

**EXHIBIT 5**

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19 SUPERIOR COURT OF THE COUNTY OF SAN FRANCISCO  
20 STATE OF CALIFORNIA

21 Coordination Proceeding Special )  
22 Title (Rule 1550(b)) )  
23 MARRIAGE CASES )

JUDICIAL COUNCIL COORDINATION  
PROCEEDING NO. 4365  
Case No.: CGC 04-428794

24 RANDY THOMASSON and )  
25 CAMPAIGN FOR CALIFORNIA )  
26 FAMILIES )

PLAINTIFF CCF'S PROPOSED  
FINDINGS OF MATERIAL FACTS

27 Plaintiffs, )

28 vs. )

29 GAVIN NEWSOM, individually and )  
30 in his official capacity as Mayor of the )  
31 City and County of San Francisco, CA and )  
32 NANCY ALFARO, in her official capacity )  
33 as the San Francisco County Clerk, )

Action Filed: February 13, 2004  
Hearing Date: December 22, 2004  
Hearing Time: 9:30 a.m.  
Dept: 304  
Judge: Richard A. Kramer

34 Defendants. )

1 Plaintiff CAMPAIGN FOR CALIFORNIA FAMILIES (“CCF”), submits the following  
2 Proposed Findings of Fact for the December 22, 2004 hearing before Judge Kramer in the  
3 Coordinated Marriage Cases:

4 1. Under California law, marriage is defined as a personal relation arising out of a civil  
5 contract between a man and a woman to which the consent of the parties capable of making that  
6 contract is necessary.

7 2. Under California law, only an unmarried male and an unmarried female can consent  
8 to and consummate a marriage.

9 3. On March 7, 2000, California voters passed the California Defense of Marriage Act,  
10 also known as Proposition 22.

11 4. California’s Defense of Marriage Act is codified at *Family Code* §308.5, and states  
12 that only marriage between a man and a woman is valid or recognized in California.

13 5. The Application for a Marriage License in California does not ask whether the  
14 applicants are heterosexual or homosexual.

15 6. Under California law, a marriage license can be issued to an unmarried woman who  
16 is over the age of 18 years regardless of sexual orientation.

17 7. Under California law, a marriage license can be issued to an unmarried man who is  
18 over the age of 18 years regardless of sexual orientation.

19 8. Under California law, a woman cannot marry a woman.


20 9. Under California law, a man cannot marry a man.

21 10. Sexual orientation is not immutable.

22 //

1 Dated: December 16, 2004

2  
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PROOF OF SERVICE

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**PROOF OF SERVICE**

1  
2 I, Rena M. Lindevaldsen, declare that I am over the age of eighteen and am not a party to this  
3 action. My business address is 210 East Palmetto Avenue, Longwood, Florida, 32750.

4 On December 16, 2004, I served the documents listed below on the interested parties in this  
5 action in the manner indicated below:


6 Documents Served:

7 (1) **Proposed Findings of Fact**

8 X By Mail: I am readily familiar with the business practice for collection and processing  
9 correspondence for mailing with the United States Postal Service. I know that the  
10 correspondence was deposited with the United States Postal Service on the same day this  
11 declaration was executed in the ordinary course of business. I know that the envelopes were  
12 sealed, and with postage thereon fully prepaid, placed for collection and mailing on this date,  
13 following ordinary business practices, in the United States mail in Longwood, Florida (as  
14 indicated on the Service List).

15 X By E-Mail: I transmitted via e-mail, each of the documents listed above, except for the  
16 Appendix of Non-California Authorities, to each individual listed on the Service List, except  
17 for Judge Kramer.  
18

19 I declare under penalty of perjury under the laws of the United States of America that the  
20 foregoing is true and correct; that this declaration is executed on December 16, 2004, in Longwood,  
21 Florida.

22   
23 Rena M. Lindevaldsen  
24  
25  
26  
27  
28

## SERVICE LIST

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<p>12 Waukeen Q. McCoy                  13 LAW OFFICES OF WAUKEEN Q. MCCOY                  14 703 Market Street, Suite 1407                  15 San Francisco, CA 94103                  16 Tel: (415) 675-7705                  17 <u>wqm@waukeenmccoy.com</u>                  18                  19 <i>Counsel for Clinton plaintiffs</i></p>	<p>Honorable Richard A. Kramer                  San Francisco Superior Court                  400 McAllister Street, Dept. 304                  San Francisco, CA 94102    <b>Via Fedex</b></p>