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For Immediate Release
March 11, 2005

**THIRTEEN CITY AND TOWN CLERKS CHALLENGE GOVERNOR'S
DISCRIMINATORY BAN ON GAY MARRIAGE LICENSES FOR NON-RESIDENTS**

BOSTON –Thirteen Massachusetts city and town clerks are taking the historic step of asking the Supreme Judicial Court to allow them to challenge orders by Governor Romney and Attorney General Tom Reilly that the clerks say would require them to illegally discriminate against same sex couples who come to Massachusetts to marry. The clerks are filing a brief with the SJC today, appealing a lower court ruling which held that the local officials have no right to challenge orders of state officials on constitutional grounds.

“We have taken an oath to uphold the Constitution of Massachusetts, said Catherine Flanagan Stover, clerk of the Town and County of Nantucket. “The SJC has already said that, within the Commonwealth, discriminating against gay and lesbian couples seeking to marry violates the Constitution. We believe the Governor’s orders put us in the position of violating our oath of office. We are asking the SJC to clarify the law so that clerks are not put in that position.”

The clerks challenging the Governor’s directives are from Provincetown, Somerville, Worcester, Acton, Burlington, Cambridge, Marblehead, Nantucket, Northampton, Plymouth, Sherborn, Westford and Rowe, representing a broad cross-section of Massachusetts cities and towns. The legal appeal by the clerks demonstrates that the lesbian and gay couples who filed a separate challenge to Romney’s actions have support from the very officials most knowledgeable about the enforcement of the state’s marriage laws over a period of decades – officials who can attest that the Governor’s new policy is discriminatory. The clerks’ case also raises important and independent questions about the right of local officials to oppose orders from state officials that require them to carry out their duties in an unconstitutional manner.

“We refuse to silently stand by and blindly carry out orders that are discriminatory,” said David Rushford, Clerk of Worcester. “If local officials had refused to carry out racially discriminatory state policies during the civil rights movement, we would have hailed their actions. Today, we have the opportunity to say “No” to discrimination in carrying out our duties and we hope the Court will recognize the importance of our ability to do that.”

After the SJC’s ruling in *Goodridge*, holding that gay and lesbian couples could not be denied the right to marry, the Governor denounced the decision and instructed municipal clerks not to issue marriage licenses to any non-resident same-sex couples. The attorney general also threatened several of the clerks with legal action if they disregarded those instructions, action that could lead to penalties of fines and a prison sentence of up to one year.

Both the Governor and the Attorney General have disavowed any intent to discriminate, although they are relying on a moribund 1913 state statute that had never before been invoked to prevent any out-of-state couple from marrying in Massachusetts. The statute says that marriage licenses shall not be given to nonresidents whose marriages would be “void” in their home states. But according to Carole Marple, Clerk of Sherborn, “state officials are telling us to apply the law in a way designed to prevent gay and lesbian couples, in particular, from marrying. They are telling us that we may not issue marriage licenses to nonresident same sex couples unless the home state has affirmatively said such marriages are allowed in that state – a rule completely different from that applied to nonresident straight couples.” Ms. Stover concurred, “before May 17, 2004, we never had to ask about marriage laws in couples’ home states and were told emphatically that our function was to assist couples to marry, not to obstruct them. Now the governor has issued new rules for discrimination’s sake only.”

“This case is important to us,” stated Lawrence Pizer, Clerk of Plymouth. “For almost four centuries, Town and City clerks have taken pride in serving all residents equally. The SJC’s decision allowed us to extend this tradition, until the governor demanded that we keep same-sex couples from coming to Massachusetts to marry.”

The Attorney General’s office will be filing its brief in opposition to the clerks and then the clerks will have the right to file a reply brief. Oral argument in the SJC is expected to take place in the fall at the same time the appeal by the nonresident couples will be heard by the high court.