

THE SUPREME COURT OF THE STATE OF WASHINGTON

HEATHER ANDERSEN and LESLIE
CHRISTIAN, *et al.*,

Respondents,

v.

KING COUNTY, *et al.*,

Appellants.

CELIA CASTLE and BRENDA
BAUER, *et al.*,

Respondents,

v.

STATE OF WASHINGTON,

Appellant.

NO. 75934-1

**DECLARATION OF KATHLEEN
PHAIR BARNARD IN SUPPORT
OF LABOR ORGANIZATIONS'
MOTION TO FILE AN *AMICI
CURIAE* BRIEF**

Kathleen Phair Barnard declares and states as follows:

1. I am the attorney representing the following labor organizations who wish to appear as *amici curiae* in the above captioned matter: American Federation of Teachers, Washington; Asian Pacific American Labor Alliance, Seattle Chapter; Coalition of Labor Union Women, Puget Sound Chapter; Communication Workers of America, Local 7800; Inland Boatman's Union of the Pacific; International Alliance of Theatrical Stage Employees, Local 15; International Federation of

Professional and Technical Engineers, Local 17; International Union of Operating Engineers, Local 609; King County Labor Council; The Northwest Labor and Employment Law Office; Out Front Labor Coalition; Pride at Work; Seattle Community College Federation of Teachers, AFT 1789; Seattle Musicians' Association, Local 76-493; Service Employees International Union, Local 6; Service Employees International Union, Local 775; Service Employees International Union, Local 925; Service Employees International Union - Washington State Council; United Farm Workers, Pacific NW; United Auto Workers 4121; Washington Legal Workers; Washington State Nurses Association and WashTech, CWA Local 37083.

2. I file this declaration in support of the motion filed this date by these labor organizations for leave to file an *amici curiae* brief in the above referenced case. I am authorized by these labor organizations to bring this motion, and to submit the *amici curiae* brief filed together with this motion.

3. These labor organizations advance the rights of employees through collective bargaining and through community action. Together the labor organizations bringing this motion represent hundreds of thousands of workers in Washington State. Those members work in all types of industries and are as diverse in background, age, ethnicity, race,

sex and sexual orientation as is this great state. They are, however, unified in their objective to obtain social and economic justice for all working people. They understand from hard experience that where there is an “injury to one” there is “injury to all.”

4. I have reviewed the briefs filed in this Court. RAP 10.2(f) allows for the filing of an *amicus curiae* brief. The labor organizations seeking to file this brief bring a perspective based on actual experience with the issues raised herein and analysis not raised by the parties, which should assist the Court in deciding the merits.

5. Attached as Exhibit A are the statements of interest of these labor organizations.

I declared under penalty of perjury under the laws of the State of Washington that the foregoing statements are true and correct.

SIGNED in Seattle, Washington, this 7th day of February, 2005.



Kathleen Phair Barnard, WSBA #17896
Attorney for Labor Organizations

EXHIBIT A

LABOR ORGANIZATIONS' STATEMENTS OF INTEREST

American Federation of Teachers, Washington, has 4,500 members in 30 locals across Western Washington, Yakima and Cheney working in the field of education. Its membership includes Head Start teachers through university faculty as well as K-12 support staff. AFTWA lends its voice in support of respondents based on its constitutional objective to “expose and fight all forms of racism, sexism, and other discrimination” and on its belief that denying particular members the rights and benefits enjoyed by other members injures their sense of dignity and self-respect. AFTWA has always stood for full equality under the law for all citizens.

The **Asian Pacific American Labor Alliance, Seattle Chapter**, has approximately 100 members in the Puget Sound area dedicated to promoting the interests of Asian and Pacific Islander workers, a goal grounded on the premise of equality for all workers. Workers of color know all too well the corrosive effects of pitting classes of workers against each other. Stigmatizing workers on the basis of their sexual orientation, like other irrational classifications such as race or ethnicity, is an obstacle to effective worker organizing. For instance, to deny employment benefits such as spousal and family health care to some workers weakens the ability of all workers to gain or preserve those benefits.

The Coalition of Labor Union Women, Puget Sound Chapter, is an organization of individual trade unionists dedicated to supporting affirmative action in the work place and in unions. It has approximately 100 members from unions throughout the Puget Sound area representing a wide range of trades. CLUW, Puget Sound Chapter, strongly supports the rights of all workers to fair and equal treatment in the workplace and from its experience, believes that the denying marriage to same sex couples detracts from that cause.

Communication Workers of America, Local 7800, has 2,150 members working in the telecommunications, security systems, and transportation industries in Seattle, Tukwila, Redmond, Bellingham and the Olympic Peninsula. CWA Local 7800's impetus for appearing as *amicus curiae* in this litigation derives from its goal of building a union where members of all cultures, religions, sexual orientations, gender, disabilities, ages and nationalities feel welcomed, respected and heard.

Inland Boatman's Union of the Pacific represents approximately 4,000 workers on both passenger carrying and commercial vessels that sail along the Pacific coastline and to Hawaii. These workers are deckhands on tugboats, barges oil and dredge barges, and ferryboats; snack bar and concessionaire workers, and ticket-takers and terminal personnel on ferry systems; longshoremen and seafood processing workers in Alaska,

warehousemen, and tankermen. The IBU has long understood that “an injury to one is an injury to all” and believes its experience in overcoming those injuries and in obtaining justice for its members gives it particular insight into the harmful effects of state sanctioned discrimination against workers and their families. It seeks to appear as *amicus curiae* in order to present its perspective to this Court.

The **International Alliance of Theatrical Stage Employees, Local 15**, represents 565 stage technicians and motion picture projectionists employed in all technical areas of theatrical, concert, and convention work in Seattle, Bellingham, Tacoma, Olympia and surrounding areas. IATSE 15 supports the rights of all of its workers and has achieved protections related to workers’ sexual orientation and/or lifestyle in its collective bargaining contracts. Local 15 supports not only the right of all workers to economic parity, but also their right to conduct their personal lives free from fear and discrimination. These ideals make marriage equality an issue that Local 15 is proud to stand up for.

International Federation of Professional and Technical Engineers, Local 17, represents 8,000 public employees working in administrative, managerial and technical capacities in various jurisdictions from the state level to health districts throughout Washington State. IFPTE 17 has a long tradition of progressive support for the advancement

of social justice. It was one of the first unions to advocate, successfully, for domestic partnership rights for City of Seattle employees. This union has always stood for the rights of all employees to be treated equally and with dignity in the workplace, principles embraced by the respondents' case in this litigation. Where those rights are compromised IFPTE 17 will lend its voice to working to overcome that injustice.

International Union of Operating Engineers, Local 609, represents 750 employees providing services in the areas of security, grounds, nutrition, custodial care and energy management for Seattle Public Schools. Local 609 works to defend members' workplace rights and to ensure equity and fair treatment to all regardless of sexual orientation. Local 609 believes strongly that marriage and the benefits bestowed by our society as a result of marriage should not be denied to gay and lesbian workers of the state of Washington.

The 167 affiliated organizations that comprise the **King County Labor Council** represent over 150,000 workers in King County employed in a wide variety of trades in both the public and private sectors. KCLC's objectives include "secur[ing] full recognition and enjoyment of the rights and liberties to which we are justly entitled," assisting workers in securing improved working conditions, and "secur[ing] legislation which will safeguard and promote the principle of free collective bargaining, the

rights, welfare and security of all segments of the economy, and to oppose legislation contrary to these objectives.” KCLC believes the outcome in this case will either significantly advance or detract from those objectives. It is proud to lend its voice to the furthering of liberty and equality based on its long tradition of fighting for dignity in the workplace for every worker—even if that means embracing not-yet-popularly accepted positions where those positions, as the stand it takes here, are founded on the principle of the fair application of justice and opportunity.

The Northwest Labor and Employment Law Office founded in the 1970’s as a non-profit law center representing African American construction workers, Asian Pacific American cannery workers, and Latino farm workers has evolved into a grassroots social justice group advocating for and empowering low-income workers of color and low-income women workers in the construction industry throughout King County. LELO believes all workers have a right to equal benefits and equal treatment, and to freedom from discrimination in the workplace and in their communities. The state’s denial of recognition to families of same-sex partners undercuts respect for those families and the workers who provide for them, both in the workplace and in their communities.

Out Front Labor Coalition is the Seattle chapter of Pride at Work and represents gay, lesbian, bisexual, and transgender union members and

allies in the Seattle area. Because Out Front Labor is one of its largest and most active chapters, Pride at Work held its national convention in Everett, Washington, in 2001. Out Front Labor's 100-200 members work in a wide range of occupations: health care, building construction, mail delivery, computer programming, teaching, to name a few. In all these settings, the denial of legitimacy embodied in DOMA hinders Out Front Labor's objectives.

With close to 1,000 members **Pride at Work** represents the interests of all lesbian, gay, bisexual, transgender ("LGBT") union members and allies throughout the United States. These individuals, estimated to be at least 10 percent of the U. S. work force, are employed across the entire spectrum of union trades from clerical workers to iron workers. The purpose of Pride At Work is to mobilize mutual support between the organized labor movement and the LGBT community for social and economic justice. In the spirit of the union movement's historic motto "An Injury to One is An Injury to All," Pride at Work opposes all forms of discrimination on the job based on sex, gender identity, sexual orientation, race, national or ethnic origin, age, disability, religion or political views, and in that spirit joins as an *amicus curiae* in this litigation.

Seattle Community College Federation of Teachers, AFT 1789, represents 1,000 academic faculty members, including librarians and counselors, in eight Seattle-area community colleges and vocational institutes. A primary element of SCCFT's mission, one that has been realized in its labor contract with the Seattle Community College District, is to assure "fair, equal, and non-discriminatory treatment of all persons without respect to race, color, creed, sex, sexual orientation, age, marital status, national origin, or disability . . ." On that basis SCCFT lends its voice in support of equal rights to marriage.

Seattle Musicians' Association, Local 76-493, represents over 600 musicians from free-lance musicians to symphony and theater musicians in King, Pierce, Thurston, Mason Island, Kitsap, Jefferson, Clallam, Grays Harbor and Pacific Counties. Local 76-493 serves to protect the interests of musicians of the Pacific Northwest regardless of race, creed, color, national origin, sex, sexual orientation, or age. It strives to promote equal rights and opportunity under the law for all individuals. Local 76-493 knows that denying a minority population of couples in committed relationships the same rights, protections and benefits that are granted the majority is a form of injustice—an injustice that harms same-sex couples economically, emotionally and relationally and spills over from the workplace into their everyday lives and their children's lives. It

therefore appears as *amicus curiae* to assist the Court in remedying the situation created by DOMA.

Service Employees International Union, Local 6, represents approximately 3,000 members employed in building services in King, Snohomish and Pierce Counties. This is a tremendously diverse group of workers in terms of language, ethnicity, religious background, national origin, and sexual orientation. As an *amicus curiae* in this lawsuit, Local 6 continues its long tradition of fighting for economic and social justice, dignity and respect, not only in the work place, and not only for its own membership, but for all workers in the State of Washington.

Service Employees International Union, Local 775, represents 28,000 home care and nursing home workers throughout Washington State. Local 775 appears as *amicus curiae* because it comports with the Union's mission of leading the way toward a more just and humane society and its belief that all working families in Washington State deserve a level playing field with respect to economic rights and benefits and to work with dignity and respect.

Service Employees International Union, Local 925, represents 10,000 public sector workers in university, public school and preschool education, state and local government, and non-profit organizations throughout Washington. Local 925 and its members work to achieve fair

working conditions, active participation in the policies and operations of their work places, and recognition and respect. That is the basis for Local 925's interest in supporting the proponents of equality in the right to marry.

Service Employees International Union 1199NW represents more than 18,000 health care workers in facilities across Washington State, including doctors, registered nurses, licensed practical nurses, pharmacists, technicians, professionals, therapists, mental health workers, certified nursing aides, housekeeping and dietary staff, and other health care workers. Local 1199NW believes that securing equal rights to marriage for gay and lesbian couples is a further step towards its objective of ensuring that all workers can work free from discrimination and with dignity and respect in the workplace.

Service Employees International Union - Washington State Council coordinates legislative and political affairs for the 64,000 workers represented by SEIU locals throughout Washington State. These locals represent workers in a wide variety of service occupations including health care, education, local government, public safety and building services. A primary objective of SEIU Washington State Council is improving the working lives of members by improving the terms and conditions of their employment through political, educational, charitable, civic, legal, and

legislative activities. The Council appears as *amicus curiae* in this litigation to advance this objection and to carry out its mission of attaining economic security, dignity and respect for all in the workplace and creating a more just and humane society.

United Farm Workers, Pacific Northwest, represents farmworkers and other immigrant workers throughout Washington and Oregon. The union's 5,000 members work in all aspects of agriculture and related industries such as packing houses and canneries. Its mission includes advocacy for its members to ensure all of their rights are respected in the workplace and in the community at large. This is the basis for this union's interest in this litigation and for its participation as *amicus curiae*.

United Auto Workers Local 4121 represents approximately 4,000 academic student employees (research assistants, teaching assistants, readers, graders, tutors and others doing similar work) at the University of Washington. UAW Local 4121 is strongly committed to ensuring that workplaces are free from all forms of discrimination and accord all employees dignity and respect. Local 4121 understands that allowing same-sex marriage in Washington State will be another step towards securing those objectives.

Washington Legal Workers represents 35 attorneys and legal support staff in the offices of Columbia Legal Services throughout Washington State. WLW believes all workers in Washington must be treated with dignity and respect on the job. This includes equal treatment with respect to economic benefits available to workers. WLW appears as *amicus curiae* in this appeal because it believes allowing same sex marriage is one of the best ways to end the second-class treatment gay and lesbian workers experience in the workplace.

Washington State Nurses Association represents almost 14,000 registered nurses at health care facilities throughout Washington State and advocates on behalf of all nurses in the areas of collective bargaining, nursing practice legislation and health policy. Central to WSNA's purpose is the elimination of discrimination in all its invidious forms. The issue of equal marriage is vital to each of the basic tenets of the organization: the promotion and advancement of nurses; upholding the principles of respect, dignity and equal treatment; and promoting and improving health standards and access to health care. The legal rights attendant to marriage are crucial in ensuring that family members receive appropriate care and are able to make critical decisions for one another. WSNA seeks to foster the highest nursing standards, which include the

treatment of the whole patient and respectful consideration of the patient's family.

WashTech, Communication Workers of America Local 37083, is a national local representing high-tech and communications workers in the computer software industry, in both the private and public sectors. Fifty percent of its 450 members are employed in Washington State. WashTech has openly gay members and believes they should have the same rights as heterosexual individuals in their choice of whom to marry. WashTech wishes to appear as *amicus curiae* based on its understanding that all forms of discrimination must end in order to promote a fair and just society.