



NATIONAL CENTER FOR LESBIAN RIGHTS



making the case for equality



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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 is called *Woo v. California*. NCLR's co-counsel are Heller Ehrman LLP, Lambda Legal, the American Civil Liberties Union (ACLU), and the Law Firm 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 is called *City and County of San Francisco v. California*. The City's co-counsel is 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 are *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 are *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 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. Oral argument took place on July 10, 2006 before the First Appellate District in San Francisco. Shannon 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 include, 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 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 August 31, 2007, supplemental reply briefs were filed.
- 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, oral argument will be held in front of the California Supreme Court.