

# Supreme Court Copy

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

KAREN L. STRAUSS, et al.,

Petitioners,

S168047

v.

MARK D. HORTON, State Registrar of Vital  
Statistics, etc., et al.,

Respondents,

SUPREME COURT  
FILED

DEC 19 2008

DENNIS HOLLINGSWORTH, et al.,

Intervenors.

Frederick K. Ghirich Clerk

Deputy

## RESPONDENT'S ANSWER TO AMENDED PETITION FOR EXTRAORDINARY RELIEF

EDMUND G. BROWN JR.  
Attorney General of the State of California

JAMES M. HUNES  
Chief Deputy Attorney General

MANUEL M. MEDERIOS  
State Solicitor General

DAVID S. CHANEY  
Chief Assistant Attorney General

CHRISTOPHER E. KRUEGER  
Senior Assistant Attorney General

KIMBERLY J. GRAHAM  
Deputy Attorney General

MARK R. BECKINGTON  
Deputy Attorney General  
State Bar No. 126009  
1300 I Street, Suite 125  
P.O. Box 944255  
Sacramento, CA 95244-2550  
Telephone: (213) 897-1096  
Fax: (213) 897-1071  
Mark.Beckington@doj.ca.gov

Attorney for Respondent  
Edmund G. Brown Jr., in his official  
capacity

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**ANSWER**

Respondent Edmund G. Brown Jr., in his official capacity as Attorney General for the State of California, (Respondent) answers Petitioners Karen L. Strauss et al.'s (collectively, Petitioners) Amended Petition for Extraordinary Relief as follows:

**PRELIMINARY AND JURISDICTIONAL STATEMENT**

1. In response to Paragraph 1, Respondent admits that Petitioners seek extraordinary relief from this Court. Respondent admits that the results of the November 4, 2008 election indicate that Proposition 8 was approved by a majority of voters. Respondent admits that Mark D. Horton is the State

Registrar of Vital Statistics of the State of California and Director of the California Department of Public Health (CDPH), that Linette Scott is the Deputy Director of Health, Information & Strategic Planning for the CDPH, and that Edmund G. Brown Jr. is the Attorney General for the State of California Respondent denies every other allegation contained in paragraph 1.

2. In response to Paragraph 2, Respondent admits that Petitioners sought an order from this Court to prohibit enforcement of Proposition 8 pending resolution of the instant petition. However, this Court denied such relief in its order dated November 19, 2008.

3. Respondent denies the allegations of paragraph 3 on the basis that they constitute legal argument or state legal conclusion to which no response is now required.

4. For lack of information, Respondent neither admits nor denies the allegations in paragraph 4 that Petitioners have no other plain, speedy or adequate remedy at law.

5. Respondent admits the allegations of paragraph 5.

6. Respondent admits the allegations of paragraph 6.

**THE PARTIES**

7. For lack of information, Respondent neither admits nor denies the allegations of paragraph 7. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

8. For lack of information, Respondent neither admits nor denies the allegations of paragraph 8. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

9. For lack of information, Respondent neither admits nor denies the allegations of paragraph 9. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

10. For lack of information, Respondent neither admits nor denies the allegations of paragraph 10. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

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11. For lack of information, Respondent neither admits nor denies the allegations of paragraph 11. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

12. For lack of information, Respondent neither admits nor denies the allegations of paragraph 12. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

13. For lack of information, Respondent neither admits nor denies the allegations of paragraph 13. However, Respondent admits that there are gay and lesbian couples who wish to marry and are now unable to do so since the passage of Proposition 8.

14. Respondent admits the allegations of paragraph 14.

15. Respondent admits the allegations of paragraph 15.

16. Respondent admits the allegations of paragraph 16.

#### **FACTS**

17. In response to paragraph 17, Respondent admits the allegation that as of the morning of November 5, 2008, it appeared that Proposition 8 had passed by a majority of voters. Respondent admits that the language used in the Official Title and Summary of Proposition was drafted by Attorney

General Brown and contained the language stated by Petitioners. However, because the language of Proposition 8 speaks for itself, Respondent neither admits nor denies the accuracy of Petitioners' characterization of the proposition.

18. In response to paragraph 18, Respondent admits that Proposition 8, by its terms, makes marriage illegal for same-sex couples. Respondent further admits that, while such marriages remain illegal in California, some people could die while waiting for the law to change.

19. In response to paragraph 19, Respondent admits that Proposition 8, by its terms, makes entering into marriage illegal for same-sex couples. Respondent further admits that, which such marriages remain illegal, the plans of same-sex couples who wish to marry in California could be compromised or otherwise affected.

20. In response to paragraph 20, Respondent denies that individual same-sex couples who have not been able to marry in California are prohibited from "designating and declaring their relationship as a marriage."

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**CLAIMS ASSERTED**

21. Respondent denies the allegations of paragraph 21 on the basis that they constitute legal argument or state legal conclusion to which no response is now required.

22. Respondent denies the allegations of paragraph 22 on the basis that they constitute legal argument or state legal conclusion to which no response is now required.

23. Respondent denies the allegations of paragraph 23 on the basis that they constitute legal argument or state legal conclusion to which no response is now required.

24. Respondent denies the allegations of paragraph 24 on the basis that they constitute legal argument or state legal conclusion to which no response is now required.

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**PRAAYER FOR RELIEF**

WHEREFORE, Respondent prays as follows:

1. That the Amended Petition for Extraordinary Relief be granted; and
2. For such further and other relief as this court may deem proper.

Dated: December 19, 2008

Respectfully submitted,

EDMUND G. BROWN JR.  
Attorney General of the State of California  
JAMES M. HUMES  
Chief Deputy Attorney General  
MANUEL M. MEDERIOS  
State Solicitor General  
DAVID S. CHANEY  
Chief Assistant Attorney General  
CHRISTOPHER E. KRUEGER  
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KIMBERLY J. GRAHAM  
Deputy Attorney General

  
MARK R. BECKINGTON  
Deputy Attorney General  
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capacity

**DECLARATION OF SERVICE BY FACSIMILE AND MAIL**

Case Name: *Karen L. Strauss, et al. v. Mark D. Horton, et al.*

Case No.: **S168047**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter; my business address is 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business. My facsimile machine telephone number is (916) 324-8835.

On December 19, 2008, I served the attached **RESPONDENT'S ANSWER TO AMENDED PETITION FOR EXTRAORDINARY RELIEF** by transmitting a true copy by facsimile machine, pursuant to California Rules of Court, rule 2.306. The facsimile machine I used complied with Rule 2.306, and no error was reported by the machine. Pursuant to rule 2.306(g)(4), I caused the machine to print a record of the transmission, a copy of which is attached to this declaration. In addition, I placed a true copy thereof enclosed in a sealed envelope with postage thereof fully prepaid, in the internal mail system of the Office of the Attorney General, addressed as follows:

**PLEASE SEE THE ATTACHED SERVICE LIST**

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on December 19, 2008, at Sacramento, California.

Rowena A.R. Aquino

Declarant



Signature

**SERVICE LIST FOR STRAUSS V. HORTON**

**CALIFORNIA SUPREME COURT CASE NO. S168047**

<p><b>Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:</b></p> <p>Shannon Minter Catherine Pualani Sakimura Melanie Speck Rowen Shin-Ming Wong Christopher Francis Stoll Ilona M. Turner <b>National Center For Lesbian Rights</b> 870 Market Street, Suite 370 San Francisco, CA 94102</p> <p>Telephone: (415) 392-6257 Facsimile: (415) 392-8442</p>	<p><b>Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:</b></p> <p>Gregory D. Phillips Jay Masa Fujitani David Carter Dinielli Michelle Taryn Friedland Lika Cynthia Miyake Mark R. Conrad <b>Munger, Tolles &amp; Olson, LLP</b> 355 S. Grand Ave., 35th Floor Los Angeles, CA 90071</p> <p>Telephone: (213) 683-9100 Facsimile: (213) 687-3702</p>
<p><b>Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:</b></p> <p>Jon W. Davidson Jennifer C. Pizer F. Brian Chase Tara Borelli <b>Lambda Legal Defense and Education Fund, Inc.</b> 3325 Wilshire Blvd., Suite 1300 Los Angeles, CA 90010</p> <p>Telephone: (213) 382-7600 Facsimile: (213) 351-6050</p>	<p><b>Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:</b></p> <p>Alan L. Schlosser Elizabeth O. Gill <b>ACLU Foundation of Northern California</b> 39 Drumm Street San Francisco, CA 94111</p> <p>Telephone: (415) 621-2493 Facsimile: (415) 255-8437</p>

**Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:**

Mark Rosenbaum  
Clare Pastore  
Lori Rifkin  
**ACLU Foundation of Southern California**  
1313 W. 8th Street  
Los Angeles, CA 90017

Telephone: (213) 977-9500  
Facsimile: (213) 250-3919

**Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:**

John David Blair-Loy  
**ACLU Foundation of San Diego and Imperial Counties**  
450 B Street, Suite 1420  
San Diego, CA 92101

Telephone: (619) 232-2121  
Facsimile: (619) 232-0036

**Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:**

David C. Codell  
**Law Office of David C. Codell**  
9200 Sunset Blvd., Penthouse Two  
Los Angeles, CA 90069

Telephone: (310) 273-0306  
Facsimile: (310) 273-0307

**Representing Petitioner Karen L. Strauss, Ruth Borentein, Brad Jacklin, Dustin Hergert, Eileen Ma, Suyapa Portillo, Gerardo Marin, Jay Thomas, Sierra North, Celia Carter, Desmond Wu, James Tolen, and Equality California:**

Stephen V. Bomse  
**Orrick, Herrington & Sutcliffe LLP**  
405 Howard Street  
San Francisco, CA 94105

Telephone: (415) 773-5700  
Facsimile: (415) 773-5759

**Representing Intervenors Dennis Hollingsworth, Gail J. Knight, Martin F. Gutierrez, Hak-Shing William Tam, Mark A. Jansson, & Protectmarriage.com:**

Andrew P. Pugno  
**Law Offices of Andrew P. Pugno**  
101 Parkshore Dr., Ste 100  
Folsom, CA 95630

Telephone: (916) 608-3065  
Facsimile: (916) 608-3066