

## IN THE SUPREME COURT OF CALIFORNIA

KAREN L. STRAUSS et al.,	)	
Petitioners,	)	
v.	)	
MARK B. HORTON, as State Registrar of Vital Statistics, etc., et al.,	)	S168047
Respondents;	)	
DENNIS HOLLINGSWORTH et al.,	)	
Intervenors.	)	
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ROBIN TYLER et al.,	)	
Petitioners,	)	
v.	)	
THE STATE OF CALIFORNIA et al.,	)	S168066
Respondents;	)	
DENNIS HOLLINGSWORTH et al.,	)	
Intervenors.	)	
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CITY AND COUNTY OF SAN FRANCISCO et al.,	)	
Petitioners,	)	
v.	)	
MARK B. HORTON, as State Registrar of Vital Statistics, etc., et al.,	)	S168078
Respondents;	)	
DENNIS HOLLINGSWORTH et al.,	)	
Intervenors.	)	

### MODIFICATION OF OPINION

#### THE COURT:

The majority opinion herein, filed on May 26, 2009, is modified as follows:

1. In response to the requests for modification filed by petitioners in S168047 and S168078, the following paragraph is added at the end of footnote 26 (appearing on p. 96 of the filed opinion):

“In petitions for rehearing, petitioners point out that the amendment/revision issue was among the numerous issues raised in the briefs filed in another case involving Proposition 14 that was decided one month after *Mulkey v. Reitman* (*Hill v. Miller* (1966) 64 Cal.2d 757), but

in *Hill* this court affirmed the trial court’s rejection of the plaintiff’s lawsuit without addressing that issue (*id.* at pp. 759-760), and petitioners acknowledge that the amendment/revision issue was not raised by any party in *Mulkey*, the lead case challenging Proposition 14.”

2. On the court’s own motion, the following paragraph is added at the end of footnote 1 (appearing on pp. 12-13 of the filed opinion):

“Finally, in New Hampshire, where the state legislature even more recently enacted similar legislation permitting same-sex couples to marry (N.H. 2009 chs. 59-61 (161st Sess. Gen. Ct.) enacted June 3, 2009 [H.B. Nos. 436, 310 & 73]), the state constitution also may not be amended through the initiative process. An amendment to the New Hampshire Constitution may be proposed either by three-fifths of the entire membership of each house of the legislature or by three-fifths of the entire membership of a constitutional convention, and in either case a proposed amendment becomes effective only if approved by a two-thirds vote of the electorate at a statewide election. (N.H. Const., pt. II, art. 100.)”

The concurring and dissenting opinion by Moreno, J. herein, filed on May 26, 2009, is modified as follows:

1. The penultimate sentence of footnote 6 on pages 16-17 that begins, “But Proposition 14 was not even challenged . . .” is modified to read: “But in *Mulkey v. Reitman*, Proposition 14 was not even challenged . . . .”

2. The following sentence is added at the end of footnote 6, on pages 16-17: “Moreover, as the majority acknowledges, the issue was raised in the related case of *Hill v. Miller* (1966) 64 Cal.2d 757. (Maj. opn., *ante*, at p. 96, fn. 26.)”

This modification does not affect the judgment.