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 JEANNE RIZZO and PALI COOPER,
 14 OUR FAMILY COALITION, and EQUALITY CALIFORNIA

15 SUPERIOR COURT OF THE STATE OF CALIFORNIA
 16 FOR THE COUNTY OF SAN FRANCISCO

17 LANCY WOO and CRISTY CHUNG, JOSHUA)
 RYMER and TIM FRAZER, JEWELL GOMEZ)
 18 and DIANE SABIN, MYRA BEALS and IDA)
 MATSON, ARTHUR FREDERICK ADAMS and)
 19 DEVIN WAYNE BAKER, JEANNE RIZZO and)
 PALI COOPER, OUR FAMILY COALITION and)
 20 EQUALITY CALIFORNIA,)

21 Petitioners/Plaintiffs,)

22 vs.)

23 BILL LOCKYER, in his official capacity as)
 Attorney General of the State of California,)
 24 MICHAEL RODRIAN, in his official capacity as)
 the State Registrar of Vital Statistics, and ROES 1)
 25 through 100,)

26 Respondents/Defendants, and)

27 THE STATE OF CALIFORNIA,)
 Defendant.)

28)

ENDORSED
 FILED
 San Francisco County Superior Court
 MAR 12 2004
 GORDON PARKER, Clerk
 BY: CRISTINA E. BARRISTIA
 Deputy Clerk

CPF -04-504030
 Case No. _____

Complaint filed: March 12, 2004

) PETITION FOR WRIT OF MANDATE
) AND COMPLAINT FOR
) DECLARATORY AND INJUNCTIVE
) RELIEF

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2 **GENERAL ALLEGATIONS**

3 1. Plaintiffs/Petitioners (hereinafter "Petitioners") in this action are six same-sex
4 couples who desire and intend to marry, but have not been able to do so, Our Family Coalition, a
5 San Francisco Bay Area organization dedicated to promoting the civil rights and well-being of
6 families with lesbian, gay, bisexual, and transgender members, and Equality California, the
7 leading state-wide advocacy group protecting the needs and interests of same-sex couples and
8 their children in California. Many of Our Family Coalition's and Equality California's members
9 are same-sex couples who live in the California who desire and intend to marry their same-sex
10 partners but have not yet been able to do so. Each of the individual Petitioners is an unmarried
11 male or an unmarried female over the age of eighteen years who is not otherwise disqualified from
12 eligibility for marriage and who is capable of consenting to and consummating marriage. Five of
13 the Petitioner couples had appointments to obtain marriage licenses at San Francisco City Hall but
14 their appointments were cancelled as a result of the March 10, 2004 order of the California
15 Supreme Court directing San Francisco to stop issuing marriage licenses to same-sex couples.
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18 2. Refusal to allow same-sex couples to marry results in the denial to those couples of
19 hundreds of state law rights, benefits, and responsibilities and more than a thousand federal rights,
20 benefits, and responsibilities that are automatically accorded to married spouses. These rights and
21 responsibilities include such things as: decision-making authority for funeral arrangements and
22 disposition of remains; the right to bereavement leave in the event of a partner's death; parental
23 rights and responsibilities, including the presumption that both spouses are the legal parents of a
24 child born during a marriage; access to family courts in the event of dissolution; community
25 property rights and obligations; evidentiary privileges; protection from threats and crimes against
26 the families of public officials; death benefits for surviving partners of firefighters and police
27 officers; responsibility to disclose certain conflicts-of-interest; joint assessment of income for
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1 determining eligibility for state government assistance programs; the right to social security
2 survivor benefits; and the right to take sick leave to care for a sick partner. Although some of
3 these rights will be provided to registered domestic partners in California pursuant to A.B. 205
4 (2003), many provisions of this law do not become operative until January 1, 2005, approximately
5 ten months from now. Moreover, even when the remaining provisions of A.B. 205 become
6 operative, registered domestic partners still will be denied many of the rights and responsibilities
7 of married couples and still will be treated as second-class citizens who are unworthy to exercise
8 the right to marry.
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10 3. In addition to the tangible losses resulting from the denial to same-sex couples of
11 the legal rights and responsibilities of marriage, denying two people in a loving, committed
12 relationship the right to marry each other, solely because they are a same-sex couple, deprives that
13 couple of the enormous personal and social advantages conferred by marriage. Denying same-sex
14 couples the right to marry deprives them of the opportunity to enter into the one government-
15 sanctioned relationship that is most widely recognized as a symbol of love and commitment and
16 that is automatically afforded great societal respect. Being excluded from this cherished
17 institution brands same-sex couples and their families with a stigma of inferiority. Moreover,
18 because this stigma is imposed by the government, it sends a powerful message that discrimination
19 against lesbian and gay people and their families is acceptable, thereby encouraging private
20 discrimination and bias as well. The negative impact of this stigmatization on same-sex couples
21 and their children is profound.
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23 4. Petitioners seek declaratory relief as well as injunctive relief and a writ of mandate
24 ordering Respondents and all parties acting in concert with them: (a) to prescribe and furnish
25 marriage certificates that are gender neutral; (b) to prepare and issue detailed instructions to
26 procure the uniform observance of allowing marriage certificates to be used in a gender neutral
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1 manner; (c) to call into conference the local registrars or their chief deputies, in groups and at
2 places within the state as may be designated by the State Registrar, for the purpose of discussing
3 problems ensuring uniformity in filling out the gender neutral marriage certificates.
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5 **PARTIES**

6 **Petitioners**

7 5. Lancy Woo and Cristy Chung, thirty-seven and forty years old, respectively, are a
8 same-sex couple who have been in a committed relationship for sixteen years. Lancy runs a dog
9 grooming business, and Cristy is a stay at home mom for their five year old daughter Olivia.
10 Previously, Cristy worked at the Asian Women's Shelter. Lancy, Cristy, and Olivia live in San
11 Francisco. Lancy and Cristy want to get married to ensure that their family will be protected
12 should anything happen to Lancy or Cristy, particularly because Lancy is currently the family's
13 primary wage earner. Lancy and Cristy had an appointment to get married at San Francisco City
14 Hall on March 30th, 2004. Lancy, Cristy, and Olivia had waited in line for seven hours at City Hall
15 on Sunday, February 15, 2004, three days after the San Francisco County Clerk had begun issuing
16 licenses to same-sex couples. It was devastating to have waited there all day with their child, and
17 have to go home without being able to get married. They thought about coming back the next day,
18 but the day before had been too much of a disappointment. Later, Cristy and Lancy spent several
19 days on the phone until they finally were able to make an appointment for March 30th. They were
20 looking forward to getting married with much anticipation. Having their appointment cancelled
21 and being denied the right to marry has been extremely distressing.
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24 6. Joshua Rymer and Timothy Frazer, who are forty-seven and forty-one years old,
25 respectively, are a same-sex couple who have been together more than ten years. They live in San
26 Francisco and Sonoma, splitting their time between two residences. Timothy is the Chief
27 Technology Officer for a software start-up. Joshua is a Senior Vice-President for Charles Schwab
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1 & Company in San Francisco. They met in 1994 and exchanged wedding rings in a private
2 ceremony in 1995. They are registered domestic partners with the State of California. They hold
3 joint title on all their property and have taken number of other steps to protect their relationship,
4 including drafting wills and other documents. Despite taking these steps, they understand that
5 there are many rights and protections that can be obtained only through marriage, such as the right
6 of a spouse to inherit the other spouse's 401(k) account without incurring a tax penalty, the right
7 to community property, the right to bereavement leave for the death of a spouse, and many others.
8 They wish to marry to obtain these protections and so that their relationship will be treated with
9 the same understanding and respect as that of other married couples. When they learned that
10 same-sex couples were able to marry in San Francisco, they were elated. They had an
11 appointment to get married at San Francisco City Hall at 2 p.m. on March 17, 2004. They were
12 planning to have a small ceremony at City Hall, to be followed by a reception and renewal of
13 vows at their home in Sonoma. When they learned that they would be denied the right to marry,
14 they were devastated.

17 7. Jewell Gomez and Diane Sabin, who are fifty-five and fifty-one years old,
18 respectively, are a same-sex couple who have been in a committed relationship for eleven years.
19 They have lived together in San Francisco for all of that time. Jewell and Diane are registered as
20 domestic partners with the City and County of San Francisco and with the State of California.
21 Jewell is the Program Director at the San Francisco Arts Commission. Diane is a chiropractor.
22 Diane and Jewell intended to marry as soon as they could obtain a marriage license. When Jewell
23 recently had surgery, Diane and Jewell had to return home after leaving for the hospital to get all
24 of their documents to ensure that Diane would be entitled to make medical decisions for Jewell
25 should she become incapacitated. Over the years, Diane and Jewell have had to pay thousands of
26 dollars to have trusts and other estate planning documents created to ensure that they would be
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1 protected should something happen to the other. Jewell and Diane pay full taxes, and would like to
2 be treated by their government as full and equal citizens.

3 8. Myra Beals and Ida Matson, who are sixty-one and sixty-eight years old,
4 respectively, are a same-sex couple who have been in a committed relationship for twenty-seven
5 years. They reside in Mendocino, California. They had an appointment to get married at San
6 Francisco City Hall on Friday, March 12, 2004 – one day after the California Supreme Court
7 ordered San Francisco to stop issuing marriage licenses to same-sex couples. Friends and family
8 had made plans to join them in San Francisco on March 12 to celebrate their marriage with them.
9 Myra and Ida registered as domestic partners with the state of California as soon as the registry
10 became available in 2000. Throughout her years working for the Santa Clara County
11 Transportation Agency, Ida paid into the California Public Employees Retirement System. Unlike
12 married spouses, however, Myra will not be entitled to Ida's retirement funds if Ida predeceases
13 her. Accordingly, Myra and Ida have had to spend \$3,311.00 per year for additional life insurance
14 on Ida so that Myra will not be destitute if Ida should die first. After Myra retired, she was unable
15 to receive health insurance through Ida's COBRA coverage because she and Ida were not married.
16 As a result, Myra was forced to find other very scarce group coverage at a considerably higher
17 cost. This was particularly difficult because of Myra's history of breast cancer. Myra ended up
18 having to pay a monthly premium of \$521.88 for health coverage. Because they are not married,
19 Myra and Ida have had to expend considerable time and finance to create complicated estate plans
20 to ensure that they will both be protected in the event of the death of or injury to either partner. In
21 addition to these and many other tangible rights and protections they have been denied in their 27
22 years together, there have also been countless times when people – including their own family –
23 have failed to acknowledge or respect Myra and Ida's relationship because they are not married.
24 Myra and Ida traveled to San Francisco on March 11, 2004, in anticipation of getting married the
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1 following day. Instead, upon their arrival in San Francisco, they learned that, after being together
2 for twenty-seven years, they would be denied the right to marry and would continue to be treated
3 as second-class citizens, unworthy of equal treatment by their government.

4 9. Arthur Frederick Adams and Devin Wayne Baker, who are each thirty-nine years
5 old, are a same-sex couple who have been in a committed relationship for three and a half years.
6 They are registered domestic partners with the State of California. They live in Mountain View,
7 California. Arthur asked Devin to marry him more about two years ago, and Devin said yes.
8 They wish to marry because they have made a permanent commitment to one another and because
9 they want to ensure that their relationship is fully protected under the law, so that they can care for
10 one another, support one another, and assume responsibility for one another. Arthur and Devin
11 had an appointment to get married at San Francisco City Hall at 3 p.m. on March 11, 2004. They
12 bought wedding rings and arrived at San Francisco City Hall about 2:45 p.m. on March 11, along
13 with several family members and friends who were there to witness and celebrate their wedding.
14 Arthur and Devin were in the process of completing an application for a marriage license when
15 they were informed that no further marriage licenses would be issued to same-sex couples. Arthur
16 and Devin were unable to obtain a marriage license or to marry. Being denied the right to marry
17 was devastating, especially after waiting for the opportunity to marry for more than two years.

18 10. Jeanne Rizzo and Pali Cooper, fifty-seven and forty-eight years old, respectively,
19 are a committed same-sex couple who have been together fifteen years. They are registered
20 domestic partners with the state of California. They have owned a home together for about 7 or 8
21 years. Jeanne is the executive director of the Breast Cancer Fund. Pali is a chiropractor. Jeanne
22 has a twenty-four year old son from a prior relationship. Jeanne and Pali want to marry to ensure
23 that they will be able to take care of each other as they get older and that they will be adequately
24 protected if one of them becomes seriously ill. They would like to retire in the Northwest at some
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1 point in the next few years; however, they are afraid to do so because they are fearful that their
2 rights as domestic partners may not be honored if they move outside of California. Jeanne and
3 Pali had an appointment to get married at San Francisco City Hall at 3:00 p.m. on March 11, 2004.
4 They arrived at San Francisco City Hall on that date, accompanied by about fifty family members
5 and friends, including many who had traveled from out-of-town and out-of-state. The entire staff
6 and Board of Directors of the Breast Cancer Fund was also present. After years of being treated as
7 inferior to heterosexual married couples, which had taken a tremendous emotional toll on their
8 entire family, including Jeanne's son, Jeanne and Pali were very excited to finally be able to get
9 married. Jeanne and Pali were on the steps of City Hall with Jeanne's son and Pali's sisters and
10 cousin at about 2:45 p.m. when they were told that no more marriage licenses could be granted.
11 The look on Jeanne's son's face when his mother was denied her marriage license was devastating
12 to her.
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15 11. Our Family Coalition is a San Francisco Bay Area organization dedicated to
16 promoting the civil rights and well being of families with lesbian, gay, bisexual, and transgender
17 members through education, advocacy, social networking, and grassroots community organizing.
18 Our Family Coalition organizes social and educational events each month to inform the
19 community on legal, social, and parenting issues. Our Family Coalition has a membership of more
20 than 500 families and hundreds of individuals and family organizations throughout the San
21 Francisco Bay Area. Many of Our Family Coalition's members wish and intend to marry their
22 same-sex partners, but have not been able to do so.
23

24 12. Equality California is the leading state-wide advocacy group protecting the needs
25 and interests of same-sex couples and their children in California. It is also California's largest
26 lesbian, gay, bisexual, and transgender civil rights organization, with thousands of members
27 throughout the state. Many Equality California members desire and intend to marry their same-
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1 sex partners in San Francisco, but have not done so yet or have not been able to do so yet.
2 Equality California was the official sponsor of both A.B. 25 (2001) and A.B. 205 (2003) in the
3 California Legislature. Currently, Equality California is the sponsor of the Marriage License Non-
4 Discrimination Act (A.B. 1967), authored by Assemblymember Mark Leno. By virtue of Equality
5 California's role as legislative sponsor of A.B. 25 (2001), A.B. 205 (2003), and A.B. 1967 (2004),
6 Equality California and its members played an important role in the passage of AB 25 and AB 205
7 and have assumed a continuing role in educating thousands of same-sex couples throughout the
8 State of California about the rights and responsibilities that same-sex couples are denied by being
9 excluded from marriage.
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11 **Respondents**

12 13. Petitioners allege that Respondent Michael Rodrian is the State Registrar and,
13 among other things, is charged with prescribing and furnishing all records forms, including
14 marriage certificates; preparing and issuing detailed instructions to procure the uniform
15 observance of the rules regarding record forms, including marriage certificates; and calling into
16 conference, when necessary, the local registrars or their chief deputies for the purpose of
17 discussing problems dealing with registration of marriages in order to promote uniformity of
18 policy and procedure throughout the state.
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20 14. Petitioners allege that Respondent Bill Lockyer is the California Attorney General
21 and is charged with ensuring that the laws are uniformly and adequately enforced, with assisting
22 in enforcing the Health and Safety Code provisions regarding vital statistics upon request from the
23 State Registrar, and with all legal matters in which the State is interested. He is sued in his official
24 capacity.
25

26 15. Petitioners allege that Respondent the State of California is a state organized and
27 existing under the Constitution of the State of California.
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1 **VENUE**

2 16. Venue is proper in this Court as most of the plaintiffs/petitioners reside in San
3 Francisco and the claims arose in San Francisco.
4

5 **NATURE OF DISPUTE**

6 17. Denying same-sex couples the right to marry causes them to suffer enormous legal,
7 financial, social, and psychological harms. They are denied critically important legal rights,
8 benefits, and responsibilities that help married couples stay together, care for one another, and
9 protect one another and their children. They are denied the legal protections that provide married
10 couples with financial and legal shelter in times of old age, sickness, disability, and death. They
11 are denied the social recognition and respect that marriage bestows on a relationship. They are
12 denied the enormous psychological benefits of marriage, as well as the psychological benefits of
13 being treated as an equal member of one's society and of having the freedom to choose to exercise
14 what has long been recognized as one of our society's most cherished human rights.
15

16 18. 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 have obtained marriage
23 licenses and married in San Francisco.
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25 19. On February 13, 2004, two actions, which were subsequently 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 20. On February 25, 2004, an original petition was filed in the California Supreme
4 Court by three San Francisco residents asking the court to issue an immediate order commanding
5 the County Clerk and her agents to cease and desist from issuing marriage licenses to same-sex
6 couples. On February 27, the Attorney General filed an Original Petition with this Court asking,
7 among other things, for an order directing the City and County of San Francisco to cease and
8 desist from issuing marriage licenses to same-sex couples and to declare the invalidity of the
9 licenses that have been granted to same-sex couples.
10

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

14 STATUTORY BACKGROUND

15 22. California Family Code provides that: "Marriage is a personal relation arising out a
16 civil contract between a man and a woman." The gendered language was added by the California
17 Legislature in 1977. Prior to that amendment, the Family Code did not specify that marriage must
18 be between a man and a woman.

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

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

27 25. These laws have been and are now in full force and effect in the State of California.
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1 26. Defendants/Respondents have taken the position that California law does not
2 permit same-sex couples to obtain marriage licenses or to marry and that Defendants/Respondents.
3

4 **FIRST CAUSE OF ACTION FOR DECLARATORY RELIEF**

5 **(By All Petitioners Against All Respondents)**

6 27. Petitioners refer to and incorporate by reference herein the allegations of
7 paragraphs 1 through 26, inclusive.

8 28. To resolve this controversy, Petitioners request that, pursuant to Code of Civil
9 Procedure section 1060, this Court declare:
10

- 11 a. that to comply with the California Constitution, Family Code section 300
12 must be construed to allow otherwise qualified same-sex couples to marry;
13 in the alternative, if this Court concludes that Family Code section 300
14 excludes otherwise qualified same-sex couples from the right to obtain
15 marriage licenses or to marry in California, that such exclusion is void and
16 unenforceable because it violates the state constitutional rights of same-sex
17 couples and of individuals who are members of same-sex couples in that,
18 among other things, any such exclusion would (i) impermissibly
19 discriminate on the basis of sex in violation of the Equal Protection and
20 Privileges and the Immunities Clauses of the California Constitution
21 (Article 1, section 7(a) and 21); (ii) impermissibly discriminate on the basis
22 of sexual orientation in violation of the Equal Protection and the Privileges
23 and Immunities Clauses of the California Constitution (Article 1, section
24 7(a) and 21); (iii) violate liberty interests protected by the Due Process
25 Clause of the California Constitution (Article 1, section 7(a)); and (iv)
26 violate privacy interests protected by the Privacy Clause of the California
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Constitution (Article 1, section 1) and by the Due Process Clause of the California Constitution (Article 1, section 1);

- b. that Family Code section 301 does not exclude same-sex couples from the right to marry and cannot bar the issuance of marriage licenses to same-sex couples in California; in the alternative, if this Court concludes that Family Code section 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 would (i) impermissibly 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, section 7(a) and 21); (ii) impermissibly 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, section 7(a) and 21); (iii) violate liberty interests protected by the Due Process Clause of the California Constitution (Article 1, section 7(a)); and (iv) violate privacy interests protected by the Privacy Clause of the California Constitution (Article 1, section 1) and by the Due Process Clause of the California Constitution (Article 1, section 1); and
- c. that Family Code section 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 section 308.5 does exclude same-sex couples from the right to obtain

1 marriage 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 would (i) impermissibly
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 section 7(a) and 21); (ii) impermissibly discriminate on the basis of sexual
8 orientation in violation of the Equal Protection and the Privileges and
9 Immunities Clauses of the California Constitution (Article 1, section 7(a)
10 and 21); (iii) violate liberty interests protected by the Due Process Clause of
11 the California Constitution (Article 1, section 7(a)); and (iv) violate privacy
12 interests protected by the Privacy Clause of the California Constitution
13 (Article 1, section 1) and by the Due Process Clause of the California
14 Constitution (Article 1, section 1);

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16
17 29. In addition, Petitioners seek an injunction pursuant to Code of Civil Procedure
18 sections 525 and 526. Respondents' wrongful conduct, unless enjoined by order of this Court, will
19 continue to cause great and irreparable injury to Petitioners (including, in the case of Petitioners
20 Our Family Coalition and Equality, to their members who desire and intend to marry their same-
21 sex partners), who will be denied hundreds of rights, benefits, and responsibilities that
22 automatically are accorded to married couples, and who otherwise will be relegated by
23 Respondents to a second-class status which in itself causes Petitioners substantial injury.

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25 30. Respondents' wrongful conduct is of a continuing nature for which Petitioners have
26 no adequate remedy at law in that it will be impossible for Petitioners (including, in the case of
27 Petitioners Our Family Coalition and Equality California, for their members) to determine their
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1 respective monetary damages caused by Respondents' wrongful conduct. Accordingly, Petitioners
2 seek a permanent injunction compelling Respondents, their agents, employees, representatives,
3 and all those acting in concert with them: (a) to prescribe and furnish marriage certificates that are
4 gender neutral; (b) to prepare and issue detailed instructions to procure the uniform observance of
5 allowing marriage certificates to be used in a gender neutral manner; (c) to call into conference the
6 local registrar or their chief deputies, in groups and at places within the state as may be designated
7 by the State Registrar, for the purpose of discussing problems ensuring uniformity in filling out
8 the gender neutral marriage certificates; and (d) to apply and enforce California's marriage laws
9 consistently with equal protection, privileges and immunities, liberty, and privacy guarantees of
10 California Constitution.
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13 **SECOND CAUSE OF ACTION FOR A WRIT OF MANDATE**

14 **(By All Petitioners Against All Respondents)**

15 31. Petitioners refer to and incorporate by reference herein the allegations of
16 paragraphs 1 through 26, inclusive.
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18 32. Petitioners seek a writ of mandate, pursuant to Code of Civil Procedure §§ 1085
19 and 1087 compelling Respondents and all persons acting in concert with them: (a) to prescribe and
20 furnish marriage certificates that are gender neutral; (b) to prepare and issue detailed instructions
21 to procure the uniform observance of allowing marriage certificates to be used in a gender neutral
22 manner; (c) to call into conference the local registrars or their chief deputies, in groups and at
23 places within the state as may be designated by the State Registrar, for the purpose of discussing
24 problems ensuring uniformity in filling out the gender neutral marriage certificates; and (d) to
25 apply and enforce California's marriage laws consistently with equal protection, privileges and
26 immunities, liberty, and privacy guarantees of the California Constitution.
27

28 **PRAYER**

1 WHEREFORE, Petitioners pray for judgment against Respondents as follows:

2 1. A declaration that to comply with the California Constitution, Family Code section 300
3 must be construed to allow otherwise qualified same-sex couples to marry; in the alternative, if
4 this Court concludes that Family Code section 300 excludes otherwise qualified same-sex couples
5 from the right to obtain marriage licenses or to marry in California, a declaration that that
6 exclusion is void and unenforceable because it violates the state constitutional rights of same-sex
7 couples and of individuals who are members of same-sex couples in that, among other things, any
8 such exclusion would (i) impermissibly discriminate on the basis of sex in violation of the Equal
9 Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1,
10 section 7(a) and 21); (ii) impermissibly discriminate on the basis of sexual orientation in violation
11 of the Equal Protection and the Privileges and Immunities Clauses of the California Constitution
12 (Article 1, section 7(a) and 21); (iii) violate liberty interests protected by the Due Process Clause
13 of the California Constitution (Article 1, section 7(a)); and (iv) violate privacy interests protected
14 by the Privacy Clause of the California Constitution (Article 1, section 1) and by the Due Process
15 Clause of the California Constitution (Article 1, section 1);
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17

18 2. A declaration that Family Code section 301 does not exclude same-sex couples from the
19 right to marry and cannot bar the issuance of marriage licenses to same-sex couples in California;
20 in the alternative, if this Court concludes that Family Code section 301 does exclude same-sex
21 couples from the right to obtain marriage licenses or to marry in California, a declaration that that
22 exclusion is void and unenforceable because it violates the state constitutional rights of same-sex
23 couples and of individuals who are members of same-sex couples in that, among other things, any
24 such exclusion would (i) impermissibly discriminate on the basis of sex in violation of the Equal
25 Protection and the Privileges and Immunities Clauses of the California Constitution (Article 1,
26 section 7(a) and 21); (ii) impermissibly discriminate on the basis of sexual orientation in violation
27
28

1 of the Equal Protection and the Privileges and Immunities Clauses of the California Constitution
2 (Article 1, section 7(a) and 21); (iii) violate liberty interests protected by the Due Process Clause
3 of the California Constitution (Article 1, section 7(a)); and (iv) violate privacy interests protected
4 by the Privacy Clause of the California Constitution (Article 1, section 1) and by the Due Process
5 Clause of the California Constitution (Article 1, section 1);
6

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

22 4. A permanent injunction compelling Respondents, their agents, employees, representatives,
23 and all those acting in concert with them: (a) to prescribe and furnish marriage certificates that are
24 gender neutral; (b) to prepare and issue detailed instructions to procure the uniform observance of
25 allowing marriage certificates to be used in a gender neutral manner; (c) to call into conference the
26 local registrar or their chief deputies, in groups and at places within the state as may be designated
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1 by the State Registrar, for the purpose of discussing problems ensuring uniformity in filling out
2 the gender neutral marriage certificates; and (d) to apply and enforce California's marriage laws
3 consistently with equal protection, privileges and immunities, liberty, and privacy guarantees of
4 the California Constitution;

5
6 5. For a writ of mandate, pursuant to Code of Civil Procedure §§ 1085 and 1087 compelling
7 Respondents and all persons acting in concert with them: (a) to prescribe and furnish marriage
8 certificates that are gender neutral; (b) to prepare and issue detailed instructions to procure the
9 uniform observance of allowing marriage certificates to be used in a gender neutral manner; (c) to
10 call into conference the local registrars or their chief deputies, in groups and at places within the
11 state as may be designated by the State Registrar, for the purpose of discussing problems ensuring
12 uniformity in filling out the gender neutral marriage certificates; and (d) to apply and enforce
13 California's marriage laws consistently with equal protection, privileges and immunities, liberty,
14 and privacy guarantees of the California Constitution;

15
16 6. Costs, including but not limited to attorneys' fees; and

17 7. For such other and further relief as the Court may deem just and proper.

18
19 Dated: March 12, 2004

Respectfully submitted,

20 STEPHEN V. BOMSE
21 RICHARD DE NATALE
22 HILARY E. WARE
HELLER EHRMAN WHITE & MCAULIFFE LLP

23 SHANNON MINTER
24 COURTNEY JOSLIN
NATIONAL CENTER FOR LESBIAN RIGHTS


25 JON W. DAVIDSON
26 JENNIFER C. PIZER
LAMBDA LEGAL DEFENSE AND EDUCATION FUND

27 TAMARA LANGE
28 ALAN L. SCHLOSSER
ACLU FOUNDATION OF NORTHERN CALIFORNIA

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

DAVID C. CODELL
AIMEE DUDOVITZ
LAW OFFICE OF DAVID C. CODELL

By: 

Shannon Minter

Attorneys for Petitioners/Plaintiffs
LANCY WOO and CRISTY CHUNG, JOSHUA
RYMER and TIM FRAZER, JEWELL GOMEZ and
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ARTHUR FREDERICK ADAMS and DEVIN
WAYNE BAKER, JEANNE RIZZO and PALI
COOPER, OUR FAMILY COALITION and
EQUALITY CALIFORNIA

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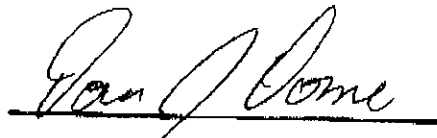
VERIFICATION

I, DORA DOME, declare as follow:

I am the President of the Board of Our Families 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 Families Coalition. I have read the foregoing document entitled Petition for Writ of Mandate and Complaint for Declaratory and Injunctive Relief and know the contents thereof. The matters set forth in the foregoing document are true of my knowledge, except as to the matters which are therein stated upon my information and belief, and as to those matters, I believe them to be true.

Alameda
Executed on March 12, 2004, at ~~Berkeley~~, California.

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



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): SHANNON MINTER (SBN 168907) / NCLR / 870 Market St., Ste 570 / SAN FRANCISCO, CA 94102 TELEPHONE NO.: 415-392-6257 FAX NO.: 415-392-8442 ATTORNEY FOR (Name): Woo, et al.	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN FRANCISCO STREET ADDRESS: 400 McAllister St. MAILING ADDRESS: CITY AND ZIP CODE: SAN FRANCISCO, CA 94102 BRANCH NAME:	
CASE NAME: Woo, et al. v. Lockyer, et al.	
CIVIL CASE COVER SHEET <input checked="" type="checkbox"/> Unlimited (Amount demanded exceeds \$25,000) <input type="checkbox"/> Limited (Amount demanded is \$25,000 or less)	Complex Case Designation <input type="checkbox"/> Counter <input type="checkbox"/> Joinder Filed with first appearance by defendant (Cal. Rules of Court, rule 1811)
	CASE NUMBER: GPF -04-504038 JUDGE: DEPT.:

All five (5) items below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort <input type="checkbox"/> Auto (22) <input type="checkbox"/> Uninsured motorist (46) Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort <input type="checkbox"/> Asbestos (04) <input type="checkbox"/> Product liability (24) <input type="checkbox"/> Medical malpractice (45) <input type="checkbox"/> Other PI/PD/WD (23) Non-PI/PD/WD (Other) Tort <input type="checkbox"/> Business tort/unfair business practice (07) <input checked="" type="checkbox"/> Civil rights (08) <input type="checkbox"/> Defamation (13) <input type="checkbox"/> Fraud (16) <input type="checkbox"/> Intellectual property (19) <input type="checkbox"/> Professional negligence (25) <input type="checkbox"/> Other non-PI/PD/WD tort (35) Employment <input type="checkbox"/> Wrongful termination (36) <input type="checkbox"/> Other employment (15)	Contract <input type="checkbox"/> Breach of contract/warranty (06) <input type="checkbox"/> Collections (09) <input type="checkbox"/> Insurance coverage (18) <input type="checkbox"/> Other contract (37) Real Property <input type="checkbox"/> Eminent domain/Inverse condemnation (14) <input type="checkbox"/> Wrongful eviction (33) <input type="checkbox"/> Other real property (26) Unlawful Detainer <input type="checkbox"/> Commercial (31) <input type="checkbox"/> Residential (32) <input type="checkbox"/> Drugs (38) Judicial Review <input type="checkbox"/> Asset forfeiture (05) <input type="checkbox"/> Petition re: arbitration award (11) <input type="checkbox"/> Writ of mandate (02) <input type="checkbox"/> Other judicial review (39)	Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 1800-1812) <input type="checkbox"/> Antitrust/Trade regulation (03) <input type="checkbox"/> Construction defect (10) <input type="checkbox"/> Mass tort (40) <input type="checkbox"/> Securities litigation (28) <input type="checkbox"/> Environmental /Toxic tort (30) <input type="checkbox"/> Insurance coverage claims arising from the above listed provisionally complex case types (41) Enforcement of Judgment <input type="checkbox"/> Enforcement of judgment (20) Miscellaneous Civil Complaint <input type="checkbox"/> RICO (27) <input type="checkbox"/> Other complaint (not specified above) (42) Miscellaneous Civil Petition <input type="checkbox"/> Partnership and corporate governance (21) <input type="checkbox"/> Other petition (not specified above) (43)
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2. This case is is not complex under rule 1800 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

a. <input type="checkbox"/> Large number of separately represented parties b. <input type="checkbox"/> Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve c. <input type="checkbox"/> Substantial amount of documentary evidence	d. <input type="checkbox"/> Large number of witnesses e. <input type="checkbox"/> Coordination with related actions pending in one or more courts in other counties, states or countries, or in a federal court f. <input type="checkbox"/> Substantial post-judgment judicial supervision
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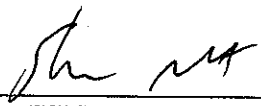
3. Type of remedies sought (check all that apply):
 a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action, (specify):

5. This case is is not a class action suit.

Date: **MARCH 12, 2004**
SHANNON MINTER

(TYPE OR PRINT NAME)


 (SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate, Family, or Welfare and Institutions Code). (Cal. Rules of Court, rule 201.8.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 1800 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a complex case, this cover sheet will be used for statistical purposes only.

INSTRUCTIONS ON HOW TO COMPLETE THE COVER SHEET

To Plaintiffs and Others Filing First Papers

If you are filing a first paper (for example, a complaint) in a civil case, you **must** complete and file, along with your first paper, the *Civil Case Cover Sheet* contained on page 1. This information will be used to compile statistics about the types and numbers of cases filed. You must check **all five** items on the sheet. In item 1, you must check **one** box for the case type that best describes the case. If the case fits both a general and a more specific type of case listed in item 1, check the more specific one. If the case has multiple causes of action, check the box that best indicates the **primary** cause of action. To assist you in completing the sheet, examples of the cases that belong under each case type in item 1 are provided below. A cover sheet must be filed only with your initial paper. You do not need to submit a cover sheet with amended papers. Failure to file a cover sheet with the first paper filed in a civil case may subject a party, its counsel, or both to sanctions under rules 201.8(c) and 227 of the California Rules of Court.

To Parties in Complex Cases

In complex cases only, parties must also use the *Civil Case Cover Sheet* to designate whether the case is complex. If a plaintiff believes the case is complex under rule 1800 of the California Rules of Court, this must be indicated by completing the appropriate boxes in items 1 and 2. If a plaintiff designates a case as complex, the cover sheet must be served with the complaint on all parties to the action. A defendant may file and serve no later than the time of its first appearance a joinder in the plaintiff's designation, a counter-designation that the case is not complex, or, if the plaintiff has made no designation, a designation that the case is complex.

CASE TYPES AND EXAMPLES

Auto Tort

- Auto (22)—Personal Injury/Property Damage/Wrongful Death
- Uninsured Motorist (46) (*if the case involves an uninsured motorist claim subject to arbitration, check this item instead of Auto*)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

- Asbestos (04)
 - Asbestos Property Damage
 - Asbestos Personal Injury/Wrongful Death
- Product Liability (*not asbestos or toxic/environmental*) (24)
- Medical Malpractice (45)
 - Medical Malpractice—Physicians & Surgeons
 - Other Professional Health Care Malpractice
- Other PI/PD/WD (23)
 - Premises Liability (e.g., slip and fall)
 - Intentional Bodily Injury/PD/WD (e.g., assault, vandalism)
 - Intentional Infliction of Emotional Distress
 - Negligent Infliction of Emotional Distress
 - Other PI/PD/WD

Non-PI/PD/WD (Other) Tort

- Business Tort/Unfair Business Practice (07)
- Civil Rights (e.g., discrimination, false arrest) (*not civil harassment*)(08)
- Defamation (e.g., slander, libel) (13)
- Fraud (16)
- Intellectual Property (19)
- Professional Negligence (25)
 - Legal Malpractice
 - Other Professional Malpractice (*not medical or legal*)
- Other Non-PI/PD/WD Tort (35)

Employment

- Wrongful Termination (36)
- Other Employment (15)

Contract

- Breach of Contract/Warranty (06)
 - Breach of Rental/Lease
 - Contract (*not unlawful detainer or wrongful eviction*)
 - Contract/Warranty Breach—Seller Plaintiff (*not fraud or negligence*)
 - Negligent Breach of Contract/Warranty
 - Other Breach of Contract/Warranty
- Collections (e.g., money owed, open book accounts) (09)
 - Collection Case—Seller Plaintiff
 - Other Promissory Note/Collections Case
- Insurance Coverage (*not provisionally complex*) (18)
 - Auto Subrogation
 - Other Coverage
- Other Contract (37)
 - Contractual Fraud
 - Other Contract Dispute

Real Property

- Eminent Domain/Inverse Condemnation (14)
- Wrongful Eviction (33)
- Other Real Property (e.g., quiet title) (26)
 - Writ of Possession of Real Property
 - Mortgage Foreclosure
 - Quiet Title
 - Other Real Property (*not eminent domain, landlord/tenant, or foreclosure*)

Unlawful Detainer

- Commercial (31)
- Residential (32)
- Drugs (38) (*if the case involves illegal drugs, check this item; otherwise, report as Commercial or Residential.*)

Judicial Review

- Asset Forfeiture (05)
- Petition Re: Arbitration Award (11)
- Writ of Mandate (02)
 - Writ—Administrative Mandamus
 - Writ—Mandamus on Limited Court Case Matter
 - Writ—Other Limited Court Case Review
- Other Judicial Review (39)
 - Review of Health Officer Order
 - Notice of Appeal—Labor Commissioner Appeals

Provisionally Complex Civil Litigation (Cal. Rules of Court Rule 1800-1812)

- Antitrust/Trade Regulation (03)
- Construction Defect (10)
- Claims Involving Mass Tort (40)
- Securities Litigation (28)
- Toxic Tort/Environmental (30)
- Insurance Coverage Claims (*arising from provisionally complex case type listed above*) (41)

Enforcement of Judgment

- Enforcement of Judgment (20)
 - Abstract of Judgment (Out of County)
 - Confession of Judgment (*non-domestic relations*)
 - Sister State Judgment
 - Administrative Agency Award (*not unpaid taxes*)
 - Petition/Certification of Entry of Judgment on Unpaid Tax
 - Other Enforcement of Judgment Case

Miscellaneous Civil Complaint

- RICO (27)
- Other Complaint (*not specified above*) (42)
- Declaratory Relief Only
- Injunctive Relief Only (*non-harassment*)
- Mechanics Lien
- Other Commercial Complaint Case (*non-tort/non-complex*)
- Other Civil Complaint (*non-tort/non-complex*)

Miscellaneous Civil Petition

- Partnership and Corporate Governance (21)
- Other Petition (*not specified above*) (43)
 - Civil Harassment
 - Workplace Violence
 - Elder/Dependent Adult Abuse
 - Election Contest
 - Petition for Name Change
 - Petition for Relief from Late Claim
 - Other Civil Petition