

Example of research paper on proposition 8 hollingsworth v. perry

[Law](#), [Criminal Justice](#)



Barbara Frankel from Diversity Inc wrote on her blog that “ The California appeals court decision striking down Proposition 8 - the ban on the same-sex marriage - is an important legal and moral victory for marriage-equality supporters including several corporations.” Her comments referred to the decision of the CA 9th Circuit Court of Appeals on “ Hollingsworth versus Perry” which declared Proposition 8 illegal sending the lawsuit on its way to the California Supreme Court and then all the way the US Supreme Court. Oral arguments for the case were presented at the US Supreme Court two days during the end of May. The right for a married person to extend benefits to their domestic-partner has been taken for granted for many decades – but only for heterosexual couples. For many years jobs have been scarce and availability of medical care has decreased for many people so companies are under increased pressure to allow employees in same sex marriages to have access to the same group rates for their spouses that are available for heterosexual couples. The Supreme Court decision on the Hollingsworth v. Perry” is expected in June. Meanwhile the subject is being hotly debated throughout the country. The issue of offering the same benefits to same-sex domestic partners is a reflection of the values and ethics of a company. Now employees and customers can easily learn about a company and talk about their own experiences with a company on the Internet. Businesses need to understand that they are living in a glass so they need to treat people fairly.

Although homosexuality is not new in the United States, or for that matter, it is not new on earth; the issue brings out a passionate reactionary emotion in some people that requires some excruciating electoral and judicial events.

The most recent of these is the conflict and angst initiated by California's vote on Proposition 8 and the subsequent lawsuit to over throw Proposition 8. Proposition 8 was firmly based in the racism that this country has fought against since its conception. Luke Visconti is the founder and CEO of Diversity Inc and a nationally recognized leader in diversity management. On the website for Diversity Inc he has a blog titled " Ask the White Guy." Visconti (n. d.) reminded people reading his blog that " Rights afforded to one group that do not diminish another group's rights are what this country is all about." He continues by listing examples of this American tradition including female suffrage, civil rights for African Americans, the Americans with Disabilities Act and there are others legislated by the federal government.

Gay marriages are a controversial issue even in the state of California which is supposed to be ahead of the rest of the country on liberal issues. To try to state the history some of the more critical steps in the process are interspersed with the discussion because otherwise, explaining the history without a guide is very confusing. May 2008: The California Supreme Court struck down the California law prohibiting same-sex marriages stating that it was not legal in their interpretation of the California state constitution.

November 2008: California voters voted for Proposition 8 so the California constitution was amended in order to prohibit same-sex marriage. After Prop 8 was approved during the election the lawsuit was filed. In 2009 the California Governor was Arnold Schwarzenegger and Jerry Brown was the Attorney General. The case was filed originally as " Perry v. Schwarzenegger." Attorneys Ted Olsen and David Boies filed the case " on

behalf of two same-sex couples, asking for a preliminary order blocking Prop 8” (LambdaLegal, n. d.). The Judge at the preliminary injunction was Judge Vaughn R. Walker. The party counsel requested that only legal arguments be allowed. May 2009: The California Supreme Court declared Prop 8 legal. On the positive side of the decision the California Supreme court let the marriages that had taken place between May 2008 and the start of Prop 8. Another part of the issue is the Equal Protection Clause of the Constitution’s 14th Amendment violated when states define marriage as only different-sex couples. (LLI, 2013) An analysis of the US Supreme Court and the issue of gay marriage in the Reuters newspaper noted that the Supreme Court judges did not seem to want to make a big splash about gay marriage but simply by agreeing to hear the case which grew out of the California Prop 8 vote was adding more attention and significance to the issue. (Biskupic, 2013) Many famous figures came out to support gay marriage including former President Bill Clinton and Republican Senator Rob Portman from Ohio. Ohio had previously been against gay marriage but change his stand on the issue after learning his son is gay. The American Academy of Pediatrics has shown solid support for civil rights including marriage for gay individuals. (Biskupic, 2013) The Romer v. Evans was decided in the US Supreme Court in 1996 upheld homosexuals’ right to anti-discrimination base on equal protection. (von Drehle, 2013) At that time the dissenting notes were written by Justice Scalia who said that “ moral disapproval” was enough to let the discriminating law (from the original Colorado case). (von Drehle, 2013) The reasoning that discrimination is acceptable under any circumstance has become less and less possible. For example in the decision that granted gays

the right to privacy (a case from Texas that rose to the US Supreme Court) Justice Kennedy “ declared” that heterosexuals and homosexuals have the rights to privacy (von Drehle, 2013). Justice O’Conner agreed with Kennedy and wrote “ Moral disapproval of a group cannot be a legitimate governmental interest under the Equal Protection Clause.” (von Drehle, 2013)

The interest groups that are affected because they are working hard to support same-sex marriage include a wide range of memberships and purposes. Lesbian, Bisexual, Gay and Transsexual groups and associations support same-sex marriage. Civil rights groups such as the American Civil Liberties Union support the right of everyone to marry based on the constitution and The Equal Protection Clause. Former presidential candidate John McCain and his Republican vice presidential candidate do not support same-sex marriages. Former President Bill Clinton signed a law that denies health insurance coverage for the same-sex spouses of employees but now he is asking the Supreme Court to overthrow the law because he said it was a mistake. President Obama had been advocating that the gay marriage issue could and should be decided on a state by state basis but he has made some comments that show he is not opposed to a federal law prohibiting discrimination based on sexual preference. On the other hand many conservative organizations and corporations owned by conservatives do not support same sex marriage. Many very conservative churches support the banning of gay marriage . Old-fashioned, traditional religious groups and churches like the Catholic Church, the Mormon Church and Jewish Orthodox groups supported Prop 8 and do not support same-sex marriage. Some of the

industries and companies that support same-sex marriage are international corporations and financial institutions like The Coca-Cola company (beverages), Capital One (banking), General Motors (automotive manufacturing), Kaiser Permanente (insurance), Time Warner (media), Eli Lilly (pharmaceuticals), Cisco (finance) and Whirlpool (appliances). All of these businesses have endorsed and given a lot of support to same sex marriage issues. Frankel (2013) states it very directly “ The intersection of corporate values and business decisions has increased substantially in recent years at progressive companies.” Diversity Inc keeps track of companies’ records in order to compile their “ Diversity Inc Top 50 Companies for Diversity” list; companies that get onto the list offer benefits for the spouse in a same-sex marriage. (Frankel 2013) Companies that discriminate against employees because of a same-sex relationship or marriage are risking gaining a bad image that will make them lose customers.

One of the arguments made is that same-sex marriage is a state’s rights issue and does not or should not be acted upon by the federal government. Many states that have legalized same-sex marriages are traditionally considered conservative: New York, Washington, D. C., Connecticut, Iowa, Massachusetts, New Hampshire, Washington State and Vermont. The people who use the state’s rights issue do not seem to have any interest except political reasons and many who used to be against same-sex marriage altogether now support it.

The churches who do not support same-sex marriage want to stay with their historical traditions and with the idea that marriage has to be between

different sexes. One old fashioned argument is that only men and women can make babies, but now that test tube babies are possible that argument is not as convincing. Also many same-sex partners have biological children of their own or adopt children. The fact that the American Association for Pediatrics supports same-sex marriage shows that parenting is not a product of sexual preference. In fact good parents are good because of their skills with raising children in a safe and healthy environment – and loving children. So the groups that are interested in supporting family values are not necessarily those who only support marriage between a man and a woman. Corporation should be interested in the families of same sex partners because people prefer workplaces that welcome everyone and treat everyone equally. (Frankel, 2013) The decisions about families that are made by businesses and corporations are based on ethics and the right thing to do. People want to work at a place that reflects their personal values. Consumers are more likely to monitor the ethics of the trademarks they plan to buy to make sure the company shares the same ethical concerns. Monitoring companies is very easy on the Internet. Also competition is now a global issue even for small businesses – discrimination is a waste of time and therefore a waste of money. Treating employees equally is direct and honest as well as more efficient.

If marriage is made a legal right for all adult citizens the impact for businesses should be good. Even businesses that oppose same-sex marriage due to the CEO's values (or for whatever reason) will be obliged to follow the rule of law and stop discriminating against homosexuals. It is important for businesses big and small to clearly state the values and incorporate it in

their mission statement and in their hiring practices. If businesses are not fair then they may not be gaining the best outcome possible. Frankel (2013) has observed the negative repercussions on companies that do not 'play fair' and end up facing losses. Companies that treat employees and customers are with fairness and equality are viewed in a positive way and the business is seen as more trustworthy than the competitors. Now privacy and secrets are not an easy way to do business. Social networking with Twitter, LinkedIn and Facebook will easily spread the word about companies that are not treating their employees fairly. The passing of a resolution to make it possible for gay marriage and the equitable treatment of gays and gay spouses will force companies to change their attitudes if they do not support same-sex marriage and giving benefits to spouses of homosexual employees. But even if a resolution or legal initiatives are not passed to make discrimination unlawful the attitude in the US seems to be quickly moving to accept the idea that everyone should have the right to marry and employees should have equal and fair benefits. Von Drehle (2013) noted that a large social shift has made same sex marriages acceptable there was no exact time that marks the change; it just seemed to happen naturally.

A US Supreme Court decision to uphold gay marriage would help make the process go much more quickly though.

This particular conflict over who can marry and who cannot started in the California electoral system and then moved, sometimes back and forth, not always forward through the state and federal judicial systems. So many politicians in Washington, D. C. are starting to show support for gay marriage that it is hard to keep up with the announcements. Parties are showing

support for gay marriage. Even medical associations and other groups that have been historically conservative are showing strong support for gay marriage. The op-ed columnist for the NY Times Maureen Dowd was not very impressed with the discussions between the US Supreme Court justices during the oral arguments. She compared this court case to one from 1967, the Loving v. Virginia court case which was over legalizing interracial marriage. State rights had an effect on the 1967 decision to legalize interracial marriage because 14 states had already repealed laws forbidding interracial marriage. (Dowd, 2013) But the Justices at the time did not decide to wait and see what would happen at the level of the states justice systems. Instead they decided people should be able to marry based on their own choice not on the color of their skin. “ The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.” (Dowd, 2013)

An opinion that some people are sharing, even some of the Supreme Court justices, is that homosexuals do not need any more support because they are supposedly doing so well. And Justice Roberts asked about the celebrity endorsements “ You don’t doubt that the lobby supporting the enactment of same-sex marriage laws in different states is politically powerful, do you?” Reality is not so good as that though, unfortunately, Dowd (2013) pointed out that - “ in twenty nine states, it is perfectly legal to fire someone because of his or her sexual orientation.”

Leff (2013) described one of the possibilities for an outcome – it may be that only the plaintiffs “ a lesbian couple from Berkeley and a gay couple from Burbank” would be able to be legally to marry but no one else would gain the

same right. (Leff 2013) This would be a sad day for everyone if that happens. Businesses need to open their minds and understand that discrimination loses money but fairness and equality make employees happy, they work harder so it is better for the company profits.

Works Cited

Biskupic, Joan. "Analysis: Supreme Court energizes gay rights even as it resists." Reuters, 27 March 2013. Web. 4 April 2013. <http://www.reuters.com/article/2013/03/28/us-usa-court-gaymarriage-irony-idUSBRE92R00N20130328>

Dowd, Maureen. "Will gays be punished for success?" The New York Times Sunday Review, 30 March 2013. Web. 4 April 2013. <http://www.nytimes.com/2013/03/31/opinion/sunday/dowd-will-gays-be-punished-for-success.html?ref=californiasproposition8samesexmarriage&r=0>

Frankel, Barbara. "Gay-Marriage ban struck down: Why your company should care" n. d. Web. 4 April 2013. <http://www.diversityinc.com/diversity-management/gay-marriage-ban-struck-down-why-your-company-should-care/>

"Hollingsworth v. Perry (formerly known as Perry v. Brown and Perry v. Schwarzenegger)" Lambda Legal. n. d. Web. 4 April 2013. <http://www.lambdalegal.org/in-court/cases/perry-v-schwarzenegger>

"Hollingsworth v. Perry" Legal Information Institute (LII) 26 Mar. 2013. Web. 4 April 2013. <http://www.law.cornell.edu/supct/cert/12-144>

Hunter, Nan. "What you need to know as Prop 8 hits the Supreme Court" The Nation. 25 March 2013. Web. 4 April 2013. <http://www.thenation.com>

<https://assignbuster.com/example-of-research-paper-on-proposition-8-hollingsworth-v-perry/>

com/blog/173512/what-you-need-know-prop-8-hits-supreme-court

Leff, Lisa. " Prop 8 in California: When will same-sex marriages resume? 28 Mar. 2013. Web. 4 April 2013. http://www.huffingtonpost.com/2013/03/28/prop-8-in-california_n_2974760.html

" Oral Arguments - Supreme Court of the United States: Hollingsworth v.

Perry" Proceedings (10: 07 a. m.) 26 March 2013 Supreme Court

Proceedings 26 Mar. 2013. Web. 4 Apr. 2013. www.supremecourt.gov/oral_arguments/12-144a.pdf

Visconti, Luke. " Ask the white guy: Decision making clarity of values & what to do when it goes horribly wrong" DiversityInc, n. d. Web. 4 April 2013.

von Drehle, David. " How Gay Marriage Won" Time Swampland, 28 March

2013. Web. 4 April 2013. <http://swampland.time.com/2013/03/28/how-gay-marriage-won/?xid=newsletter-weekly>