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**Sunday, May 20, 2007**

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## **Couple among plaintiffs in marriage equality case**

By **JARED NEWMAN**  
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WILTON — In 2004, Wilton residents Jeffrey Busch and Stephen Davis went to the town clerk's office in Madison and demanded to be married. As expected their request was denied but the action was necessary — they were one of eight gay and lesbian couples who claimed the denial caused them harm and was violation of the state constitution. They would take their case to the courts.

On Monday, the couples faced seven supreme court justices in Hartford as their lawyer, Bennett Klein, argued their case.

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Klein said gay marriage is a form of sexual discrimination and referred to the U.S. Supreme Court case of Loving v. Virginia, where a law prohibiting interracial marriage was ruled unconstitutional. If marriage shouldn't be restricted to two black people or two white people, he said, it shouldn't be exclusive to a man and a woman.

"It is because of sex plainly that the marriage exclusion does exist," Klein told the justices.

Assistant Attorney General Jane Rosenberg countered that the law applies equally to men and women, so it's not an

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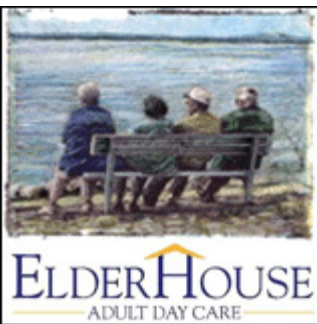
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instance of sexual discrimination.

"As a female, I can enter into a marriage or a same sex partnership," she said.

Monday's hearing was part of a landmark case. It is the second supreme court case in the country where the plaintiffs said gay marriage is a fundamental constitutional right. New Jersey rejected that claim last year, and Massachusetts allowed gay marriage in 2003 simply because the court couldn't find a rational reason not to.

Connecticut passed a law allowing civil unions in 2005, and was the first state to do so without going through the courts. Some lawmakers are trying to pass gay marriage legislation as well, but it was announced Friday that the issue will not be voted on until next season.

Gay marriage opponents, including the state, have argued that civil unions afford all the same rights and privileges to same-sex couples as marriage, but to Busch and many others, it's not enough.

"Even though we knew in advance [being denied marriage in Madison] was going to happen, it felt terrible," Busch said in an interview.

Busch and Davis' involvement in the lawsuit evolved from an incident where they and their now 4 year-old son Elijah passed through Canada after a trip to Europe. The immigration officer asked about Busch and Davis' relationship to Elijah, who was 1 at the time, and they showed a birth certificate proving Busch was the father.

The officer, not satisfied, asked who was the boy's mother. "Everyone has a mother" Busch recalled the officer saying. They were eventually allowed to pass through, but the officer cautioned them not to travel internationally again without proper documentation.

"Now I'm a lawyer, and I had no idea what documents she wanted," Busch said.

To prevent similar incidents in the future, Busch and Davis saw a lawyer, Maureen Murphy, who told them they needed power of attorney and other documents. Murphy, who practices in New Haven, heard about the lawsuit in Madison, and asked if Busch and Davis wanted to be a part of it.

Sitting in the driveway of his home on DeForest Road, Busch recalled a time that Elijah cut his face in school, and was referred to a plastic surgeon by their pediatrician. While filling out forms, Busch had to answer if he was single, married or in a civil union.

"As I checked off 'partner to a civil union,' it struck me. I was disclosing my sexual orientation to a doctor I had never met and who was about to perform surgery on my son's face," Busch said.



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"Although there shouldn't be discrimination, my sexual orientation doesn't belong in these conversations, where my marital status might—" He stops to think, "It feels like old-fashioned discrimination."

Busch and Davis met 17 years ago, at a Mexican restaurant. They went out dancing, started a relationship, and moved in together two years later.

Shortly after the bill allowing civil unions passed, Busch and Davis got one at the town clerk's office in Wilton, but they choose not to remember exactly when it happened. They did it simply for the benefits, such as visitation rights and state tax breaks.

"The clerk's office was so nice ... they actually gave us a gift," Busch said. "Nevertheless, I can't tell you the day or month because it was humiliating to us."

Busch views civil unions as second-class. To him, it's the same as if boys got high school degrees and girls got graduate equivalency diplomas.

"The word marriage means everything," Busch said. "It's the only word that fully describes our love and our relationship."

The plaintiffs are being represented by Gay and Lesbian Advocates and Defenders, a Boston-based law firm. The case was originally heard in 2006 by a Superior Court, which dismissed the case. Busch said he was devastated then, but thinks things will be different this time around.

"It's spring, and it feels like anything's possible," he said, "And with that in mind I really feel hopeful."

If the plaintiffs win, Busch said he hasn't decided if he and Davis would where they would get married, though they have considered their backyard, the town green or Busch's synagogue, Temple B'nai Chaim in Wilton.

Despite being a mostly conservative town, Busch said he's received virtually no negative feedback from anyone on their desire to marry. Fellow parents in town have been supportive as well.

"If Wilton is any indication of how Connecticut is, that's reason alone to be optimistic," Busch said.

