

MARK LEWIS, et al.,

Plaintiffs-Appellants,

v.

GWENDOLYN L. HARRIS, et al.,

Defendants-Appellees.

SUPREME COURT OF NEW JERSEY

DOCKET NO. 58,389

CIVIL ACTION

**AFFIDAVIT OF**  
**KAREN NICHOLSON-McFADDEN**

State of New Jersey    )  
  : ss.  
County of Monmouth    )

Karen Nicholson-McFadden, having been duly sworn, states as follows:

1. I am one of the Plaintiffs in this lawsuit, and I provide this affidavit in support of the Plaintiffs' Motion in Aid of Litigants' Rights.
2. I am 43 years old, and I am in a permanent committed relationship of 20 years with Marcye Nicholson-McFadden, who has also provided an affidavit in support of this motion.
3. Marcye and I entered a civil union in April 2007. I do not remember the exact date, because we do not celebrate its anniversary. We entered the civil union to try to secure the maximum protections that the state of New Jersey allows for our family, but we do not feel relieved, because we believe our family still isn't recognized or treated as if it is as important as other families created by married people.
4. As I said when this case began, I feel incredibly fortunate about so many of the things in my life, but few things compare with the joy of being a mom. Parenting is truly the greatest

profession, and both Marcye and I have grown in ways we never imagined because of it. Being a mom was always part of the life I envisioned for myself. From the time I was a young girl, I knew I wanted to be a parent. I dreamed of finding the love of my life, getting married, and having a family together. When I met Marcye, I knew she was the person I would spend my life with, and from early in our relationship, having children was part of the life we wanted to build with one another.

5. Marcye and I are small business owners. In 2001, we launched Nicholson McFadden Group Inc. Our business is an executive search firm. We are very proud to have juggled the joys and demands of two children along with the demands of small business ownership, always keeping our family as our first priority.

6. We have two children. Our son Kasey is ten years old, and our daughter Maya is seven years old. I gave birth to Maya, and Marcye gave birth to Kasey. When Kasey was born, Marcye was the stay-at-home mom through the first year, and then I stayed home fulltime with our children through last year. Just recently we changed roles, and I have begun working fulltime in our small business, and Marcye is handling more of the day-to-day childcare. Our children call me “Mommy,” and Marcye is “Mama.” We spent a lot of time and effort securing our family’s relationships, using second-parent adoptions and attempting to secure the right to marry. Although we hoped that having a civil union would help make our relationship and family more secure, we have found that it still falls far short of the rights and benefits we would have as a married couple. For instance, we are very aware that our civil union is not well-recognized beyond state lines. We frequently travel out-of-state, and we always feel at-risk. We

know we may not be protected, and that we can't use the language of marriage, so we won't have that instant "ah ha!" and that makes us feel vulnerable.

7. The juggling of family and work is stressful. These stresses are compounded because we can't be married. Everyday situations that all families face become more difficult when you have a civil union, instead of a marriage. We constantly have to deal with people at doctors' offices or at schools who do not understand what a civil union is. We often have to change forms ourselves, because the paperwork has a box that says "married," but not one for civil unions.

8. Every time I have to deal with these forms, I am reminded that people do not consider our relationship to be the same as the relationship between members of a married couple. For example, our summer pool club defines "family" as a "husband and/or wife and unmarried children." Each year we have to re-explain and re-justify our family to secure our membership.

9. Being excluded from marriage means I am forced to use the words "civil union partner" when referring to Marcye, rather than simply being able to say "my spouse" or "my wife." This opens the door to confusion since most people have no understanding of civil unions. What's worse is that the word "partner" cheapens my relationship with Marcye. In our society the typical usage of "partner" refers to someone's business relationship with another person, where the word "spouse" or "wife" is an obvious, readily understood term referring to the person in your life to whom you've made the most meaningful commitment. Everyone, including even a very young child, instantly understands the importance of that individual and the nature of your relationship with her.

10. Despite having a civil union, we continue to experience the very deep sadness that comes with being excluded from marriage. During everyday conversations, such as being in a group where people are talking about how long they've been married – we're left out. We are made to be outsiders, always having to use a different language to describe our relationship and being forced to educate people about civil unions and what they mean. It chips away at our self-esteem and makes us feel like second-class citizens. People will frequently ask why we aren't married or whether we're able to get married. We have to explain that the state of New Jersey won't allow us to marry, that the civil union was created as a separate option for gay couples, and that it is supposed to provide the same benefits, even though it is separate. Often people will ask us why we don't go to another state where we can get married, but that wouldn't solve our problem or end the worrying. Our home is in New Jersey, and this is where our friends are and where we've made our life together --and in the end, we know that New Jersey won't recognize an out-of-state marriage as a marriage, anyway. We are lucky that many of the professionals we work with understand the difficulties we face, like our accountant who has had to write letters to tax authorities several times to explain that we are in a civil union and, for instance, own many of our assets jointly.

11. We continue to worry, because a civil union is not as secure as marriage, and someone may choose not to recognize our relationship as being as important as a marriage. I do not feel very differently than I did before civil unions, when we had to explain what a domestic partnership was.

12. Living with dignity and respect is all the more important to us because we have children.

We have the responsibility to instill self-respect in our son and daughter, and to pass on our core values to them, values like the importance of lifetime commitments. But the government in the state of New Jersey, a government to which we pay taxes each and every year, treats our family and our commitment as second-rate. We are frustrated and saddened that our children are exposed to that message. They know that gay couples can marry in some states, and simply cannot understand why their parents are prevented from marrying in their home state of New Jersey. Our daughter, Maya, frequently corrects her friends at school. She often feels she must explain that although her parents aren't married, they are in a civil union -- but her classmates have never heard about civil unions, and so Maya then has to go into a long explanation. For Maya and other kids, marriage and weddings are tangible and understandable, but this isn't the case when talking to them about civil unions.

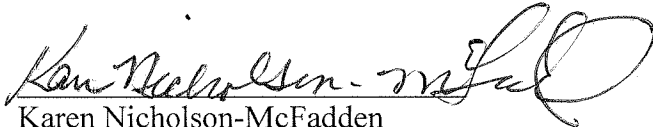
13. Kasey asked to speak about his family when the Legislature was considering same-sex marriage, and Marcey, Kasey and I testified at the New Jersey Senate Judiciary Committee Hearing on December 7, 2009. As I said that day, when you say you are married, everyone understands what that means and how important that person is to you. This is very different from how they respond when you tell them you are in a civil union. I also described the sadness that comes with the constant feelings of exclusion because I am prevented from participating in marriage, one of the most important celebrations in our culture. Kasey talked about how his friends look at him like he is from Mars when he tells them that his parents are in a civil union. It is a constant hassle for him to have to explain what it all means. He talked about how it doesn't bother him to tell people that his parents are gay, but it does bother him to tell people that

his parents can't get married, and when the hearing lasted past Maya's bedtime, he gave the legislators a message from his sister, who wanted them to know that it was unfair to prevent her parents from getting married. After the hearing, he said to me, "Mommy, after all the stories we heard, how can anyone still be against us?"

14. As gay people, we understand bias, and we face challenges similar to those faced by other minority parents. But to work as hard as we do to be good parents, dependable neighbors, contributing community members, and to pay high taxes, and then to have our own state government cheapen it all by preventing us from getting married is a slap in the face. It makes it doubly hard to be successful at all we strive to do as a family and as responsible tax-paying citizens.

15. Attached to this affidavit is a true and correct copy of a photograph of my family.

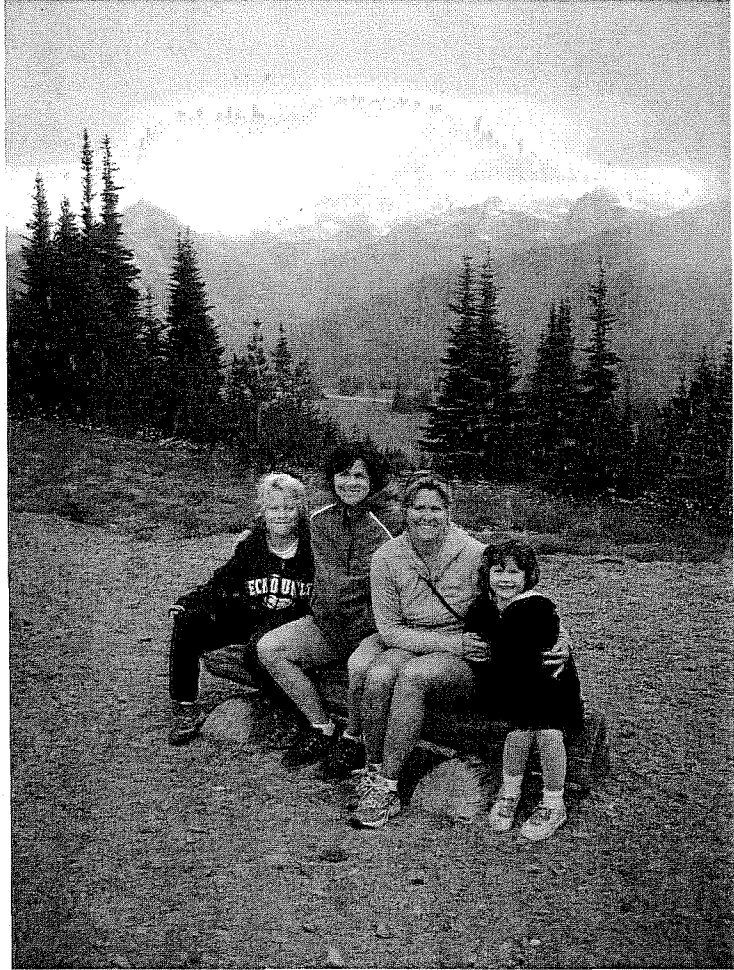
16. I hereby declare, under penalties of perjury, that the facts stated in this affidavit are personally known to me, and that they are true.

  
Karen Nicholson-McFadden

Sworn to me this 16th  
day of March 2010.

Ana Paula da Silva  
Notary Public

ANA PAULA DA SILVA  
NOTARY PUBLIC  
STATE OF NEW JERSEY  
MY COMMISSION EXPIRES DECEMBER 10, 2013



**Nicholson-McFadden Family**