

S168047/S168066/S168078

IN THE SUPREME COURT OF CALIFORNIA

En Banc

KAREN L. STRAUSS et al., Petitioners,

v.

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

ROBIN TYLER et al., Petitioners,

v.

STATE OF CALIFORNIA et al., Respondents.

CITY AND COUNTY OF SAN FRANCISCO et al., Petitioners,

v.

MARK B. HORTON et al., as State Registrar of Vital Statistics, etc.,
Respondents.

**SUPREME COURT
FILED**

NOV 19 2008

Frederick K. Ohlrich Clerk

Deputy

The motion for judicial notice filed in S168047 by petitioners on November 5, 2008, is GRANTED.

The requests for a stay of Proposition 8 filed by petitioners in S168047 and in S168066 are DENIED.

Respondent Secretary of State Bowen's request to be dismissed as a respondent in S168066 is GRANTED. (*Kevelin v. Jordan* (1964) 62 Cal.2d 82.)

The motions to intervene in S168047, S168066, and S168078, filed on November 17, 2008, by Proposition 8 Official Proponents et al. are GRANTED. The motions to intervene in S168047, S168066, and S168078, filed on November 10, 2008, by Campaign for California Families, are DENIED.

The State of California, the Attorney General, the State Registrar of Vital Statistics, and the Deputy Director of Health Information and Strategic Planning of the California Department of Public Health are ORDERED TO SHOW CAUSE before this court, when the above entitled matters are called on calendar, why the relief sought by petitioners should not be granted.

The issues to be briefed and argued in these matters are as follows:

(1) Is Proposition 8 invalid because it constitutes a revision of, rather than an amendment to, the California Constitution? (See Cal. Const., art. XVIII, §§ 1-4.)

(2) Does Proposition 8 violate the separation of powers doctrine under the California Constitution?

(3) If Proposition 8 is not unconstitutional, what is its effect, if any, on the marriages of same-sex couples performed before the adoption of Proposition 8?

The return is to be filed by respondents, and a brief may be filed by intervenors, in the San Francisco Office of the Supreme Court on or before Friday, December 19, 2008.

A reply may be filed by petitioners in the San Francisco Office of the Supreme Court on or before Monday, January 5, 2009.

Any application to file an amicus curiae brief, accompanied by the proposed brief, may be filed in the San Francisco Office of the Supreme Court on or before Thursday, January 15, 2009.

Any reply to an amicus curiae brief may be filed in the San Francisco Office of the Supreme Court on or before Wednesday, January 21, 2009.

Moreno, J. joins this order except that he would grant the requests to stay the operation of Proposition 8 pending this court's resolution of these matters.

Kennard, J. would deny these petitions without prejudice to the filing in this court of an appropriate action to determine Proposition 8's effect, if any, on the marriages of same-sex couples performed before Proposition 8's adoption.

George

Chief Justice

Associate Justice

Baxter

Associate Justice

Werdegar

Associate Justice

Chin

Associate Justice

Moreno

Associate Justice

Corrigan

Associate Justice