

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

VIRGINIA WOLF and CAROL
SCHUMACHER, KAMI YOUNG and
KARINA WILLES, ROY BADGER and
GARTH WANGEMANN, CHARVONNE
KEMP and MARIE CARLSON, JUDITH
TRAMPF and KATHARINA HEYNING,
SALUD GARCIA and PAM KLEISS,
WILLIAM HURTUBISE and LESLIE
PALMER, and JOHANNES WALLMANN
and KEITH BORDEN,

Plaintiffs,

vs.

Case No. 14-cv-64

SCOTT WALKER, in his official capacity as
Governor of Wisconsin, J.B. VAN HOLLEN,
in his official capacity as Attorney General of
Wisconsin, RICHARD G. CHANDLER, in his
official capacity as Secretary of Revenue of
Wisconsin, OSKAR ANDERSON, in his
official capacity as State Registrar of
Wisconsin, GARY KING, in his official
capacity as Eau Claire County District
Attorney, JOHN CHISHOLM, in his official
capacity as Milwaukee County District
Attorney, JOSEPH CZARNEZKI, in his
official capacity as Milwaukee County Clerk,
WENDY CHRISTENSEN, in her official
capacity as Racine County Clerk, and SCOTT
MCDONELL, in his official capacity as Dane
County Clerk,

Defendants.

**PLAINTIFFS' SUPPLEMENTARY MEMORANDUM
REQUIRED BY THE COURT'S MARCH 4, 2014 ORDER**

On February 28, 2014 Plaintiffs Virginia Wolf, *et al.* (collectively, "Plaintiffs") filed a Motion for Preliminary Injunction (Dkt. # 27) asking that this Court enjoin Defendants from

enforcing Article XIII, § 13 of the Wisconsin Constitution and any Wisconsin statutes which operate to ban marriage for same-sex couples, and further asking that the Court enjoin Defendants Van Hollen, King, and Chisholm from enforcing Wis. Stat. § 765.30(1)(A), which makes it a crime for residents to leave the state to contract a marriage considered void in Wisconsin, against same-sex couples who marry outside of Wisconsin.

On March 4, 2014, this Court issued an order indicating that in light of the U.S. Supreme Court's decision in *Herbert v. Kitchen*, 134 S. Ct. 893 (Jan. 6, 2014), to stay the injunction requiring the State of Utah to allow same-sex couples to marry, as well as the subsequent decisions of several other district courts to stay injunctions requiring states to permit and recognize marriages between same-sex couples (*e.g.*, *Bishop v. United States ex rel. Holder*, 04-CV-848-TCK-TLW, 2014 WL 116013 (N.D. Okla. Jan. 14, 2014); *Bostic v. Rainey*, 2:13CV395, 2014 WL 561978 (E.D. Va. Feb. 13, 2014); *De Leon v. Perry*, SA-13-CA-00982-OLG, 2014 WL 715741 (W.D. Tex. Feb. 26, 2014)), the Court would also be required to stay any preliminary relief ordered in this case. Given that the grant of a stay would deny Plaintiffs the benefit of immediate relief, the Court encouraged Plaintiffs to withdraw their motion for preliminary injunction and to proceed directly to final resolution of this matter on an expedited schedule.

Plaintiffs moved for a preliminary injunction, in part, because of the risk of prosecution under Wis. Stat. § 765.30(1) faced by two of the Plaintiff couples. However, Defendants King and Chisholm have agreed, in the form of a Stipulation attached hereto as Exhibit 1, not to prosecute Plaintiffs Wolf, Schumacher, Young and Willes under Wis. Stat. § 765.30(1) for having contracted marriages in Minnesota.

Accordingly, Plaintiffs withdraw their motion for preliminary relief in favor of final resolution on an expedited schedule as the Court has recommended.

Plaintiffs are available for a preliminary pretrial conference with the magistrate judge, but also propose that this matter can be resolved on summary judgment and suggest the following expedited schedule:

1. Plaintiffs' Motion for Summary Judgment to be filed by March 24, 2014.
2. Defendants' Opposition to be filed by April 14, 2014.
3. Plaintiff's Reply to be filed by April 24, 2014.

Respectfully submitted,

Dated: March 11, 2014

JOHN A. KNIGHT
American Civil Liberties Union Foundation
Lesbian Gay Bisexual Transgender Project
180 North Michigan Avenue
Suite 2300
Chicago, Illinois 60601
(312) 201-9740
jaknight@aclu.org

LAURENCE J. DUPUIS
SBN: 1029261
American Civil Liberties Union of
Wisconsin Foundation
207 E. Buffalo Street, Suite 325
Milwaukee, Wisconsin 53202
(414) 272-4032
ldupuis@aclu-wi.org

By: /s Gretchen E. Helfrich
Counsel for Plaintiffs

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

HANS GERMANN
GRETCHEN E. HELFRICH
FRANK DICKERSON
Mayer Brown LLP
71 South Wacker Drive
Chicago, Illinois 60606-4637
(312) 782-0600
hgermann@mayerbrown.com
ghelfrich@mayerbrown.com
fdickerson@mayerbrown.com