



NATIONAL CENTER FOR LESBIAN RIGHTS



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## BRIEF HISTORY OF CALIFORNIA MARRIAGE EQUALITY CASES

- On February 12, 2004, San Francisco began issuing marriage licenses to same-sex couples. Eventually more than 4,000 lesbian and gay couples obtained marriage licenses.
- On August 12, 2004, the California Supreme Court held that the city lacked authority to issue marriage licenses to same-sex couples and invalidated the licenses already issued, but declined to rule on whether the statutory exclusion of same-sex couples from marriage violates the state constitution.
- On March 12, 2004, the National Center for Lesbian Rights (NCLR) and our co-counsel filed a lawsuit on behalf of 12 same-sex couples, Equality California, and Our Family Coalition, seeking the right to marry for same-sex couples. This lawsuit was called *Woo v. California*. NCLR represented the couples and organizations together with Heller Ehrman LLP, Lambda Legal, the American Civil Liberties Union (ACLU) and the Law Office of David C. Codell.
- Also in March 2004, the City and County of San Francisco, represented by San Francisco City Attorney Dennis J. Herrera and Deputy City Attorney Therese M. Stewart, filed a lawsuit challenging the discriminatory provisions in the marriage statutes. This lawsuit was called *City and County of San Francisco v. California*. The City's co-counsel was Howard Rice Nemerovski Canady Falk & Rabkin.
- In addition to the cases brought by NCLR and the City, two other challenges to the marriage statutes were filed by private attorneys: one on behalf of two same-sex couples from Los Angeles; and another on behalf of six same-sex couples filed in San Francisco. These two lawsuits were *Tyler v. California* and *Clinton v. California*.
- Two anti-gay organizations also filed lawsuits seeking a declaration that the marriage ban is constitutional. These two lawsuits were *Proposition 22 Legal Defense and Education Fund v. City and County of San Francisco* and *Campaign for California Families v. Newsom*.
- All six cases were coordinated and heard before Judge Richard A. Kramer in San Francisco Superior Court.
- In April 2005, Judge Kramer issued a decision holding that California's statutory exclusion of same-sex couples from marriage violates the state constitutional guarantee of equal protection and violates the fundamental right to marry.
- The California Attorney General and the two anti-gay organizations appealed these decisions to the California Court of Appeal. The Court of Appeal consolidated all six cases. The name of the case on appeal was *In re Marriage Cases*. Oral argument took place on July 10, 2006 before the First Appellate District in San Francisco. Shannon Price Minter, NCLR's Legal Director, argued before the Court, as did Therese Stewart from the San Francisco City Attorney's Office.
- Eight amicus briefs, representing more than 250 religious and civil rights organizations, were filed in support of same-sex couples seeking marriage equality. These organizations included, among others: the California NAACP; the Mexican American Legal Defense and Education Fund; the Asian Pacific American Legal Center; the California Women's Law Center; and 29 Asian Pacific Islander organizations including the Japanese American Citizens League and Chinese for Affirmative Action.
- Four amicus briefs were filed in support of the ban on marriage for same-sex couples.

- On October 5, 2006, a divided panel of the California Court of Appeal ruled in a 2-1 decision that that California may continue to bar same-sex couples from marriage.
- On November 14, 2006, NCLR and our co-counsel asked the California Supreme Court to decide whether barring same-sex couples from marriage violates the California Constitution.
- On December 20, 2006, California Supreme Court unanimously decided to grant review in the California marriage cases seeking to remove the current ban on marriage for same-sex couples.
- On April 2, 2007, NCLR and our co-counsel submitted the opening brief to the California Supreme Court. The brief charged that barring same-sex couples from marriage discriminates based on sexual orientation and sex and violates the fundamental right to marry, which is protected by the California Constitution's guarantees of privacy, intimate association, and due process.
- On June 20, 2007, the Court ordered the parties to answer four supplemental questions.
- On August 17, 2007, NCLR and co-counsel filed a reply brief on the merits and a supplemental brief addressing the Court's questions.
- On September 26, 2007, thirty amicus briefs were submitted to the Court, representing scores of religious, civil rights, and child advocacy organizations, along with numerous California municipal governments, bar associations, and leading legal scholars, all urging the court to put an end to state laws that deny same-sex couples the protections of marriage
- On November 13, 2007, responses to amicus briefs were filed, which concluded the briefing process.
- On March 4, 2008, the California Supreme Court heard oral argument in the marriage cases. Shannon Minter, NCLR's Legal Director, argued before the Court, along with Therese Stewart, Deputy City Attorney of San Francisco.
- On May 15, 2008, the California Supreme Court ruled that the state can no longer exclude same-sex couples from civil marriage. The Court held that the fundamental right to marry must be respected equally for all Californians and that discrimination based on sexual orientation should receive the highest level of constitutional scrutiny.
- On May 22, 2008 and May 30, 2008, anti-gay groups filed Petitions for Rehearing in the California Supreme Court, asking the Court to stay its historic ruling striking down laws that had prohibited lesbian and gay couples from marrying. On May 30, 2008, attorneys' general from 12 states filed amicus letters asking the Court to modify its opinion to delay lesbian and gays from marrying until after the November 4, 2008 election, even though an initiative purporting to deny marriage to lesbian and gay couples had not yet qualified for the ballot.
- On May 28, 2008 and June 2, 2008, NCLR and co-counsel filed briefs opposing all requests to stay or defer the Court's ruling. The City and County of San Francisco also filed briefs opposing these requests.
- On May 29, 2008, the California Attorney General, who had defended the exclusion of same-sex couples from marriage at the Supreme Court, filed a brief opposing a stay of the Court's decision as well.
- On June 4<sup>th</sup>, 2008, the California Supreme Court denied all requests to stay its decision in *In re Marriage Cases* and ordered that its decision become final on June 16 at 5 p.m. Lesbian and gay couples will be able to marry in California beginning as early as 5:01 p.m. on June 16 in some counties, and throughout California beginning June 17.