



TIM BOBOSKY | PHOTO EDITOR

Tim Smith, left, a small business owner, and Kent Kully, a city planner, discuss the voiding of their marriage license by the Oregon Supreme Court.

University alumni challenge Ballot Measure 36 outcome

Basic Rights Oregon claims the measure is illegal, and is taking it to court with the help of volunteer attorneys

BY EMILY SMITH
NEWS REPORTER

Several University alumni are among 22 Oregonians who filed a complaint in Marion County on Monday, challenging the legitimacy of Measure 36, which was passed last November prohibiting gay marriage in Oregon.

Basic Rights Oregon, a gay rights advocacy group, initiated the case with the help of volunteer attorneys, recruiting 10 gay and lesbian couples who were affected by Measure 36 and whom BRO officials hoped would strengthen the complaint, BRO Communications Director Rebekah Kassell said.

According to BRO's Web site, "the measure is illegal and should not have been presented to Oregon voters."

Prosecuting Attorney Mark Johnson of Portland said Measure 36 is unconstitutional because it makes two amendments to the constitution.

If a ballot measure contains more than one amendment, Oregon's constitution states that each amendment must be voted on separately.

He also said the process used to change Oregon's constitution was inappropriate because the changes were so sweeping that they should qualify as a revision instead of an amendment.

But Charles Fletcher, an assistant attorney general defending the measure, said voters only clarified marriage law in the simple one sentence proposition and didn't change it.

"There was no right to same-sex marriage before Measure 36, and there is no right to same-sex mar-

riage after Measure 36," Fletcher said.

Marion County Circuit Court Judge Joseph Guimond is scheduled to rule on the complaint by Nov. 1. If he rules in favor of the plaintiffs, the case will move to the appeals court. If it succeeds there, it will be forwarded to the Oregon Supreme Court, Johnson said.

If the plaintiffs win, the amendment will be stricken. Without the amendment, the court might choose to interpret the words "husband and wife" in the constitution as gender-neutral, Johnson said.

The complaint names Gov. Ted Kulongoski as a defendant because he was responsible for issuing a proclamation declaring the measure approved. When questioned about the case on Tuesday afternoon, Kulongoski said he had not read the complaint.

To plaintiffs Kent Kully and Tim Smith, a victory would be a small step toward the United States honoring their marriage. The Eugene couple was selected because of the media coverage they received in 2004 as the first gay couple to be married in Eugene and because of the instrumental role they played in starting the Domestic Partner Registry, Smith said. He and Kully attended the hearing in Salem to listen to arguments about the case.

"They were splitting split hairs," said Smith. "But on some level they were talking about my life."

Smith believes that he and Kully will eventually be able to wed legitimately, although it may be a long process. The couple of 14 years met while they were both attending graduate school at the University

in 1991.

Other plaintiffs include Dan O'Neil and Steve Kenison of Bend, who have been a couple for eight years. Kenison has a health insurance policy that won't cover O'Neil, who has "serious health issues," according to the BRO Web site.

The site also lists lesbian couple Cristina Caravaca and Sandra Naranjo, a University graduate, who are putting off adopting another baby until "they can be assured that their family is protected."

Becky Hanson and Kathy Flynn a couple for 15 years who married in Multnomah County last year, are also plaintiffs in the case. Flynn is a sergeant for the Eugene Police Department, and if she were injured or killed in the line of duty, Hanson would not receive survivor benefits under Measure 36. Hanson, also a former University student, worked for the EPD for 27 years before retiring in 2003. The couple remains optimistic that someday gay couples will enjoy the same rights as straight couples, according to BRO's Web site.

The complaint also names as plaintiffs two Oregon reverends whose churches defend gay marriage.

Canada, most of Europe and New Zealand are more open to the issue of gay marriage than the United States, he said.

"The United States is way behind the rest of the world," Smith said.

Oregon was among the first states where marriage licenses were issued when Multnomah County granted more than 3,000 licenses. The state Supreme Court invalidated them, saying the county had no authority to issue the licenses.

esmith@dailymerald.com
The Associated Press contributed to this report.

**You Should
Consider a
Career in
Teaching if...**

**Apply today for January
2006 Fifth Year Master of
Arts in Teaching Program!**

- Earn your Master of Arts in Teaching and Initial Oregon Teaching License in 12 months.
- Enjoy small classes and personal attention from our accomplished faculty.
- Take advantage of our respected relationships with local school districts.

**PACIFIC
UNIVERSITY**
1849
EUGENE

*You're
Rewarded by
a Child's Smile.*

**Information Meeting
October 4th, 4-5 pm
EMU Rogue Room**

RSVP to teach@pacificu.edu
or 485-6812



Substance Abuse Prevention Program

SAPP is a nationally recognized program designed to provide education and to increase awareness and prevention in the areas of:

Gambling
bulimia & anorexia
FOOD
Adrenaline
sex
religiosity
ALCOHOL
Obesity
DRUGS

For term-long classes, visit
<http://sapp.uoregon.edu>
346-4135

www.sweetlifedesserts.com
Voted best of Eugene: Bakery & Sweet Tooth Indulgence

Sweet Life

755 MONROE ST., EUGENE, OR 97402 • 541.683.5676

A patisserie serving fine desserts, gourmet pastries,
organic coffee, espresso & tea, vegan options

GELATO
MORNING PASTRIES

CHOCOLATE
cake
BY THE SLICE!
special occasion cakes

MON-FRI: 7 AM - 11 PM
SAT-SUN: 8 AM - 11 PM



Student Groups!

Advertise in the Emerald call 346-4343
or place your ad online at
www.dailymerald.com