

SUPREME COURT COPY

SUPREME COURT
FILED

Case No. S211990

JUL 22 2019

IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

DENNIS HOLLINGSWORTH; GAIL J. KNIGHT; MARTIN F.
GUTIERREZ; MARK A. JANSSON; and PROTECTMARRIAGE.COM Deputy
– YES ON 8, A PROJECT OF CALIFORNIA RENEWAL,

Frank A. McGuire Clerk

Petitioners,

v.

PATRICK O'CONNELL, in his official capacity as Auditor-
Controller/County Clerk-Recorder of Alameda County, et al.,

Respondents,

and

EDMUND G. BROWN JR., in his official capacity as Governor of the
State of California, et al.,

Real Parties in Interest.

**PRELIMINARY RESPONSE OF ERNEST J. DRONENBURG, JR.,
TO PETITION FOR WRIT OF MANDATE**

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CERTIFICATE OF INTERESTED ENTITIES OR PERSONS

Respondent certifies that he is not aware of any entity or person that rules 8.208 and 8.488 of the California Rules of Court require him to list in this Certificate.

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**PRELIMINARY RESPONSE TO
PETITION FOR WRIT OF MANDATE**

INTRODUCTION

Respondent Ernest J. Dronenburg, Jr., in his official capacity as County Clerk of San Diego County, submits this Preliminary Response to Petitioners' Petition for Writ of Mandate. Respondent agrees with the legal arguments in Petitioners' Memorandum of Points and Authorities. He maintains, as Petitioners do, that he is not bound by the district court's injunction in *Perry v. Schwarzenegger* because, among the other reasons expression in Petitioners' Memorandum, the state officials named as Real Parties in Interest in this action do not have authority to supervise or control him when he issues marriage licenses. Since Respondent is not bound by that injunction, he agrees that article III, section 3.5 of the State Constitution and the state law principles discussed by this Court in *Lockyer v. City & County of San Francisco* (2004) 33 Cal.4th 1055, mandate that he must continue to enforce state law defining marriage as the union between one man and one woman.

In their Informal Opposition to Petitioners' Request for Immediate Stay or Injunctive Relief, Real Parties in Interest suggest that all county clerks agree with their views on the relevant legal issues. (See, e.g., Informal Opposition at 4 ["No state or county official has argued that article III, section 3.5 is even at issue in this case."].) That, however, is simply not true. Respondent does in fact disagree with the misguided legal opinions of Real Parties in Interest, especially their belief that they possess authority under state law to control county clerks issuing marriage licenses. Respondent did not publicly express his disagreement with the views adopted by Real Parties in Interests before now because of the fear created by the Attorney General's promise to pursue legal action against any county clerk who declines to adhere to her interpretation of state law.

Respondent, in short, urges this Court to address the important questions raised in the Petition and provide him with the legal clarity that he needs to carry out his official duty to issue marriage licenses in accordance with state law.

ADDITIONAL MATERIAL FACTS NOT INCLUDED IN THE PETITION

1. Respondent fears that the Attorney General or other Real Parties in Interest will attempt to sue or otherwise punish him if he enforces state law defining marriage as a union between one man and one woman.

2. After receiving the State Registrar's letters dated June 26, 2013, and June 28, 2013, Respondent did not publicly disagree with the Attorney General's claim that state officials have authority to supervise or control county clerks when they issue marriage licenses because of the fear created by the Attorney General's promise to pursue legal action against any county clerk who declines to adhere to her interpretation of state law.

3. Respondent filed his own Verified Petition for Writ of Mandate and Request for Immediate Temporary Stay on July 19, 2013. Respondent filed that Petition to require Real Parties in Interest to execute their supervisory duties, which do not include control over county clerks issuing marriage licenses, consistent with state law limitations, and to obtain legal clarity regarding Respondent's duty to issue marriage licenses in accordance with state law.¹

MEMORANDUM OF POINTS AND AUTHORITIES

As stated above, Respondent agrees with the legal arguments in Petitioners' Memorandum of Points and Authorities. He therefore incorporates those arguments here.

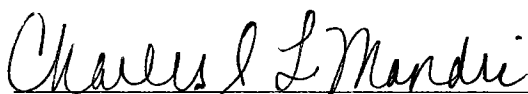
¹ Given the similarities between the issues raised in the Petition filed in this case and the issues raised in the Petition that Respondent filed on July 19, 2013, Respondent requests that this Court hear the two cases together.

CONCLUSION

Respondent requests that this Court address the important questions raised in the Petition and provide him with the legal clarity that he needs to execute his official duty to issue marriage licenses in accordance with state law.

Dated: July 19, 2013

Respectfully submitted,



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CERTIFICATE OF WORD COUNT

I, the undersigned counsel for Respondent, relying on the word count function of Microsoft Word, the computer program used to prepare this document, certify that the foregoing document contains 630 words, excluding the words in the section that California Rules of Court, rule 8.204(c)(3) instructs counsel to exclude.


Charles S. LiMandri

PROOF OF SERVICE

I declare as follows:

1. I am over the age of 18 and not a party to this action. I am employed by Freedom of Conscience Defense Fund in the County of San Diego, State of California. My business address is P.O. Box 9520, Rancho Santa Fe, California 92067.

2. On July 19, 2013, I served true copies of the attached document entitled:

PRELIMINARY RESPONSE OF ERNEST J.
DRONENBURG, JR., TO PETITION FOR WRIT OF
MANDATE

by placing them in addressed and sealed envelopes, with delivery fees fully paid, and depositing those envelopes in a regularly maintained United States Postal facility in Rancho Santa Fe, California for delivery via regular U.S. mail on the persons listed below at the provided address:

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