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DC Court of Appeals to Hear Significant Same-Sex Common Law Marriage Case.

Washington, D.C.: Tomorrow, February 14, 2018 (Valentine's Day) the District of Columbia Court of Appeals will hear argument on a case involving the establishment of a common law marriage prior to the legalization of same sex marriage. The District of Columbia is one of 11 states that still recognize common law marriage, a form of marriage that does not require a license but one that can be inferred based on the actions of the parties.

In April, 2017 the trial court held that a common law marriage between same sex couples established prior to the Supreme Court's landmark opinion in *Obergefell v. Hughes*, legalizing same sex marriage, can be recognized ([order](#)). The Plaintiff cited analogous case law that looked at the retroactivity of rights after the abolition of slavery ([brief](#)). However, in November 2017 the trial court issued a strange and controversial opinion holding that even though the District recognizes common law marriage by same sex-couples prior to legalization, that the two parties in this case, who wore rings and lived together for 10 years did not show enough evidence that both parties intended to be married.

This appellant, Brian Gill represented by Aaron Page and Chris Gowen of Gowen Silva & Winograd PLLC argues that the trial court opinion violates the constitution by discriminating against same sex couples because the opinion requires that for two people to have an established common law marriage at a time (2004) when same sex marriage was illegal and widely unpopular, the same sex couple must show they did what opposite sex couples, who could legally marry, did. The trial court's opinion has been regarded as an offensive rebuke of a committed, devoted and serious same sex lifestyle in favor of the more traditional opposite sex lifestyle.

The case presents uncharted waters for the DC Court of Appeals and an opportunity to create and clarify the law as it relates to common law marriage in the District. Especially between opposite sex couples whose relationship began prior to legalization. The case, which was filed as a divorce is significant because it will establish the property and alimony rights of many same sex couples who began their committed relationship prior to 2014 and are now seeking a divorce with an alimony claim or claim for distribution of property. If the Court upholds the trial court's decision, ten years of dedication and property acquisition will be lost for the significantly less affluent spouse.

Oral argument is set to begin at 9:30. Associate Judges Thompson, Easterly and McLeese will hear argument

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