

**CONTACT: GLORIA ALLRED**  
**(323) 653-6530**  
[Gallred@amglaw.com](mailto:Gallred@amglaw.com)

Same Gender Marriage

On March 4, 2008 we appeared before the California Supreme Court on an historic civil rights case. We argued that our clients, two same gender couples, should enjoy the right to marry in California and that the current ban on such marriages is unconstitutional.

Today we have won our case and new rights for all same gender couples in California who will now enjoy the right to marry the person of their choice - the one they love.

On February 12, 2004, when Robin Tyler and Diane Olson and another same sex couple (Rev. Troy Perry and his life partner, Phillip Ray DeBlieck), were denied a license to marry in Beverly Hills because each couple was of the same gender we filed the first lawsuit in California for them (Tyler v. L.A. County) challenging the constitutionality of that denial and we fought to compel the issuance of the licenses. (February 23, 2004) In December of 2004, I argued our case before Judge Richard Kramer in San Francisco, where the case had been transferred and consolidated with other cases filed after our case was filed. On March 2005 we won our historic case but the California Court of Appeals reversed that decision. Then the California Supreme Court accepted this case and five others for review.

Both couples have been in loving, committed, long-term, stable

relationships. They were seeking all of the legal rights and responsibilities which the law recognizes in “marriage.” Unfortunately, Los Angeles County has denied them the right to marry the person of their choice.

The lawsuits which were previously litigated in San Francisco challenged the issuance of the marriage license by the County of San Francisco before there was a judicial declaration that the statute was unconstitutional. Our lawsuit, in contrast, challenges the denial of the marriage license by Los Angeles County and it goes to the core of the question of the constitutionality of the law defining marriage as a contract between a man and a woman.

We are proud of our clients who were the first in the state to file a lawsuit challenging that denial.

The Supreme Court in it’s groundbreaking opinion today has concluded that permitting same gender couples access only to domestic partnership and not marriage improperly infringes on these couples fundamental constitutional right to marry and violates the equal protection by the law which is guaranteed by the California constitution. The Court has also indicated and that “an individuals sexual orientation like a person’s race or gender - does not constitute a legitimate basis upon which to deny or withhold legal rights”. The Court also emphasizes that preserving the word “marriage” only for opposite sex couples denies same sex couples the dignity and respect. The Court also applied the strict scrutiny standard

because they found that the statutes limiting marriage to a man and a woman discriminates on the basis of sexual orientation and the Court found that the state has is no compelling state interest in upholding the statutes and therefore it is a denial of equal protection to allow such statutes.

We find most interesting the concurring opinion of Justice Kennard “[t]he architects of our federal and state Constitutions understood that widespread and deeply rooted prejudices may lead majoritarian institutions to deny fundamental freedoms to unpopular minority groups, and that the most effective remedy for this form of oppression is an independent judiciary charged with the solemn responsibility to interpret and enforce the constitutional provisions guaranteeing fundamental freedoms and equal protection.”

This decision by our Supreme Court today is courageous, historic and precedent setting. Because the California Supreme Court is looked to by other states as a leader in family law we hope and expect that this decision will be persuasive and influential in other states throughout this nation.

We are very proud of our clients who have waged with us this pioneering legal battle. As a result of their efforts same gender couples will now enjoy the right to marry which they have for so long been denied.

GLORIA ALLRED  
Attorney at Law  
Representing  
Robin Tyler and Diane Olson  
and  
Rev. Troy Perry and Phillip Ray De Blieck  
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