

S122923

IN THE SUPREME COURT OF THE  
STATE OF CALIFORNIA

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BILL LOCKYER, Attorney General of the State of California,  
Petitioner,

v.

CITY AND COUNTY OF SAN FRANCISCO; GAVIN NEWSOM, in his official  
capacity as Mayor of San Francisco; MABEL S. TENG, in her official capacity as  
Assessor-Recorder of the City and County of San Francisco; and NANCY ALFARO, in  
her official capacity as the San Francisco County Clerk,

Respondents.

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**APPLICATION FOR LEAVE TO EXCEED PAGE LIMIT FOR  
ATTACHMENTS, PURSUANT TO  
CALIFORNIA RULE OF COURT 14(d)**

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Matthew S. Gray (SBN 194527)  
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Attorneys for Amicus Curiae  
**BAY AREA LAWYERS FOR INDIVIDUAL FREEDOM**

TO THE HONORABLE CHIEF JUSTICE RONALD GEORGE AND  
THE ASSOCIATE JUSTICES OF THE CALIFORNIA SUPREME COURT:

*Amicus curiae* Bay Area Lawyers for Individual Freedom requests permission to exceed the limit of 10 pages for attachments imposed by Rule 14(d) of the California Rules of Court. It is unclear whether Rule 14(d) applies in original proceedings such as these, but BALIF makes this request in an abundance of caution and in deference to the Court. BALIF attaches herewith the declarations of seven individuals who have been denied access to marriage as a result of the Court's March 11, 2004 injunction. Together, the declarations consist of a total of 22 pages.

Each of the seven declarations includes a brief statement of the background of the declarant that is relevant to the Court's understanding of their interest here. And each concisely describes how the declarant and his or her family was affected by the Court's injunction preventing San Francisco from issuing them marriage licenses.

BALIF submits that these declarations will substantially assist the Court by providing information highly relevant to the issues before the Court that would not be readily available otherwise.

*Amicus curiae* BALIF therefore respectfully requests the Court to consider the 22 pages of attachments that follow. The attached declarations are:

1. The Declaration of Marcia Raymond attached as Exhibit A. Ms. Raymond and her partner, Anna Gruver, have been in a committed relationship for nearly 10 years. Her declaration describes how the injunction has harmed her, her partner, and their newborn son, Joaquin Gruver-Raymond.

2. The Declaration of Paul Fishman, M.D. is attached as Exhibit B. Dr. Fishman and his partner, Mike Kurokawa, have been in a committed relationship for 20 years. His declaration describes how the injunction has harmed him, his partner and their son, Danny Fishman-Engel.

3. The Declaration of Ronald P. Flynn is attached as Exhibit C. Mr. Flynn and his partner, Neal Schwartz, have been in a committed relationship for 16 years. Messrs. Flynn and Schwartz obtained a marriage license, but were not wed, prior to this Court's issuance of an injunction. Mr. Flynn's declaration describes how the injunction has prevented him from solemnizing his marriage to Mr. Schwartz.

4. The Declaration of Ross Ladouceur attached as Exhibit D. Mr. Ladouceur and his partner, Stuart Sanders, have been in a committed relationship for five years and were to be married less than an hour after the Court issued its injunction. His declaration describes how the injunction has harmed him and his partner.

5. The Declaration of Steve LaFrance attached as Exhibit E. Mr. LaFrance and his partner, Todd Feeley, have been in a committed relationship for fifteen years, and had a commitment ceremony in 1997. His declaration describes how the injunction has harmed him and his partner.

6. The Declaration of Donald Robinson attached as Exhibit F. Mr. Robinson and his partner, Randall Gess, have been in a committed relationship for ten years. Because they are unable to marry, and because domestic partnership does not provide the validation or security they seek, Messrs. Robinson and Gess are considering moving to Canada where they would be able to marry. Mr. Robinson's declaration

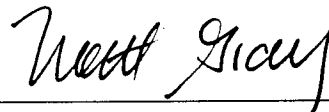
describes how the injunction has harmed him and his partner.

7. The Declaration of Diana Correia is attached as Exhibit G. Ms. Correia and her partner, Cynthia Correia, have been together in a committed relationship for fourteen years. They have two children, Nicolo, who is 9, and is sister Lena, who will soon turn 7. Ms. Correia's declaration describes how the injunction has harmed her, her partner, and her family.

DATED: March 25, 2004

BINGHAM McCUTCHEN, LLP

By:



Matthew Gray

Attorneys for Amicus Curiae  
Bay Area Lawyers for Individual Freedom

## EXHIBIT A

### DECLARATION OF MARCIA RAYMOND

I, Marcia Raymond, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I am a member of Bay Area Lawyers for Individual Freedom. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. My partner Anna Gruver and I have been in a loving, committed relationship for nearly 10 years. We own a home together in San Leandro. I am an attorney at Rudloff Wood & Barrows, LLP, and Anna is a social worker for Alameda County. We are 38 and 31 years old respectively. Anna and I have registered as domestic partners with the State of California and the City of San Francisco.

3. Several years ago, Anna and I made the decision to have a child. On February 17, 2004, Anna gave birth to our son, Joaquin Alexander Gruver-Raymond. I am currently in the process of legally adopting Joaquin as his second parent.

4. Before Joaquin was born, Anna and I spent several thousand dollars in fees for the preparation of legal documents designed to protect our family, such as guardianship documents, wills and the like. We did this in an effort to fill in the gaps where domestic partnership law does not protect our family. None of those documents, or the related expense, would have been necessary if Anna and I were able to marry. Likewise, the costly second parent adoption process I am now engaged in would be unnecessary if Anna and I were able to marry.

5. When San Francisco began issuing marriage licenses to same-sex couples on February 12, 2004, Anna and I immediately knew that legally marrying was something we wanted and intended to do. Given the thousands of people who went to City Hall to be married, and the lines stretching around the building, we knew we would have to wait. Anna was simply

too close to delivering our son to stand in those lines.

6. The weeks after our son was born were, of course, exciting and the experience all-consuming. On the morning of March 11, 2004, I turned my attention back to getting married and made an appointment to get a marriage license on April 6, the next available date. When I saw on the news later that same day that the Supreme Court had ordered a halt to the marriages, I was hurt and deeply disappointed.


7. The opportunity to marry Anna is important to me for a lot of reasons. Anna and I deeply love and care for one another, and are dedicated to spending the rest of our lives together. We have consciously and purposefully built a life together in which we are bound on every level including the financial, emotional, and spiritual.

8. In addition, I believe the right to legally marry would not only affirm our love for one another, but would also create a societal affirmation that my relationship with Anna is valid and worthy of protection and acknowledgement. This societal affirmation would provide our son with a sense of security, pride, and confidence because he would grow up knowing that his parents were equal to heterosexual married couples. I would also like to have the legal benefits for us and our son that are bestowed only to legally married couples.

9. Finally, I want to legally marry Anna because as a responsible, law-abiding, tax-paying American, I refuse to be treated as a second-class citizen. I want the right to marry the person I love, regardless of her gender.

10. When I learned that Anna and I could not be married as planned, I was extremely disappointed, hurt and angry. We had not gotten married sooner because Anna was so close to her due date and later recuperating from labor. I felt as if we had missed what could have been our only opportunity to get legally married. I was also hurt and angry because I felt that the state government and the California Supreme Court had refused to protect my civil rights in the same manner they protected those of opposite-sex couples.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in Emeryville, California.

  
\_\_\_\_\_  
Marcia Raymond

## EXHIBIT B

### DECLARATION OF PAUL FISHMAN, M.D.

I, Paul Fishman, M.D., declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. My partner Mike Kurokawa and I have been in a loving, committed relationship for 20 years. We plan to spend the rest of our lives together. I am a licensed physician, board certified psychiatrist and certified Jungian analyst. I have a private psychotherapy practice. Mike is a certified massage therapist. We are 46 and 49 years old, respectively.

3. When it became possible to register as domestic partners with the City and County of San Francisco, we did so. When it became possible to register with the State of California, we did so. We did so because we wanted to have the same protections, rights, and recognition that other couples enjoy. Domestic partnership was the best that our society had to offer us at that time in recognition and support of the family and home we have created together.

4. Mike and I have a seven-year-old son, Danny Fishman-Engel. I am Danny's biological father. Mike and I co-parent Danny with his biological mother, Joanne Engel, and her partner of 18 years, Ellen Haller.

5. Having developed a friendship over the course of 10 years, the four of us—Joanne, Ellen, Mike and I—made the decision to have a child together. Joanne and Ellen live in San Francisco, one mile away from our home. Joanne and I have joint custody, and Danny spends the same three nights each week at our home, the same four at his moms' home. As we began this pattern when he was an infant, he is very attached to his "Sundays at my dads' house, Mondays and Tuesdays at my moms' house," etc. Although we initially agreed to share



Thanksgiving as our family holiday, leaving the others up for grabs, we have truly become a family of five. We spend holidays together, which are many given that we celebrate one Shabbat together as a family each month along with the major Jewish and secular holidays, and of course, Christmas. As for vacations, Danny typically spends two weeks away each year with his moms, two weeks away with his dads, and the long July 4th week-end with all four of us. All four parents attend his weekend soccer, basketball and baseball games. Both Joanne and I are present for his weekly violin lesson. Danny's four parents communicate many times a day by e-mail and phone, not only to arrange scheduling but also to maintain consistency in Danny's two homes. Though I have jokingly described our two households as being like divorce without the enmity, Mike says it better: there was never a splitting apart, only a coming together. Danny is thriving in our loving family.

6. As his biological parents, Joanne and I have a clear legal relationship with Danny. The situation is much less defined for Mike and Ellen. Neither Mike nor Ellen has adopted Danny. Indeed, they were advised not to even try the arduous and apparently unprecedented path of second-parent (or, more accurately, third- and fourth-parent) adoption.

7. When Joanne was pregnant with Danny, we went so far as to consider "marriage with a twist"; it occurred to us that if the biological parents-to-be married the non-biological parents, all four of us would then have full legal parenting rights and responsibilities when our child was born, and would have no need for any special legal documents. It could be the way to insure our parenting intentions and protect our new family against a myriad of potential challenges in the future. Ultimately, we decided not to take that path. In addition to the legal and financial difficulties of enmeshing the two couples in that way, it didn't feel right to us. It would have dishonored each couple's love and spiritual connection. Mike is my spouse. I feel strongly that our relationship deserves the dignity and respect, as well as the legal rights and

responsibilities, of civil marriage.

8. Instead, before Danny was born, we drew up a legal agreement between Danny's two moms and ourselves out of our concerns for his welfare and for our parenting rights and responsibilities over time. After spending several hours with our attorney, she presented us with a document expressing our intention to be four equal parents, which we all promptly signed. She informed us, however, that our intention to make the two non-biological parents fully equal would not necessarily be recognized by the State. She said, "Think of this as a \$1200 prayer."

9. When I learned that San Francisco had begun issuing marriage licenses to same-sex couples, I was overjoyed. This, finally, was the recognition, security and protection of our family we had been striving for. Until then, I never allowed myself to feel a strong desire to get married; it just was not an option. When it became a possibility, I wanted to jump at the chance. Mike and I would have gone to City Hall to be married on February 13, the day after the City first began marrying same-sex couples, except Danny had left that morning for a spring break trip with his mothers. We did not want to be married without our son present.

10. Instead, Mike and I made an appointment to be married at City Hall on March 15, 2004 at 3:00 pm. Joanne and Ellen made an appointment to be married at the same time. Mike and I bought rings, arranged for a joint reception with Joanne & Ellen to celebrate with about thirty local friends and family. We even found bride and bride, and groom and groom toppers for the wedding cake.

11. Danny was especially delighted. He requested, and we purchased for him, his first suit has he wanted to be dressed "fancy" for the occasion. Danny was looking forward to being our ring bearer, musician (he planned to play his violin) and poet (he composed a poem that includes the line "love is when two souls hold hands" that he intended to recite at the ceremony. Since preschool, when he became aware of the many different types of family structures, he has been asking us "Why can't you get married?" Mike and I were looking forward to no longer having to explain to him (in age appropriate terms) that, because of

discrimination, only a mom and dad, but not two dads or two moms, were allowed to marry. When we had to tell Danny that his mothers and we could not marry as planned, he was brave but very disappointed.

12. Mike and I were very sad and angry when our wedding—scheduled just three days too late—was so unceremoniously cancelled. We felt that losing the chance to be married, at least for now, diminished the security of the family and home that we provide for our child and ourselves. We have decided that for now our wedding bands will be our engagement rings. But we want civil marriage, with all of the attendant rights, privileges, and responsibilities, including the chance to call our rings our wedding bands. Not engagement rings. Not civil union bands. Wedding bands. My family wants and needs the legal protections of marriage. And we want to be recognized and validated as fully equal members of the community. I should never have to tell my son that his parents are treated as second-class citizens.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in San Francisco, California.

A handwritten signature in black ink, appearing to read "Paul Fishman", with a stylized flourish at the end. The signature is written above a horizontal line.

Paul Fishman, M.D.

## EXHIBIT C

### DECLARATION OF RONALD P. FLYNN

I, Ronald P. Flynn, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I am an attorney duly licensed to practice law in the State of California, and a member of Bay Area Lawyers for Individual Freedom. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. This summer my partner, Neal Schwartz, and I will have been in a committed relationship for 16 years, and we plan to spend the rest of our lives together. We met when we were 25 years old. Neal was in graduate school at the time and I was preparing to start graduate school. Now, we are both 41 years old. I am a lawyer and Neal is an architect. We own a home together in San Francisco, and work in the city as well. We have registered as domestic partners with the State of California.

3. Neal and I went to San Francisco City Hall on Sunday, February 15, 2004 hoping to be married that day. Although we stood in a line that stretched around the building for over an hour, we eventually were told that we would not be able to marry that day. There were so many same-sex couples there to marry, that City workers (who I understand were volunteering their time) could not possibly accommodate everyone. They issued numbers to couples so that they could come back the next day. We were too far back in line to even receive a number, and instead went home empty-handed. Although Neal and I were unable to marry on February 15, the sight of so many loving couples marrying and standing in line in hope of finally receiving the governmental recognition they deserve was overwhelming.

4. After over a week of long lines of same-sex couples seeking marriage licenses, I understand that the City of San Francisco began requiring all applicants for marriage

licenses to make an appointment starting on February 23, 2004. I went to the City's web site each day hoping to get an appointment. Because so many couples wanted to get married, it took a while before we are able to get an appointment to get a marriage license. Finally, Neal and I were able to make an appointment through the internet to obtain a marriage license. Our appointment was for May 5, 2004. Neal and I began making plans to be married at City Hall that day, in a ceremony that would involve our friends.

5. Unexpectedly, on March 9, due to a cancellation, I was able to change our appointment to obtain a marriage license to the following day, March 10. On the morning of March 10, Neal and I went to San Francisco City Hall where we were issued a marriage license. Because of the short notice, and because Neal and I (as well as our officiant and witnesses) had other commitments, we decided not to have the marriage ceremony performed at City Hall that day. Just the fact of having the license, however, made me feel great. That day there were many couples not only getting their license, but getting married as well. It was wonderful to be around, to see so many people so happy to marry the person they love.

6. Neal and I immediately began planning our marriage ceremony. That evening we contacted our closest friends in an effort to plan a wedding where everyone could be present. The next morning, I met with the person who was going to perform the ceremony. Our plan was have to have a marriage ceremony within the 90 days allowed under the license we were issued. We were still in the process of making our plans that afternoon when the Supreme Court ordered a halt to same-sex weddings. I understand that the Court's injunction prevents us from solemnizing our marriage despite having been issued a marriage license by the City and County of San Francisco.

7. Over the years, Neal and I have discussed with each other, and with a number of friends, whether to have a commitment ceremony in the absence of state legal recognition of our relationship. Although many of our close friends have encouraged us to do so—particularly in conversations about the weddings of opposite-sex couples—Neal and I have

decided not to have a “wedding” in the absence of legal recognition by the state of that marriage. Some of our straight friends have argued to us that they view the public statement of commitment, and the community’s affirmation of that commitment, but not the marriage license, to be the key element of their weddings. I always respond, however, that I am not aware of any opposite-sex couple who has had a wedding where they did not also obtain a marriage license. I agree that the public commitment and acknowledgement of that commitment are vital aspects of a marriage. Government validation of a marriage, however, is also a vital aspect of that confirmation and recognition.

8. Neal and I want to be married just like our friends who are in opposite-sex relationships. We should not have to stand in long lines hoping to be issued a number, or camp out overnight to do it. Nor should we have to travel to another state far from our home, or even to another country, to be married. My marriage to Neal deserves of the same solemnity, dignity and respect as any other couple’s marriage. We should be able to celebrate in the same manner, having planned a special day that we will remember for our entire lives.

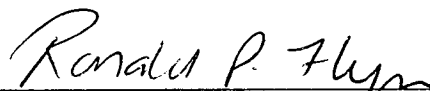
9. I look forward to the time when Neal and I can answer the question “are you married?” with a simple yes. Neal and I have a wonderful group of straight friends who have met, married and had children since we have been together. We have attended their weddings and seen them start families. As the children of these couples grow older, they inevitably ask us “are you married?” Neal and I, along with our friends, then have to explain that while we have been a couple for many years (longer than their parents in fact) and have been around them as a couple all of their lives, we are not married because the law does not presently allow it. No matter how much we are a part of this group of friends’ lives, we are always separated out because we are not married.

10. Another example is when Neal and I returned from a wonderful vacation in Italy. We arrived at San Francisco Airport together, happy to be home after such a great trip. An opposite-sex couple was in front of us in line in customs. They went to the customs agent,

who took both of their passports and processed them together. When Neal and I went to the window next, he asked “are you married?” We responded that “we are partners and registered in the State of California.” He repeated “are you married?” Without waiting for the (obvious) answer, he told me to step away from the counter. Later, I saw the opposite-sex couple. I asked them if the agent had inquired as to their marital status. They told me that he had not. In fact they were married, but had different last names. The agent had no reason to believe they were married; he just assumed it. Our vacation should not have to end on a sour note merely because we cannot simply say “yes” when asked if we are married.

11. We have a marriage license that we cannot use. It serves a reminder for me. No matter how many of our straight friends tell us that we are their “role model” couple or that Neal and I are part of the family, we will forever be on the outside looking in until we can take that simple step of converting our license into a marriage certificate.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in San Francisco, California.

  
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Ronald P. Flynn

**EXHIBIT D**

**DECLARATION OF ROSS LADOUCEUR**

I, Ross Ladouceur, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. My partner, Stuart Sanders, and I have been in a committed relationship for 5 years. We plan to spend the rest of our lives together. We are both native Californians, and live in Boulder Creek, California. Stuart, who is 36, works as a computer network systems administrator. I am 33 years old. Since injuring my back on the job in 2000, I have been unable to work full-time. I am currently a student, and was recently was awarded a Unix network systems administrator certificate, with honors, from the University of California at Santa Cruz. I was able to attend classes at U.C.S.C. through NOVA, a federally funded employment and training agency, whose mission is to provide low cost and efficient job retraining and reemployment programs for Santa Clara County residents. Stuart and I are what is often called the “working poor.”

3. I have not had health insurance since approximately 2001. Although Stuart has health insurance through his employer, I cannot be insured through him because we have not been able to legally marry. This has been a frightening and costly situation. I recently had to spend over \$3,000 out-of-pocket on medical expenses related to a minor car accident. The vast majority of those costs would have been covered by insurance if I could be covered through Stuart’s insurer. I am scheduled for back surgery in the near future. I am very concerned about Stuart’s ability to see me and look out for my interests if the hospital staff refuses to recognize our relationship.

4. Stuart and I have not registered as domestic partners with the State of



California. I feel strongly that domestic partnership does not give our relationship protection or dignity it deserves; domestic partnership is a band-aid on the much larger problem of discrimination. Nor have we taken steps to protect our relationship through other means such as a living together agreement, wills, powers of attorney, or the like. We simply cannot afford to hire an attorney to advise us and prepare those types of legal documents.

5. For many years, Stuart and I have wanted to be legally married, just like our friends and family. We were thrilled when San Francisco began issuing marriage licenses to same-sex couples.

6. Stuart and I had an appointment to be married at San Francisco City Hall on Thursday, March 11, 2004 at 3:30 pm. Wearing tuxedos, and leis specially made for the occasion, we arrived at Civic Center at about 3:20 pm. As we were leaving the parking garage and walking to City Hall, a stranger approached us and told us we would not be getting married that day. Confused, we entered City Hall where a reporter once again told us we would not be getting married.

7. We literally ran to the County Clerk's office where the person behind the desk, without speaking, simply pointed us to a sign stating that as of 2:33 pm that day, there would be no more same-sex weddings. Stuart and I were devastated. A picture of Stuart and me, crying, appeared on the front page of *The San Francisco Chronicle* and, I understand, in a number of other newspapers around the country.

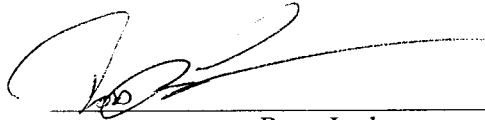
8. I was flabbergasted and frustrated to be denied the chance to marry the man I love. Although Stuart and I were not allowed to marry as planned, we watched as opposite-sex couples were married in the Rotunda of City Hall. It simply wasn't fair. All men are created equal in this country, not just straight people. I am an honest, law abiding citizen. My relationship deserves the same respect as anyone else's.

9. Our families, who had been very supportive of our decision to legally marry, were shocked and hurt when we told them that we had been unable to go through with our

wedding as planned. Although we live in a small town without a significant lesbian and gay community, our neighbors, and people in town at the bank and grocery store have all been extremely supportive.

10. Stuart and I were offered free train tickets to Portland, Oregon where Multnomah County is issuing marriage licenses to both same-sex and opposite-sex couples. Although we appreciated the offer, we have decided not to go out of state or country to marry. We are Californians. This is our home, and this is where we want to be married.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in Bonita Creek, California.



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Ross Ladouceur

## EXHIBIT E

### DECLARATION OF STEVEN LAFRANCE

I, Steven LaFrance, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. My partner, Todd Feeley, and I have been together as a couple for fifteen years. I am thirty-four years old and Todd is forty. We live in San Francisco and plan to spend the rest of our lives together.

3. On March 10, 2004, Todd and I finally obtained an appointment to be married at San Francisco City Hall on March 31, 2004. It took three weeks of standing in line, calling the clerk's office, and then going on-line to get an available appointment. As the owner of a social service research and evaluation consulting firm in San Francisco, and given that Todd is the psychiatric medical director of a San Mateo County community mental health clinic, neither one of us easily came across the time to deal with the many layers of the process. Nonetheless, we persevered because we longed for the opportunity to celebrate our loving, joy-filled, and committed relationship by getting married.

4. When we secured an appointment, we were elated. We immediately contacted the friends and family who had played central roles in our 1997 commitment ceremony. We began to make plans for how we were going to celebrate and mark the momentous occasion. We were to get married at noon, then throw a party at our new Potrero Hill home, followed by spa treatments and a luxurious weekend away in Half Moon Bay.

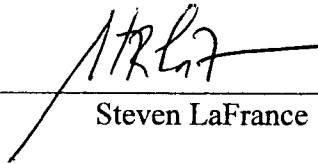
5. Had we not had an elaborate commitment ceremony previously that involved even once estranged family members and 75 other guests at Lake Tahoe, the plans would have been even more extensive. We felt as though we were being given the chance to even further deepen our love for each other, as we saw marriage as a responsibility and opportunity to reflect on what it means to spend our loves together, to make joint decisions and compromises along a path of mutual trust, respect, and happiness.

6. When we called our Jesuit friend who had presided over our commitment ceremony, he told us of the Supreme Court's March 11, 2004 injunction. We were devastated. We felt singled out and deprived of the chance to celebrate what we have shared over the course of fifteen years. Why us? Why now? And in our own city, where we live and work and contribute to the community daily!

7. After so much intentional effort to get a marriage appointment—not to mention what it takes to stay happy in a relationship for 15 years—we had the rug pulled out from under us and the wind knocked out of our sails. We felt depressed and dejected. We were rejected and denied what we had hoped and planned to be a beautiful celebration of love and commitment.

8. As of now, we have cancelled our plans, and are waiting in a state of limbo with the hope that the Court will reverse the injunction so that we might once again have the chance to honor our relationship through the institution of marriage.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in San Francisco, California.

  
\_\_\_\_\_  
Steven LaFrance

## EXHIBIT F

### DECLARATION OF DONALD ROBINSON

I, Donald Robinson, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I am an attorney duly licensed to practice law in the State of California, and a member of Bay Area Lawyers for Individual Freedom. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. I have practiced law for almost fifteen years. Before law school, I was a legislative assistant to a United States Congressman. During law school, I worked as an extern in the California Supreme Court for Justice Alan E. Broussard. My parents, both deceased, were born in Canada and were naturalized American citizens. I was the first of my siblings to be born in the United States.

3. In 1994, during a hiatus from law practice, I met Randall Gess in Seattle. Randall was finishing his Ph.D. in linguistics at the University of Washington and teaching at the University. I had just finished working on an election campaign for Hands Off Washington, a non-profit group campaigning against an initiative that would have prohibited cities and counties from passing nondiscrimination ordinances much like the law found unconstitutional by the United States Supreme Court in *Romer v. Evans*. Randall and I embarked on a relationship in Seattle. In August of this year, we will celebrate 10 years together in a committed, primary relationship.

4. Randall is now an associate professor of linguistics at the University of Utah. He spends the academic year in Salt Lake City and spends his summers and sabbaticals with me in San Mateo. We spend every other weekend together in San Mateo or Salt Lake City.

5. My father died without a will when I was nine years old. The lack of any

will did not pose serious problems for my family, given that my parents were married at the time of his death. My father's death imprinted upon me at an early age the importance of family relationships in securing legal rights. Had my parents not been married when my father died, the disposition of his estate would have been less clear and could have left his family in a legal no-man's land.

6. After Randall and I had been together for a few years, I felt that I had found the person with whom I would spend the rest of my life. Randall is the person to whom I am committed, with whom I want to share the benefits of marriage, and with whom I want to share the full set of mutual obligations that go along with marriage, including financial interdependence and responsibility for making life-and-death decisions for one another. I also want to signal to my siblings, to all of my friends, and to my employer, that Randall is the most important person in my life. I want them to know what I have known for several years: that Randall is my spouse in all but name.

7. Randall and I have scrupulously tried to take all steps available to us to secure all of the rights that marriage, if it were available, would confer on us. We have executed wills that name each other as the principle beneficiary. We have executed durable powers of attorney so that we can make life-and-death decisions for each other regarding our health.

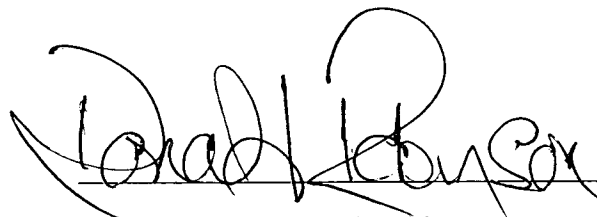
8. Despite our best efforts, there are countless benefits that Randall and I cannot create for ourselves with contracts. And because we reside principally in two different states, one of which refuses to recognize domestic partnership, it is not clear that we qualify for domestic partnership benefits. Moreover, the notion of becoming "domestic partners" is not enough.

9. When two provinces in Canada recently began to issue marriage licenses to same-sex couples, Randall and I were confronted with a difficult choice. We are both Americans and would like to have our relationship legitimized here in the U.S. But the security of having our relationship considered by the state to be equal in stature and importance to that of

different-sex couples was too great to deny. Several weeks before the City of San Francisco started issuing marriage licenses, I contacted a marriage commissioner in Victoria, British Columbia, and arranged to be married on May 29, 2004. We place so much importance on the fact that our marriage will be recognized by the Canadian government that we are considering immigrating and applying for Canadian citizenship.

10. When San Francisco began issuing marriage licenses to same-sex couples on February 12, Randall and I began to feel there was hope. I thought at one time that marriage was all about benefits and legal rights – health insurance, rights of survivorship, and the ability to make medical decisions – all issues that could be addressed through domestic partnership legislation. I was initially cynical about the idea that my relationship with Randall required validation or recognition by the state. It was only when I found myself crying as I read stories about same-sex couples who married in San Francisco that I realized the issues really are discrimination and societal recognition. Marriage is a privilege that the State of California grants indiscriminately to opposite-sex couples and has denied to Randall and me solely because we are gay.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in San Francisco, California.



Donald Robinson



## **EXHIBIT G**

### **DECLARATION OF DIANA CORREIA**

I, Diana Correia, declare as follows:

1. I am over 18 years of age. I have personal knowledge of the facts stated herein, except those stated on information and belief, and, if called upon, could and would testify competently to them. I make this declaration in support of Brief of Amicus Curiae Bay Area Lawyers for Individual Freedom submitted to the Court on March 25, 2004.

2. My partner, Cynthia Correia, and I have been together as a couple for fourteen years. Cynthia is fifty-two years old, and I am fifty-three. We live in Berkeley with our nine-year-old son Nicolo and almost seven-year-old daughter Lena. We plan to spend the rest of our lives together.

3. Cynthia's job as a teacher at Laney College in Oakland has afforded me the luxury of staying at home with our children. As a result, I have been able to be extremely involved in the Berkeley community, particularly in the efforts to improve the Berkeley public school system.

4. When we heard that the City of San Francisco was issuing marriage certificates to same-sex couples, we were excited to take our relationship to the ultimate level of commitment. We made an appointment to marry on March 26, 2004 at 10:00 a.m. at City Hall in San Francisco, but were unable to obtain a marriage certificate because of the California Supreme Court's March 11, 2004 injunction.

5. We had planned an intimate and beautiful champagne and cake reception. Friends and family stood ready to fly from all over the country to celebrate the event with us. We bought wedding bands and outfits. Our son Nicolo was elated to be the ring-bearer, and our

daughter Lena proud to be the flower girl. Even Nicolo and Lena's teachers wanted to participate in the celebration.

6. When we heard that we would not be allowed to get a marriage license, we were shocked and disappointed. It was such a profound emotional blow to our family. After fourteen years of commitment and two amazing children, we deserve the same support, respect, and recognition from our community and government as other couples.

7. We registered as domestic partners on December 31, 1991, with the City of Berkeley, and then again in July 18, 2003, with the State of California. Over the years, we have done everything we could to protect our family legally and to be as "married" as possible. I even changed my last name to that of Cynthia's to further our commitment to each other. But our family would no doubt be more supported and protected if we were treated like opposite-sex couples.

8. Our children Nicolo and Lena do not understand why we are not married like their friends' parents. Even at their young age, they understand that our relationship is akin to a "marriage." To them, being married is a gold standard and they want to be able to tell the world that their moms are married. It pains us as parents that we cannot give them that much.

I declare under penalty of perjury under the laws of the State of California and the United States of America that the foregoing is true and correct. Executed on March 24, 2004 in Berkeley, California.

  
\_\_\_\_\_  
Diana Correia

1 PROOF OF SERVICE

2 I am over 18 years of age, not a party to this action and employed in the County  
3 of San Francisco, California at Three Embarcadero Center, San Francisco, California 94111-  
4 4067. I am readily familiar with the practice of this office for collection and processing of  
5 correspondence for next business day delivery by FedEx, and correspondence is deposited with  
6 FedEx that same day in the ordinary course of business.

7 Today I served the attached:

8 APPLICATION TO FILE BRIEF OF AMICUS CURIAE;  
9 BRIEF OF AMICUS CURIAE BAY AREA LAWYERS FOR  
INDIVIDUAL FREEDOM IN SUPPORT OF RESPONDENTS

10 by causing a true and correct copy of the above to be delivered by FedEx from San Francisco,  
11 California in sealed envelope(s) with all fees prepaid, addressed as follows:

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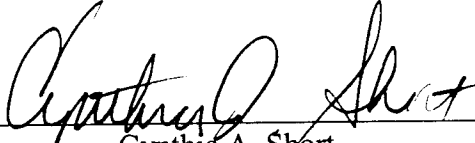
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on March 25, 2004.

  
\_\_\_\_\_  
Cynthia A. Short