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| <p>SUPREME COURT OF COLORADO 2 East 14th Ave., Denver, Colorado 80203</p> | |
| <p>Appeal from District Court, Adams County, Colorado, Case No. 13CV32572, Hon. C. Scott Crabtree</p> | |
| <p>DEFENDANT/APPELLANT: STATE OF COLORADO, et al, v. PLAINTIFFS/APPELLEES: REBECCA BRINKMAN et al.</p> | |
| <p>Consolidated with District Court, City and County of Denver, Colorado, Case No. 14CV30731: DEFENDANT/APPELLANT: STATE OF COLORADO, et al. v. PLAINTIFFS/APPELLEES: G. KRISTIAN MCDANIEL-MICCIO et al.</p> | <p>▲ COURT USE ONLY ▲</p> |
| <p>JOHN W. SUTHERS, Attorney General DANIEL D. DOMENICO, Solicitor General* MICHAEL FRANCISCO, Ass't Solicitor General* LEEANN MORRILL, First Ass't Attorney General* 1300 Broadway, 10th Floor Denver, CO 80203 Telephone: (720) 508-6551 Email: dan.domenico@state.co.us; michael.francisco@state.co.us; leeann.morrill@state.co.us *Counsel of Record Registration Numbers: 32038, 39111, 38742</p> | <p>Case No. 2014SA000212</p> |
| <p>EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL</p> | |

Pursuant to C.A.R. 8, the Attorney General of the State of Colorado, John Suthers, on behalf of the State and the People of Colorado, hereby seeks an injunction pending resolution of this appeal. The Court now has jurisdiction over the case that will resolve, so far as state courts can resolve it, the substantive question of whether Colorado’s marriage laws violate the federal constitution. *See* Notice of Appeal, filed today.

But while the Court goes about the process of resolving that important question, the State, its lower courts and county clerks, and its people, deserve clarity and uniformity in the application of state law. This motion asks the Court to provide that clarity and uniformity – regardless of how the merits are ultimately resolved on the important question of same-sex marriage. As will be argued below, the appropriate way to do so is to look to the U.S. Supreme Court’s actions in *Herbert v. Kitchen*, (and the numerous other federal courts resolving constitutional claims for same-sex marriage) and enjoin the State and the Clerk and Records or others acting on its behalf from acting contrary to current state law until the validity of those laws has been fully adjudicated. *See* n.5-6 *infra* (collecting cases with stays).

The current confusion and uncertainty benefits nobody. This Court plainly has the power to prevent that from continuing, *see* C.A.R. Rule 8, Rule 21(a); Colo. Const. art VI, § 3.¹

¹ *See also* C.R.C.P. 65 (an injunction is binding not only on the parties, but on “the parties’ officers, agents ... and other persons who are in active concert or participation with” a party. Thus any injunction as to the State would be

BACKGROUND

The Notice of Appeal filed earlier today in this case brings the underlying question of the constitutionality of Colorado's Marriage Laws a significant step closer to final resolution. But while that important issue has gotten closer to resolution, the issue of what County Clerks and the State are supposed to do in the interim, has descended into complete confusion. Only this Court can bring clarity and ensure that the orderly administration of justice prevails. There are two state cases from same-sex couples challenging the merits of Colorado's marriage laws. Those have been combined through Multi-District Litigation to Judge Crabtree in Adams County. *Brinkman et al v. Long et al.* No. 13CV32572, and the summary judgment order in that case is the subject of this appeal. **Ex. A** (*Brinkman* Summary Judgment Order, July 9, 2014). There is also a case in Boulder County district court whereby the Attorney General is addressing the County Clerk's legal authority to issue same-sex marriage licenses contrary to current Colorado law. *Colorado v. Hall*, No. 14CV30833, where the court denied the State's request for a preliminary injunction. **Ex. B** (*Hall* Order Denying Preliminary Injunction, July 10, 2014).

Another lawsuit will apparently be necessary in Pueblo County district court unless this Court acts, as the Pueblo Clerk has now begun

binding upon those acting under state law, as clerks do when they issue marriage licenses.).

issuing same-sex marriage licenses contrary to Colorado law.² Finally, there is a federal case in the district of Colorado from same-sex couples challenging the merits of Colorado's marriage laws. *Burns v.*

Hickenlooper, No. 14-cv-1817, **Ex. C.** (Complaint, July 1, 2014); **Ex. D** (Defendants' Motion for Stay Proceedings and Non-Opposition to Proposed Preliminary Injunction, July 2, 2014).

On July 9, Judge Crabtree issued a summary judgment order in *Brinkman*, holding that Colorado's limits on same-sex marriage violate the U.S. Constitution, but also recognizing it was a "delusion" to think that his district court order was the final word on the matter. **Ex. A**, p.47. Recognizing the legal and social confusion caused by allowing the issuance of licenses before that final word has been handed down, Judge Crabtree stayed the effectiveness of his judgment. *Id.* p.46-48.

One day later, Judge Hartman of Boulder County reached an apparently conflicting decision. **Ex. B.** While recognizing that the issuance of licenses in these circumstances is likely illegal, he nevertheless refused to prevent Boulder Clerk Hall from doing so. *Id.*, p.23. In response, the Denver Clerk & Recorder, despite being a party to the *Brinkman* case (subject to a stay), began issuing licenses contrary to state law and Judge Crabtree's Order. The Pueblo Clerk & Recorder

² See <http://www.kktv.com/home/headlines/Pueblo-County-to-Start-Issuing-Same-Sex-Marriage-Licenses-Friday-266676981.html> The longer there is legal confusion, the more likely it is that other Clerks will act contrary to Colorado law and the legal game of whack-a-mole will continue.

followed suit. The State filed a motion for an injunction against the Denver Clerk, but Judge Crabtree denied the State's motion on the morning of July 9, 2014, stating "[i]t is not the function of an injunction to enforce the dignity and enforceability of a Court's Order." **Ex. E**, p.5 (injunction denial order).

The rest of the state's clerks are now in a quandary: some have decided to await judicial resolution, others are still seeking legal advice. Meanwhile, state law is being patently ignored and the State is incurring real and irreparable costs associated with this chaotic situation. Should more clerks choose to follow the example of Boulder, Denver and Pueblo, those costs will only increase and additional litigation would be unnecessarily thrust upon the State with inconsistent and confusing legal decisions all but a guaranteed result.

There has been confusion enough in other states where a court has ruled against a state's marriage laws but not put in place a stay.³ But in no other state have the courts allowed the situation going on now in Colorado to continue – clerks openly defying state law *before* any court has issued a binding decision against the laws and in the face of a stay. *Cf. Lockyer v. City and County of San Francisco*, 95 P.3d 459 (Cal.

³ See *Evans v. Utah*, No. 14:CV55DAK, (D. Utah, May 19, 2014) (litigation regarding validity of marriage licenses issued when no stay in place following marriage litigation), *appeal pending* No. 14-4060 (10th Cir. July 11, 2014) (affirming but issuing stay pending appeals to U.S. Supreme Court). The Utah situation shows the costly mess that this can lead to. This is hardly a scenario for Colorado's courts to emulate.

2004);⁴ *Dep't of Health v. Hanes*, 78 A.3d 676, 690-92 (Pa. Commw. Ct. 2013) (clerks lack authority to issue same-sex marriage licenses, post-*Windsor*, while merits are litigated). Whatever one thinks about the merits of the underlying question of same-sex marriage, the question about the role of courts versus county clerks is one this Court should resolve immediately. It can solve this serious and growing problem by the simple expedient of putting on hold the issuance of licenses while the appeal of the merits plays out.

REASONS TO GRANT INJUNCTION PENDING APPEAL

This motion is necessary to preserve the orderly procedures and rule of law and enforce the separation of powers doctrine by allowing the judicial branch to resolve critical questions about constitutional rights in an orderly manner. An injunction is necessary to maintain the status

⁴ The California Supreme Court aptly described the difference between addressing the merits of same-sex marriage and the legality of Clerks issuance of licenses contrary to existing state law:

Although the present proceeding may be viewed by some as presenting primarily a question of the substantive legal rights of same-sex couples, in actuality, the legal issue before us implicates the interest of all individuals in ensuring that public officials execute their official duties in a manner that respects the limits of the authority granted to them as officeholders. In short, the legal question at issue---the scope of the authority entrusted to our public officials---involves the determination of a fundamental question that lies at the heart of our political system: the role of the rule of law in a society that justly prides itself on being 'a government of laws, and not of men' (or women). *Id.* at 1067-68.

quo pending a final court resolution on the merits. County Clerks lack legal authority to issue marriage licenses on behalf of the State that are patently contrary to the Colorado Constitution and statutes that define marriage as the union of “one man and one woman,” while litigation is pending – with a stay issued by the district court judge.

C.A.R. 8 gives the Court, or any Justice, the authority to issue injunctions during the pendency of appeals. While such a request “must ordinarily be made in the first instance in the trial court,” a request for such relief directly from this Court may be made if “the trial court has denied an application.” C.A.R. 8(a); *see also* Colo. Const. art. VI, § 3. The State has sought relief in the trial court in a motion for injunction and it was denied on the morning of July 14, 2014. Ex. E. Additionally, due to the acts of other Clerks not party to *Brinkman* who continue to issue same-sex marriage licenses, any relief afforded by the trial court would not be practicable in resolving the broader issue for the state’s other 63 clerks.

Generally, to obtain injunctive relief, a party must prevail on the merits, suffer irreparable injury, show that the harm to the movant outweighs the harm to the opposing party and show that the injunction would not be adverse to the public interest. *Romero v. City of Fountain*, 307 P.3d 120, 122 (Colo. App. 2011) (adopting federal factors for injunction); *Campbell v. Buckley*, 11 F. Supp.2d 1260, 1262 (D. Colo. 1998), *aff’d*, 203 F.3d 738 (10th Cir. 2000) (same factors).

When it is brought on behalf of the public to benefit the public, however, the party requesting the injunction must show only that it is correct on the merits. *Conway-Bogue Realty Inv. Co. v. Denver Bar Ass'n*, 135 Colo. 398, 409-10, 312 P.2d 998, 1003 (1957); *see also Port of New York Authority v. City of Newark*, 85 A.2d 815, 818-19 (N.J. Sup. Ct 1952).

Thus, the only question this Court must answer to properly resolve whether to grant this motion should be whether the state's clerks are authorized, prior to any final, binding court decision, to ignore state law in carrying out their ministerial functions. That is the issue presented in this motion.

I. County clerks do not have the authority to issue licenses that do not comply with state law.

By definition, the issuance of marriage licenses is a ministerial act; it is "one which the person performs in a given state of facts in a prescribed manner in obedience to the mandate of legal authority, without regard to or the exercise of his own judgment upon the propriety of the act being done." *Hamma v. People*, 94 P. 326, 328 (Colo. 1908). Under the *Uniform Marriage Act*, County Clerks are given the power to issue licenses by the State on behalf of the State, but only if the requirements set by the state are met. *See* C.R.S. §§ 14-2-104, 14-2-106, and 14-2-110. Put another way, if certain requirements are met, all 64 County Clerks must issue the marriage license; conversely, if certain requirements are not met

(e.g., an individual is under age, or the couple is not comprised of one man and one woman), County Clerks must not issue a marriage license. Clerks are authorized to issue marriage licenses by state law. They are not authorized to pick and choose which state laws governing that delegated authority they will abide by.

Until this Court or the United States Supreme Court finally resolves the question, Colorado's Marriage Laws remain in effect. Whether Colorado's marriage limitations will survive Constitutional scrutiny in the final analysis is highly in doubt. But until we reach that final analysis, the clerks' actions must be based on the current state of the law, not what it may be in the future. *See Beedle v. Wilson*, 422 F.3d 1059, 1069 (10th Cir. 2005) (right violated must be established at the time of the defendant's actions). *See Ex. B (Hall Order – finding State satisfied likelihood of success on the merits based on current law)*.

Thus, other courts, even those that end up ruling in favor of same-sex marriage, recognize that until those laws are repealed or overturned by final court action, local officials have no authority to ignore them. *See Lockyer*, 33 Cal.4th at 1073 (“Pending our determination of these matters, we directed the officials to enforce the existing marriage statutes and refrain from issuing marriage licenses or certificates not authorized by such provisions.”); *Hanes*, 78 A.3d at 692.

II. Clerks' ignoring state law prior to judicial rulings causes irreparable harm and is against the public interest.

Even if the State were required to prove the additional *Romero* factors, it would prevail. These factors align with the factors for a stay, and have already been carefully adjudicated by Judge Crabtree. He recognized that even though he ruled against the State on the underlying *constitutional merits*, the State had established a likelihood of success on the merits for a stay, given the stay issued in similar litigation by the U.S. Supreme Court and four Federal Courts of Appeals.⁵ *See also* Ex. A at 46. Likewise for federal district courts in Oklahoma, Virginia, Kentucky, Texas, Ohio, and Wisconsin.⁶

⁵ *Herbert v. Kitchen*, 134 S.Ct. 893 (U.S. Jan. 6, 2014) (stay pending appeal granted); *Kitchen v. Herbert*, No. 13-4178, slip op. 64-65 (10th Cir. June 25, 2014) (same); *Latta v. Otter*, No. 14-35420 (9th Cir. May 20, 2014) (Idaho case - same) attached as **Exhibit F**; *DeBoer v. Snyder*, No. 14-1341 (6th Cir. Mar. 25, 2014) (Michigan case - same) attached as **Exhibit G**; *see also Tanco v. Haslam*, No.14-5297 *2 (6th Cir. April 25, 2014) (Tennessee case) (per curium) (“Because the law in this area is so unsettled, in our judgment the public interest and the interests of the parties would be best served by this Court imposing a stay on the district court’s order until this case is reviewed on appeal.”), attached as **Exhibit H**; *Baskin v. Bogan*, No. 14-2386 (7th Cir. June 27, 2014) (Indiana case - granting stay pending appeal), attached as **Exhibit I**.

⁶ District Court decisions granting stay: *Bishop v. United States, ex rel. Holder*, 962 F. Supp. 2d 1252 (N.D. Okla. 2014); *Bostic v. Rainey*, No. 2:13cv395, 2014 WL 561978 (E.D. Va. Feb. 13, 2014); *De Leon v. Perry*, No. SA-13-CA-00982-OLG, 2014 WL 715741 (W.D. Tex. Feb. 26, 2014); *Bourke v. Beshear*, No.3:13-CV-750-H, 2014 WL 556729, at *14 (W.D. Ky. Feb. 12, 2014) (stay granted, noting “[i]t is best that these momentous changes occur upon full review, rather than risk premature implementation or confusing changes. That does not serve anyone well”); *Henry v. Himes*, No. 14-cv-129, 2014 WL 1512541, *1-2 (S.D. Ohio April 16, 2014) (stay pending appeal granted); *Wolf v. Walker*, No. 14-cv-64-bbc, 2014 WL 2693963 *12 (W.D. Wis. June 13, 2014) (“I do not

Permitting County Clerks to ignore some state laws while using the power granted by other state laws causes significant irreparable harm to the state and the public interest – particularly when it is a handful of clerks while the majority continues to enforce state law. There are at least five types of harm that letting these few clerks’ actions go unchecked will cause.

First, there is the inherent harm courts have uniformly recognized in rejecting duly enacted laws. Judge Crabtree recognized as much, following *Coalition for Econ. Equity v. Wilson*, 122 F.3d 718, 719 (9th Cir. 1997); *O Centro Espirita Beneficiente Uniao De Vegetal. v. Ashcroft*, 314 F.3d 463, 467 (10th Cir. 2002); *Planned Parenthood of Greater Tex. Surgical Health Servs. v. Abbott*, 134 S.Ct. 506, 506 (2013); *New Motor Vehicle Bd. v. Orrin W. Fox Co.*, 434 U.S. 1345, 1351 (1977) (Rehnquist, J., in chambers) (“It also seems to me that any time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury.”). Ex. A at 47.

Second, the harm caused by the confusion the clerks’ action has caused is real and widespread. As Judge Crabtree noted, “The public has an interest in the orderly determination of the constitutionality of its laws and granting a stay will effectuate that end.” *Id.* Judge Crabtree

interpret *Geiger* as undermining the Court’s order in *Herbert*...Because I see no way to distinguish this case from *Herbert*, I conclude that I must stay any injunctive relief pending appeal.”).

expressly noted that a stay was “necessary to avoid the instability and uncertainty which would result in the State of Colorado if the Court did not stay its ruling,” noting with disfavor the “continued issuance of marriage licenses in Boulder” as the type of instability and uncertainty that should be avoided. *Id.* at 48 n.18. The Denver Clerk, however, has been emboldened by Judge Hartman’s views to the contrary to ignore this judicial finding in the case in which she is a party. Apparently this Court’s intervention is necessary.

Third, the clerks’ action cannot be isolated, as Judge Hartman seemed to hope. The State’s system for processing and acknowledging to the public (that is to say, *recognizing*, marriages) does not allow for the Registrar to double-check compliance with state law. The continued issuance of invalid same-sex marriage licenses harms the State by forcing other divisions of the State to recognize, contrary to the current law and constitution, the legal validity of the improperly issued licenses. *See* C.R.S §§ 14-2-109(1) (“Either the person solemnizing the marriage or...a party to the marriage shall complete the marriage certificate form and forward it to the county clerk and recorder[.]”); 14-2-109(3) (“Upon receipt of the marriage certificate, the county clerk and recorder shall register the marriage.”); 25-2-106 (“Each county clerk and recorder shall prepare a report...with respect to every *duly* executed marriage certificate that is returned in accordance with 14-2-109, C.R.S. On or before the tenth day of each month...such clerk and recorder shall

forward to the state registrar all such marriage reports for all marriage certificates returned in the preceding period.”); 25-2-104 (“Promptly upon the receipt of each vital statistics report..., the state registrar...shall register the statistical event described therein...and shall place the same...in the permanent files of the office.”).

So whatever licenses clerks submit will become part of the record that the State recognizes. The system is dependent on clerks’ carrying out their duties pursuant to law; it does not contemplate having to second-guess their compliance. Thus, the clerks’ actions effectively mean that the State itself is being forced to violate its own laws by recognizing marriages that are not – at least not yet – valid.

Fourth, third parties rely on this system for various reasons. To be sure, practical, real-world harm will result from third-parties’ – including the courts, private corporations, and other governmental entities – unknowing reliance on the invalid marriage licenses currently being issued in the name of the State. For example, the following acts turn on the ability to prove the existence of a valid marriage: (1) establishing spousal benefits under the Social Security Act; (2) obtaining a legal name change on a driver’s license, passport, social security card, or other government-issued identification; (3) establishing the presumptive legitimacy of children; (4) establishing relationships necessary for determining probate, inheritance, and unclaimed property matters; (5) establishing eligibility for health, life, and disability

insurance coverage and benefits; and (6) establishing the existence of a legal marriage in dissolution proceedings for purposes of spousal support and/or maintenance, child support, the division of marital assets; and the custody of minor children. In short, because the legalization of marriage turns on the performance of ministerial acts by both State and county officials, the County Clerks' issuance of invalid marriage licenses sends ripples of harm throughout our society that cannot be undone by the State either easily or with absolute legal certainty.

Fifth, if this Court refuses to use its broad powers, *see* C.A.R. 8 & 21, Colo. Const. art. VI, § 3, to ensure that government officials carry out their ministerial duties while controversial litigation is ongoing, it will provide perverse and dangerous incentives. What about a sheriff who believes limits on felons or minors obtaining a concealed carry permit violates the right to bear arms? A DMV clerk who does not believe undocumented immigrants are entitled to a driver's license? Both would be encouraged to put their personal opinions above their duties to follow the law should this Court countenance the ongoing actions of the clerks.

Each day that County Clerks continue to issue same-sex marriage licenses – and publicly declare those licenses' validity, despite the State Marriage Laws and the Attorney General's statements to the contrary – greater social and legal chaos ensues because the public is left confused and uncertain about the legal validity of such marriages and the role of clerks versus the role of the courts or other government officials in

determining whether to enforce state law.⁷ Each and every day that County Clerks continue to issue same-sex marriage licenses in direct contravention of the State Marriage Laws, Coloradans' confidence in their government diminishes in view of the fact that, as public officers, County Clerks are refusing to abide by and enforce still-valid Colorado laws.

The public confidence is further irreparably undermined by the fact that, as public officers, County Clerks who issue marriage licenses to same-sex couples are issuing false certificates, in further violation of Colorado law. *See* C.R.S. § 18-8-406 (stating that “a person commits a class 6 felony, if, being a public servant authorized by law to make and issue official certificates or other official written instruments, he makes and issues such an instrument containing a statement which he knows to be false.”); *see also* *People v. Buckallew*, 848 P.2d 904 (Colo. 1993) (concerning the statute's application to county officials).

This is not to ignore the harms to couples who, if the State is wrong on the ultimate constitutional merits, have been denied the right to a government marriage certificate. One can understand and sympathize with the desire to shortcut the normal processes and get that certificate, even if it comes with the disclaimer or cloud of legal uncertainty. But that is not enough to overcome the reasons that favor the Court's

⁷ *See* <http://www.thedenverchannel.com/news/local-news/marriage-licenses-for-same-sex-couples-still-in-question>

temporarily suspending the issuance of licenses while this appeal on the merits plays out. Indeed, the moving concerns of same-sex couples in Colorado are not unlike the concerns of same-sex couples around the United States, and those couples are, pursuant to the standard legal process, awaiting a final judicial determination before same-sex marriage licenses are issued.

Most importantly, even if the State does prove to be wrong on the constitutional question, that does not mean that prematurely issued certificates will be validated. *See Lockyer*, 33 Cal.4th at 1116 (“[Accordingly, we view Family Code section 300 itself as an explicit statutory provision establishing that the existing same-sex marriages at issue are void and invalid.”). Thus, even if the State loses this appeal, the couples obtaining these certificates likely would not be the winners.⁸ Second, to the extent this were an immediate and irreparable harm, the couples could have brought actions for preliminary injunctive relief. That they chose not to reveals that they recognize, as the heavy majority of courts have, that this harm is but temporary and reparable.⁹ If they

⁸ Indeed, the *Hall* Order seems to set aside substantial legal difficulties created by licenses that are not valid by speculating that additional litigation and lawyers in the future may sort things out. This is a strong reason to follow the orderly administration of the judicial process – not ignore the process and hope it can be fixed later.

⁹ Compare, for example, the Seventh Circuit’s lifting of the stay it imposed in *Baskin* for a couple when it was shown that one of them was suffering from terminal cancer. See Ex. I. There has been no such showing or allegation here.

prevail on the merits, a real, no-disclaimer, no-questions-asked marriage certificate will be theirs for the asking.

The relief requested in this motion will not decide the merits of claims for a federal right to same-sex marriage that would invalidate Colorado's Constitution and statutes – those substantial and weighty claims will be decided for Colorado either by the federal courts, where Colorado has now been sued and will be bound by the outcome of a Utah case in *Kitchen v. Herbert*, or by this Court (subject to petitions to the U.S. Supreme Court by the loser) in the merits of this appeal. Either way, the merits can and should be decided in due course for all of Colorado. The relief here requested, however, is immediately necessary to preserve the status quo pending those appeals and to affirm the legal responsibility of County Officials to comply with Colorado law. Colorado is hardly the only state where the constitutional right to same-sex marriage is being actively litigated. Colorado stands alone, however, in its courts permitting a handful of clerks to issue marriage licenses contrary to law before the courts have made a final, binding determination of the merits. States defending their marriage laws (like Colorado) have all asked for stays pending appeal to protect the status quo and avoid legally indeterminate marriage licenses from being issued by eager clerks. As detailed above, *see n. 5-6 supra*, courts have repeatedly imposed stays in same-sex marriage litigation – resulting in

Clerks in those States being compelled to wait for final judicial action. Colorado should join this wise course of action.

CONCLUSION

The question of the constitutionality of limitations on state recognition of same-sex marriage like Colorado's is undoubtedly headed for a final resolution soon. And the excitement felt by those who support same-sex marriage, including the Respondent Clerks and the plaintiffs in the various related cases is more than understandable – momentum is on their side. Unless the U.S. Supreme Court grants certiorari on the substantive question before the *Kitchen* case becomes final and binding, the Attorney General has already recognized that Colorado's laws will not stand. *See Ex. D.*

But the immediate question is whether that excitement and that momentum will be allowed to overwhelm the various legal and constitutional processes and structures and divisions of power the state has put in place for carrying out ministerial duties like issuing marriage licenses or profoundly non-ministerial ones like deciding constitutional questions. Those processes and divisions can be cumbersome, unwieldy, and downright frustrating. They may even seem pointless in a particular case when the “right” outcome may be so obvious to so many.

Yet true as that might be in the immediate term, the long-term stability of our system of government and rule of law depends on those structures and divisions standing up in the face of pressure, even where

the immediate result might appear unjust. This case shows the wisdom of that fundamental understanding: the *Brinkman* and *Burns* cases were moving along as our system requires, and were on track to final resolution as soon as possible. That process is not as fast or simple as anyone may want, but they are the process our system of laws and divided power depends on. A rush to get to the “right” result by shortcuts, no matter how well-intentioned, is a precedent this Court should refuse to set.

RELIEF REQUESTED

The State specifically requests an order pending appeal prohibiting the Defendants, including the State and those acting pursuant to state law, from: (1) issuing marriage licenses on behalf of the State that do not comply the Uniform Marriage Act, § 14-2-104(1)(b) or Colo. Const. art. II, section 31; and (2) submitting or processing any marriage licenses that do not comply with state law to the State Registrar of Vital Statistics, pending further order of the Court. *See See* C.A.R. 8(a); C.A.R. 21.

Respectfully submitted this 14th day of July, 2014.

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **EMERGENCY MOTION FOR INJUNCTION PENDING APPEAL** upon the following parties or their counsel electronically via ICCES, or via electronic mail, at Denver, Colorado this 14th day of July, 2014, addressed as follows:

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