

IN THE CIRCUIT COURT OF THE SIXTEENTH JUDICIAL CIRCUIT
IN AND FOR MONROE COUNTY, FLORIDA
CIRCUIT CIVIL DIVISION

AARON R. HUNTSMAN and
WILLIAM LEE JONES,

Plaintiffs,

v.

Case No.: 2014-CA-0305-K

AMY HEAVILIN, as Clerk of the
Courts of Monroe County, Florida,
in her official capacity,

Defendant,

and

STATE OF FLORIDA,

Intervenor-Defendant.

**STATE OF FLORIDA'S MEMORANDUM OF LAW
IN OPPOSITION TO PLAINTIFFS' EMERGENCY MOTION TO LIFT STAY**

Plaintiffs filed their "Emergency Motion to Lift the Stay" this morning. This Court requested a response by noon. This Court should deny the motion.

The United States Supreme Court has issued orders staying lower court decisions regarding same-sex marriage lawsuits. So have several federal courts of appeals. And many trial courts have stayed their orders on their own. They have all acted to maintain the status quo while the issues presented are resolved. This Court should likewise maintain the status quo and leave the automatic stay in place until further appellate proceedings are concluded.

Numerous federal injunctions against states' marriage laws to date have been stayed, either by the courts issuing those injunctions or by the courts reviewing them. *See, e.g., Herbert v. Evans*, 14A65, 573 U.S. --, (July 18, 2014) (granting stay in Case No. 2:14-cv-55-DAK (D. Utah) after district and circuit courts denied requests for same); *Kitchen v. Herbert*, Case No. 13-4178 (10th Cir. June 25, 2014); *Bishop v. Barton*, Case No. 14-5003 (10th Cir. July 18, 2014); *Herbert v. Kitchen*, No. 13A687,134 S. Ct. 893 (Jan. 6, 2014) (granting stay in Case No. 2:13-cv-217 (D. Utah) after district and circuit courts denied requests for same); *Tanco v. Haslam*, Case No. 14-5297 (mem. order) (6th Cir. Apr. 25, 2014) (granting stay pending appeal after district court denied stay); *DeBoer v. Snyder*, Case No. 14-1341 (mem. order) (6th Cir. Mar. 25, 2014) (granting stay pending appeal after district court denied stay; following Supreme Court's order *Kitchen* as one issued under circumstances indistinguishable from the one before circuit court); *Bourke v. Beshear*, Case No. 3:13-CV-750-H, 2014 WL 556729 (mem. op.) (W.D. Ky. Mar. 19, 2014); *DeLeon v. Perry*, 975 F. Supp. 2d 632, 665 (W.D. Tex. 2014) (staying "order pending appeal to prevent any legal and practical complications"); *Bostic v. Rainey*, 970 F. Supp. 2d 456, 484 (E.D. Va. 2014); *Bishop v. United States ex rel. Holder*, 962 F. Supp. 2d 1252, 1296 (N.D. Okla. 2014).

Notably, the U.S. Court of Appeals for the Tenth Circuit, which currently is the only federal appellate court to have decided the issue, twice has stayed its own mandates in order to permit review by the U.S. Supreme Court. *See Kitchen v. Herbert*, Case No. 13-4178 (10th Cir. June 25, 2014); *Bishop v. Barton*, Case No. 14-5003 (10th Cir. July 18, 2014).

As these decisions recognize, stays are appropriate in these types of cases.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 21st day of July, 2014, a true copy of the foregoing memorandum was filed electronically with the Clerk of Court through the Florida Courts eFiling Portal, which shall serve electronically a copy of said memorandum on counsel of record listed on the attached service list.

/s/ Adam S. Tanenbaum
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