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28 Michelle Teichner, Barbara Morrissey, Kathy
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C.J. Castro-Byrd, Jesús Castro-Byrd, Patrick
Ralph, and Josefina Ahumada*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

22 Nelda Majors; Karen Bailey; David Larance;
23 Kevin Patterson; Michelle Teichner; Barbara
24 Morrissey; Kathy Young; Jessica Young;
25 Kelli Olson; Jennifer Hoefle Olson; Kent
26 Burbank; Vicente Talanquer; C.J. Castro-
27 Byrd; Jesús Castro-Byrd; Patrick Ralph; and
28 Josefina Ahumada,

Plaintiffs,

v.

Tom Horne, in his official capacity as Attorney

No.

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

1 General of the State of Arizona; Will Humble,
2 in his official capacity as Director of the
3 Department of Health Services; and
4 Michael K. Jeanes, in his official capacity as
5 Clerk of the Superior Court of Maricopa
6 County, Arizona,

Defendants.

7 Plaintiffs Nelda Majors and Karen Bailey, David Larance and Kevin Patterson,
8 Michelle Teichner and Barbara Morrissey, Kathy Young and Jessica Young, Kelli Olson
9 and Jennifer Hoefle Olson, Kent Burbank and Vicente Talanquer, C.J. Castro-Byrd and
10 Jesús Castro-Byrd, Patrick Ralph, and Josefina Ahumada (collectively “Plaintiffs”) file
11 this Complaint against Defendants Tom Horne, Will Humble, and Michael K. Jeanes
12 (collectively “Defendants”), and allege as follows:

13 INTRODUCTION

14 1. Plaintiffs are loving, committed same-sex couples who reside in Arizona,
15 individual Arizona residents who had a same-sex spouse, and an organization that
16 represents same-sex couples in Arizona. Plaintiffs bring this action pursuant to 42 U.S.C.
17 § 1983 seeking declaratory and preliminary and permanent injunctive relief for
18 Defendants’ violation of Plaintiffs’ rights under the Fourteenth Amendment to the United
19 States Constitution caused by the discriminatory exclusion of same-sex couples from the
20 freedom to marry and the discriminatory denial of recognition of marriages lawfully
21 entered by same-sex couples in other jurisdictions pursuant to the laws of the State of
22 Arizona (“State”).

23 2. Marriage plays a unique role in society as the universally recognized and
24 celebrated hallmark of a couple’s commitment to build family life together. It confers
25 upon couples a dignity and status of immense import. Plaintiffs have formed committed,
26 enduring bonds equally worthy of the respect afforded by the State to different-sex
27 couples through marriage. Yet, the State, without any adequate justification, has enacted
28 statutory and constitutional amendments and otherwise interpreted and enforced its laws

1 in ways that single out lesbian and gay Arizonans by excluding them from the freedom to
2 marry and by refusing to recognize and respect their lawful marriages from other
3 jurisdictions, based solely on their sexual orientation and their sex.

4 3. Through the State’s constitutional and statutory marriage bans and through
5 Defendants’ enforcement of them and their interpretation and enforcement of the State’s
6 other laws to preclude same-sex couples from marrying or having their marriages lawfully
7 entered in other jurisdictions recognized in Arizona, the State and Defendants send a
8 purposeful message that they view lesbians, gay men, and their children as second-class
9 citizens who are undeserving of the legal sanction, respect, protections, and support that
10 heterosexuals and their families are able to enjoy through marriage. This discrimination
11 (referred to herein as the State’s “marriage ban”) is enshrined both in the State’s statutes
12 and in Article 30, section 1 of the Arizona Constitution, which prevents same-sex couples
13 from entering into a civil marriage in the State and prohibits the State from honoring a
14 civil marriage validly entered by a same-sex couple in another jurisdiction.

15 4. The marriage ban inflicts serious and irreparable harm on same-sex couples
16 and their children. Nelda Majors and Karen Bailey and David Larance and Kevin
17 Patterson are not married, and each couple wishes to marry for the same reasons as
18 different-sex couples: to publicly declare their love and commitment before their family,
19 friends, and community, and to give one another and the children they are raising the
20 security and protections that marriage provides. Michelle Teichner and Barbara
21 Morrissey, Kathy Young and Jessica Young, Kelli Olson and Jennifer Hoefle Olson, Kent
22 Burbank and Vicente Talanquer, and C.J. Castro-Byrd and Jesús Castro-Byrd all married
23 in other jurisdictions, but are treated as legal strangers in the state they call home—a
24 hurtful invalidation of their relationships, which deprives them of the protections that a
25 legally recognized marriage most securely provides. Patrick Ralph married his husband
26 Gary Hurst in California; but when Gary passed away in August 2013 after a lengthy
27 disability needing around-the-clock care by Patrick, the State would not permit Patrick to
28 be listed as Gary’s husband on Gary’s death certificate. Josefina Ahumada and Helen

1 Battiste married in New Mexico; but when Helen died on January 31, 2014, Josefina was
2 not even permitted to apply for Helen's death certificate, let alone be listed on it as
3 Helen's spouse. For both Patrick and Josefina, the State's refusal to identify them
4 properly as spouses on the official document recording their beloveds' end of life was a
5 shocking denial of their relationships at the time of most intense loss and grief, and
6 remains a source of pain and deep sadness.

7 5. Our courts and our society have discarded, one by one, marriage laws that
8 violated the U.S. Constitution's mandate of equality. These have included anti-
9 miscegenation laws and laws that systematically denied married women legal
10 independence and the right to own property and to make decisions for themselves.
11 History has taught us that the vitality of marriage does not depend on maintaining such
12 discriminatory laws. To the contrary, eliminating these unconstitutional marriage rules
13 has allowed the institution to retain its relevance and resulting ability to support and
14 sustain American couples and the families they build together. Ending the exclusion of
15 lesbian and gay couples from marriage is no different. Indeed, in 17 states and the District
16 of Columbia, same-sex couples are marrying and the institution of marriage continues to
17 thrive.

18 6. Plaintiffs seek equal access to marriage as the only means to secure their
19 rights to equal protection of the law and due process, and to eliminate the myriad serious
20 harms inflicted on them by the marriage ban and Defendants' enforcement of it.
21 Accordingly, Plaintiffs bring this suit pursuant to 42 U.S.C. § 1983 seeking declaratory
22 and preliminary and permanent injunctive relief on the grounds that Defendants'
23 enforcement of the marriage ban excluding same-sex couples from marriage and refusing
24 to recognize their valid marriages from other jurisdictions violates the equal protection
25 and due process guarantees of the Fourteenth Amendment to the United States.

1 **PARTIES**

2 **A. Plaintiffs**

3 7. Plaintiffs Nelda Majors and Karen Bailey are lesbian individuals who are a
4 committed same-sex couple residing in Scottsdale, Arizona.

5 8. Plaintiffs David Larance and Kevin Patterson are gay male individuals who
6 are a committed same-sex couple residing in Phoenix, Arizona.

7 9. Plaintiffs Michelle Teichner and Barbara Morrissey are lesbian individuals
8 who are a committed same-sex couple residing in Phoenix, Arizona.

9 10. Plaintiffs Kathy Young and Jessica Young are lesbian individuals who are a
10 committed same-sex couple residing in Phoenix, Arizona.

11 11. Plaintiffs Kelli Olson and Jennifer Hoefle Olson are lesbian individuals who
12 are a committed same-sex couple residing in Tucson, Arizona.

13 12. Plaintiffs Kent Burbank and Vicente Talanquer are gay male individuals
14 who are a committed same-sex couple residing in Tucson, Arizona.

15 13. Plaintiffs C.J. Castro-Byrd and Jesús Castro-Byrd are gay male individuals
16 who are a committed same-sex couple residing in Tempe, Arizona.

17 14. Plaintiff Patrick Ralph is a gay male individual residing in Phoenix,
18 Arizona.

19 15. Plaintiff Josefina Ahumada is a lesbian individual residing in Tucson,
20 Arizona.

21 **B. Defendants**

22 16. Defendant Tom Horne is sued in his official capacity as Attorney General of
23 the State. Defendant Horne is a person within the meaning of 42 U.S.C. § 1983 and was
24 acting under color of state law at all times relevant to this complaint. As Attorney
25 General, Defendant Horne serves as the chief legal officer of the State. His office
26 represents and provides legal advice to many State agencies, including Child Protective
27 Services (“CPS”) and Child Support Enforcement.
28

1 17. Defendant Will Humble is sued in his official capacity as Director of the
2 Department of Health Services. Defendant Humble is a person within the meaning of 42
3 U.S.C. § 1983 and was acting under color of state law at all times relevant to this
4 complaint. In his official capacity, Defendant Humble serves as the State Registrar of
5 Vital Records, which appoints and supervises local registrars who are responsible for
6 filing death certificates and ensuring that the personal information on a death certificate is
7 accurate.

8 18. Defendant Michael K. Jeanes is sued in his official capacity as Clerk of the
9 Superior Court of Maricopa County, Arizona, an office authorized by Article 6,
10 Section 23 of the Arizona Constitution. Defendant Jeanes's duties include, among others,
11 issuing marriage licenses. Defendant Jeanes must ensure compliance in all of these
12 functions with the relevant State laws, including those that exclude same-sex couples from
13 marriage. Defendant Jeanes is a person within the meaning of 42 U.S.C. § 1983 and was
14 acting under color of state law at all times relevant to this complaint.

15 19. Each Defendant intentionally performed, participated in, aided, and/or
16 abetted in some manner the acts averred herein, proximately caused the harm averred
17 herein, and will injure Plaintiffs irreparably if not enjoined.

18 **JURISDICTION AND VENUE**

19 20. Plaintiffs bring this action under 42 U.S.C. §§ 1983 and 1988 to redress the
20 deprivation under color of state law of rights secured by the United States Constitution.

21 21. This Court has original jurisdiction over the subject matter of this action
22 pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under
23 the Constitution and laws of the United States.

24 22. Venue is proper in this Court under 28 U.S.C. § 1391(b) because
25 Defendants reside within the District of Arizona and a substantial part of the events that
26 gave rise to Plaintiffs' claims took place within the District of Arizona.

1 23. This Court has the authority to enter a declaratory judgment and to provide
2 preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal
3 Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

4 24. This Court has personal jurisdiction over Defendants because they are
5 residents of the State.

6 **FACTS**

7 25. Plaintiffs all are residents of Arizona who experience the same joys and
8 shoulder the same challenges of family life as their heterosexual neighbors, co-workers,
9 and other community members who are free to marry. Plaintiffs are productive,
10 contributing members of society who support their committed partners and nurture their
11 children, but must do so without the same dignity and respect afforded by the State to
12 other families through access to the universally understood and celebrated status of
13 marriage. The State’s exclusion of same-sex couples from marriage, and from recognition
14 of their lawful out-of-state marriages, subjects Plaintiffs to legal vulnerability and related
15 stress, while depriving them and their children of equal dignity and security. Through its
16 constitutional and statutory marriage bans, the State sends a purposeful message that the
17 State views lesbians and gay men and their children as second-class members of society
18 who are undeserving of the legal sanction, respect, and support that different-sex spouses
19 and their families enjoy.

20 **A. Plaintiffs’ Attempts to Marry and Marriages in Other Jurisdictions.**

21 26. But for the fact that they are of the same-sex, each unmarried Plaintiff
22 couple is legally qualified to marry under the laws of Arizona and wishes to marry in the
23 State. Each Plaintiff is over the requisite age of 18, no Plaintiff is precluded from
24 marriage due to being closely related to his or her life partner, and no Plaintiff is
25 recognized by the State as having another spouse.

26 27. On March 4, 2014, Nelda Majors and Karen Bailey appeared in person at
27 the Maricopa County Superior Court Clerk’s Office, North East Facility to seek a
28 marriage license. When the couple requested a marriage license, they were denied by an

1 employee of Defendant who told them, “You know we can’t give you a marriage license
2 in Arizona right now.”

3 28. On March 10, 2014, David Larance and Kevin Patterson appeared in person
4 at the Maricopa County Superior Court Clerk’s Office to seek a marriage license. When
5 the couple requested a marriage license, they were denied. The individual who refused
6 their request told them, “Gentlemen, we can’t issue you a marriage license at this time.”
7 Kevin is an ordained minister and has previously solemnized the marriages of two
8 different-sex couples. He cannot, however, legally marry the man he loves in his home
9 state of Arizona.

10 29. Michelle Teichner and Barbara Morrissey were validly married in New
11 York and seek through this suit to end the State’s current denial of recognition of their
12 marriage on the ground that it is a marriage entered by two individuals of the same sex.

13 30. Kathy Young and Jessica Young were validly married in New York and
14 seek through this suit to end the State’s current denial of recognition of their marriage on
15 the ground that it is a marriage entered by two individuals of the same sex.

16 31. Kelli Olson and Jennifer Hoefle Olson were validly married in Minnesota
17 and seek through this suit to end the State’s current denial of recognition of their marriage
18 on the ground that it is a marriage entered by two individuals of the same sex.

19 32. Kent Burbank and Vicente Talanquer were validly married in Iowa and seek
20 through this suit to end the State’s current denial of recognition of their marriage on the
21 ground that it is a marriage entered by two individuals of the same sex.

22 33. C.J. Castro-Byrd and Jesús Castro-Byrd were validly married in Washington
23 and seek through this suit to end the State’s current denial of recognition of their marriage
24 on the ground that it is a marriage entered by two individuals of the same sex.

25 34. Patrick Ralph and Gary Hurst (deceased) were validly married in California
26 and Patrick seeks through this suit to end the State’s current denial of recognition of their
27 marriage on the ground that it was a marriage entered by two individuals of the same sex.
28

1 35. Josefina Ahumada and Helen Battiste (deceased) were validly married in
2 New Mexico and Josefina seeks through this suit to end the State’s current denial of
3 recognition of their marriage on the ground that it was a marriage entered by two
4 individuals of the same sex.

5 **B. Arizona’s Marriage Ban Singles Out Same-Sex Couples and Excludes**
6 **Them From Marriage.**

7 36. Arizona has enacted statutory and constitutional bans designed to exclude
8 same-sex couples from marriage and has interpreted and enforced the State’s law to do so
9 as well. The State’s marriage ban cannot be explained by reference to legitimate public
10 policies that could justify the disadvantages the marriage ban imposes on same-sex
11 couples and their family members.

12 37. In 1996, shortly after the passage of the federal Defense of Marriage Act
13 (codified at 1 U.S.C. § 7 and 28 U.S.C. § 1738C), Arizona enacted a statutory provision
14 specifically to exclude same-sex couples from marriage. That statute, Arizona Revised
15 Statute (“A.R.S.”) § 25-101(C), provides that, “[m]arriage between persons of the same
16 sex is void and prohibited.” The Arizona legislature also banned recognition of the
17 marriages same-sex couples lawfully celebrated in other states. *See* A.R.S. § 25-112(A).

18 38. In 1999, the legislature went further to reinforce that same-sex couples
19 should not have access to the state-regulated, preferred status of marriage by further
20 amending the marriage statutes to add a provision specifying that a valid marriage is one
21 “contracted by a male person and a female person with a proper marriage license.” *See*
22 A.R.S. § 25-125(A).

23 39. In 2006, Arizona voters considered Proposition 107, an initiated
24 constitutional amendment which proposed to amend the Arizona Constitution to provide
25 that, to “protect” marriage, only marriages of different-sex couples would be considered
26 valid and would be recognized under Arizona law, and that the State and municipalities in
27 Arizona “shall not create or recognize a legal status for unmarried persons that is similar
28 to marriage.” This proposal was described during the ballot campaign as likely to

1 preclude civil unions, comprehensive domestic partnerships, and other broad, non-marital
2 legal protections for unmarried different-sex couples as well as for same-sex couples.
3 Arizona voters rejected this proposal.

4 40. Two years later in 2008, the Arizona legislature referred another proposal to
5 amend the Arizona Constitution to reinforce the State's exclusion of same-sex couples
6 from marriage. The resolution that became Proposition 102, called the "Marriage
7 Protection Amendment," provided: "Only a union of one man and one woman shall be
8 valid or recognized as a marriage in this state." Arizona voters approved Proposition 102
9 on November 4, 2008. This amendment placed into the State's constitution, as Article 30,
10 Section 1, the mandate of Arizona's statutes providing that same-sex couples may not
11 enter into a civil marriage in the State and that the State may not honor the lawful
12 marriages same-sex couples celebrate in other jurisdictions.

13 **C. The State's Exclusion of Same-Sex Couples from Marriage Inflicts**
14 **Profound Harms on Plaintiffs.**

15 41. Barring same-sex couples from marriage disqualifies them from the simple,
16 direct route through which different-sex couples access critically important rights and
17 responsibilities that allow them to secure their commitment to each other and to safeguard
18 their families. As to many of these rights and responsibilities, marriage is the only access
19 route; as to others, marriage is far simpler and less expensive than other options. By way
20 of example only, same-sex couples are denied the ability offered to different-sex couples
21 through marriage:

22 a. To solemnize their relationships through a state-sanctioned
23 ceremony. *See* A.R.S. § 25-111. The denial of state sanction or
24 recognition deprives same-sex couples of important legal protections
25 that automatically come with state-sanctioned marriage.

26 b. To safeguard family resources under an array of laws that protect
27 spousal finances, including, for example, the exemption of taxes on
28

1 the property of widows and widowers. *See Id.* § 42-11111; Ariz.
2 Const. art. 9, §§ 2-2.3.

3 c. To secure legal recognition for parent-child bonds through the
4 mechanisms afforded to spouses, including joint adoption, A.R.S.
5 § 8-103(A); adoption of a spouse's child as a stepparent, *see, e.g., id.*
6 § 8-105(N)(1); and the presumption of parentage for children born
7 into a marriage, *id.* § 25-814(A)(1).

8 d. To receive benefits for families of veterans of the armed forces who
9 have made some of the greatest sacrifices for our country, including
10 educational benefits, *id.* § 15-1808.

11 e. To make caretaking decisions in times of death or disaster, including
12 priority to make medical decisions for an incapacitated spouse,
13 A.R.S. § 36-3231; and the automatic right and priority to make
14 anatomical gifts of a decedent's body, *id.* § 36-848(A)(2).

15 f. To inherit under the laws of intestacy, *id.* § 14-2102; and rights in the
16 family residence pending final determination of the estate, *id.* § 14-
17 2402.

18 g. In the event that a couple separates, to access an orderly dissolution
19 process for terminating the relationship and assuring an equitable
20 division of the couple's assets and debts. *See id.* §§ 25-301 - 381.01.

21 h. To assume a range of important responsibilities that, like rights,
22 enhance the dignity and integrity of the person. As one example,
23 same-sex couples are denied the ability to be made formally
24 accountable to each other through obligations of spousal support, *id.*
25 § 25-319, and child support, *id.* § 25-320.

26 i. To assert the privilege not to testify against one another as to matters
27 protected by spousal privilege. *See id.* § 13-4062(1).
28

1 j. To access a host of federal rights and responsibilities that span the
2 entire United States Code and the whole realm of federal regulations.
3 Unmarried couples are denied recognition for most purposes
4 throughout the more than 1,000 provisions of federal law relating to
5 marriage, including laws and regulations pertaining to Social
6 Security, housing, immigration, taxes, criminal sanctions, copyright,
7 and veterans' benefits. Same-sex couples validly married in another
8 jurisdiction and living in the State are likely to qualify for many
9 federal benefits and protections, but to be denied others, such as
10 Social Security survivor benefits and protections under the Family
11 Medical Leave Act. These deprivations can drain family economic
12 resources, causing financial harm not only to same-sex couples but to
13 their children and other dependents as well. In addition, some same-
14 sex couples are unable to travel out of state to marry due to, for
15 example, illness or other physical limitations, child care or other
16 family responsibilities, or cost. Moreover, many same-sex couples
17 wish to marry at home in Arizona, in the company of family and
18 friends, who may not be able to travel out of state to attend a wedding
19 for financial or other reasons.

20 42. In addition to the tangible harms listed above, Plaintiffs are denied the
21 unique social recognition that marriage conveys. Without access to the familiar language
22 and legal label of marriage, Plaintiffs are unable instantly or adequately to communicate
23 to others the depth and permanence of their commitment, or to obtain respect for that
24 commitment as others do simply by invoking their married status.

25 43. The substantive and dignitary inequities imposed on committed same-sex
26 couples include particular harms to same-sex couples' children, who are equally deserving
27 of the stability, permanence, social recognition, and financial supports that are enjoyed by
28 children of different-sex couples who marry. Civil marriage affords official sanctuary to

1 the family unit, offering parents and children critical means to secure parent-child legal
2 bonds, and a familiar, public way of demonstrating those bonds to third parties. By
3 denying same-sex couples marriage, the State reinforces the view held by some that the
4 family ties binding same-sex parents and their children are less consequential, enduring,
5 and meaningful than those of different-sex parents and their children. Same-sex couples
6 and their children accordingly must live with the vulnerability and stress inflicted by a
7 lack of access to the same mechanisms for securing their legal relationships, and the ever-
8 present possibility that others may question their familial relationships—in social, legal,
9 educational, and medical settings and in moments of crisis—in ways that spouses can
10 avoid by simple reference to being married.

11 44. Children from a young age understand that marriage signifies an enduring
12 family unit, and likewise understand when the State has deemed a class of families less
13 worthy than other families, undeserving of marriage, and not entitled to the same societal
14 recognition and support as other families. The State has no adequate interest to justify
15 marking the children of same-sex couples, including the children of Plaintiffs, with a
16 badge of inferiority that often invites disrespect in school, on the playground, and in many
17 other spheres of their lives.

18 45. The government is a powerful teacher of discrimination to others. By
19 decreeing that the relationships of same-sex couples should be ignored in the State and
20 enforcing that policy, the State and Defendants instruct all persons with whom same-sex
21 couples interact, including those couples' own children, that their relationships are less
22 worthy than others. Bearing the imprimatur of the government, the State's marriage ban,
23 and Defendants' enforcement of it, communicates a view that same-sex couples and their
24 children are unfit for the dignity, respect, and stature afforded to different-sex couples and
25 their children, and this encourages others to follow the government's example in
26 discriminating against same-sex couples, their children, and all lesbian and gay people.

27 46. Many private entities defer to the State's and Defendants' conferral of
28 marital status in defining "family" for purposes of an array of important benefits, often

1 resulting in the exclusion of same-sex couples and their children from important safety
2 nets such as private employer-provided health insurance for family members. The State
3 and Defendants also encourage disrespect of committed same-sex couples and their
4 children by others in workplaces, schools, businesses, and other major arenas of life, in
5 ways that would be less likely to occur and more readily corrected if marriage were
6 available to same-sex couples.

7 **D. Plaintiffs are Similarly Situated to Different-Sex Couples in All**
8 **Relevant Respects and are Injured By The State's Denial to Them of**
9 **the Freedom to Marry.**

10 47. Plaintiffs are loving and devoted same-sex couples who have pledged their
11 commitment to love, cherish, and care for one another, but the State denies them the
12 ability to make the binding legal commitments to each other that spouses do through civil
13 marriage.

14 *Plaintiffs Nelda Majors and Karen Bailey*

15 48. Plaintiffs Nelda Majors, age 75, and Karen Bailey, age 74, are a lesbian
16 couple residing in Scottsdale, Arizona. Nelda and Karen met in college in Texas in 1957
17 and they have been in a loving, committed relationship for fifty-six years. Nelda ran a
18 successful physical therapy business in Houston for many years and Karen worked for
19 Nelda's company. They retired in the 1990's and moved from Texas to Arizona in 2005.

20 49. When Nelda and Karen began their relationship in the late 1950s they did
21 not dream that they might someday identify openly as a couple. They worried about
22 facing the discrimination and hostility commonly directed towards lesbians and gay men,
23 and they kept their relationship a secret from their friends, family, and co-workers for a
24 long time. Karen worked for an oil company in Houston for 13 years and she pretended
25 that she had a boyfriend. Although Nelda and Karen have been in a loving, committed
26 relationship for decades, they only told their friends and family about their relationship six
27 years ago, shortly after their 50th anniversary.

28 50. Nelda and Karen are proud parents to Karen's great grand-nieces, Sharla,
age 21, and Marissa, age 15. Nelda and Karen raised the girls since Sharla was four and

1 Marissa was three. The girls' mother, Karen's great-niece, had substance abuse problems
2 and was not providing a safe living environment for the girls. Sharla's father was going
3 through difficult life circumstances and Marissa's father also had substance abuse
4 problems and abandoned her. Nelda and Karen raised the two girls as if they were the
5 couple's own daughters. In 2008, they finally told Sharla and Marissa that they are gay
6 and a couple. Both girls expressed their enthusiastic support and happiness for them.
7 They told Nelda and Karen that they are the "best moms in the whole world."

8 51. As women in their mid-70s, Nelda and Karen worry that one or the other of
9 them will be turned away by hospital staff and prevented from being there for the other if
10 either becomes ill and is hospitalized. Once in Houston, Texas, in the late 1990s, Nelda
11 was in the hospital having surgery and Karen was asked to leave by an anesthesiologist
12 even though she had proper legal documents establishing her right to be there. They fear
13 that something similar could happen again. Nelda and Karen believe that the State's
14 refusal to allow same-sex couples to marry fosters stigma and disrespect for same-sex
15 couples. They would be more secure if their relationship was respected and recognized
16 like other couples' relationships, and believe it would make a significant difference if they
17 could tell hospital staff that they are married. Having always to bring their legal
18 documents to the hospital is demeaning because different-sex couples do not have to
19 present legal documents attesting to their relationship to accompany each other to the
20 hospital.

21 52. Nelda and Karen also want to get married as further evidence of the family
22 ties between Nelda and Marissa. Karen is a court-appointed legal guardian for both
23 Sharla and Marissa, but Nelda has no legal relationship to them. Nelda and Karen fear
24 that if something were to happen to Karen, other relatives might be in a stronger position
25 than Nelda to seek appointment as guardian for Marissa, who is only fifteen years old. If
26 they were married, Nelda and Karen's status would help confirm for the court that
27 Marissa would have greater stability and support if Nelda were appointed as her guardian.
28

1 53. Nelda and Karen are recipients of Social Security and if the State allowed
2 them to marry, they both would become eligible for a Social Security surviving spouse
3 benefit in the event that either of them were to pass away. Under current federal law and
4 agency practice, such benefits require that the married couple's state of residence
5 recognizes their marriage.

6 54. Nelda and Karen want to marry each other. They have been together longer
7 than most couples, regardless of sexual orientation, and they have a large circle of friends
8 with whom they share social time and community activities. The opportunity to marry is
9 important not just to them, but also to their daughters and many friends. After so many
10 years of building a life and social network together, the couple wishes to marry at home,
11 in Arizona, so they can have a big celebration in which their daughters and friends can
12 participate.

13 ***Plaintiffs David Larance and Kevin Patterson***

14 55. Plaintiffs David Larance, age 35, and Kevin Patterson, age 30, are a gay
15 male couple residing in Phoenix, Arizona. David is a Training Manager and specializes in
16 training faculty in organizational development and diversity at Western International
17 University. Kevin is a Director of Executive Development and trains managers for a
18 hospital. Both David and Kevin are pursuing their doctorates in education.

19 56. David and Kevin have been in a loving, committed relationship for seven
20 years. They met when they both worked for Apollo Group. David and Kevin were
21 friends and got to know each other after they went bowling with a group of friends. David
22 jokes that Kevin fell in love with him when he saw what a great bowler he is. David
23 invited Kevin to see a movie with him and his friends. None of the other friends showed
24 up, so they saw the movie together. They both were unimpressed by the movie they saw,
25 "Fantastic 4: The Rise of the Silver Surfer," but they were impressed with each other and
26 started dating. They have been together ever since. David and Kevin pledged their love
27 and commitment to each other in a commitment ceremony in 2009, with a big celebration
28 attended by many friends and family.

1 and mobility issues. Mish has high cholesterol and high blood pressure. In 1994, Mish
2 experienced kidney failure and underwent a kidney transplant. She has been hospitalized
3 multiple times over the years for various health problems. Recently, in January 2014,
4 Mish underwent a second kidney transplant and then was hospitalized again shortly after
5 having been released from surgery.

6 61. Mish and Barb's greatest fear is being prevented from seeing each other if
7 one of them is hospitalized. Being able to care for each other in a medical emergency is
8 of primary concern to them especially because Mish's health is precarious. Mish needs
9 Barb to advocate for her when she is incapacitated. Mish worries constantly that
10 something may happen to her and Barb will be kept from her side. In fact, Barb has been
11 prevented by hospital staff in the State from being with Mish on multiple occasions
12 because the staff did not consider Barb to be a legally recognized family member to Mish.

13 62. For example, seven years ago, Mish was in a hospital in Peoria and hospital
14 staff prevented Barb from seeing her even though she was carrying proper legal
15 documents. A hospital staff member told her, "You're not a family member, you can't
16 come in." Barb was not allowed to receive any information about Mish's condition. This
17 situation was immensely stressful and distressing for both Barb and Mish. Then again, in
18 2012, Barb accompanied Mish to an eye doctor appointment, and the eye doctor looked at
19 Barb and asked, "What are you, her housekeeper?" Barb again experienced difficulty
20 seeing Mish in the hospital as recently as January 2014. While Mish was recovering at
21 the hospital after her kidney transplant surgery, Barb asked a nurse to take her to Mish's
22 room to visit. The nurse told her that they only allow immediate family members in the
23 room. Barb said that she had legal documents and the nurse said, "That doesn't matter,
24 but I'll try to sneak you in anyway."

25 63. Given the distressing experiences that they have had with medical staff,
26 Mish and Barb want to marry at least in part so they will put an end to the confusion,
27 disrespect, and hostility from medical professionals. Their personal experiences confirm
28 that the State's refusal to recognize the marriages of same-sex couples perpetuates stigma

1 towards lesbian and gay couples and encourages disrespect towards them. Having always
2 to bring their documents to the hospital with them is demeaning to Mish and Barb because
3 different-sex couples do not have to present such documents to accompany each other in
4 the hospital. If same-sex couples' marriages from other states were recognized in
5 Arizona, hospital staff would be required to respect Barb and Mish's marriage.

6 64. Mish and Barb are active in their community. They have volunteered for
7 Aunt Rita's Foundation, the HIV AIDS Awareness Foundation, and One Voice
8 community center, and they are active in their local church. They also sing in the Phoenix
9 Women's Chorus, love to go dancing, and have three dogs. They strongly wish for an end
10 to the anti-gay message and social stigma imposed by Arizona's laws denying lesbian and
11 gay couples the opportunity to marry in this state, and forbidding recognition of the
12 marriages they validly celebrate elsewhere.

13 ***Plaintiffs Kathy Young and Jessica Young***

14 65. Plaintiffs Kathy Young, age 41, and Jessica "Jess" Young, age 29, are a
15 lesbian couple residing in Phoenix, Arizona. Kathy is Vice President of the youth market
16 for the American Heart Association and Jess is a senior customer service representative
17 with Blue Cross Blue Shield. Their daily lives revolve around their 7-year old son, Ian.

18 66. Kathy and Jess have been in a loving, committed relationship for almost ten
19 years. Kathy first met Jess when she owned a martial arts studio where Jess was a
20 taekwondo student and employee. Both women have achieved the black belt level in
21 taekwondo. After being friends for five years, Kathy and Jess started dating in 2004. In
22 2005 they pledged their love and commitment to each other in a large commitment
23 ceremony attended by friends and family. In 2009, on their anniversary, they registered as
24 domestic partners in Phoenix. On June 11, 2013, they married in New York.

25 67. Kathy and Jess have a particular sense of urgency about having their
26 marriage recognized for the sake of their son. Kathy and Jess have experienced and
27 continue to experience stress and confusion in identifying to others that they both are
28 parents to Ian because school forms only recognize different-sex married parents. For

1 example, Kathy is listed as an emergency contact on Ian’s school forms, but not as a
2 parent. All of Ian’s school forms state that Ian is being raised by a single-parent, despite
3 the fact that Ian actually has two parents—his two mothers.

4 68. Kathy and Jess planned for their son together and Jess gave birth to him.
5 Although Kathy has been an active parent to him his entire life, their parent-child
6 relationship has no legal recognition or support in Arizona. And, although Jess and Kathy
7 lawfully married outside Arizona, the fact that the State does not recognize their marriage
8 precludes Kathy from securing her parent-child relationship with Ian through a stepparent
9 adoption.

10 69. Jess has been hospitalized for mental health issues on multiple occasions in
11 the past, and sometimes has had to remain in the hospital for as long as a week. Kathy
12 and Jess worry that if Jess ever has to be hospitalized again in the future, Kathy will not
13 have any legal authority to take care of Ian and make educational and medical decisions
14 for him. If the State recognized Kathy and Jess’s marriage as it would a different-sex
15 couple’s marriage, then parentage presumptions would apply and, if the couple wished,
16 Kathy also could secure her parental role through adoption as Jess’s spouse. Currently,
17 same-sex couples are ineligible for stepparent adoption in Arizona. Kathy and Jess want
18 the State to recognize their marriage so they can pursue the full range of legal protections
19 for their family and be secure in the knowledge that, if something were to happen to Jess,
20 Kathy would be able to function fully as a legal parent and as a recognized spouse.

21 ***Plaintiffs Kelli Olson and Jennifer Hoefle Olson***

22 70. Kelli Olson, age 36, and Jennifer “Jen” Hoefle Olson, age 38, are a lesbian
23 couple residing in Tucson, Arizona. Kelli is an attorney and Jen is a Program Director of
24 a student center at the University of Arizona. Kelli and Jen met in 2004 through their best
25 friends who were dating each other. Although Kelli and Jen’s friends eventually broke
26 up, Kelli and Jen ended up pursuing their own relationship. They fell in love, bonding
27 over their love of yoga, intellectual conversations, dogs, laughter, and silly jokes. On
28 December 31, 2009, they pledged their love and commitment to each other in a ceremony

1 attended by many friends and family. From that day on, New Year's Eve would always
2 be their anniversary.

3 71. Kelli and Jen's close relationships with their families led them to want to
4 start their own family. In 2012, they became the proud parents of two fraternal twin girls,
5 E. and S. On August 7, 2013, Kelli and Jen married in Minnesota in a ceremony attended
6 by their two daughters.

7 72. Jen is the birth mother of the twins. Although Jen and Kelli planned for
8 their daughters together, Kelli has no legal parental rights. Consequently, Kelli carries
9 power of attorney forms confirming her right to take certain actions for the girls. But, she
10 fears what could happen if there is an emergency or if something happens to Jen and Kelli
11 does not have her documents, or someone refuses to honor them, just when Kelli needs to
12 act on behalf of one or both of her daughters.

13 73. The twins have health insurance through Jen's employer, and Kelli worries
14 that in some medical settings, she will be questioned about her relationship to the girls and
15 not recognized as their parent. For example, when one of the girls had a simple skin rash,
16 Kelli and Jen decided that Jen, not Kelli, should be the one to take their daughter to the
17 hospital because Kelli could not go alone if they wanted to get prompt care for their
18 daughter. Kelli fears that she may not be able to claim the twins as dependents for health
19 insurance purposes if such insurance is needed and she is working for an employer that
20 only provides insurance for family members recognized as such under state law.

21 74. Kelli and Jen fear that as the girls grow older and eventually start attending
22 school, Kelli's lack of parental rights will cause yet more confusion and problems.
23 Without parental rights, Kelli does not have the ability to make medical and educational
24 decisions for the girls. Moreover, if something happens to Jen, there will be no one with
25 the legal right to come forward to protect the couple's children. If Kelli and Jen's
26 marriage were recognized in Arizona, Kelli would be recognized as a legal parent of both
27 girls due to parentage presumptions. She also would be able to formalize her relationship
28 with each of the girls through stepparent adoption.

1 75. Kelli and Jen’s twins call Jen “Mommy” and Kelli “Mamma.” The girls
2 were present at Kelli and Jen’s wedding and clearly understand that Kelli and Jen are
3 married. It pains Kelli and Jen to think that their daughters are growing up in a state that
4 does not respect or recognize their lawful marriage. They worry that as their twins grow
5 older, they will feel distress and confusion when they realize that their image of their
6 mothers as being in a loving, binding marriage does not match the State’s official
7 disregard for their mothers’ marital status.

8 ***Plaintiffs Kent Burbank and Vicente Talanquer***

9 76. Plaintiffs Kent Burbank, age 45, and Vicente Talanquer, age 51, are a gay
10 male couple living in Tucson, Arizona. Kent is the Director of the Victim Services
11 Division at the Pima County Attorney’s office. Vicente is an Associate Professor in the
12 Department of Chemistry and Biochemistry at the University of Arizona. Vicente is a
13 citizen of Mexico and Spain, and is a permanent legal resident of the United States.

14 77. Kent and Vicente have been a couple for almost twenty years. They met
15 while they were both studying at the University of Chicago in 1994. Vicente was a
16 postdoctoral student and Kent was completing dual master’s degrees. They first met each
17 other at an LGBT social club meeting but did not talk to each other much there. Awhile
18 later, they ran into each other when they were both studying by a lake in Hyde Park on a
19 beautiful day in May. They began dating after their fortuitous run-in at the park. Soon
20 after, they decided to build a life together. They lived in Mexico City from 1997-1999
21 and then, in 2000, when Vicente received a job offer in Tucson, they moved to Arizona.
22 They registered as domestic partners after the Tucson Domestic Partnership Ordinance
23 became effective in December 2003, and married on June 30, 2013 in Iowa right after the
24 Supreme Court issued its decision in *United States v. Windsor*.

25 78. Kent and Vicente are loving fathers to two adopted sons, Daniel, age 12, and
26 Martín, age 14. Their sons spent their early years being shuffled among foster care homes
27 and were at risk of not being adopted because they were older children. Kent and Vicente
28 welcomed the boys into their home in 2008, when they were six and eight years old,

1 committed to providing them love, stability and a permanent family. Their sons'
2 adoptions were finalized in 2009.

3 79. Although Kent and Vicente decided to adopt children together, went
4 through the lengthy and complicated adoption process together, and have raised their sons
5 together, they were not permitted to adopt their sons jointly because Arizona permits only
6 one person to adopt a child or children if a couple is unmarried. They understood that
7 Arizona law readily would permit them both to become legal parents of Martín and Daniel
8 if they could marry and have their marriage recognized in Arizona. But, Kent and Vicente
9 did not marry in another jurisdiction because they knew their marriage would not be
10 honored in Arizona, including for purposes of jointly adopting their children. They were
11 forced to make the stressful, awkward decision about which of them would be the sole
12 parent with legal rights, and by a decision as arbitrary as a coin toss, they decided that
13 Vicente would be the parent with legal rights. Kent has no legal rights or binding legal
14 responsibilities with respect to his sons.

15 80. Vicente and Kent married in Iowa right after the U.S. Supreme Court issued
16 its *Windsor* decision last year, with hopes that the decision would lead to the legal
17 recognition of their marriage. They were disappointed to learn that their marriage in fact
18 would not be respected by the State of Arizona, and that Kent's path to legal parenthood
19 remains blocked.

20 81. Kent and Vicente share parenting responsibilities and everything they do as
21 parents is impacted by the fact that only one of them is a legal parent to their sons. Kent
22 feels chronic stress, anxiety and vulnerability because he is not legally recognized as a
23 parent to his children. Kent is the parent that most frequently takes Martín and Daniel to
24 their doctors' appointments and to school activities. Kent fears constantly that his status
25 as a parent will be questioned by school and medical professionals. For example, he was
26 told by his sons' school that he could not sign any parental-permission forms for activities
27 like field trips. Vicente and Kent even gave their sons the very long last name of
28 "Burbank-Talanquer" so that there would be some acknowledgement of Kent's tie to their

1 children. When Kent travels with their sons to other countries without Vicente, he is
2 questioned for long periods of time by immigration officials about his relationship to
3 Daniel and Martín. Vicente always has to write letters that Kent brings with him that
4 explain Kent's relationship to his own sons.

5 82. Kent and Vicente know that their children are vulnerable and unprotected
6 because only one of their parents has a legal bond with them. If something were to
7 happen to Vicente, Daniel and Martín would receive social security benefits based on their
8 relationship with him, but Kent would be denied any social security benefits as Vicente's
9 lawful spouse. And if something were to happen to Kent, neither Vicente nor Martín and
10 Daniel would be eligible to receive the social security benefits to which they should be
11 entitled as Kent's husband and sons, respectively. Similarly, if Vicente were to lose his
12 job, Kent would not be able switch the couple's sons onto his health insurance plan.
13 Martín and Daniel participated in Vicente and Kent's marriage ceremony last year. They
14 love, depend upon, and understand both men to be their fathers. It is extremely painful to
15 Kent that the State refuses to acknowledge his marriage and deprives him of the right to
16 be recognized legally as a "forever father" to his sons. Kent says that in the eyes of the
17 State, "I'm nothing to them."

18 ***Plaintiffs C.J. Castro-Byrd and Jesús Castro-Byrd***

19 83. Plaintiffs Clayton John "C.J." Castro-Byrd, age 23, and Jesús Castro-Byrd,
20 age 27, are a gay male couple residing in Tempe, Arizona. C.J. is a medical equipment
21 sales representative and Jesús works at a call center for the public transit system. C.J. and
22 Jesús have associate's degrees. C.J. is completing a bachelor's degree in business
23 management and hopes to complete an MBA in health administration. Jesús is earning a
24 second associate's degree in interior design.

25 84. C.J. and Jesús have been in a loving, committed relationship for two years.
26 In April 2012, they met each other through a dating website. When they first met, they
27 liked each other so much that they deleted their online profiles the same day. They knew
28 right away that they were meant for each other and have been inseparable ever since.

1 They enjoy spending time outdoors and biking together, and are the proud owners of a
2 tandem bicycle. C.J. and Jesús got married in Seattle, Washington, C.J.'s home state, on
3 December 14, 2012. They would have preferred to marry in Arizona, with friends and
4 family to share the special event. Instead, a year later on their anniversary, they held a
5 ceremony in Arizona that was attended by their friends and family who had not been able
6 to travel to Seattle for their wedding. But that ceremony conveyed no legal rights or
7 status under Arizona law.

8 85. Under federal law, however, C.J. and Jesús' marriage has opened up a
9 pathway for Jesús to apply to become a permanent resident. Jesús, who was born in
10 Sonora, México, immigrated to Arizona with his family in 2001 when he was 14 years
11 old. Jesús lived as an undocumented immigrant in the United States for the years since
12 then. He obtained temporary authorization to remain in the country and a work permit
13 after he successfully applied for deferred action under the DACA ("Deferred Action for
14 Childhood Arrivals") program, which was authorized by President Obama in 2012.

15 86. Even though he was granted deferred action, Jesús still was not eligible to
16 adjust his status because a grant of deferred action does not provide a path to lawful
17 permanent resident status or U.S. citizenship. However, as a result of the Supreme
18 Court's 2013 ruling striking down the core provision of the Defense of Marriage Act,
19 same-sex couples who are able to marry finally are eligible for many federal protections
20 and benefits available to heterosexual spouses, including the right of a U.S. citizen to
21 sponsor a spouse to adjust status and remain in the United States. As a result of the
22 *Windsor* decision, Jesús was able to apply for a green card to remain with his husband just
23 like other immigrants married to U.S. citizens.

24 87. Jesús is particularly vulnerable and stigmatized as a gay formerly
25 undocumented immigrant living in Arizona. When Arizona's restrictive immigration bill,
26 SB 1070, was signed into law in 2010, Jesús was undocumented. SB 1070's passage and
27 the State's subsequent harsh treatment of immigrants made Jesús feel targeted,
28 stigmatized, and vulnerable as a Latino immigrant. He was constantly afraid that he and

1 his family would be stopped, harassed and deported. Arizona's discriminatory marriage
2 law compounds the stigma and discrimination that Jesús has experienced as a gay Latino
3 man living in the state.

4 88. C.J. and Jesús would very much like to have children in the next two to
5 three years. They worry, however, about raising children in a state that does not respect
6 their marriage. They are concerned that the State's refusal to honor their marriage will
7 prevent them both from being legal parents to the children they hope to bring into their
8 family sometime soon.

9 89. In addition, since getting married, C.J. and Jesús are finding it confusing and
10 stressful to file their federal income tax returns as a married couple, and then to have to
11 file their separate state income tax returns as unmarried individuals. They are young and
12 in love and want their marriage to be honored by the State to which they pay taxes and in
13 which they make their home and are building their life together.

14 ***Plaintiff Patrick Ralph***

15 90. Longtime Phoenix residents, Patrick Ralph, age 59, and Gary Hurst, who
16 would be age 73, met and fell in love in 1974. Patrick and Gary were both working for
17 different airlines as sales representatives when they met at the Anchorage International
18 Airport in Alaska. Patrick was at the airport dropping a friend off and he parked in Gary's
19 reserved parking space. When Patrick returned to his car, he saw Gary standing in front
20 of his parking space looking very irate. Gary got over his anger at Patrick for parking in
21 his space, and the two men chatted and exchanged contact information. They then dated
22 for five months and decided they were meant for each other. Thus began a loving,
23 committed relationship that lasted thirty-nine years. They divided their time between
24 Anchorage and Seattle, and after Gary retired they moved to Arizona in 1995. They first
25 built a house in Chandler and later moved to Phoenix.

26 91. In 2008, Gary suffered a massive brain bleed and became severely disabled.
27 He could not swallow or walk, had a trach placed in his throat and a pegline in his
28 stomach, and needed intensive physical therapy and care. Patrick became Gary's full-time

1 caregiver and dedicated his life to taking care of him. He fed, bathed, and dressed Gary
2 every day, helped him use the bathroom, and took him to his medical appointments.

3 92. Later that same year, Gary was watching the “Ellen” talk show and learned
4 that it had become legal for same-sex couples to marry in California. Patrick recalls that
5 Gary said to him, “We should get married” and that he answered, “That’s impossible, we
6 can’t get married.” Gary then said, “Yes we can. Ellen and Portia are getting married.”
7 They traveled with Gary’s nurse, wheelchairs, and oxygen tanks to Palm Springs,
8 California and married on October 31, 2008, after thirty-four years of being together and
9 just three weeks before California voters passed Proposition 8, which temporarily
10 prevented same-sex couples from marrying but did not affect the validity of Patrick and
11 Gary’s marriage.

12 93. On July 25, 2013, Gary fell and broke his hip. He had an adverse reaction
13 to medication and suffered respiratory failure. He was taken off life support and died on
14 August 8, 2013.

15 94. Gary had been an army veteran and the U.S. Department of Veterans Affairs
16 sent Patrick a bronze attachment for Gary’s headstone recognizing his service for the
17 country. During Gary’s funeral, a Color Guard unfolded the American flag and presented
18 it to Patrick, who was sitting next to Gary’s family, saying that it was, “In honor of Gary’s
19 service to the country and on behalf of the President.”

20 95. Patrick requested Gary’s death certificate from the National Cremation
21 Society and asked to be listed as Gary’s husband. The clerk said that she would try listing
22 Patrick as Gary’s husband on his application for the death certificate. But, it was rejected
23 by the Maricopa County Office of Vital Records. When Patrick called the Office of Vital
24 Records to ask why his application had been rejected, he was told they could not list him
25 as Gary’s husband because Arizona does not recognize same-sex couples’ marriages.
26 Patrick recalls that he said, “I’m not asking Arizona to recognize same-sex marriage. I
27 want Gary’s death certificate to show that I and the man I was with for thirty-nine years
28 were married.” Patrick received a letter from the Arizona Department of Health Services

1 saying that the State could not honor his request to be listed as Gary's husband on his
2 death certificate because the State does not recognize same-sex couples' marriages from
3 other states.

4 96. Patrick has been devastated by the loss of his husband. The State's refusal
5 to acknowledge his and Gary's marriage on the State's official record of the end of Gary's
6 life expresses the State's disrespect of this couple's love and shared life together. It
7 officially negates their deep mutual commitment and exacerbates Patrick's grief.

8 97. Moreover, because Arizona refuses to recognize Gary and Patrick's
9 marriage on Gary's death certificate and in other records, the emotional injury to Patrick
10 is compounded by the fact that he is not eligible to receive Social Security surviving
11 spouse's benefits based on Gary's Social Security pension rights under current federal
12 agency policy and practice because eligibility depends on the law of the decedent's
13 domicile.

14 ***Plaintiff Josefina Ahumada***

15 98. Josefina Ahumada, age 68, was married to her beloved wife Helen Battiste,
16 who would be 77 in June of this year, for 20 years. Josefina is a social worker and Helen
17 worked as a registered nurse for fifty years. The two women met in 1991 when Helen
18 moved into an adobe house in Josefina's neighborhood. Josefina admired Helen's
19 beautiful garden and asked for gardening tips. Helen explained that she had taken a
20 gardening class and gave Josefina the name and contact information of her instructor, and
21 also slipped in her own phone number. Helen and Josefina developed a warm friendship
22 that evolved into a loving, committed relationship. They enjoyed going on long walks and
23 bike rides together, and were intensely involved in their Presbyterian church. They shared
24 a home in Tucson for twenty years. Together with Helen's grown son Jack, they were a
25 tight-knit family. In all their years together they never had one bitter argument.

26 99. Josefina and Helen pledged their lifelong commitment to each other in a
27 religious commitment ceremony in July 1994. On October 22, 2013, they celebrated their
28

1 beautiful relationship by marrying legally in Albuquerque, New Mexico. The pastor from
2 their church in Tucson flew to New Mexico to attend and officiate their wedding.

3 100. In January 2014, Helen had heart surgery. To show love and support for
4 Helen, Josefina arranged for their church's choir to come to the hospital and sing for
5 Helen in her room in the Intensive Care Unit after the surgery. Ten days after the
6 operation, Helen passed away on January 31, 2014. Josefina was heartbroken.

7 101. Helen's memorial service at the church was packed full of members of the
8 community that loved and supported the couple. Family members, friends, nurses,
9 neighbors, church members, and social workers all came to pay respect to Helen and
10 express condolences to Josefina.

11 102. The funeral director spoke to Josefina about Helen's death certificate. He
12 was from California and he said he was not sure whether Josefina could legally apply for a
13 death certificate as Helen's wife. He suggested that Jack also submit an application in
14 case Josefina's application was rejected because Helen's son's status as a recognized
15 family member was not in doubt. Josefina subsequently was informed that her application
16 indeed had been rejected because the State would not recognize her marriage to Helen.
17 Upon learning this, Josefina was in a state of shock and tremendous grief. It was
18 incredibly painful for her to hear that her application for a death certificate for her wife
19 was rejected because their relationship was not recognized. She described the rejection as
20 "an official negation" of what was most important to her. Josefina and Helen had been
21 committed to each other for 20 years, and it seemed as if the State's official
22 pronouncement was that their relationship had been worth nothing.

23 103. Moreover, because Arizona refuses to acknowledge Josefina and Helen's
24 marriage on Helen's death certificate and in other records, Josefina is ineligible under
25 current federal law to receive a Social Security death benefit and surviving spouse's
26 pension benefits based on Helen's Social Security pension account.

1 **E. The State’s Exclusion of Same-Sex Couples from Marriage is Not Even**
2 **Rationally Related to a Legitimate Governmental Purpose, Let Alone**
3 **Substantially Related to an Important Government Purpose or Narrowly**
4 **Tailored to a Compelling Governmental Purpose.**

5 104. No legitimate, let alone important or compelling, interest exists to exclude
6 same-sex couples from the historic and highly venerated institution of marriage. An
7 individual’s capacity to establish a loving and enduring relationship does not depend upon
8 that person’s sexual orientation or sex in relation to his or her life partner, nor is there
9 even a legitimate interest in justifying same-sex couples’ exclusion from marriage and the
10 spousal protections it provides on such bases.

11 105. Neither history nor tradition can legally justify the State’s discriminatory
12 exclusion of same-sex couples from marriage. Marriage has remained vital and enduring
13 because of, not despite, its resiliency in response to a dynamic society, for example as
14 society and the courts have cast off prior restrictions on interracial marriage and coverture.
15 The State is not confined to historic notions of equality, and no excuse for the State’s
16 discriminatory restriction can be found in the pedigree of such discrimination.

17 106. As the Supreme Court has made clear, the law cannot, directly or indirectly,
18 give effect to private biases. Liberty and equality, not moral disapproval, must be the
19 guiding framework for a state’s treatment of its citizens.

20 107. Excluding same-sex couples from marriage does nothing to protect or
21 enhance the rights of different-sex couples. Different-sex spouses will continue to enjoy
22 the same rights and status conferred by marriage regardless of whether same-sex couples
23 may marry, unimpaired by the acknowledgment that this freedom belongs equally to
24 lesbians and gay men.

25 108. Although the State has a valid interest in protecting the public fisc, it may
26 not pursue that interest by making invidious distinctions between classes of its citizens
27 without adequate justification. Moreover, the State not only lacks any such fiscal
28 justification but rather would generate additional revenues by allowing same-sex couples
to marry and be recognized as married.

1 109. The State’s interest in child welfare is affirmatively harmed rather than
2 furthered by the exclusion of same-sex couples from marriage. That exclusion injures
3 same-sex couples’ children without offering any conceivable benefit to other children.

4 110. Barring same-sex couples from marriage does not affect which couples raise
5 children together. Many same-sex couples in Arizona can and do bear children through
6 medically assisted reproduction in ways available to both same-sex and different-sex
7 couples. Same-sex couples also bring children into their families through foster care and
8 adoption. Marriage has never been the province solely of couples who are, who seek to
9 be, or who are capable of becoming parents. Neither Arizona nor any other state in this
10 country has ever restricted marriage to those capable of, or intending to, procreate.

11 111. There is no valid basis for Arizona to assert a preference for parenting by
12 different-sex couples over same-sex couples. Based on more than 30 years of research,
13 the scientific community has reached an emphatic consensus that children raised by same-
14 sex couples are just as well-adjusted as children raised by different-sex couples. This
15 consensus has been recognized by every major professional organization dedicated to
16 children’s health and welfare including the American Academy of Pediatrics, the
17 American Psychological Association, the American Medical Association, the National
18 Association of Social Workers, and the Child Welfare League of America.

19 112. Other courts have found, after considering expert testimony, that there is no
20 rational basis for favoring parenting by heterosexual couples over parenting by gay and
21 lesbian couples. *See, e.g., Perry v. Schwarzenegger*, 704 F. Supp. 2d 921, 980 (N.D. Cal.
22 2010) (finding that the research supporting the conclusion that “[c]hildren raised by gay or
23 lesbian parents are as likely as children raised by heterosexual parents to be healthy,
24 successful and well-adjusted” is “accepted beyond serious debate in the field of
25 developmental psychology”), *aff’d sub nom. Perry v. Brown*, 671 F.3d 1052 (9th Cir.
26 2012), *vacated for lack of standing sub nom. Hollingsworth v. Perry*, 133 S. Ct. 2652
27 (2013); *In re Adoption of Doe*, 2008 WL 5006172, at *20 (Fla. Cir. Ct. Nov. 25, 2008)
28 (“[B]ased on the robust nature of the evidence available in the field, this Court is satisfied

1 that the issue is so far beyond dispute that it would be irrational to hold otherwise; the best
2 interests of children are not preserved by prohibiting homosexual adoption.”), *Fla. Dep’t*
3 *of Children & Families v. Adoption of X.X.G.*, 45 So. 3d 79 (Fla. Dist. Ct. App. 2010);
4 *Howard v. Child Welfare Agency Review Bd.*, Nos. 1999-9881, 2004 WL 3154530, at *9
5 and 2004 WL 3200916, at *3-4 (Ark. Cir. Ct. Dec. 29, 2004) (holding based on factual
6 findings regarding the well-being of children of gay parents that “there was no rational
7 relationship between the [exclusion of gay people from becoming foster parents] and the
8 health, safety, and welfare of the foster children.”), *aff’d sub nom. Dep’t of Human Servs.*
9 *v. Howard*, 238 S.W.3d 1 (Ark. 2006).

10 113. Excluding same-sex couples from marriage harms their children, including
11 by branding their families as inferior and less deserving of respect, and by encouraging
12 private bias and discrimination. Denying same-sex couples the equal dignity and status of
13 marriage humiliates the children now being raised by same-sex couples, and makes it
14 more difficult for the children to understand the integrity and closeness of their own
15 family and its concord with other families in their community and in their daily lives.

16 114. Excluding same-sex couples from civil marriage will not make the children
17 of different-sex spouses more secure. Different-sex spouses’ children will continue to
18 enjoy the benefits that flow from their parents’ marriage regardless of whether same-sex
19 couples are permitted to marry. The marriage ban has no conceivable effect on the
20 choices different-sex couples make about such profound issues as whether to marry,
21 whether to have children, and whether to raise their children within marriage.

22 115. The State’s interest in the welfare of children raised by same-sex couples is
23 as great as its interest in the welfare of any other children. The family security that comes
24 from the State’s official recognition and support is no less important for same-sex parents
25 and their children than it is for different-sex parents and their children.

1 **FIRST CLAIM FOR RELIEF**

2 **Equal Protection on the Basis of Sexual Orientation and Sex**
3 **U.S. Const. Amend. XIV, 42 U.S.C. § 1983**

4 116. Plaintiffs incorporate by reference and reallege paragraphs 1 to 115 of this
5 complaint.

6 117. Plaintiffs state this cause of action against Defendants in their official
7 capacities for purposes of seeking declaratory and injunctive relief.

8 118. The Fourteenth Amendment to the United States Constitution, enforceable
9 pursuant to 42 U.S.C. § 1983, provides that no state shall deny to any person the equal
10 protection of the laws. Defendants' conduct violates Plaintiffs' right to equal protection
11 of the laws, and specifically Plaintiffs' right not to be denied equal protection on the basis
12 of sexual orientation or sex.

13 119. Article 30, § 1 of the Arizona Constitution, Arizona Revised Statutes §§ 25-
14 101(C) and 25-125(A), and all other sources of Arizona law that preclude marriage of
15 same-sex couples or prevent in-state recognition of same-sex couples' out-of-state
16 marriages violate the equal protection guarantee of the Fourteenth Amendment both
17 facially and as applied to Plaintiffs. Moreover, by enshrining discrimination in the form
18 of a constitutional amendment, Arizona Constitution article 30, § 1, deprives lesbian and
19 gay Arizonans of equal protection of the laws by locking them out of state and local
20 political processes and making it uniquely more difficult to secure legislation on their
21 behalf. The conduct of Defendants in enforcing these laws violates the right of Plaintiffs
22 to equal protection by discriminating impermissibly on the basis of sexual orientation and
23 sex.

24 120. As the State's Attorney General, Defendant Tom Horne's enforcement
25 under color of state law of the State's discriminatory marriage ban—including those
26 actions taken pursuant to his responsibility to provide legal advice to state agencies
27 including Child Protective Services and concerning vital records, tax obligations, and state
28 employee benefits programs—violates Plaintiffs' constitutional rights to equal treatment,

1 without regard to sexual orientation or sex, under the Fourteenth Amendment to the
2 United States Constitution.

3 121. As the Director of the Department of Health Services and the State's
4 Registrar of Vital Records, Defendant Will Humble's ensuring, under color of state law,
5 compliance with the State's discriminatory marriage ban by, for example, not allowing
6 men to be listed as husbands on the death certificates of male individuals, nor women to
7 be listed as wives on the death certificates of female individuals, and licensing health care
8 institutions that discriminate against same-sex couples, violates the constitutional rights of
9 Plaintiffs to equal treatment regardless of sexual orientation and sex.

10 122. As Clerk of the Superior Court of Maricopa County, Arizona, Defendant
11 Jeanes's ensuring, under color of state law, compliance with the State's discriminatory
12 marriage ban by, for example, denying same-sex couples marriage licenses, violates the
13 constitutional right to equal treatment of the unmarried Plaintiffs.

14 123. The State's marriage ban and Defendants' actions to enforce it deny same-
15 sex couples equal dignity and respect, and deprives their families of a critical safety net of
16 rights and responsibilities. The State's marriage ban and Defendants' actions to enforce it
17 reflect disapproval, opprobrium, calumny, and antipathy toward lesbians and gay men
18 based in particular notions of morality and tradition. The State's marriage ban brands
19 lesbians and gay men and their children as second-class citizens through a message of
20 government-imposed stigma and fosters private bias and discrimination by instructing all
21 persons with whom same-sex couples interact, including their own children, that their
22 relationship is less worthy than others.

23 124. Same-sex couples such as the plaintiff couples are identical to different-sex
24 couples in all of the characteristics relevant to marriage. Same-sex couples make the
25 same commitment to one another as different-sex couples. Like different-sex couples,
26 same-sex couples fall in love, build their lives together, plan their futures together, and
27 hope to grow old together. Like different-sex couples, same-sex couples support one
28 another emotionally and financially and take care of one another physically when faced

1 with injury or illness, as for example Plaintiff Barbara Morrissey did for her wife Michelle
2 Teichner when Mish had a kidney transplant earlier this year, and as Plaintiff Patrick
3 Ralph did for his husband Gary Hurst during Gary's lengthy illness.

4 125. Plaintiffs seek to marry for the same emotional, romantic, and dignitary
5 reasons, and to provide the same legal shelter to their families, as different-sex spouses.

6 126. Like some different-sex couples, some same-sex couples are parents raising
7 children together. Several of the Plaintiffs are raising children jointly with their same-sex
8 partners or unrecognized spouses. Those Plaintiffs and their children are equally worthy
9 of the tangible rights and responsibilities, as well as the respect, dignity, and concrete
10 protections that access to marriage confers on different-sex couples and their children.
11 For the many children being raised by same-sex couples, the tangible resources and
12 societal esteem that access to marriage confers is no less precious than for children of
13 different-sex couples.

14 **A. Discrimination Based on Sexual Orientation.**

15 127. The State's marriage ban targets lesbian and gay Arizonans as a class for
16 exclusion from marriage and discriminates against each Plaintiff based on his or her
17 sexual orientation both facially and as applied.

18 128. The exclusion of Plaintiffs from marriage based on their sexual orientation
19 subjects Defendants' conduct to strict or at least heightened scrutiny, which Defendants'
20 conduct cannot withstand because the exclusion does not even serve any legitimate
21 governmental interests, let alone any important or compelling interests, nor does it serve
22 any such interests in an adequately tailored manner.

23 129. Lesbians and gay men have suffered a long and painful history of
24 discrimination in the State and across the United States.

25 130. Sexual orientation bears no relation to an individual's ability to perform in
26 or contribute to society.

1 131. Sexual orientation is a core, defining trait that is so fundamental to one's
2 identity and conscience that a person may not legitimately be required to abandon it (even
3 if that were possible) as a condition of obtaining equal treatment by the government.

4 132. Sexual orientation generally is fixed at an early age and highly resistant to
5 change through intervention. No credible evidence supports the notion that such
6 interventions are either effective or safe; indeed, they often are harmful and damaging.
7 No mainstream mental health professional organization approves interventions that
8 attempt to change sexual orientation, and virtually all of them have adopted policy
9 statements cautioning professionals and the public about these treatments.

10 133. Lesbians and gay men are a discrete and insular minority, and ongoing
11 prejudice against them continues seriously to curtail the operation of those political
12 processes that might ordinarily be relied upon to protect minorities. Gay people have
13 fewer civil rights protections at the state and federal level than racial minorities and
14 women had when race- and sex-based classifications were determined to be suspect and
15 quasi-suspect, respectively.

16 134. Lesbians and gay men lack express statutory protection against
17 discrimination in employment, public accommodations, and housing at the federal level
18 and in more than half the states, including Arizona; are systematically underrepresented in
19 federal, state, and local democratic bodies; have been stripped of the right to marry
20 through 30 state constitutional amendments and are currently not permitted to marry in a
21 total of 33 states; and have been targeted across the nation through the voter initiative
22 process more than any other group.

23 135. The sexual orientation classification in Arizona's marriage ban, which
24 permits heterosexual couples to marry and be recognized as married, and excludes
25 Plaintiffs and other lesbian and gay couples from marriage, imposes inequality on lesbians
26 and gay men, sends a message of second-class status, and cannot survive the heightened
27 scrutiny required for such classifications, or even any form of review, because it
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1 perpetuates discrimination and stigma against lesbian and gay individuals, couples and
2 their families without being justified by any legitimate purpose.

3 **B. Discrimination Based on Sex.**

4 136. The State’s marriage ban discriminates against Plaintiffs on the basis of sex,
5 both facially and as applied, barring Plaintiffs from marriage or from being recognized as
6 validly married, solely because each of the Plaintiffs wishes to marry a life partner of the
7 same sex as themselves. The sex-based restriction is plain on the face of the State’s laws,
8 which restrict marriage to “a union of one man and one woman,” and prohibit marriage or
9 recognition of a marriage from another jurisdiction validly entered by a “committed same-
10 sex couple.” Ariz. Const. art. 30, § 1.

11 137. Because of these sex-based classifications, Nelda Majors is precluded from
12 marrying the woman to whom she is devoted because Nelda is a woman and not a man;
13 were Nelda a man, she could marry Karen Bailey. Similarly, Michelle Teichner is
14 precluded from having her marriage to Barbara Morrissey recognized as valid because
15 Mish is a woman and not a man; were Mish a man, her validly-entered marriage to Barb
16 would be recognized as such under Arizona law.

17 138. The State’s marriage ban also serves the impermissible purpose of enforcing
18 and perpetuating sex stereotypes by excluding Plaintiffs from marriage, or from being
19 recognized as validly married, because they have failed to conform to sex-based
20 stereotypes that men should marry women, and women should marry men.

21 139. Given that there are no longer legal distinctions between the duties of
22 husbands and wives in Arizona law, there is no basis for the sex-based eligibility
23 requirements for marriage in this state.

24 140. The exclusion of Plaintiffs from marriage based on their sex and the
25 enforcement of gender-based stereotypes cannot survive the heightened scrutiny required
26 for sex-based discrimination.

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C. Discrimination With Respect to Fundamental Rights and Liberty Interests Secured by the Due Process Clause.

141. The marriage ban discriminates against Plaintiffs based on sexual orientation and sex with respect to the exercise of the fundamental right to marry, and their liberty interests in dignity, autonomy, and family integrity and association. Differential treatment with respect to the exercise of fundamental rights and liberty interests, based on Plaintiffs’ sexual orientation and sex, subjects Defendants’ conduct to strict or at least heightened scrutiny, which Defendants’ conduct cannot withstand.

SECOND CLAIM FOR RELIEF

**Substantive Due Process
U.S. Const. Amend. XIV, 42 U.S.C. § 1983**

142. Plaintiffs incorporate by reference and reallege paragraphs 1 to 141 of this complaint.

143. Plaintiffs state this cause of action against Defendants in their official capacities for purposes of seeking declaratory and injunctive relief.

144. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall deprive any person of life, liberty, or property without due process of law (the “Due Process Clause”). The above-described conduct by Defendants infringes upon Plaintiffs’ fundamental rights and protected liberty interests, and in so doing violates their right not to be deprived of substantive due process.

145. The Due Process Clause has a substantive component that protects against government interference with fundamental rights and protected liberty interests. Each individual Plaintiff has a protected, fundamental right and liberty interest in his or her private intimate conduct and family relationship with his or her committed same-sex life partner.

146. Arizona Constitution article 30, § 1, Arizona Revised Statutes §§ 25-101(C) and 25-125(A), and all other sources of state law that preclude marriage for same-sex

1 couples or prevent recognition of their marriages violate the due process guarantee of the
2 Fourteenth Amendment both facially and as applied to Plaintiffs.

3 147. The right to marry the unique person of one's choice and to direct the course
4 of one's life in this intimate realm without undue government restriction is one of the
5 fundamental liberty interests protected by the Due Process Clause. Defendants' actions to
6 enforce the marriage ban directly and impermissibly infringe Plaintiffs' choice of whom
7 to marry, interfering with a core, life-altering, and intimate personal choice.

8 148. The Due Process Clause also protects choices central to personal dignity and
9 autonomy, including each individual's rights to family integrity and association.
10 Defendants' actions to enforce the marriage ban directly and impermissibly infringe
11 Plaintiffs' deeply intimate, personal, and private decisions regarding family life, and
12 preclude them from obtaining full liberty, dignity, and security for themselves, their
13 family, and their parent-child bonds.

14 149. As the State's Attorney General Defendant, Tom Horne's enforcement,
15 under color of state law, of the State's discriminatory marriage ban, including those
16 actions taken pursuant to his responsibility to provide legal advice to state agencies
17 including Child Protective Services and with respect to vital records, tax obligations, and
18 state employee benefits programs, violates the Plaintiffs' fundamental right to marry and
19 constitutional rights to liberty, dignity, autonomy, family integrity, association, and due
20 process under the Fourteenth Amendment to the United States Constitution.

21 150. As the Director of the Department of Health Services and the State's
22 Registrar of Vital Records, Defendant Will Humble's ensuring, under color of state law,
23 compliance with the State's discriminatory marriage ban by, for example, not allowing
24 men to be listed as husbands on the death certificates of male individuals, nor women to
25 be listed as wives on the death certificates of female individuals, and licensing health care
26 institutions that discriminate against same-sex couples, violates the Plaintiffs'
27 fundamental right to marry and constitutional rights to liberty, dignity, autonomy, family
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1 integrity, association, and due process under the Fourteenth Amendment to the United
2 States Constitution.

3 151. As Clerk of the Superior Court of Maricopa County, Arizona, Defendant
4 Jeanes's ensuring, under color of state law, compliance with the State's discriminatory
5 marriage ban by, for example, denying same-sex couples marriage licenses, violates the
6 fundamental right to marry and the other rights of the unmarried Plaintiffs that are
7 protected by the constitutional guarantees of liberty, dignity, autonomy, family integrity,
8 association, and due process contained in the Fourteenth Amendment to the United States
9 Constitution.

10 152. Defendants' actions thus deny and abridge Plaintiffs' fundamental right to
11 marry, and liberty and due process interests in autonomy, and family integrity and
12 association, by penalizing Plaintiffs' self-determination in the most intimate sphere of
13 their lives.

14 153. Defendants cannot satisfy the Due Process Clause's decree that
15 governmental interference with a fundamental right or liberty interest may be sustained
16 only upon a showing that the burden is narrowly tailored to serve a compelling or even
17 important governmental interest, as the marriage ban is not even tailored to any legitimate
18 interest at all.

19 **DECLARATORY AND INJUNCTIVE RELIEF**

20 **28 U.S.C. § 2201 and 2202, Federal Rules of Civil Procedure, Rules 57 and 65**

21 154. Plaintiffs incorporate by reference and reallege paragraphs 1 to 153 of this
22 complaint.

23 155. This case presents an actual controversy because Defendants' present and
24 ongoing denial of equal treatment to Plaintiffs subjects them to serious and immediate
25 harms, warranting the issuance of a declaratory judgment.

26 156. Plaintiffs seek preliminary and/or permanent injunctive relief to protect their
27 constitutional rights and avoid the injuries described above. A favorable decision
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1 enjoining Defendants would redress and prevent the irreparable injuries to Plaintiffs
2 identified herein, for which Plaintiffs have no adequate remedy at law or in equity.

3 157. The State will incur little to no burden in allowing same-sex couples to
4 marry and in recognizing the valid marriages of same-sex couples from other jurisdictions
5 on the same terms as different-sex couples, whereas the hardship for Plaintiffs of being
6 denied equal treatment and relegated to a demonstrably inferior social and legal status is
7 severe, subjecting them to an irreparable denial of their constitutional rights. The balance
8 of hardships thus tips strongly in favor of Plaintiffs.

9 **PRAYER FOR RELIEF**

10 WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

11 A. Declaring that the provisions and enforcement by Defendants of Arizona
12 Constitution article 30, § 1, Arizona Revised Statutes §§ 25-101(C) and 25-125(A), and
13 any other sources of state law that exclude same-sex couples from marrying violate
14 Plaintiffs' rights under the Equal Protection Clause of the Fourteenth Amendment to the
15 United States Constitution; and, for those couples legally married in another jurisdiction,
16 declaring that it is unconstitutional for Defendants to refuse, based solely on the fact those
17 couples are same-sex couples or that an individual's spouse is or was of the same sex as
18 that individual, to respect Plaintiffs' out-of-state valid marriages as marriages in Arizona;

19 B. Preliminarily and permanently enjoining enforcement by Defendants of
20 Arizona Constitution article 30, § 1, Arizona Revised Statutes §§ 25-101(C) and 25-
21 125(A), and any other sources of state law that exclude same-sex couples from marriage
22 and for those same-sex couples who are or were legally married in another jurisdiction,
23 enjoining Defendants from denying recognition of those marriages based solely on the
24 fact that the couple is a same-sex couple or that an individual's spouse is or was of the
25 same sex as that individual;

26 C. Requiring Defendants in their official capacities to allow same-sex couples
27 to marry on the same terms as different-sex couples, and to recognize the valid marriages
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1 of same-sex couples from other jurisdictions on the same terms as the valid marriages of
2 different-sex couples from other jurisdictions;

3 D. Awarding Plaintiffs their costs, expenses, and reasonable attorneys' fees
4 pursuant to, *inter alia*, 42 U.S.C. § 1988 and other applicable laws; and

5 E. Granting such other and further relief as the Court deems just and proper.

6 Dated: March 12, 2014

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