



Jubilation From Coast to Coast

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05/15/2008

"Today is the happiest and most romantic day of our lives."

That is how Stewart Gaffney described the reaction that he and his fiancé John Lewis felt about the May 15 gay marriage victory in the California Supreme Court. Gaffney and Lewis, who met 21 years ago at a house party, were one of 14 plaintiff couples who litigated the case that brought this week's victory.

It is a sweeping win. Within 30 days, same-sex couples will be able to marry in California, and unlike Massachusetts, there will be no bar on the right of couples from out-of-state to tie the knot there. Most states in the country ban recognition of same-sex marriages, either by statute or constitutional amendment, or both.

But, fortunately, New York is not one of them. Despite the community's loss at the state's highest court in 2006 in the bid to have marriage rights for same-sex couples affirmed constitutionally, there is no statute or policy denying recognition to valid marriages from other jurisdictions.

In fact, a recent ruling by a state appeals court in Rochester found that New York must recognize such rulings. Since no appeals court elsewhere in New York has found otherwise, the decision is for now a statewide precedent. Just last week, the Court of Appeals passed on the opportunity to review that decision, though it could do so later.

The city and state pension funds have recognized same-sex marriages for their public employee and retiree members for more than three years. In 2007, the state Civil Service Commission adopted the same policy for purposes of administering the New York public employee health insurance plan, covering not only state employees but those of many smaller localities as well.

Unless the Court of Appeals were to step in, at some point down the line, and overturn the Rochester decision - which would run contrary to an advisory opinion of then-Attorney General Eliot Spitzer in 2004 and legal analysis done by the city as well as the state comptroller - California's decision this week opens up an important new opportunity for New Yorkers to legally marry and have their unions recognized here.

The Empire State Pride Agenda is leading the charge in Albany to make marriage equality a reality here via the legislative route. With support from Governor David Paterson and an affirmative vote in the State Assembly last year, ESPA is focused on overturning the Republican two-seat lock on the State Senate. "Everything we are trying to win in our community - marriage, transgender rights, a school bullying bill- is being blocked by Joe Bruno," the Senate Republican majority leader, said Alan Van Capelle, ESPA's executive director, in the wake of the California decision. "This ruling is another kick in the butt to a State Senate leadership that has decided not to protect New York families."

Noting a reference in the California majority opinion to the dissent that New York's chief judge made in the losing gay marriage suit here, Van Capelle said, "I am enormously proud that our chief judge, Judith Kaye, was quoted on pages 116 and 117 saying what we have all known all along, that 'there are enough marriage licenses to go around.' "

A press teleconference by the winning side in California - which included three of the plaintiff couples, the National Center for Lesbian Rights, Lambda Legal, the American Civil Liberties Union, the San Francisco City Attorney's office, and Equality California, the statewide LGBT lobby - acknowledged the one big threat to this week's joy. Opponents of marriage equality in California have filed petitions to place a referendum on November's ballot constitutionally limiting marriage to opposite-sex couples. The state is currently reviewing those petitions to see if they have sufficient valid signatures.

None of the legal experts could say for certain what impact passage of the amendment might have on the court's decision or its future actions. Geoffrey Kors, Equality California's executive director, made clear that the pro-gay "campaign is up and running." **But given the estimate by Matt Foreman, who recently left the helm of the National Gay and Lesbian Task Force, that it could cost more than \$15 million to beat back such a referendum, it is clear that after tonight's celebration, it's time to get back to work tomorrow.**