No. 06-3278

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**IN THE**
**UNITED STATES COURT OF APPEALS**
**FOR THE SEVENTH CIRCUIT**

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|---|---|---|
| EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, | ) ) ) | Appeal from the United States District Court, Western District of Wisconsin |
| Plaintiff – Appellant, | ) ) | No. 05 C 507 |
| v. | ) ) | The Honorable Barbara B. Crabb, |
| LEE'S LOG CABIN, INCORPORATED, | ) ) | Judge Presiding |
| Defendant – Appellee | ) | |

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**BRIEF OF *AMICI CURIAE***

**AIDS RESOURCE CENTER OF WISCONSIN,**
**AMERICAN ACADEMY OF HIV MEDICINE,**
**ASSOCIATION OF NURSES IN AIDS CARE,**
**HIV MEDICINE ASSOCIATION,**
**HOWARD BROWN HEALTH CENTER,**
**PHYSICIAN ASSISTANT AIDS NETWORK,**
**LESBIAN, BISEXUAL, GAY, AND TRANSGENDER**
**PHYSICIAN ASSISTANT CAUCUS,**
**AUDREY FRENCH, M.D., MARDGE COHEN, M.D.,**
**RENSLOW SHERER, M.D., and**
**INFECTIOUS DISEASE SPECIALISTS OF CHICAGO, LLC**

**IN SUPPORT OF PLAINTIFF-APPELLANT,**
**URGING REHEARING EN BANC**

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## CIRCUIT RULE 26.1 DISCLOSURE STATEMENT

Appellate Court No: 06-3278

Short Caption: EEOC v. Lee's Log Cabin, Inc.

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Attorney's Signature: /s/ John A. Knight Date: November 20, 2008

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**CIRCUIT RULE 26.1 DISCLOSURE STATEMENT**

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N/A

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Attorney's Signature: /s/ Laurence J. Dupuis Date: November 20, 2008

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## INTRODUCTION

A panel of this court created a false distinction between HIV and AIDS in an Americans with Disabilities Act (ADA) case, treating them as separate diseases with unrelated symptoms, a distinction that is not supported by medical science. This misapplication of science presents a question of exceptional importance under Fed. R. App. P. 35(b). The panel ruled in favor of Lee's Log Cabin ("Lee's"), a restaurant that chose not to hire Korrin Stewart after an assistant manager wrote "HIV+" on Stewart's job application. It affirmed the District Court's grant of summary judgment for Lee's, because the EEOC asserted in its complaint that Lee's discriminated against Stewart because she was *HIV*-positive, but introduced evidence that she was disabled because of *AIDS* in opposing summary judgment. The panel concluded that a case of *AIDS* discrimination was "a major alteration of 'what the claim is' and the 'grounds upon which it rests.'" *EEOC v. Lee's Log Cabin, Inc.*, No. 06-3278 (7th Cir. Oct. 6, 2008), Op. at 9. Judge Williams, in dissent, concluded that, "[n]ot only does this distinction [between AIDS and being HIV positive] improperly focus on the name of Stewart's disability rather than its effect on her life activities, but it also is erroneous and therefore unreasonable." *Id.* at 16.

## STATEMENT OF INTEREST OF *AMICI*

*Amici*, a group of ten organizations and individuals specializing in medical care services for people with HIV disease, submit this brief to explain that HIV/AIDS medical research shows that HIV disease is a single disease with multiple stages, the most advanced of which is called AIDS. As organizations that represent health care providers who treat persons with HIV/AIDS and organizations and individuals who conduct HIV research and provide direct HIV medical services, amici are concerned that courts use current and accurate medical and scientific

information about HIV disease and its symptoms. *See* Addendum A for more detailed descriptions of amici.

## SUMMARY OF ARGUMENT

The panel's distinction between HIV and AIDS gets the medical science wrong. First, AIDS is one stage of a disease caused by the HIV virus, a stage that no longer reliably signifies that an end-stage has been reached. Second, there is no clear dividing line between the limits HIV places on a person's major life activities and the limits from AIDS, and they are often the same. Consequently, the panel's blanket conclusion that "an AIDS sufferer's symptoms (and their effect on her major life activities) differ from those of someone who is HIV-positive but has not yet developed AIDS," Op. at 12, n. 4, is factually incorrect.

## ARGUMENT

### I. HIV and AIDS are two names for the same disease, a malady that can cause a myriad of disabling symptoms.

The panel's conception of HIV and AIDS as distinct diseases finds no support in medical science. HIV, the human immunodeficiency virus, is responsible for AIDS, acquired immune deficiency syndrome.[1] Once the HIV disease reaches an advanced stage, persons are said to have AIDS. AIDS is a stage of the progressive and incurable disease termed "HIV disease" or "HIV infection;" there is no bright line distinction between "HIV" and "AIDS." As the Presidential Commission on the HIV Epidemic unequivocally stated in 1988, "[t]he term 'AIDS'

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[1] AIDSinfo, A Service of the U.S. Department of Health and Human Services, *available at* http://aidsinfo.nih.gov (follow "HIV/AIDS Glossary" hyperlink; then search "human immunodeficiency virus").

is obsolete. . . . Continual focus on AIDS rather than the entire spectrum of HIV disease has left our nation unable to deal adequately with the epidemic."[2]

In 1981, medical researchers first discovered the disease they called AIDS. They did not discover HIV, or that HIV causes AIDS, until 1983.[3] Unlike other diseases such as tuberculosis, whose name describes the entire disease caused by the bacteria, *mycobacterium tuberculosis*,[4] the two terms "AIDS" and "HIV" were retained even after the viral connection was proved, with AIDS being used as the designation only for the late stage of the health condition caused by the progression of the HIV virus in what has been classified as three (acute, chronic, AIDS)[5] or sometimes five stages of HIV disease.[6] The two terms are, however, often used interchangeably and are sometimes referred to as "HIV/AIDS." As explained in one article:

> There is, in fact, a single, continuous disease process beginning with the initial exposure to the infection and terminating in the advanced forms of immune

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[2] *Report of the Presidential Commission on the HIV Epidemic*, June 24, 1988, Washington, D.C.: GPO, 1988: 87-9 (GPO pub. no. 0-214-701:QL3).

[3] National Institute of Allergy and Infectious Diseases, National Institute of Health, Report, *The Relationship Between the Human Immunodeficiency Virus and the Acquired Immunodeficiency Syndrome* (1995), *available at* http://www.niaid.nih.gov/Publications/hivaids/hivaids.htm; National Institute of Allergy and Infectious Diseases, National Institute of Health, Fact Sheet, *The Evidence that HIV Causes AIDS* (2003), *available at* http://www.niaid.nih.gov/factsheets/evidhiv.htm. In 1986, the International Committee of Viral Taxonomy renamed the virus that causes AIDS "HIV." *Id.*

[4] Roy Porter, *The Greatest Benefit to Mankind: A Medical History of Humanity* 440 (W.W. Norton & Co. 1999).

[5] Bernd S. Kamps & Christian Hoffmann, *Introduction*, *in* HIV MEDICINE 2007, 23, 25-26 (Christian Hoffmann *et al.,* eds. 15th ed. 2007), *available at* www.hivmedicine.com/hivmedicine2007.pdf. Subsequent pages of HIV MEDICINE 2007 cited below are available at this same web address.

[6] Centers for Disease Control and Prevention, *Living With HIV/AIDS, available at* http://www.cdc.gov/hiv/resources/brochures/livingwithhiv.htm#q2; Connie Mayer, *Is HIV a Disability Under the Americans with Disabilities Act: Unanswered Questions After* Bragdon v. Abbott, 14 J.L. & HEALTH 179, 182-83 (2000) (citing Margaret Fischl, *Introduction to the Clinical Spectrum of AIDS*, *in* TEXTBOOK OF AIDS MEDICINE 53-57 (Merigan *et al*., eds. 1999).

> deficiency, with death resulting from the complex interactions between the HIV infection itself and the secondary opportunistic infections and malignancies.[7]

The disease progresses as the virus replicates using certain white blood cells, the CD4+ cells (helper T-lymphocytes, or "T-cells"). Since T-cells are essential to the immune system, their number indicates the severity of a patient's disease.[8]

The panel erred by placing undue importance on the label given to Ms. Stewart's disabling condition. The fact that the portion of HIV disease called AIDS has changed over time illustrates the degree to which "[t]he names of the stages … are inconsequential." Op. at 19 (Williams, J., dissenting). Until 1993, a diagnosis of AIDS was made solely upon the presentation of an "AIDS-defining illness[ ]," found on the Centers for Disease Control and Prevention (CDC) "Category C" list. These twenty-six illnesses are rare in the general population, since they are mostly opportunistic infections ("OIs") caused by viruses and bacteria that take advantage of the weakened immune systems of people with HIV.[9] In 1993, however, the CDC broadened the definition of AIDS, because many individuals were entering the final stages of HIV disease without presenting one of these AIDS- defining illnesses. It began to label persons with a CD4+ lymphocyte count of less than 200/µl as persons with AIDS.[10] The

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[7] Mayer, *supra* note 6, at 182 (citing Margaret Fischl, *Introduction to the Clinical Spectrum of AIDS*, *in* TEXTBOOK OF AIDS MEDICINE 139).
[8] *Id.* at 181-83.
[9] Centers for Disease Control and Prevention, *1993 Revised Classification System for HIV Infection and Expanded Surveillance Case Definition for AIDS Among Adolescents and Adults***,** MMWR 41 (RR-17), Appendix B, Dec, 12, 1992 ("*CDC 1993 Revised Classification System*"), *available at* http://wonder.cdc.gov/wonder/help/AIDS/MMWR-12-18-1992.html; Dennis H. Osmond, *Epidemiology of Disease Progression in HIV, in* HIV INSITE KNOWLEDGE BASE (1998), *available at* http://hivinsite.ucsf.edu/InSite?page=kb-00&doc=kb-03-01-04.
[10] *See* Osmond, *supra* note 9, at 27.

appearance of an AIDS-defining illness or a CD4+ count below 200/µl now marks entry into the advanced stage of HIV disease,[11] not an independent "new" disease.

In addition, AIDS no longer means that someone has reached the conclusion of the disease, because of the advent of antiretroviral therapy (ART) and, in 1995, highly-active antiretroviral therapy.[12] For that reason, the panel has the science wrong when it concludes that "an AIDS sufferer's symptoms (and their effect on her major life activities) differ from those of someone who is HIV-positive but has not yet developed AIDS." Op. at 12, n.4. For some persons, ART slows, or even to a certain degree temporarily reverses, the disease's progress.[13] The treatment does not, however, end the disabling symptoms from HIV and its treatment described in Part II of this brief. Once a patient is diagnosed with AIDS, the diagnosis never goes away, even if she no longer has an AIDS-defining illness and/or her CD4+ count rises above 200/µl.[14] With ART, what was once considered the "last stage" of the disease can last for many, many years.[15]

## II. The label "HIV" or "AIDS" has little or no relevance to the question whether someone's HIV disease and its treatment substantially limit one of more of her life activities.

HIV disease can be disabling in each of its stages, and many of the symptoms associated with pre-AIDS HIV disease also occur after an individual is formally diagnosed with AIDS.

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[11] Mayer, *supra* note 6, at 183 (citing J. Kilby & M. Saag, *Natural History of HIV-1 Disease, in* TEXTBOOK OF AIDS MEDICINE 55).

[12] Protease inhibitors and non-nucleotide reverse transcriptase inhibitors were added to antiretroviral treatment regimens in 1995 and the resulting therapy was labeled highly active antiretroviral therapy (HAART). Andrea Rubbert *et al.*, *Pathogenesis of HIV-1 Infection,* HIV MEDICINE 2007, 59.

[13] Christian Hoffman & Fiona Mulcahy, *ART 2007*, *in* HIV MEDICINE 2007, 89, 90, 160-65, 182-84.

[14] *CDC 1993 Revised Classification System, supra* note 9, at 3-4; Kamps & Hoffmann, *supra* note 5, at 26-27.

[15] Bruce R. Schackman *et al.*, *The Lifetime Cost of Current Human Immunodeficiency Virus Care in the United States*, 44 MED. CARE 990, 994 (2006).

There are a number of symptoms that result from the increased susceptibility to infection by OIs caused by the virus's attack on the immune system, and not all OIs caused by HIV infection fall on the AIDS-defining Category C list.[16] For example, patients with HIV are at high risk of contracting human papilloma virus (HPV), shingles (herpes zoster), yeast infections (*e.g.*, oral candidiasis), seborrheic dermatitis, and psoriasis, with or without an AIDS diagnosis.[17]

Persons with HIV disease experience a number of symptoms from conditions other than OIs whose presence does not depend on an AIDS diagnosis. One such condition is lipodystrophy, noted in an estimated 30-50 percent of HIV patients, which is marked by metabolic difficulties and abnormal distribution of fat throughout the body. This condition can cause gastrointestinal symptoms, insulin resistance and glucose intolerance, and creates a significant risk of developing cardiovascular disease.[18] Additionally, many patients also present "idiopathic HIV fatigue," a condition that causes patients to wake refreshed and alert, only to become exhausted from performing minor tasks.[19] Patients with HIV disease are at a markedly higher risk for a number of circulatory ailments, including premature atherosclerosis and other coronary artery disease,[20] pulmonary hypertension,[21] a number of serious blood-related conditions,[22] and peripheral neuropathies.[23] Both HIV and AIDS can result in depression,

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[16] *CDC 1993 Revised Classification System*, *supra* note 9, at 27 (Category B conditions include OIs).
[17] *See* Helmut Schoefer *et al.*, *HIV-associated Skin and Mucocutaneous Diseases*, *in* HIV MEDICINE 2007 581, 581-82.
[18] *See* Georg Behrens & Reinhold E. Schmidt, *Lipodystrophy Syndrome*, HIV MEDICINE 2007, 293, 293-95.
[19] Lisa Capaldini, *Symptom Management Guidelines*, *in* HIV INSITE KNOWLEDGE BASE (2004), *available at* http://hivinsite.ucsf.edu/InSite?page=kb-00&doc=kb-03-01-06.
[20] *See* Till Neumann, *HIV and Cardiac Diseases*, *in* HIV MEDICINE 2007, 617.
[21] Georg Friese *et al*., *HIV-associated Pulmonary Hypertension*, *in* HIV MEDICINE 2007, 627.
[22] *See* Donald W. Northfelt, *Hematologic Manifestations of HIV, in* HIV INSITE KNOWLEDGE BASE (1998), a*vailable at* http://hivinsite.ucsf.edu/InSite?page=kb-00&doc=kb-04-01-09.

anxiety, adjustment disorder, and panic disorders,[24] with major depression reported at rates as high as 40 percent.[25] HIV infection, regardless of its stage, continues to present challenges to procreation.[26] Ms. Stewart experienced symptoms common to multiple stages of HIV, including depression, low platelet counts, and barriers to procreation. Stewart Decl. at 2-4, ¶¶ 7, 11, 16-19, District Court Docket No. 28.

The side effects from the treatment of HIV disease, including AIDS, can also be significantly disabling. While ART has proven highly effective at slowing and even reversing the course of the illness,[27] the treatment causes a number of side effects, including problems with gastrointestinal function, such as severe diarrhea, loss of appetite, and stomach upset; elevated liver function levels; disruption of kidney functions; osteoporosis; neurological troubles; blood defects; avascular necrosis;[28] and "drug eruptions," which include various severe allergic reactions to ART.[29] Ms. Stewart suffered from some of the disabling side effects of HIV treatment, including nausea, chronic diarrhea and loss of appetite. Stewart Decl. at 2, ¶ 6.

Ms. Stewart attributed her disabling conditions to AIDS or HIV/AIDS, *see, e.g., id.* at 2-3, ¶¶ 7, 11, but most of her limitations resulted from symptoms common to all stages of HIV disease, and all were caused by her HIV infection.

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[23] Thorsten Rosenkranz & Christian Eggers, *Neuromuscular Diseases*, *in* HIV MEDICINE 2007, 653.
[24] *See* Mayer, *supra* note 6, at 184.
[25] *See* Susanne Tabrizian & Oliver Mittermeier, *HIV and Psychiatric Disorders*, *in* HIV MEDICINE 2007, 665.
[26] Ulrike Sonnenberg-Schwan *et al.*, *HIV and [the] Wish for Parenthood*, *in* HIV MEDICINE 2007, 685-90.
[27] ART does not completely eliminate the impairment caused by HIV, since HIV remains in the bloodstream and its progress and many of its symptoms continue.
[28] *See* Christiane Schieferstein & Thomas Buhk, *Management of Side Effects*, *in* HIV MEDICINE 2007, 273-86.
[29] *See* Schoefer, *supra* note 17, at 585-86.

## CONCLUSION

The panel erred when it relied on a distinction between HIV and AIDS that is not supported by the medical research about HIV disease. HIV and AIDS are not separate diseases, but different stages of one disease that creates disabling symptoms at all stages. Whether an individual has a disability for purposes of the ADA depends on whether the impairment limits any major life activity, 42 U.S.C. § 12102(2), not on the name given the condition. This Court should grant the EEOC's petition, reverse the judgment of the District Court, and remand for further proceedings.

Dated: November 20, 2008

Respectfully submitted,

*Amici curiae* AIDS Resource Center of Wisconsin, American Academy of HIV Medicine, Association of Nurses in AIDS Care, HIV Medicine Association, Howard Brown Health Center, Physician Assistant AIDS Network, Lesbian, Bisexual, Gay and Transgender Physician Assistant Caucus, Audrey French, M.D., Mardge Cohen, M.D., Renslow Sherer, M.D., and Infectious Disease Specialists of Chicago, LLC

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Pursuant to Fed. R. App. P. 32(a)(7)(C), the undersigned certifies that the foregoing brief complies with the type-volume limitations as follows:

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3. The undersigned understands a material misrepresentation in completing this certificate, or circumvention of the type-volume limits in Fed. R. App. P. 32(a)(7)(C), may result in the Court's striking the brief and imposing sanctions against the person signing this brief.

________________________________
John A. Knight

## Addendum A

The **AIDS Resource Center of Wisconsin** ("ARCW") is a statewide, nonprofit, non-stock corporation organized in 1985. The ARCW employs 140 people and serves over 3,000 individuals with HIV/AIDS in the state of Wisconsin by providing health, housing, social, legal and prevention services. Since its inception, the ARCW's legal program has offered essential legal services to individuals with HIV/AIDS, including defending the rights of individuals with HIV/AIDS when such persons have been treated discriminatorily based on their HIV status. This case raises just such an issue in the context of a potential employer refusing to hire an individual based on her HIV status. In basing its decision on the distinction between HIV and AIDS, the panel has confused long-understood notions of what it means to be HIV positive and to have AIDS. The ARCW therefore has a significant interest in the proper resolution of this case.

The **American Academy of HIV Medicine** ("AAHIVM") is an independent organization of AAHIVM HIV Specialists™ and others dedicated to promoting excellence in HIV/AIDS care. Through advocacy and education, AAHIVM is committed to supporting health care providers in HIV medicine and to ensuring better care for those living with AIDS and HIV disease. As the largest independent organization of HIV frontline providers, its 2,000 members provide direct care to more than 340,000 HIV patients (more than two thirds of the patients in active treatment for HIV disease). AAHIVM has a diverse membership composed of infectious disease, internal medicine, family practitioners and general practice specialists as well as nurse practitioners and physician's assistants. AAHIVM is concerned that courts use accurate medical and scientific information about HIV/AIDS and its symptoms and that employment

discrimination laws are properly enforced to help prevent inequitable treatment of persons with HIV/AIDS because of their disease.

The **Association of Nurses in AIDS Care** ("ANAC") is the only national professional association specifically for HIV/AIDS nurses. It is a nonprofit organization with an annual membership of more than 2,500 committed to fostering the individual and collective professional development of nurses involved in the delivery of health care to persons infected or affected by HIV and to promoting the health, welfare, and rights of all HIV-infected persons. ANAC is concerned that courts use accurate medical and scientific information about HIV/AIDS and its symptoms and that employment discrimination laws are properly enforced to help prevent inequitable treatment of persons with HIV/AIDS because of their disease.

The **HIV Medicine Association** ("HIVMA"), nested within the Infectious Diseases Society of America (IDSA), represents more than 2,700 physicians and other health care providers who practice HIV medicine. HIVMA's members represent forty-nine states, the District of Columbia, Puerto Rico, the Virgin Islands, and thirty-six countries outside of the United States. HIVMA is concerned that courts use accurate medical and scientific information about HIV/AIDS and its symptoms and that employment discrimination laws are properly enforced to help prevent inequitable treatment of persons with HIV/AIDS because of their disease.

**Howard Brown Health Center** ("Howard Brown") is the Midwest's premier lesbian, gay, bisexual, and transgender (LGBT) health care organization and leads the region in addressing the comprehensive health care needs of people in the LGBT community. Howard Brown currently provides primary medical care to approximately 1,700 persons living with HIV/AIDS, making it one of the largest providers of HIV care services in the Midwest. It also

provides HIV testing and prevention, HIV/AIDS case management and support services, and counseling and psychotherapy for people living with HIV/AIDS. Howard Brown is concerned that courts use accurate medical and scientific information about HIV/AIDS and its symptoms and that employment discrimination laws are properly enforced to help prevent inequitable treatment of persons with HIV/AIDS because of their disease.

The **Physician Assistant AIDS Network** ("PAAN") is an officially recognized caucus of the American Academy of Physician Assistants (AAPA) which is a national, nonprofit, non-stock corporation. As an association of physician assistants (PAs) practicing in HIV and AIDS Medicine, we are very aware of the physical, emotional and social effects of discriminatory treatment of people with HIV/AIDS. This case of a potential employer refusing to hire an individual based on her HIV status is illustrative of the sort of discrimination that plagues our patients.. In basing its decision on the distinction between HIV and AIDS, the panel has confused long-understood notions of what it means to be HIV positive and to have AIDS. The PAAN therefore has a significant interest in the proper resolution of this case.

**Lesbian, Bisexual, Gay and Transgender Physician Assistant Caucus** ("LBGT PA") is a national, non-stock, nonprofit corporation organized in the state of Wisconsin in 1979. LBGT PA is a voluntary, member-driven organization of PAs, PA students and supports, that seeks to achieve healthcare equality by decreasing health disparities related to sex, sexual orientation, gender identity or expression, and HIV or marital status and other social determinants of health; and by reducing barriers to achieving one's full potential. Among our organizational values are evidence-based medicine and a commitment to society. The decision of the panel is inconsistent with the scientific evidence on HIV and the disease process it represents. This decision further creates a barrier for members of society to achieve their full

potential, regardless of HIV status. LBGT PA therefore has a significant interest in resolving this case with consideration for the understanding of HIV and AIDS as defined by scientific evidence.

**Audrey French, M.D.** is an Infectious Disease physician at Stroger Hospital and the CORE Center and has been taking care of people with HIV for the last 17 years. Currently, she cares for about 120 persons with HIV and also provides care and consultation for HIV-infected hospitalized patients. She is an Associate Professor at Rush University and has participated in a number of NIH epidemiologic studies on the course and complications of HIV disease. She is the Director of Research at the CORE Center and oversees a department which runs many clinical and observational studies of HIV in women, including pregnant women, men and children. Dr. French is concerned that courts use accurate medical and scientific information about HIV disease and its symptoms and that employment discrimination laws are properly enforced to help prevent and remedy inequitable treatment of persons with HIV/AIDS.

**Mardge Cohen, M.D.** has practiced medicine at Cook County Hospital for the last 32 years. She founded and directed the Cook County Women and Children's Project until 1999, and then from 2000 to 2007, she was the Director of Women's HIV Research at the CORE Center. She is the Principal Investigator for the Chicago site of the National Institute of Health (NIH) funded Women Interagency HIV Study and directs Illinois' statewide Perinatal Rapid Testing Implementation program. She has provided medical care for hundreds of women with HIV in the Chicago area and heard their frequent descriptions of workplace HIV discrimination. Dr. Cohen is concerned that courts use accurate medical and scientific information about HIV disease and its symptoms and that employment discrimination laws are properly enforced to help prevent and remedy inequitable treatment of persons with HIV/AIDS.

**Renslow Sherer, M.D.** is a Professor of Medicine in the Section of Infectious Diseases at the University of Chicago. He has extensive experience in international HIV and STI prevention, care, research, training, and health policy, in the primary care approach to HIV and TB, adherence to anti-retroviral therapy (ART) and in model care programs for women and children, people with chemical dependency, and the medically indigent. Dr. Sherer founded the first HIV clinic in Chicago at Cook County Hospital in 1982, the AIDS Foundation of Chicago in 1985, the Chicago Community Programs for Clinical Research in 1988, and then led the clinical team which designed the CORE Center, a model ambulatory facility for HIV and related infectious diseases which opened in Chicago in October 1998. He has numerous international publications on the clinical and social impact of the HIV pandemic. Dr. Sherer is a member of the US HHS HIV/AIDS Treatment Guideline Panel, the 'Free ART' Guideline Panel in China, and the Global AIDS Learning Exchange Network (GALEN). Dr. Sherer is concerned that courts use accurate medical and scientific information about HIV disease and its symptoms and that employment discrimination laws are properly enforced to help prevent and remedy inequitable treatment of persons with HIV/AIDS.

**Infectious Disease Specialists of Chicago, LLC (IDSC)** employs 13 Infectious Disease physicians and currently serves 700 individuals with HIV/AIDS in the Chicago/Metropolitan area at Rush University Medical Center. IDSC physicians have been involved in advancing the treatment of persons with HIV/AIDS since 1987 via an NIH-sponsored research program. IDSC physicians have worked to defend the rights of individuals with HIV/AIDS when such persons have been treated discriminatorily based on their HIV status. This case raises just such an issue in the context of a potential employer refusing to hire an individual based on her HIV status. In basing its decision on the distinction between HIV and AIDS, the panel has confused long-

understood notions of what it means to be HIV positive and to have AIDS. IDSC therefore has a significant interest in the proper resolution of this case.

**CERTIFICATE OF SERVICE**

I, John A. Knight, hereby certify that on the 20th day of November, 2008 I served to the persons shown below the foregoing BRIEF OF *AMICI CURIAE* AIDS RESOURCE CENTER OF WISCONSIN, AMERICAN ACADEMY OF HIV MEDICINE, ASSOCIATION OF NURSES IN AIDS CARE, HIV MEDICINE ASSOCIATION, HOWARD BROWN HEALTH CENTER, PHYSICIAN ASSISTANT AIDS NETWORK, LESBIAN, BISEXUAL, GAY, AND TRANSGENDER PHYSICIAN ASSISTANT CAUCUS, AUDREY FRENCH, M.D., MARDGE COHEN, M.D., RENSLOW SHERER, M.D., and INFECTIOUS DISEASE SPECIALISTS OF CHICAGO, LLC IN SUPPORT OF PLAINTIFF-APPELLANT, URGING REHEARING EN BANC, by U.S. Mail, postage prepaid, as set forth below:

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John A. Knight