

**From:** Jim Weixel <appeals@jimweixel.com>  
**Subject:** BASF, BALIF ELF resolution re marriage fairness  
**Date:** Wed, 3 Sep 2008 17:44:59 -0700  
**To:** 'Laura Goldin' <ExecDir@cdcba.org>  
**CC:**  
**BCC:**

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Laura, attached is the emergency late-filed resolution from BASF and BALIF regarding marriage fairness and the November ballot initiative. Our reasons for submitting this resolution as an emergency late-filed resolution are as follows:

(1) "The resolution deals with a matter of substantial importance to the bar and the public." There is perhaps no issue which has consumed the California public and members of the legal profession as this one has in recent years. The battle for the hearts and minds of the electorate, on both equality and judicial independence issues, will require an extensive public education effort. The CDCBA is well-qualified to lead in that area.

(2) "The events giving rise to the resolution occurred at a time that effectively precluded the proponent from filing it within the times prescribed in subdivisions (a) and (b)." The Marriage Cases decision came down on May 15th, which is after the ordinary filing deadline. The decision, however, did not become final until 30 days later. Also, since qualifying for the November ballot, Proposition 8 has been the subject of a series of legal disputes over its continued qualification for the ballot and the wording to be used in the description of the proposition that will appear in the voter guide and on the ballot itself. The political and legal battles over Proposition 8 are far from over and are not expected to be resolved until well after the November election. Accordingly, this matter is appropriate for consideration as an emergency late-filed resolution.

(3) "The resolution was presented for filing as soon as reasonably possible after the occurrence of those events." BASF and BALIF coordinated their responses and efforts in drafting this resolution, and the boards of BASF (and, on information and belief, BALIF) approved the submission of this resolution. Both of the proponents have been working to garner support for this resolution in advance, to the extent possible under the practices of each major delegation to the Conference, and have attempted to coordinate their efforts with other organizations that are involved in efforts relating to Proposition 8. That process has naturally taken a considerable amount of time and effort, and our efforts to obtain agreement on wording and other issues have made it difficult to present the resolution before now.

(4) "The subject matter of the resolution will not be before the Conference at its meeting unless the resolution is filed." We know of no other resolution that will address Proposition 8, marriage fairness, or the other issues presented in this resolution.

(5) "The business of the Conference previously scheduled for the meeting will allow time for consideration of the resolution without unduly restricting the time for consideration of other matters deemed by the Board to be of equal or greater importance to the Conference, the bar and the public." The Conference has been a consistent supporter of marriage fairness and anti-discrimination measures generally for decades. We know of few issues, if any, which have been of greater importance to the Conference, the bar, and the public than equal protection under the law. The decision in the Marriage Cases is also of almost unprecedented importance in the jurisprudence and history of California. We are confident that if any issue should be given priority consideration and ample time on the floor of the Conference this year, it is this issue.

Please let me know if you have any questions or need anything further.

Thanks,  
Jim

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