

Supreme Court No. 75934-1

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

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

v.

KING COUNTY *et al.*, Appellants.

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

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

v.

STATE OF WASHINGTON, Appellant.

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

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**MOTION OF WOMEN'S ORGANIZATIONS  
FOR LEAVE TO FILE *AMICI CURIAE* BRIEF**

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*Amici* are leading non-profit women's and civil rights organizations dedicated to protecting the right of all people, including lesbians and gay men, to live free of government-enforced gender stereotypes and other forms of sex discrimination. These organizations respectfully move for an Order granting leave to appear as *amicus curiae*.

#### **1. IDENTITY AND INTEREST OF AMICI**

Individual interest statements are as follows:

LEGAL MOMENTUM is the new name of NOW Legal Defense and Education Fund, a leading national non-profit civil rights organization that for over thirty years has used the power of the law to advance the rights of women and girls. Legal Momentum is dedicated to the rights of all women and men to live and work free of government-enforced gender stereotypes. Legal Momentum is familiar with the issues raised by this appeal because Legal Momentum has consistently supported the right of lesbians and gay men to be free from discrimination based on, among other things, gender stereotyping. In light of its core mission, Legal Momentum has both interest and expertise in exposing the way in which restricting marriage to opposite-sex couples relies on outmoded, stereotypical, and constitutionally impermissible conceptions of gender.

THE CALIFORNIA WOMEN'S LAW CENTER (CWLC) is a nonprofit law and policy center that works to ensure, through systemic

change, that life opportunities for women and girls are free from unjust social, economic and political constraints. CWLC's Issue Priorities are sex discrimination, violence against women, women's health, race and gender, exploitation of women, and women's economic security. CWLC is firmly committed to eradicating invidious discrimination in all forms, and eliminating laws that reinforce traditional gender roles. The nexus of gender and sexuality discrimination produced by anti-same-sex marriage acts, such as Washington's Defense of Marriage Act ("DOMA"), raises questions within the expertise and concern of CWLC.

THE NATIONAL ORGANIZATION FOR WOMEN's (NOW) purpose is to take action to bring women into full participation in the mainstream of American society now, exercising all privileges and responsibilities thereof in truly equal partnership with men. This purpose includes, but is not limited to, equal rights and responsibilities in all aspects of citizenship, public service, employment, education, and family life, and it includes freedom from discrimination because of race, ethnic origin, age, marital status, sexual preference/orientation, or parenthood.

All couples, lesbian and gay and heterosexual, deserve the legal protections afforded by marriage. Currently, same-sex couples in committed relationships are likely to pay higher taxes than married couples. They receive no Social Security survivor benefits upon the death

of a partner despite paying payroll taxes. They are denied healthcare, disability, military and other benefits afforded to heterosexual couples. Without a will, they often pay estate taxes when a partner dies, including significant tax penalties when they inherit a 401K pension plan from a partner. They are denied family leave under the Family and Medical Leave Act. Women will not achieve equality until every woman can pursue her dreams free from all forms of discrimination.

THE WOMEN'S LAW PROJECT is a nonprofit feminist legal advocacy organization based in Philadelphia and Pittsburgh. Founded in 1974, the Law Project has a long history of advocacy on behalf of lesbian parents and their children. The Law Project served as counsel to *amici curiae* in the Pennsylvania Supreme Court in two recent cases recognizing second-parent adoption and third-party standing of same-sex co-parents to petition for visitation. In addition, the Law Project has successfully advocated against proposed state legislation that would have prohibited the recognition of domestic partnerships.

## **2. FAMILIARITY WITH ISSUES**

Counsel for *Amici* has reviewed the opening and reply brief of Appellants and Respondents, as well as the trial court briefing. Counsel is familiar with the record.

### **3. ISSUES TO BE ADDRESSED BY AMICI**

- A. Does the US Constitution permit government-mandated adherence to gender stereotypes about appropriate roles for women and men?
- B. Does Washington's Equal Rights Amendment ("ERA") provide additional protections against state enforcement of sex stereotypes like those perpetuated by DOMA and Washington's marriage laws?
- C. How do stereotypes about "proper" sex roles and "proper" sexual orientation intertwine to subordinate women?
- D. Does denying lesbian and gay couples the right to marry enforce sex stereotypes and therefore violate Washington's ERA?

### **4. WHY AMICUS BRIEFING WILL ASSIST THE COURT**


The issue of improper sex stereotyping is at the core of this case. *Amici* are organizations dedicated to ending sex discrimination and achieving full equality for women and girls. The brief they offer to the Court demonstrates that denying lesbian and gay couples the right to marry is a form of sex discrimination not only because it violates Washington's Equal Rights Amendment on its face, but also because it unconstitutionally relies on and reinforces gender stereotypes. Accordingly, participation of *amici curiae* will assist the Court in resolving the issues of great public importance raised by this case.

For the foregoing reasons, *amici* respectfully request that the Court grant leave to file the accompanying *amicus curiae* brief.

DATED this 7<sup>th</sup> day of February, 2005.

Respectfully submitted,

THE BLANKENSHIP LAW FIRM, P.S.

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