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PACIFIC JUSTICE
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EDWIN MEESE, III, Esq.
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Chief Counsel

RECEIVED

JUL 05 2013

COUNTY RECORDER

July 3, 2013

RECEIVED

JUL 05 2013

COUNTY RECORDER

John Tuteur, Napa County Clerk
Carithers Building
900 Coombs St., Room 116
Napa, CA 94559
Fax: 707-259-8149

Re: Issuance of Same-Sex Marriage Licenses

Dear Clerk Tuteur,

It has been widely reported that the recent decision by the U.S. Supreme Court, and the subsequent lifting of the stay by the Ninth Circuit in *Hollingsworth v. Perry*, has removed Article I, section 7.5 from the California Constitution. This is incorrect.

The Supreme Court decision vacated and remanded the Ninth Circuit's decision for lack of standing. The lifting of the stay by the Ninth Circuit applies only to the four named plaintiffs, exclusively impacting the county clerks for Los Angeles and Alameda.

A decision by the Ninth Circuit in 2010 in this case explains that counsel for plaintiffs confirmed to the Court that "the injunction [the plaintiffs] obtained determines only that Proposition 8 may not be enforced in two of California's fifty-eight counties." *Perry v. Schwarzenegger*, 630 F.3d 898, 907 (9th Cir. 2010) Reinhardt concur. Plaintiffs' counsel "could have obtained a statewide injunction had they filed an action against a broader set of defendants." *Id.* 630 F.3d at 908. Emphasis in added. Moreover, lawyers for the plaintiffs contended that the injunction "can be extended to the remaining fifty-six counties, upon the filing of a subsequent lawsuit by the Attorney General in state court against the other County Clerks." *Id.* To date, no such lawsuit has been filed. Additionally, because no appellate court decision remains in effect which has invalidated the Marriage Amendment, state officials cannot deem it unconstitutional or otherwise unenforceable. See, CA Const. Art. III, § 3.5. Finally, it should be noted that the appellate court's decision was not vacated by the U.S. Supreme Court. Hence, the opinion still stands.

In view of this, please be advised that CA Const., Art I, §7.5 remains the law in California. Thus, the issuance of marriage licenses to persons unqualified to marry under that constitutional provision continues to be prohibited.

Finally, in the event that you are served with a lawsuit by the Attorney General to extend the injunction to the County, feel free to contact this office. We would be delighted to defend you on a pro bono basis. Feel free to contact this office to discuss this further.

Very truly yours,

A handwritten signature in black ink, appearing to read "K. Snider". The signature is fluid and cursive, with the first name "K." and the last name "Snider" clearly distinguishable.

Kevin T. Snider, Chief Counsel