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CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

SUPPLEMENT TO FINAL REPORT

(Source Materials)

March 1990

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Chairperson

CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

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CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

Supplement to Final Report

(Background Papers and Source Materials)

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OFFICE OF THE LOS ANGELES CITY ATTORNEY

Consumer Task Force on Marital Status Discrimination

Purpose. On October 31, 1989, Los Angeles City Attorney James Hahn will convene a Consumer Task Force on Marital Status Discrimination. The Task Force will study the extent to which businesses in Los Angeles may discriminate against consumers on the basis of marital status and will recommend ways to reduce any unjust business practices.

Methodology The Consumer Task Force will: (1) examine the nature and extent of marital status discrimination against consumers, by holding public hearings and by interviewing businesses and consumers; (2) review the adequacy of existing laws prohibiting such discrimination; (3) analyze the effectiveness of government agencies that have jurisdiction to investigate and remedy such discrimination; and (4) issue a report by March 1990, recommending ways to reduce such discrimination through education of consumers and businesses and through effective enforcement of existing laws or the passage of new laws, if necessary.

Some Areas of Focus The Task Force will focus on several types of marital status discrimination against consumers, especially as such discrimination was documented in the final report of the Los Angeles City Task Force on Family Diversity:

* **Rental Housing** -- the refusal of some landlords to rent apartments or houses to unmarried couples;

* **Membership Discounts** -- the practice of some businesses granting discounts to married couples but not to unmarried couples, e.g., automobile clubs, health clubs, and airlines;

* **Insurance Policies** -- the practice of some life insurance companies prohibiting an applicant from naming an unmarried partner as the beneficiary, as well as the practice of some companies issuing joint automobile, renters, or umbrella liability policies to married couples but not to unmarried couples, which may result in higher premiums to unmarried couples.

* **Health Care Services** -- the unmarried partners of consumers who become hospitalized have sometimes experienced difficulties in connection with visitation privileges or participation in medical decisionmaking.

* **Residential Care Facilities** -- elderly or disabled consumers who reside in residential care facilities have sometimes been denied personal privileges on the basis of their marital status.

* **Survivors Rights** -- some consumers have experienced traumatic difficulties in making necessary arrangements with hospitals, funeral homes, cemeteries, and newspapers, when their unmarried partner dies.

Task Force Members. The City Attorney will appoint up to 21 members to to serve on the Consumer Task Force. Members are being selected from among the following categories:

- * One member from each of these city commissions: (3)
 - Human Relations Commission - Rent Stabilization Board
 - Commission on the Status of Women
- * One member as nominated by each of these officials: (3)
 - Mayor - Controller - City Council President
- * One member from each of these community groups: (6)
 - Chamber of Commerce - Apartment Owners Association
 - San Fernando Valley Fair Housing Council
 - Hollywood/Mid-Los Angeles Fair Housing Council
 - Lawyers for Human Rights - A.C.L.U. Singles Chapter
- * One member with a background in each of these areas: (7)
 - Insurance Agent - Consumer Protection - Journalist
 - Public Utility - Disability Rights Advocacy
 - Long-Term Care - Private Hospital
- * Two members from other categories (2)

Agency Liaisons. The state Department of Fair Employment and Housing and the state Insurance Commissioner will each assign a liaison to the Consumer Task Force to participate in a non-voting capacity.

Administrative Support. Sky Johnson, Director of Community Affairs, will coordinate administrative support services of the City Attorney's Office.

Student Research. USC law students Michael Cautillo, Sharon Sandler and Dan Redman will conduct legal and factual research.

Chairperson. Los Angeles attorney Thomas F. Coleman will serve as chairperson of the Task Force. Coleman is an adjunct professor at USC Law Center where he teaches a class on "Rights of Domestic Partners."

Proposed Timetable. The following timetable is proposed for the activities of the Task Force:

- * October -- focus: orientation meeting
- * November -- focus: insurance, membership discounts
- * December -- focus: rental housing, residential care
- * January -- focus: health care, survivor rights
- * February -- focus: adopt findings/recommendations
- * March -- focus: release final report

CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

Legal Definition of "Marital Status" Discrimination

Many federal and state laws prohibit discrimination on the basis of "marital status." Often, the term "marital status" has not been defined by these statutes, thus leaving the interpretation to administrative agencies and to courts. The following definitions should assist the Task Force in undertaking its study of marital status discrimination against consumers:

Discrimination Against Individuals. Regulations adopted by the California Fair Employment and Housing Commission define "marital status" as "[a]n individual's state of marriage, non-marriage, divorce or dissolution, separation, widowhood, annulment, or other marital state." (California Administrative Code, Title 2, Section 7292.1(a))

Discrimination Against Couples. Courts have held that discrimination on the basis of marital status includes discrimination against unmarried couples. Hess v. Fair Employment and Housing Commission (1982) 138 Cal.App.3d 232, 235 [California Court of Appeal]; Markham v. Colonial Mortgage Service Co. (D.C. Cir. 1979) 605 F.2d 566, 569 [United States Court of Appeal].

Laws Protecting Consumers

Although the Unruh Civil Rights Statute (California Civil Code Section 51) does not specifically use the term "marital status," it prohibits all arbitrary discrimination by any business establishment of any kind whatsoever. Marina Point, Ltd. v. Wolfson (1982) 30 Cal.3d 721; Curran v. Mt. Diablo Council of Boy Scouts (1983) 147 Cal.App.3d 712. The Fair Employment and Housing Commission has determined that the Unruh Act prohibits marital status discrimination. Department of Fair Employment and Housing v. Donohue, Commission No. FHL86-87, B4-0080 (1989).

Also, there are other statutes prohibiting unfair business practices (Bus. & Prof. Code Sec. 17200 et seq.). These statutes apply to the insurance industry. Beatty v. State Farm (1989) 262 Cal.Rptr. 79.

Other laws specifically prohibit marital status discrimination: **housing** (Gov. Code Sec. 12955); **insurance** (Ins. Code Sec. 679.71 and Admin. Code, Title 10, Sec. 2560.3); **services by many licensed businesses and professions** (Bus. & Prof. Code Sec. 125.6); **credit** (Civ. Code Sec. 1812.30 and Equal Credit Opportunity Act, 15 U.S.C. 1601 et seq.); and **services by public assistance agencies** (Welf. & Inst. Code Sec. 10000).

Authority of the City Attorney's Office

A city attorney or district attorney can take legal action against businesses engaging in unfair or discriminatory practices against consumers. (Civ. Code Sec.'s 52 and 1812.32; Bus. & Pro. Code Sec. 17204).

CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

Focus of Research

Student interns will prepare reports to be considered by the Task Force at each meeting.* Each report will address the following questions:

A. FACTUAL ISSUES

1. What is the nature and extent of any discrimination?
 - (a) findings of the Family Diversity Report
 - (b) independent research by student intern
 - (c) information from Task Force members
 - (d) comments from members of the public
2. What justifications, if any, are given by businesses?

B. LEGAL ISSUES

1. What laws apply to this area of focus?
 - (a) findings of the Family Diversity Report
 - (b) research by student intern
 - (c) opinion of experts (Task Force members and others)
2. Are existing legal remedies adequate?
 - (a) reports from administrative agencies
 - (b) analysis by student interns
 - (c) opinion of experts
 - (d) comments by members of the public

C. RECOMMENDATIONS

1. How can consumer rights be protected better?
 - (a) public sector responses
 - educational methods
 - administrative efficiency
 - law enforcement (litigation)
 - (b) private sector responses
 - actions by consumers
 - actions by businesses
 - role of the media

* Michael Cautillo -- insurance; membership discounts (November)
Sharon Sandler -- rental housing (December)
Daniel Redman -- residential care (December)
Daniel Redman -- health care; survivors rights (January)

CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

Office of the Los Angeles City Attorney

PARTICIPATION BY TASK FORCE MEMBERS

There are a variety of ways in which members can participate in the work of the Consumer Task Force:

1. Attend Each Meeting.

The Task Force will meet once a month for the next six months. Please attend each meeting and participate in the process.

2. Cooperate with Student Interns. Three law students are assisting the Task Force in its research. Each student has a limited area of responsibility and a specific timetable. If you have information on this topic, please share your insights and help give the students some direction:

Mike Cautillo: membership discounts; insurance (Nov.)

Sharon Sandler: housing discrimination (Dec.)

Dan Redman: long term residential facilities (Dec.)

Dan Redman: hospital services; survivors rights (Jan.)

3. Community Outreach. Each member has connections with government and private sector organizations. Please share information about the Task Force with these groups. Sky Johnson can provide extra copies of the City Attorney's press release and other relevant materials. Also, you can provide Sky with mailing lists of organizations or the name of newsletter editors so that we can send them relevant materials.

4. Public Hearings. The meetings in November, December, and January are being planned as public hearings. Members can suggest the names of businesses or consumers who might testify. Send your nominations to Sky Johnson or Tom Coleman.

5. Position Papers. Some members may want the Task Force to address issues in addition to those being studied by the student interns. If so, please develop a position paper on that issue and we will distribute your memo to the other members for consideration at a future meeting. You might want to follow the format being used by the student interns.

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LETTERS RECEIVED FROM CONSUMERS

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Oct. 31, 1989.

Dear Mr. Coleman,

I rented a 3 bedroom house in West Hills for myself (a single parent, 22 yr. old son who is a College student + 15 yr. old daughter).

When my son ^{returns} to stay at college for the summer, I decided I would like to get a roommate for company, security, + to help with expenses.

Wishing to be up front with my landlord (stupid me!) I told him of the situation. He told me since another income would be living in the house he "wanted a cut." I told him if I had been a married couple with two incomes that would not have changed the amount the house was renting for.

He raised my rent \$100 a mo. 9 months ago + I still have not gotten a roommate.

Why do two single people expected to pay more rent than a married couple?

Good luck in your endeavors!
Lathie McKee

10-31-89

NDV-312

Mr. Coleman.

Please add to your study how
we single's get discriminated by the
Travel Agencies. Hotels etc.

good luck
Ray Rodriguez

October 31, '89

City Attorneys Office
Mr. James Hahn
200 N. Main St
Los Angeles, Ca

NOV - 6 1989

Dear Mr. Hahn,

I read with interest the article in todays L.A. Times about your probe of discrimination against singles. Very good and timely idea. People are ready to hear this. Please take it one step further if you can and look into the inequities of our current tax structure, which so blatantly favors married couples over the single person. People want these flaws remedied and this is the time to do it, aswe march towards the next century.

Thank you and Good Health.

Sincerely,



Jerry Kaye

UNISYS

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Thomas F. Coleman
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90089

Mr. Coleman

The article in the LA Times regarding bias against single people caught my attention. I have a bit of information to contribute.

After my divorce, I notified payroll of the change in my marital status. When the S replaced the M, my income tax withholding increased by \$70⁰⁰ a week! So not only did my living expenses double, but I was severely penalized in my taxes.

I'll be watching for news of your task force.

Niki J. McGlathery

Mr. James K. Hahn
Los Angeles City Attorney
Los Angeles City Hall
Los Angeles, CALIF.

Stephen B. Barton
Tania M. Gumusgerdan
- - - 101

NOV 28 1989

Dear Sir:

We applaud your actions with regard to discrimination against unmarried couples. Our letter is in response to an article that appeared in the LA Times - Oct. 31 1989 issue (xerox copy enclosed). My "spouse" & I were both, individually, members of Kaiser Permanente Health Plan through our respective employers before we decided to raise a family together.

Our first child was born (Dec. 11 '83) under my coverage through my employer. My "spouse" then applied for medical coverage as a family through his employer at the appropriate enrollment period citing the existing coverages under both our names & this was accepted. Subsequently two more children were born & covered under this family enrollment plan.

However, recently when I was admitted to the hospital for an operation it became evident to Kaiser membership personnel that we are not married. My membership was immediately discontinued on the basis that we are not married. No attempt was ever made on our part to cover up our status. My marital status should have no affect whatsoever on my health risk. We feel this is grossly unfair because we are a family

Mr. James K. Hahn #2.
Los Angeles City Attorney
Los Angeles City Hall

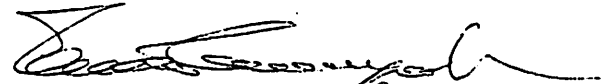
Stephen B. Barton
Tania M. Gumusgerd

Under this ruling, if I were to become pregnant again, would Kaiser deny medical coverage to me, yet offer prenatal care to the unborn child? We hope that you will pursue this area of blatant discrimination.

I would like to give this information or present the facts to Mr. Thomas F. Coleman, the head of your task force.

You are more than welcome to call on us, if necessary, for further information.

Truly yours,


Stephen B. Barton

P.S. Formal reply is not necessary, but acknowledgment of receipt would be appreciated.

4

December 5, 1989

Dear Mr. Hahn.

A friend who is a federal prosecutor in Los Angeles recently sent me a newspaper article entitled, "Bias Against Single People is Targeted." I hope you will direct the enclosed information to the task force. I am especially concerned because I was also a victim of archaic sex laws in the United States.

In Phoenix, I was denied the right to apply for a job as a juvenile probation officer because their Juvenile Court enforced a state misdemeanor law prohibiting cohabitation. I am sending a copy of a local news article that explains the incident in greater detail. I am still angry about this, and understand more first hand what the lack of freedom in a so-called 'free society' means. Since this incident, I have been collecting articles from around the United States describing similar cases where sex laws have been used against unmarried couples, straight or gay. I hope they have some benefit to your group.

I am currently doing all I can to leave New Mexico, which also has a state law prohibiting cohabitation. The ACLU in both New Mexico and Arizona were not interested in pursuing my case. We will hopefully be moving back to California within the next three months. I welcome your efforts to ensure I will be an 'equal citizen' there. I have made a commitment that I will never again live in a state with such offensive criminal laws.

One other issue your task force may wish to investigate that would affect Californians, is the issue of unemployment benefits. In both Arizona and New Mexico, I was denied 'good cause' for quitting my job to move to a new state with my housemate/boyfriend of eight years. My unemployment benefits were denied for six weeks each time we moved, in one case when he was transferred to another state by the same company. We really felt the intent behind this law was one of 'religious morality', as a way to punish those who are not married. It is my understanding that this is the usual policy in all states, and that if we had been married, I would have had good cause to quit, and received my benefits as soon as I applied.

Every single day of my life now, I reflect upon the fact that I am considered a sex offender in the state I live in. As my enclosed recommendations hopefully show, in Alaska I was able to spend my skills and energy into helping victims and convicting people who were real sex offenders. I feel that I should have the right to live with whomever I wish, in the type of consensual association I find right for me, without the threat of discrimination by an employer, mortgage company, landlord or my government. I no longer feel I have the freedoms that most Americans feel they can take for granted. If there is anything I can do to assist your task force in any way, please feel free to contact me.

In addition, if you know of any agencies needing a victim advocate/ paralegal/ investigator who is hardworking and skilled in her job, but cohabitates, please let me know. I will be breathing a big sigh of relief when I reach California, thanks to people like yourself.

Respectfully,

Debbie Deem
Debbie Deem

COHABITANTS, BEWARE!

"To whom it may concern:

"You have a unique opportunity. Debbie Deem is interested in working for you. If you are wise, you will invest in your personal and professional growth and that of your organization and hire her.

Debbie is an extraordinary woman and is, in my judgment, the best single hire I have ever made. . . . There is simply not enough paper to outline her good qualities and skills. Let it suffice to say that she is the best of the best."

Talk about glowing references. All of them are printed on stationery bearing the label State of Alaska, Department of Law and are signed by attorneys from the Anchorage office who worked with Deem during her four years as a paralegal who headed the state's victim-witness program.

When Debbie Deem moved to Arizona at the end of May with her boyfriend of seven years, she brought crisply typed copies of these references with her for this "new adventure."

Jobs were tough to find, so it was only natural that Deem would end up seeking employment with the Maricopa County Juvenile Probation Department. She had long worked with children who were physically and sexually abused, and she had a reputation for being a caring and effective counselor. Besides, her experience and her master's degree more than qualified her for a job as a juvenile probation trainee that paid only \$15,000 a year and demanded but a bachelor's degree.

And then Deem got the multipage policy rules from the juvenile probation department. The department made it clear it wouldn't hire murderers, robbers, sexual abusers or arsons to counsel troubled kids. She understood why someone who sold drugs or was a chronic user of alcohol or drugs would be disqualified. She wasn't exactly sure what it meant to be disqualified for "engaging in

any illegal sexual act," but she passed that one by with no concern.

The one she couldn't understand, nor pass by, was the last disqualification listed: "Cohabitation without the benefit of marriage."

Deem wasn't sure if this was a joke or not. The stiff language of this policy document led one to believe these folks were serious as hell about their prohibitions and disqualifications. But cohabitating? Come on.

So she called the department's personnel office and talked to Betty Peterson, just as *New Times* did later. Here is what Peterson says: "Yes, that's our policy, because cohabitation is against the law."

In case you didn't know, it's Arizona statute 13-1409. Here's what it says: A person who lives in a state of open and notorious cohabitation or adultery is guilty of a Class 3 misdemeanor.

Although the Arizona Senate has tried several times to wipe this antique law off the books, somehow the idea always has been stymied and, besides, lawmakers have argued, nobody's paying any

attention to it anyway.

Well, somebody is paying attention, and it has just knocked Deem out of consideration for a job.

Juvenile Court Services Director Ernesto Garcia admits the law is very archaic and says if it were changed, he'd change his personnel policy "in about thirty seconds." But until then, Garcia says, "It's nothing personal, but it is against the law, and if you're working for the Superior Court, you can't be in open and notorious violation of the statutes." Garcia admits the policy "does shock people, especially those who come from out of state."

He might be surprised to find it shocks Arizonans, too. Besides reactions of "you must be kidding," *New Times* found that no other county department has such a prohibition.

The county's adult probation office doesn't, according to Wayne Johnson, director of administration. Neither does the Superior Court, according to personnel manager Pete Anderson. Ditto for Maricopa County itself, says Jim Austin, the employee-relations manager.

"I spent four years at the D.A.'s office in Alaska working my butt off on incest and murder and child-abuse cases and

then to come here and see my living situation lumped in with all those other horrible crimes, I find it really offensive," Deem says. "I guess from this list, I could be a tax evader and still qualify for a job there. I could be promiscuous and out in the bars every night and still qualify, as long as I didn't live with a guy."

Deem is not suffering through the problem in silence. She has started calling around to see if anyone understands what's happening. "I talked to a lawyer for the Arizona Senate, and he told me the law was on the books, but nobody paid any attention to it," she recalls.

"Nobody seems aware of the occupational repercussions of that law." She talked to people in the state's unemployment office who advised her to lie. "I told them I thought you had to take a polygraph to get this job, so then they suggested I have my boyfriend move out of the house for a couple of days so I wouldn't be lying when I said I wasn't cohabitating," she says. "I don't think it's appropriate to lie."

Nor does she think it's appropriate that her living arrangement is more significant than her degrees, or all the special training classes she's taken, or her years of experience, or her glowing references, or her final performance evaluation from the Alaska Department of Law. It shows "outstanding" rankings for the quantity, quality, accuracy and completeness of her work; for her work habits; for her interpersonal relations with co-workers. The evaluation talks about Deem's "new adventure" and suggests that if she ever came back to Alaska she would be "recommended for rehire." Maybe that's why the office threw her such a big going-away bash when she left. Maybe that's why the state's attorney general wrote an effusive four-page letter of recommendation for her.

Yes, this has been some adventure, all right. "I've met all these nice and reasonable people in Arizona," she says, "and I wonder, who's out there who's making laws like this?" — Jana Bommersbach



Deem: "I could be promiscuous and out in the bars every night and still qualify, as long as I didn't live with a guy."

Photo by Jan Gipe

under... employed which would have made clearer the intention of the legislature. *State v. Lindsey*, 26 N.M. 526, 194 P. 877 (1921).

Indictment. — It was not necessary to allege knowledge or intention in an indictment for bigamy. *State v. Lindsey*, 26 N.M. 526, 194 P. 877 (1921).

30 C.J.S. 1202.

Competency of one spouse as witness against other charged with bigamy and polygamy, 11 A.L.R.2d 646.

Mistake as to validity or effect of divorce as defense to, 56 A.L.R.2d 915.

10 C.J.S. Bigamy §§ 1 to 6.

New Mexico

30-10-2. Unlawful cohabitation.

Unlawful cohabitation consists of persons who are not married to each other cohabiting together as man and wife.

Whoever commits unlawful cohabitation upon the first conviction shall only be warned by the judge to cease and desist such unlawful cohabitation.

Whoever persists in committing the crime of unlawful cohabitation after being warned is guilty of a petty misdemeanor.

History: 1953 Comp., § 40A-10-2, enacted by Laws 1963, ch. 303, § 10-2.

Cohabitation without marriage is contrary to public policy and declared a criminal offense. *Bivians v. Denk*, 98 N.M. 722, 652 P.2d 744 (Ct. App. 1982).

Law reviews. — For article, "New Mexico's 1969 Criminal Abortion Law," see 10 Nat. Resources J. 591 (1970).

For article, "The Grand Jury: True Tribunal of the

People or Administrative Agency of the Prosecutor?" see 2 N.M.L. Rev. 141 (1972).

For symposium, "The Impact of the Equal Rights Amendment on the New Mexico Criminal Code," see 3 N.M.L. Rev. 106 (1973).

Am. Jur. 2d, A.L.R. and C.J.S. references. — Validity of statute making adultery and fornication criminal offense, 41 A.L.R.3d 1338.

Property rights arising from relationship of couple cohabiting without marriage, 3 A.L.R.4th 13.

30-10-3. Incest.

Incest consists of knowingly intermarrying or having sexual intercourse with persons within the following degrees of consanguinity: parents and children including grandparents and grandchildren of every degree, brothers and sisters of the half as well as of the whole blood, uncles and nieces, aunts and nephews.

Whoever commits incest is guilty of a third degree felony.

History: 1953 Comp., § 40A-10-3, enacted by Laws 1963, ch. 303, § 10-3.

Elements of offense. — The purpose of Laws 1917, ch. 50, § 1 (former 40-7-3, 1953 Comp.) was to prevent sexual intercourse between close relatives, and the free act of the one being tried, with knowledge of the relationship, was all that was required, it being immaterial that the same testimony would have sustained a conviction for rape. *State v. Hittson*, 57 N.M. 100, 254 P.2d 1063, 36 A.L.R.2d 1296 (1953).

Polygraph test results. — In prosecution for incest, it was reversible error for trial court to admit into evidence the results of a polygraph test over objection of the defendant, despite the fact that defendant had signed a waiver agreeing to be bound by the results of the test. *State v. Trimble*, 68 N.M. 406, 362 P.2d 788 (1961).

Law reviews. — For article, "The Perils of Intestate Succession in New Mexico and Related Will Problems," see 7 Nat. Resources J. 555 (1967).

For article, "New Mexico's 1969 Criminal Abortion Law," see 10 Nat. Resources J. 591 (1970).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 41 Am. Jur. 2d Incest §§ 1 to 12.

Adoption, relationship created by, as within statute regarding incest, 151 A.L.R. 1146.

Competency of one spouse as witness against other charged with incest, 11 A.L.R.2d 646.

Consent as element of incest, 36 A.L.R.2d 1299.

Sexual intercourse between persons related by half blood as incest, 72 A.L.R.2d 706.

Prosecutrix in incest case as accomplice or victim, 74 A.L.R.2d 705.

Rape, incest as included within charge of, 76 A.L.R.2d 484.

Admissibility, in incest prosecution, of evidence of alleged victim's prior sexual acts with persons other than accused, 97 A.L.R.3d 967.

42 C.J.S. Incest §§ 1 to 8.

From The Learning Together

RIF

Tom Ithart

Sex Laws in the United States

	OUTLAWS FORNICATION	OUTLAWS COHABITATION	OUTLAWS SODOMY AND/OR ORAL COPULATION BETWEEN CONSENTING ADULTS
Alabama	No	No	Yes
Arizona	No	Yes	Yes
Arkansas	No	No	Yes
Florida	No	Yes	Yes
Georgia*	Yes	No	Yes
Idaho	Yes	Yes	Yes
Kansas**	No	No	Yes
Kentucky	No	No	Yes
Louisiana	No	No	Yes
Maryland	No	No	Yes
Massachusetts***	Yes	Yes	Yes
Michigan	No	Yes	Yes
Minnesota	No	No	Yes
Mississippi	Yes	Yes	Yes
Missouri	No	No	Yes
Montana	No	No	Yes
Nevada	No	No	Yes
North Carolina	Yes	Yes	Yes
Oklahoma	No	No	Yes
Rhode Island	Yes	Yes	Yes
South Carolina	Yes	Yes	Yes
Tennessee	No	No	Yes
Texas**	No	No	Yes
Utah*	Yes	No	Yes
Virginia	Yes	Yes	Yes
Washington, D. C.	Yes	Yes	Yes
New Mexico	No	Yes.	

* In Georgia and Utah, there's no separate statute for cohabitation, but it is probably illegal under the fornication statute.

** In Kansas and Texas, the sodomy laws only prohibit homosexual conduct. Kansas' sodomy statute specifically exempts consenting adults of opposite sexes, and Texas' law specifically outlaws homosexual conduct.

*** A Massachusetts appeals court has noted that the "crimes of fornication... and... cohabitation are never, or substantially never made the subject of enforcement." *Fort v. Fort*, (1981) 425 N.E. 2d 754. This may be some authority for not enforcing these laws in the future.

Mr. Tom Coleman
PO.Box 65756
L.A.,CA.90056

RE: Marital status -Discrimination Complaints

Mr. Coleman,

The following is a list of the problems I have had in the way of marital status discrimination.I will be happy to furnish further detail later.

1.Doors unlocked in the middle of the night,because no one was there to protect us.

2.Verbally abused for months and eviction notices constantly placed on door to upset and antagonize me because I would not comply to his wishes or low standard of living.

3.Slandered- because I won't agree with the problems he has created.He has told people Iam a high class prostitute because I won't succumb to his wishes, like many of the women in the apt. complex have.And as persons move into the complex he tells them to watch me, because I will have your children taken away from you.

4.Numerous apts. have been entered and papers have turned up missing, that were needed for evidence.

5.Urine has been put in my air conditioner for one solid year.

6.Many women in the same position as myself have many complaints similar to these and others. But the Management company won't do a thing about him even though he started with these mind altering drugs over a year ago. About May or June of 1987!Since the apartments are low income they feel we are like animals and need NO consideration so our complaints have been totally ignored.Several times weapons have been drawn against him,because the police and the company will do nothing. Due to the economy many more persons will be living in public housing and we need better screening of management,and better guide lines for qualification.Someone needs to check into this mans background-he has the attitude of a hardened criminal.He has even tried to rape a few of the women in here.One of the policemen told me what steps to take if he tries to force his way into my apartment with no legal reason.

Thanks for your consideration,

Sincerely, A.L.W.

Annie L. Wilson

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LETTERS RECEIVED FROM
BUSINESSES AND AGENCIES

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WELLS FARGO BANK

CREDIT CARD DIVISION

November 20, 1989

Mr. Thomas Coleman
Chairperson -- Task Force on
Marital Status Discrimination
Executive Office -- City Attorney
1800 City Hall East
Los Angeles, CA 90012

Dear Mr. Coleman:

We appreciate your bringing this matter to our attention, especially as Wells Fargo Bank works very hard to prevent discrimination. As you know from talking to our Customer Service department, we do in fact offer the additional dining club membership to a requesting customer regardless of who it is for. The offer of the additional card is not limited to married couples. We misused the word "spouse" in our letter; to have been more accurate the offer should have been made to "the joint account customer."

We will not be participating in your public hearing next week, but we are grateful for your bringing our misworded letter to our attention so that we may correct it.

Sincerely,

Eric Kahn
Vice President

cc: John Wright
Betty Lattie



January 8, 1990

Mr. Thomas F. Coleman
Chairperson
Consumer Task Force on
Marital Status Discrimination
Office of the City Attorney
1800 City Hall East
Los Angeles, CA 90012

Dear Mr. Coleman:

I am writing in response to your letter requesting that a representative of the American Association of Retired Persons appear as a witness at the Consumer Task Force Hearing on Marital Status Discrimination on January 29, 1990.

I have also reviewed the issues raised in your earlier letter of November 16, 1989. The issues you raise may be answered in this letter stating our membership policy.

You are correct in stating that our membership fee is the same for a single person as it is for a married person. The privileges of membership, including subscription to the Association's magazine, Modern Maturity, are available to both the spouses in the same household.

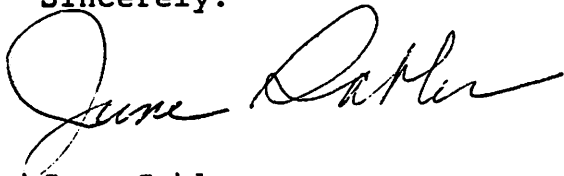
The Association does not attempt to define "spouse" for membership purposes. We follow the law of each of the several states in determining whether a domestic partner is considered a spouse. For example, if the state of California recognizes a domestic partner as a spouse, the Association will extend benefits of membership to that person. Finally, with regard to the Association considering expanding joint or spousal memberships, we intend to continue to follow the law in various states. Simply put, if a particular state recognizes a spousal relationship between a couple, married or unmarried, so will the Association.

Page 2

In the meantime, we will review with interest the report of the Consumer Task Force on Marital Status Discrimination, as well as similar research that may be performed throughout the country.

I hope this information is helpful and clearly articulates the position of the Association.

Sincerely:

A handwritten signature in cursive script that reads "June Gabler". The signature is written in dark ink and is positioned above the typed name.

June Gabler
Director, Administration &
Management Services Division

cc: John Rother
Joan Wise

JG:mps



Chevron U.S.A. Inc.
575 Market Street, San Francisco, CA 94105-2856
Mail Address: P.O. Box 7643, San Francisco, CA 94120-7643

Law Department

January 26, 1990

(415) 894-6332

VIA FEDERAL EXPRESS MAIL

Thomas F. Coleman, Esq.
4017 Division Street
Los Angeles, CA 90065

Re: Consumer Task Force on Marital Status Discrimination

Dear Mr. Coleman:

This letter is in response to your November 16, 1989 letter addressed to Charles Penney (Chevron Travel Club) and the issues presented therein.

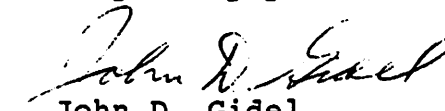
Holders of the Chevron National Travel Card are offered membership in the Chevron Travel Club. An application form is enclosed for your information. Also enclosed herewith is a copy of the Membership Service Handbook, which contains information regarding such membership and the benefits conferred and is provided to members of the Chevron Travel Club.

It is my understanding that the Travel Club recognizes the term spouse as being a husband or wife in a marriage recognized by state law.

Any changes to the current membership plan would be impacted by concerns including, but not limited to, administrative feasibility and costs, documentation and proof, third party agreements, insurance policies, other corporate programs and policies, multi-state operation and laws.

Chevron will not have a representative present at the Task Force hearing scheduled for January 29, 1990.

Very truly yours,


John D. Gidel

Enclosures

cc: Mr. Charles D. Penney

DEPARTMENT OF SOCIAL SERVICES

744 P Street, M.S. 4-161
Sacramento, CA 95814
Telephone: (916) 445-0885

December 14, 1989

Thomas F. Coleman, Chairperson
Consumer Task Force on Marital
Status Discrimination
Office of the City Attorney
1800 City Hall East
Los Angeles, CA 90012

Dear Mr. Coleman:

DECEMBER 18 PUBLIC HEARING

This Department will not be able to send a representative to testify at the task force hearing on December 18. The two attorneys in this office who provide legal support services to the Department's Community Care Licensing Division have other commitments which prevent them from being in Los Angeles on that date. We would, however, like to offer our position on the issues presented in your December 6 letter to our regional manager in Los Angeles, Donna Mandelstam.

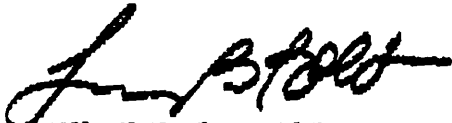
All adults living in community care facilities or residential care facilities for the elderly have certain basic personal rights. Those rights include the right to be accorded dignity in their personal relationships with staff and other persons. Those personal rights are stated in Title 22 California Code of Regulations Sections 80072 and 87572, and in other regulations applicable to particular types of facilities. In accordance with these basic personal rights, adults in residential care facilities may form consensual relationships as they see fit, without intervention by this Department. It is of no concern to us whether such adults, in forming relationships, are married or not or of the same or different sexes. We would not take enforcement action against a facility licensee because adults residing in the facility had formed consensual room-sharing relationships, with or without a sexual relationship.

The preceding comments are this Department's general policy on the issues you presented. They must be read together with two additional considerations. First, the comments apply only to relationships which are genuinely consensual. We would assume that relationships between persons of similar degrees of power and competence are consensual. On the other hand, we

would strongly question whether a sexual relationship between a developmentally disabled or elderly facility client and a facility licensee or staff member is genuinely consensual. If we found that the relationship violated the client's personal rights we would take enforcement action against the licensee on the basis of that finding. Second, a licensed facility is entitled to include in its admission agreement such reasonable general policies as make it possible for residents to live together. Adults living in care facilities have a right to form consensual relationships, but facility licensees also have a right and an obligation to make and enforce such house rules as will protect the personal rights of all clients of the facility.

While we regret that this Department is unable to provide personal representation at the December 18 hearing, we do appreciate the opportunity to present the Department's position on the issues your task force has raised.

Sincerely,



LAWRENCE B. BOLTON
Assistant Chief Counsel

LBB/DWP/dp

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NEWS ARTICLES ABOUT THE
CONSUMER TASK FORCE

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Los Angeles Times

TUESDAY, OCTOBER 31, 1989

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Bias Against Single People Is Targeted

By JANE FRITSCH
TIMES STAFF WRITER

Citing concern about "unjust" business practices, City Atty. James K. Hahn announced Monday the formation of a task force to study discrimination against single people and unmarried couples.

The task force will hold a series of public hearings focusing on consumer problems, such as discrimination by landlords, insurance companies and even airline frequent flier programs.

"I'm married and I get a lot of benefits from being married," Hahn said. "Most of us aren't living in traditional American families anymore, and the rights and privileges extended to a few should be extended to everyone."

Only 22% of the households in Los Angeles are "so-called traditional family units" composed of "mom, dad and the kids," Hahn said.

The task force will hold public hearings to determine the nature and extent of "marital status discrimination," Hahn said, and will review the adequacy of existing anti-discrimination laws.

Hahn's office became involved in the issue after a city report published in May, 1988, recommended that the city attorney begin monitoring complaints about "life-style discrimination" filed with the state insurance commissioner and other agencies.

Hahn's task force will be headed by Thomas F. Coleman, an attorney who is single and is an adjunct professor at the USC Law Center.

Coleman said Monday that recent studies have shown that businesses discriminate against single people and pointed out that some insurers refuse to issue automobile insurance policies to single men in certain age groups.

He said the task force will examine a range of consumer issues, including the policies of some airline frequent-flier programs that place limitations on their awards based on marital status. Other issues that will be studied are discrimination in rental housing, automobile and health club membership discount policies, health care services and survivors' rights.

The task force is expected to report back to Hahn by next March. Hahn selected the 21-member task force from a group of nominees proposed by government agencies, businesses and community organizations.

Herald Examiner

Tuesday
October 31, 1989

Final news

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Special task force out to prevent bias against unmarrieds

By Julia Wilson-Goldstein
Herald Examiner staff writer

Verna Terry and Robert Wilder found a new apartment in Downey more than a year ago. But they weren't allowed to move in because of the landlord's religious objection to premarital sex.

Last year, the California Fair Employment and Housing Commission awarded Terry and Wilder almost \$8,000 under the Unruh Civil Rights Act for emotional distress, lost wages and the additional rent they were forced to pay at another apartment.

Now, because of unfair treatment of unmarried couples like Terry and Wilder, City Attorney James Hahn has created a task force to study the extent to which marital status plays a part in discrimination.

Over the next five months, businesses, insurance companies, health care facilities, and landlords will be studied and invited to public hearings to explain reasons for their policies.

"Most of us aren't living in an American nuclear family anymore," Hahn said. "Any discrimination against anyone in any way diminishes all of us."

Thomas Coleman, a Los Angeles attorney and adjunct professor at USC's Law Center, will chair the 21-member panel.

"The issue is not whether marital status discrimination exists," Coleman said. "The question is how to stop, or at least reduce, such discrimination. If this can't be accomplished through educational methods, then more aggressive enforcement of current law or the passage of new laws may be required."

Coleman said automobile and health clubs as well as airlines who offer discounts only to married couples may be forced to change their policies.

The Consumer Task Force on Marital Status Discrimination was inspired by a 1988 report by Councilman Michael Woo's office on family diversity called "Strengthening Families: A Model for Community Action."

The Hahn task force is expected to expand on the Woo report and make specific recommendations on enforcing present marital status discrimination laws and suggesting new ones.

"Our report is not limited to couples of the same sex and will not rely on city law enforcement, but state law," Coleman said. "It is unfair to discriminate and will be illegal unless the corporate sector can come up with good reasons for their actions."

Coleman said early task force meetings will focus on membership discounts, housing and long-term care facilities and hospital survivors' rights.

The definition of "couple" will be investigated and spelled out in the panel's final report, due in March.

"Most of us aren't living in an American nuclear family. ... Any discrimination ... diminishes all of us."

City Attorney James Hahn

Daily News

Tuesday, October 31, 1989

Panel to study bias against unmarried

By PETER LARSEN
Daily News Staff Writer

Los Angeles City Attorney James Hahn announced the formation Monday of a 21-person task force to study business practices that discriminate against unmarried couples and individuals.

The Consumer Task Force on Marital Status Discrimination will meet for the first time today to begin examining bias that may exist in a number of areas, including insurance benefits, housing, health-club memberships and airline frequent-flyer programs.

"Public and private institutions are being challenged to come up with new ways to deal with how people actually live their lives," Hahn said in an-

nouncing the task force.

"We must work to support all families by eliminating unreasonable burdens and discrimination wherever it exists."

Hahn said the city Task Force on Family Diversity recommended studying marital-status discrimination last year after that group's report indicated that increasing numbers of Los Angeles residents do not live in "the traditional family unit of mom, dad and kids."

Thomas Coleman, an attorney and USC law professor who will chair the new task force, said that in Los Angeles 8 percent of all households consist of unmarried couples.

Coleman said examples of discrimination against unmarried people range from the relatively minor problem of health clubs of-

fering discounts to married couples up to the more serious difficulties faced by unmarried couples being unable to name each other as beneficiaries.

"A lot of this, I don't think it's ill-will against unmarried couples, but policies that were adopted years ago," Coleman said.

Hahn and Coleman both said that after the task force determines the extent and nature of marital-status discrimination in Los Angeles, the City Attorney's Office probably will be able to use existing state laws to seek injunctions against businesses that are discriminating.

Hahn said the task force will work to deliver a report by March that outlines the extent of marital-status discrimination and makes recommendations to eliminate potential discrimination.

Daily Journal

Tuesday, October 31, 1989

City to Study Marital Status In Bias Probe

By G.M. Bush

Daily Journal Staff Reporter

A law professor has been named to chair a newly formed task force whose mission is to evaluate the extent of discrimination against unmarried couples and singles in the pricing and availability of goods and services in Los Angeles.

The Consumer Task Force on Marital Status Discrimination, formed by City Attorney James K. Hahn, will hold its first meeting today with Thomas F. Coleman, an adjunct professor at the USC Law Center, presiding.

Meeting with reporters in City Hall East Monday morning, Hahn said discrimination against unmarried couples and singles is widespread in the city. Yet, he said, only 22 percent of Los Angeles households are composed of the traditional family of mother, father and children.

'Think in New Ways'

Public and private organizations must come to terms with today's reality of a changing society, Hahn said, a reality that makes it necessary "to think in new ways."

Coleman said the question is not one of whether such discrimination exists, but rather one of how widespread a practice it is and how it can best be fought and overcome.

He noted that some health spas and airlines have recently changed their rules to extend to unmarried couples and individuals benefits that were previously available only to a husband and wife.

In many cases, Coleman said, such discrimination is already against the law.

Hahn, proclaiming "the face of discrimination in any form is ugly," issued a list of categories the task force will investigate. These include:

- Rental housing, where some landlords refuse to rent to unmarried couples;

- Membership discounts, such as those offered by certain automobile clubs, health clubs and airlines to legally married couples but not to others;

- Insurance — Hahn said he has asked the panel to examine the application of the Unruh Civil Rights Act to the insurance industry as provided for in the Proposition 103 insurance reform measure passed last November;

- Health care services;

- Residential care facilities, some of which deny privileges to elderly or disabled individuals solely because of their marital status;

- Survivors' rights, in which "some individuals have experienced traumatic difficulties in making necessary arrangements with hospitals, mortuaries, and cemeteries when their unmarried partner dies."

The task force will hold monthly public hearings and in March will issue a final report with recommendations to the city attorney, Coleman said. Recommendations could call for a more stringent application of existing state and local laws or the passage of new, tougher standards, he said.

Several lawyers will sit on the 21-person committee, including Deputy City Attorney Sue Frauens, who heads Hahn's Consumer Protection Unit; private practitioner Thomas DeBoe; Joseph Rhine, managing attorney of Protection and Advocacy Inc.; and Deputy City Attorney Alana Bowman, who heads the Domestic Violence Unit in the City Attorney's Office.

Other panel members include Roger Kohn of the American Civil Liberties Union and Christopher McCauley, a member of the city's Human Relations Commission.

Research assistance will be provided by three USC law students: Michael Cautillo, Sharon Sandler and Dan Redman.

Coleman, who is single, said he has experienced marital status discrimination. Hahn, who is married, said he has been an unwitting beneficiary of discriminatory practices, as have most husbands and wives.

Coleman — who teaches a class on the rights of domestic partners and is an advisor to the Legislature on the subject — noted that the state Fair Employment and Housing Commission recently ruled that a landlord cannot legally refuse to rent to unmarried couples, even if sex outside marriage goes against the landlord's religious beliefs.

Marital Rights For Same-Sex Couples Pushed

**Attorneys OK Proposal
But State Bar's Strong
Support Called Unlikely**

By PAMELA WILSON

San Diego Daily Transcript Staff Writer

A radical proposal to extend marital rights to same-sex couples that was passed by the State Bar's Conference of Delegates would transform countless business and legal relationships if ever enacted into law.

Members of two predominantly gay and lesbian bar associations expressed surprise and excitement over passage of the resolution Saturday, but said they expected the bar's influential Board of Governors to bury the proposal.

Under State Bar protocol, hundreds of legislative initiatives are debated at the annual Conference of Delegates. But only those favored by the governors at a session later in the year receive the full backing of the bar's financial and lobbying resources.

Push Proposal

Liz Hendrickson, a family law practitioner from Oakland and delegate for the Bay Area Lawyers for Individual Rights, said no member of the Board of Governors has offered to push the proposal.

But even if it is ignored by bar governors, Hendrickson said the stamp of approval from the Conference of Delegates could be used by individual bar associations pushing for legislation at either the local or state level.

The resolution, proposed by a heterosexual member of the San Francisco Bar Association, seeks legislation that would make marriage laws neutral in regard to sex. The net effect would be to allow same-sex couples to marry.

The proposal is considerably more radical than domestic partnership laws proposed in some California cities, because it would extend all privileges of marriage to same-sex couples willing to tie the knot.

Although the resolution passed without opposition, it was not unanimously popular. Attorney Matt St. George, a member of Los Angeles Lawyers for Human Rights, said the measure might have been scuttled but for some last-minute politicking.

St. George said delegates representing San Francisco's conservative Lawyer's Club were planning to call the resolution up for debate, a move that could have doomed it. But the Lawyer's Club

Please turn to Page 3A

Coleman said census data indicate only about 13 percent of California households fit the nuclear family image of a husband-wage earner and a wife-homemaker.

Other family types include step-families, foster families, dual-income marriages, single-parent families and unmarried heterosexual couples. According to Coleman many of these so-called alternative families have a stake in seeing the definition of family widened.

In Los Angeles, a task force on family diversity resulted in several recommendations which would benefit gays and lesbians, along with other members of alternative families, Coleman said.

"We have to win over the other segment of society," Coleman said. "We can if we can show a connection between our rights and their rights."

Alternative Families

Rights of alternative families may also be advanced, Coleman said, by a little-noticed provision in Proposition 103, the insurance price-cutting initiative.

Coleman said the proposition includes language which says the Unruh Civil Rights Act applies to the insurance industry. The act disallows discrimination on several fronts.

Coleman predicted that provision, if enforced, could lead to sweeping changes in areas such as insurance, travel discounts and housing.

In Los Angeles, Coleman said, the city attorney's office is convening a task force on marital status discrimination that could eventually result in prosecution of such bias.

Discounts now offered to married couples for joint automobile or renters insurance, for example, could be extended to unmarried domestic partners, including same sex couples, if marital status discrimination was found to be unlawful, Coleman said.

Marital Rights—

Continued from Page 1A

withdrew the threat and came out in favor of the resolution after a lunchtime meeting Saturday with delegates favoring the resolution.

Without Voice Vote

Other delegates speculated the measure was approved without a voice vote and without public opposition because delegates who were against it did not want to argue their objections to the measure.

And although he favors rights for gay and lesbian couples, Los Angeles attorney Tom Coleman called the resolution a "nice academic exercise" that is "too far ahead of its time."

Instead, Coleman has been following an alternative strategy to expand the definition of the family. He believes acceptance of such diversity would benefit members of several kinds of families which don't fit the "Leave it to Beaver" stereotype.

At a panel discussion on gay marital rights Saturday afternoon, Coleman advocated "education" rather than "litigation."

The implications of measures against marital status discrimination are well recognized by the business community, Coleman said, as evidenced by opposition to expanding the definition of family.

"The biggest resistance comes from financial and religious (sectors)," Coleman said.

Moderate Approach

While Coleman proposed a moderate approach to advancing gay and lesbian rights, Hendrickson said the marital rights resolution

approved at the conference, even if radical, could erase most discrimination gay couples now face.

Recalling the case of Alice B. Toklas, life-long partner of writer Gertrude Stein, Hendrickson said after Stein's death, Toklas was, "relentlessly and completely stripped of everything she and Gertrude Stein collected together. The paintings were stripped from the walls (by Stein's relatives), and she died a pauper."

"I wish I could say things have changed," Hendrickson added, "but I think all of us know friends in pretty much that situation."

Listing a litany of disadvantages faced by same-sex couples, including problems with probate, child custody, insurance, and pensions, Hendrickson said, "all the things I listed would be wiped off the slate as obstacles if we chose to (marry)."

Should Gays Have Marriage Rights?

On two coasts, the growing debate produces two different answers

BY WALTER ISAACSON

Long-term homosexual lovers in New York State, thanks to regulations issued by Governor Mario Cuomo's housing commissioner last week, now have the same right as surviving spouses to take over rent-stabilized apartments upon the death of their partners. In San Francisco voters last Tuesday narrowly rejected—after vocal opposition from the city's archbishop and other religious leaders—a proposal entitling gay couples to register their relationships with the county clerk. In Washington and Los Angeles, task forces have been set up to investigate whether denying gay couples the benefits enjoyed by married people is a form of discrimination. It is all part of a growing national debate over whether gay couples should be allowed to declare themselves "domestic partners," or even become legally married, and thus be eligible for some of the rights accorded to married couples.

The rewards of marriage in today's society are more than merely emotional. Among the tangible benefits available to husbands and wives are coverage under their spouses' health and pension plans, rights of inheritance and community property, the joys of joint tax returns, and claims to each other's rent-controlled apartments.

Such policies have evolved as the expression of a basic social value: that the traditional family, with its economic interdependence, is the foundation of a strong society. But what about a gay couple? They might be similarly dependent on each other, economically and emotionally. Yet no state in the U.S. allows them to marry legally, and nowhere are they offered the same medical, pension tax and legal advantages as married heterosexuals.

Since as much as 40% of a worker's compensation comes in the form of fringe benefits, the issue is partly one of economic equity: Is it fair to provide more for a married employee than for a gay colleague who does the same work? There is also a larger moral issue. Health plans, pension programs and inheritance laws are designed to accommodate the traditional family. But nowadays, only 27% of U.S. households consist of two parents with children, down from 40% in 1970. Is the goal of encouraging traditional families therefore obsolete? Is it discrimina-

tory? Or is it now more necessary than ever?

Although the drive for domestic-partnership legislation partly reflects the changing priorities of the gay-rights movement, the new rights being proposed would be available to heterosexual couples as well. Of the nation's 91 million households, 2.6 million are inhabited by unmarried couples of the opposite sex. Only 1.6 million households involve unmarried couples of the same sex. These figures include a disparate array of personal arrangements: young male-female couples living together before getting married, elderly friends who decide to share a house, platonic roommates and romantic gay or straight lovers. Among those whose emotional and financial relationship would qualify them to be called domestic partners, only 40% or so are gay.

Do you think homosexual couples should be legally allowed to inherit each other's property?

Yes 65%

No 27%

Not sure 8%

Do you think homosexual couples should be permitted to receive medical- and life-insurance benefits from a partner's policies?

Yes 54%

No 37%

Not sure 9%

From a telephone poll of 1,000 adult Americans taken for TIME/CNN on Oct. 9-10 by Yankelovich Clancy Shulman. Sampling error is plus or minus 3%.

Still, the most ardent support for partnership rights comes from gay groups. For them the issue is more pressing: heterosexual couples at least have the option to wed if they wish to be eligible for family benefits, but gays do not. (Denmark in October became the only industrial nation to allow registered gay partnerships.) In addition, the spread of AIDS has raised the importance for gays of medical coverage, bereavement-leave policies, pension rules, hospital visitation rights and laws giving family members the authority to make medical decisions and funeral arrangements. "We are not talking about symbols here," says Thomas Stoddard, executive director of the Lambda Legal Defense and Education Fund, a well-organized gay-rights group. "These are bread-and-butter issues of basic importance to individuals."

In an attempt to clarify the murky statistics, the Census Bureau is making a major change in family categories when its decennial count begins in April. For the first time, couples living together will have the option to designate themselves "unmarried partners." The bureau has not yet said whether it will get explicit about the precise sexual and emotional relationship that distinguishes "unmarried partners" from another category in the survey, "housemates-roommates." (Those who have to ask can perhaps be assumed to be merely roommates.)

"We are hoping that we will get at the true unmarried-couple situation where there is intimacy between partners," says Arlene Saluter, who studies marriage and family composition for the Census Bureau, "but it will depend on how people view the question."

This difficulty in defining who qualifies is one of the problems facing those who would grant new rights to domestic partners. It is important to have criteria that are strict enough to prevent just any casual lover, roommate or friendly acquaintance in need of health insurance from cashing in. But prying into private lives and requiring proofs of emotional commitment are hardly suitable activities for government.

In order to qualify as "domestic partners" in New York City, which offers bereavement leave to municipal workers, a couple must officially register their relationship with the city's personnel department, have lived together for one year

and attest that they have a "close and committed personal relationship involving shared responsibilities." Thomas F. Coleman, a law professor who directs California's Family Diversity Project, proposes that live-in couples "who have assumed mutual obligation of commitment and support for each other" be allowed to apply for a "certificate of domestic partnership" that would function like a marriage certificate.

In addition to New York, five other cities provide bereavement leave for domestic partners: Los Angeles; Madison, Wis.; San Francisco; Seattle; and Takoma Park, Md. The only cities that currently offer health benefits to the domestic partners of employees are three in California: Berkeley, Santa Cruz and West Hollywood. State governments, which have the real authority to legislate family and marriage laws, have so far shied away from the issue. But across the country, major efforts are under way to change the laws:

► In Los Angeles a new task force on marital-status discrimination is investigating discrimination against domestic partners by insurance companies, health clubs, credit companies and airline frequent-flyer programs.

► In Seattle the city's human rights department ruled in June that the AAA automobile club of Washington had illegally discriminated on the basis of marital status by refusing to grant associate membership to a gay man's domestic partner. A city law that could require health plans to provide insurance benefits to domestic partners has been shelved while officials await clarification of an Internal Revenue Service ruling that suggests that these benefits might be considered taxable.

► In Washington a domestic-partnership benefits commission has been established by the city council to explore extending benefits to the partners of municipal employees.

► In New York City three gay teachers are suing the board of education for the right to include their companions in their group health plans, citing a state law prohibiting employment discrimination based on marital status.

One large problem facing the domestic-partnership movement is a practical one: major U.S. insurance companies have thus far refused to offer group plans that include coverage for unmarried partners, partly because of the unspoken fear that the pool would include a higher proportion of gay males at risk for AIDS. In West Hollywood when the city decided to provide health coverage to its employees' domestic partners, no insurance company would underwrite the business. The city had to resort to self-insurance. So far that has resulted in a drop in costs, but it has not yet encouraged leading insurance companies to consider offering domestic-partnership plans.

The other major objection is a moral one. Social conservatives object to policies they see as sanctifying homosexuality and further threatening the traditional family. John R. Quinn, the Archbishop of San Francisco, was in the forefront of the fight against the proposal on that city's ballot last week to provide certain domestic-partnership rights to municipal workers. He called the idea a "serious blow to our society's historic commitment to supporting marriage and family life."

The domestic-partnership movement, says David Blankenhorn of the Institute for American Values, a Manhattan-based group that studies family issues, "just misses the whole point of why we confer privileges on family relationships." As Archbishop Quinn argues, "The permanent commitment of husband and wife in marriage is intrinsically tied to the procreation and raising of children." Despite

the emergence of women in the workplace and changes in the traditional structure of family dependency, it is still necessary for most families to share rights and benefits in order to raise children and remain financially secure.

Thomas Stoddard of Lambda counters that "history by itself cannot justify an unduly limited definition of family, particularly when people suffer as a result." Yet even within the gay-rights movement, there is some disagreement about the goal. Paula Eitelbrick, the legal director of Lambda, argues that the campaign for domestic partnership or gay marriage is misdirected because it tries to adopt traditional heterosexual institutions for gays rather than encouraging tolerance for divergent life-styles. "Marriage, as it exists today, is antithetical to my liberation as a lesbian and as a woman, because it mainstreams my life and voice," she says.

The public seems to be tolerant of the notion that gay couples should be allowed more of the rights now accorded to married couples. In a TIME/CNN poll conducted by the firm of Yankelovich Clancy Shulman, 54% agreed that "homosexual couples should be permitted to receive medical and life-insurance benefits from their partners' insurance policies." Yet there is little support for gay marriages: 69% said such arrangements should not be made legal, and 75% felt that gay couples should not be allowed to adopt children.

Despite this public resistance, legalizing some form of marriage for gay couples is probably the logical outcome of the drive for domestic-partnership rights. "Given the fact that we already allow legal gay relationships," writes Andrew Sullivan in the *New Republic*, "what possible social goal is advanced by framing the law to encourage those relationships to be unfaithful, undeveloped and insecure?" Marriage involves the obligation to support each other both in sickness and in health and to share financial benefits and burdens. It implies, at least in theory, a commitment to a long-term and monogamous relationship. The advent of the AIDS epidemic increases the stake that all of society has in promoting such relationships, for gays as well as straights.

Domestic-partnership rights and legal gay marriages, therefore, can be justified to the extent that the couples involved profess a willingness to accept the mutual financial obligations, community-property rights and shared commitments to care for each other that are the basis of family life. With this broader goal in mind, it makes sense for society to allow—indeed to encourage—domestic partners both gay and straight to take on all the rights as well as the responsibilities of marriage. —Reported by Melissa Ludtke/Boston, Jeanne McDowell/Los Angeles and Andrea Sachs/New York

Do you think marriages between homosexual couples should be recognized by the law?

Yes 23%

No 69%

Not sure 8%

Do you think homosexual couples should be legally permitted to adopt children?

Yes 17%

No 75%

Not sure 8%

Couple says unmarried status spurs discrimination

ROGER W. VARGO/DAILY NEWS

By TONY LINK
Daily News Staff Writer

Terri Taylor called it an example of discrimination against the unmarried.

Taylor, 31, said she didn't have a chance of qualifying for a car loan from the Los Angeles Federal Credit Union. Her income alone was insufficient, and when she tried to combine assets with her live-in fiancé, the credit union said no.

While the credit union, for city employees and their families, allows married couples to combine assets and seek loans jointly, it would not allow Taylor and her betrothed, Roger Naas, to do so, said Hugh Coffin, an attorney representing the credit union.

Naas, who is not a city employee, could not become a member because of the couple's unmarried status, Coffin said. He added that the issue is not one of prejudice. It is one of credit-union-membership requirements.

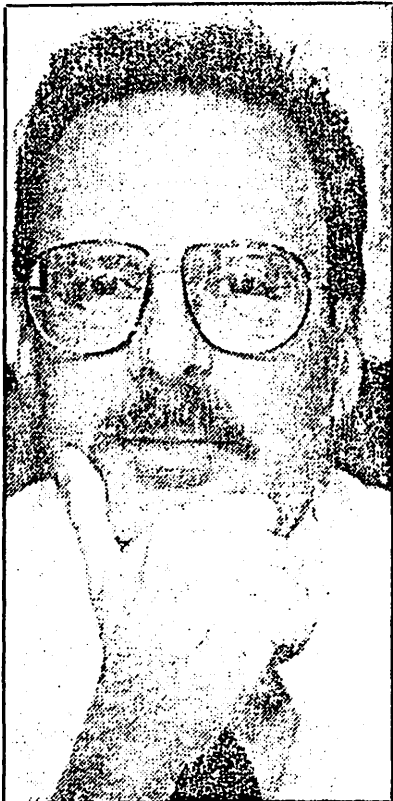
Taylor disagreed.

"I feel that we were discriminated against because we were not married. I would like to see that stopped," she said.

Members of the Los Angeles Consumer Task Force on Marital Status Discrimination are exploring steps that could make Taylor's wish come true.

Convened by City Attorney James Hahn in October, the task force this winter is hearing testimony on a string of potentially discriminatory situations.

The panel's chairman, attorney



Thomas F. Coleman heads panel probing charges of discrimination.

Thomas F. Coleman, said charges have included:

■ That unmarried couples who are members of health clubs are paying nearly double the membership fees of married couples at the same clubs.

■ That unmarried couples seeking health insurance often must pay higher premiums than married

couples receiving identical benefits.

■ That unmarried couples seeking to share apartments often are denied occupancy by landlords who believe such living arrangements are immoral.

Coleman pointed to an August ruling by the state Fair Employment and Housing Commission as evidence that the allegations must be taken seriously.

The commission found that Evelyn Smith, a Chico apartment landlord, improperly withheld a unit from an unmarried couple and required her to lease it to them.

Underscoring the importance of the issue, Coleman cited U.S. Census Bureau statistics showing 55 percent of adults in Los Angeles are unmarried.

"We're talking about the majority of adults in Los Angeles. It potentially could affect every one of them, and it is costing people money," said Coleman, who will submit a final report on the task force's findings in March.

For Taylor, her unmarried status almost cost her the car of her dreams, a used Jeep Cherokee that she had found for sale at a below-market price.

She eventually qualified for the loan she needed at a bank that allowed her and Naas to apply jointly.

But Taylor is still mad. She said she and Naas are as much a couple as many spouses, adding that it is their business when they decide to marry.

Coffin said, however, it is in the credit union's bylaws that it can

make loans only to members.

He added that the directors of Los Angeles Federal Credit Union don't totally control those bylaws. Any changes they might want to make must also receive the approval of the National Credit Union Administration, a government regulatory agency, Coffin said.

Nonetheless, Coleman said, discrimination based on marital status is illegal under the Unruh Civil Rights Act. That legislation, enacted in 1959, prohibits businesses from any kind of arbitrary discrimination against their customers, according to officials of the California State Law Library.

Whether discrimination exists concerning the credit union remains to be proved, he said. The task force is seeking testimony from Los Angeles Federal Credit Union's representatives, as well as from businesses that have received the brunt of discrimination allegations.

Putting an end to any alleged discrimination will involve prodding government agencies to more stringently enforce the law, Coleman said.

The city task force, Coleman said, plans in its report to develop an enforcement model that can be used statewide.

The report also should include plans to educate unmarried consumers about their rights and inform businesses about their obligations, Coleman said.

"Why should single people be subsidizing married people?" Coleman asked. "It doesn't make sense."

TUESDAY
JANUARY 9, 1990

Daily News

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PEOPLE

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Act (Act or FEH Act). (Gov. Code, §12900 et seq.) The complainants alleged that Donahue had refused to rent an apartment to complainants because they were not married. On January 25, 1988, complainants amended their complaints to allege that John Donahue had discriminated against them in the same way.

2. The Department is an administrative agency empowered to issue accusations under Government Code section 12930, subdivision (h). Talmadge R. Jones, in his official capacity as Director of the Department, issued an accusation against respondents Agnes and John Donahue on March 4, 1988. Respondents filed a notice of defense.

3. From January 1987 through the time of hearing respondents owned and rented out the apartments in a building at 10430 La Reina Avenue in Downey, California. This building is a housing accommodation within the meaning of Government Code section 12927, subdivision (d). Respondents were the owners of this housing accommodation within the meaning of Government Code section 12927, subdivision (e), and operated it as a business establishment within the meaning of Civil Code section 51.

4. In the period before January 1987, complainants, an unmarried couple, had been sharing a two-bedroom apartment with another person. In order to save on rent and improve their commute, complainants decided to look for a one-bedroom apartment for themselves in a better location, and at the end of January they gave their landlord notice that they would leave by March 1, 1987. They gave notice before securing another apartment in an effort to avoid paying double rent and to have their deposit money from the old apartment available for the new rental.

5. Complainants wanted to rent in a good neighborhood in Downey, California. They needed an apartment with major appliances, laundry facilities, and a garage in which complainant Wilder could store his tools.

6. Complainants searched for the first three weeks of February 1987 without success. On February 22 they saw a sign in front of respondents' building on La Reina Avenue advertising an apartment for rent. Complainants liked the building and its location, and complainant Terry called the same day to inquire about it.

7. Terry spoke to respondent Agnes Donahue, who told Terry that the available apartment had one bedroom, came with a stove and refrigerator, and rented for \$450 per month. Terry said the apartment sounded good and asked whether a garage was available. Donahue replied that there was a good possibility of renting a garage that was soon to be vacant, at \$50 per month. Terry said she was glad to hear that, because it was very important to her "boyfriend" to have an enclosed garage.

8. Respondents are devout Roman Catholics. Their religion teaches that sexual intercourse outside of marriage is a mortal sin, for which the sinner will go to hell unless the sin is forgiven before death. Agnes Donahue believes firmly in this rule, and has a similarly sincere belief, rooted in her religion, that it is sinful for her to aid another person in the commission of a sin.

9. Because of these beliefs, Agnes Donahue believed strongly that it would be sinful for her to rent an apartment to an unmarried couple and, after regretting renting to one such couple years before, she had consistently refused to do so again. Respondents regularly rent to married couples and to single tenants, and have no policy or practice of excluding one of these groups in favor of the other.

10. When complainant Terry mentioned her "boyfriend," Agnes Donahue asked if she and complainant Wilder were married, and Terry said that they were not. Donahue asked if they were planning to marry, and Terry replied that they might at some future time. Donahue asked when. Terry was taken aback and a little offended by these questions, which she felt were very personal and inappropriate. She told Donahue that she did not know when she and complainant Wilder might marry. Donahue then stated that she does not rent to unmarried couples.

11. Terry asked if that meant that Donahue would not permit Terry and Wilder to see the apartment or apply for it further, and Donahue said that she would not and ended the conversation. Donahue did so because of her religious belief that complainants sinned by engaging in sexual intercourse outside of marriage and that to rent to them would be to condone and participate in that sin.

12. Terry hung up and told Wilder what had happened. Donahue's rejection shocked and confused them, and they were offended by it and very upset. Wilder grew very angry and Terry cried. Rattled, and suddenly uncertain how to handle similar inquiries from other owners, they gave up calling about other apartments that day. Terry remained particularly upset and did not help Wilder when he resumed their search the next day. She feared that they were going to be "quizzed about their personal life," and was confused about what to do.

13. After their rejection complainants had one week left to find another apartment, and they felt frightened, frustrated, and rushed as they stepped up their search. At the same time, the rejection left them feeling intimidated and defensive about not being married, and "scared to death" to tell anyone that they were not. They feared that if they were honest about their marital status they would be rejected immediately, without any opportunity to present themselves, and they began to feel as though there was little choice but to lie, although both were

uncomfortable doing so. They felt tension between them, and they disagreed and bickered, for the first time in their relationship, over what to do as their search continued. Wilder was very nervous and frustrated, and Terry worried about finding another apartment. She did not sleep well and did not perform well at her job.

14. During the week following their rejection by respondents, both complainants felt compelled to take substantial time off from work to look for another apartment. This caused complainant Terry some difficulty with her supervisor, and she lost \$126 and complainant Wilder lost \$444 of income as a result.

15. Although they searched diligently, complainants were unable to find the kind of apartment they wanted. In order to secure an apartment by March 1, complainants relaxed their standards and by the end of the week rented a small two-bedroom apartment in Downey at \$575 per month. On the rental agreement for that apartment, complainant Terry signed her name as "Verna Terry Wilder." Complainants felt compelled to this falsehood but were very uncomfortable with it, and they eventually told their landlord that they were not married.

16. Complainants did not like the new apartment but felt that they had no choice but to rent it. The new apartment was located in a less desirable neighborhood than respondents' and on a noisier street. The apartment was dirtier and in worse repair than complainants had expected, and they were forced to do extensive cleaning and repair work to make it more livable. Complainants shared a two-car garage at no extra rental charge, but disliked this arrangement because the other tenants of the garage damaged complainant Wilder's truck. Complainants were very upset, unhappy and disappointed when they moved into the new apartment. They found the move stressful, and they felt for a time that they had made a mistake.

17. Several days after complainants were rejected by respondents, complainant Terry contacted the Department. On February 24, 1987, a Department investigator, acting as a checker, called the same number that complainants had called about respondents' vacancy and inquired about an apartment for himself and his "girlfriend." The woman who answered this inquiry told the investigator that she would not rent to an unmarried couple, and the conversation ended.

18. Shortly after this check was performed, another Department investigator contacted respondent Agnes Donahue, identified himself as a representative of the Department, and asked Donahue about the allegations complainant Terry had made. Donahue replied that she had rejected complainants because she did not want to rent to unmarried couples. Donahue expressed surprise and disagreement when the investigator told her that the FEH Act forbids marital status discrimination.

19. Between March 1987 and the time of hearing complainants considered moving several times and looked at a few apartments when they came up, but complainants did not actively try to find another apartment. While they were still not happy with their current apartment, the improvements they made to it and their good relationship with its owner made it more bearable. They were also deterred from looking elsewhere by the inconvenience of moving, their fear that they would encounter further discrimination unless they concealed their marital status, and their continuing disagreement over the proper handling of this problem. At the time of hearing complainant Terry still felt intimidated, insulted, hurt, and indignant about their rejection by respondents.

20. Complainants were both required to leave work to attend the hearing. Complainant Terry lost \$101 and complainant Wilder lost \$352 of income as a result.

DETERMINATION OF ISSUES

Liability

The Department asserts that respondents' refusal to rent to complainants violated sections 12955, subdivisions (a) and (d), and section 12948 of the Act, and that respondents' inquiry about complainants' marital status and their statements that they would not rent to unmarried couples also violated subdivisions (b) and (c) of section 12955. With respect to each of these claims, respondents will be found liable under the FEH Act if it is determined, first, that their actions constitute conduct prohibited by the FEH Act, and if so, that this conduct is not excused or justified by an affirmative defense.

A. Prohibited Conduct

1. Section 12955 Claims

a. Refusal To Rent Because of Marital Status

The Department first asserts that respondents discriminated against complainants in violation of section 12955, subdivisions (a) and (d) of the FEH Act by refusing to rent to complainants because of their "marital status." Such discrimination is established if a preponderance of all the evidence demonstrates that complainants' marital status was in any part the cause of their rejection by respondents. (DFEH v. Merribrook Apartments (1988) FEHC Dec. No. 88-19, at p. 11 [1988-89 CEB 7]; DFEH v. Davis Realty Co. (1987) FEHC Dec. No. 87-02, at p. 18 [1986-87 CEB 5]; DFEH v. Neugebauer (1980) FEHC Dec. No. 80-14, at pp. 5-6 [1980-81 CEB 6].)

Respondents contend that their conduct toward complainants was based not on complainants' marital status but on their sexual relationship outside of marriage, and that this conduct therefore cannot constitute marital status discrimination under section 12955. California courts and the Commission, however, have taken the opposite view.

In Atkisson v. Kern County Housing Authority (1976) 59 Cal.App.3d 89, the Housing Authority promulgated a rule forbidding low income tenants from living with anyone of the opposite sex not related by marriage or otherwise. The court held that the policy violated California Health and Safety Code section 35720, the predecessor of Government Code section 12955. (Id. at p. 99.)

The Commission has explicitly recognized the holding in Atkisson in DFEH v. Boy Scouts of America (1981) FEHC Dec. No. 81-15 [1980-81 CEB 26], in which we ruled that refusal to hire a person because of his unmarried cohabitation constitutes a violation of the FEH Act's prohibition of discrimination in employment because of marital status (Gov. Code, §12940, subd. (a)). As one ground for that ruling, we cited the Atkisson holding and stated that the "ban on marital status discrimination in housing includes within its ambit unmarried cohabitation." (Id. at p. 9.)

And in Hess v. Fair Employment & Housing Com. (1982) 138 Cal.App.3d 232, 235, affirming DFEP v. Hess (1980) FEHC Dec. No. 80-10 [1980-81 CEB 3], the landlords required each member of an unrelated couple to qualify separately under financial guidelines, while only one member of a married couple had to so qualify. In response to the landlords' argument that this practice did not constitute marital status discrimination under section 12955 of the Act, the court cited Atkisson for the proposition that the FEH Act's prohibition against discrimination based on marital status includes discrimination against unmarried couples. (Hess v. Fair Employment & Housing Com., supra, at p. 235.)

Respondents claim next that their actions toward complainants do not constitute a refusal to rent, but only an "expression of disapproval," after which complainants failed to pursue their application. The record demonstrates, however, that respondent Agnes Donahue told complainants that she does not rent to unmarried couples, and that she made clear to complainants that this rule precluded their seeing the apartment or applying for it further. This conduct was an unequivocal rejection, which left complainants no further recourse, and thus constitutes a clear refusal to rent. There is also no question that complainants' marital status was the sole cause of this refusal, and we therefore determine that respondents discriminated against them within the meaning of subdivisions (a) and (d) of section 12955 of the Act.

b. Inquiries and Statements of Preference Concerning Marital Status

The Department also asserts that respondents violated the prohibitions in section 12955, subdivisions (b) and (c), of inquiries about marital status and statements of preference based on marital status. The evidence demonstrates that respondent Agnes Donahue made several statements of respondents' preference not to rent to unmarried couples, and that she also inquired whether complainants were married. We therefore determine that respondents did engage in conduct prohibited by subdivisions (b) and (c) of section 12955 of the FEH Act.

2. Section 12948 Claims

The Department further asserts that respondents' refusal to rent to complainants because of respondents' disapproval of complainants' unmarried cohabitation constitutes discrimination in violation of the Unruh Act and section 12948 of the Act. We agree.

While section 51 of the Civil Code does not list unmarried cohabitants or any other category based on "marital status" among the classifications protected from unlawful denial of full and equal accommodations in all business establishments, the California Supreme Court has held that the Unruh Act language and legislative history indicate an intent to prohibit all arbitrary discrimination by business establishments, and that the statute's identification of particular bases of discrimination--color, race, religion, ancestry and national origin--is illustrative rather than restrictive. (In re Cox (1970) 3 Cal.3d 205, 216; Marina Point, Ltd. v. Wolfson (1982) 30 Cal.3d 721, 732.) There is no question, therefore, that discrimination in housing because of unmarried cohabitation does constitute a denial of equal accommodations within the meaning of the Unruh Act and section 12948 of the FEH Act.

As with refusals to rent under section 12955, subdivision (a), discrimination of this kind under section 12948 is established if it is demonstrated that unmarried cohabitation was in any part the cause of complainants' rejection by respondents. (Merribrook Apartments, supra, 1988-89 CEB 7, at p. 14.) As we stated above, the fact that complainants would live together while unmarried was shown to be the sole cause of their rejection, and we therefore determine that respondents discriminated against them within the meaning of Civil Code section 51 and section 12948 of the FEH Act.

B. Affirmative Defenses

1. FEH Act Defenses

The Act explicitly permits postsecondary educational institutions to reserve housing for "married students." (Gov. Code, §12995, subd. (b).) Beyond this permission, however, the FEH Act states no affirmative defense of any kind for violations of the prohibitions of section 12955 or section 12948.

2. Unruh Act Defense

Discriminatory conduct under the Unruh Act--and thus discrimination under section 12948 and section 12955, subdivision (d) of the FEH Act--may be justified by a showing that the conduct is reasonable and not arbitrary, and is thus lawful under the Unruh Act. (Marina Point, Ltd. v. Wolfson, *supra*, 30 Cal.3d at pp. 736-37; In Re Cox, *supra*, 3 Cal.3d at p. 217; DFEH v. Merribrook Apartments, *supra*, 1988-89 CEB 7, at p. 14.) Respondents have not established a defense of this kind here.

Respondents have adopted a policy against renting their apartments to unmarried couples as a class. This blanket exclusion of all unmarried couples is unreasonable and arbitrary. There was no evidence presented to establish that unmarried couples are more irresponsible, disruptive, or disorderly than others, that they are greater credit risks, or that they are otherwise unfit tenants. Respondents' moral objections to renting to unmarried couples are not based on a reasonable expectation that the immoral conduct about which respondents are concerned will cause damage to their property or present a nuisance which respondents would be entitled to abate, and respondents assert no such nexus. We therefore determine that respondents have failed to establish an affirmative defense under the Unruh Act and sections 12948 and 12955, subdivision (d) of the FEH Act.

3. Religious Freedom Exemption

Respondents do contend, however, that their moral concerns about complainants' unmarried cohabitation, rooted in sincere religious beliefs, compel us to create a constitutional defense exempting their conduct from the provisions of both section 12948 and section 12955 of the FEH Act. They assert that the Commission, by enforcing these provisions to prohibit them from excluding unmarried couples from their rental property, would impair the free exercise of their religion in violation of the U.S. and California Constitutions. To avoid this unconstitutionality, respondents argue, the Commission must refuse to enforce the FEH Act against them and thus effectively exempt them from its provisions.

We must decline, reluctantly, to decide this issue here. We do not doubt the depth and sincerity of respondents' religious convictions, and we are sensitive to the burden that respondents will bear for adherence to those convictions if the FEH Act is enforced against them. We are also sensitive to complainants' constitutional rights to privacy, and to the need for a liberal interpretation and for uniform and effective enforcement of the Act's prohibition of marital status discrimination in housing.

We lack the authority, however, to weigh these competing interests and determine whether the exemption respondents seek should be granted here. The California Constitution precludes us from declaring the FEH Act unconstitutional or refusing to enforce it on that ground unless an appellate court has found it unconstitutional. (Cal. Const., art. III, §3.5; DFEH v. San Jose (1984) FEHC Dec. No. 84-18, at pp. 7-8 [1984-85 CEB 6].) Since no appellate court has ruled on the issue respondents raise, we may not reach it here and must instead defer the issue to the consideration of the courts.

Thus no affirmative defense is available to excuse or justify respondents' conduct here, and we therefore determine that they have violated section 12948 and section 12955, subdivisions (a) through (d) of the Act.

Remedies

A. Rental to Complainants

The Commission is empowered, by Government Code section 12970, subdivision (a) and section 12987, subdivision (1), to order the rental of a housing accommodation, if available, that has been denied unlawfully under Government Code sections 12948 and 12955. The Department has prayed for such relief here, and we will therefore order respondents to rent an apartment at 10430 La Reina Avenue to complainants, if one is then vacant or will become vacant within a reasonable period of time.

B. Actual Damages

The Commission is authorized to award actual damages, including out-of-pocket losses and compensatory damages for emotional injury, if a respondent is found to have violated the Unruh Act and the FEH Act provisions relating to marital status discrimination. (Gov. Code, §12970, subd. (a) and §12987, subd. (2); Hess v. Fair Employment & Housing Com., *supra*, 138 Cal.App.3d at p. 237; DFEH v. Merribrook Apartments, *supra*, 1988-89 CEB 7, at p. 22; DFEH v. Davis Realty Co., *supra*, 1986-87 CEB 5, at p. 22; DFEH v. Carefree Ranch Mobile Home Park (1984) FEHC Dec. No. 84-31, at p. 19 [1984-85 CEB 12].)

1. Out-of-Pocket Losses

After being rejected by respondents, complainants had little time left to find another apartment. They searched diligently for what they wanted, but felt compelled finally to rent a significantly less desirable apartment at a rent \$75 per month higher than that they would have paid to respondents. While the time pressure complainants felt resulted from their having given notice on their current apartment before renting another, we find this step a reasonable effort to avoid extra rental expenses. And though the apartment they did rent had two bedrooms, while they had been searching for only a one-bedroom apartment, the record makes clear that the apartment they rented was in several other respects substantially less than comparable to the one respondents denied them.

The \$75 difference in rent is thus compensable as actual damages. (DFEH v. Davis Realty Co., *supra*, 1986-87 CEB 5, at pp. 22-23; DFEH v. Neugebauer, *supra*, 1980-81 CEB 6, at p. 6.) In the period of 16.5 months between complainants' rejection and the hearing, this loss totaled \$1237.50. Each complainant will be owed half of this amount, along with annually compounded interest at the rate of ten percent per year, accruing from the time of loss until the date of payment. (DFEH v. Davis Realty Co., *supra*, at p. 23; Code Civ. Proc., §685.010.)

Respondents' obligation to make complainants whole for the greater rent they have been compelled to pay continues, after the close of hearing, until complainants rent an apartment from respondents or decline an offer to rent, or are notified that no apartment is available. We will therefore require respondents to pay complainants the amount of their losses in this post-hearing period, as provided below in our order.

Complainant Terry also lost income of \$227 and complainant Wilder lost income of \$796 as a result of their need to leave work to search for another apartment, after their rejection, and to attend the hearing. These are also compensable out-of-pocket losses, and complainants will also be owed annually compounded interest at the rate of ten percent per year on these amounts, accruing from the time of loss until the date of payment. (Code Civ. Proc., §685.010.)

2. Compensatory Damages

The Department also seeks an award of compensatory damages for the emotional injury complainants suffered as a result of respondents' discrimination. As the findings of fact above make clear, there is substantial evidence of emotional injury to complainants under the standards of DFEH v. Aluminum Precision Products, Inc. (1988) FEHC Dec. No. 88-05, at pp. 10-13 [1988-89 CEB 4].

Complainant Terry was taken aback and offended by respondent Agnes Donahue's questioning about complainants' marital status, and Donahue's refusal to rent because they were unmarried shocked and offended both of them. Complainants were very upset and shaken by the rejection, and they called off their search for the day. Terry remained particularly upset and fearful and did not help look for another apartment the next day.

The rejection also put complainants under great strain in the following week. They rushed to find another apartment, but felt fearful and intimidated, and uncertain how to handle the prospect of further rejection because of their marital status. They felt great pressure to conceal their unmarried state but disliked doing so, and they disagreed and bickered about what to do. They felt frustrated and anxious, and this strain and the need to take time off to look for other housing caused complainant Terry difficulty at work and made her lose sleep.

Complainants also found the apartment they were eventually compelled to rent less desirable than the one respondents denied them and in need of substantial cleaning and repair. They were upset and disappointed when they moved in and remained dissatisfied with the new apartment. Their anxiety about further rejections because of their marital status and their disagreement about the need to conceal it continued, and complainant Terry remained intimidated and upset by complainants' rejection at the time of hearing.

Considering all this evidence under the standards of Aluminum Precision, we determine that an award of \$4,000 to complainant Terry and \$2,000 to complainant Wilder will be proper compensation for the injuries they have suffered. Interest will be due on these amounts at the rate of ten percent per year, compounded annually, from the effective date of this decision until payment. (DFEH v. Davis Realty Co., supra, 1986-87 CEB 5, at p. 26; Code Civ. Proc., §685.010.)

C. Punitive Damages

For each violation of Government Code section 12955, the Commission is authorized to award punitive damages. (Gov. Code, §12987, subd. (2); DFEH v. Norman Green (1986) FEHC Dec. No. 86-07, at p. 12 [1986-87 CEB 1].) The Department does not seek such damages here, however, and we find no evidence in respondents' conduct of the "oppression, fraud, or malice" that must be shown to support a punitive damage award. (DFEH v. Norman Green, supra, at pp. 12-13; Civ. Code, §3294.)

D. Affirmative Relief

The Act authorizes the Commission to order affirmative relief, including an order to cease and desist from any unlawful practice and an order to take whatever other actions are

necessary, in the Commission's judgment, to effectuate the purposes of the Act. (Gov. Code, §12970, subd. (a) and §12987, subd. (3).) Pursuant to this authority, we will order respondents to post and distribute the standard notices informing potential tenants of the outcome of this case and of their rights and remedies under the FEH Act. (DFEH v. Davis Realty Co., supra, 1986-87 CEB 5, at p. 27; DFEH v. Merribrook Apartments, supra, 1988-89 CEB 7, at p. 23.)

ORDER

1. Respondents shall cease and desist from discriminating in their housing accommodations on the basis of marital status.

2. Within 10 days of the effective date of this decision, respondents shall either 1) offer in writing to complainants to rent to them the apartment respondents denied them, or a comparable apartment, at 10430 La Reina Avenue, Downey, California, if such an apartment is then available or will become so within a reasonable time after the effective date of this decision, or 2) notify the Department and complainants in writing that no apartment is available in this manner. Within 10 days of receipt of an offer to rent, complainants shall reply to respondents in writing. If complainants accept the offer to rent, respondents shall immediately rent the apartment to complainants.

3. Within 60 days of the date of this decision, respondents shall pay to each of complainants the sum of \$618.75 in compensation for additional rent paid between February 22, 1987, and the time of the hearing in this case. Respondents shall also pay each complainant annually compounded interest at the rate of ten percent per year on these amounts, accruing from the time of loss until the date of payment.

4. Respondents shall pay to complainants the amount of their additional rental expenses incurred between the close of the hearing and the date on which they rent from respondents or decline respondents' offer to rent, or are notified that no apartment is available, pursuant to paragraph 2 of this order. Respondents shall pay to each complainant one-half of these total expenses, together with annually compounded interest on these amounts at the rate of ten percent per year, accruing from the time of loss until the date of payment.

Within 60 days of the effective date of this decision, the parties shall attempt to agree on these amounts, and shall within 10 days after that report the agreed amounts to the Commission or report their failure to agree. Respondents shall pay the agreed amounts to complainants within 5 days after the

Commission approves them and shall within 10 days after that notify the Department and Commission that payment has been made. If the parties cannot agree or the Commission does not approve, this element of the case will be returned for further hearing.

5. Within 60 days of the effective date of this decision, respondents shall pay to complainant Verna Terry \$\$4,000 and to complainant Robert Wilder \$2,000 as damages in compensation for emotional injury, together with interest on these amounts at the rate of ten percent per year, compounded annually, from the effective date of this decision until payment.

6. Within 10 days of the effective date of this decision, respondents shall:

a. Sign copies of the notices attached to this decision;

b. Post copies of these notices and the Department's Fair Housing Poster (No. DFEH 164) at any location where they transact with applicants the rental of any housing accommodation they own or manage in California. Copies of the notice in Attachment A shall remain posted for 90 days after the effective date of this decision, and copies of the notice in Attachment B and of the Department poster shall remain posted permanently. The notices shall not be reduced in size, and reasonable steps shall be taken to ensure that they are not defaced, altered, or covered by any material;

c. Give copies of these notices to each person who expresses interest in applying to rent any housing accommodation owned or managed by respondents in California. These notices shall be distributed in this manner for the same periods for which they are required to be posted, above.

7. Within 70 days of the effective date of this decision, respondents shall report to the Commission and the Department in writing, describing the steps they have taken to comply with paragraphs 1-6 of this order.

8. Complainants shall in writing waive any rights or claims they may have under Civil Code section 52 based on the events described in this decision. The Department shall serve copies of the waiver on respondents and the Commission.

Any party adversely affected by this decision may seek judicial review of the decision under Government Code section 11523 and Code of Civil Procedure section 1094.5. Any petition

for judicial review and related papers should be served on the Department, the Commission, respondents, and complainants.

Dated: August 10, 1989

FAIR EMPLOYMENT AND HOUSING COMMISSION

OSIAS G. GOREN

CRUZ F. SANDOVAL

GEORGIA MEGUE

MILAN D. SMITH, JR.

PAUL T. BANKAI

CUSTODY DIVISION
DIVISION ORDER

DIVISION ORDER # 45

DATE: March 23, 1988

SUBJECT: INMATE REMOVAL ORDER PROCEDURES FOR FAMILY EMERGENCY

This Custody Division order revises subsections 5-750/00, 5-750/05 and 5-750/10 of the Custody Division manual.

Purpose of Order

To establish procedures to be followed when a request or court order is received for an inmate, incarcerated at any of the Sheriff's Department custodial facilities, to attend a funeral or visit a critically ill family member.

Scope of Order

This order applies to all Custody Division facilities.

Procedures for Processing Requests for Removal Orders

All removal orders shall be coordinated by the Inmate Services Unit through the Office of Religious Services, Removal Order Coordinator. Requests and court orders received by individual facilities for inmate removal shall be referred to the Office of Religious Services, Removal Order Coordinator. The Removal Order Coordinator is currently the Director of Protestant Ministries. The office is located at Central Jail (M.C.J.), 441 Bauchet Street, Los Angeles, 90012.

CRITERIA FOR PROCESSING REQUESTS

- The funeral must be for, or the critically ill person must be, an immediate family member of the inmate. The immediate family includes husband, wife, father, mother, child, step child, brother, sister, grandparents and grandchildren, or step or half brother or sister (as deemed appropriate by Inmates Services Unit).
- In cases of critical illness, Removal Orders will not be processed without the authorization of the patient's physician.
- Funerals or visits to critically ill persons will be limited to Los Angeles County. Catholic inmates may choose between attending the rosary or the funeral service but cannot attend both.

- Transportation to hospitals and funerals will generally be permitted between 0900 and 1330 hours, Monday through Friday; however, Transportation Bureau (T.S.T.) Watch Commanders may extend the hours when additional resources are available. Requests to attend funerals or visits to the critically ill on weekends or holidays will not be processed.
- A homicide suspect is not eligible.
- Any inmate classified as an escape risk is not eligible.
- Inmates are not eligible if bail has not been set, and total bail must be less than \$50,000.00.
- Inmates sentenced to State prison are not eligible.
- Federal prisoners cannot be moved without the approval of the United States Marshal's Office.
- Under no circumstances will an inmate be permitted to leave a custody facility without a court order.

PROCESSING REMOVAL ORDERS FOR MALE INMATES

The Removal Order Coordinator shall complete the Inmate Removal Order Request form for male inmates who meet the criteria and shall ensure that:

1. The inmate has met the eligibility requirements.
2. The information on the form is accurate.
3. The inmate does not pose any additional security risk which may make it necessary to void the request.

The Removal Order Coordinator shall contact the Inmate Services Unit Chaplaincy Coordinator, who will review the Removal Order Request to ensure that all necessary procedures have been followed. After receiving approval from Inmate Services Unit, the Removal Order Coordinator may then complete the Removal Order process. The Inmate Services Unit will keep a log of each Removal Order requested.

The Removal Order coordinator then fills out a "Notification of Pending Court Order" form, in triplicate. The form is hand carried to the Inmate Reception Center (I.R.C.) and the T.S.T. office located at I.R.C., where it is initialed by the receiving personnel. A copy of the form is then given to I.R.C. and T.S.T. who will make the proper arrangements to have the inmate removed and transported to his destination. Upon receiving the pending court order, T.S.T. makes an independent decision as to whether they will transport the inmate.

The Removal Order Coordinator then prepares a court order, "Request for Removal of Prisoner." He hand carries the request to the Superior Court, Department 100, 210 West Temple Street, to obtain the Supervising Judge's signature.

When the court order is complete, with the judge's signature, the Removal Order Coordinator makes two copies of the document. One copy is given to I.R.C. and one copy is kept in the Office of Religious Services. The original order is given to T.S.T. For female inmates, one copy is sent to the Sybil Brand Institute (S.B.I.) Reception Document Control Section.

PROCESSING REMOVAL ORDERS FOR FEMALE INMATES

In the case of female inmates, the S.B.I. Protestant chaplain shall complete a facsimile Inmate Removal Order Request form for inmates who meet the criteria. The chaplain shall ensure that:

1. The inmate has met the eligibility requirements.
2. The information on the form is accurate.
3. The inmate does not pose any additional security risk which may make it necessary to void the request.

The S.B.I. chaplain will take her copy of the Removal Order request to the Senior Booking Clerk who will arrange for the inmate to be on the "Specials List" in reception the day of the funeral. This ensures that the inmate will be called to reception and will be available when T.S.T. arrives to take her to her destination.

The Removal Order Request form shall then be filed in the inmates's jacket in the Booking Clerk's Office.

After the court order is processed and signed by the judge, a copy of the order will be forwarded to the S.B.I. Document Control Section, to be placed in the inmates's jacket.

SPECIAL CLOTHING FOR FUNERALS/VISITS

Upon issuance of the court order, the inmate and/or family member shall be notified that suitable clothing for the visit/funeral will be accepted by the Central Jail or S.B.I. Property Room the day before the visit/funeral. The clothing transaction will be considered a clothing exchange, and handled as such.

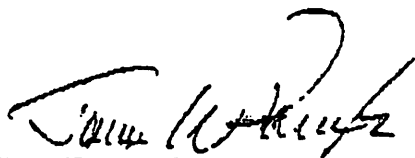
PROCESSING OF COURT ORDERS RECEIVED DIRECTLY FROM THE COURTS

Occasionally, inmates receive court removal orders directly from the courts. In these instances the T.S.T. desk deputy will

verify the information on the court order (e.g., time, date, address of funeral home or hospital). T.S.T. will also insure that the inmate has met the criteria for removal. T.S.T. shall check with the Removal Order Coordinator in the Office of Religious Services to ensure that the removal order had not previously been requested through that office. After verifying all of the above, a copy of the request form and court order will be sent to I.R.C., or S.B.I. Reception, for processing. The I.R.C. desk deputy shall inform Inmate Services of the court order so that a notation can be made in the log book.

If, after review of the inmate's records, the inmate is found to be ineligible, T.S.T. shall contact the court issuing the order and advise them of their findings.

This order does not preclude the use of Penal Code Section 4018.6, which authorizes the Sheriff to permit the temporary or early release of specified sentenced inmates (Subsection 5-750/15 of the Custody Division Manual).



JAMES W. PAINTER, CHIEF
CUSTODY DIVISION

3/25/58

DATE

JOIN US!

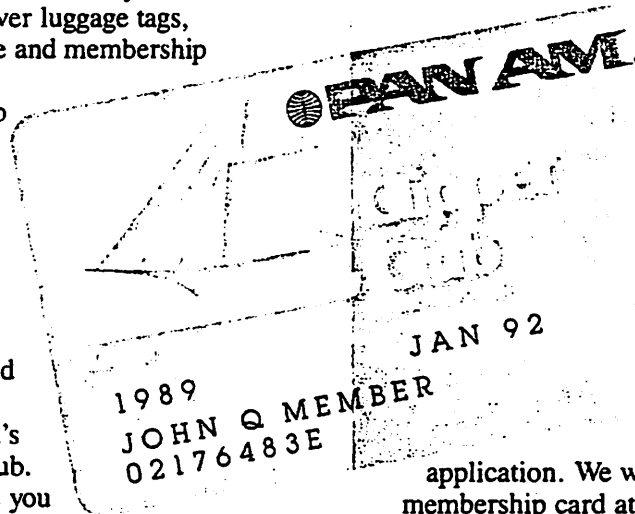
Clipper Club offers the perfect environment to await your flight and begin your Pan Am experience. And, you can choose the plan that suits you best. Apply today!

ANNUAL OR THREE-YEAR MEMBERSHIP

For only \$150 for an Annual Membership or \$390 for a Three-Year Membership, plus a \$25 initiation fee, you can join this very special association of world travelers. As a member of this renowned Club, you'll be able to take advantage of the many membership privileges reserved for you. You'll receive two handsome silver luggage tags, embossed with your name and membership number, along with your personalized Clipper Club membership card.

LIFETIME MEMBERSHIP

Invest \$1500 plus a \$25 initiation fee just once and receive a Lifetime Membership in the world's most exclusive airline Club. This membership entitles you to special privileges and Club amenities for the rest of your life. Your distinguished credentials will include an elegant embossed leather passport wallet, two attractive gold luggage tags embossed with your name and membership number and a gold Lifetime Membership card.



SENIOR CITIZEN LIFETIME MEMBERSHIP

Invest \$675 plus a \$25 initiation fee just once and you'll receive all Lifetime Membership benefits at this special money-saving rate. You must be 60 years of age or older and submit a copy of a photo ID containing your date of birth along with your application.

ADDITIONAL MEMBERSHIP FOR YOUR SPOUSE!

Your wife or husband can enjoy the pleasures of a Spouse Membership in the Clipper Club in the same category as your own membership for a small additional charge.

Simply complete the appropriate portion of your application. We will issue your spouse a personal membership card at one of the following money-saving prices:

Annual Spouse Membership:	\$ 45
Three-Year Spouse Membership:	100
Lifetime Spouse Membership:	350
Senior Lifetime Spouse Membership:	200

Clipper Club Rules

- Club rooms are available to active members, accompanying immediate family or guests. Guests are limited to two. A card is available for the member's spouse at a small additional fee. This entitles the spouse to visit the Club rooms. Children are welcome when accompanied by the member or the spouse.
- On those occasions when Clubs are crowded, it might become necessary to restrict admittance to those members who are traveling on the same day.
- Membership dues are not refundable.
- Membership cards must be presented upon each visit and are not transferable to other family members or business associates.
- Sorry, but pets are not permitted, except those which are carried at all times in a pet container and for which a cabin reservation is held for that day's flight.
- We ask that you please not bring food or beverages into the Club rooms.
- To maintain the exclusive atmosphere of the Clubs, members are asked to wear neat travel attire in keeping with good taste. Very casual and athletic attire such as jogging suits, tank tops, shorts, bare feet and the like are not permitted.
- Where size permits, each Club will have a designated no-smoking area. Members are requested to observe these areas.
- Minimum membership age is 21.
- Individual Club operating times are related to local flight schedules and are subject to change without notice.
- Rules and amenities are subject to change without notice.



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney
Los Angeles, California

EXECUTIVE OFFICE
1800 CITY HALL EAST
LOS ANGELES 90012
(213) 485-5408

CRIMINAL BRANCH
(213) 485-5470

CIVIL BRANCH
(213) 485-6370

TELECOPIER:
(213) 680-3634

December 4, 1989

Rick Tuttle
Controller
City of Los Angeles
City Hall, Room 220
Los Angeles, CA 90012

Re: CONSUMER TASK FORCE ON MARITAL STATUS DISCRIMINATION

Dear Mr. Tuttle:

I am writing to you at the request of Thomas Coleman, Chair of the Consumer Task Force on Marital Status Discrimination. The Task Force, created by the City Attorney James K. Hahn, was chartered to examine the extent to which businesses in Los Angeles discriminate against consumers on the basis of marital status.

It was brought to the attention of the Task Force through the complaint of Pat Kelly, that many private clubs have different policies with respect to the categories of membership that they offer. This often results in discriminatory practices towards unmarried couples or singles. In Ms. Kelly's situation, the Porter Valley Country Club charges the same membership fee for families as well as singles. I have enclosed a copy of the complaint materials for your review.

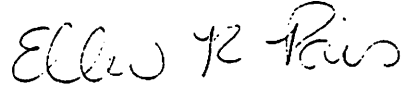
Frequently, as in Ms. Kelly's situation, marital status discrimination goes hand in hand with other forms of invidious discrimination such as gender or sexual preference. Because of your guidance, the City adopted the "Private Club Discrimination Ordinance", which prohibits discrimination based on sex. The ordinance, however, does not reach the issue of marital status discrimination. Using the research of the Task Force and the enclosed documents as a starting point, perhaps you would consider the appropriateness of expanding the scope of the ordinance to include such discrimination.

Page 2

Thank you for your consideration of this issue. Please do not hesitate to contact me if I can be of any assistance.

Very truly yours,

JAMES K. HAHN, City Attorney



By

ELLEN R. PAIS
Deputy City Attorney
Consumer Protection Section

ERP:mea
(213) 485-4515
Enclosure

cc: ✓ Thomas Coleman, Chair
Consumer Task Force on Marital Status Discrimination



JAMES K. HAHN
CITY ATTORNEY

Office of the City Attorney

Los Angeles, California

November 9, 1989

EXECUTIVE OFFICE
1800 CITY HALL EAST
LOS ANGELES 90012
(213) 485-5408

CRIMINAL BRANCH
(213) 485-5470

CIVIL BRANCH
(213) 485-6370

TELECOPIER:
(213) 680-3634

Mr. Michael Cautillo
2733 S. Hoover Street, #3
Los Angeles, CA 90007

Re: Membership Discounts

Dear Michael:

After the initial meeting of the Consumer Task Force on Marital Status Discrimination, I returned to my office and coincidentally received information regarding a discriminatory membership policy of a local country club.

In addition to the allegations of sex-discrimination, the member, Pat Kelly, advised the City Attorney's Office, that the Porter Valley Country Club offers both single and family memberships. The problem, however is that the rate is the same. This necessarily raises the follow-up question of how the club defines a family. The by-laws she provided does not include a definition.

It would be my guess that Ms. Kelly's complaint reveals an area of marital status discrimination involving memberships that should be explored. I do not know if your research was intending to consider the issue of private clubs, but in light of the importance of private clubs to business enterprises, and the City's activism in this area including its adoption in 1987 of the "Private Club Discrimination Ordinance", perhaps your focus could be broadened to include this issue.

I have enclosed a copy of the packet of materials received from Ms. Kelly, as well as a copy of the ordinance. Ms. Kelly can be reached at the following numbers: work, (213) 419-8239 and home, (818) 772-0619. Please do not hesitate to contact me if I can be of any further assistance.

Very truly yours,

JAMES K. HAHN, City Attorney

by. *Ellen*

ELLEN R. PAIS
Deputy City Attorney
Consumer Protection Section

ERP:discrimi

cc: Thomas F. Coleman, Chairperson
Consumer Task Force on Marital Status Discrimination

67



June 20, 1989

Mr. Kevin Ryan, J.D.
Deputy City Attorney
1600 City Hall East
Los Angeles, Ca 90012

Dear Mr. Ryan:

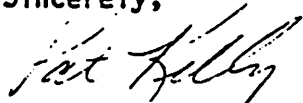
Thank you so much for taking the time to speak to me regarding my complaint of discrimination.

As I told you I really do not want this to become distasteful, but neither do I want to continue to financially support discrimination. I have copied for you the clubs bylaws and also my letter to Mr. Gore along with his response. I have over the years discussed my plight with many of the clubs male members, including the current President of the Men's Board, Mr. Raymond Boyd and find that most men support my belief that I should have equal access since I am a primary member. I was advised to speak to the club manager, Mr. David Wardlow, regarding a change in the club rules allowing all primary members equal access to golf starting times. Mr. Wardlow informed me on 6-13-89 that my information was incorrect, no change to the bylaws had been made. The result being that I cannot play golf on weekends until after the men have all played.

I truly hope that this club will recognize the anti-discrimination laws of this city, and in fact the country and allow female single members equal access. Additionally, I feel that charging single members the same monthly rates as family members is another form of discrimination, and should not be allowed.

I look forward to working with you in the future to seek a positive resolution of this problem. If I can give you any further information please contact me at my office (213) 419-8239

Sincerely,



Miss Patricia Kelly

PK/jb

January 25, 1988

CCA-West
Mr. Frank Gore
18 Crow Canyon Court, Suite 375
San Ramon, CA 94583

Dear Mr. Gore:

Enclosed is a copy of a recently published article in the Los Angeles Times regarding private clubs. As you can see, the clubs in Los Angeles have, with a little encouragement, made some significant changes regarding women members.

I am a single, female member of Porter Valley Country Club. Since the passing of the non-discrimination ordinance, I have been waiting for Porter Valley to take positive action regarding discrimination towards their female members. Having seen no action, I am writing to request your intervention.

When I joined Porter Valley several years ago, the club had just eliminated a single membership. At that time, monthly dues were low enough for me to cost justify the fee for myself. However, every year dues have increased significantly. In fact, it has come to my attention that my monthly dues are higher than a great number of family memberships. Couple this with the fact that, like your male members, I work five days per week, yet find it very difficult to get a decent, let alone early, starting time on weekends. There are many other problems I could enumerate associated with being a single, female member. Suffice it to say, I am writing this letter to request the following:

1. A single monthly membership fee that more appropriately spreads operating costs of the club throughout the membership.
2. Complete elimination of the discrimination in starting times for female members on weekends.

I look forward to hearing from you in the very near future. I am confident your decision on this issue will be favorable for everyone.

If you would like to speak to me personally, I can be reached at home after 4:00 P.M. at

Sincerely,


Pat Kelly

CLUB CORPORATION OF AMERICA

FRANK C GORE
EXECUTIVE VICE PRESIDENT

January 29, 1988

Ms. Pat Kelly
Sepulveda, CA

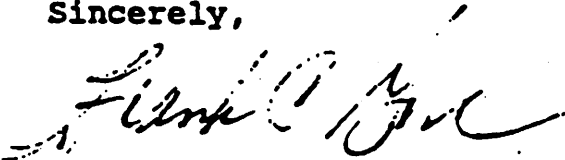
Dear Pat:

I received your letter today about your concerns at Porter Valley. The recent articles about discrimination are not new for Club Corporation of America. We have welcomed women and minorities as members of our club for over thirty years.

There is always a debate over the amount of fees that should be paid from a single member's point of view. Family members also complain that "Yes, I have a wife or husband, but they never use the club. Why should I pay for them?" The only truly fair way is to charge a fee based on usage. Of course, this is the public fee concept and not in keeping with a private club.

The control of tee times and policies belongs to the Board of Governors at Porter Valley Country Club. As a company, we do not dictate these procedures. I suggest you discuss this with your Board and Club Manager, David Wardlow. The Women's Club, I believe, has a representative on the Board as well.

Sincerely,



Frank C. Gore
Vice President
CCA West

FG/kb
cc: David Wardlow

FOREWORD

This booklet is made available to all Porter Valley Country Club members for the purpose of promoting better understanding of certain rules and regulations deemed necessary to protect the best interests of our entire membership.

It is the intent of officers, management, and advisors to limit these rules and regulations to the minimum required for the mutual enjoyment of the club by all its members and their guests.

The obligation of enforcing these policies for the good of all members is placed primarily in the hands of management and a carefully selected and trained staff whose principal responsibility is to assure you of all the courtesies, comforts and services to which you are entitled as a member of this club.

It is further the duty of the club's membership to know its rules and regulations and to cooperate with the officers, management, staff and advisors in the enforcement thereof.

Read this booklet carefully as it is designed to help you be a well informed member. And, just as important, OBSERVE these rules and regulations to PROTECT your membership privileges by demonstrating a concern for respecting the rights and privileges of others.

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(I) NAME AND PURPOSE

The name of this club is Porter Valley Country Club, Inc., a California Corporation. Members shall be entitled to the use of personal and real property of the Club but shall have no vested interest therein.

The purpose of the Club is to promote social enjoyment, golfing, tennis, swimming and other recreational amusements and to create a congenial community. At all times, each member is morally and financially responsible for his conduct and actions as well as those of his family and guests.

BYLAWS

The operation of the Club and the management of the Club property shall be vested in every respect in the Corporation acting through its corporate officers, appointed staff and advisors. The Club Manager is authorized and empowered to adopt, promulgate and enforce rules and regulations governing the use of the clubhouse, grounds, golf course, tennis courts, and all other club facilities, and every member is subject thereto and shall abide thereby.

A Board of Governors may be elected to their positions by the membership at large for the sole purpose of assisting corporate officers and management in all matters relative to formulating and implementing club purpose and policy. Governors are appointed to, or withdrawn from, the Board based on their individual and collective ability to carry out their function in the best interest of the Club and its membership. The President is designated by the Corporation as the individual responsible for the conduct of all Board of Governors meetings and the approval of all its members to the advisory group. This advisory group may, at their discretion, be known as the Board of Governors.

The President of the Club or the Club Manager shall serve as the Chairman of the Board of Governors. Vacancies occurring on

the Board due to death, resignation or any other reason shall be filled by appointment by the President. The Chairman of the Board of Governors may from time to time establish from members of the Board of Governors such committees as he may deem reasonable for the orderly conduct of the Club. The function, tenure, number of committee members, etc., shall all be at the discretion of the Chairman of the Board of Governors.

Membership in the Club shall be invitation only. Any member in good standing may recommend nominees personally known to him.

In the event that the number of nominees for membership exceeds the number of vacancies existing in any class of membership, such nominees shall be extended an invitation to become members of the club in the chronological order of the filing of their respective applications until all available vacancies are filled.

At the discretion of the Corporate Board of Directors, it may select a Membership Committee which shall, with its recommendation, transmit to the Corporation all such information as it shall have acquired about an applicant, and the recommendations of such committee be referred and acted upon by the Corporation, whose proceeding thereon shall be secret, confidential and final.

A majority vote will be required for the approval of any applicant and each application shall be passed upon separately. No person failing of election shall be again proposed for membership until after the expiration of one year from the time of such action.

The membership shall consist of the following, each of whom shall enjoy full or limited privileges of the Club, transferable only if so stated in the membership application upon the terms and conditions contained therein, with all types being non-proprietary and non-assessable.

FAMILY: This membership includes all privileges and facilities of the club existing on the date of application for the member applying, his wife and minor children, under 18, unmarried and living in his home.

RESIDENT: This membership includes all privileges and facilities of the club existing on the date of application for the member applying and existing facilities except golf for his wife and minor children, under 18, unmarried and living in his home.

TENNIS: This membership includes all privileges and facilities of the club existing on the date of application except golf for the member applying, his wife and minor children, under 18, unmarried and living in his home.

SOCIAL: This membership includes all privileges of the clubhouse and pool only (No Golf or Tennis) for the member applying, his wife and minor children, under 18, unmarried and living in his home. Social members are not allowed the privilege of using any facilities other than the clubhouse and pool area even with the payment of a guest fee.

CORPORATE: This membership is issued in the name of the company purchasing the membership, but assigned to an individual member of the firm. The company assumes full responsibility for the membership. Each Corporate membership may have the number of designees responsible for either Family Corporate Dues or Resident Corporate Dues. The designee may be transferred within the Corporation upon payment to the Club of a transfer fee. The initial or primary corporate designee shall be designated by the term "Prime Corporate Designee" and his membership may be transferable if so stated on his membership application; all Additional Corporate Designees whose memberships are added to the Prime Designee are non-salable but are transferable within the same corporation upon payment to the Club of a transfer fee.

OTHER TYPES OF MEMBERSHIP: The Corporate Board of Directors shall have the authority to establish any types of memberships such as Junior, Clergy, Military and such other types as they from time to time may determine to be in the best interest of the Club, and prescribe initiation fees, dues and regulations applicable thereto.

The Board of Directors of the Corporation shall have power (a) to remove any officer of the Club for cause; (b) to reprimand, suspend or expel any member guilty of any violation of the bylaws or house rules of the Club, or for any offense against the best interest of or good government of the Club. Should expulsion occur, all monies deposited as initiation fees will be refunded the expelled member.

Dues shall be payable monthly in advance. When the dues or any other indebtedness of any member of the Club remain unpaid for a period of forty-five (45) days, that member's account shall be considered delinquent. At that time, by written notification, all Club privileges for that member and his family shall be withdrawn until such time as that member's account is again on a current basis. If the indebtedness shall remain unpaid for a period of sixty (60) days, he shall be subject to cancellation of his membership. Such member shall be notified in writing of his expulsion by registered mail, or if this is impractical, notice deposited in the mails, directed to the member's last known address shall be sufficient.

The extent of the record to be made of any such transaction shall be within the sole discretion of the Corporate Board of Directors which may, in its discretion, limit such record to a mere statement from the Club Manager of the expulsion, omitting any reference whatsoever to the reason for the transaction.

The determination of the Board of Directors of the Corporation as to the sufficiency of the cause of removal or suspension shall be final.

A member whose membership is transferable may transfer his membership to a transferee acceptable to the club.

It is understood and agreed that when a member transfers his membership, the new member must be acceptable to the Club and must complete a then-current membership application and be bound by the Rules, Regulations, Bylaws and contract provisions applicable at the time of transfer and shall not be eligible or responsible for previous rules or previous contract provisions.

The determination of the Board of Directors of the Corporation as to the sufficiency of the cause of removal or suspension shall be final.

A member whose membership is transferable may transfer his membership to a transferee acceptable to the club.

No resigning member may advertise his membership for sale in any newspaper or any other media of advertising under any circumstances, and if he does so, his membership shall be automatically terminated and he shall automatically forfeit all monies he deposited as initiation fees.

It is understood and agreed that "All facilities of the Club" when quoted in the context of a particular status of membership shall automatically mean those facilities existing at the time the membership application is dated and shall not encompass those future facilities which might be added and for which members shall at that time be offered the option of omitting or using at additional fees and dues. Such additional facilities and the costs thereof to be determined by the Corporate Board of Directors and the additional fees and dues for those existing members who choose to participate will be determined by the Corporate Board of Directors and enforced by the Corporate President, the Club Manager and the Club Staff.

It is further understood and agreed that all monthly dues remain the responsibility of each member and are due and payable monthly by him or his executor until his membership is either cancelled by him or transferred to a person approved by the Club, provided his membership contract specifies the right of transfer and provided his Club account is paid in full.

Memberships are non-proprietary and non-assessable and the dues may be raised only as stated on the membership application.

These Bylaws, Rules and Regulations may be changed, updated and/or corrected at the discretion of the Corporate Board of Directors acting through the Corporate President. Any changes in hours of operation, facility availability or membership privileges whether full or limited shall be at the discretion of the Corporate Board acting through the Club Manager and Club Staff and may be announced to the general membership by means of the monthly newsletter or appropriate flyer.

(III) HOUSE RULES

1. The Manager of the Club, or his designated assistant in his absence, shall have full and complete charge of the clubhouse and grounds at all times.

2. Hours of Operation are as follows and are subject to change as published in the monthly Postmark.

DINING ROOM (Closed Mondays)

Tuesdays thru Fridays

8:00 a.m. til 3:00 p.m.

Saturdays, Sundays & Holidays

6:30 a.m. til 4:00 p.m.

BAR (Closed Mondays)

Tuesday thru Sundays & Holidays

Open 11:00 a.m.

GOLF SHOP & LOCKER ROOMS

(Closed Mondays)

Tuesdays thru Fridays

7:30 a.m. til 4:30 p.m. (Pacific Standard Time)

7:30 a.m. til 5:30 p.m. (Daylight Savings Time)

Saturdays, Sundays & Holidays

6:30 a.m. til 4:30 p.m. (Pacific Standard Time)

6:30 a.m. til 5:30 p.m. (Daylight Savings Time)

DRIVING RANGE (Closed Mondays)

Tuesdays thru Fridays

7:30 a.m. til 3:30 p.m. (Pacific Standard Time)

7:30 a.m. til 4:30 p.m. (Daylight Savings Time)

Saturdays, Sundays & Holidays

6:30 a.m. til 3:30 p.m. (Pacific Standard Time)

6:30 a.m. til 4:30 p.m. (Daylight Savings Time)

TENNIS SHOP (Closed Mondays)

Tuesdays thru Fridays

9:00 a.m. til 6:00 p.m.

Saturdays, Sundays & Holidays

9:00 a.m. til 5:00 p.m.

Courts are washed on Mondays from

1:00 p.m. till 4:00 p.m.

SWIMMING POOL (Closed Mondays)

Summer Hours—June 15 til Sept. 15:

Tuesdays thru Fridays

11:00 a.m. til 7:00 p.m.

Saturdays, Sundays & Holidays

11:00 a.m. til 7:00 p.m.

January 17, 1990

Los Angeles City Attorney's Consumer Task Force
Attn.: Thomas F. Coleman, Attorney at Law
Post Office Box 65756
Los Angeles, CA 90065

Dear Mr. Coleman:

This letter is to confirm our telephone conversation of this afternoon concerning a clause in an insert that accompanied my 'New Wells Fargo Gold MasterCard Portfolio' package. I just spoke at (800) 468-5463 to a supervisor, who is also a subordinate of Vinese Pastor, Assistant Manager at Wells Fargo Gold MasterCard Member Services at P. O. Box 405399; Ft. Lauderdale, FL 33340-5399 concerning receiving, first class, by Tuesday, January 23rd the forementioned, which I had first contacted the latter about late last week.

As soon as said insert arrives, I'll be sure to forward it to your office; in the meanwhile, perhaps I might paraphrase for you. It alluded to at least two services: '\$1000.00 - Emergency Cash & Airline Ticket' and Purchase Insurance, which are available to the cardmember and (emphasis, mine) 'Family member (This covers your spouse & dependent children under 21 years of age.)'.

As far as I'm concerned, this allusion to 'spouse' is not only discriminatory to those who are party to non-married family units by choice, but is particularly unfair to those of us who are, by law, forbidden to marry, despite any contrary desire. I raised this issue with Mrs. Pastor and her only responses were that she didn't have children but didn't mind subsidizing those who did (that begs the question; emphasis, mine), that as I might know, married couples have certain contractual obligations that are incurred as a result of that union (also, largely irrelevant, as far as I'm concerned) and that I could write to their legal department, if I so desired.

I spoke with both the Los Angeles and San Francisco offices of N.G.R.A. and they suggested that I request a copy of the West Hollywood Domestic Partnership Ordinance which has, as it happens, just arrived in today's mail. They also suggested that I talk to the City of Los Angeles re. this matter, which led me to your office.

It was suggested that I draft a letter of protest to Wells Fargo and include said legal code. It was, also, stated that there was most probably California State legislation to prohibit this kind of preferential language in contracts executed in the state.

They regretted that they weren't in a position to act on my behalf, but agreed that my point to Wells Fargo concerning recent court positions regarding beneficiaries of frequent flier award tickets not being allowed to be restricted to 'spouses' was well taken.

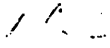
I understand that the A.C.L.U. has a section that might also be sympathetic to this issue, but I'll await word from your office before proceeding to determine my next course of action. As you may gather, I find the wording of these benefits most offensive.

Please feel free to call me at the telephone number listed on the attached business card or write me at: (incorporated City of Los Angeles).

Many thanks, in advance, for your concerted interest in this matter.

cont.

Regards,


Paul A. Hicks

cc: file
attch.
PAH/pw

Hot-Line A Valuable Feature Of Your Wells Fargo Gold MasterCard[®]

As a Wells Fargo Gold MasterCard Cardmember, you are entitled to free enrollment in Hot-Line, a comprehensive credit card registration service provided by SafeCard Services, Inc. By simply completing and returning this Credit Card Registration Form, you have the following protection available:

- **Lost Card Protection and Notification**
Register all your credit cards (and other valuable documents) with Hot-Line. If your cards are ever lost or stolen, simply call Hot-Line toll-free at 1 (800) HOT-LINE from anywhere in the continental U.S. or 1 (305) 776-2500 from all other locations worldwide. Hot-Line will notify your credit card companies of your loss and send you written confirmation of their notification.
- **\$1,000 Emergency Cash and Airline Ticket**
If you are at least 100 miles away from home and have reported your cards lost within 24 hours of your request, Hot-Line can arrange to wire up to \$1,000 in emergency cash to you at Western Union offices throughout the U.S. Hot-Line can also arrange

for one pre-paid airline ticket for each family member stranded. (This covers your spouse and dependent children under 21 years of age.) The amount of the Emergency Cash or Emergency Airline Ticket(s) will be billed to your Wells Fargo Gold Credit Card. This service is available to you when Hot-Line receives authorization that you have sufficient credit on your Wells Fargo Gold Credit Card.

- **National Message Service**
Hot-Line has a nationwide message service that you can use for personal or business use. To use this service, you and those calling in for you should simply call Hot-Line's toll-free number and provide the Wells Fargo Gold Credit Card cardmember's name and home address. You are entitled to up to 10 messages per month, with 40 characters per message.
- **Change of Address Service**
This service saves you time and expense when you move. Simply notify Hot-Line and they will send written notification of your change of address to all your credit card companies.

Please take a moment to list all of your credit cards and valuable documents and return this form as soon as possible. Take advantage of the protection provided by this valuable feature and your Wells Fargo Gold Credit Card.

Please detach and keep this explanation in your Portfolio.

MasterAssist/Medical*, MasterLegal, MasterTrip, and Health Insurance Benefits

Who Is Covered?

MasterAssist benefits are provided to Gold MasterCard cardholders, their spouses, and unmarried dependent children under age 22 traveling with them 100 miles or more from home. The terms "you" and "your" refer to all covered individuals.

When Are You Covered?

Assistance services and health insurance begin at 12:01 A.M. of the day you start your trip and end at 12:00 P.M. on the sixtieth (60th) day that you are traveling, or when you return to your city of residence, whichever is sooner. If your trip is extended due to covered illness or injury which renders you unable to travel, coverage extends until 48 hours after you are able to return to your city of residence.

Where Are You Covered?

You are covered for all travel 100 miles or more from home except in Afghanistan, El Salvador, Iran, Iraq, Kampuchea, Laos, Lebanon, Libya, Nicaragua, North Korea, South Yemen, Vietnam, and such other countries as we may from time to time determine to be unsafe.

What Is Covered?

Health insurance coverage is provided for medical and surgical emergencies and dental treatment as a result of accidental injury or sudden illness. Benefits will also be provided for professional nursing, hospital, X ray, ambulance services, and prosthetic devices. You are provided with a maximum medical benefit of \$2,500 to cover medical expenses which result from accidental bodily injury or sudden illness occurring during the coverage period. A one-time \$50 deductible per trip applies to coverage.

What Is Not Covered?

Coverage is secondary to your existing health coverage. We will not pay for medical expenses payable under any existing group health or accident insurance, including worker's compensation, disability benefits law, or similar law.

By requesting assistance or making a claim for health insurance, you assign your rights under other health insurance to Access America, Inc.

Assistance services and health insurance benefits are not provided in connection with injury or illness or any loss due to intentionally self-inflicted harm; pregnancy or childbirth; professional athletics or training; mental health care; alcoholism or substance abuse; mountain climbing; motor competition; war; military duty; civil disorder; air travel except as a passenger on a licensed aircraft operated by an airline or air charter company; routine physical examinations; hearing aids; eyeglasses or contact lenses; and routine dental care including dentures and false teeth.

Here Are Details You Need to Know About How Some of the MasterAssist Services Work Medical Transportation

If MasterAssist's medical staff and the attending physician deem necessary, you will be moved to the nearest appropriate facility to obtain care. Once your condition has stabilized, you can be transferred home, if required. In the event of death, MasterAssist will make all the necessary arrangements and bring the deceased home. MasterAssist will provide the necessary transportation up to a maximum of \$10,000.

If you will be hospitalized for 8 or more days and are traveling with dependent children, MasterAssist will see that they get home safely.

Emergency Visit

If you will be hospitalized overseas for more than 8 days, MasterAssist can arrange and pay for an economy class round-trip ticket to bring a relative or friend to your bedside.

Hotel Convalescence

If, following hospitalization overseas, your attending physician and the MasterAssist program medical staff determine that you should convalesce in a hotel, MasterAssist will provide a maximum of \$75 per day for a total of 5 days to help cover hotel expenses.

Unexpected Return to the United States

In the event of the death of an immediate relative (spouse, child, parent, parent-in-law, brother, or sister) while you are traveling abroad, MasterAssist will help make the necessary arrangements and pay for your trip back to the U.S., once you provide proper verification of the death.

Note: All MasterAssist services must be authorized in advance by the MasterAssist hotline center. All transportation benefits will be provided by a scheduled flight, economy class, if your original ticket cannot be used. In exchange for this service, you must give MasterAssist your return ticket whenever possible, or you must reimburse MasterAssist the amount equivalent to the value of your unused ticket. We will not transport or repatriate you without the concurrence of your attending physician and the MasterAssist program medical staff.

MasterRental*
(collision/loss damage, personal accident, and personal effects insurances)

Who Is Covered?

You are covered when you charge a car rental to your Gold MasterCard card and decline the collision damage waiver, personal effects and personal accident insurance offered by the car rental company.

When Are You Covered?

Coverage begins on the day that you take possession of the rental car. Coverage is in effect for the entire car rental period, when rented on a daily or weekly basis, up to a maximum of sixty (60) days per car rental period.

Where Are You Covered?

No restrictions.

What Is Covered?

Collision/Loss Damage Insurance

You are covered for (i) physical damage to a rental car as a result of a collision which occurs while you are driving or while the rental car is left unattended; (ii) any rental charges which may be imposed by the car rental company while the car is being repaired; and (iii) any loss of or damage to a rental car resulting from causes other than collision (e.g., fire, storm, vandalism, theft).

Coverage is secondary to any other coverage you may have. If you have other coverage, we will pay (i) the insurance deductible (or the employer's insurance deductible if you are traveling on business); (ii) any reasonable repair costs not covered by your other coverage (or your employer's coverage, as the case may be); and (iii) any rental charges imposed while the car is being repaired.

If you do not have any other insurance coverage, we will pay to cover the lesser of (i) the reasonable cost of repairs and rental charges while the car is being repaired; or (ii) the actual cash value of the rental car. As a condition of payment, you must provide MasterAssist with proper documentation and information required to assess and process the claim.

Personal Accident Insurance

Coverage is provided for accidental death, dismemberment, or injury directly caused by an accident which occurs during the car rental period. Accidental medical benefits commencing within 30 days of the accident are covered, up to the limits stated below. Personal accident insurance covers you when you rent the car for the entire rental period. Passengers in the car are covered only for accidents which occur while they are in, or getting into or out of, the rental car. Benefit levels are:

<i>Benefits</i>	<i>You</i>	<i>Each of Your Passengers</i>
<i>Loss of:</i>		
<i>Life;</i>	\$200,000	\$20,000
<i>Both Hands or Both Feet;¹</i>		
<i>Sight of Both Eyes;²</i>		
<i>One Hand and One Foot;¹</i>		
<i>Either Hand or Foot¹ and the Sight of One Eye;²</i>		
<i>Speech and Hearing in Both Ears³</i>		
<i>Either Hand or Foot;¹</i>	\$100,000	\$10,000
<i>Sight of One Eye;²</i>		
<i>Speech;³</i>		
<i>Hearing in Both Ears³</i>		
<i>Thumb and Index Finger of the Same Hand⁴</i>	\$50,000	\$5,000
<i>Accidental Medical Expenses</i>	up to \$5,000	up to \$5,000

1. Hand or foot means actual severance through or above the wrist or ankle joints; 2. Eye means entire and irrecoverable loss of sight; 3. Speech or hearing means entire and irrecoverable loss of speech or of hearing in both ears; 4. Thumb and index finger means actual severance through or above the joint that meets the hand at the palm.

Total benefits for any one single accident are limited to \$300,000. Accidental death and dismemberment benefits are in addition to any other coverage you or your passengers may have. Medical coverage is secondary to any other group coverage you or your passengers may have. Benefits provided shall not be paid, under any circumstances, for more than one of the above losses.

Personal Effects Coverage

Coverage is provided for loss, theft or damage to your personal effects while such personal effects are in transit or in any hotel or other building en route during a trip using the rental car.

Coverage is provided for you when you rent a car and extends to any immediate family members (i.e., spouse, child, parent, parent-in-law, sister, or brother) traveling with you.

Maximum coverage during the rental period is \$1,000 for each covered person, per occurrence. Total benefits during the rental period are limited to \$2,000.

Benefits are secondary to any other coverage you or your passengers may have.

*Insurance coverages are provided under Master Group Policies issued by BCS Insurance Company; in the state of Texas dba, Medical Indemnity of America, Inc. Program administered by Access America, Inc.

DESCRIPTION OF COVERAGE FORM
BANKERS LIFE AND CASUALTY COMPANY

4444 W. Lawrence Avenue
Chicago, Illinois 60630

(Herein called the Company)

A Blanket Accident Policy has been issued to the Policyholder shown below. Certain terms of the policy are recited in this Description of Coverage Form.

POLICYHOLDER: **MASTERCARD INSURANCE TRUST** **POLICY NO. SR 83,371**

INSURED PERSON: All "Persons" as defined below.

"Person" shall mean a member or dependent (as defined); "Member" shall mean any individual who is a resident of the United States of America or Canada and is issued a "Gold MasterCard Card" by a bank, banking institution, bankcard association or any entity participating in the MasterCard Insurance Trust Gold MasterCard Card Common Carrier Accident Insurance Plan. "Dependent" shall mean each Dependent of the Member as defined below:

1. ~~The Spouse.~~ 2. Each dependent child of the eligible member under twenty-five (25) years of age. Stepchild and legally adopted child shall also be included in the definition of Dependent.

If coverage of a Dependent Child would terminate solely due to attainment of the limiting age, the attainment of such limiting age shall not operate to terminate the coverage of such dependent while such dependent is and continues to be both (a) incapable of self-sustaining employment by reason of mental retardation or physical handicap and (b) chiefly dependent upon the member for support and maintenance.

BENEFITS: ACCIDENTAL DEATH AND DISMEMBERMENT INSURANCE

The limit of coverage for an Insured Person whose coverage has become effective shall be \$500,000.00 Principal Sum.

In no event will duplicate or multiple MasterCard Cards obligate the Company in excess of \$500,000.00 per Insured Person.

DEFINITION OF INJURY

"Injury" shall mean bodily injury caused solely by an accident which occurs while the policy is in force and while the Person sustaining such injury is insured under the policy and which results directly and independently of all other causes in a loss covered by the policy provided such injury is sustained during a one-way or round trip taken by the Insured Person between the Point of Departure and the Destination (both as designated in the Insured Person's ticket) on or after the date of ticket purchase, provided, however, such injury is sustained under the circumstances specified in 1 or 2 as follows:

1. Such injury received while riding as a passenger, and not as a pilot or crew member, in or boarding or alighting from or being struck by any air, land or water conveyance operated under a license for the transportation of passengers for hire; provided the fare for such travel has been charged to a Gold MasterCard Card.
2. Such injury received while riding as a passenger in a common carrier (a vehicle licensed to carry passengers for hire) but only (a) when going directly to an airport, bus, train or ship terminal for the purpose of boarding such aircraft, bus, train or ship (for which fare has been previously charged to a Gold MasterCard Card) on which the Insured Person is covered by the policy; or (b) when leaving an airport, bus, train or ship terminal after alighting from such aircraft, bus, train or ship.

SRD/2043-DOC (500)

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State Farm Sues to Upset Gillespie's Prop. 103 Action

Insurance: A victory, or a 'peace treaty' hinted at by the commissioner, could delay implementation of the initiative.

By KENNETH REICH
TIMES STAFF WRITER

The State Farm Insurance Co. announced Wednesday that it has filed a lawsuit to invalidate Insurance Commissioner Roxani Gillespie's actions that struck down sex and marital status in setting auto insurance rates, curtailed neighborhood-based pricing and capped rate increases.

Accusing Gillespie of mandating pricing methods that would lead to rates "inadequate for some drivers, excessive for others and unfairly discriminatory for all," the State Farm suit also contends that the rate cap pegged to last year's consumer price index would unconstitutionally deprive the company of a fair return on its California business.

"The consumer price index bears no relationship to the cost of providing insurance in California," a company statement said.

State Farm lawyers expressed hope that San Francisco Superior Court Judge John A. Ertola, who was assigned the case, will grant an injunction barring Gillespie from implementing the regulations. A hearing on the suit, filed last Friday, is likely to be held within the next two weeks.

Karl Rubinstein, Gillespie's special attorney for implementing Proposition 103, said Wednesday that the commissioner might seek a "peace treaty" with State Farm and other companies, under which she would delay her pricing regulations pending results of Proposition 103 hearings now under way in San Bruno, while the State Farm lawsuit was held in abeyance.

Fair Rate of Return

Rubinstein said it would be difficult for Gillespie to present a comprehensive argument supporting her regulations against the suit until she decides, after the San Bruno hearings, what fair rate of return the companies are entitled to.

Not until such a standard is set will it become clear that Gillespie's pricing regulations are fair to the companies, Rubinstein said.

This was the first suggestion from Gillespie's side that the "emergency" regulations she imposed with great fanfare Dec. 5 might be subject to new delays. Gillespie is already giving the companies 60 days to submit new pricing standards and 150 days before the regulations have to be implemented.

Rubinstein said he had not yet had any lengthy discussions on his peace treaty idea with State Farm or insurance industry attorneys but said he had broached the idea with a State Farm attorney Wednesday.

The suggestion of a new agreement between Gillespie and the insurers, following an agreement last fall, drew quick criticism from Harvey Rosenfield, head of the Voter Revolt organization and author of Proposition 103.

"We will fight any efforts by Gillespie to further negotiate the enforcement of Proposition 103 with any insurance company," Rosenfield said.

"In passing proposition 103 more than a year ago, the public did not give Roxani Gillespie any right to bargain away rollbacks, diminution of territorial ratings or any of the deadlines contained in Proposition 103," he said. "It seems quite clear that Gillespie is anxious to postpone any action on enforcing Proposition 103 until after the 1990 elections.

"She has followed a strategy of encouraging litigation by repeatedly issuing and then renegotiating and then litigating each of her regulations. She may be intentionally issuing defective regulations that would invite the legal challenges that will tie this up in court.

I believe her actions are intended to protect the Republican Party and the insurance industry."

Gillespie called Rosenfield's comments nonsense. She insisted that any delay from an agreement with insurers would be only a few weeks. She said that finishing the hearings and establishing a fair rate of return would give her a far better legal argument in defending against the State Farm lawsuit.

Although State Farm sued on its own behalf, it is seeking a sweeping series of permanent remedies that would affect all of the several hundred companies selling auto insurance in California.

A legal victory for the company at the least would lead to new lengthy delays in implementing Proposition 103's auto insurance pricing provisions and could result in a significant portion of the landmark initiative being held unconstitutional.

State Farm, the largest seller of auto insurance in California, with about 17% of the total market,

seeks in the lawsuit to largely retain the status quo in the auto insurance pricing system, under which urban dwellers in Los Angeles and San Francisco pay far more for auto coverage than people in suburban and rural parts of the state, although it says it is ready to make some adjustments.

In the suit, the company strongly objects to the part of Gillespie's regulations that requires insurers to lower prices for urban dwellers without being allowed at the same time to recoup losses by charging rural and suburban drivers equivalent increases.

Los Angeles Times

MONDAY, JANUARY 22, 1990 *

Court Order Delays Proposition 103 Regulations: A San Francisco Superior Court judge approved on Wednesday an agreement between Insurance Commissioner Roxani Gillespie and four major auto insurance companies to further delay implementing Proposition 103. Judge John Ertola approved the order, which delays the commissioner's plan to bar auto insurance pricing based on a driver's home address. The court order also delays until at least August Gillespie's emergency regulations barring gender and marital status from consideration in determining insurance rates. (Filed Dec. 29, 1989. Case No. 914381)

DEPARTMENT OF INSURANCE

100 VAN NESS AVENUE
SAN FRANCISCO, CALIFORNIA 94102

December 5, 1989

From: Roxani M. Gillespie
Insurance Commissioner

Today the Department of Insurance is issuing the new Auto Rating, Good Driver Discount regulations for California drivers. They are the result of recent hearings involving testimony from consumers, insurers and other experts.

If anyone ever had the right to say "the buck stops here," I think it may be me. While others can merely offer opinions, objections or suggestions, it is the Commissioner who has to make the hard choices. I have been faced with some hard choices on these regulations and I have made them.

In short, I am outlawing the use of simple territory or zip code rating in the state. And I am taking steps to ensure that our good drivers are not faced with sharp increases in their rates by ordering that no rate can increase in any one year by more than the percentage increase in the Consumer Price Index for the preceding year.

While I cannot satisfy everyone, I will not stand for Californians to be charged with unfair, arbitrary and discriminatory rates. If I have to crawl into the litigation ring and slug out my decisions with 700 insurers -- or anyone else -- to prevent this, so be it.

Proposition 103 was a poorly-drafted measure and parts of it were held unconstitutional by the state Supreme Court. This included the automatic 20 percent rollback provision which was defective and promised more than the proponents of

Proposition 103 could deliver. The rollback provision was rewritten by the Supreme Court when it ruled that insurers must be given the opportunity to make a fair rate of return on business.

The Supreme Court took care of the insurers with this ruling; now I must look out for the consumers. I believe that consumers should also be guaranteed a fair rate in the form of premiums they pay for insurance.

The remaining portions of Proposition 103 have internal flaws and inconsistencies. They are difficult to harmonize, but I have done the best I can to integrate them into our regulatory system.

Proposition 103 was supposed to lower rates for all Californians, not raise them. It was supposed to encourage a competitive marketplace, not discourage one.

Proposition 103 was supposed to avoid arbitrary rates, not create them. It was supposed to avoid unfair discrimination, not encourage it.

Proposition 103 was supposed to make insurance more available, not less available.

But the inherent defects in Proposition 103 create conflicts which, if the measure is literally implemented, will discourage competition, result in higher rates for many, create arbitrary rates for some, create excessive and discriminatory rates for some, and make insurance less available.

I cannot rewrite the law, but I do have the power to harmonize its provisions so that the original "as advertised" aims of the proposition can be implemented. I have done my best along these lines with the regulations issued today.

Again, I am outlawing the use of simple territory or zip code rating. This is despite the fact that all the experts at our hearings, including those from the consumer groups, recognize that "territory" is a valid rating factor. I believe

this is what the public wants. I have done this because I believe territory can be misused and that the danger of keeping it as a single, intact factor outweighs the need to use it.

However, these rating regulations will allow industry to break out and use valid elements of what up to now we have called "territory," such as population density, vehicle density, repair costs, hospital costs, litigation rates, accident frequency and others. I am forcing the industry to seek out and develop credible data on such valid portions of territory. After the Department has reviewed the results, insurers may use what we have approved as part of their rating methodology. I will probably be sued for doing this, but it is the right thing. -

Next, I am requiring that the three factors mandated by Proposition 103 be given priority. These are:

- a. The insured's driving record
- b. The number of miles driven annually by the insured
- c. The insured's number of years driving experience.

I am also requiring that a list of optional rating factors be established for insurers to use, with the understanding that no optional factor may account for more premium than any of the three mandated factors. Thus, I am giving the mandatory factors the precedence required by the statute. I call this "mandated preference."

I am required to do this by the statute even though the experts agree that there are optional factors that actually account for more of the premium than the three mandated factors. This means that the "mandated preference" skews the actual relationship of the premium to the risk of loss, and if the requirements of Proposition 103 are followed, some people will have to pay more for insurance than the actual risk of loss would normally warrant.

I am convinced that following the letter of the statute will cause rates for many Californians to escalate significantly. I also believe this result is contrary to what