

Equality Advocates Look to California

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By Ann Rostow

New York activists staged rallies across the state on Thursday night as the community digested the discouraging 4-2 high court ruling upholding the state's biased marriage laws.

Throughout the day, LGBT groups and allies condemned the lightly reasoned majority decision, both for its end result and for its reliance on prejudiced notions of gay families.

And they looked to California, where equality advocates will argue on Monday for same-sex marriage before a state appellate court in San Francisco.

The National Gay and Lesbian Task Force's Matt Foreman called Thursday's decision "insulting", "tortured", and "intellectually strained".

The Human Rights Campaign's Joe Solmonese characterised the majority analysis as "archaic", "rooted in ignorance and completely contradicted by the facts of today".

The ACLU said the high court "ignored the advice of the leading child health and welfare organizations as well as decades of social science research".

In San Francisco, the National Center for Lesbian Rights wrote that the courts in California are "unlikely" to follow New York's lead.

On Monday, NCLR legal director Shannon Minter will argue the case for same-sex marriage before a three-judge panel of the San Francisco area appellate court.

The court is expected to spend six hours listening to debate in a coordinated group of six marriage cases, led by the NCLR's *Woo v Lockyer*.

As Minter pointed out Thursday, California is well ahead of New York in terms of its civil rights policies, and now offers a domestic partner program that carries virtually all of the rights of marriage in the state.

Unlike in New York, the state's attorneys are not advancing specifically anti-gay arguments.

Instead, they are trying to insist that California already treats both gay and straight couples equally, and that retaining the historical definition of marriage is a harmless bow to tradition.

As they challenge the very concept of a separate-but-equal institution, Minter and his colleagues will be able to remind the court of what Minter called "a proud legacy of standing up for personal dignity and individual freedom".

In 1948, the California Supreme Court was the first state tribunal to rule that bans on mixed race marriages were unconstitutional, taking that unpopular stand fully 20 years before the US Supreme Court struck miscegenation laws throughout the country.

Long before the California cases make their way through the appellate court and into the California Supreme Court, marriage rulings will be handed down by two other top courts.

In Washington, marriage advocates have been waiting over 16 months for a decision in two combined marriage cases that were argued before the justices in March 2005.

By contrast, the New York Court of Appeals issued its ruling barely a month after oral arguments were conducted last May.

In New Jersey, oral arguments were held last February, and a decision is expected late this summer, perhaps in August.

Hopes for a marriage victory have always been high in US state New Jersey, where the court and the state have a reputation for courage and respect for civil rights.

Washington was once considered a toss up, but the lengthy delay has encouraged some community leaders, who reason that the court would have ruled quickly had the majority decided to uphold the status quo.

A ruling from California is well down the road, but as Minter indicated, the state Legislature and the state courts have a history of blazing trails and advancing gay rights.

In November, California's Legislature became the first in the country to legalise same-sex marriage by statute, passing a bill that was vetoed by Governor Arnold Schwarzenegger.

Marriage equality cases are also under way at the appellate court level in Maryland, and in the lower courts of Connecticut and Iowa.