LIVEBLOGGING PROP 8 TRIAL: DAY FOUR, THURSDAY AM TWO (FIFTEEN)

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Continuing the cross-examination of Edwin Egan, Chief Economist for SF, who is testifying on the revenues associated with same sex marriage for the city.

Patterson: Revenues for out of state same sex couples.

Egan: 2008 report, there was no data for how long people stayed in SF. For this report, it's not legal, so I had to make an assumption.

Patterson: SF gained $2.7M of annual revenue increases. You have no considered any costs SF would incur.

Egan: Costs are reimbursed by license fees, so that is not a net cost.

Patterson: Additional staffing.

Egan: Fees pay for the staff.

Patterson: you have determined that fees would pay for any additional staff.

Egan: I haven't done any additional study, but that's the point of those fees.

Patterson: You said report was to determine costs.

Egan: No, that's not correct, it was to determine whether any additional staffing, not

to adjust size of fe.

Patterson: so if it did not cover costs, you would raise the fee.

Egan: The city sets the fees to assume cost recovery. The way this is accounted for is each clerk can handle so many during the day. It's not at all clear that the fees would need to change.

Patterson: Costs of printing additional marriage licenses.

Egan: that's also covered by fees.

Patterson: Alter forms.

Egan: Fees designed to pay for.

Egan: Internet thread that I had with Margaret Sen who works in customer service center.

Patterson: Impact of Prop 8 on SF. You said $450,000 in lost revenue [not sure the number is right].

Patterson: Quite a bit lower than you provided to the court in your opinion today.

Egan: that's correct.

Patterson: Lost revenue in forgone federal benefits. Federal law would have to change before have effect.

Egan: that's my understanding.

Patterson: Some same sex couples would pay more in taxes.

Egan: that's my understanding.

Patterson: How many pay less, and how many pay more.

Egan: as well as the magnitude.

Patterson: You haven't done any independent verification of this analysis.

Egan: Correct.

Patterson: One thing you have done is estimate

how many same sex couples would marry if they were permitted. Assume same percentage as opposite sex couples. Do you attach time frame for how long.

Egan: Not necessary for conclusion that I reached.

Patterson: When city obtained benefit, only when they were married. You base assumption that these percentages would be equal, on assumption that only difference is that same sex couples currently face legal benefits to marriage. Have you studied other jurisdictions to determine if your prediction has been borne out. You don't know if assumption is consistent with that experience. Not an expert on same sex relationship.

Egan: When you do economic analysis you try to make them that are as informed as possible.

Patterson; You haven't studied whether gay relationships different than opposite sex relationships.

Patterson: Base you assumption on number of hetero couples. Will represent to you that American community survey data did not have this number on it. Had number of unmarried hetero couples. American community survey data for same years that you relied on.

Egan: I've not seen this before but it looks familiar.

Patterson points to estimate.

Patterson: You spoke earlier about coupling rates. That could change among same sex community.

Egan: Spoke of importance of understanding couple formation if you're attempting to estimate number of weddings in given year. Can't look at number of same sex couples and expect that the number will come from that.

Patterson: Number of gay and lesbian indivs in SF?

Egan: I don’t have that.

Patterson: Another Williams Institute report. You’re familiar?

Egan: I’ve referred to another Williams Institute report.

Patterson: Among SF counties, SF has highest proportion at 14%.

Egan: that’s what that says.

Patterson: Do you have any reason to question that?

Egan: I don’t, no.

Patterson: Sales tax revenues if gay couples could get married. If same sex couples have net savings on federal income taxes.

Egan: Assumes that same sex couples would pay lower amount on average if they were married.

Patterson: You assume that same sex couples spend all that they receive.

Egan: That’s an upper end estimate.

Patterson: Have you studied behavior of people when they gain tax savings.

Egan: I felt it was sufficient to provide upper end estimate.

Patterson: You also understand certain other federal programs. Federal programs that take spousal incomes into account. People could lose benefits that took spousal income into account.

Egan: Can’t think of clear example, not sure if I can give you an example of that.

Patterson: Assume there are programs that take spousal income into effect. You’d have to consider people who could lose eligibility.

Egan: To fully discuss and prepare estimate of same sex marriage on income and spending, you’d have to do a full accounting in which eligibility may be less, and those in which

you’re only eligible.

Patterson: You’ve not attempted to do that.

Egan: I’ve not attempted to do that beyond taxes which was readily quantifiable.

Patterson: Equal Benefits Ordinance. Would not repeal EBO?

Egan: No it would not.

Patterson: Would not cause SF to stop defending it in court. You’ve said spent certain amount of money defending in court. When legal expenditures took place?

Egan: Since 1997, when EBO was enacted. In principle ongoing, potential risk of expenditures.

Patterson: Costs of EBO.

Egan: I don’t specifically remember this doc.

Patterson: Would represent to you it was given to us with your report.

Egan: Source for $1.6 million to defend EBO.

Patterson: Are either of these cases ongoing?

Egan: I don’t have any knowledge of that.

Patterson: Equal Rights Commission administers EBO.

Patterson: Successful closure on most EBO challenges since enactment.

[I’ve decided that Egan looks a little like a skinnier Peyton Manning, btw. Also, Patterson is a fairlyskinny guy, dark hair with lots of product in it, dark suit and tie.]

Patterson: Will domestic partners become marriages. Same sex marriage will not prevent others from going into DPs. SF’s contractors have employees to whom they provide benefits under EBO.

Patterson: Does Human Rights Commission respond to other discrimination related complaints.

Egan: Yes.

Patterson: Do you know how common it is for companies to offer DP benefits?

Egan: Don’t have numbers on that.

Patterson: [Reading from report] DP benefits moved from far range, to become commonplace.

Egan: Don’t have any independent basis to comment on that.

Walker: Are you moving to put this in?

Patterson: I thought we already had.

Patterson: Any laws on providing equal benefits to DPs? Provision of CA law, covering group health insurance policies.

[Patterson is trying to introduce this. Plaintiffs object, bc witness not aware of it]

Walker: You can refer to this, but I’m not sure this is proper setting for examination of witness.

Patterson: He had opined, I’m just testing that assumption.

Walker: I think I understand the point you’re making, and I think you’ve done a good job making it.

Patterson: Thank you your honor. Are you aware of other jurisdictions that have enacted EBO laws similar to SF?

Egan: Not aware of that.

Patterson: 7-year update on EBO. Refers to EBOs in other jurisdictions. I fEBOs were detrimental do you think all these other ordinances would enact them?

Egan: That would depend on whether they think enacting such leg was worth more than cost of discrimination.

Patterson: So you think they would do so?

Egan: I wouldn’t want to put myself in place of

them.

Patterson: You've suggested contractors might not bid. Any estimate of that?

Egan: It's hard to observe companies when they do not do something.

Patterson: Some save on health insurance. Some section of same sex couples that would get insurance. You have not considered part of CA code that mandates

[Objection]

Walker: [Thinking] Maybe if you move to the point you're trying to make. This is an adverse witness. You can cross-examine him the old-fashioned way, rather than just taking his deposition.

Patterson: Have you considered this law?

Egan: It only requires that DP benefits not be less, it doesn't require people to provide DP benefits.

Patterson: You don't know how many G&L couples would get insurance. And cost of insurance would be shifted to private sector.

Egan: True, but better to think if shifting from uninsured to insured sector. Benefit for society as a whole.

Patterson: But would be shifting to private sector.

Egan: Correct.

Patterson: Health benes to G&L? You believe extending marriage would diminish discrimination. Not expert opinion that that would occur?

Egan: Correct.

Patterson: SF out of state tourism destination. Particular destination for G&L tourists.

Egan: Couldn't compare with other locations. But I would think so yes.

Patterson: Gay-friendly city. You still think discrimination.

Egan: That's what I've been told by DPH, not an expert on that.

Patterson: Bullying. Based on report, economic cost of bullying. Report did not address experience in SF.

Egan: It was CA.

Walker instructs Patterson to use "it's true, is it not."

Patterson: Press release, Agency health care research and quality. Married men more likely to engage in healthy behaviors than single men.

Patterson: Studies did not consider same sex marriage. CA health interview survey, unmarried men more mental health probs than married men. Does not break down same sex and opposite sex marriage. Don't have any research to support view that benefits would extend to same sex marriage.

Egan: most of my research preceded date when same sex legal.

Patterson: You have not studied decline of opposite sex marriage have on revenues. Marriage license appointment data. [Compares 2008 and 2007 marriages for roughly same period] More than 700 fewer marriage license appointments, actual marriage licenses issued. Less opposite sex couples married during months it was legal than comparable time.

Egan: Some months more, some months less. Your general statement for year. Fair.

Patterson: For five months period.

Egan: I see, but [names two week period] for that two week period there was an increase.

Patterson: Yes, but for the five month period, fewer opposite sex marriages.

Patterson: [talks about his teaching] Economic

strategy document you helped SF put together. You were project manager, right? Does it mention same sex marriage?

Egan: Study of macroeconomic infrastructure that drives SF's economy. Doesn't account for potential state impacts.

Patterson: Same sex marriage not part of strategy.

Egan: True that by 2003 same sex marriage not a policy option available in SF.

Patterson: National elevator industry bene plan.

Egan; My understanding it's a union.

Patterson: Do you know if it has members in CA.

Egan: I don't believe that I know that.

Patterson: Union could construe DP?

Egan: No, spouse should only refer to husband or wife. No reference to DP.

Patterson: I believe that's provision that's going to change.

Egan: Provision changes to legally recognize. Seems to be exclusively excluding DP benefits.

Patterson: no more questions.

Counsel: Before I began, did court take judicial notice of 5 hate crimes reports?

Walker: I do not believe I was asked to take judicial notice.

Counsel: I would ask.

Walker: Very well.

Counsel: Egan, whether domestic partners celebrations expended money. Aware of any such report? Uptake in wedding related activities? People having $$ spend money on wedding.

Egan: A lot of evidence that there is a wedding industry.

Counsel: 2008 report. You talked about

differences and analyses you did today. Any anlaysis between per wedding cost?

Egan: Same assumption. Same source to how much wedding expenses are.

Counsel: That assumption was consistent. Differences in methodology. Why did you change your methodology to determine same sex weddings?

Egan: 2008 looking for similar research. I found Williams Institute report, Thought it would be good to rely on third party source. What I did to project for 2008 report, using census data. Following as closely as I could Williams Institute methodology. Led me to my estimate of three year number of weddings for residents. Main issue however is that that methodology significantly underestimated what we actually saw in 2008. I realized it would not make sense to reapply methodology that had undercounted our actual experience. I thought it would be more straightforward. I don't see any reason that would change.

Counsel: In essence, you changed methodology to reflect your experience. You also fielded a number of questions about other states. If I asked you to assume that CT had legalized marriage, would that change your assumptions?

Egan: Not really—I don't think a lot came form CT.

Counsel: Compare census data with your projections. DO you know whether everyone who gets married lives together before marriage?

Egan: I don't know that.

Counsel; Assume that your short term conclusion is very short. Does that change positive impact?

Egan: No there is a positive impact in any case.

Counsel: Pent up demand. Same sex couples who had appointments. Anything that happened on November 4?

Egan: I don't think anyone signed up after November 4. I don't know what number looked like

as of NOvember 3. I can’t imagine any reason other than Prop 8 that would make people not want to get married after November 4.

Counsel: Insurance. Are you an expert on CA insurance law. ERISA? Any preemptive effects of benefit plans? Applicability to CA law on out of states companies. Research that indicates that companies offer DP benes less than same sex married couples?

Egan: not aware.

Counsel If we assume that DPs are not insured at rate that married are insured, does your conclusion hold true, that SF incurs greater expense?

Egan: Yes, more partners who are domestic partners with one partner who is uninsured.

Counsel: EBO. Discrimination exists. SF’s costs would be higher?

Counsel: If you were going to undertake a study on rates of opposite sex marriage, do you think it would be prudent to investigate more than 4 months of data?

Egan: it would be prudent.

Counsel: is it generally the case that increased L&G health increases SF revenues?

Egan: Yes they do.

Walker: Resume at 1 PT.