



## **Freedom Forum**

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### *In This Issue:*

- **Supreme Court Poised to Uphold Proposition 8!**
- **WCLP Successfully Defends Parental Rights.**
- **An Evening In Tuscany: Celebration Dinner for Friends of the WCLP.**

### **Court Poised to Uphold Proposition 8!**

**Dateline: March 5, 2009, San Francisco California.** The California Supreme Court appears inclined to protect the will of the majority of Californians who amended the state constitution last fall to protect traditional marriage. We believe Proposition 8, now known as Article 1, Section 7.5 of the California Constitution, will be upheld with a vote of 4-3 or better.

Former U.S. Solicitor General and current Pepperdine University Law School Dean Kenneth Starr did a fantastic job arguing on behalf of the marriage amendment during the hearing. At issue were several legal challenges to the constitutional amendment passed November 4, 2008, which defines marriage as between one man and one woman.

Starr's leading argument on Thursday was that the people, not the courts have the right to amend the constitution. "Rights are ultimately defined by the people," he said. Starr argued that the people's power is broad and deep, and would even allow a voter-approved measure limiting free speech, for example. He urged the Court to abide by the will of the people which is now embodied in the constitution. Most of the justices appeared to accept the view that Prop. 8 was a proper constitutional amendment as opposed to a "revision" which would have required a more arduous process to enact.

Another issue before the Court was the fate of the same-sex “marriages” that occurred between June and November of 2008. This was the brief period during which when same-sex “marriage” was “legalized” by the California Supreme Court. During the hearing, the Justices appeared reluctant to invalidate these “marriages.” While we disagree with the result, the consensus of most legal scholars is that the Court will likely allow these marriages to stand.

The most stunning issue brought before the Court by the anti-family crowd was whether the new judicially created “fundamental” right to same-sex “marriage” is a “liberty interest” superior to the people’s right to amend the state constitution to define marriage as only between a man and a woman. This novel legal theory was advanced and argued, with no legal support, by Jerry Brown and other same-sex marriage advocates. Most of the Justices were not impressed by this argument. At one point, Chief Justice George said “Sir, your argument is both practical and political, but it is not legal.” As we pointed out in last month’s Freedom Forum, if this argument prevails, it will result in judicial tyranny and may signal the end of our democratic republic as we know it. Under this approach, Judges, not “we the people” would have the final say on important public policy issues.

The battle is far from over. The court’s written opinion will be issued in the next 90 days. We are now very optimistic that Proposition 8 will stand. However, if they are unsuccessful in overturning the marriage amendment at the California Supreme Court, opponents of Proposition 8 are already preparing their own initiatives to work towards constitutional amendments for 2010 or 2012 with the goal of undoing Prop 8.

We strongly believe that it is very important that you understand California’s marriage battle in the larger context. As we have explained in past Freedom Forums it is not only the definition of marriage that is at stake, but religious freedom and free speech. The homosexual legal agenda poses a direct and real threat to our precious First Amendment rights. That agenda, if not stopped, will lead to the loss of existing legal protections for pastors and religious organizations. If we loose the current fight, we strongly believe that we could very quickly see challenges to non-profit status of churches, forced hiring of homosexuals by religious organizations and legal persecution of pastors for “hate speech.” Freedom loving Californians will need to remain vigilant during these very challenging times.

### ● [WCLP Successfully Defends Parental Rights.](#)

**Dateline, March 5, 2005, Vista California.** The Vista Unified School District was considering changing its policy of notifying parents when their children go off of campus for “confidential” medical appointments. At the request of a concerned parent, WCLP President and Chief Counsel Dean Broyles addressed the school board Thursday night. He pointed out that State law permits the District to notify parents and seek their consent before releasing students from campus. Dean argued that the Board should not only maintain its policy but actually strengthen its policy to further protect parental rights and protect itself against legal liability. The audience erupted in applause when the WCLP committed to provide pro bono legal representation to the District if it were sued under

the strengthened policy. The Board stated that it would continue to seek parental consent and would consider a stronger policy at its next meeting.

● **An Evening in Tuscany for Friends of the WCLP.**

On May 30<sup>th</sup>, 2009, we will be inviting friends of the Western Center for Law & Policy to join us for dinner to celebrate the victories we have enjoyed in the ongoing fight for faith, family and freedom. Please mark your calendars and save the date. More details will follow soon.

For more information about the WCLP, please visit our website at [www.wclplaw.org](http://www.wclplaw.org)

Please consider forwarding the *Freedom Forum* to your friends and family.

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