

JS 44 (Rev. 12/07) (with rev 1-16-08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

I. (a) PLAINTIFFS
Kristin M. Perry, Sandra B. Stier, Paul T. Katami, and Jeffrey J. Zarbo
(b) County of Residence of First Listed Plaintiff Alameda (EXCEPT IN U.S. PLAINTIFF CASES)
(c) Attorney's (Firm Name, Address, and Telephone Number)
GIBSON, DUNN & CRUTCHER LLP
333 S. Grand Avenue
Los Angeles, California 90071
Telephone: (213) 229-7804

DEFENDANTS Gov. Arnold Schwarzenegger; Atty Gen. Edmund G. Brown; Dept. Public Health, Mark B. Horton, Dir.; Linette Scott, Dep. Dir.; Alameda Co. Clerk-Recorder Patrick O'Connell; L.A. Co. Registrar-Recorder Dean C. Logan
County of Residence of First Listed Defendant Sacramento (IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.
Attorneys (If Known)

Handwritten marks: a circled '6' and a large stylized signature 'Gibson'.

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)
1 U.S. Government Plaintiff
2 U.S. Government Defendant
3 Federal Question (U.S. Government Not a Party)
4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
Citizen of This State
Citizen of Another State
Citizen or Subject of a Foreign Country
Incorporated or Principal Place of Business In This State
Incorporated and Principal Place of Business In Another State
Foreign Nation

Table with 5 columns: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES. Includes checkboxes for various legal categories like Personal Injury, Real Property, Labor, etc.

V. ORIGIN (Place an "X" in One Box Only)
1 Original Proceeding
2 Removed from State Court
3 Remanded from Appellate Court
4 Reinstated or Reopened
5 Transferred from another district (specify)
6 Multidistrict Litigation
7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION
Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
42 U.S.C. § 1983
Brief description of cause:
COMPLAINT FOR DECLARATORY, INJUNCTIVE, OR OTHER RELIEF

VII. REQUESTED IN COMPLAINT:
CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23
DEMAND \$
CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY
PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2) (PLACE AND "X" IN ONE BOX ONLY)
SAN FRANCISCO/OAKLAND
SAN JOSE

DATE May 22, 2009
SIGNATURE OF ATTORNEY OF RECORD (Handwritten signature)

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GIBSON, DUNN & CRUTCHER LLP  
Theodore B. Olson, SBN 38137.  
*tolson@gibsondunn.com*  
Matthew D. McGill (*pro hac vice* application pending)  
Amir C. Tayrani, SBN 229609  
1050 Connecticut Avenue, N.W. Washington, D.C. 20036  
Telephone: (202) 955-8668, Facsimile: (202) 467-0539

Theodore J. Boutrous, Jr., SBN 132009  
*tboutrous@gibsondunn.com*  
Christopher D. Dusseault, SBN 177557  
Ethan D. Dettmer, SBN 196046  
Theane Evangelis Kapur, SBN 243570  
Enrique A. Monagas, SBN 239087  
333 S. Grand Avenue, Los Angeles, California 90071  
Telephone: (213) 229-7804, Facsimile: (213) 229-7520

BOIES, SCHILLER & FLEXNER LLP  
David Boies (*pro hac vice* application pending)  
*dboies@bsflp.com*  
Theodore H. Uno, SBN 248603  
333 Main Street, Armonk, New York 10504  
Telephone: (914) 749-8200, Facsimile: (914) 749-8300

Attorneys for Plaintiffs KRISTIN M. PERRY, SANDRA B. STIER,  
PAUL T. KATAMI, and JEFFREY J. ZARRILLO

**ORIGINAL**

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**VRW**

KRISTIN M. PERRY, SANDRA B. STIER  
PAUL T. KATAMI, and JEFFREY J.  
ZARRILLO,

**ECV**

**001**

**2292**

Plaintiffs,

**COMPLAINT FOR DECLARATORY,  
INJUNCTIVE, OR OTHER RELIEF**

v.

ARNOLD SCHWARZENEGGER, in his official  
capacity as Governor of California; EDMUND  
G. BROWN, JR., in his official capacity as  
Attorney General of California; MARK B.  
HORTON, in his official capacity as Director of  
the California Department of Public Health and  
State Registrar of Vital Statistics; LINETTE  
SCOTT, in her official capacity as Deputy  
Director of Health Information & Strategic  
Planning for the California Department of Public  
Health; PATRICK O'CONNELL, in his official  
capacity as Clerk-Recorder for the County of  
Alameda; and DEAN C. LOGAN, in his official  
capacity as Registrar-Recorder/County Clerk for  
the County of Los Angeles,

Defendants.

1 Plaintiffs Kristin M. Perry, Sandra B. Stier, Paul T. Katami, and Jeffrey J. Zarrillo complain  
2 of Defendants and allege:

3 **INTRODUCTION**

4 1. More than 30 years ago, the Supreme Court of the United States recognized that  
5 “[m]arriage is one of the ‘basic civil rights of man,’ fundamental to our very existence and survival.”  
6 *Loving v. Virginia*, 388 U.S. 1, 12 (1967). But today, as a result of the passage of Proposition 8 in  
7 November 2008, the State of California denies its gay and lesbian residents access to marriage by  
8 providing in its constitution that only a civil marriage “between a man and a woman” is “valid or  
9 recognized in California.” Cal. Const. Art. I § 7.5 (“Prop. 8”). Instead, California relegates same-sex  
10 unions to the separate-but-unequal institution of domestic partnership. *See* Cal. Fam. Code §§ 297-  
11 299.6. This unequal treatment of gays and lesbians denies them the basic liberties and equal  
12 protection under the law that are guaranteed by the Fourteenth Amendment to the United States  
13 Constitution.

14 2. For these reasons, Plaintiffs ask this Court to enjoin, preliminarily and permanently,  
15 all enforcement of Prop. 8 and any other California statutes that seek to exclude gays and lesbians  
16 from access to civil marriage.

17 **JURISDICTION AND VENUE**

18 3. This case raises questions under the Constitution of the United States and 42 U.S.C.  
19 § 1983, and thus this Court has jurisdiction over all claims for relief pursuant to 28 U.S.C. § 1331.

20 4. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b) because Defendant  
21 O’Connell resides in this district and all Defendants reside in the State of California. Venue is also  
22 proper in this Court because a substantial part of the events giving rise to the claim occurred in this  
23 district.

24 **NATURE OF DISPUTE**

25 5. This action pursuant to 42 U.S.C. § 1983 seeks (1) a declaration that Prop. 8, which  
26 denies gay and lesbian individuals the opportunity to marry civilly and enter into the same officially  
27 sanctioned family relationship with their loved ones as heterosexual individuals, is unconstitutional  
28 under the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United

1 States Constitution, and (2) a preliminary and permanent injunction preventing Defendants from  
2 enforcing that provision against Plaintiffs.

3 6. In an abundance of caution, and to the extent that they have any continuing legal force  
4 after the California Supreme Court's decision in *In re Marriage Cases*, 183 P.3d 384 (Cal. 2008),  
5 Plaintiffs also seek (1) a declaration that California Family Code §§ 300 and 308.5, which purport to  
6 restrict civil marriage in California to opposite-sex couples, and California Family Code § 301, which  
7 also could be read to impose such a restriction, are unconstitutional under the Due Process and Equal  
8 Protection Clauses of the Fourteenth Amendment to the United States Constitution, and (2) a  
9 preliminary and permanent injunction preventing Defendants from enforcing those provisions against  
10 Plaintiffs.

11 7. Plaintiffs Perry and Stier are lesbian individuals in a committed relationship. Plaintiffs  
12 Katami and Zarrillo are gay individuals in a committed relationship. Both couples desire to express  
13 their love for and commitment to one another by getting married and obtaining official sanction for  
14 their family from the State. But Prop. 8 denies them that right in violation of the Equal Protection and  
15 Due Process Clauses of the Fourteenth Amendment to the United States Constitution.

16 8. To enforce the rights afforded by the United States Constitution, Plaintiffs bring this  
17 suit pursuant to 42 U.S.C. § 1983 for declaratory and injunctive relief against the enforcement of  
18 Prop. 8. Plaintiffs also seek to recover all their attorneys' fees, costs, and expenses incurred in this  
19 action and any other relief that this Court may order.

20 **THE PARTIES**

21 9. Plaintiff Kristin M. Perry is a California citizen and resides in Alameda County,  
22 California.

23 10. Plaintiff Sandra B. Stier is a California citizen and resides in Alameda County,  
24 California.

25 11. Plaintiff Paul T. Katami is a California citizen and resides in Los Angeles County,  
26 California.

27 12. Plaintiff Jeffrey J. Zarrillo is a California citizen and resides in Los Angeles County,  
28 California.

1           13. Defendant Arnold Schwarzenegger is the Governor of the State of California. In his  
2 official capacity, the Governor is the chief executive officer of the State of California. It is his  
3 responsibility to ensure that the laws of the State are properly enforced. The Governor maintains an  
4 office in San Francisco.

5           14. Defendant Edmund G. Brown, Jr., is the Attorney General of the State of California.  
6 In his official capacity, the Attorney General is the chief legal officer of the State of California. It is  
7 his duty to see that the laws of the State are uniformly and adequately enforced. The Attorney  
8 General maintains offices in Oakland and San Francisco.

9           15. Defendant Mark B. Horton is the Director of the California Department of Public  
10 Health and, as such, is the State Registrar of Vital Statistics of the State of California. In his official  
11 capacity, the Director of the California Department of Public Health is responsible for prescribing and  
12 furnishing the forms for the application for license to marry, the certificate of registry of marriage  
13 including the license to marry, and the marriage certificate.

14           16. Defendant Linette Scott is the Deputy Director of Health Information & Strategic  
15 Planning for the California Department of Public Health. Upon information and belief, Scott reports  
16 to Defendant Horton and is the California Department of Public Health official responsible for  
17 prescribing and furnishing the forms for the application for license to marry, the certificate of registry  
18 of marriage including the license to marry, and the marriage certificate.

19           17. Defendant Patrick O'Connell is the Clerk-Registrar for the County of Alameda.  
20 O'Connell is responsible for maintaining vital records of marriages, issuing marriage licenses, and  
21 performing civil marriage ceremonies.

22           18. Defendant Dean C. Logan is the Registrar-Recorder/County Clerk for the County of  
23 Los Angeles. Logan is responsible for maintaining vital records of marriages, issuing marriage  
24 licenses, and performing civil marriage ceremonies.

25           19. Defendants, and those subject to their supervision, direction, and control, are  
26 responsible for the enforcement of Prop. 8. The relief requested in this action is sought against each  
27 Defendant, as well as against each Defendant's officers, employees, and agents, and against all  
28

1 persons acting in cooperation with Defendant(s), under their supervision, at their direction, or under  
2 their control.

3 FACTS

4 20. Gay and lesbian individuals have faced a long and painful history of societal and  
5 government-sponsored discrimination in this country. Although their sexual orientation bears no  
6 relation to their ability to contribute to society, gays and lesbians have been singled out for  
7 discriminatory treatment. They have faced unconstitutional criminal penalties for private sexual  
8 conduct between consenting adults, harassment, hate crimes, and discrimination in employment and  
9 many other areas. They have even been the subject of laws stripping them of rights afforded to all  
10 other citizens.

11 21. Beginning in the 1970s, gays and lesbians began to seek change and equality through  
12 the legislative process in California. Unfortunately, that effort was met with resistance from those  
13 who would deny them equal treatment. For example, several same-sex couples sought marriage  
14 licenses in the mid-1970s from the county clerks in a number of California counties, but their  
15 applications were denied. Then, in 1977, the California Legislature enacted California Family Code §  
16 300, which defined marriage as “a personal relation arising out of a civil contract between a man and  
17 a woman, to which the consent of the parties capable of making that contract is necessary.”

18 22. Nonetheless, gays and lesbians continued to press for the recognition of their right to  
19 equal treatment and were successful in making some gains. One such gain was the creation of  
20 domestic partnerships by the California Legislature in 1999. Cal. Stats. 1999, ch. 588, § 2 (adding  
21 Cal. Fam. Code §§ 297-299.6). The 1999 legislation defined “domestic partners” as “two adults who  
22 have chosen to share one another’s lives in an intimate and committed relationship of mutual caring.”  
23 Cal. Fam. Code § 297(a). To qualify for domestic partnership, a couple must share a common  
24 residence, each be at least 18 years of age and unrelated by blood in any way that would prevent them  
25 from being married to each other, not be married or a member of another domestic partnership, be  
26 capable of consenting, and either both be persons of the same sex or include at least one person more  
27 than 62 years of age. Cal. Fam. Code § 297(b).

1           23. Domestic partnership enables same-sex couples to obtain many of the substantive  
2 legal benefits and privileges that California law provides to married couples, but denies them access  
3 to civil marriage itself. It also treats same-sex couples differently in other respects, including but not  
4 limited to the following: (1) To qualify for domestic partnership, both partners must have a common  
5 residence at the time the partnership is established, Cal. Fam. Code § 297(b)(1), but there is no such  
6 requirement for marriage; (2) both individuals must be 18 years of age to enter into a domestic  
7 partnership, Cal. Fam. Code § 297(b)(4), but a person under 18 may be married with the consent of a  
8 parent or guardian or court order, Cal. Fam. Code §§ 302, 303; (3) to become domestic partners, both  
9 individuals must complete and file a Declaration of Domestic Partnership with the Secretary of State,  
10 who registers the declaration in a statewide registry, Cal. Fam. Code § 298.5(a) & (b), but a couple  
11 who wishes to marry must obtain a marriage license and certificate of registry of marriage from the  
12 county clerk, have the marriage solemnized by an authorized individual, and return the license and  
13 certificate of registry to the county recorder, who transmits it to the State Registrar of Vital Statistics,  
14 Cal. Fam. Code §§ 306, 359; Cal. Health & Safety Code §§ 102285, 102330, 102355; (4) the  
15 marriage laws establish a procedure through which an unmarried man and woman who have been  
16 living together as husband and wife may enter into a “confidential marriage” in which the marriage  
17 certificate and date of marriage are not made available to the public, Cal. Fam. Code §§ 500, 511, but  
18 the domestic partnership law contains no such provision; (5) Article XIII § 3(o) & (p) of the  
19 California Constitution grants a \$1,000 property tax exemption to an “unmarried spouse of a deceased  
20 veteran” who owns property valued at less than \$10,000, but not to a domestic partner of a deceased  
21 veteran; and (6) domestic partners may initiate a summary dissolution of a domestic partnership  
22 without any court action, whereas a summary dissolution of a marriage becomes effective only upon  
23 entry of a court judgment, Cal. Fam. Code § 299(a)-(c); Cal. Fam. Code § 2400 et seq.

24           24. After enactment of the domestic partnership law, gays and lesbians again experienced  
25 a backlash, this time through the ballot initiative process. In 2000, a majority of California voters  
26 approved Proposition 22 (codified at Cal. Fam. Code § 308.5), which provided that “[o]nly marriage  
27 between a man and a woman is valid or recognized in California.” In *Lockyer v. City & County of*  
28 *San Francisco*, 95 P.3d 459 (Cal. 2004), the California Supreme Court held that Family Code sections

1 300 and 308.5 prohibited public officials of the City and County of San Francisco from issuing  
2 marriage licenses to same-sex couples, but it did not decide whether those laws were constitutional.

3 25. Fearing that Family Code sections 300 and 308.5 might be held unconstitutional,  
4 opponents of same-sex marriage began an effort to put an initiative on the November 4, 2008, ballot  
5 that would overturn the California Supreme Court's decision by amending the California Constitution  
6 to ban same-sex marriage. On April 24, 2008, the proponents of the ban submitted petitions with  
7 enough signatures to place what would become Prop. 8 on the ballot.

8 26. On May 15, 2008, the California Supreme Court held that Family Code sections 300  
9 and 308.5 were unconstitutional under the privacy, due process, and equal protection guarantees of  
10 the California Constitution in *In re Marriage Cases*, 183 P.3d 384 (Cal. 2008).

11 27. On June 2, 2008, the Secretary of State declared that Prop. 8 could be placed on the  
12 ballot. The General Election Voter Information Guide stated that Prop. 8 would "[c]hange[] the  
13 California Constitution to *eliminate the right* of same-sex couples to marry in California." (Emphasis  
14 added). Thus, the express and stated purpose of the ballot initiative was to strip gays and lesbians of  
15 constitutional rights afforded to them by the California Constitution and to impose a special disability  
16 on gays and lesbians alone by stripping them of state constitutional protections that apply to all other  
17 citizens.

18 28. On election day, fifty-two percent of the ballots cast voted to amend the California  
19 Constitution to add a new section 7.5 to Article I providing: "Only marriage between a man and a  
20 woman is valid or recognized in California." The measure went into effect on November 5, 2008, the  
21 day after the election.

22 29. Since November 5, 2008, same-sex couples have been denied marriage licenses on  
23 account of Prop. 8.

24 30. Prop. 8 has created a legal system in which civil marriage is restricted solely and  
25 exclusively to opposite-sex couples, and in which gay and lesbian individuals are denied the right to  
26 enter into a civil marriage with the person of their choice. The inability to marry denies gay and  
27 lesbian individuals and their children the personal and public affirmation that accompanies marriage.

28



1           31.       Plaintiffs are gay and lesbian residents of California who are involved in long-term,  
2 serious relationships with individuals of the same sex and desire to marry those individuals. They are  
3 now prohibited from doing so as a direct result of Defendants' enforcement of Prop. 8.

4           32.       On May 21, 2009, Plaintiffs Perry and Stier applied for a marriage license from  
5 Defendant O'Connell, the Alameda County Clerk-Registrar, but were denied because they are a  
6 same-sex couple.

7           33.       On May 20, 2009, Plaintiffs Katami and Zarrillo applied for a marriage license from  
8 Defendant Logan, the Los Angeles County Clerk, but were denied because they are a same-sex  
9 couple.

10          34.       As a result of Prop. 8, Plaintiffs are barred from marrying the individual they wish to  
11 marry and are instead left only with the separate-but-unequal option of domestic partnership.

12          35.       Plaintiffs' inability to have their relationship recognized by the State with the dignity  
13 and respect accorded to married opposite-sex couples has caused them significant hardship, including  
14 but not limited to the deprivation of rights guaranteed by the Fourteenth Amendment and severe  
15 humiliation, emotional distress, pain, suffering, psychological harm, and stigma. Marriage is a  
16 supremely important social institution, and the "freedom to marry has long been recognized as one of  
17 the vital personal rights essential to the orderly pursuit of happiness by free men." *Loving v. Virginia*,  
18 388 U.S. 1, 12 (1967). Each day that Plaintiffs are denied the freedom to marry, they suffer  
19 irreparable harm as a direct result of Defendants' violation of their constitutional rights.

20          36.       If Prop. 8 is not enjoined, Defendants will continue to enforce this unconstitutional  
21 law against Plaintiffs, thereby depriving them of their constitutional rights under the Fourteenth  
22 Amendment. The declaratory and injunctive relief sought by Plaintiffs, on the other hand, will  
23 require Defendants Horton and Scott to revise the official state forms for the application for license to  
24 marry, the certificate of registry of marriage including the license to marry, and the marriage  
25 certificate, and will require Defendants O'Connell and Logan to issue them a marriage license. The  
26 relief sought also will require Defendants Schwarzenegger and Brown to recognize their marriage as  
27 valid within the State of California.

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**CLAIMS FOR RELIEF**

**CLAIM ONE: DUE PROCESS**

37. Plaintiffs incorporate here by reference paragraphs 1 through 36, *supra*, as if fully set forth herein.

38. Prop. 8 violates fundamental liberties that are protected by the Due Process Clause, both on its face and as applied to Plaintiffs.

39. Prop. 8 impinges on fundamental liberties by denying gay and lesbian individuals the opportunity to marry civilly and enter into the same officially sanctioned family relationship with their loved ones as opposite-sex individuals. For example, by denying those individuals the same “marriage” designation afforded to opposite-sex couples, and instead allowing them access only to the separate and differently named “domestic partnership” relationship, the State is stigmatizing gays and lesbians, as well as their children and families, and denying them the same dignity, respect, and stature afforded officially recognized opposite-sex family relationships.

**CLAIM TWO: EQUAL PROTECTION**

40. Plaintiffs incorporate here by reference paragraphs 1 through 39, *supra*, as if fully set forth herein.

41. Prop. 8 violates the Equal Protection Clause of the Fourteenth Amendment, both on its face and as applied to Plaintiffs.

42. Prop. 8 restricts civil marriage to individuals of the opposite sex; gay and lesbian individuals are therefore unable to marry the person of their choice. Thus, California law treats similarly-situated people differently by providing civil marriage to heterosexual couples, but not to gay and lesbian couples. Instead, California law affords them and their families only the separate-but-unequal status of domestic partnership. Even if domestic partnership provided all of the tangible benefits and privileges of marriage, it still would be unequal because of the intangible, symbolic difference between the designation “marriage,” which enjoys a long history and uniform recognition, and the different and unequal institution of “domestic partnership,” which is a recent and manifestly unequal creation. Gays and lesbians are therefore unequal in the eyes of the law, and their families are denied the same respect as officially sanctioned families of opposite-sex individuals. By

1 purposefully denying civil marriage to gay and lesbian individuals, California's ban on same-sex  
2 marriage discriminates on the basis of sexual orientation.

3 43. The disadvantage Prop. 8 imposes upon gays and lesbians is the result of disapproval  
4 or animus against a politically unpopular group. The history of the enactment of Prop. 8 demonstrates  
5 that it was a backlash that stripped gays and lesbians of the rights previously conferred upon them by  
6 the California Supreme Court in *In re Marriage Cases*, 183 P.3d 384 (Cal. 2008). As such, Prop. 8  
7 withdrew from gays and lesbians, but no others, specific legal protections afforded by the California  
8 Supreme Court and the California Constitution, and imposed a special disability upon those persons  
9 alone. Accordingly, Prop. 8 violates the Equal Protection Clause of the Fourteenth Amendment  
10 because it singles out gays and lesbians for a disfavored legal status, thereby creating a category of  
11 "second-class citizens."

12 44. Prop. 8 also violates the Equal Protection Clause because it discriminates on the basis  
13 of sex. It distinguishes between couples consisting of a man and a woman and couples consisting of  
14 individuals of the same sex. Thus, the limitation on civil marriage depends upon an individual  
15 person's sex; a man who wishes to marry a man may not do so because he is a man, and a woman  
16 may not marry a woman because she is a woman.

17 **CLAIM THREE: VIOLATION OF 42 U.S.C. § 1983**

18 45. Plaintiffs incorporate here by reference paragraphs 1 through 44, *supra*, as if fully set  
19 forth herein.

20 46. Insofar as they are enforcing the terms of Prop. 8, Defendants, acting under color of  
21 state law, are depriving and will continue to deprive Plaintiffs of numerous rights secured by the  
22 Fourteenth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983.

23 **IRREPARABLE INJURY**

24 47. Plaintiffs incorporate here by reference paragraphs 1 through 46, *supra*, as if fully set  
25 forth herein.

26 48. Plaintiffs are now severely and irreparably injured by Prop. 8—a state law that  
27 violates the Due Process and Equal Protection Clauses of the Fourteenth Amendment. By way of  
28 example only, Plaintiffs' injury as a result of Prop. 8 includes the deprivation of rights guaranteed by

1 the Fourteenth Amendment and the severe humiliation, emotional distress, pain, suffering,  
2 psychological harm, and stigma caused by the inability to marry the ones they love and have society  
3 accord their unions and their families the same respect and dignity enjoyed by opposite-sex unions  
4 and families. Plaintiffs' injuries will be redressed only if this Court declares Prop. 8 unconstitutional  
5 and enjoins Defendant from enforcing it.

6 49. An actual and judicially cognizable controversy exists between Plaintiffs and  
7 Defendants regarding whether Prop. 8 violates the Due Process and Equal Protection Clauses of the  
8 Fourteenth Amendment. Defendants are presently enforcing this state law to the detriment of  
9 Plaintiffs.

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Plaintiffs pray for judgment as follows:

12 1. Plaintiffs respectfully request that this Court, pursuant to 28 U.S.C. § 2201, construe  
13 Prop. 8 and enter a declaratory judgment stating that this law and any other California law that bars  
14 same-sex marriage violate the Due Process and Equal Protection Clauses of the Fourteenth  
15 Amendment and 42 U.S.C. § 1983.

16 2. Plaintiffs respectfully request that this Court enter a preliminary and a permanent  
17 injunction enjoining enforcement or application of Prop. 8 and any other California law that bars  
18 same-sex marriage.

19 3. Plaintiffs respectfully request costs of suit, including reasonable attorneys' fees under  
20 42 U.S.C. § 1988, and all further relief to which they may be justly entitled.

21 Dated: May 22, 2009

GIBSON, DUNN & CRUTCHER LLP

22  
23 By:   
24 Theodore B. Olson

25 and

26 BOIES, SCHILLER & FLEXNER LLP  
David Boies (*pro hac vice* application pending)

27 Attorneys for Plaintiffs KRISTIN M. PERRY,  
28 SANDRA B. STIER, PAUL T. KATAMI, AND  
JEFFREY J. ZARRILLO