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Court File No.

**IN THE SUPREME COURT OF CANADA**  
(On Appeal from the Ontario Court of Appeal)

BETWEEN:

THE INTERFAITH COALITION ON MARRIAGE AND FAMILY

Applicant  
(Party Intervener)

- and -

HEDY HALPERN and COLLEEN ROGERS,  
MICHAEL LESHNER and MICHAEL STARK,  
MICHELLE BRADSHAW and REBEKAH ROONEY,  
ALOYSIUS PITTMAN and THOMAS ALLWORTH,  
DAWN ONISHENKO and JULIE ERBLAND,  
CAROLYN ROWE and CAROLYN MOFFATT,  
BARBARA McDOWALL and GAIL DONNELLY and  
ALISON KEMPER and JOYCE BARNETT (the "Respondent Couples"), and  
METROPOLITAN COMMUNITY CHURCH OF TORONTO

Respondents  
(Respondents)

- and -

THE ATTORNEY GENERAL OF CANADA  
THE ATTORNEY GENERAL OF ONTARIO and  
NOVINA WONG, THE CLERK OF THE CITY OF TORONTO

Respondents  
(Appellants)

- and -

EGALE CANADA INC.

Party Intervener  
(Party Intervener)

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**AFFIDAVIT OF JOHN MCKAY**  
**ON BEHALF OF THE APPLICANT**  
**THE INTERFAITH COALITION ON MARRIAGE AND FAMILY**

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**AFFIDAVIT OF JOHN MCKAY**

I, JOHN MCKAY, of the City of Toronto, Province of Ontario, MAKE OATH AND SAY:

1. I am a Member of Parliament for the riding of Scarborough East and am a member of the Liberal Caucus. I am Vice-Chair of the House of Commons Standing Committee on Justice and Human Rights (the "Justice Committee"). As such I have knowledge of the facts and matters hereafter deposed to, except where stated to be based on information and belief, and where so stated, I believe them to be true.
2. I was first elected as a Member of Parliament in 1997, and was re-elected in 2000. Prior to my election to the House of Commons, I practised law in private practice.
3. The issue of whether Parliament ought to stipulate by legislation that a marriage can be a union between two persons of the same sex, or whether instead Parliament ought to preserve the traditional meaning of marriage, is one of the most contested and divisive issues that has arisen during my time in elected office. It is an issue that is deeply important to my constituents, and it is impressive how many of them have contacted my office with their views on this matter, and how many have voiced their opinions through local media. It is an issue that appears to touch everyone in some manner.
4. The issue of same-sex marriage is not only contested among my constituents (and, as my colleagues in Parliament tell me, their constituents as well), but also among Parliamentarians. There is deep division, irrespective of party, about whether Parliament could be justified in legislatively

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stipulating marriage to be an institution between two persons, as opposed to what marriage has been for millennia - an institution between one man and one woman.

5. The Executive of the Government of Canada has drafted a bill entitled "An Act Respecting Certain Aspects of Legal Capacity for Marriage", which it has referred to the Supreme Court of Canada under a constitutional reference. This draft bill has not yet been submitted to Parliament, and I understand that it is the Executive's intention is to submit the draft bill to Parliament for a free vote if the Supreme Court of Canada rules it to be fully constitutional. It should be noted, however, that it is widely expected by members of the Government, including me, that the Executive of the Government will be changed in upcoming months when the current Prime Minister resigns. After the resignation, it is expected that a general election will be called. From what I understand to be the timeline under which the constitutional reference will be heard by the Supreme Court of Canada, it is likely that the Executive will have changed - and perhaps a general election called - before the constitutional reference will be heard. There is no guarantee that the draft bill that has been prepared by the current Executive - and not yet submitted to Parliament - will be introduced to Parliament by the new Executive.

6. It would be an understatement to say that the draft bill is controversial. From my discussions with other Parliamentarians, I believe that many members of Parliament (like myself) are opposed to the draft bill and to same-sex marriage and believe that Parliament can, in a fully constitutional manner, respond legislatively to the needs of same-sex couples for institutional recognition (perhaps through a civil union or domestic partnership registry) without having to alter the meaning of marriage for everyone.

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7. My opposition, and the opposition of many other members of Parliament, to the draft bill has been widely covered in local and national media. On August 8, 2003, the Globe and Mail published a survey of members of Parliament in an article entitled "48 Liberals line up against same-sex marriage" (the "Globe and Mail Article"), finding considerable resistance to the draft bill from within the Liberal caucus and reporting that "Liberal opposition - combined with MPs from other parties who are against the legislation - throws into doubt whether the bill, to be decided in a free vote, will pass the Commons". A copy of the Globe and Mail Article is attached as Exhibit 1. The Globe and Mail Article concludes from the survey that "(w)hen opposition MPs are taken into account, both sides can claim roughly the same levels of support, with opponents holding a slight edge." Based on my discussions with other members of Parliament and my knowledge of the views of other Parliamentarians, I believe that the Globe and Mail Article accurately depicts the opposition to the draft bill within Parliament. It may be that the level of opposition to the draft bill is even greater than the Globe and Mail Article suggests; many of those who refused to respond to the survey are likely opposed to same-sex marriage. Many members of Parliament, including myself, are firmly committed to the defeat of the draft bill, and believe that if it is in fact introduced into the House of Commons, that it will be defeated.

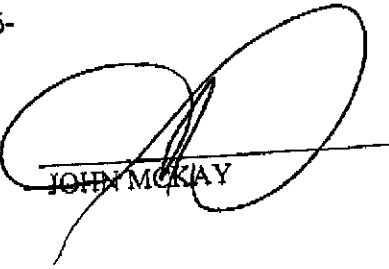
8. Parliament will, at some point, have to consider legislative options other than the draft bill, such as a civic union or domestic partnership registry. It is therefore necessary that Parliament have the benefit of the Supreme Court of Canada's disposition of the proposed appeal, made in light of the full factual record.

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SWORN before me at the City  
of Toronto  
in the Province of Ontario  
this 13  
day of August , 2003.

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JOHN MCKAY

A Commissioner for taking affidavits, etc.

EDWARD R. FLEURY

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