

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

TANYA LAZARO and ELIZABETH “LIZ”))	
MATOS, LYNN SPROUT and KATHERINE))	
“KATHIE” SPEGAL, ROSS “RANDY”))	
WALDEN and ROBERT “BOB” CAREY,))	
MICHELLE MASCARO and CORYNNE))	
ROMINE, RICK WADE and TIM KEE,))	
CARLOS BRIONES and RICHARD))	
RYKHUS , SUZANNA “SUZIE” HUTTON))	
and DANIELLE COOK, TANYA))	Case No. 12 CH 19719
LYONSFORD and KIRSTEN LYONSFORD,))	
and EDWIN “ED” HAMILTON and GARY))	
MAGRUDER,))	Honorable Peter Flynn
)	
Plaintiffs,))	
)	
v.))	
)	
DAVID ORR in his official capacity as))	
COOK COUNTY CLERK,))	
)	
Defendant.))	

FILED
2012 JUN 13 PM 12:10
COURT CLERK

MOTION TO CONSOLIDATE
CASE NO. 12 CH 19719 WITH CASE NO. 12 CH 19718

Pursuant to 735 ILCS 5/2-1006, Plaintiffs Tanya Lazaro, *et al.* (“Plaintiffs”) respectfully move to consolidate the above-captioned Action with *Darby v. Orr*, Case No. 12 CH 19718 (Cook County Chancery Ct.) (collectively, the “Actions”). In support of this Motion, Plaintiffs state as follows:

1. Both Actions were filed on May 30, 2012. Complaints were filed by two separate groups of plaintiffs represented by different counsel. Both Actions seek a declaration that the Illinois Marriage and Dissolution of Marriage Act, which authorizes marriages “between a man and a woman” 750 ILCS 5/201, but expressly prohibits marriages “between 2 individuals of the same sex” 750 ILCS 5/212(a)(5), violates certain provisions of the Illinois Constitution.

2. Section 2-1006 of the Illinois Code of Civil Procedure (735 ILCS 5/2-1006) provides that “[a]n action may be severed, and actions pending in the same court may be consolidated, as an aid to convenience, whenever it can be done without prejudice to a substantial right.” Specifically, “where several actions involve an inquiry into the same event in its general aspects, the actions may be tied together, but with separate docket entries, verdicts and judgment[.]” *Busch v. Mison*, 385 Ill.App.3d 620, 624 (1st Dist. 2008). “The purpose of consolidating cases is to expedite the resolution of lawsuits, conserve the court’s time, avoid duplicating efforts, and save unnecessary expenses. Consolidation is proper where the cases are of the same nature, arise from the same acts, involve the same issue and depend on the same evidence.” *J.S.A. v. M.H.*, 384 Ill.App.3d 998, 1004-5 (3rd Dist. 2008) (citations omitted).

3. Because of the identity of the defendant, the similarity in facts and claims, and the risk of inconsistent judgments, the Actions present a textbook case for consolidation. Both of the Actions are brought against the same sole Defendant: David Orr, in his official capacity as Cook County Clerk. Both plaintiff groups comprise couples of the same sex who wish to marry the person they love, but who are unable to obtain a marriage license from Defendant or whose marriages lawfully entered outside of Illinois are denied recognition by Defendant because the couples are of the same sex.

4. The Actions are of the same nature: constitutional challenges to the State’s marriage ban. Both Actions also arise from the same core set of facts: same-sex couples are denied and unable to obtain marriage licenses from Defendant or are refused recognition of their marriages lawfully entered outside of Illinois solely because the couples consisted of two persons of the same sex. Plaintiffs expect that the evidence to be presented at trial in each Action will be

similar and/or overlapping. Consolidating the Actions will conserve the parties' resources by streamlining discovery in the two cases.

5. Consolidating the Actions will also conserve the Court's resources and eliminate the risk of inconsistent rulings and judgments. Similar motions and discovery will take place in both Actions. For example, on June 1, 2012, Attorney General Lisa Madigan filed nearly identical Motions to Intervene in both *Darby v. Orr* and *Lazarro v. Orr*. Both motions request the same relief, namely, "the right to intervene in this case to present the Court with arguments that explain why the challenged statutory provisions do not satisfy the guarantee of quality under the Illinois Constitution[.]" (Mot. ¶ 4.) The motions are noticed to be heard on June 25, 2012 and June 26, 2012, respectively. However, because the two Actions are not before the same judge, they will be heard separately by two different judges. Consolidating the Actions before the same judge will eliminate duplicative efforts and eliminate the risk of inconsistent outcomes.

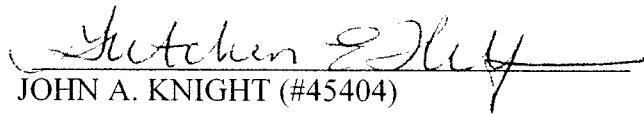
6. Pursuant to the General Order 3.1 of this Court, properly-consolidated cases "shall be assigned to the calendar to which the case with the lowest docket number was assigned." Gen. Order, Cook County Cir. Ct. 3.1, § 1.6. The above-captioned Action is the higher-numbered case. Thus, consolidation of the above-captioned Action with *Darby v. Orr* before Judge Sophia Hall is appropriate.

8. Plaintiffs have conferred with the *Darby* plaintiffs and confirmed that they consent to the consolidation of the Actions and the reassignment of the above-captioned Action to the docket of Judge Sophia Hall, such that Judge Hall may preside over both Actions for pre-trial and trial purposes.

WHEREFORE, for the foregoing reasons, Plaintiffs respectfully request that this Court consolidate this Action, Case No. 12 CH 19719, with *Darby v. Orr*, Case No 12 CH 19718, that this Action be reassigned to Judge Sophia Hall, and that both Actions proceed before Judge Hall for pre-trial and trial purposes, with each Action to retain its separate case number and identity.

Dated: June 13, 2012

Respectfully submitted,



JOHN A. KNIGHT (#45404)
HARVEY GROSSMAN
Roger Baldwin Foundation
of ACLU, Inc.
180 North Michigan Avenue
Suite 2300
Chicago, Illinois 60601
(312) 201-9740

JAMES D. ESSEKS
American Civil Liberties Union
Lesbian Gay Bisexual Transgender Project
125 Broad Street
New York, New York 10004
(212) 549-2623

JEFFREY W. SARLES (#43948)
RICHARD F. BULGER
AARON S. CHAIT
GRETCHEN E. HELFRICH
KRISTIN W. SILVERMAN
Mayer Brown LLP
71 S. Wacker Drive
Chicago, IL 60607
(312) 701-7819

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF SERVICE

The undersigned certifies that a true and correct copy of the foregoing document was served on June 13, 2012, on the following via first class U.S. Mail:


David Orr
Cook County Clerk
50 W. Washington
Chicago, Illinois 60602

Defendant
Defendant in Darby v. Orr, Case No. 12 CH 19718

Emily Nicklin, P.C.
Jordan M. Heinz
Amy E. Crawford
KIRKLAND & ELLIS LLP
300 North LaSalle
Chicago, IL 60654
Tel: (312) 862-2000
Fax: (312) 862-2200

Camilla B. Taylor
Christopher R. Clark
Kenneth D. Upton, Jr.)
LAMBDA LEGAL DEFENSE AND EDUCATION
FUND, INC.
Midwest Regional Office
11 East Adams, Suite 1008
Chicago, IL 60603

Attorneys for Plaintiffs in
Darby v. Orr, Case No. 12 CH 19718


GRETCHEN E. HELFRICH
Mayer Brown LLP
Firm ID # 43948
71 S. Wacker Drive
Chicago, IL 60640