

REMCHO, JOHANSEN & PURCELL, LLP
ATTORNEYS AT LAW

201 DOLORES AVENUE
SAN LEANDRO, CA 94577
PHONE: (510) 346-6200
FAX: (510) 346-6201
EMAIL: kgetman@rjp.com
WEBSITE: www.rjp.com

SACRAMENTO PHONE: (916) 264-1818

Joseph Remcho (1944-2003)
Robin B. Johansen
Kathleen J. Purcell (Ret.)
James C. Harrison
Thomas A. Willis
Karen Getman
Margaret R. Prinzing
Kari Krogseng

MEMORANDUM

To: Station Manager

From: Karen Getman

Date: October 8, 2008

Re: "It's Already Happened" Ad (Our File No.: 2458.1)

We understand that your station may be airing an advertisement sponsored by ProtectMarriage.com – Yes on 8, a political committee that seeks approval of Proposition 8 on the November general election ballot. The advertisement, entitled "It's Already Happened" in English and "Esto Ya Occurio" in Spanish, contains several statements that a Superior Court judge already has ruled are "false and misleading." We strongly urge you to refrain from airing the advertisement unless the committee corrects these misrepresentations.

Proposition 8 seeks to reverse the California Supreme Court ruling that allows same sex couples to marry. The advertisement at issue shows a young girl discussing with her mother a book that her teacher read in class about two princes who marry. Professor Richard Peterson of Pepperdine University – and the University is identified even though it has publicly dissociated itself from Professor Peterson and asked not to be identified in the Yes on 8 advertisements¹ – discusses a court ruling in Massachusetts where parents sued the school district for allowing that book to be read in school. The Professor asserts that the court "ruled parents had no right to object." This is misleading; the court there ruled only that the parents had not asserted a *federal constitutional claim*; it did not rule they had no right to object in any forum.

The advertisement strongly implies that parents in California similarly will have "no right to object" to what is taught their children in school unless Proposition 8 passes. This is

¹ See attached article, "Pepperdine University Forces Yes on Prop 8 Campaign to Remove Professor's Affiliation from Ad."

false. Massachusetts, unlike California, has a relatively limited statutory right for parents to opt-out of teaching about family and health issues, and the parents there had not challenged the scope of that law. By contrast, California's law, codified in Education Code section 51240, clearly states that parents or guardians of public school children may excuse their children from "any part of a school's instruction in health" if it conflicts with the "religious training and beliefs" or "personal moral convictions" of the parent or guardian.

The advertisement also asserts that "teaching children about gay marriage will happen here unless we pass Proposition 8." That statement is false and misleading, as the Yes on 8 campaign is well aware. This summer, the proponents of Proposition 8 were sued over the arguments that would appear in the statewide ballot pamphlet concerning the initiative. Among other things, the Yes on 8 proponents wanted to state in the ballot pamphlet that public school teachers in California would be required to teach young children about marriage between same sex couples.

The Sacramento Superior Court clearly and firmly rejected that statement as "false and misleading." The Court's written order in case number 34-2008-00017366, issued on August 8, 2008, reads in relevant part:

Petitioners also challenge the proponents' argument that teachers "will be required" to teach young children about gay marriage. The Court agrees with Petitioners that this statement is false and misleading, and should be amended.

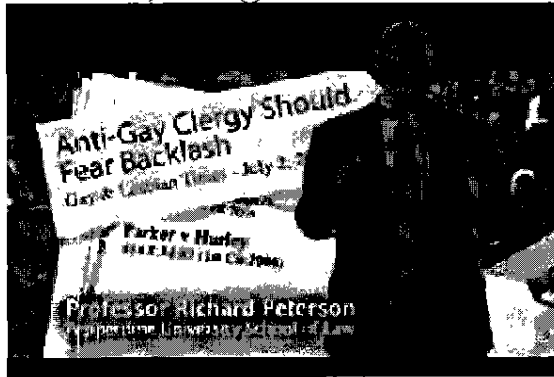
As Petitioners have established, current state law does not *require* school districts to teach anything about marriage or same-sex marriage at any grade level. Moreover, for those school districts that *choose* to include instruction about marriage as part of a health education curriculum, Education Code § 51240 requires that they allow parents to excuse their children from any such instruction conflicting with the parents' religious or moral convictions. (Cal. Ed. Code § 51240.)

The Yes on 8 campaign has been on notice since this summer that its claims about what young children will be taught in public schools are false and misleading. There is no excuse for its continued repetition of those false claims. We strongly urge you not to repeat those falsehoods by airing these advertisements.

- [Josiah Greene](#)
- [M. David Ruff](#)
- [Matt Jones](#)
- [Phil Asgedom](#)
- [Roger Salazar](#)
- [ryantest](#)
- [Sean Barry](#)

Professor's Affiliation from Ad

October 06, 2008 @ 11:54 AM



When proponents of Proposition 8, the initiative that would eliminate marriage rights for committed same-sex couples, launched their first television ad last week, they featured a misleading commentary from Pepperdine University law professor Richard Peterson. Apparently a number of Pepperdine alumni were upset at their alma mater's association with an initiative that would write discrimination into our state constitution, so the university contacted the Yes on Prop 8 campaign, insisting that the professor's affiliation be pulled from the ad ([h/t LAist](#)).

"We'd like to stress that the professor does not represent a Pepperdine University-endorsed position, as the University does not advocate for/against political candidates or ballot propositions," explained Jerry Derloshon, executive director for public relations for the university in an e-mail to alumni. "The professor in the ad was not advocating a Pepperdine position, but his own personal position. We have received confirmation that our request to have the reference to Pepperdine University deleted from the ad will be honored."

Incidentally, Prop 8 joins Props 7 and 10 as one of only three initiatives without a single editorial board endorsement. One would imagine the [Orange County Register](#), [San Diego Union Tribune](#), or [Tracy Press](#) would adamantly reject a proposition that allows "people [to be] sued over personal beliefs" or puts churches in danger of losing their tax-exempt status, as Professor Peterson falsely claims in the ad. But instead, three of the state's most conservative-leaning editorial boards endorsed a No on Prop 8 position, because, as the

- [Prop 4 \(Family Notification for Minor Abortions\)](#)
- [Prop 5 \(Drug Sentencing Reform\)](#)
- [Prop 6 \(Longer Prison Terms for Gangs, Juveniles\)](#)
- [Prop 7 \(Renewable Energy, Solar\)](#)
- [Prop 8 \(Marriage Equality Ban\)](#)
- [Prop 9 \(Increased Victim Participation in Trials and Parole Hearings\)](#)
- [Prop 10 \(Renewable Energy, Natural Gas\)](#)
- [Prop 11 \(Redistricting\)](#)

[Vote](#)

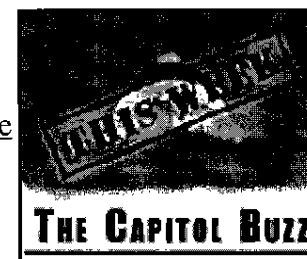
[Results](#)

[Majority Vote Archives](#)

[BlogTalkRadio](#)

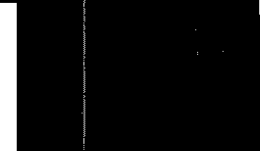
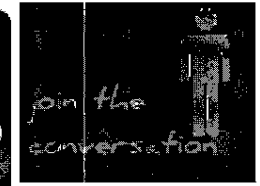
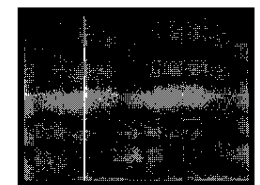
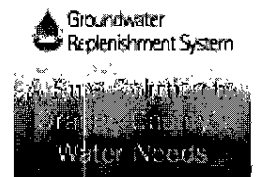
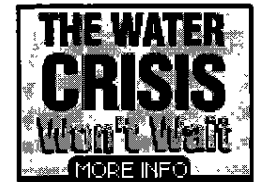


[The Echo Chamber](#)



[Latest Comments](#)

- [Calitics' Proposition](#)



Majority Reporters

- [Ace Smith](#)
- [Alan Arkatov](#)
- [Alex Clemens](#)
- [Andre Pineda](#)
- [Bart Broome](#)
- [Ben Tulchin](#)
- [Bill Carrick](#)
- [Brian Brokaw](#)
- [Brian O'Hara](#)
- [Brian VanRiper](#)
- [Chris Lehane](#)
- [Cristina Uribe](#)
- [Crystal Strait](#)
- [Dario Frommer](#)
- [Darry Sragow](#)
- [Dave Rand](#)
- [David Binder](#)
- [Douglas Boxer](#)
- [Eric Jaye](#)
- [Gale Kaufman](#)
- [Garry South](#)
- [John Garamendi](#)
- [John Shallman](#)
- [John Whitehurst](#)
- [Jude Barry](#)
- [Katie Merrill](#)
- [Larry Grisolano](#)
- [Lloyd Levine](#)
- [Matt Jones](#)
- [Pablo Espinoza](#)
- [Paul Hefner](#)
- [Robin Swanson](#)
- [Sam Lauter](#)
- [Sandi Polka](#)
- [Sherry Greenberg](#)
- [Steve Smith](#)
- [Guest Authors](#)

Latest Reports

- [No on Prop 2 Campaign Pays \\$4,620 to Man](#)

- [Responsible for Dumping 30,000 Live Hens into a Wood Chipper](#)
- [Prop. 11: The Arizona Mirage](#)
- [PPIC Asks Senator Perata, Former CRP Chair Sundheim, Others, Does California Face a Crisis in Confidence?](#)
- [On Prop 8, Matthew Shepard, and the Future of our Society](#)
- [California In Focus](#)
- [Introducing the California Majority Reports, a Podcast of the California Majority Report](#)
- [A Profile in Cowardice: Dean Andal Ducks and Dodges, Runs for the Ruby Hills When Asked About the "Bailout Bill"](#)
- [California Budget Round Two: It's the End of the World as We Know, and I Feel Finite Credit](#)
- [SurveyUSA: Props 4 and 8 Up, Prop 11 Might As Well be a Figment of our Imagination](#)
- [Fargo Takes the Low Road in Sacramento Mayoral Debate](#)

Tracy Press explained, "We shouldn't change the state Constitution to take away civil rights."

No matter who they find to spew nonsense in front of a camera, the Yes on Prop 8 campaign can't escape this simple fact: Californians tend to be reluctant to take away rights, and Prop 8 would restore a separate and unequal marriage system in California that does not reflect our state's inclusive values.

[Print this report](#) | [Send to a friend](#)

[About Donald Lathbury](#) | [All Reports by Donald Lathbury](#)

Browse in : [[Reports](#)]

There are no comments attached to this item.

Ratings

- [Contact The Publishers](#)
- [How to Advertise](#)
- [Privacy Policy](#)

- [End... in Calitics' Proposition](#)
- [End... by literarysurfer](#)
- [How Many Voters Can They ... in How Many Voters Can They ... by The Gadfly](#)
- [Re: New CBS 5 Poll Shows ... in New CBS 5 Poll Shows Plur... by Donald Lathbury](#)
- [New CBS 5 Poll Shows Plur... in New CBS 5 Poll Shows Plur... by Vince Hall](#)
- [How Many Democrats Can Re... in How Many Voters Can They ... by david_t](#)

