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Civil Rights Groups Petition California Supreme Court to Stop Enactment of Proposition 8

LOS ANGELES (Nov. 14, 2008) – Civil rights groups today filed a petition with the California Supreme Court to stop the enactment of Proposition 8 because it would mandate discrimination against a minority group and did not follow the process required for fundamental revisions to the California Constitution.

In the petition, the Asian Pacific American Legal Center, Mexican American Legal Defense and Educational Fund, Equal Justice Society, California NAACP and the NAACP Legal Defense and Educational Fund, Inc. argue that in order to protect the fundamental rights of all Californians, a higher standard is required to overturn the right to marry. Minority communities cannot be stripped of their fundamental rights by a simple majority vote.

"We would be making a grave mistake to view Proposition 8 as just affecting the LGBT community," said Eva Paterson, president of the Equal Justice Society. "If the Supreme Court allows Proposition 8 to take effect, it would represent a threat to the rights of people of color and all minorities.

The petition filed by Raymond C. Marshall of Bingham McCutchen and Prof. Tobias Barrington Wolff of University of Pennsylvania Law School on behalf of leading African American, Latino, and Asian American groups echo the arguments made in the November 5 lawsuit filed by the American Civil Liberties Union, Lambda Legal and the National Center for Lesbian Rights: Proposition 8 prevents the courts from exercising their essential constitutional role of enforcing the equal protection rights of minorities.

The California Constitution requires that any measure attempting to revise the underlying principles of the constitution must first be approved by a two-thirds vote of the legislature before being submitted to the voters. Proposition 8 was not approved through that constitutionally required process.

"Proposition 8 contradicts the most basic protection guaranteed by the California Constitution, which is the right to equal protection of the laws," said John Trasviña, President and General Counsel of the Mexican American Legal Defense and Educational Fund. "We can not allow the Constitution to sanction discrimination against one group of people."

"Direct democracy cannot override the California Constitution, which requires more than a majority vote to deprive a minority group of their fundamental rights," said John A. Payton, President and Director-Counsel of the NAACP Legal Defense Fund.

"We cannot become a society that picks and chooses who is entitled to equal rights," said Alice A. Huffman, president of the California State NAACP. "We should include all people from all walks of life in the entitlement to all freedoms now enjoyed by the majority of our population. As a civil rights advocate, we will continue the fight of eliminating roadblocks to freedom."

"Consistent with core equal protection principles, minority communities must not be stripped of their fundamental rights by bare majority rule," said Karin Wang, Vice-President of Programs for

the Asian Pacific American Legal Center. "California went down this path before when the majority population chose to bar interracial marriages involving an unpopular minority: Asian immigrants. The state Constitution exists exactly for this reason – to protect the fundamental rights of minority communities."

"Let's not forget the landmark 1967 case of Loving v. Virginia, which allowed two people of different races to marry," said Paterson of the Equal Justice Society. "People then believed it was acceptable to keep Mildred Loving from marrying a white man because of their ideas of who should marry whom. We must not return to those times."

The court has precedent for invalidating an improper voter initiative. In 1990, the court overruled an initiative that would have added a provision to the California Constitution stating that the "Constitution shall not be construed by the courts to afford greater rights to criminal defendants than those afforded by the Constitution of the United States." That measure was invalid because it improperly attempted to strip California's courts of their role as independent interpreters of the state's constitution.

A copy of the writ petition filed today is available at <http://equaljusticesociety.org/prop8> and will be available later today at <http://www.apalc.org>.

The NAACP Legal Defense and Educational Fund, Inc. (naacpldf.org) was founded in 1940 under the leadership of Thurgood Marshall. Although LDF's primary purpose was to provide legal assistance to poor African Americans, its work over the years has brought greater justice to all Americans.

Founded in 1968, MALDEF (maldef.org), the nation's leading Latino legal civil rights organization, promotes and protects the rights of Latinos through litigation, advocacy, community education and outreach, leadership development, and higher education scholarships.

The Asian Pacific American Legal Center (apalc.org) is a nonprofit organization dedicated to advocating for civil rights, providing legal services and education, and building coalitions to positively influence and impact Asian Pacific Americans and to create a more equitable and harmonious society. APALC is affiliated with the Asian American Justice Center, the Asian American Institute in Chicago, and the Asian Law Caucus in San Francisco.

The Equal Justice Society (equaljusticesociety.org) is a national strategy group heightening conscious on race in the law and popular discourse. Using a three-pronged strategy of law and public policy advocacy, cross-disciplinary convenings and strategic public communications, EJS seeks to restore race equity issues to the national consciousness, build effective progressive alliances, and advance the discourse on the positive role of government.