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SAN FRANCISCO COUNTY
SUPERIOR COURT

2004-03-12 PM 12:56
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16 DEBORAH HART, COREY DAVIS and ANDRE LEJEUNE, RACHEL LEDERMAN AND
ALEXIS BEACH, OUR FAMILY COALITION and EQUALITY CALIFORNIA

17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF SAN FRANCISCO

19 CITY AND COUNTY OF SAN FRANCISCO,
a charter city and county,
Petitioner/Plaintiff,

20 v.

21 STATE OF CALIFORNIA, et al.,
Defendants.

Case No. 504-038
Consolidated with Case No. 429-539
Judicial Council Coordination Proceeding
No. 4365, Marriage Cases
Complaint filed: March 12, 2004

23 LANCY WOO and CRISTY CHUNG, et al.,
Petitioners/Plaintiffs,

24 v.

25 BILL LOCKYER, in his official capacity as
Attorney General of the State of California, et al.,
26 Respondents/Defendants,

27 and

28 THE STATE OF CALIFORNIA,
Defendant.

**SECOND AMENDED PETITION FOR
WRIT OF MANDATE AND
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

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2 GENERAL ALLEGATIONS

3 1. Petitioners/Plaintiffs (hereinafter "Petitioners") in this action are: members of ten
4 same-sex couples who wish to marry their same-sex partners but have been prevented from doing
5 so by California's discriminatory marriage law; Our Family Coalition, a San Francisco Bay Area
6 organization dedicated to promoting the civil rights and well-being of families with lesbian, gay,
7 bisexual, and transgender members; and Equality California, the leading state-wide advocacy
8 group for same-sex couples and their children in California. Many members of Our Family
9 Coalition and Equality California are individuals living in California who desire and intend to
10 marry their same-sex partners but have been prevented from doing so by California's
11 discriminatory marriage law. Each of the individual Petitioners is an unmarried male or an
12 unmarried female over the age of eighteen years who is not otherwise disqualified from eligibility
13 for marriage and who is capable of consenting to and consummating marriage. Eight of the
14 Petitioner couples had appointments to obtain marriage licenses at San Francisco City Hall, but
15 their appointments were cancelled as a result of the March 11, 2004 order of the California
16 Supreme Court directing San Francisco to stop issuing marriage licenses to same-sex couples.
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19 2. In addition to the tangible losses resulting from excluding same-sex couples from
20 the legal rights and responsibilities of marriage, denying two people in a loving, committed
21 relationship the right to marry one another, solely because they are a same-sex couple, deprives
22 that couple of the substantial personal and social advantages conferred by marriage. Excluding
23 same-sex couples from marriage deprives the individuals who are members of those couples of the
24 opportunity to enter into the one legally-recognized, government-sanctioned relationship that is
25 most widely recognized as a symbol of love and commitment and that automatically is afforded
26 great societal respect. Being excluded from this valued institution brands same-sex couples and
27 their families with a stigma of inferiority. Moreover, because this stigma is imposed by the
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1 government, the exclusion of same-sex couples from marriage sends a powerful message that
2 discrimination against lesbian and gay people and their families is acceptable, thereby encouraging
3 private discrimination and bias as well. The negative impact of this government-imposed stigma
4 on same-sex couples and their children is profound.

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6 3. Excluding same-sex couples from marriage denies those couples and the
7 individuals who are members of those couples the ability to express to one another, to their
8 children and extended family members, and to others the full depth and importance of their
9 commitment to one another, that their commitment is as meaningful as the commitment of others
10 who are married, and that they and their families are as deserving of equal treatment and dignity as
11 different-sex couples and their families.

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13 4. Excluding same-sex couples from marriage denies those couples and the
14 individuals who are members of those couples the rights, benefits, and responsibilities that
15 automatically are given to married spouses under state and federal law. These rights and
16 responsibilities include such things as: decision-making authority for funeral arrangements and
17 disposition of remains; the right to bereavement leave in the event of a partner's death; the right to
18 take sick leave to care for a sick partner; parental rights and responsibilities, including the
19 presumption that both spouses are the legal parents of a child born as a result of assisted
20 reproduction; access to family courts in the event of dissolution; the right to file joint income
21 taxes; community property rights and obligations; evidentiary privileges; protection from threats
22 and crimes against the families of public officials; death benefits for surviving partners of
23 firefighters and police officers; responsibility to disclose certain conflicts-of-interest; joint
24 assessment of income for determining eligibility for state and federal government assistance
25 programs; the right to social security survivor benefits; the ability to inherit a deceased partner's
26 401(k) or other retirement account without incurring a tax penalty; and the ability to petition for
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1 permanent residence for a foreign national partner. Although some of these rights will be
2 provided to registered domestic partners in California pursuant to A.B. 205 (2003), many
3 provisions of that law do not become operative until January 1, 2005, approximately five months
4 from now. Moreover, even when the remaining provisions of A.B. 205 become operative,
5 registered domestic partners still will be denied some of the rights and responsibilities of married
6 couples under California law. Registered domestic partners still will be deprived of the strongest
7 basis to claim any of the rights and responsibilities of married couples under federal law. They
8 still will be denied, the strongest basis to claim any of the rights and responsibilities given to
9 married couples in other jurisdictions, including jurisdictions that currently are respecting the
10 marriages of same-sex couples. They still will be denied the opportunity to express their love for
11 and commitment to one another in the one way that is most universally understood. And they still
12 will be treated as second-class citizens unworthy of exercising the right to marry.
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15 5. In addition to injunctive relief, Petitioners seek a declaration that California's
16 marriage statutes either permit same-sex couples to marry or, in the alternative, that any statute
17 prohibiting same-sex couples from marrying unconstitutionally discriminates on the basis of sex
18 and sexual orientation and otherwise violates the California Constitution. Petitioners also seek a
19 writ of mandate pursuant to Code of Civil Procedure §§ 1085 and 1087 commanding: (a) that the
20 State Registrar of Vital Statistics prescribe and furnish forms for the application for license to
21 marry, the certificate of registry of marriage including the license to marry, and the marriage
22 certificate that do not discriminate on the basis of sex or sexual orientation and that are consistent
23 with the equal protection, privileges and immunities, liberty, privacy, intimate association,
24 freedom of expression, and expressive association guarantees of the California Constitution; (b)
25 that the State Registrar of Vital Statistics implement and enforce Health and Safety Code Division
26 102, Part 1, without discriminating on the basis of sex or sexual orientation, including without
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1 limitation that the State Registrar of Vital Statistics take all steps necessary, including the
2 preparation and issuance of detailed instructions as may be required, to procure the uniform
3 observance of Division 102, Part 1 throughout the State of California without discrimination on
4 the basis of sex or sexual orientation and in a manner that is consistent with the equal protection,
5 privileges and immunities, liberty, privacy, intimate association, freedom of expression, and
6 expressive association guarantees of the California Constitution; (c) that the Attorney General
7 carry out his statutory duty to assist in the enforcement of Division 102, Part 1 without
8 discriminating on the basis of sex or sexual orientation and without infringing the equal protection,
9 privileges and immunities, liberty, privacy, intimate associations, freedom of expression and
10 expressive association guarantees of the California Constitution; and (d) that the Attorney General
11 apply and enforce California's marriage laws consistently with the equal protection, privileges and
12 immunities, liberty, privacy, intimate association, freedom of expression, and expressive
13 association guarantees of the California Constitution.
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16 PARTIES

17 Petitioners

18 6. Lancy Woo and Cristy Chung, who are thirty-eight and forty years old,
19 respectively, are a same-sex couple who have been in a committed relationship for sixteen years.
20 They are registered domestic partners with the State of California. Lancy runs her own small
21 business, and Cristy is a stay-at-home mom for their six-year-old daughter Olivia. Previously,
22 Cristy worked for the Asian Women's Shelter. Lancy, Cristy, and Olivia live in San Francisco.
23 Lancy and Cristy want to marry to ensure that their family will be protected if either of them
24 should die or become incapacitated, particularly because Lancy is currently the family's primary
25 wage earner. Lancy and Cristy had an appointment to be married at San Francisco City Hall on
26 March 30, 2004. Lancy, Cristy, and Olivia had waited in line for seven hours at City Hall on
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1 February 15, 2004, three days after the San Francisco County Clerk had begun issuing licenses to
2 same-sex couples. It was devastating to have waited there all day with their child and have to go
3 home without being able to get married. Subsequently, Cristy and Lancy spent several days on the
4 phone until they finally were able to make an appointment for March 30th. They were looking
5 forward to getting married with much anticipation. Having their appointment cancelled and being
6 denied the right to marry has been extremely distressing. Cristy and Lancy wish to marry so they
7 can express the depth of their commitment to one another and to their family and community.
8 They want their daughter to be able to tell her friends that her parents are married, and they want
9 their daughter to know that her family is treated and respected equally to families headed by
10 heterosexual parents. Cristy and Lancy also want the societal acceptance and respect that is given
11 to married couples, as well as the security of knowing that others automatically will understand
12 the nature of their relationship and therefore that they will not have to suffer the indignity and
13 practical burden of having to explain their relationship to others.
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16 7. Joshua Rymer and Timothy Frazer, who are forty-seven and forty-two years old,
17 respectively, are a same-sex couple who have been together ten and a half years. They live in San
18 Francisco and Sonoma, splitting their time between two residences. Timothy is the Chief
19 Technology Officer for a software start-up company. Joshua is a Senior Vice-President for
20 Charles Schwab & Company in San Francisco. They met in 1994 and exchanged wedding rings in
21 a private ceremony in 1995. They are registered domestic partners with the State of California.
22 They hold joint title on all their property and have taken a number of other steps to protect their
23 relationship, including having wills and other documents prepared. Despite taking these steps,
24 they understand that there are many rights and protections that can be obtained only through
25 marriage, such as the right of a spouse to inherit the other spouse's 401(k) account without
26 incurring a tax penalty, the right to numerous other tax protections under both state and federal
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1 law, the right to acquire and hold property as community property, the right to take bereavement
2 leave upon the death of a spouse, and many others. They wish to marry to obtain these protections
3 and so that their relationship will be treated with the same understanding and respect as that of
4 other married couples. When they learned that same-sex couples were able to marry in San
5 Francisco, they were elated. They had an appointment to be married at San Francisco City Hall at
6 on March 17, 2004. They were planning to have a small ceremony at City Hall, to be followed by
7 a reception and renewal of vows at their home in Sonoma. When they learned that they would be
8 denied the right to marry, they were devastated and deeply concerned about their ability to protect
9 their relationship. Joshua and Timothy wish to marry to express their love and commitment to one
10 another and to their family and friends. They wish to marry so that others will understand and
11 respect their relationship. They also wish to marry because they have seen that marriage provides
12 couples with unique emotional and social supports and helps to strengthen relationships.

15 8. Jewelle Gomez and Diane Sabin, who are fifty-five and fifty-one years old,
16 respectively, are a same-sex couple who have been in a committed relationship for eleven years.
17 They have lived together in San Francisco for all of that time. Jewelle and Diane are registered as
18 domestic partners with the City and County of San Francisco and with the State of California.
19 Jewelle is the Program Director at the San Francisco Arts Commission and a well-known author.
20 Diane is a chiropractor. Diane and Jewelle intended to marry as soon as they could obtain a
21 marriage license. When Jewelle recently had surgery, Diane and Jewelle had to return home after
22 leaving for the hospital to get all of their documents to ensure that Diane would be entitled to
23 make medical decisions for Jewelle should she become incapacitated. They wish to marry so that
24 the nature of their relationship will be readily understood by health care providers and others.
25 Over the years, Diane and Jewelle have had to pay thousands of dollars to have trusts and other
26 estate planning documents created in an effort to protect one another in the event of either
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1 partner's illness, disability, or death. Jewelle and Diane pay full taxes, and would like to be
2 treated by their government as full and equal citizens, including having an equal right to marry.
3 They believe that being denied the right to marry brands them as second-class members of society
4 and is a form of government censorship that prevents them from expressing their deeply-held
5 belief that they are equal to different-sex couples.
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7 9. Myra Beals and Ida Matson, who are sixty-two and sixty-eight years old,
8 respectively, are a same-sex couple who have been in a committed relationship for twenty-seven
9 years. They reside in Mendocino, California. They had an appointment to be married at San
10 Francisco City Hall on March 12, 2004 – one day after the California Supreme Court ordered San
11 Francisco to stop issuing marriage licenses to same-sex couples. Friends and family had made
12 plans to join them in San Francisco on March 12 to celebrate their marriage. Myra and Ida
13 registered as domestic partners with the State of California as soon as the registry became
14 available in 2000. Throughout her years working for the Santa Clara County Transportation
15 Agency, Ida paid thousands of dollars into the California Public Employees Retirement System.
16 Unlike married spouses, however, Myra will not be entitled to Ida's retirement funds if Ida
17 predeceases her. Accordingly, Myra and Ida have had to spend \$3,311.00 per year for additional
18 life insurance on Ida so that Myra will not be destitute if Ida should die first. After Myra retired,
19 she was unable to receive health insurance through Ida's COBRA coverage because she and Ida
20 were not married. As a result, Myra was forced to find other very scarce group coverage at a
21 considerably higher cost. This was particularly difficult because of Myra's history of breast
22 cancer. Myra ended up having to pay a monthly premium of \$521.88 for health coverage.
23 Because they are not married, Myra and Ida have had to expend considerable time and money to
24 create complicated estate plans to ensure that they will both be protected in the event of either
25 partner's death, illness, or disability. In addition to these and many other tangible rights and
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1 protections they have been denied in their twenty-seven years together, there have also been
2 countless times when people – including their own family – have failed to acknowledge or respect
3 Myra and Ida’s relationship because they are not married. Myra and Ida wish to marry so that
4 they will be treated with the societal respect that is given to married couples. They also wish to
5 marry so that they can fully express the longevity, depth, and importance of their commitment to
6 one another. Myra and Ida traveled to San Francisco on March 11, 2004, in anticipation of finally
7 being able to marry one another the following day. Instead, upon their arrival in San Francisco,
8 they learned that, after being together for many years, they would be denied the right to marry and
9 would continue to be treated as second-class citizens, unworthy of equal treatment by their
10 government.
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12 10. Arthur Frederick Adams and Devin Wayne Baker, who are both thirty-nine years
13 old, are a same-sex couple who have been in a committed relationship for almost four years. They
14 are registered as domestic partners with the State of California. They live in Mountain View,
15 California. Arthur asked Devin to marry him more than two years ago, and Devin said yes. They
16 wish to marry because they have made a permanent commitment to one another and because they
17 want to ensure that their relationship is fully protected under the law, so that they can care for one
18 another, support one another, and assume responsibility for one another. Arthur and Devin had an
19 appointment to be married at San Francisco City Hall at 3 p.m. on March 11, 2004. They bought
20 wedding rings and arrived at San Francisco City Hall about 2:45 p.m. on March 11, along with
21 several family members and friends who were there to witness and celebrate their wedding.
22 Arthur and Devin were in the process of completing an application for a marriage license when
23 they were informed that no further marriage licenses would be issued to same-sex couples. Arthur
24 and Devin were unable to obtain a marriage license or to marry. Being denied the right to marry
25 was devastating to them. They want their families, friends, and the public to know that they have
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1 made a permanent commitment to one another. They want the societal respect given to married
2 couples. They do not want to have to explain the nature of their relationship to others or to have to
3 worry that their relationship may not be respected in a health care emergency or other crisis.
4 Arthur and Devin also want the right to express their love and commitment for one another
5 through marriage.
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7 11. Jeanne Rizzo and Pali Cooper, who are fifty-seven and forty-eight years old,
8 respectively, are a committed same-sex couple who have been together fifteen years. They are
9 registered as domestic partners with the State of California. They have owned a home together for
10 over seven years. Jeanne is the executive director of the Breast Cancer Fund. Pali is a
11 chiropractor. Jeanne has a twenty-four year old son from a prior relationship. Jeanne and Pali
12 want to marry to ensure that they will be able to take care of each other as they grow older and that
13 they will be adequately protected if one of them becomes seriously ill. They would like to retire in
14 the Northwest at some point in the next few years; however, they are afraid to do so because they
15 are fearful that their rights as domestic partners may not be honored if they move outside of
16 California. Jeanne and Pali had an appointment to be married at San Francisco City Hall at 3:00
17 p.m. on March 11, 2004. They arrived at San Francisco City Hall on that date, accompanied by
18 about fifty family members and friends, including many who had traveled from out-of-town and
19 out-of-state. The entire staff and Board of Directors of the Breast Cancer Fund also was present.
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21 After years of being treated as inferior to heterosexual married couples, which had taken a
22 tremendous emotional toll on their entire family, including Jeanne's son, Jeanne and Pali were
23 very excited to finally be able to marry one another. Jeanne and Pali were on the steps of City
24 Hall with Jeanne's son and Pali's sisters and cousin at about 2:45 p.m. when they were told that no
25 more marriage licenses could be granted. The disappointment on Jeanne's son's face when his
26 mother was denied her marriage license was devastating to her. It is painful to Jeanne to know
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1 that her family is not treated equally under the law or given the same societal respect as families
2 headed by married couples. Jeanne and Pali wish to marry to express their love and commitment
3 to one another, to gain the societal respect given to married couples, and to benefit from the many
4 other ways that marriage strengthens and supports a relationship.

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6 12. Karen Shain and Jody Sokolower, both of whom are fifty-five years old, are a
7 committed same-sex couple who have been together thirty-two years. They are registered as
8 domestic partners in California. Together, Karen and Jody raised a child, Adinah for seven years,
9 from the age of three until the age of ten. They also have a daughter, Ericka, who is now 14 years
10 old. Karen and Jody own a home together in Berkeley. Because they are unable to marry one
11 another, Karen and Jody have experienced discrimination throughout their thirty-two year
12 relationship. Karen fears that Ericka would not be adequately protected because she and Jody are
13 not married, and worries what would happen to Ericka if she were to pass away. On February 15,
14 2004, Jody and Karen went to San Francisco City Hall in hopes of getting married. They were
15 particularly excited because their now-adult daughter Adinah and her two daughters were in town
16 and were able to participate in their marriage ceremony. Their other daughter Ericka was to be
17 their maid of honor. They arrived at City Hall at 8 a.m. on Sunday morning. Because of the lines,
18 however, they were unable to get married that day. The earliest appointment they could get was
19 April 5, 2004 at 2:30 p.m. Karen and Jody told their family members about their appointment to
20 be married, and several friends and relatives were planning on attending their ceremony. When
21 Jody and Karen learned that they would not be able to marry due to the California Supreme
22 Court's order, they were extremely saddened, disappointed, and angry. Their daughter Ericka was
23 also deeply hurt by the situation. Ericka had expressed to both Jody and Karen how much she
24 had been looking forward to their marriage ceremony and how much it would mean to her for her
25 family to be treated equally under the law. Jody and Karen wish to marry to gain legal protections
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1 for their family, to express their love for one another, and to gain the peace of mind of knowing
2 that others will immediately understand the nature of their relationship. They want their daughter
3 to know that their family has the same legal status as families comprised of different-sex couples
4 and their children.

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6 13. Janet Wallace and Deborah Hart, who are fifty-one and forty-nine years old,
7 respectively, are a committed same-sex couple who have been together for thirteen years. Janet
8 and Deborah had a private wedding ceremony on January 11, 1992, although they were not able to
9 obtain a marriage license or to be married legally. They are registered as domestic partners in
10 California. In 2000, Janet was laid off from her job. Although Deborah was employed, her
11 employer did not provide health coverage to domestic partners. As a result, Janet was forced to
12 obtain private insurance. Janet would not have had to purchase this private insurance if she and
13 Deborah had been married. Although Deborah's employer now provides domestic partner health
14 benefits, Deborah is taxed on the value of those benefits. Married spouses do not have to pay
15 taxes on the value of spousal benefits. Because they are not married, Deborah and Janet also are
16 concerned that they will not be protected adequately when one of them passes away. To alleviate
17 these concerns to the extent possible under the current discriminatory laws, Deborah and Janet
18 spent significant sums of money in 1993 to have an attorney draft a living trust to have their
19 intentions carried out upon their deaths. Their fears that their intentions will not be honored are
20 exacerbated by the fact that their parents do not appreciate or acknowledge their relationship to
21 each other. Deborah and Janet desire to marry because they believe that legal marriage would not
22 only provide them with important legal protections and responsibilities, but also would help their
23 families understand their love and commitment to each other. They further wish to marry to
24 express their love to one another and to make a public commitment to one another.
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1 14. Corey Davis and Andre LeJeune, who are thirty-five and thirty-seven years old,
2 respectively, are a committed same-sex couple who have been together for six years. Corey and
3 Andre share financial obligations. They have a joint bank account and a joint credit card.
4 Because they are not married, Corey and Andre worry about being able to take care of each other
5 should one of them become sick. This concern is heightened because Corey is HIV-positive.
6 They believe that people would better understand the seriousness of their relationship if they were
7 married. Corey and Andre feel their relationship is diminished and disrespected every time they
8 have to fill out a form and indicate that they are "single." When San Francisco began issuing
9 marriage licenses to same-sex couples in February, Corey and Andre decided to marry. Corey
10 made an appointment for them to be married on March 16, 2004. They made honeymoon
11 reservations to go to Miami. On the day that they were scheduled to pick up their wedding rings
12 from the jeweler – March 10, 2004 – the California Supreme Court issued an order directing San
13 Francisco to stop issuing marriage licenses to same-sex couples. Andre and Corey are each
14 other's love, joy, and happiness. They want to marry and be each other's spouses to express their
15 commitment to one another and to make their commitment publicly understood. They want to
16 enjoy the same societal respect given to other legally married spouses. Corey and Andre have not
17 registered as domestic partners in California because they do not want to accept a second-class
18 status and believe that being treated unequally to heterosexual couples, solely because of their sex
19 and sexual orientation, is demeaning. Corey and Andre also have not registered as domestic
20 partners in California because they are concerned that even if they did register, their registration
21 might be challenged as they do not live together at present – something that is not required to
22 marry.

26 15. Rachel Lederman and Alexis Beach, who are both forty-four years old, are a
27 committed same-sex couple who have been together for seventeen years. They are registered as
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1 domestic partners in California. Rachel and Alexis have two children, Izak who is seven and
2 Raziell who is four. Prior to the births of Izak and Raziell, Rachel had a miscarriage. When they
3 were at the hospital, Alexis was not treated as Rachel's partner or as one of the parents because
4 Rachel and Alexis were not married. This was an extremely distressing and upsetting experience.
5 Alexis and Rachel have converted all of their assets to joint assets, to the extent possible under
6 current law, in order to help protect each other and their children; however, they know that they
7 will not be given the same rights and protections as married spouses when either of them dies.
8 They know that any transfer of property upon the death of one of them will be subject to taxes that
9 would not be imposed on a transfer to a spouse; they know that neither will be eligible for social
10 security benefits as a surviving spouse in the event of the other's death; and they know that neither
11 will receive the legal protections designed to protect the well spouse under federal Medicare
12 statutes if the other has to move into a nursing home or assisted living facility. When Alexis and
13 Rachel learned that San Francisco had begun issuing marriage licenses to same-sex couples, they
14 made an appointment to be married on March 25, 2004. Alexis and Rachel wanted to marry one
15 another, not only because it would help them protect each other and their children, but also
16 because of the positive impact that greater recognition and affirmation would have on their
17 children. Everyone was very excited about the upcoming marriage ceremony. Alexis and Rachel
18 invited friends and family and planned a celebration. Not being able to get married has been very
19 painful for the whole family.

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23 16. Our Family Coalition is a San Francisco Bay Area organization dedicated to
24 promoting the civil rights and well being of families with lesbian, gay, bisexual, and transgender
25 members through education, advocacy, social networking, and grassroots community organizing.
26 Our Family Coalition organizes social and educational events each month to inform the
27 community on legal, social, and parenting issues. Our Family Coalition has a membership of
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1 more than 500 families and hundreds of individuals and family organizations throughout the San
2 Francisco Bay Area. Many of Our Family Coalition's members wish and intend to marry their
3 same-sex partners, but have been prevented from doing so by California's discriminatory marriage
4 law.

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6 17. Equality California is the leading statewide advocacy group for same-sex couples
7 and their children in California. It is also California's largest lesbian, gay, bisexual, and
8 transgender civil rights organization, with thousands of members throughout the state. Many
9 Equality California members desire and intend to marry their same-sex partners in San Francisco,
10 but have been prevented from doing so by California's discriminatory marriage law. Equality
11 California was the official sponsor of both A.B. 25 (2001) and A.B. 205 (2003) in the California
12 Legislature. The statutes enacted by those bills provide extensive rights to those who register
13 with the state as domestic partners, but do not provide equal treatment between those who have
14 registered and those who are married. Currently, Equality California is the sponsor of the
15 Marriage License Non-Discrimination Act (A.B. 1967), authored by Assemblymember Mark
16 Leno. By virtue of Equality California's role as legislative sponsor of A.B. 25 (2001), A.B. 205
17 (2003), and A.B. 1967 (2004), Equality California and its members played an important role in the
18 passage of A.B. 25 and A.B. 205 and have assumed a continuing role in educating thousands of
19 same-sex couples throughout the State of California about the rights and responsibilities that
20 same-sex couples are denied by being excluded from marriage.
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22
23 **Respondents/Defendants and Defendant**

24 18. Respondent/Defendant Michael Rodrian has been delegated the position of State
25 Registrar of Vital Statistics by the former Director of Health Services, Diana M. Bonta. As State
26 Registrar, Michael Rodrian is charged, *inter alia*, with prescribing and furnishing the forms for the
27 application for license to marry, the certificate of registry of marriage including the license to
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1 marry, and the marriage certificate, *see* California Health & Safety Code § 103125, and more
2 comprehensively, with implementing and enforcing Health & Safety Code, Division 102, Part 1.
3 He is sued in his official capacity.

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5 19. Respondent/Defendant Bill Lockyer is the California Attorney General and is
6 charged with ensuring that the laws are uniformly and adequately enforced, with assisting in
7 enforcing the Health and Safety Code provisions regarding vital statistics upon request from the
8 State Registrar, and with all legal matters in which the State is interested. He is sued in his official
9 capacity.

10 20. Defendant the State of California (“Defendant” or “the State”) is a state organized
11 and existing under the Constitution of the State of California.

12
13 21. Respondents/Defendants Roes 1-100 are the entities and/or persons charged by
14 law with the duty of enforcing the California Family Code provisions challenged herein.
15 Petitioners will amend this Complaint and Petition to substitute their true names as their identities
16 become known. (Respondents/Defendants Michael Rodrian, Bill Lockyer, and Roes 1-100 are
17 collectively referred to herein as “Respondents/Defendants.”)

18 **VENUE**

19 22. Venue is proper in this Court as most of the Petitioners reside in San Francisco
20 and the claims arose in San Francisco.

21 **NATURE OF DISPUTE**

22
23 23. Excluding same-sex couples from the legal institution of marriage causes them to
24 suffer serious legal, financial, social, expressive, associational, and psychological harms. As a
25 result of being excluded from marriage, same-sex couples are denied the ability to express to one
26 another, to their children and extended family members, and to others the full depth and
27 importance of their commitment to one another, that their commitment is as meaningful as the
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1 commitment of others who are married, and that they and their families are as deserving of equal
2 treatment and dignity as different-sex couples and their families. Same-sex couples and the
3 individuals who are members of those couples are denied the social and psychological benefits of
4 being treated equally to different-sex couples who are married or who are legally eligible to marry.
5 They are denied the ability to have their relationship supported and strengthened in the multiple
6 ways that marriage helps spouses. They are denied important legal rights, benefits, and
7 responsibilities that help married couples stay together, care for one another, and protect one
8 another and their children. They are denied the legal protections that provide married couples with
9 financial and legal shelter in times of old age, sickness, disability, and death. They are denied the
10 social recognition and respect that marriage bestows on a relationship. They are denied the
11 enormous psychological benefits of marriage, as well as the psychological benefits of being
12 treated as an equal member of our society and of having the freedom to choose to exercise what
13 has long been recognized as one of our society's most cherished human rights.

16 24. On February 12, 2004, based on direction from San Francisco Mayor Gavin
17 Newsom ("Mayor Newsom"), San Francisco County Clerk Nancy Alfaro began issuing marriage
18 licenses to same-sex couples. Mayor Newsom concluded that denying licenses to same-sex
19 couples violated the California Constitution by, among other things, impermissibly discriminating
20 on the basis of sex and sexual orientation and that, having taken an oath to uphold the California
21 Constitution, he could not allow the exclusion of same-sex couples to continue. On information
22 and belief, since February 12, 2004, more than 4,000 same-sex couples obtained marriage licenses
23 in San Francisco and nearly 4,000 same-sex couples married there.

25 25. On February 13, 2004, two actions, which subsequently were consolidated, were
26 filed in San Francisco Superior Court, asking the court to halt San Francisco's issuance of
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1 marriage licenses to same-sex couples and to declare that the licenses already granted to same-sex
2 couples are invalid.

3 26. On February 25, 2004, three San Francisco residents filed an Original Petition in
4 the California Supreme Court seeking an immediate order commanding the County Clerk and her
5 agents to cease and desist from issuing marriage licenses to same-sex couples. On February 27,
6 the Attorney General filed an Original Petition with the California Supreme Court seeking an
7 order directing the City and County of San Francisco to cease and desist from issuing marriage
8 licenses to same-sex couples and to declare the invalidity of the licenses that have been granted to
9 same-sex couples.

10
11 27. On March 11, 2004, the California Supreme Court issued an order directing the
12 City and County of San Francisco to stop issuing additional marriage licenses to same-sex
13 couples.

14
15 **STATUTORY BACKGROUND**

16 28. California Family Code § 300 provides that: "Marriage is a personal relation
17 arising out of a civil contract between a man and a woman." The language restricting marriage to
18 "a man and a woman" was added by the California Legislature in 1977. Prior to that amendment,
19 the Family Code did not specify that marriage must be limited to different-sex couples.

20 29. Family Code § 301 provides that "an unmarried male of the age of 18 years or
21 older, and an unmarried female of the age of 18 years or older, and not otherwise disqualified, are
22 capable of consenting to and consummating marriage."

23
24 30. Family Code § 308.5, which was added to the Family Code by voter initiative and
25 became effective on March 8, 2000, provides that "only marriage between a man and a woman is
26 valid or recognized in California."

1 31. These laws have been and are now in full force and effect in the State of
2 California.

3 32. The statutory provisions challenged in this proceeding are the terms in the Family
4 Code §§ 300, 301, and 308.5 that have been relied upon by the State and by
5 Respondents/Defendants to restrict marriage to different-sex couples (hereinafter collectively, “the
6 challenged Family Code restrictions”).
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9 **FIRST CAUSE OF ACTION FOR DECLARATORY AND INJUNCTIVE RELIEF**

10 **(By All Petitioners Against All Respondents/Defendants and Defendant)**

11 33. Petitioners refer to and incorporate by reference herein the allegations of
12 paragraphs 1 through 32, inclusive.

13 34. Petitioners contend that, properly construed, the challenged Family Code
14 restrictions do not bar the issuance of marriage licenses or the marriage of same-sex couples and
15 that, if they do, those restrictions are unconstitutional and unenforceable. By contrast,
16 Respondents/Defendants contend that the challenged Family Code restrictions are constitutional
17 and bar same-sex couples from obtaining marriage licenses or marrying one another in California.
18 The State and the Attorney General are seeking to enforce their interpretation of the challenged
19 Family Code restrictions through litigation and other means. The State Registrar is declining to
20 issue a non-discriminatory marriage license application, a non-discriminatory certificate of
21 registry of marriage including the license to marry, and a non-discriminatory marriage certificate.
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23 35. Accordingly, an active controversy has arisen and now exists between Petitioners
24 and Respondents/Defendants and Defendant.
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26 36. To resolve this controversy, Petitioners request that, pursuant to California Code
27 of Civil Procedure § 1060, this Court declare:
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- a. that, to comply with the California Constitution, Family Code § 300 must be construed to allow otherwise qualified same-sex couples to marry; in the alternative, if this Court concludes that Family Code § 300 excludes otherwise qualified same-sex couples from the right to obtain marriage licenses or to marry in California, that such exclusion is void and unenforceable because it violates the state constitutional rights of same-sex couples and of individuals who are members of same-sex couples in that, among other things, any such exclusion impermissibly would: (i) discriminate on the basis of sex in violation of the Equal Protection and Privileges and the Immunities Clauses of the California Constitution (Article 1, sections 7(a) and 7(b)); (ii) discriminate on the basis of sexual orientation in violation of the Equal Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1, sections 7(a) and 7(b)); (iii) violate liberty interests protected by the Due Process Clause of the California Constitution (Article 1, section 7(a)); (iv) violate privacy interests protected by the Due Process and Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); (v) violate the right to intimate association protected by the Due Process and Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); and (vi) violate the rights to freedom of expression and expressive association protected by the free speech and association guarantees of the California Constitution (Article 1, sections 2-3).
- b. that Family Code § 301 does not exclude same-sex couples from the right to marry and cannot bar the issuance of marriage licenses to same-sex couples

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in California; in the alternative, if this Court concludes that Family Code § 301 does exclude same-sex couples from the right to obtain marriage licenses or to marry in California, that exclusion is void and unenforceable because it violates the state constitutional rights of same-sex couples and of individuals who are members of same-sex couples in that, among other things, any such exclusion impermissibly would: (i) discriminate on the basis of sex in violation of the Equal Protection and the Privileges and the Immunities Clauses of the California Constitution (Article 1, sections 7(a) and 7(b)); (ii) discriminate on the basis of sexual orientation in violation of the Equal Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1, sections 7(a) and 7(b)); (iii) violate liberty interests protected by the Due Process Clause of the California Constitution (Article 1, section 7(a)); (iv) violate privacy interests protected by the Due Process and Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); (v) violate the right to intimate association protected by the Due Process and Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); and (vi) violate the rights to freedom of expression and expressive association protected by the free speech and association guarantees of the California Constitution (Article 1, sections 2-3).

c. that Family Code § 308.5 does not apply to the issuance of marriage licenses in the State of California or to marriages entered in the State of California; in the alternative, if this Court concludes that Family Code § 308.5 does exclude same-sex couples from the right to obtain marriage

1 licenses or to marry in California, that such exclusion is void and
2 unenforceable because it violates the state constitutional rights of same-sex
3 couples and of individuals who are members of same-sex couples in that,
4 among other things, any such purported exclusion impermissibly would: (i)
5 discriminate on the basis of sex in violation of the Equal Protection and the
6 Privileges and Immunities Clauses of the California Constitution (Article 1,
7 sections 7(a) and 7(b)); (ii) discriminate on the basis of sexual orientation in
8 violation of the Equal Protection and the Privileges and Immunities Clauses
9 of the California Constitution (Article 1, sections 7(a) and 7(b)); (iii) violate
10 liberty interests protected by the Due Process Clause of the California
11 Constitution (Article 1, section 7(a)); (iv) violate privacy interests protected
12 by the Due Process and Privacy Clauses of the California Constitution
13 (Article 1, sections 7(a) and 1); (v) violate the right to intimate association
14 protected by the Due Process and Privacy Clauses of the California
15 Constitution (Article 1, sections 7(a) and 1); and (vi) violate the rights to
16 freedom of expression and expressive association protected by the free
17 speech and association guarantees of the California Constitution (Article 1,
18 sections 2-3).

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22 37. In addition, Petitioners seek an injunction pursuant to Code of Civil Procedure §§
23 525 and 526. Respondents/Defendants' and Defendant's wrongful conduct, unless enjoined by
24 order of this Court, will continue to cause great and irreparable injury to Petitioners (including, in
25 the case of Petitioners Our Family Coalition and Equality California, to their members who desire
26 and intend to marry their same-sex partners), who will be denied rights and obligations that
27 automatically are accorded to married couples, who will be denied the right to express their love
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1 and commitment for one another in the way that is most universally understood, and who
2 otherwise will be relegated by Respondents/Defendants and Defendant to a second-class status
3 which in itself causes Petitioners substantial injury.

4 38. Respondents/Defendants' and Defendant's wrongful conduct is of a continuing
5 nature for which Petitioners have no adequate remedy at law in that it will be impossible for
6 Petitioners (including, in the case of Petitioners Our Family Coalition and Equality California, for
7 their members) to determine their respective monetary damages caused by
8 Respondents/Defendants' and Defendant's wrongful conduct.

9 39. Accordingly, Petitioners seek a permanent injunction forbidding
10 Respondents/Defendants and Defendant, their agents, employees, representatives, and all those
11 acting in concert with them from (a) enforcing the challenged Family Code restrictions, to the
12 extent they prevent same-sex couples from marrying; (b) failing to prescribe and furnish forms for
13 the application for license to marry, the certificate of registry of marriage including the license to
14 marry, and the marriage certificate that do not discriminate on the basis of sex or sexual
15 orientation and that do not comply with the equal protection, privileges and immunities, liberty,
16 privacy, intimate association, freedom of expression and expressive association guarantees of the
17 California Constitution; (c) failing to implement and enforce Health and Safety Code Division
18 102, Part 1, without discriminating on the basis of sex or sexual orientation and without infringing
19 the equal protection, privileges and immunities, liberty, privacy, intimate association, freedom of
20 expression and expressive association guarantees of the California Constitution; and (d) failing to
21 apply and enforce California's marriage laws consistently with the equal protection, privileges and
22 immunities, liberty, and privacy, intimate association, freedom of expression, and expression
23 association guarantees of California Constitution.

1 SECOND CAUSE OF ACTION FOR A WRIT OF MANDATE

2 (By All Petitioners Against All Respondents/Defendants)

3 40. Petitioners refer to and incorporate by reference herein the allegations of
4 paragraphs 1 through 32, inclusive. Petitioners contend that, based upon a proper construction of
5 the challenged Family Code restrictions and upon the equal protection, privileges and immunities,
6 liberty, due process, privacy, intimate association, freedom of expression, and expressive
7 association guarantees of the California Constitution, Respondents/Defendants have a clear,
8 present, and ministerial duty to permit same-sex couples to marry on an equal basis with different-
9 sex couples. The State Registrar is refusing to comply with its duty to issue a non-discriminatory
10 marriage license application, a non-discriminatory certificate of registry of marriage including the
11 license to marry, and a non-discriminatory marriage certificate. The State Registrar also is
12 refusing to comply with its duty to take all steps necessary to procure the uniform observance of
13 Division 102, Part 1 of the Health and Safety Code without discrimination on the basis of sex or
14 sexual orientation and in a manner that is consistent with the equal protection, privileges and
15 immunities, liberty, privacy, intimate association, freedom of expression, and expressive
16 association guarantees of the California Constitution. The Attorney General is refusing to comply
17 with his statutory duty to assist in the enforcement of Division 102, Part of the Health and Safety
18 Code without discriminating on the basis of sex or sexual orientation and in a manner that is
19 consistent with the equal protection, privileges and immunities, liberty, privacy, intimate
20 association, freedom of expression, and expressive association guarantees of the California
21 Constitution. The Attorney General also is refusing to comply with his duties to apply and enforce
22 California's marriage laws to permit same-sex couples to marry on an equal basis with different-
23 sex couples.
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1 41. Petitioners are suing Respondents/Defendants because the City and County of San
2 Francisco is supporting the right of same-sex couples to marry on an equal basis with different-sex
3 couples and would issue marriage licenses to and perform marriages for Petitioners (including, in
4 the case of Petitioners Our Family Coalition and Equality California, to their members who desire
5 and intend to marry their same-sex partners) but for Respondents/Defendants' acts.

7 42. Petitioners are beneficially interested in this litigation because
8 Respondents/Defendants' refusal to comply with their statutory and constitutional duty to permit
9 same-sex couples to marry on an equal basis with different-sex couples is depriving each
10 Petitioner of his or her right to marry his or her chosen spouse, which is causing Petitioners to
11 suffer actual and substantial legal, financial, social, expressive, associational, and psychological
12 harms.

14 43. Respondents/Defendants' wrongful conduct is of a continuing nature for which
15 Petitioners have no plain, speedy, or adequate remedy at law. Petitioners present an important
16 constitutional question, and the public interest in immediate disposition of that question is
17 significant. There is no other adequate remedy at law that does not involve the risk of substantial
18 delay. Further, it is impossible for Petitioners (including, in the case of Petitioners Our Family
19 Coalition and Equality California, for their members) to determine their respective monetary
20 damages caused by Respondents/Defendants' wrongful conduct.

22 44. Petitioners seek a writ of mandate, pursuant to Code of Civil Procedure §§ 1085
23 and 1087 commanding (a) that the State Registrar of Vital Statistics prescribe and furnish forms
24 for the application for license to marry, the certificate of registry of marriage including the license
25 to marry, and the marriage certificate that do not discriminate on the basis of sex or sexual
26 orientation and that are consistent with the equal protection, privileges and immunities, liberty,
27 privacy, intimate association, freedom of expression, and expressive association guarantees of the
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1 California Constitution; (b) that the State Registrar of Vital Statistics implement and enforce
2 Health and Safety Code Division 102, Part 1, without discriminating on the basis of sex or sexual
3 orientation, including without limitation that the State Registrar of Vital Statistics take all steps
4 necessary, including the preparation and issuance of detailed instructions as may be required, to
5 procure the uniform observance of Division 102, Part 1 throughout the State of California without
6 discrimination on the basis of sex or sexual orientation and in a manner that is consistent with the
7 equal protection, privileges and immunities, liberty, privacy, intimate association, freedom of
8 expression, and expressive association guarantees of the California Constitution; (c) that the
9 Attorney General carry out his statutory duty to assist in the enforcement of Division 102, Part 1
10 without discriminating on the basis of sex or sexual orientation and without infringing the equal
11 protection, privileges and immunities, liberty, privacy, intimate associations, freedom of
12 expression and expressive association guarantees of the California Constitution; and (d) that the
13 Attorney General apply and enforce California's marriage laws consistently with the equal
14 protection, privileges and immunities, liberty, and privacy, intimate association, freedom of
15 expression, and expressive association guarantees of the California Constitution.
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18 **PRAYER**

19 WHEREFORE, Petitioners pray for judgment against Respondents/Defendants and Defendant
20 granting Petitioners:
21

22 1. A declaration that, to comply with the California Constitution, Family Code § 300
23 must be construed to allow otherwise qualified same-sex couples to marry; in the alternative, if
24 this Court concludes that Family Code § 300 excludes otherwise qualified same-sex couples from
25 the right to obtain marriage licenses or to marry in California, a declaration that that exclusion is
26 void and unenforceable because it violates the state constitutional rights of same-sex couples and
27 of individuals who are members of same-sex couples in that, among other things, any such
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1 exclusion impermissibly would (a) discriminate on the basis of sex in violation of the Equal
2 Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1,
3 sections 7(a) and 7(b)); (b) discriminate on the basis of sexual orientation in violation of the Equal
4 Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1,
5 sections 7(a) and 7(b)); (c) violate liberty interests protected by the Due Process Clause of the
6 California Constitution (Article 1, section 7(a)); (d) violate privacy interests protected by the Due
7 Process and Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); (e)
8 violate the right to intimate association protected by the Due Process and Privacy Clauses of the
9 California Constitution (Article 1, sections 7(a) and 1); and (f) violate the rights to freedom of
10 expression and expressive association protected by the free speech and association guarantees of
11 the California Constitution (Article 1, sections 2-3).
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13
14 2. A declaration that Family Code § 301 does not exclude same-sex couples from the
15 right to marry and cannot bar the issuance of marriage licenses to same-sex couples in California;
16 in the alternative, if this Court concludes that Family Code § 301 does exclude same-sex couples
17 from the right to obtain marriage licenses or to marry in California, a declaration that that
18 exclusion is void and unenforceable because it violates the state constitutional rights of same-sex
19 couples and of individuals who are members of same-sex couples in that, among other things, any
20 such exclusion impermissibly would (a) discriminate on the basis of sex in violation of the Equal
21 Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1,
22 sections 7(a) and 7(b)); (b) discriminate on the basis of sexual orientation in violation of the Equal
23 Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1,
24 sections 7(a) and 7(b)); (c) violate liberty interests protected by the Due Process Clause of the
25 California Constitution (Article 1, section 7(a)); (d) violate privacy interests protected by the Due
26 Process and Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); (e)
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1 violate the right to intimate association protected by the Due Process and Privacy Clauses of the
2 California Constitution (Article 1, sections 7(a) and 1); and (f) violate the rights to freedom of
3 expression and expressive association protected by the free speech and association guarantees of
4 the California Constitution (Article 1, sections 2-3).

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6 3. A declaration that Family Code § 308.5 does not apply to the issuance of marriage
7 licenses in the State of California or to marriages entered in the State of California; in the
8 alternative, if this Court concludes that Family Code § 308.5 does exclude same-sex couples from
9 the right to obtain marriage licenses or to marry in California, a declaration that that exclusion is
10 void and unenforceable because it violates the state constitutional rights of same-sex couples and
11 of individuals who are members of same-sex couples in that, among other things, any such
12 purported exclusion impermissibly would (a) discriminate on the basis of sex in violation of the
13 Equal Protection and the Privileges and Immunities Clauses of the California Constitution (Article
14 1, sections 7(a) and 7(b)); (b) impermissibly discriminate on the basis of sexual orientation in
15 violation of the Equal Protection and the Privileges and Immunities Clauses of the California
16 Constitution (Article 1, sections 7(a) and 7(b)); (c) violate liberty interests protected by the Due
17 Process Clause of the California Constitution (Article 1, section 7(a)); (d) violate privacy interests
18 protected by the Due Process and Privacy Clauses of the California Constitution (Article 1,
19 sections 7(a) and 1); (e) violate the right to intimate association protected by the Due Process and
20 Privacy Clauses of the California Constitution (Article 1, sections 7(a) and 1); and (f) violate the
21 rights to freedom of expression and expressive association protected by the free speech and
22 association guarantees of the California Constitution (Article 1, sections 2-3).

23
24
25 4. A permanent injunction forbidding Respondents/Defendants and Defendant, their
26 agents, employees, representatives, and all those acting in concert with them from (a) enforcing
27 the challenged Family Code restrictions, to the extent they prevent same-sex couples from
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1 marrying; (b) failing to prescribe and furnish forms for the application for license to marry, the
2 certificate of registry of marriage including the license to marry, and the marriage certificate that
3 do not discriminate on the basis of sex or sexual orientation and that comply with the equal
4 protection, privileges and immunities, liberty, privacy, intimate association, freedom of expression
5 and expressive association guarantees of the California Constitution; (c) failing to implement and
6 enforce Health and Safety Code Division 102, Part 1, without discriminating on the basis of sex or
7 sexual orientation and without infringing the equal protection, privileges and immunities, liberty,
8 privacy, intimate association, freedom of expression and expressive association guarantees of the
9 California Constitution; and (d) failing to apply and enforce California's marriage laws
10 consistently with equal protection, privileges and immunities, liberty, privacy, intimate
11 association, freedom of expression, and expressive association guarantees of California
12 Constitution.
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15 5. A writ of mandate against Respondents/Defendants, pursuant to Code of Civil
16 Procedure §§ 1085 and 1087 commanding (a) that the State Registrar of Vital Statistics prescribe
17 and furnish forms for the application for license to marry, the certificate of registry of marriage
18 including the license to marry, and the marriage certificate that do not discriminate on the basis of
19 sex or sexual orientation and that are consistent with the equal protection, privileges and
20 immunities, liberty, privacy, intimate association, freedom of expression, and expressive
21 association guarantees of the California Constitution; (b) that the State Registrar of Vital Statistics
22 implement and enforce Health and Safety Code Division 102, Part 1, without discriminating on
23 the basis of sex or sexual orientation, including without limitation that the State Registrar of Vital
24 Statistics take all steps necessary, including the preparation and issuance of detailed instructions as
25 may be required, to procure the uniform observance of Division 102, Part 1 throughout the State
26 of California without discrimination on the basis of sex or sexual orientation and in a manner that
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1 is consistent with the equal protection, privileges and immunities, liberty, privacy, intimate
2 association, freedom of expression, and expressive association guarantees of the California
3 Constitution; (c) that the Attorney General carry out his statutory duty to assist in the enforcement
4 of Division 102, Part 1 without discriminating on the basis of sex or sexual orientation and without
5 infringing the equal protection, privileges and immunities, liberty, privacy, intimate associations,
6 freedom of expression and expressive association guarantees of the California Constitution; and
7 (d) that the Attorney General apply and enforce California's marriage laws consistently with the
8 equal protection, privileges and immunities, liberty, privacy, intimate association, freedom of
9 expression, and expressive association guarantees of the California Constitution;
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11 6. Costs, including but not limited to attorneys' fees; and

12 7. Such other and further relief as the Court may deem just and proper.
13

14 DATED: August 2, 2004

Respectfully submitted,

15 STEPHEN V. BOMSE
16 RICHARD DE NATALE
17 HILARY E. WARE
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23 JENNIFER C. PIZER
LAMBDA LEGAL DEFENSE AND EDUCATION FUND

24 PETER ELIASBERG
25 ACLU FOUNDATION OF SOUTHERN CALIFORNIA

26 DENA L. NARBAITZ
27 CLYDE J. WADSWORTH
STEEFEL, LEVITT & WEISS, a Professional Corporation

28 DAVID C. CODELL
LAW OFFICE OF DAVID C. CODELL

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By: Stephen V. Bomse
Stephen V. Bomse ^{Hew}

Attorneys for Petitioners/Plaintiffs
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SOKOLOWER, JANET WALLACE and DEBORAH
HART, COREY DAVIS and ANDRE LEJEUNE,
RACHEL LEDERMAN AND ALEXSIS BEACH,
OUR FAMILY COALITION and EQUALITY
CALIFORNIA

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VERIFICATION

I, ROCKY MORRISON, declare as follow:

I am the Executive Director of Our Family Coalition, which is named as a Plaintiff/Petitioner in the above-captioned matter. I have been authorized to make this verification on behalf of Our Family Coalition. I have read the foregoing document entitled First Amended Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know the contents thereof. All of the matters set forth in the foregoing document that relate to the claims of Our Family Coalition are true and correct to the best.

Executed on August 2, 2004, at San Francisco, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.



Rocky Morrison

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PROOF OF SERVICE

I, Gary Padilla, declare that I am over the age of eighteen years and I am not a party to this action. My business address is 333 Bush Street, San Francisco, California 94104-2878.

On August 2, 2004, I served the document listed below on the interested parties in this action in the manner indicated below:

DOCUMENT SERVED:

SECOND AMENDED PETITION FOR WRIT OF MANDATE AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

BY OVERNIGHT DELIVERY: I caused such envelopes to be delivered on the following business day by FEDERAL EXPRESS service. [As indicated on Service List]

BY PERSONAL SERVICE: I caused the document(s) to be delivered by hand. [As indicated on Service List]

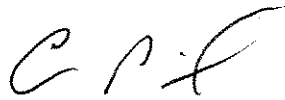
BY MAIL: I am readily familiar with the business' practice for collection and processing correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business. I know that the envelopes were sealed, and with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices, in the United States mail at San Francisco, California. [As indicated on Service List]

BY FACSIMILE: I transmitted such documents by facsimile [As indicated on Service List]

INTERESTED PARTIES:

SEE ATTACHED SERVICE LIST

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct; that this declaration is executed on August 2, 2004, at San Francisco, California.



Gary Padilla

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