

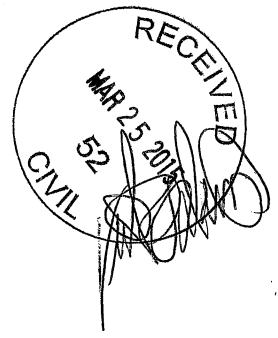
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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

**KAMALA D. HARRIS, in her official  
capacity as Attorney General of the State of  
California,**  
  
Plaintiff,  
  
v.  
  
**MATT McLAUGHLIN,**  
  
Defendant.

EXEMPT FROM FILING FEE  
(Gov. Code, § 6103)  
  
Case No. \_\_\_\_\_  
  
**COMPLAINT FOR DECLARATORY  
RELIEF**



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14 **KAMALA D. HARRIS, in her official  
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17 Plaintiff,

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19 **MATT McLAUGHLIN,**

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Case No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
RELIEF**

1 Plaintiff Kamala D. Harris, in her official capacity as Attorney General of the State of  
2 California, files this Complaint for Declaratory Relief against defendant Matt McLaughlin and  
3 alleges as follows:

#### 4 THE PARTIES

5 1. Plaintiff Kamala D. Harris is the duly elected Attorney General of the State of  
6 California.

7 2. Defendant Matt McLaughlin is an individual who resides in California and is a licensed  
8 California attorney who maintains a principal place of business in Huntington Beach.

#### 9 BACKGROUND FACTS

10 3. The Attorney General is the chief law officer of the State of California and has the duty  
11 to see that the laws of the State are uniformly and adequately enforced. (Cal. Const., art. V,  
12 § 13.)

13 4. Under the California Constitution, one of the duties of the Attorney General is to prepare  
14 a circulating title and summary of any proposed ballot measure submitted to her by a ballot  
15 measure proponent. (Cal. Const., art. II, § 10, subd. (d); Elec. Code, § 9002.)

16 5. On February 26, 2005, Mr. McLaughlin submitted to the Attorney General a proposed  
17 ballot measure titled the "Sodomite Suppression Act" (the "Act"), along with a request that the  
18 Attorney General prepare a circulating title and summary. A true and correct copy of  
19 Mr. McLaughlin's cover letter to the Office of the Attorney General and the text of the proposed  
20 ballot measure is attached as Exhibit A.

21 6. Based on a review of the proposed ballot measure and relevant legal authorities, the  
22 Attorney General has determined that the proposed ballot measure is patently unconstitutional on  
23 its face.

24 7. The Attorney General normally has a legal duty to prepare a circulating title and  
25 summary of a proposed ballot measure. She may, however, commence a timely and appropriate  
26 legal action seeking to be relieved of that duty based on a judicial determination that the measure  
27 is invalid. (*Schmitz v. Younger* (1978) 21 Cal.3d, 90, 92-93; *Widders v. Furchtenicht* (2008)  
28 167 Cal.App.4th 769, 780.)

1           8. While it is appropriately uncommon for public officials to seek such relief, courts have  
2 relieved officials of their duties to prepare a title and summary or submit a measure to voters  
3 where a proposal is unconstitutional on its face (see *Widders, supra*, 167 Cal.App.4th at p. 785);  
4 where an initiative’s unconstitutionality is clear (see *Jahr v. Casebeer* (1999) 70 Cal.App.4th  
5 1250, 1253-1254); and where submission of a legally invalid measure to the voters would serve  
6 no legitimate purpose, but would be a useless waste of resources and create emotional community  
7 divisions (see *Citizens for Responsible Behavior v. Superior Court* (1991) 1 Cal.App.4th 1013,  
8 1023).

9           9. Relief from the ordinary duty to prepare a title and summary is especially appropriate  
10 where, as here, the content of a proposed ballot measure not only is patently unconstitutional but  
11 also offends basic American values, is self-evidently calculated to be divisive and hurtful, and  
12 proposes to use public processes to enact, as purported public law, a type of overt disfavoring of a  
13 particular social group that the courts have repeatedly condemned. (See, e.g., *Romer v. Evans*  
14 (1996) 517 U.S. 620, 633 [“It is not within our constitutional tradition to enact laws of this  
15 sort”].) While private speech espousing similar positions is itself protected by the Constitution, a  
16 private speaker has “no constitutionally protected right to place his initiatives on the ballot if they  
17 [are] invalid.” (*Widders, supra*, 167 Cal.App.4th at p. 780.) Likewise, an individual has no right  
18 to require public officials to take any part in the circulation or attempted promulgation of a  
19 measure that could only be understood as “designed to encourage discrimination and promote  
20 bias against a selected class of citizens.” (*Citizens, supra*, 1 Cal.App.4th at p. 1030.) Even the  
21 public circulation of such an intentionally targeted and divisive measure, as though doing so were  
22 some ordinary aspect of the democratic process, would pervert that process in a way that could  
23 easily “open permanent rifts in [the] community.” (*Widders, supra*, 167 Cal.App.4th at p.781  
24 [quoting *Citizens, supra*, 1 Cal.App.4th at p. 1023].)

25           10. Requiring the Attorney General to prepare and issue any title and summary for such a  
26 measure could also unacceptably suggest some public or official imprimatur for the measure. At  
27 a minimum, it would create an unacceptable possibility of confusing voters into thinking that  
28 public officials had reviewed the measure and determined it was suitable for circulation as a

1 proposed public law, and thus at least potentially valid if enacted. In this instance, any such  
2 inference would be inaccurate, invidious, and misleading in the extreme. (See *Widders, supra*,  
3 167 Cal.App.4th at p. 781 [noting with approval official’s concern ““that the mere availability of  
4 a ballot title and summary for the petition . . . would effectively conceal the fatal flaws of the  
5 proposed measures, thus misleading the electors””].)

6 **CAUSE OF ACTION**

7 **(Declaratory Relief Against Defendant Matt McLaughlin)**

8 11. The Attorney General realleges paragraphs 1 – 10 as though fully set forth here.

9 12. Mr. McLaughlin has requested that the Attorney General prepare a circulating title and  
10 summary of the Act.

11 13. The Attorney General has determined that the proposed ballot measure is patently  
12 unconstitutional on its face. As but one example, the measure would purport to make it a capital  
13 offense to engage in conduct that the United States Supreme Court has made clear the  
14 government may not criminalize at all. (See *Lawrence v. Texas* (2003) 539 U.S. 558, 578.)

15 14. If enacted, the proposed measure would also patently violate the First, Eighth, and  
16 Fourteenth Amendments to the United States Constitution and parallel provisions of the  
17 California Constitution. (See, e.g., *Kennedy v. Louisiana* (2008) 554 U.S. 407, 421 [prohibiting  
18 capital punishment for nonhomicide crimes against individuals].)

19 15. Requiring the Attorney General to prepare a circulating title and summary would be  
20 inappropriate, waste public resources, generate unnecessary divisions among the public, and  
21 mislead the electorate.

22 16. There is a dispute between the parties over the proposed ballot measure that presents an  
23 actual controversy and requires a declaration from this Court regarding the rights and  
24 responsibilities of the parties.

25 **PRAYER FOR RELIEF**

26 Accordingly, the Attorney General prays for judgment against defendant as follows:

27 1. For a judicial declaration that the proposed ballot measure is patently unconstitutional on  
28 its face;

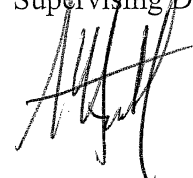
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2. For a judicial declaration that any preparation and official issuance of a circulating title and summary for this measure by the Attorney General would be inappropriate, waste public resources, generate unnecessary divisions among the public, and tend to mislead the electorate;
3. For a judicial declaration that the Attorney General is relieved of any obligation to issue a title and summary; and
4. For any further relief the Court deems proper.

Dated: March 25, 2015

Respectfully Submitted,

KAMALA D. HARRIS  
Attorney General of California  
CONSTANCE L. LELOUIS  
Supervising Deputy Attorney General



ANTHONY R. HAKL  
Deputy Attorney General  
*Attorneys for Plaintiff*

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# EXHIBIT A

February 24, 2015

Initiative Coordinator  
Office of the Attorney General  
1300 I Street, 17th Floor  
Sacramento, CA 95814

RECEIVED

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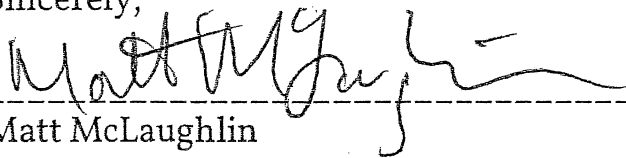
INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

Enclosures:

- (1) the complete text of the proposed initiative measure ("Sodomite Suppression Act");
- (2) check for \$200 payable to the State of California;
- (3) Initiative certification.

Please now prepare the circulating title and summary of the chief purpose and points of the proposed measure and advise me of the same at my address given below.

Sincerely,



Matt McLaughlin  
19744 Beach Blvd #219  
Huntington Beach, CA 92648



## SODOMITE SUPPRESSION ACT

Penal Code section 39

a) The abominable crime against nature known as buggery, called also sodomy, is a monstrous evil that Almighty God, giver of freedom and liberty, commands us to suppress on pain of our utter destruction even as he overthrew Sodom and Gomorrha.

b) Seeing that it is better that offenders should die rather than that all of us should be killed by God's just wrath against us for the folly of tolerating wickedness in our midst, the People of California wisely command, in the fear of God, that any person who willingly touches another person of the same gender for purposes of sexual gratification be put to death by bullets to the head or by any other convenient method.

c) No person shall distribute, perform, or transmit sodomistic propaganda directly or indirectly by any means to any person under the age of majority. Sodomistic propaganda is defined as anything aimed at creating an interest in or an acceptance of human sexual relations other than between a man and a woman. Every offender shall be fined \$1 million per occurrence, and/or imprisoned up to 10 years, and/or expelled from the boundaries of the state of California for up to life.

d) No person shall serve in any public office, nor serve in public employment, nor enjoy any public benefit, who is a sodomite or who espouses sodomistic propaganda or who belongs to any group that does.

e) This law is effective immediately and shall not be rendered ineffective nor invalidated by any court, state or federal, until heard by a quorum of the Supreme Court of California consisting only of judges who are neither sodomites nor subject to disqualification hereunder.

f) The state has an affirmative duty to defend and enforce this law as written, and every member of the public has standing to seek its enforcement and obtain reimbursement for all costs and attorney's fees in so doing, and further, should the state persist in inaction over 1 year after due notice, the general public is empowered and deputized to execute all the provisions hereunder extra-judicially, immune from any charge and indemnified by the state against any and all liability.

g) This law shall be known as "The Sodomite Suppression Act" and be numbered as section 39 in Title 3 of the Penal Code, pertaining to offences against the sovereignty of the state. The text shall be prominently posted in every public school classroom. All laws in conflict with this law are to that extent invalid.