

CITY AND COUNTY OF SAN FRANCISCO



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BY HAND DELIVERY AND U.S. MAIL

November 27, 2012

Ms. Molly C. Dwyer
Clerk of the Court
United States Court of Appeals for the Ninth Circuit
James R. Browning U.S. Courthouse
San Francisco, CA 94119-3939

re: *Perry v. Brown*, Case Nos. 10-16696 & 11-16577
(appeal from United States District Court, N.D. Cal. No. 09-CV-02292)

Dear Ms. Dwyer:

I write on behalf of Plaintiff-Intervenor and Appellant, City and County of San Francisco, to request that the Court provide the parties advance notice if and when the mandate will be issued in the event the United States Supreme Court denies certiorari in the *Perry* case.

On June 5, 2012, this Court stayed the mandate pending final disposition of the case, and the Supreme Court has distributed the pending petition for certiorari (*Hollingsworth v. Perry*, No. 12-144 (U.S. Jul. 30, 2012)), which it is expected to consider at its November 30, 2012 conference. The Supreme Court could issue its decision regarding certiorari within the week following the conference. It is my understanding that if the high Court denies certiorari it will promptly remit the case to the Ninth Circuit for issuance of the mandate. If that occurs, the City requests that the Court provide the parties 24 hours notice of when it anticipates it will issue the mandate.

As the Court is aware, this case has generated extremely wide interest. In prior instances when decisions were issued in this and other cases relating to marriage for same-sex couples, there have been large gatherings, including protesters, in the Civic Center area of San Francisco. Those gatherings have included both people who favor and people who oppose marriage for same-sex couples. While, thus far, these gatherings have not involved significant violence, they have involved heated rhetoric, expressions of intense emotion and confrontations between people who strongly disagree. To ensure the health and safety of San Francisco's residents and visitors, the San Francisco Police Department would be grateful if the Court could provide advance notice of its intention to issue its mandate in this case so that the Department can plan for and deploy an adequate number of officers to the areas where protests are likely to occur.

Equally important, if the Supreme Court denies certiorari and the Ninth Circuit issues the mandate, the City anticipates there will be immediate and substantial demand from same-sex couples for marriage licenses and ceremonies. Twice before, our County Clerk served many same-sex couples who wished to marry when marriage was made available to them (in 2004, when the City took the initiative, later struck down by the California Supreme Court, to marry same-sex couples, and in 2008, when the California Supreme Court held the pre-Proposition 8

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law excluding same-sex couples from marriage violated the California Constitution). Both times, the City was deluged by same-sex couples seeking marriage licenses and ceremonies from the County Clerk. Many couples were accompanied by family and friends, they waited in long lines to apply for and obtain marriage licenses, and ceremonies were performed in every nook and cranny of City Hall for weeks at a time. Members of the press were present covering these joyous events. The logistical efforts the City undertook to accommodate the couples as promptly and seamlessly as possible were substantial.

Because four and a half years have passed since same-sex couples were last afforded the right to marry in California, and because San Francisco has been at the center of the struggle for equal rights for lesbians and gay men for many years, the City anticipates there may be similar demand for marriage licenses and wedding ceremonies if the Ninth Circuit decision becomes final and the mandate issues permitting same-sex couples to marry. The County Clerk, City Hall building staff and the Sheriff's Department which provides security for the building would all be extremely grateful if the Ninth Circuit could provide 24 hours advance notice of the mandate's issuance. Allowing for an orderly process likewise will provide same-sex couples and their families and friends with the dignity they deserve as they celebrate an important milestone in their lives.

Thank you for your consideration of this request.

Very truly yours,



THERESE M. STEWART
Chief Deputy City Attorney

cc BY EMAIL
All counsel
Gregory Suhr, Police Chief
Karen Hong, County Clerk
Robert Reiter, City Hall Building Manager
Ross Mirkarimi, Sheriff

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the following with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on November 27, 2012.

**CORRESPONDENCE DATED 11/27/2012 TO
CLERK OF THE COURT, MOLLY C. DWYER**

Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

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I declare under penalty of perjury pursuant to the laws of the State of California that the foregoing is true and correct. Executed November 27, 2012, at San Francisco, California.

s/Pamela Cheeseborough

Pamela Cheeseborough