

BASF President Kelly Dermody Issues Statement on United States Supreme Court Proposition 8 and DOMA Decisions

December 7, 2012 – San Francisco – Today the U.S. Supreme Court granted the cert petitions in *Hollingsworth v. Perry* (9th Circuit) and *Windsor v. United States* (2d Circuit). Both cases address the fundamental question of whether same-sex couples are entitled to equal protection under the Constitution. The Bar Association of San Francisco (BASF) recognizes that these procedural decisions are an important step in the right direction on the road towards justice for lesbian, gay, bisexual, and transgender Americans. We are reminded, however, of the adage “justice delayed is justice denied,” and urge the Court to invalidate these laws with all due speed. The LGBT community has been waiting too long.

Perry involves a challenge to California’s Proposition 8, which redefined marriage in this state as being solely between one man and one woman. Former Northern District of California Chief Judge Vaughn Walker ruled, after a trial, that the law was unconstitutional, and the Ninth Circuit affirmed, recognizing, “Proposition 8 serves, and has no effect, other than to lessen the status and human dignity of gays and lesbians in California, and to officially classify their relationships and families as inferior to those of opposite-sex couples. The Constitution simply does not allow for laws of this sort.”

Windsor involves a challenge to the federal Defense of Marriage Act (DOMA), which denies federal benefits to legally married same-sex couples that are otherwise available to opposite-sex married couples. In a similar DOMA challenge in the Ninth Circuit, *Golinski v. United States Office of Personnel Management*, BASF joined eleven other bar associations in filing an amicus brief asserting the manifest unfairness of DOMA:

From the abolitionist movement of the nineteenth century to the LGBT rights movement of today, lawyers and legal organizations have played a central role in ensuring that all Americans are treated equally under law, regardless of their race, religion, sex, or sexual orientation. The legal profession’s cornerstone principles of justice and non-discrimination are reflected in the oaths each lawyer takes upon becoming a member of the bar, in the ethical rules of various states, in statements by the American Bar Association and other representative groups, and in the actions of individual lawyers every day.

Federal government lawyers were at the vanguard of the civil rights movement, fighting to uphold this nation’s commitment to equal treatment under law. Today, these lawyers, if they are lesbian, gay, bisexual, or transgender, cannot even obtain employer-sponsored health insurance for their spouses. This is absurd, and it serves no legitimate government interest. DOMA—by singling out same-sex couples and purposefully denying their marriages federal recognition—is abhorrent to the long-held values of both the legal profession and this nation.

BASF is proud of its rich history championing access to justice for all people, including being on the forefront in seeking fairness for lesbian, gay, bisexual, and transgender Americans. In 1991, BASF issued the first published study of sexual orientation bias by an organized bar association. In the 1990’s, BASF continuously urged its member firms and legal

BASF President Kelly Dermody Issues Statement on United States Supreme Court Proposition 8 and DOMA Decisions (continued)

departments to adopt best practices to ensure the retention and advancement of LGBT lawyers. BASF surveyed firms regarding those results in 1996 and published a report to encourage further progress. In 2007, BASF once again published a groundbreaking study of best practices in the hiring, retention, and advancement of LGBT lawyers. But this was far from BASF's only work for LGBT equality.

Beyond promoting employment best practices, BASF has consistently supported the evolving understanding of LGBT rights more broadly. BASF has recognized that access to justice is illusory if LGBT people are denied basic rights or stigmatized solely due to their sexual orientation or gender identity. Thus, through its amicus work, BASF supported the successful legal efforts to secure a constitutional authorization of same-sex marriage. When Prop 8 was announced, BASF's Marriage Fairness Task Force galvanized the San Francisco legal community, and over 40 bar associations around the state, to oppose the initiative. BASF's Lawyers' Campaign against Prop 8 raised voter awareness and supported organizations that raised hundreds of thousands of dollars to defeat the initiative. When the initiative passed, BASF immediately offered assistance to the legal teams, through amicus briefs and pro bono legal work. BASF also issued numerous statements condemning the initiative, and later the attacks on Chief Judge Walker.

BASF will continue its vigilance in this effort, and eagerly anticipates the day when LGBT Americans are assured the promise of equality under the law.

###

The Bar Association of San Francisco (BASF) is a nonprofit voluntary membership organization of over 8,000 attorneys, law students and legal professionals in the Bay Area. Founded in 1872, BASF is one of the largest and most dynamic metropolitan bar associations in the U.S., with a long and distinguished record of community action, public service and service to the legal profession.