

<p>DISTRICT COURT, ADAMS COUNTY, COLORADO</p> <p>Adams County Justice Center 1100 Judicial Center Drive Brighton, CO 80601</p> <hr/> <p>REBECCA BRINKMAN AND MARGARET BURD, <i>et al.</i></p> <p>Plaintiffs,</p> <p>v.</p> <p>KAREN LONG, in her official capacity as Clerk and Record of Adams County, <i>et al.</i>,</p> <p>Defendants.</p>	<p>DATE FILED: July 10, 2014 5:58 PM FILING ID: 1816BAF4A09B3 CASE NUMBER: 2013CV32572</p> <p style="text-align: center;"><b>▲ COURT USE ONLY ▲</b></p>
<p>JOHN W. SUTHERS, Attorney General DANIEL D. DOMENICO, Solicitor General* MICHAEL FRANCISCO, Assistant Solicitor General* KATHRYN A. STARNELLA, Assistant Attorney General* Ralph L. Carr Colorado Judicial Center 1300 Broadway, 10th Floor Denver, CO 80203 Telephone: 720.508.6551 Email: dan.domenico@state.co.us; michael.francisco@state.co.us; kathryn.starnella@state.co.us Registration Numbers: #32083, #39111, #43619 *Counsel of Record</p>	<p>Case No. 13CV032572 (Consolidated with 14cv30731, Denver)</p> <p>Div.: C</p>
<p><b><u>EMERGENCY</u> MOTION FOR INJUNCTION PENDING APPEAL TO PREVENT DENVER CLERK &amp; RECORDER FROM ISSUING SAME-SEX MARRIAGE LICENSES</b></p>	

Defendant State of Colorado hereby files this emergency motion for a preliminary injunction pursuant to Rule 62(c) to enjoin Defendant, Denver County Clerk & Recorder from issuing same-sex marriage licenses before the stay of this Court's Order is lifted. This relief is necessary to effectuate this Court's Order, issued yesterday, including a stay pending resolution on appeal. This Court has the

inherent authority to enjoin parties as necessary to preserve the judiciary's authority to resolve the case. *See* C.R.C.P. 62(a) & (c).

**Certificate of Conferral under C.R.C.P. 121 § 1-15(8)**: The undersigned's office attempted to confer (by phone and email) with counsel to the Denver County Clerk and Recorder, Wendy Shea. Ms. Shea did not respond to the conferral attempt prior to the filing of this emergency request. It is assumed this motion is opposed. The Adams County Plaintiffs and Denver County Plaintiffs oppose the motion. The Adams County Clerk takes no position. The Governor, following dismissal, takes no position.

The Order issued by this Court just yesterday found that Colorado's marriage laws violate the U.S. Constitution, granting the Plaintiffs in the consolidated cases the relief sought against the State of Colorado, subject to a stay pending appeal (which the State of Colorado intends to pursue). As the Order concluded:

Having considered the *Romero* factors, all other circumstances of this case, and the events surrounding the issue of same-sex marriage, the Court finds that **a stay is necessary to avoid the instability and uncertainty which would result** in the State of Colorado if the Court did not stay its ruling 18 and for the orderly administration of justice. The Court orders that this judgment is stayed pending a resolution of this matter on appeal. N.18 (“**Witness the continued issuance of marriage licenses in Boulder** (despite a stay of the 10th Circuit decision) which has prompted the Attorney General to file a lawsuit in Boulder to enjoin the practice.”)

Order at 48 (emphasis added). The meaning of this stay must include the parties *waiting* to implement the Order until there is resolution on appeal. The footnote made it doubly clear: Issuance of same-sex marriage licenses prior to the appellate courts' having had an opportunity to review the Order will undermine the judicial process this Court put in place.

Less than one day later the Denver Clerk and Recorder, a party to this Court's Order and subject to the jurisdiction of this Court, did exactly that and began issuing same-sex marriage licenses.

*See* [http://www.denverpost.com/news/ci\\_26124588/denver-clerk-begins-issuing-same-sex-marriage-licenses](http://www.denverpost.com/news/ci_26124588/denver-clerk-begins-issuing-same-sex-marriage-licenses) (online 7/10/14)

For all the legal reasons previously presented to this Court in the motion for a stay (which Denver opposed), an injunction is necessary to prevent the issuance of

marriage licenses on behalf of the State of Colorado contrary to existing law. The Denver Clerk and Recorder has acted directly contrary to this Court's decision to issue a stay.

The State of Colorado seeks an immediate, emergency injunction against the Denver Clerk and Recorder preventing additional violations of this Court's stay. Without an injunction and compliance, this Court's Order and authority to resolve the issues disputed by the parties will be gravely undermined. Already many other county clerks in Colorado have expressed precisely the sort of confusion that this Court sought to prevent with its Order. *See Exhibit A* (letters from Douglas County clerk). The orderly administration of justice calls out for the parties to follow this Court's Order and allow the judicial process to resolve disputes.

Courts have authority to issue injunctions to preserve the status quo pending appeal. C.R.C.P. 62(c); *see also Arapahoe County Pub. Airport Auth. v. Centennial Express Airlines, Inc.* 956 P.2d 587, 599 (Colo. 1998) (stating "even where a court does not have jurisdiction to decide a controversy on the merits, it may nonetheless issue an injunction to preserve the status quo pending resolution of the dispute in an appropriate forum.") (citation omitted).

The issuance of public documents, contrary to this Court's Order and stay, will undermine Coloradans' confidence in their government. That confidence diminishes even further in view of the fact that, as a public officer, the Denver Clerk and Recorder refuses to uphold and abide by Colorado law and the Court's stay. A proposed injunction is attached as **Exhibit B**.

Respectfully submitted this 10th day of July, 2014.

JOHN W. SUTHERS  
Attorney General

/s/ Michael Francisco

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**CERTIFICATE OF SERVICE**

I hereby certify that on July 10, 2014, I electronically filed the foregoing Motion with the Integrated Colorado Courts E-Filing System (ICCES), which will send notification of such filing to counsel of record.

*/s/ Michael Francisco*

Michael Francisco