

No. 12-144

IN THE
Supreme Court of the United States

DENNIS HOLLINGSWORTH, ET AL.,
Petitioners,

v.

KRISTIN M. PERRY, ET AL.,
Respondents.

On Writ Of Certiorari To The
United States Court Of Appeals For The Ninth Circuit

**BRIEF OF
PARENTS, FAMILIES AND FRIENDS
OF LESBIANS AND GAYS, INC.
AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS**

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INTERESTS OF *AMICUS CURIAE*¹

Parents, Families & Friends of Lesbians & Gays, Inc. (“PFLAG”) respectfully submits this *amicus curiae* brief in support of Respondents.

PFLAG is a national, nonprofit organization that promotes the health, well-being, and civil rights of lesbian, gay, bisexual and transgender (“LGBT”) persons, as well as their families and friends. Nationwide, PFLAG has more than 200,000 members and supporters, with approximately 350 affiliates. In California, PFLAG has 37 local chapters, with members and supporters in 19,696 households.

PFLAG was founded in 1973 by heterosexual mothers and fathers of gay and lesbian children. The impetus for the founding of the organization was the simple act of one mother, Jeanne Manford. Ms. Manford took the then-unusual step of publicly supporting her gay son by participating in a gay rights march, holding a handmade sign reading “Parents of Gays Unite in Support for our Children.” Ms. Manford’s role in founding PFLAG was recognized earlier this month when Ms. Manford posthumously received the nation’s second-highest civilian honor, the Presidential Citizens Medal.

In the 40 years since its founding, PFLAG’s support, education, and advocacy efforts have promoted

¹ This brief is submitted with the consent of the parties, who have filed with the Clerk of the Court blanket consents to the submission of *amicus curiae* briefs. Pursuant to Rule 37.6, counsel represents that this brief was not authored in whole or in part by counsel for any party, and no person or entity other than PFLAG and its counsel has made any monetary contribution to the preparation and submission of this brief.

greater acceptance for the LGBT community. PFLAG's activities have included providing support services to LGBT individuals, their families and friends to assist in coping with discrimination and hostility. PFLAG has further engaged in education and advocacy efforts, through which it seeks to create a society in which all citizens enjoy full civil and legal equality and may participate in the rights, privileges and obligations of citizenship.

Today, PFLAG's members and supporters are predominantly heterosexual parents, children, grandparents, siblings, friends and allies of LGBT individuals who desire that their family members enjoy the same right to marry as heterosexual couples. PFLAG members also include LGBT individuals and same-sex couples in California and elsewhere who wish to marry.

As the nation's largest and oldest nonprofit organization for family members and friends of LGBT individuals, PFLAG has a strong interest in the reinstatement of the right of same-sex couples to marry, and its members are uniquely positioned to address and rebut certain arguments made by Proponents. In particular, PFLAG and its members have first-hand knowledge of how restrictions on same-sex marriage have negatively impacted not only same-sex couples themselves, but also their family members. Further, having witnessed committed same-sex relationships and marriages, PFLAG members can address Proponents' suggestion that, in the absence of Proposition 8, there would be a risk of adverse consequences to the institution of marriage. Brief of Petitioners (hereinafter "Prop. Br."), 51.

SUMMARY OF ARGUMENT

PFLAG submits that the judgment of the court of appeals should be affirmed for the many reasons set forth in the Briefs of Respondents. This *amicus curiae* brief will offer the perspective of PFLAG's members on just three of the arguments advanced by Proponents:

1. PFLAG offers personal stories of its members that rebut Proponents' contention that "Proposition 8 does not 'dishonor' gays and lesbians." Prop. Br. 61. Those stories illustrate the role of prejudice in the Proposition 8 campaign as well as the ways in which withdrawing the right to marry from same-sex couples dishonors gay men and lesbians.

2. PFLAG offers perspectives on Proponents' position that the domestic partnership benefits extended by California to gay men and lesbians render *Romer v. Evans*, 517 U.S. 620 (1996) inapplicable. Prop. Br. 25-26. Those stories illustrate the profound status disparities between domestic partnerships and marriages, not merely for same-sex couples, but for their family members.

3. PFLAG disputes Proponents' untenable contention that permitting same-sex couples to marry "would necessarily entail a significant risk of adverse consequences over time to the institution of marriage. . . ." Prop. Br. 51. As heterosexual family members of gay men and lesbians, PFLAG's members are uniquely situated: they can offer first-hand accounts of how observing gay and lesbian family members in committed relationships and marriages has reaffirmed, rather than harmed, their views on the importance of the institution.

The harm resulting from Proposition 8 is most directly felt by the same-sex couples themselves. But as the stories set forth below illustrate, the family members of gay men and lesbians would be deeply and adversely affected if the judgment were to be reversed. Proposition 8 tells the family members of gay men and lesbians that their children, grandchildren and siblings are inferior and that their families are not entitled to equal dignity under the law. As such, Proposition 8 cannot be reconciled with the Fourteenth Amendment.

ARGUMENT

I. PROPOSITION 8 DISHONORS GAY MEN AND LESBIANS.

“[A] bare . . . desire to harm a politically unpopular group cannot constitute a *legitimate* government interest.” *Romer*, 517 U.S. at 634 (citation and internal quotation marks omitted). Classifications of gay men and lesbians that do not “further a proper legislative end” but act “to make them unequal to everyone else” are thus unconstitutional. *Id.* at 635.

The sole purpose and effect of Proposition 8 is “to eliminate the right of same-sex couples to marry in California.” J.A. Exh. 53 (Official Voter Information Guide). The district court found that “Proposition 8 was premised on the belief that same-sex couples simply are not as good as opposite-sex couples.” Pet. App. 312a-313a. The Ninth Circuit affirmed, holding that stripping same-sex couples of the right to marry “dishonor[s] a disfavored group” and proclaims the “lesser worth [of gay men and lesbians] as a class.” Pet. App. 88a, 91a.

Proponents, however, assert that “Proposition 8 does not ‘dishonor’ gays and lesbians” and that the Ninth Circuit erred in concluding that Proposition 8 expresses official “disapproval of [gays and lesbians] and their relationships.” Prop. Br. 61-62. Proponents’ assertion that stripping same-sex couples of the right to marry does not relegate gays and lesbians to an inferior status cannot be reconciled with the trial record. *See, e.g.*, Pet. App. 279a-284a (district court identifying evidence that Proposition 8 campaign was predicated on fears and prejudice).

PFLAG and its members have observed the prejudice against gay men and lesbians that animated the campaign in favor of Proposition 8, and the effect of restrictions on the right of same-sex couples to marry. PFLAG respectfully asks the Court to consider the following stories from four of its members. These stories underscore the role of prejudice in shaping the Proposition 8 campaign as well as the ways in which withdrawing the right to marry from same-sex couples dishonors gay men and lesbians.

A. Story of Julia and Sam Thoron

Julia and Sam: We live in San Francisco, California and celebrated our 50th wedding anniversary this past December. We are blessed to have a daughter, Liz, and two sons, Ben and Joe. We also have seven grandchildren.

Julia: Liz came out to us as lesbian in January of 1990 at age 19, during Christmas break of her first year of college. She told me first, saying that she had originally planned to tell us during her October 1989 break, but that after the

Loma Prieta earthquake hit the Bay Area, she figured that her parents needed some time before receiving another jolt. She waited several more days before telling her father.

Sam: When Liz told me, my first response was to ask: “Are you sure?” When she said “yes,” I asked her, “How do you know?” She responded with a simple question back to me: “Dad, how do you know you’re heterosexual?” I got it. This is simply who my daughter is.

Julia: After Liz came out to us; Sam and I had a long and somewhat tearful conversation. We then asked ourselves, what exactly is it that we find upsetting? And we realized that we were not so much upset as scared – scared that our daughter would be subject to discrimination and harassment just for being herself. These feelings of parental love and fear have led us to become involved in PFLAG and efforts to promote equality, including our vigorous opposition to Proposition 8.

Sam: We opposed Proposition 8 because, as parents, we see no difference between the commitment that our sons have made to their wives and the commitment that Liz has made to her life partner, Lisa. Liz and Lisa have been in a committed relationship for the past thirteen years. Early in their relationship, we could see that Liz was absolutely glowing. What more can parents want than to watch

their child blossom and grow in another person's love?

Julia: The relationship that Liz and Lisa have created is no different than the relationship that our son Ben has built with his wife Patti or the relationship that our son Joe shares with his wife Lisl. The difference is that our state does not permit Liz to celebrate her union as a "marriage."

Sam: We both got involved in the official opposition to Proposition 8. We co-authored and signed the opposition argument in the official Voter Information Guide. The "Yes on Proposition 8" Campaign was incredibly hurtful and dehumanizing. In particular, the "Yes on Proposition 8" Campaign repeatedly insinuated that continuing to recognize the equal dignity of same-sex couples – my daughter and the love of her life included – would somehow hurt children.

During the Proposition 8 campaign, I was asked to appear before the editorial board of the *Bakersfield Californian* newspaper. Proponents and opponents of Proposition 8 spoke to the editorial board. At one point, I was describing my view that the relationship of my daughter and the relationships of other gay men and lesbians were entitled to the same respect as my marriage and those of our sons. One of the Proposition 8 proponents stopped me to say, "But you're acting like their love is the same as ours?" I replied, "That's ex-

actly what I'm saying" – to which, the proponents vigorously shook their heads and said, "No, no."

Julia: There is no mistaking why at least some proponents fought for the passage of Proposition 8: because they believe gay men and lesbians are different and that same-sex relationships are inferior to opposite-sex relationships. Sam often says, and I completely agree, that Liz deserves the same rights, privileges and obligations, and the same human dignity that flows so naturally to Liz's two non-gay brothers. Essential to that dignity is the right to marry.

B. Story of Mariette Sawchuk

I am the head of the Los Angeles Chapter of PFLAG. My husband, Alexander, and I have been married for 41 years and we have identical twin sons, Mark and Steve. Both Mark and Steve are gay.

When the California Supreme Court held that gay men and lesbians enjoy the same Constitutional right to marry as opposite-sex couples, I experienced what I can only describe as a sense of euphoria, followed by dread. I could not have been more proud of my state, but was aware of the presence of Proposition 8 on the 2008 ballot.

For a parent of two gay sons, the Proposition 8 campaign was bruising. Particularly demoralizing were the television commercials that indicated that children

somehow would be harmed unless same-sex marriage was outlawed. My husband and I were so upset by these commercials that we eventually decided to just keep the television off.

I tend to go on lengthy walks through the neighborhoods that surround our home. During the campaign, I noticed a pro-Proposition 8 sign on the lawn of one house that I had walked by dozens of times. I believe the sign simply read “Yes on Proposition 8,” but it was accompanied by an image of a so-called “traditional” family – a mother and father with their children. I felt like I had been kicked in the stomach. What about Mark and Steve? What about my family? The message of the pro-Proposition 8 campaign was clear that my family was no family at all, and was even a threat to other families. I found myself crying all the way home.

As head of the Los Angeles PFLAG Chapter, I also observed how the campaign affected LGBT persons, especially young people. Our chapter holds monthly support groups for LGBT persons and their families. One month during the campaign, a mother brought her teenage lesbian daughter to our meeting. The campaign had upset the daughter a great deal and at that first support meeting, she could not speak a word. If a young lesbian with a supportive mother could be so traumatized by the Proposition 8 cam-

paign, I could only imagine the suffering of young men and women who lacked the support of their families.

C. Story of Colette Roberts

Jim and I married in 1958, at a time when inter-racial marriage was still banned in more than 16 states. I am, myself, the product of a mixed-race marriage – my heritage includes a bit of everything, including East Indian, French, African-American – and my family accepted my relationship with Jim from the start. Jim’s ancestry is a little bit British, a little bit Swiss. His mom objected at first but eventually accepted our marriage. We were lucky in that way – we did not face too many problems, although I do remember one of Jim’s college classmates saying: “It’s bad enough that you’re marrying her. Just don’t have any kids.” Needless to say, we ignored his advice and I am so glad we did.

We have four children, Aimee, Nina, David and Alyssa. Jim’s job had us moving around quite a bit when they were kids. Each time we moved, we would look for good school districts and ended up in predominantly white neighborhoods. I know it was sometimes difficult for the kids to have us as parents. They were taunted and teased. I reminded them many times that “ignorance is loud and prejudice is strong,” but that they should hold their heads high because this is who they are.

And all four of them have grown up to be confident and successful individuals.

Nina, our second eldest, is lesbian. Nina never said anything to us about her sexual orientation when she was in high school. She went away to college and during one Christmas break, I found a love note that she had written to another young woman in the trash can. Shortly after finding the note, I said to Nina, “you know, your dad and I know that you are gay.” I told her how much we loved her and asked her why she had not said anything. Nina started crying. She said she had met so many young people who had been rejected by their families because of their sexual orientation, and that although she knew we loved her she was scared to tell us because she was afraid we, too, would reject her. That just broke my heart: how could any child of ours be so scared that we might reject her?

Did I worry about Nina once she came out? Of course – I worried that she would experience discrimination, that she would have a tough time, simply for being who she is. Would she find someone to love, who loved her? Would she be able to marry, to have that security that Jim and I have enjoyed, that her brother and sisters can enjoy without question?

For the past 10 years, Nina has lived in California. For about eight of those ten years, she has been in a committed relationship with Michele. So the campaign

for Proposition 8 impacted me on a personal level. It angered me to see so much money being invested for the sole purpose of taking away equality. The sole purpose of Proposition 8 is to prevent gay and lesbian couples from marrying. But the word “marriage” is very important in our society. If Jim and I were told that we could not use that word to describe our union, that we have to use some other word to describe our relationship because the word “marriage” was not available for inter-racial couples, that, to me, would mean that our relationship did not have the respect of our society. And Proposition 8 tells my daughter, and all other gay and lesbian sons and daughters, just that: that they do not have the respect of our society.

It wasn't that long ago that Jim and I would have been barred from marrying. The reasons why people wanted to outlaw inter-racial marriage are really no different than the reasons why people want to ban same-sex marriage now: it is because both kinds of marriage are seen as somehow not “right” or “natural.” But it is unthinkable today to imagine a law that says inter-racial couples can only register for domestic partnerships but not marry.

People say to me all the time that race is different because people cannot choose their race. But that's just it: Nina did not choose to be gay; she can no more

choose to be straight than I can choose to be white.

* * *

Proposition 8 places gay men and lesbian in a “solitary class” by “withdrawing from [them], but no others, specific legal protection.” *Romer*, 517 U.S. 627. In so doing, Proposition 8, as the Ninth Circuit held, expresses disapproval of gay men and lesbians and dishonors them and their relationships.

II. DOMESTIC PARTNERSHIP IS NO SUBSTITUTE FOR MARRIAGE.

In their Brief, Proponents repeatedly note that California has extended certain civil right protections to gay men and lesbians. Proponents characterize California as showing “extraordinary solicitude for gays and lesbians” and emphasize, in particular, California’s “generous domestic partnership laws.” Prop. Br. 45.

In emphasizing these laws, Proponents suggest that stripping same-sex couples of the right to marry can be justified because California left domestic partnership benefits in place. *See e.g.*, Prop. Br. 25-26 (arguing that *Romer* is inapplicable because, while denying gay men and lesbians the right to marry, Proposition 8 left “undisturbed the numerous other laws – including expansive domestic partnership laws”) (citing J.A. Exh. 2).

The district court and Ninth Circuit correctly held that domestic partnership is no substitute for marriage, and that there is an “extraordinary significance to the official designation of ‘marriage,’” which “expresses validation, by the state and the community, and that serves as a symbol, like a wed-

ding ceremony or a wedding ring, of something profoundly important.” Pet. App. 51a. This Court has long emphasized the importance of marriage, “the most important relation in life” (*Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (citation omitted)), and one that is “essential to the orderly pursuit of happiness by free men.” *Loving v. Virginia*, 388 U.S. 1, 12 (1967). The California Supreme Court has likewise emphasized that the “right to marry is the right to enter into a relationship that is ‘the center of the personal affections that ennoble and enrich human life.’” *In re Marriage Cases*, 43 Cal. 4th 757, 827, 183 P.3d 384, 432 (Cal. 2008) (citation and internal quotation marks omitted).

PFLAG’s members have experienced the extraordinary status disparity between marriage and domestic partnerships. Unlike the institution of marriage, domestic partnerships lack any connotation of life-long commitment based in love and intimacy. Without being able to describe their relationships as “marriages,” same-sex couples cannot fully convey the nature and importance of their relationships. As the stories set forth below illustrate, society treats domestic partnerships as second-class relationships, and Proposition 8’s withdrawal of the right of same-sex couples to marry singles out and harms gay men and lesbians.

A. Story of Mike Neubecker

My wife Janice and I have been married for 41 years and have one child, our son Lee. Until Lee came out to me at the age of 19, I had no idea he was gay.

Lee’s coming out definitely challenged me. I grew up in a conservative Catholic

family, attended Catholic schools from K-12, and then was drafted into the Army where I served for 6 years. Along the way, I had absorbed many negative views about gay people. These negative views were not based on anyone I knew personally, but from the misinformation and stereotypes so prevalent in our culture.

When Lee first came out, I thought I had to choose between loving my son and my faith. I loved my son, so I was not willing to cast him aside. But my faith is also important to me, so I could not cast aside my faith either. This motivated me to do a lot of intensive reading, Bible study and research. It took some time but I have reconciled my love for Lee and my faith.

Lee and his partner, David, live in the Chicago area with their two children. Although the State of Illinois does not allow same-sex marriage, it does recognize civil unions.

It upsets me that Lee and David cannot “marry” in the eyes of the law in their home state. The word “marriage” in our society conveys not only a committed union between two people, but it also conveys “family.” For Lee, David and our grandchildren, things are that much tougher because the law does not recognize them fully as a family. They need a patchwork of legal documents to prove they are next of kin and should be allowed to make medical decisions for one another. They have to think carefully

when they travel about what societal prejudices and regulations they might encounter. What difficulties might they run into if someone gets sick in a state where the laws do not recognize their relationship and visitation rights?

It was and is different for Janice and me because we enjoy the status of “marriage.” We never thought twice about crossing state lines to go on family vacations. No one challenged us when we said we were married, and we never felt the need to carry documents with us to prove our relationship. When we tell people we are married, they instantly know what that means. The word “marriage” has the power to instantly convey what Janice and I mean to each other.

I want Lee and David to know their union will be honored as a marriage. I want personally to be able to refer to Lee’s and David’s union as a “marriage.” I want to call David my “son-in-law.” I sometimes call him that now, even though I know there is no “law” that supports that statement. Most of all, I want the law to stop seeing my son as a second class citizen or his love as second class.

B. Story of Kay Heggstad and Paul Wertsch

Kay: Paul and I have been married for 44 years and we have two children. Our son, Greg, came out when he was 16 years old. When we learned that Greg

was gay, both Paul and I did a little crying and a lot of reading, but we both immediately told Greg that we loved him and that he would have our unconditional support. Paul and I became involved with PFLAG and I currently serve as PFLAG's Regional Director for the Northern Plains Region and a member of its National Board of Directors.

Paul: Greg now works for the Department of Homeland Security. For more than thirteen years, Greg has been in a wonderful relationship with Mark Ferrandino, who is the Speaker of the Colorado House of Representatives. Greg and Mark are registered domestic partners in Colorado and had a commitment ceremony in 2006.

Kay: Their commitment ceremony was held in our hometown of Madison, Wisconsin. It was a joyful affirmation of the relationship that Greg and Mark have built. Mark and Greg were surrounded by their family and friends, many of whom had traveled long distances to join in celebrating their commitment to each other. In most ways the commitment ceremony felt like a wedding, right down to having a judge serve as the officiant.

Paul: But, of course, Mark and Greg are not married under the law. The fact that society does not confer the designation of "marriage" on their relationship has important practical ramifications. But the most important benefits stemming from

the designation of “marriage” are symbolic. Marriage is the term that society reserves for the relationships that it deems most valuable. By treating Mark and Greg as “domestic partners,” society is saying that their relationship is less important than the marriage that Kay and I have.

Kay: Marriage means so much more than a legal contract – for the couples themselves, for their neighbors and for other members of the community. Marriage means family. When Paul and I got married, we did not think about the rights and privileges of marriage. We were thinking about creating a committed relationship with each other.

Paul: Everyone around the world understands the word “marriage.” But what is a “domestic partner”? It is a legal classification, with no emotional connotation. The symbolic difference between a domestic partnership and a marriage is the difference between a commercial contract and a personal commitment. When I talk to friends and acquaintances about my family, I find myself referring to Mark as my son’s “partner,” and then I have to explain the nature of their relationship, and how long they have been committed to each other. Despite my best efforts, that lengthy explanation cannot possibly communicate what the single word “marriage” can convey.

Kay: Greg and Mark are foster-adopting a young girl, Lila. Paul and I are thrilled to have a new granddaughter in the family. Our family deserves the same societal respect as other families. Paul and I should be able to refer to Mark as our son-in-law, with no hesitation whatsoever. And Lila should know that civil society recognizes her parents' relationship as a "marriage," equal in dignity to that of any opposite-sex marriage. Any young child knows what "marriage" means, but a domestic partnership? No child grows up dreaming of a "domestic partner." It is unfair to Lila and children like her to say that their parents are somehow unworthy of marriage because of who they are.

* * *

Our Constitution does not permit states to provide separate-and-inherently-unequal rights to minority groups. *See Brown v. Bd. of Educ.*, 347 U.S. 483, 494 (1954). Proposition 8 accomplished precisely this result by withdrawing the right to marry from gay men and lesbians, and limiting them to mere domestic partnership status.

III. SAME-SEX MARRIAGE DOES NOT POSE ANY RISKS TO OPPOSITE-SEX MARRIAGE.

Even under a rational basis analysis,² government action that discriminates against a discrete

² PFLAG agrees with Respondents and the district court that Proposition 8 is subject to heightened scrutiny because "gays

class of individuals cannot survive an equal protection challenge unless the classification “bears a rational relation to some legitimate end.” *Romer*, 517 U.S. at 631.

In an attempt to satisfy this standard, Proponents contend that Proposition 8 advances “responsible procreation” by biological parents and that, absent government action stripping gay men and lesbians of the right to marry, there would be “a significant risk of adverse consequences over time to the institution of marriage, and the interests it has always served.” Prop. Br. 45, 51.

PFLAG notes that Proponents’ argument ignores the evidence to the contrary relied upon by the district court, including evidence supporting its finding that “[p]ermitting same-sex couples to marry will not affect the number of opposite-sex couples who marry, divorce, cohabit, have children outside of marriage or otherwise affect the stability of opposite-sex marriage.” Pet. App. 245a.

PFLAG believes that Proponents’ reliance on alleged state interests in “responsible procreation” and risks to the institution of marriage is misplaced for the many reasons set forth in the Briefs of Respondents. PFLAG submits that it can offer the Court a unique perspective on one aspect of Proponents’ argument: Proponents’ suggestion that the act of recognizing same-sex marriages entails “a significant risk of adverse consequences” to marriage – by

[Footnote continued from previous page]

and lesbians are the type of minority strict scrutiny was designed to protect.” Pet. App. 300a. However, PFLAG will confine its discussion to responding to Proponents’ arguments regarding application of rational basis review.

which Proponents are referring to opposite-sex marriage. Prop. Br. 51. PFLAG's membership consists of the very heterosexual demographics that are most likely to be affected by same-sex marriage – namely, heterosexual family members and close friends of gay men and lesbians, who have witnessed the commitments made by same-sex couples. As the following stories illustrate, if anything, observing gay men and lesbians in committed relationships and marriages reaffirms the importance of the institution.

A. Story of Eric Brock

My older brother, Brandon, and I grew up in Arkansas. Brandon told me that he was gay when I was a sophomore in high school. My initial reaction was to tell Brandon that being gay was wrong. Yet even as I made that statement, I did not *feel* that there was anything wrong with him. Learning that my own brother was gay led me to question my views, and I quickly realized that his sexual orientation was neither “wrong” nor a choice.

I still live in Arkansas today. I married my wife, J-Lynn, when I was in my early twenties, and we now have one child, Zoey. Brandon, however, left Arkansas for New York in 2005. In 2009, he began dating the man who is now his husband, Alexis Caloza. I have gotten to know Alexis over the years and now consider him to be part of my family.

Brandon and Alexis decided to move to San Francisco, California during the summer of 2011. J-Lynn, my parents and

I visited them in New York shortly before they were scheduled to move. On the day we returned to Arkansas, Brandon e-mailed me to ask if we could come back to New York the following weekend. Brandon told me that New York had just legalized same-sex marriage, and that he and Alexis wanted to get married. Unfortunately, the wedding would have to take place immediately. Brandon and Alexis were leaving for California the following week, and they knew that they would not be able to marry in California due to Proposition 8. Even though we had just visited New York, J-Lynn and I – together with my parents – returned the following weekend. Alexis' family also flew in from Florida, so that both families would be there to witness, support and affirm Alexis and Brandon's commitment to one another.

The wedding was held at the Marriage Bureau in New York City. There were a number of other same-sex weddings that day because it was the first week that same-sex marriage was legal in New York. I remember, in particular, seeing two older men waiting to get married. They must have been in their 80s, and we learned that they had been committed to each other for decades. After all those years of being together, they finally had the opportunity to affirm their relationship and have it publicly recognized like any other marriage.

When it came time for Brandon and Alexis to get married, both sides of the family were celebrating. But when Brandon and Alexis began to exchange their vows, that celebratory mood was enhanced by a sense of solemnity. I was struck by the importance of bearing witness to two people who are committed to spending the rest of their lives together. I am so grateful that my brother has been able to make, and receive, that sort of commitment from the man that he loves.

I understand that the backers of Proposition 8 argue that same-sex marriage somehow poses a risk to the institution of marriage. That makes no sense. My marriage and my family has been strengthened, not harmed, by my brother's marriage. Perhaps because J-Lynn and I married so young, I did not spend a lot of time thinking about the broader meaning of marriage before my own wedding. But witnessing Alexis and Brandon's marriage, especially at a time when gay couples had only just gained the right to marry in New York, has caused me to reflect on my marriage to J-Lynn, and on the challenges and beauty of our life together. I no longer take for granted the opportunity to publicly commit my life, love and support to the person I love.

Brandon and Alexis moved to California the day after their wedding. As I understand it, their marriage is not recognized in California. It is as if, from a legal

perspective, they had been married for one day. But the commitment that they made to one another is no less permanent and no less important than the commitment that I made to J-Lynn. Both relationships are deserving of the same respect under the law.

B. Story of David Zimmerman

I have an older brother, Ben, and a younger brother, Daniel. Daniel is gay. We grew up in a small rural town in Washington State. My parents were always very open-minded, supportive and encouraged all three of us to do and learn as much as we could.

Daniel came out in December 2003 at the age of 22. I wasn't surprised – I had known or suspected for a long time. What was surprising to me is how long it took Daniel to come out to us, his family. As open and accepting as my parents were, Daniel obviously felt he could not be honest, even with them, about his sexual orientation. I think my main reaction to his news was relief, to know that he was finally comfortable enough to be himself and abandon his secret.

Daniel came out to me in a telephone call, while I was working as a news reporter in Kentucky. At the time, I was covering a ballot measure in Kentucky that was designed to prohibit the recognition of same-sex relationships under any name -- whether marriage, civil union, or other-

wise -- under that state's constitution. The level of animus was so high in that campaign that the partner of one of the leaders of an alliance working to defeat the measure would not come to the rallies in support of same-sex unions. He was scared for his safety and did not want to be seen with his partner outside their close social circle. This experience was sobering: even though Daniel was able to find overwhelming support among his family and friends, what I was witnessing underscored that his sexual orientation made him a target of prejudice.

After returning to Seattle, I became active in PFLAG and joined the Board in 2008. I am now the President of its Seattle Chapter. I am just one of many straight men and women who are in this fight for equality. We became involved in this fight because we have a brother, a sister, a child or a friend. From our vantage point, the right to marry is a human rights issue concerning the right to dignity.

I am engaged to be married this August to my fiancée, Kate. Our wedding will provide us with an opportunity to affirm, before friends and family, our commitment to each other, and to have society recognize our love and commitment. This past November, the citizens of the State of Washington voted to provide that recognition to same-sex couples. Under the new law, marriage licenses could be is-

sued to same-sex couples beginning on December 6, 2012. Here in Seattle, there were hundreds of people lined up outside in the cold to pick up their marriage licenses at 12:01 a.m. on December 6, 2012. Seeing those couples joyfully waiting in the cold – so eager to express their commitment to each other that they were not willing to wait even for the sun to rise – has not caused me and Kate to reconsider our decision to marry. Instead, it has deepened our respect for the institution of marriage and made us reflect on the central importance of marriage and family in our lives.

My brother, Daniel, now lives in New York, one of the states that recognizes same-sex marriage. I am so glad that Daniel now has the choice, just as Kate and I do, to marry. Because the institution of marriage won't be harmed at all if Daniel chooses to marry, just as it has not been harmed by the marriages of the thousands of same-sex couples who have chosen to marry in Washington, New York, Massachusetts, and other states where same-sex marriage is now permitted.

C. Story of Mariette Sawchuk (Continued from Section I.B.)

“Mom, all I have ever wanted is to have a family and to have a marriage like yours and Dad's.” My son, Steve, spoke these words to me on the January day in 2000 when he and his twin brother, Mark, both

came out to me and my husband, Alexander. Hearing these words was both affirming and painful – it was affirming to hear that Steve viewed our marriage as something worth emulating, but it was painful to wonder if my sons would ever be able to experience something similar.

Learning that my sons were gay led me on a long and difficult journey, one deeply affected by my faith. I am a “Cradle Catholic,” and my faith shapes how I attempt to live my life. Every time I go to Mass, I find something in it that calls me to my best self, my deepest self. Before I knew that my sons were gay, I had never been supportive of LGBT rights. My church and society told me that gay people were different, promiscuous, even perverted. But I had seen acts of compassion and courage by my sons that had simply humbled me. If they were gay, how could being gay mean what I had been taught?

I spent many years attempting to reconcile what my church was telling me with my own knowledge of my children as good, principled young men. I read theology and church doctrine. I consulted Catholic organizations, both those that were supportive and those that were disapproving of LGBT rights. Above all, I sought to inform my conscience through prayer, asking God to tell me if my experience of truth was somehow wrong.

Ultimately, I felt called not simply to love and support my own sons – something that was never in question – but to pursue equality for all LGBT persons. Central to that pursuit, in my view, is marriage equality.

One of the many ways in which my faith has informed my values is in my views on the importance of marriage. I believe that marriage is about more than love between two people; it is a path to holiness. The day-to-day process of supporting and loving my husband of 41 years – of fighting, apologizing, forgiving, sacrificing, and caring – has led to me to a deeper understanding of myself and my faith. I want my sons to have the opportunity to experience this holiness for themselves.

My son, Steve, now lives in Washington, D.C. In December of 2009 – nine years after he had expressed the simple desire to have a marriage like his parents’ – Steve called to tell me that same-sex marriage had been recognized in Washington, D.C. I am so happy that Steve can now attempt to form a family sanctioned by the state and society as a marriage. But my other son, Mark, lives in California. He deserves the same opportunity.

The proponents of Proposition 8 argue that same-sex marriage will somehow damage opposite-sex marriages. Having known many same-sex couples in committed relationships and marriages, I simply

do not understand this argument. One of the images that I have of marriage is that of a fire in a fireplace. If it is a good marriage, others can warm themselves by the fire. I hope that, from time to time, Alexander and I have been able to share some of our warmth with others. But I know that we have been warmed, and our marriage strengthened, by the committed relationships and marriages of the same-sex couples we have known. Many of those couples provide a model for the sense of generosity, care and hospitality – the same sense of holiness – that I strive for in my own marriage. Society has nothing to gain, but a lot to lose, by refusing to recognize these unions as marriage.

D. Story of Mike Neubecker (Continued from Section II.A)

Proponents of Proposition 8 have said that reserving “marriage” to opposite-sex couples is good for society because it is those opposite-sex relationships that are most likely to promote responsible child-rearing. I could not disagree more with that statement. Anyone who knows my son, Lee, and his partner, David, would understand that their sexual orientation does not impact their ability to be good parents. The idea that they, as a couple or as a family, could harm anyone else’s marriage makes no sense.

About 6 years ago, Lee and David adopted our grandchildren, a sister and a brother, through the foster care system. My

granddaughter, who is now ten years old, wrote the following letter³ in the hopes that it may help someone else understand her perspective. She wrote it on her own, with minor assistance from her teachers on spelling and grammar. Her words convey, more eloquently than I ever could, why her dads and other same-sex couples like them should be allowed to marry.

“Love is important! It doesn't matter who people love, as long as they are happy. Everyone should have the right to marry who he or she wants. You may not like two men being married, but for them, it's normal.

My two dads should be able to be married and have the same rights as any married couple. How would you feel if you couldn't marry someone just because the government said you weren't allowed to. If I loved someone and wasn't allowed to marry them, I would be really sad. My family has taught me that even if you don't agree with someone, you should still be kind and respectful. The government should too. Also, my church tells me that you should treat other people the way you want to be treated.

³ This letter was published in the Windy City Times on February 15, 2013. See <http://www.windycitymediagroup.com/lgbt/VIEWPOINTS-My-family-and-marriage-equality/41581.html>.

...

Before I lived with my two dads, my life was horrible. My old family never treated me well. They wouldn't stand up for me. If my foster sister fought with me, my old mom would just sit there and watch me get hurt, so I would have to fight back. Each time I was at foster home, the foster parents promised me they would keep me safe and treat my brother and I equally.

But they always broke their promise. I moved five times until my dad and daddy found me. They also promised that they would always love me and keep me safe and they would treat me equal to my brother. I was 4 when I met them. Now I am 10 and they have kept their promises. They do so much for me. They never hurt me or my brother. I feel so safe. I believe I can do anything with my two dads. Would there be any purpose to ban the marriage of two men or two women when they can treat children the same or even better than other couples. I hope that you will do the right thing and let anyone marry who they want to."

In their and their children's hearts, Lee's and David's relationship is a marriage. The law needs to catch up with that reality.

* * *

Permitting two committed individuals to marry can do no harm to the institution of marriage. Proponents' argument that allowing same-sex couples to marry will result in adverse consequences to opposite-sex marriage is nothing more than speculation. *See City of Cleburne v. Cleburne Living Center*, 473 U.S. 432, 448 (1985) ("mere negative attitudes, or fear, unsubstantiated by factors which are properly cognizable . . . are not permissible bases" for differential treatment). Such speculation is contrary to the evidence presented at trial, the experience of jurisdictions that recognize same-sex marriage, and the experience of PFLAG's members.

CONCLUSION

For the foregoing reasons, the decision of the Ninth Circuit should be affirmed.

Respectfully submitted.

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