

Supreme Court No. 75934-1

**IN THE SUPREME COURT
OF THE STATE OF WASHINGTON**

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

v.

KING COUNTY *et al.*, Appellants.

Appeal from the Superior Court of King County
The Honorable William L. Downing

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

v.

STATE OF WASHINGTON, Appellant.

Appeal from the Superior Court of Thurston County
The Honorable Richard D. Hicks

MOTION TO FILE BRIEF OF *AMICI CURIAE*

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Men's/Women's Chorus; SEAMEC;
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Rights Washington; Inland
Northwest Equality; OutKitsap,
Spokane AIDS Network, Trikone-
Northwest, Entre Hermanos and
The Desert Oasis Website
Committee

I. MOTION

The Pride Foundation, Seattle Men's Chorus/Women's Chorus, Seattle Metropolitan Elections Committee for Gays, Lesbians, Bisexuals and Transgendered Persons (SEAMEC), Tacoma United For Fairness, Equal Rights Washington, Inland Northwest Equality, OutKitsap, Spokane AIDS Network, Trikone-Northwest and The Desert Oasis Website Committee move this Court for leave to file a Brief of *Amicus Curiae* in these consolidated cases.

II. STATEMENTS OF INTEREST AND FAMILIARITY

Pride Foundation connects, inspires and strengthens the Pacific Northwest Lesbian, Gay, Bisexual and Transgender (LGBT) community in pursuit of equality. "For nearly 20 years, Pride Foundation has brought together caring individuals, leaders, and community volunteers to create positive social change by giving more than 4.5 million dollars to our community through grants and scholarships,

funding more than 500 organizations, 350 students, and changing the lives of countless LGBT people. Pride Foundation envisions a world that honors diversity, fosters mutual respect, and celebrates complete equality and we therefore strongly support the case for marriage equality.”

www.pridefoundation.org.

The **Seattle Men's Chorus/Seattle Women's Chorus'** vision statement is "A world that accepts and values its gay and lesbian citizens." Its formal mission is to "entertain, enlighten, unify and heal our audience and members, using the power of words and music to recognize the value of gay and straight people and their relationships." Formed in 1979, the organization has approximately 450 singing members and 100 non-singing members. SMC/SWC is Washington's largest choral organization, ranking third among the state's music organizations in terms of budget, audience exposure, and ensemble size. SMC is the largest community chorus in America and the largest gay men's chorus in the world. In 2004 the choruses and ensembles performed for 36,500 people locally,

and for another 5,000 people at a choral festival in Canada. www.seattlemenschorus.com.

Seattle Metropolitan Elections Committee for Gays, Lesbians, Bisexuals and Transgendered Persons (SEAMEC) has pursued a course of educating voters (and candidates) so they can make an informed choice about electoral candidates, ballot issues and legislation since 1977. The purpose of this voter education is to increase the LGBT community's influence and strength in the political sphere, with the ultimate goal of full integration and equality under the law. SEAMEC views the issue of marriage equality as part of that goal, and therefore supports the plaintiffs in *Andersen v. King County*. www.seamec.org.

Tacoma United For Fairness (TUFF) was formed in 2001 in Tacoma, Washington to defeat an initiative placed on the ballot that would have repealed anti-discrimination protections for lesbian, gay, bisexual and transgendered people. TUFF was successful in this endeavor, winning the initiative campaign by a 59% margin, the largest margin of victory for any such initiative campaign in the United

States. TUFF remains active today and is committed to protecting and securing basic human rights for lesbian, gay, bisexual and transgender people."

Equal Rights Washington was founded with the sole purpose of building political power for Lesbian, Gay, Bisexual and Transgendered individuals throughout Washington State, and strongly support ending discrimination in housing, in the workplace, as well as ensuring that committed same-sex couple receive the same benefits under Washington law as heterosexual couples.
www.equalrightswashington.org.

Inland Northwest Equality is a Washington statewide coalition of individuals and organizations created in order to increase awareness in the larger community of the need for GLBTQ equality and justice through public education, outreach, and advocacy. They believe all adults have the right to marry and would like to see that right legally guaranteed for all residents of the State of Washington.

OUTKITSAP is a 501C3 health and social

service agency serving Kitsap County, Washington.

Programs of OUTKITSAP include Community Building Events, HIV/AIDS Education and Awareness Programs and a GLBT Youth Drop-In Center.

The GLBT community in Kitsap County reflects the general population of Kitsap County in that over 70% of OutKitsap's constituents are in long-term partnerships.

Consequently, they will be greatly impacted by the court's decision regarding the rights of same-sex couples to gain the privileges and responsibilities of legal marriage. www.outkitsap.org.

The Spokane AIDS Network (SAN) is a community based organization whose mission is to minimize the impact of, and maximize awareness about, AIDS and other consequences of HIV infection in the Inland Northwest. For the past 20 years, SAN has provided direct care services to people living with HIV and AIDS and has worked to prevent the spread of HIV in Spokane and surrounding communities. The Spokane AIDS Network is working towards a community that celebrates people for who they are

and doesn't discriminate and stigmatize individuals because of differences; therefore, SAN strongly supports the case for marriage equality. www.san-prevention.org

Trikone-Northwest is a nonprofit organization serving differently oriented South Asians. Their mission is to provide an affirming, empowering, and supportive space for our community. Their community is made up of individuals from diverse national, religious, linguistic, and class backgrounds, including United States, Sri Lanka, India, Pakistan, Tanzania, Kenya, Canada, and Afghanistan heritage; members of various Muslim, Hindu, Buddhist, Sikh, atheist and agnostic religious traditions; speakers of English, Punjabi, Hindi, Urdu, Singhalese, Tamil; and individuals representing the private, public and nonprofit sectors. Trikone-Northwest believes the nation's law should separate religion and state, protect those in the most vulnerable classes, and provide equal protection to all. "Despite several of our religious leaders having conducted marriages for same-sex couples in our community, our families

continue to be hurt by the inequitable distribution of rights, responsibilities, and benefits provided by civil marriage and the continued discriminatory application of such. We, therefore, offer this statement in support of marriage equality for same-sex couples.”

www.trikone-new.org.

“As the only LGBT Latina/o organization in the state of Washington, **Entre Hermanos** comes in contact with the growing population of Latinas/os in the state. The community we serve must confront discrimination at multiple levels. Sexual orientation should not be used to discriminate against anyone in the state. We fully support this effort to secure legal rights for marriage for all individuals.”

www.entrehermanos.org.

The Desert Oasis Website Committee is a non-profit organization centered in Tri-Cities Washington. They provide resources of events, scholarship listings, volunteer opportunities, and a directory for non-discriminatory businesses/organizations for the Sexual Minority Community. The Desert Oasis Website Committee

believes in equality for everyone. Marriage discrimination must be stopped, to create a peaceful environment for everyone. Same sex families will never be looked upon by anyone as a real family, unless the government ends its discrimination practices against same sex couples.

www.desertoasis.org.

Amici are actively involved with advancing issues raised in these cases. Their work and membership is statewide.

Counsel for *amici* has reviewed briefs filed in these cases, and the decisions of the Thurston and King County Superior Courts below. He is closely acquainted with the issues involved in these cases and the scope of the arguments made by parties to these cases.

III. ISSUES TO BE ADDRESSED

Amici urge this Court to apply strict scrutiny to Respondents' Article 1, Section 12 claims. The "inferior legal status" of Washington's lesbian and gay citizens is constitutionally suspect under fundamental equality principles recognized by this Court.

Amici further contend the result would also be the same under a rational basis review. Washington citizens include thousands of same-sex couples who share their lives together in the same ways and for the same reasons that opposite-sex couples marry. Because there is no reasonable ground for the State to treat these similarly situated persons differently, the marriage exclusion violates Article 1, Section 12's equality guaranty.

The analysis presented by these *amici* is significant because it draws extensively on recently developed statistical and U.S. Census data that demonstrates how closely similar same-sex couples- who cannot marry in Washington- are to unmarried and married opposite-sex couples- who can marry in Washington- in most aspects of their lives. This data underscores, in a way that has not been possible in previously, why the exclusion of same-sex couples from marriage rights in Washington is highly suspect and should be reviewed accordingly.

IV. REASON FOR ADDITIONAL BRIEFING

The issues presented in these cases are

of national significance and interest. As counsel for the State Legislators notes, "The jurisprudential standard created in [these cases] will not only create a better understanding that the [Privileges and Immunities] Clause has an independent and broader meaning than the federal equal protection clause, but it will set the jurisprudential standard by which all further legislation will be analyzed." This Court will benefit from a broad range of counsel by *amici* of all views, including those who join in this motion and brief.¹

In addition, it is vitally important that this Court hear and understand the issues from the perspectives of gay, lesbian, bisexual and transgendered people in Washington, their friends, families and supporters. Most of the briefs in these cases are *about* people of different sexual orientations. Those people should be heard *from* as well.

V. REQUEST FOR PERMISSION TO FILE
BRIEF OF *AMICI* EXCEEDING RECOMMENDED
LENGTH UNDER RAP 10.4(B)

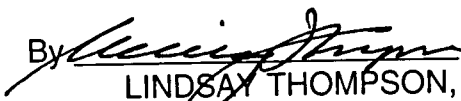
Amici respectfully request leave of the

Recommendation of RAP 10.4(b) that “an amicus curiae brief...should not exceed 20 pages.”

Though counsel for *amici* brings considerable editing experience to the task, it has not proved possible to condense arguments of *amici* to less than 20 pages and offer sufficient analysis to make them useful to the Court. Without the strict scrutiny analysis the demographic data presented is just a catalogue of numbers; without the numbers, the reasons strict scrutiny are called for in these cases become abstractions. *Amici* requests leave to file their brief at 33 pages.

Respectfully submitted this 7th day of February 2005.

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By 
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may import the interposition of a disinterested bystander to aid and advise the court on the law to the end that justice may be attained, the ordinary utilization of the device both in practice and in conformity with court rule does not prevent interested persons, whether attorneys for laymen, from seeking the role. See, United States Supreme Court Rule 42(3) and (4), 28 U.S.C.A. and RAP 10.6(b).” *Young Americans for Freedom v. Gorton*, 91 Wn.2d 204, 208, 588 P.2d 195 (1978)