

## Press Statement by Gloria Allred

On May 15, 2008, after we waged a four year long legal battle we finally won a landmark victory in the California Supreme Court for same gender couples who wished to marry in California.

Last night, opponents sought to reverse that decision with Proposition 8 in which they once again sought to restrict legal marriage to a man and a woman. That Proposition appears to have passed by a narrow margin.

As a result, today we will file a writ with the California Supreme Court on behalf of Robin Tyler and her spouse, Diane Olson, challenging its constitutionality on several grounds. In our case in May, the California Supreme Court ruled that the equal protection clause in our California Constitution protects the rights of lesbians and gays to marry the person of their choice, and for the first time, recognized homosexuality as a "suspect classification" under the equal protection clause of our state constitution, thereby requiring a strict scrutiny test which test was not and cannot be met (the court so held) in marriages limited to a

man and a woman. Prop 8, if it passes, conflicts with the equal protection clause. If marriage is now limited to straight couples and excludes gay couples then it is inconsistent and in conflict with the equal protection clause. We will argue to the court that Prop 8 is a disguised revision to the constitution which cannot be imposed by the ordinary amendment process, which only requires a simple majority. We believe that then the court must hold that California may not issue marriage licenses to non-gay couples because if it does it would be violating the equal protection clause as straight couples would have more rights by being allowed to marry than gay couples.

If Prop 8 had said that the California constitution was amended to limit marriage to people of the same race only, would that be constitutional under our state constitution? Of course not as it would violate the equal protection clause and the seminal case of *Perez v. Sharp* which the Supreme court decided sixty years ago.

We will also argue that Prop 8 improperly revises recent opinion the Supreme Court's recent opinion defining the constitutional fundamental right of marriage. The state constitution provides that revisions to the constitution requires a 2/3 vote

of the legislature or the convening of a state constitutional convention, and a proposition requiring only 50% is not available to the electorate to accomplish the revision to our equal protection clause.

Lastly, the constitutional requirement of separation of powers, we will argue, does not permit the use of the Proposition format to remove and /or circumvent the judiciary in determining the interpretation of what is or is not a fundamental liberty right and who is and who is not protected by the equal protection clause.

The apparent passage of Prop 8 in California has been a heartbreaking experience for our clients, Robin Tyler and Diane Olson, and millions of other same gender couples who have married or wish to marry in California and throughout the nation. All they have asked for is equal rights under the law and equal respect and dignity for their families and their committed relationships.

Our law firm is honored to continue this great civil rights battle for them. We will never give in and we will never give up. We will continue to be the change we wish to see in the world and we will never have another season of

silence until same gender couples enjoy the same rights as non-gay couples on this green earth.

Gloria Allred  
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representing  
Robin Tyler and Diane Olson  
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