



NATIONAL CENTER FOR LESBIAN RIGHTS



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AMERICAN CIVIL LIBERTIES UNION



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CALIFORNIA SUPREME COURT TO HEAR ORAL ARGUMENTS IN PROP 8 LEGAL CHALLENGE ON MARCH 5
Attorney General, Governor, and nation’s top civil rights groups agree: Invalidate Prop 8

(San Francisco, CA, February 3, 2009) The California Supreme Court announced today that it will hear oral arguments on Thursday, March 5, 2009 in the Proposition 8 legal challenge. The National Center for Lesbian Rights, Lambda Legal, and the ACLU—with support from civil rights groups, religious organizations, labor unions, and legal scholars—argue that Proposition 8 is invalid because the people of California have established strict safeguards that prohibit the underlying principles of the California Constitution from being changed by a simple majority vote. By taking away a right only from one group, Proposition 8 violates the most basic principle of our government: that all people are entitled to equal treatment under the law.

California Attorney General Jerry Brown is also asking the Court to invalidate Proposition 8 on the ground that certain fundamental rights, including the right to marry, are inalienable and can not be put up for a popular vote.

On November 10, 2008, Governor Arnold Schwarzenegger stated that he hoped the Court would overturn Proposition 8. On CNN, he said of Proposition 8’s passage, “It’s unfortunate, obviously, but it’s not the end, I think that we will again maybe undo that, if the court is willing to do that, and then move forward from there and again lead in that area.”

On November 19, 2008, the California Supreme Court agreed to hear the legal challenges to Proposition 8 and set an expedited schedule. Briefing in the case was completed on January 21, 2009.

The California Supreme Court must issue its decisions within 90 days of oral argument.

On January 15, 2009, 43 friend-of-the-court briefs urging the Court to invalidate Prop 8 were filed, arguing that Proposition 8 drastically alters the equal protection guarantee in California’s Constitution and that the rights of a minority cannot be eliminated by a simple majority vote. The supporters represent the full gamut of California’s and the nation’s civil rights organizations and legal scholars, as well as California legislators, local governments, bar associations, business interests, labor unions, and religious groups.

In May of 2008, the California Supreme Court held that laws that treat people differently based on their sexual orientation violate the equal protection clause of the California Constitution and that same-sex couples have the same fundamental right to marry as other Californians. Proposition 8 eliminated this fundamental right only for same-sex couples. No other initiative has ever successfully changed the California Constitution to take away a right only from a targeted minority group. Proposition 8 passed by a bare majority of 52 percent on November 4.

The National Center for Lesbian Rights, Lambda Legal, and the ACLU filed this challenge on November 5, representing Equality California, whose members include many same-sex couples who married between June 16 and November 4, 2008, and six same-sex couples who want to marry in California. The California Supreme Court has also agreed to hear two other challenges filed on the same day: one filed by the City and County of San Francisco (joined by Santa Clara County and the City of Los Angeles, and subsequently by Los Angeles County and other local governments); and another filed by a private attorney.

Serving as co-counsel on the case with NCLR, Lambda Legal, and the ACLU are the Law Office of David C. Codell, Munger, Tolles & Olson LLP, and Orrick, Herrington & Sutcliffe LLP.

The case is *Strauss et al. v. Horton et al.* (#S168047). For more information, go to:
<http://www.courtinfo.ca.gov/courts/supreme/highprofile/prop8.htm>

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The National Center for Lesbian Rights is a national legal organization committed to advancing the civil and human rights of lesbian, gay, bisexual, and transgender people and their families through litigation, public policy advocacy, and public education. www.nclrights.org/overturn8

Lambda Legal is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation, education and public policy work. www.lambdalegal.org

The American Civil Liberties Union is America's foremost advocate of individual rights. It fights discrimination and moves public opinion on LGBT rights through the courts, legislatures and public education. www.aclu.org

Equality California is a nonprofit, nonpartisan, grassroots-based, statewide advocacy organization whose mission is to achieve equality and civil rights for all lesbian, gay, bisexual and transgender (LGBT) Californians. www.eqca.org