

IN THE CIRCUIT COURT OF COOK COUNTY,
COUNTY DEPARTMENT, CHANCERY DIVISION

FILED - 2
2013 MAR 29 PM 3:19

JUDICIAL CLERK OF COOK
COUNTY, ILLINOIS
CHANCERY DIV.
DOROTHY J. ... CLERK

JAMES DARBY and PATRICK BOVA, *et*
al.,
Plaintiffs,

v.

DAVID ORR, in his official capacity as
Cook County Clerk,
Defendant.

Case No. 12 CH 19718
The Honorable Judge Sophia Hall

TANYA LAZARO and ELIZABETH "LIZ"
MATOS, *et al.*,
Plaintiffs,

v.

DAVID ORR, in his official capacity as
Cook County Clerk,
Defendant.

Case No. 12 CH 19719
The Honorable Judge Sophia Hall

STATE OF ILLINOIS, *ex rel.* Lisa
Madigan, Attorney General of the
State of Illinois,
Intervenor,

CHRISTIE WEBB, in her official capacity
as Tazewell County Clerk, and KERRY
HIRTZEL, in his official capacity as
Effingham County Clerk, DANIEL S.
KUHN, in his official capacity as Putnam
County Clerk, PATRICIA LYCAN, in her
official capacity as Crawford County Clerk,
BRENDA BRITTON, in her official
capacity as Clay County Clerk,
Intervenors.

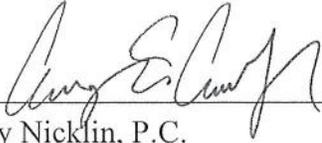
**NOTICE OF MOTION FOR PLAINTIFFS' MOTION FOR
LEAVE TO FILE BRIEF IN EXCESS OF FIFTEEN PAGES, INSTANTER**

TO:

See attached service list

PLEASE TAKE NOTICE that on April 10, 2013, at 10:00AM, or as soon thereafter as counsel may be heard, I shall appear before the Honorable Sophia Hall, or any Judge sitting in her stead, in the courtroom usually occupied by her, located at Room 2301, Richard J. Daley Center, 50 W. Washington St., Chicago, Illinois 60602, and present Plaintiffs' Motion for Leave to File Brief in Excess of Fifteen Pages, *Instantly*, a copy of which is attached hereto.

Respectfully submitted,



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Dated: March 29, 2013

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on March 29, 2013, on the following via First Class U.S. Mail:

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**PLAINTIFFS' MOTION FOR LEAVE TO FILE BRIEF
IN EXCESS OF FIFTEEN PAGES, *INSTANTER***

Plaintiffs James Darby and Patrick Bova, *et al.* (“Darby Plaintiffs”), by their attorneys Kirkland & Ellis, LLP and Lambda Legal Defense and Education Fund, Inc., and Plaintiffs Tanya Lazaro and Liz Matos, *et al.* (“Lazaro Plaintiffs,” and collectively with Darby Plaintiffs, “Plaintiffs”), by their attorneys Mayer Brown LLP and the Roger Baldwin Foundation of ACLU, Inc., respectfully request this Court to grant them leave to file their memorandum (the “Memorandum”) in Opposition to the Motion To Dismiss Plaintiffs’ Complaints Under 735 ILCS 5/2-615(a) filed by Intervenor-Defendants Christie Webb, Kerry Hirtzel, Daniel Kuhn, Patricia Lycan, and Brenda Britton (“Intervenor-Defendants”), which exceeds the Court’s fifteen-page limit for briefs. In support of this Motion, Plaintiffs state as follows:

Plaintiffs have brought a constitutional challenge to various state statutes that prohibit same-sex couples from marrying (collectively, the “Marriage Ban”). In their Complaints, Plaintiffs assert that the Marriage Ban violates several provisions of the Illinois Constitution, including the Due Process Clause (Art. I § 2), the Privacy Clause (Art. I § 6), the Equal Protection Clauses (Art. I §§ 2, 18) and the Guarantee Against Special Legislation (Art. I § 13). In their prayers for relief, Plaintiffs ask this Court to declare the Marriage Ban to be unconstitutional — a declaration that will permit Plaintiffs the freedom to marry.

The Intervenor-Defendants’ Memorandum in Support of their Motion to Dismiss was twenty-five pages. In addition, the following amicus briefs were filed in support of the motion: Amicus Brief of Illinois Family Institute in Support of County Clerk Intervenors’ Motion to Dismiss (16 pages); Brief of *Amici Curiae* Church of Christian Liberty and Grace Gospel Fellowship of Bensenville in Support of Intervenors’ Motion to Dismiss (18 pages); Memorandum *Amicus Curiae* of the Catholic Conference of Illinois and the Lutheran Church-Missouri Synod In Support of Intervenors Christie Webb & Kerry Hirtzel (16 pages); Brief of

Amicus Moody Church and Fourteen Other Illinois Churches in Support of Intervenor-Defendants' Motion to Dismiss (15 pages); and *Amici Curiae* Brief of Illinois Legislators in Support of Intervening Clerks (15 pages). Thus, more than 100 pages were filed in support of the Intervenor-Defendants' Motion to Dismiss.

The Intervenor-Defendants and *amici* raise numerous complex constitutional law arguments, each of which must be fully briefed by the Plaintiffs in the Memorandum. For example, Plaintiffs' Memorandum must explain how Intervenor-Defendants misunderstand Plaintiffs' due process and privacy claims and mischaracterize the liberty interest asserted by Plaintiffs, and how the Marriage Ban violates equal protection because it discriminates based on both sex and sexual orientation. To address these constitutional issues, Plaintiffs must explain why heightened scrutiny is appropriate in these circumstances. Plaintiffs must also address the hypothesized state justifications for the Marriage Ban offered by Intervenor-Defendants. Plaintiffs seek leave of this Court to file an Opposition in excess of fifteen pages so that Plaintiffs may provide this Court with a thorough and complete response.

WHEREFORE, Plaintiffs respectfully request this Court to grant them leave to file their contemporaneously-filed Memorandum in Opposition to Intervenor-Defendants' Motion to Dismiss, *instanter*.

Respectfully submitted,



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