

**For Immediate Release**

**The Legal Aid Society–Employment Law Center  
April 13, 2010**



The Legal Aid Society  
EMPLOYMENT LAW CENTER

**CONTACTS:**

Claudia Center, Counsel for Plaintiffs, [ccenter@las-elc.org](mailto:ccenter@las-elc.org)  
Shelley Gregory, Counsel for Plaintiffs, [sgregory@las-elc.org](mailto:sgregory@las-elc.org)  
Lori Rifkin, Counsel for Plaintiffs, [lrifkin@las-elc.org](mailto:lrifkin@las-elc.org)  
(415) 864-8848 (office number)  
(415) 531-2874 (Claudia Center cell)

## **Same-Sex Couples, State Workers, Sue IRS and CalPERS for Insurance Discrimination**

### **Suit alleges that state and federal rules for long-term care insurance violate the United States Constitution**

**San Francisco, Calif. – April 13, 2010.** Today the Legal Aid Society–Employment Law Center (LAS–ELC) filed a class action lawsuit in federal district court, alleging that federal and California laws violate the United States Constitution by excluding same-sex partners of government employees from tax-protected long-term care insurance plans.

Under federal law, a state may offer a “qualified,” or tax-protected, long-term care plan to public employees and a broad array of family members, including children, siblings, parents, nephews, nieces, aunts, uncles, in-laws, “step” relatives, and opposite-sex spouses. Only one family member is excluded: an employee’s same-sex spouse or registered domestic partner.

Following federal law, the California Public Employees’ Retirement System (CalPERS) has established a popular long-term care plan that insures more than 165,000 individuals. The plan permits members to enroll their parents, in-laws, siblings, and opposite-sex spouses. Same-sex partners may not apply.

“I’ve been in a committed relationship with my partner for more than 30 years,” says plaintiff Michael Dragovich, a UCSF nurse specializing in liver transplants who joined the CalPERS plan as a state employee in 1997. “According to the government, I could enroll a sibling, a step-parent, or an in-law into long-term care coverage, but not the one person closest to me.”

Plaintiff Patricia Fitzsimmons, married to state employee and plaintiff Elizabeth Litteral, wants to enroll in the plan to protect her family’s future. “Liz and I are in our 50s,” says Fitzsimmons. “We want to plan responsibly for our whole lives. We don’t want to rely on our daughter for care – we want her to live her own life.”

Mr. Dragovich adds, “It is hard to believe that after all of these years, even after we were legally married, our relationship still isn’t fully recognized.”

In 2008, following the California Supreme Court’s decision legalizing gay marriage, the three couples who are now plaintiffs in the case were legally married. Today, California no longer permits same-sex marriage, but the state’s highest court has ruled that same-sex couples must be granted equal rights.

“It is discouraging that California’s long-term care plan continues to discriminate against gay and lesbian couples,” says Claudia Center, attorney for the plaintiff couples. “Excluding same-sex partners from these plans – while permitting so many other family members to enroll – is deeply disrespectful, and harmful to public servants and their families. It also violates the Constitution.”

The plaintiffs hope to open the CalPERS long-term care program on an equal basis to California public employees who have same-sex spouses or domestic partners.

Long-term care insurance provides coverage when a person needs help with basic activities due to chronic illness, injury, age, or a severe cognitive impairment like Alzheimer’s. The U.S. Department of Health and Human Services estimates that seventy percent of people over the age of 65 will need long-term care services.

Without insurance, the high cost of long-term care can force families to make painful choices such as selling a home to pay bills, or having a healthier spouse or child give up working to become a caretaker.

*The Legal Aid Society-Employment Law Center, founded in 1916, protects the rights and economic self-sufficiency of low-income and disadvantaged workers and their families throughout the Bay Area, California, and the nation.*

The Legal Aid Society–Employment Law Center  
600 Harrison Street, Suite 120  
San Francisco, CA 94107  
Office (415) 864-8848  
Fax (415) 864-8199  
[www.las-elc.org](http://www.las-elc.org)