it for collection and processing for mailing. On August 27, 2008, I served the within document entitled **APPLICATION FOR LEAVE TO FILE AMICUS BRIEF, AND BRIEF OF AMICUS KAISER FOUNDATION HEALTH PLAN, INC.; KAISER FOUNDATION HOSPITALS; THE PERMANENTE MEDICAL GROUP, INC.; AND THE SOUTHERN CALIFORNIA PERMANENTE MEDICAL GROUP IN SUPPORT OF DEFENDANTS AND RESPONDENTS** on the parties in the action by placing a true copy thereof in an envelope addressed as follows:

Counsel Name/Address/Telephone	Party(ies) Represented
Paul Hittelman Law Offices of Paul M. Hittelman 11999 San Vicente Blvd. Ste. 350 Los Angeles, CA 90049 (310) 471-7600	Attorneys for Plaintiff and Appellant GIL N. MILEIKOWSKY, M.D.
Charles M. Kagay Spiegel Liao & Kagay LLP 388 Market Street, Suite 900 San Francisco, CA 94111 (415) 956-5959	Attorneys for Plaintiff and Appellant GIL N. MILEIKOWSKY, M.D.

Counsel Name/Address/Telephone	Party(ies) Represented
David S. Ettinger H. Thomas Watson Horvitz & Levy LLP 15760 Ventura Blvd., 18th Floor Encino, CA 91436-3000 (818) 995-0800	Attorneys for Defendants and Respondents WEST HILLS HOSPITAL MEDICAL CENTER and MEDICAL STAFF OF WEST HILLS HOSPITAL MEDICAL CENTER
Ron S. Kaufman Nina B. Ries Fenigstein & Kaufman A Professional Corporation 1900 Avenue of the Stars, Suite 2300 Los Angeles, CA 90067	Attorneys for Defendants and Respondents WEST HILLS HOSPITAL MEDICAL CENTER and MEDICAL STAFF OF WEST HILLS HOSPITAL MEDICAL CENTER
Hon. Dzintra Janavs Los Angeles Superior Court 111 N. Hill Street Los Angeles, CA 90012-3117	Case No. BS091943
California Court of Appeal Second Appellate District, Division Eight 300 S. Spring Street, 2nd Floor, N. Tower Los Angeles, CA 90013-1213	Court of Appeal No. B186238
Andrew J. Kahn Davis Cowell & Bowe 595 Market Street, Suite 1400 San Francisco, CA 91405	Attorneys for Amicus Curiae UNION OF AMERICAN PHYSICIANS AND DENTISTS

and, following ordinary business practices of Arent Fox LLP, by sealing said envelope and depositing the envelope for collection and mailing on the aforesaid date by placement for deposit on the same day in the United States Postal Service at 555 West Fifth Street, Los Angeles, California.

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 August 27, 2008, at Los Angeles, California.



 Ann Mierisch