

Case No.: _____
IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

Brian Bennett, Xavier Barrera, Audrey Koh and Equality California,

Petitioners,

v.

Debra Bowen, in her official capacity as Secretary of State,

Respondent;

Initiative Proponents Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez,
Hak-Shing William Tam, and Mark A. Jansson,

Real Parties in Interest.

**REQUEST FOR JUDICIAL NOTICE IN SUPPORT
OF PETITION FOR EXTRAORDINARY RELIEF,
INCLUDING WRIT OF MANDATE
AND REQUEST FOR STAY**

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REQUEST FOR JUDICIAL NOTICE

Petitioners Brian Bennett, Xavier Barrera, Audrey Koh and Equality California respectfully request that this Court take judicial notice of the following documents attached as Exhibits 1 through 3 to this request:

1. Correspondence dated October 1, 2007, from Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez, Hak-Shing William Tam and Mark A. Jansson, to Initiative Coordinator, Office of the Attorney General, attaching the text of proposed Initiative 1298 (the "Proposed Initiative"). (available at http://ag.ca.gov/cms_pdfs/initiatives/i737_07-0068_Initiative.pdf), a true and correct copy of which is attached hereto as Exhibit 1.

2. Correspondence dated November 14, 2007, from Elizabeth G. Hill, Legislative Analyst, and Michael C. Genest, Director of Finance, Legislative Analyst's Office, to Edmund G. Brown, Jr., Attorney General, concerning the review pursuant to Elections Code Section 9005 of the Proposed Initiative (available at <http://www.lao.ca.gov/ballot/2007/070789.pdf>), a true and correct copy of which is attached hereto as Exhibit 2.

3. The petition containing the Attorney General's title and summary of the Proposed Initiative as circulated to electors for purposes of qualifying the Initiative for the November 2008 ballot, a true and correct copy of which is attached hereto as Exhibit 3.

DISCUSSION

This Court may take notice of the attached documents pursuant to Evidence Code section 452, subdivision (c), which provides that judicial notice may be taken of "[o]fficial acts of the legislative, executive, and judicial departments . . . of any state of the United States."

The attached documents are relevant to this Petition for Writ of Mandate, as they relate to the facts underlying the Petition, including the submission of Initiative 07-0068 to the Attorney General, the preparation of the official title and summary and fiscal analysis of the Initiative, the circulation of petitions to electors, and the Secretary of State's certification of the Initiative for the November 2008 ballot. As this is an original jurisdiction proceeding filed initially in this Court, and no proceedings have taken place in any superior court or Court of Appeal, there is no lower court record or other means by which these materials otherwise may be brought to the Court's attention.

Dated: June 20, 2008

Respectfully submitted,

STEPHEN V. BOMSE
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DAVID J. SIMON
Heller Ehrman LLP

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VANESSA H. EISEMANN
MELANIE ROWEN
CATHERINE SAKIMURA
National Center for Lesbian Rights

JON W. DAVIDSON
JENNIFER C. PIZER
Lambda Legal Defense and
Education Fund, Inc.

ALAN L. SCHLOSSER
ELIZABETH O. GILL
ACLU Foundation of Northern California

MARK ROSENBAUM
PETER J. ELIASBERG
CLARE PASTORE
ACLU Foundation of Southern California

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Law Office of David C. Codell

By: Stephen V. Bomse/CFS
Stephen V. Bomse

*Attorneys for Petitioners Brian Bennett,
Xavier Barrera, Audrey Koh and Equality
California*

EXHIBIT 1

07-0068

PROTECTMARRIAGE.COM

RECEIVED
after 3pm
OCT - 5 2007

October 1, 2007

Initiative Coordinator
Office of the California Attorney General
1300 I Street
Sacramento, CA 95814

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Re: Request for Title and Summary of Proposed Initiative

Dear Initiative Coordinator:

I am one of the proponents of the proposed initiative constitutional amendment filed herewith. We request that the Attorney General prepare a title and summary of the chief purpose and points of this proposed measure. Enclosed please find the text of the proposed measure, my residence address at which I am registered to vote, and the filing fee of \$200.

Please forward any inquiries you may have regarding this measure to Andrew Pugno, P.O. Box 1993, Fair Oaks, CA 95628, (916) 608-3065.

Sincerely,

DENNIS HOLLINGSWORTH

PROTECTMARRIAGE.COM

RECEIVED
after 3pm
OCT - 5 2007

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

October 1, 2007

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Sincerely,

GAIL J. KNIGHT

PROTECTMARRIAGE.COM

October 5, 2007

Initiative Coordinator
Office of the California Attorney General
1300 I Street
Sacramento, CA 95814

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OCT - 5 2007

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Sincerely,

MARTIN F. GUTIERREZ

PROTECTMARRIAGE.COM

October 1, 2007

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Sacramento, CA 95814

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Sincerely,

~~HAK-SHING~~ WILLIAM TAM

PROTECTMARRIAGE.COM

RECEIVED
after 3pm
OCT - 5 2007

October 1, 2007

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Office of the California Attorney General
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Sacramento, CA 95814

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ATTORNEY GENERAL'S OFFICE

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Please forward any inquiries you may have regarding this measure to Andrew Pugno, P.O. Box 1993, Fair Oaks, CA 95628, (916) 608-3065.

Sincerely,

MARK A. JANSSON

SECTION 1. Title

This measure shall be known and may be cited as the "California Marriage Protection Act."

SECTION 2. Article I, Section 7.5 is added to the California Constitution, to read:

Sec. 7.5. Only marriage between a man and a woman is valid or recognized in California.

EXHIBIT 2

November 14, 2007

Hon. Edmund G. Brown Jr.
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Krystal Paris
Initiative Coordinator

Dear Attorney General Brown:

Pursuant to Elections Code Section 9005, we have reviewed the proposed initiative regarding marriage (A.G. File No. 07-0068).

Background

Federal Laws. The U.S. Constitution does not define marriage nor does it require states to define marriage. Current federal law only recognizes marriage between a man and a woman. (The law affects matters such as the receipt of federal benefits and federal taxes.)

State Laws. The State Constitution currently does not define marriage. Under current California statute, only marriage between a man and a woman is valid and recognized. Couples of the same sex where both partners are at least age 18, or unmarried couples of the opposite sex where at least one partner is 62 years or older may register as domestic partners. In most instances, registered domestic partners are provided the same rights and benefits as married couples. Rights of marriage include, but are not limited to, alimony and community property rights.

Major Provisions

Current state law makes marriage only between a man and a woman valid or recognized in California. This measure incorporates that provision into the State Constitution.

Fiscal Effect

The measure would have no fiscal effect on state or local governments. This is because there would be no change to the manner in which marriages are currently recognized by the state.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Michael C. Genest
Director of Finance

EXHIBIT 3

INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE VOTERS
 The Attorney General of California has prepared the following title and summary of the chief purpose and points of the proposed measure:

LIMIT ON MARRIAGE, CONSTITUTIONAL AMENDMENT. Amends the California Constitution to provide that only marriage between a man and a woman is valid or recognized in California. Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: The measure would have no fiscal effect on state or local governments. This is because there would be no change to the manner in which marriages are currently recognized by the state. (Initiative 07-0068.)

To the Honorable Secretary of State of California:
 We, the undersigned, registered, qualified voters of California, residents of the below-described County (or City and County), hereby propose an amendment to the Constitution of California relating to marriage, and petition the Secretary of State to submit the same to the voters of California for their adoption or rejection at the next succeeding general election or at any special statewide election held prior to that general election or otherwise provided by law. The proposed constitutional amendment reads as follows:

SECTION 1. Title
SECTION 2. Article I, Section 7.5 is added to the California Constitution, to read:
Sec. 7.5. Only marriage between a man and a woman is valid or recognized in California.

NOTICE TO THE PUBLIC: THIS PETITION MAY BE CIRCULATED BY A PAID SIGNATURE GATHERER OR A VOLUNTEER. YOU HAVE THE RIGHT TO ASK.

All signers of this petition must be registered to vote in _____ County.

1. Print Your Name	Residence Address ONLY	City	Zip	This column for official use only
2. Print Your Name	Residence Address ONLY	City	Zip	
3. Print Your Name	Residence Address ONLY	City	Zip	
4. Print Your Name	Residence Address ONLY	City	Zip	

Y

REGISTERED VOTERS ON

1.	Print Your Name	Residence Address ONLY	City	Zip
2.	Print Your Name	Residence Address ONLY	City	Zip
3.	Print Your Name	Residence Address ONLY	City	Zip
4.	Print Your Name	Residence Address ONLY	City	Zip
5.	Print Your Name	Residence Address ONLY	City	Zip
6.	Print Your Name	Residence Address ONLY	City	Zip
7.	Print Your Name	Residence Address ONLY	City	Zip
8.	Print Your Name	Residence Address ONLY	City	Zip
9.	Print Your Name	Residence Address ONLY	City	Zip
10.	Print Your Name	Residence Address ONLY	City	Zip

DECLARATION OF CIRCULATOR (To be completed in circulator's own hand after above signatures have been obtained):

I, _____, am registered to vote or qualified to register to vote in the State of California.

My residence address is _____
I circulated this petition section and witnessed each of the appended signatures being written. Each signature on this petition section is, to the best of my information and belief, the genuine signature of the person whose name it purports to be. All signatures on this document were obtained between _____ and _____
I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on _____ at _____ California

CIRCULATOR'S COMPLETE SIGNATURE

Call: (916) 446-5031 • Mail to: ProtectMarriage.com, P.O. Box 162657, Sacramento, CA 95816

PLEASE DO NOT PHOTOCOPY