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## Public Notice Resource Center and TN NOW Urge Tennessee Supreme Court to Overturn Lower Court Decision on Marriage Ban Amendment

### **Friend-of-the-Court Briefs Support ACLU-TN's Procedural Challenge to the Marriage Ban Amendment; Challenge States Tennessee General Assembly Failed to Follow Procedures Concerning Notification for Constitutional Amendments, Crippling Public Debate on Issue**

Nashville – In two friend-of-the-court briefs filed in the American Civil Liberties Union of Tennessee (ACLU-TN)'s procedural challenge to the marriage ban amendment, the Public Notice Resource Center (PNRC) and the state chapter of the National Organization for Women (TN NOW) urged the Court to overturn a lower court decision on a constitutional amendment to ban marriage by same-sex partners in Tennessee.

In their friend-of-the-court briefs filed with the Supreme Court of Tennessee, the PNRC and TN NOW explain how the State's failure to follow procedures concerning notification for constitutional amendments limited the public debate on the issue.

“The State failed to meet the constitutional deadline through the traditional method of publishing proposed amendments in newspapers, and therefore, has after-the-fact claimed that posting the proposed amendment on the General Assembly website was constitutionally sufficient. However, the State's own evidence demonstrates that burying the proposed amendment in the General Assembly's website neither was intended to meet the publication requirement nor actually provided effective notice to the public,” said Michael Bressman, the attorney representing the PNRC. The PNRC is an organization dedicated to research on public notice and its trends.

ACLU-TN filed ACLU-TN v. Darnell, et al on April 21, 2005 challenging a proposed amendment to the Tennessee Constitution that would ban same-sex couples from being able to marry in the state. The lawsuit charges that the state failed to meet notification requirements as outlined in the State Constitution. Specifically, it charges that the text of the amendment was not adopted and published six months prior to the General Assembly election as required by the State Constitution. After the Chancery Court for Davidson County dismissed the case, ACLU-TN requested a direct expedited

appeal to the Tennessee Supreme Court. The Court granted the request; oral arguments are scheduled for June 7. The Court is expected to rule sometime this summer.

- The PNRG argues in its brief that an Internet posting of the amendment to the General Assembly's Web site does not constitute "publication" of the amendment under the constitutional notification requirement. The brief argues that, according to the General Assembly's own Web traffic statistics, the Internet posting reached fewer people in eight months than publication in six Tennessee newspapers would have reached in one day. The brief also argues that large segments of Tennesseans still do not use the Internet, and that states have not traditionally used the Internet for public notice.
- A brief filed by TN NOW explains why six-month notice before General Assembly elections in Tennessee is vital for sufficient debate of constitutional amendments. Organizations that mount large campaigns centered around important amendments need concrete, timely notification before they can commit time and resources to an amendment fight.

The lawsuit was brought on behalf of ACLU members; State Representatives Larry Turner, Beverly Robison Marrero and Tommie Brown; the Tennessee Equality Project (TEP), a statewide lesbian, gay, bisexual and transgender lobbying organization; and several private citizens.

"It is clear this amendment is being rushed to the ballot without regard to constitutional safeguards that require sufficient time for public debate and campaigning on the issue. We believe this discriminatory and divisive amendment should not have been introduced in the first place, but now that it has been, the General Assembly must adhere to the Tennessee Constitution and allow those who would debate the amendment the time to do so adequately," said Hedy Weinberg, ACLU-TN Executive Director.

Melody Fowler-Green, ACLU-TN staff attorney, is the lead counsel in ACLU v. Darnell et al. Abby R. Rubinfeld of Rubinfeld Law Office and Anne C. Martin of Bone, McAllester Norton PLLC are ACLU-TN Cooperating Attorneys.

Michael Bressman, Assistant Clinical Professor of Law at Vanderbilt University Law School, represents PNRG and Robyn E. Smith of Hubbard, Berry, Doughty, Harris & Barrick PLLC filed the amicus brief on behalf of TN NOW.