

# Holder to file brief arguing marriage rights 'for all Americans'



U.S. Attorney General **Eric Holder** (Washington Blade photo by Michael Key)

On the day the U.S. Supreme Court announced it would consider lawsuits seeking marriage rights for same-sex couples, outgoing U.S. Attorney General Eric Holder confirmed the Justice Department will file a brief arguing in favor of marriage equality "for all Americans."

“We expect to file a ‘friend of the court’ brief in these cases that will urge the Supreme Court to make marriage equality a reality for all Americans,” Holder said. “It is time for our nation to take another critical step forward to ensure the fundamental equality of all Americans — no matter who they are, where they come from, or whom they love.”

In his statement, Holder recalls the administration’s efforts to help with litigation against the Defense of Marriage Act, and to help with extending the federal benefits of marriage to same-sex couples after the law was struck down.

“After the Justice Department’s decision not to defend the constitutionality of Section 3 of the Defense of Marriage Act, the Supreme Court sent a powerful message that Americans in same-sex marriages are entitled to equal protection and equal treatment under the law,” Holder said. “This landmark decision marked a historic step toward equality for all American families.”

The announcement about the brief isn’t a surprise. The attorney general said during an ABC News interview in July the Justice Department would file a friend-of-the-court brief if litigation seeking same-sex marriage reached the Supreme Court.

But the breadth of the brief remained uncertain. Holder’s assertion the brief would argue in favor of marriage equality “for all Americans” suggest the Justice Department would maintain bans on same-sex marriage in every state are unconstitutional.

That would be consistent with Obama’s most recent articulated views on same-sex marriage. In an interview with The New Yorker’s Jeffrey Toobin, Obama said he now believes “the Equal Protection Clause does guarantee same-sex marriage in all 50 states.”

But it wouldn’t be the same as the Justice Department’s argument on marriage when the case against the California’s Proposition 8 reached the Supreme Court.

After the Justice Department filed a brief in favor of striking down the law, U.S. Solicitor General Donald Verrilli made the case during oral

arguments for what was known as an “eight-state solution” to bring marriage equality to all states with civil unions. Asked whether the Justice Department was seeking a nationwide ruling on marriage, Verrilli said that wasn’t the case.

On Friday, the U.S. Supreme Court announced it would consider same-sex marriage lawsuits from four states: Michigan, Ohio, Kentucky and Tennessee. Oral arguments are expected in April and a decision will likely come down in June.

For his part, Holder seemed eager to make a broader case before the Supreme Court this time around in favor of marriage rights for all same-sex couples.

“The Supreme Court has announced that it will soon hear several cases raising core questions concerning the constitutionality of same-sex marriages,” Holder said. “As these cases proceed, the Department of Justice will remain committed to ensuring that the benefits of marriage are available as broadly as possible. And we will keep striving to secure equal treatment for all members of society—regardless of sexual orientation.”