

1 WAUKEEN Q. McCOY, ESQ. (SBN: 168228)
LAW OFFICES OF WAUKEEN Q. McCOY
2 703 Market Street, Suite 1407
San Francisco, California 94103
3 Telephone (415) 675-7705
Facsimile (415) 675-2530
4

5 Attorney for Plaintiffs
Gregory Clinton, et al.

6 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA

7
8 IN AND FOR THE COUNTY OF SAN FRANCISCO

9 DEPARTMENT 304

10 Coordination Proceeding
11 Special Title (Rule 1550(b))

JUDICIAL COUNCIL COORDINATION
PROCEEDING NO. 4365

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
**CLINTON'S MEMORANDUM OF
POINTS AND AUTHORITIES
REGARDING CONSTITUTIONALITY
OF MARRIAGE STATUTES PURSUANT
TO COURT ORDER.**

CMC Date: September 8, 2004
Time: 1:30 p.m.
Place: Department 304

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES

Cases

Castro v. State of California, 2 Cal.3d 223 (1970) 15

Citizens for Responsible Behavior v. The Superior Court of Riverside County,
1 Cal.App.4th 1013 (1991)..... 9, 12

Gay Law Students Association v. Pacific Telephone and Telegraph Company,
24 Cal.3d 458 (1979)..... 9

Goodridge v. Dept. of Public Health, 440 Mass. 309 (2003). 8, 12, 17

Griswold v. Connecticut, 381 U.S. 479 (1965)..... 7

Hernandez-Montiel v. INS, 225 F.3d 1084 (9th Cir. 2000)..... 10

In Re Marriage of Vryonis, 202 Cal.App.3d 712 (1988)..... 13

King v. McMahon, 186 Cal.App.3d 648 (1986)..... 9

Lawrence v. Texas, 123 S.Ct. 2472 (2003)..... 7

Loving v. Commonwealth of Virginia, 388 U.S. 1, 12 (1967)..... 7

Molar v. Gates, 98 Cal.App.3d 1 (1979)..... 11

People v. Garcia, 77 Cal.App.4th 1269 (2000)..... 10

Perez v. Sharp, 32 Cal.2d 711 (1948). 6, 7, 15

Sail'er Inn, Inc. v. Kirby, 5 Cal.3d 1 (1971)..... 10, 11

Turner v. Safely, 482 U.S. 78 (1987)..... 8

Welch v. The State of California, 83 Cal.App.4th 1374 (2000). 13

Wenke v. Hitchcock, 6 Cal.3d 746 (1972)..... 15

Zablocki v. Redhail, 434 U.S. 374 (1978)..... 7, 11

Statutes

Cal. Const. Art. 1, §13 6

Cal. Const. Art. 1, § 7 9

California Family Code § 2251..... 6, 13, 14

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

TABLE OF AUTHORITIES (CONT.)

California Family Code § 300..... passim
California Family Code § 301..... passim
California Family Code § 308.5..... passim
U.S. Const. Amend. 14 § 1 9

1
2
3 **MEMORANDUM OF POINTS AND AUTHORITIES**

4 **I. FACTUAL BACKGROUND**

5
6 On March 8, 2000, Family Code section 308.5 was enacted for the sole purpose of
7 defining marriage as between a man and a woman only. Additionally, Family Code section 300
8 provides that "Marriage is a personal relation arising out of a civil contract between a man and a
9 woman." Family Code section 301 further provides that "an unmarried male" and an "unmarried
10 female" are "capable of consenting to and consummating" marriage. These codes serve to
11 exclude same-sex couples from marriage.
12

13 On February 10, 2004, San Francisco Mayor Gavin Newsom sought to end this
14 discrimination by directing San Francisco County Clerk Nancy Alfaro to issue marriage licenses
15 to same-sex couples. Two days later, the San Francisco County Clerk's Office began issuing
16 marriage licenses to eligible same-sex couples who applied for them.
17

18 Plaintiffs Dr. Anthony Bernan, Andrew Neugebauer, Stephanie O'Brien, Janet Levy,
19 Gregory Clinton, Gregory Morris, Kristen Anderson, Michele Bettega, Derrik Anderson, Wayne
20 Edfors II, Joseph Faulkner, and Arthur Healey are homosexual men and women who were
21 married on February 13, 2004 and February 14, 2004. At a City Hall ceremony as well as a
22 prior private ceremony, plaintiffs promised to love, cherish, support one another, and maintain a
23 monogamous sexual relationship for the rest of their lives. Believing in the validity of their
24 marriage, plaintiffs commingled all of their funds and shared their expenses and assets equally.
25 The couples further agreed that each would be the primary breadwinner and that each would
26 maintain the marital home.
27
28

1 On March 12, 2004, Plaintiffs filed a class action asking for this court to declare that
2 Family Code sections 300, 301, and 308.5 are unconstitutional because they deny same-sex
3 couples Equal Protection and Due Process of the laws guaranteed by the California Constitution.
4 In the alternative, Plaintiffs ask that this court declare them putative spouse marriages pursuant
5 to Family Code section 2251. Family Code section 2251 allows couples who believe that they
6 are legally married to exercise their rights as putative spouses even if it is determined that their
7 marriage is void. No other code or regulation protects same-sex couples who believe they are in
8 a partnership but the partnership is void or voidable.
9

10
11 On July 13, 2004, Plaintiffs submitted a petition to be coordinated with the same-sex
12 marriage cases, which they expect to be granted. Prior to that, on June 28, 2004, Plaintiffs
13 attended a case management conference for the same-sex marriage cases during which this court
14 asked all parties to clarify their legal positions and advise it as to the best procedural vehicle for
15 resolving the constitutionality of the marriage statutes in question.
16

17 **II. LEGAL ARGUMENT**

18 19 A. California Family Codes Sections 300, 301, and 308.5, Which Exclude Same-Sex 20 Couples from Marriage, Violate both the California and Federal Constitutions and 21 Should be Held Unconstitutional.

22 1. California Family Code Sections 300, 301, and 308.5 Deny Gays 23 and Lesbians Due Process of the Laws.

24 The California Constitution provides that no person shall be deprived of life, liberty, or
25 property without due process of law. Cal. Const. Art. 1, §13. This principle is also incorporated
26 in the 14th Amendment of the United States Constitution. Due process of law consists not only
27 of an individual's right to procedural due process, but his right to substantive due process as
28

1 well. Perez v. Sharp, 32 Cal.2d 711, 735 (1948). This means that the state, through legislation,
2 cannot deprive an individual of his liberties or fundamental rights. Id.

3
4 In striking down a statute that prohibited interracial marriages, the California Supreme
5 Court held that marriage is a fundamental right of free men. Perez, 32 Cal.2d at 713. The court
6 further determined that it was of no significance that the statute in question did not completely
7 exclude individuals from marrying; instead, it determined that the essence of the right to marry is
8 freedom to join in marriage with the person of one's choice. Id. Nineteen years later, the United
9 States Supreme Court followed California's lead and determined that, because marriage is one of
10 the basic fundamental rights of man, a Virginian anti-miscegenation statute denied individuals
11 due process of the laws. Loving v. Commonwealth of Virginia, 388 U.S. 1, 12 (1967). It is now
12 well settled that, to satisfy the constitutional requirements of due process, laws may not interfere
13 directly and substantially with this fundamental right to marry. Zablocki v. Redhail, 434 U.S.
14 374, 387 (1978).

15
16
17 Moreover, the Supreme Court has determined that the right to marry is part of the
18 fundamental right of privacy implicit in the 14th Amendment's Due Process Clause. Griswold v.
19 Connecticut, 381 U.S. 479, 486 (1965). For example, in Lawrence v. Texas, the Supreme Court
20 held that the government is precluded from intruding in the private spheres of consensual adult
21 expressions of intimacy and one's choice of an intimate partner. 123 S.Ct. 2472, 2482-83
22 (2003). Although Lawrence left the issue of same-sex marriage open, it reaffirmed the principle
23 that right to privacy is integral to decisions regarding intimacy, family relationships, and
24 marriage. Id. at 2481.

25
26
27 Marriage is not only a fundamental right of heterosexual couples, but a fundamental right
28 of same-sex couples as well. In holding that prison inmates cannot be denied the right to marry,

1 the Supreme Court listed the attributes of marriage that make it a fundamental right. These
2 include its (1) public expression of emotional support and commitment, (2) spiritual significance
3 that may make it an exercise of religious faith, and (3) precondition to the receipt of government
4 benefits. Turner v. Safely, 482 U.S. 78, 95-96 (1987). Notably absent from this list is
5 procreation, the single factor that may arguably differentiate married heterosexual couples from
6 same-sex couples. Id. Even this differentiation is tenuous because, not all heterosexual couples
7 are able to procreate, and, in light of modern technological advances, even monogamous same-
8 sex couples have the ability to procreate.
9

10
11 Here, Plaintiffs' marriages, like many heterosexual marriages, embody public expressions
12 of support and commitment. Recognition of their marriages would allow them to enjoy the
13 marital benefits, given to heterosexual married couples, that they have been unlawfully denied.
14 Some of the Plaintiffs are also deeply religious, and their marriages are key in complying with
15 the values ingrained in their respective faiths. Thus, there is nothing about Plaintiffs' marriages
16 that differs so substantially from heterosexual marriages to justify refusing to recognize their
17 marriages or denying other same-sex couples the right to marry.
18

19
20 Relying on numerous Supreme Court decisions, including those cited above, the
21 Massachusetts Supreme Court correctly determined that denying the right to marry to same-sex
22 couples unconstitutionally denies same-sex couples due process and equal protection of the laws.
23 Goodridge v. Dept. of Public Health, 440 Mass. 309, 312 (2003). There, the court noted that
24 even though marriage has been historically confined to be between a man and a woman, "history
25 must yield to a more fully developed understanding of the invidious quality of discrimination" as
26 it did in the Perez and Loving cases banning anti-miscegenation laws. Id. at 328. This court
27
28

1 should follow Massachusetts lead and declare that California Family Code sections 300, 301, and
2 308.5 deny gays and lesbians due process of the laws and therefore is unconstitutional.

3
4 2. California Family Code Sections 300, 301, and 308.5 Deny Gays
5 and Lesbians Equal Protection of the Laws.

6 The California Constitution guarantees that a citizen or class of citizens may not be
7 granted privileges or immunities not granted on the same terms to all citizens. Cal. Const. Art. 1,
8 § 7. This principle is also embodied in the 14th Amendment of the United States Constitution
9 which provides “No state shall . . . deny to any person within its jurisdiction equal protection of
10 the laws.” U.S. Const. Amend. 14 § 1. The California Constitution, however, affords greater
11 protection from discrimination to a broader range of groups than its federal counterpart. King v.
12 McMahon, 186 Cal.App.3d 648, 656-57 (1986). Accordingly, the California Supreme Court has
13 held that homosexuals are entitled to equal protection of the laws. Gay Law Students
14 Association v. Pacific Telephone and Telegraph Company, 24 Cal.3d 458, 467 (1979).

17 The standard of review California courts employ in analyzing legislation that singles out
18 a particular group depends on whether the group is classified as “suspect,” as well as whether the
19 legislation impinges on a fundamental right. Citizens for Responsible Behavior v. The Superior
20 Court of Riverside County, 1 Cal.App.4th 1013, 1025 (1991). If either a suspect classification or
21 a fundamental right is involved, the court examines legislation under a strict scrutiny standard.
22 Id. If not, the state must still have a rational basis for the discriminatory statute. Id.

23
24
25 To determine whether the statute involves a suspect classification, California courts look
26 at various factors including:

- 27 1. Whether the classification is based on an immutable trait;
28

- 1 2. Whether the characteristic(s) the group is classified by bears no relation to ability
- 2 to perform or contribute to society;
- 3
- 4 3. Whether the group has historically endured the stigma of inferiority and second
- 5 class citizenship;
- 6
- 7 4. Whether the group has historically labored under severe legal and social
- 8 disabilities.

9 Sail'er Inn, Inc. v. Kirby, 5 Cal.3d 1, 18-19 (1971).

10 Applying these factors, same-sex couples easily qualify as a suspect class. First, sexual
11 orientation has been judicially recognized to be an immutable trait; a trait that it is so
12 fundamental to one's identity that a person should not be required to abandon it. Hernandez-
13 Montiel v. INS, 225 F.3d 1084, 1093 (9th Cir. 2000). Second, a person's sexual orientation in no
14 way affects his or her ability to perform or contribute to society. Plaintiffs are members of our
15 community; they are our neighbors, our coworkers, and our friends. Their professions include
16 doctors, lawyers, teachers, and social workers to say the least. Plaintiffs are thus upstanding
17 citizens who regularly contribute in positive ways to our society, and their sexual preference in
18 no way hinders their ability to do so. Third, gays and lesbian couples have historically endured a
19 stigma of inferiority and a "history of persecution comparable to that of blacks and women."
20 The People v. Garcia, 77 Cal.App.4th 1269, 1276 (2000) (holding that two lesbians were
21 impermissibly excused from jury duty based on their sexual orientation in violation of
22 defendant's constitutional rights). Fourth, the fact that same-sex couples have been excluded
23 from the institution of marriage, with all of its legal and social benefits, illustrates that they have
24 labored under legal and social disabilities. Thus, same-sex couples including Plaintiffs constitute
25 a suspect class.
26
27
28

1 Moreover, the California Supreme Court has determined that gender is a “suspect class.”
2 Sail’er Inn, 5 Cal.3d at 17. Therefore, statutes that discriminate on the basis of gender are
3 subject to strict scrutiny. Sail’er Inn, 5 Cal3d at 17. Here, not only are Plaintiffs discriminated
4 against on the basis of their sexual orientation, but they are also discriminated against on the
5 basis of their gender. To illustrate, under California Family Code section 308.5 the state refuses
6 to acknowledge Plaintiff Dr. Anthony Berman’s marriage to Andrew Neugebauer because Berman
7 is a man and not a woman. This is clearly form of gender discrimination.
8

9
10 Because Plaintiffs belong to two different suspect classes, a strict scrutiny analysis must
11 be applied. Even if it is determined that same-sex couples are not a suspect class or that Plaintiffs
12 are not discriminated against because of their gender, strict scrutiny must still be applied
13 because, as explained above, marriage is a fundamental right. See e.g. Zablocki, 434 U.S. at 388
14 (applying strict scrutiny analysis because the statute in question impinged on the fundamental
15 right to marry).
16

17 Under the strict scrutiny standard, the state must show both that it has a compelling
18 interest which justifies the classification and that the classification is necessary to further that
19 compelling interest. Molar v. Gates, 98 Cal.App.3d 1, 13 (1979). Here, the express purpose of
20 the Defense of Marriage Act or Proposition 22, which created California Family Code section
21 308.5 to define marriage as being between a “man and a woman only,” was to protect the
22 institution of marriage. While the state does have a compelling interest to protect marriage,
23 recognizing Plaintiffs’ marriages and allowing other same-sex couples to marry does not threaten
24 the institution of marriage. Plaintiffs are not asking that all marriage statutes be overthrown,
25 they only ask that those that tend to quash the legitimacy of their marriages be invalidated and to
26 extend the same privilege and rights to them.
27
28

1 Moreover, Plaintiffs' marriages do not threaten the integrity of marriage. Like
2 heterosexual marriages, their marriages are based on commitment, love, and support. They
3 provide a safe, supportive, and loving environment to raise children in, and the state benefits
4 provided by marriage would only serve to improve the welfare of the children raised in that
5 environment. Consequently, precluding same-sex couples from marriage does nothing to further
6 the state's compelling interest in protecting the institution of marriage.
7

8 Even if a strict scrutiny analysis is not applied here, California Family Code sections 300,
9 301, and 308.5 are unconstitutional under the rational basis review. Under this standard, the
10 constitutional safeguard is offended if the classification rests on grounds wholly irrelevant to the
11 achievement of the State's objective. Citizens for Responsible Behavior, 1 Cal.App.4th at 1025.
12

13 As illustrated above, there is no rational reason to believe that same-sex couples threaten the
14 institution of marriage or its integrity, or threaten the welfare of children. Such conclusions stem
15 from irrational and deeply emotional places of hate, bigotry, ignorance, and misunderstanding.
16

17 A person's sexual orientation has no bearing on whether they have the ability to be in a
18 committed and loving relationship from which they can create a stable and happy family. Thus,
19 the Family Codes deny equal protection to gays and lesbians even under the more lenient rational
20 basis review.
21

22 Because California Family Code sections 300, 301, and 308.5 fail both a strict scrutiny
23 analysis and a rational basis review, they deny same-sex couples Equal Protection of the Laws
24 and are unconstitutional. Without the right to choose to marry, same-sex couples are not only
25 denied equal protection but are "excluded from the full range of human experience." Goodridge,
26 440 Mass. at 326. Accordingly, this court should grant Plaintiffs' request for relief and declare
27
28

1 that refusing to recognize Plaintiffs' marriages of and precluding other same-sex couples from
2 marriage is unconstitutional.

3
4 B. Even if California Family Code Sections 300, 301, and 308.5 are Constitutional,
5 Plaintiffs are Putative Spouses under California Family Code Section 2251.

6 Family Code section 2251 allows couples who believe in good faith that they are legally
7 married to exercise their marital rights as putative spouses if it is determined that their marriage
8 is void or voidable. Welch v. The State of California, 83 Cal.App.4th 1374, 1377 (2000). This
9 section is gender neutral and contains no provision that states putative spouse status can only be
10 awarded to a heterosexual man and a woman. Instead, one or both of the partners need only
11 harbor a subjective good faith belief that they are married that is objectively reasonable. In Re
12 Marriage of Vryonis, 202 Cal.App.3d 712, 720-21 (1988). This good faith belief is objectively
13 reasonable if the procedural requirements of marriage, which indicate that a valid marriage
14 exists, have been met. Id. at 721.

15
16
17 In Welch, the plaintiff and decedent lived together and conducted themselves as if they
18 were married for nearly 30 years. 83 Cal.App.4th at 1376. Nevertheless, because they never
19 obtained a marriage license or engaged in a solemnization ceremony, they had not complied with
20 the procedural requirements for a lawful marriage in California. Id. at 1379. Because a
21 reasonable person would know such requirements must be met in order to be legally married, the
22 court held that they were not putative spouses. Id.

23
24
25 Here, Plaintiffs obtained marriage licenses from the county clerk of San Francisco, and
26 engaged in highly publicized solemnization ceremonies within which they expressed their love
27 and commitment for one another. Their marriages had the support of Mayor Gavin Newsom and
28 other city officials. On Thursday August 12, 2004, the California Supreme Court in Lockyer v.

1 City and County of San Francisco, Case No. 122923 and 122865, voided their marriages
2 (without a hearing) and proclaimed that their marriages had no legal effect. Despit this ruling,
3 because they complied with all the necessary procedural requirements for valid California
4 marriages, and because their marriages were supported by top government officials, it is
5 objectively reasonable that Plaintiffs harbor a good faith belief that their marriages are valid.
6

7 Because Family Code section 2251 makes no reference to gender and only requires that
8 Plaintiffs' hold a good faith belief that their marriages are valid, even though the Supreme Court
9 of California has voided their marriages, this court should hold that Family Code sections 300,
10 301, and 308.5 do not apply to section 2251. Thus, even if this court determines that Family
11 Code sections 300, 301, and 308.5 are constitutional, it should nevertheless hold that Plaintiffs
12 are putative spouses pursuant to section 2251.
13
14

15 C. Summary Judgment is the Best Procedural Device to Resolve the Constitutionality of
16 the Marriage Statutes in Question.

17 1. It is not Appropriate to Attack the Pleadings Because the Pleadings
18 State Facts Sufficient to Constitute a Cause of Action.

19 Pursuant to California Civil Code section 438, a judgment on the pleadings is only
20 appropriate where the complaint does not state facts sufficient to constitute a cause of action or
21 where the answer does not state facts sufficient to state a defense to the cause of action.
22 Similarly, a motion to dismiss is only appropriate if no valid cause of action exists. Because the
23 pleadings properly state a controversy as to whether the California Family Codes in question are
24 constitutionally valid, a cause of action exists. Moreover, courts usually allow parties to amend
25 deficient pleadings. Accordingly, if this court were to grant a motion attacking the pleadings, it
26
27
28

1 would likely be overruled by an appellate court and be remanded to this court for further
2 proceedings. It would therefore cause unnecessary delay and is not appropriate in this case.

3
4 2. While a Writ of Mandate is an Appropriate Procedural Method to
5 Resolve Constitutional Issues, it would not allow for Findings of
6 Fact Integral to Plaintiffs' Putative Spouse Claim and may cause
7 Unnecessary Delay.

8 Under Code of Civil Procedure section 1085, any court may issue a writ of mandate to
9 any inferior tribunal, corporation, board, or person to compel the performance of an act that the
10 law specifically enjoins. A writ of mandate is an appropriate vehicle for challenging the
11 constitutionality of statutes. Wenke v. Hitchcock, 6 Cal.3d 746, 751 (1972).

12 The City of San Francisco sought to amend their complaint to add a request that this court
13 grant a Writ of Mandate instructing the State Registrar to issue marriage license forms that do
14 not discriminate against same-sex couples and to instruct local registrars throughout California to
15 cease denying same-sex couples the right to marry. The State registrar of voters and the
16 Secretary of State have been found to be inferior corporations or persons, thus, the State
17 Registrar is likely to be deemed an inferior corporation. See e.g. Castro v. State of California, 2
18 Cal.3d 223 (1970). Additionally, the California Supreme Court ruling outlawing the ban on
19 interracial marriages did so by granting a writ of mandate ordering the county clerk of Los
20 Angeles County to issue marriage licenses to interracial couples. Perez, 32 Cal.2d. at 713. Thus,
21 a writ of mandate is an appropriate method to determine the constitutionality of the marriage
22 statutes in question.
23
24
25

26 Procedurally, however, a writ of mandate may cause unnecessary delays. If this court
27 grants the City's request, defendants would no doubt appeal such a decision and then the
28 constitutional issues would be resolved at the appellate level. On the other hand, defendants

1 could ask for a Writ of Prohibition or the similar Writ of Certiorari claiming that this court,
2 unlike to court in Perez which issued a writ ordering a county clerk allow interracial marriages
3 rather than ordering all the county clerks of the entire state, exercised excessive jurisdiction. If
4 defendant's potential writ were granted, then the City would have to appeal that decision or
5 instigate a new case asking for a different form of relief.
6

7 In addition to potentially causing undue delays, the City's writ of mandate would
8 complicate the proceedings in the case contrary to the purpose of coordination. Because the writ
9 does not cover all the issues presented in the coordinated cases, including Plaintiffs' putative
10 spouse issue, those issues would remain unresolved. The purpose of coordination, however, is to
11 bring all of the cases together so that the issues they raise, including but not limited to the
12 constitutionality of the marriage statutes in question, would be resolved together thereby
13 avoiding contradictory results.
14
15

16 As illustrated above, a writ of mandate action could add complicated procedural issues
17 and cause undue delay. Additionally, Plaintiffs' putative spouse claim would remain unresolved.
18 The better and simpler approach would be to allow the coordinated cases to go forward in their
19 current form, so that all the issues within all of the coordinated actions can be resolved at once
20 and so that the parties can conduct necessary discovery.
21

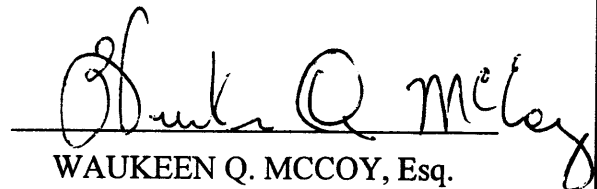
22 **III. CONCLUSION**
23

24 Sixty years ago, anti-miscegenation statutes were common in many states. When the
25 California Supreme Court held that such statutes were unconstitutional, the issue of interracial
26 marriages was still highly controversial, just as the issue of same-sex marriage is highly
27 controversial today. Public opinion, however, does not determine denying same-sex couples the
28 right to marry is unconstitutional. Instead, this court must look to the California Constitution,

1 which affirms the dignity and equality of all individuals and forbids the creation of second-class
2 citizens.

3
4 California Family Codes sections 300, 301, and 308.5 preclude gays and lesbians from
5 exercising their fundamental right to marry whomever they choose. As the Massachusetts
6 Supreme Court correctly noted, when an individual enters into an intimate, exclusive union with
7 another of the same-sex, and yet is barred access to the protections, benefits, and obligations of
8 civil marriage, that individual is arbitrarily deprived of membership in one of our community's
9 most rewarding and cherished institutions. Goodridge, 440 Mass. at 313. Because this
10 exclusion denies homosexuals equal protection and due process under the laws, in violation the
11 California and Federal Constitutions, this court must hold that Family Code sections 300, 301,
12 and 308.5 are unconstitutional. Although a writ of mandate has been used to challenge the
13 constitutionality of statutes, a complete record must be made on all issues coordinated and thus,
14 plaintiffs should not be prohibited from conducting discovery on its 2251 claim.
15
16
17
18
19

20 Dated: August 18, 2004

21 
22 WAUKEEN Q. MCCOY, Esq.
23
24
25
26
27
28

1 I declare at the time of transmission I was at least 18 years of age and not a party to this
2 action. I am employed by Law Offices of Waukeen Q. McCoy, 703 Market Street, Suite 1407,
San Francisco, CA 94103. On this date, I served the attached:

3 **CLINTON'S MEMORANDUM OF POINTS AND AUTHORITIES REGARDING**
4 **CONSTITUTIONALITY OF MARRIAGE STATUTES PURSUANT TO COURT**
ORDER

5 by U.S. MAIL to:

6 Bill Lockyer
7 Louis R. Mauro
8 Douglas Woods
9 Robert D. Wilson
10 STATE OF CALIFORNIA, DEPT. OF JUSTICE
11 OFFICE OF THE ATTORNEY GENERAL
12 300 South Spring Street
Los Angeles, CA 90013
13 Telephone: (213)-897-2105
14 Fax (213) 897-1071

15 LIBERTY COUNSEL
16 Mathew D. Staver
17 Eric W. Stanley
18 Joel Oster
19 Rena Lindevaldsen
20 210 East Palmetto Avenue
21 Longwood, FL 32750
22 Telephone (407) 875-2100
23 Fax (407) 875-0770

24 Ross S. Heckman
25 ATTORNEY AT LAW
26 1214 Valencia Way
27 Arcadia, CA 91006
28 Telephone (626) 256-4664
Fax (626) 256-4774

1 ALLRED, MAROKO & GOLDBERG

2 Michael Maroko

3 John S. West

4 6300 Wilshire Blvd. Suite 1500

5 Los Angeles, CA 90048

6 Telephone (323) 653-6530

7 Fax: (323) 653-1660

8 Llyod W. Pellman

9 Derrick M. Au

10 Judy W. Whitehurst

11 648 Kenneth Hahn Hall of Administration

12 500 W. Temple St.

13 Los Angeles, CA 90012

14 Telephone (213) 974-8940

15 Fax (213) 626-2105

16 HOWARD RICE NEMEROVSKI CANADY FALK
17 & RABKIN

18 Bobbie J. Wilson

19 Pamela K. Fulmer

20 Amy E. Margolin

21 Sarah M. King

22 Three Embarcadero Center, 7th Floor

23 San Francisco, CA 94111

24 Telephone (415) 434-1600

25 Fax (415) 217-5910

26 Honorable Richard A. Kramer

27 SAN FRANCISCO SUPERIOR COURT

28 400 McAllister Street, Dept. 304

San Francisco, CA 94102

Via Hand Delivery

29 ALLIANCE DEFENSE FUND

30 Robert Tyler

31 43460 Ridge Park Drive, Suite 220

32 Temecule, CA 92590

33 Telephone (909) 699-5050

34 Fax (909) 699-5025

1 LAW OFFICES OF TERRY THOMPSON

2 Terry L. Thompson
3 P.O. Box 1356
4 Alamo, CA 94507
5 Fax: (925)820-6034

Dennis J. Herrera, Esq.
City Attorney
City Hall. Room 234
1 Dr. Carlton B. Goodlet Place
San Francisco, CA 94102
Telephone (415) 554-4674

6
7 Shannon Minter, Esq.
8 National Center for Lesbian Rights
9 870 Market St., #570
San Francisco, CA 94102

10 HELLER EHRMAN WHITE & MCAULIFFE LLP

11 Stephan V. Bomse
12 Richard Denatale
13 Hilary E. Ware
14 Ryan R. Tacorda
333 Bush Street
San Francisco, CA 94104

15
16 I declare under penalty of perjury that the foregoing is true and correct. Executed at San
17 Francisco, California.

18
19 DATED: August 18, 2004

By: 

20 Manish Daftari
21
22
23
24
25
26
27
28