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23 **UNITED STATES DISTRICT COURT**

24 **DISTRICT OF NEVADA**

25 BEVERLY SEVCIK and MARY  
26 BARANOVICH; ANTIOCO CARRILLO  
and THEODORE SMALL; KAREN  
27 GOODY and KAREN VIBE; FLETCHER  
WHITWELL and GREG FLAMER;  
28 MIKYLA MILLER and KATRINA

No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

1 MILLER; ADELE TERRANOVA and  
2 TARA NEWBERRY; CAREN  
3 CAFFERATA-JENKINS and FARRELL  
4 CAFFERATA-JENKINS; and MEGAN  
5 LANZ and SARA GEIGER,

6 Plaintiffs,

7 v.

8 BRIAN SANDOVAL, in his official capacity  
9 as Governor of the State of Nevada; DIANA  
10 ALBA, in her official capacity as Clerk for  
11 Clark County; AMY HARVEY, in her  
12 official capacity as Clerk for Washoe  
13 County; and ALAN GLOVER, in his official  
14 capacity as Clerk-Recorder for Carson City,

15 Defendants

16 Plaintiffs Beverly Sevcik and Mary Baranovich; Antioco Carrillo and Theodore Small;  
17 Karen Goody and Karen Vibe; Fletcher Whitwell and Greg Flamer; Mikyla Miller and Katrina  
18 Miller; Adele Terranova and Tara Newberry; Caren Cafferata-Jenkins and Farrell Cafferata-  
19 Jenkins; Megan Lanz and Sara Geiger, by and through their attorneys, file this Complaint against  
20 Defendants, Brian Sandoval, Diana Alba, Amy Harvey, and Alan Glover, and allege as follows:

21 **INTRODUCTION**

22 1. Plaintiffs are eight loving, committed same-sex couples. They bring this action,  
23 pursuant to 42 U.S.C. § 1983, seeking declaratory and injunctive relief for the violation of their  
24 rights under the Fourteenth Amendment to the United States Constitution caused by their being  
25 denied the right to marry in the State of Nevada (the “State”). The State has instead relegated  
26 these couples to the inferior and novel status of registered domestic partnerships, and has  
27 disrespected the marriages some of them have entered in other jurisdictions, because they are  
28 lesbians and gay men in same-sex relationships.

29 2. Civil marriage plays a unique role in society as the universally recognized and  
30 celebrated hallmark of a couple’s commitment to build family life together. Plaintiffs have  
31 formed committed, enduring family bonds equally worthy of the respect afforded by the State to



1           8.       Plaintiffs Fletcher Whitwell and Greg Flamer are gay male individuals who are a  
2 committed same-sex couple residing in Las Vegas, Nevada.

3           9.       Plaintiffs Mikyla Miller and Katrina Miller are lesbian individuals who are a  
4 committed same-sex couple residing in Reno, Nevada.

5           10.      Plaintiffs Adele Terranova and Tara Newberry are lesbian individuals who are a  
6 committed same-sex couple residing in Las Vegas, Nevada.

7           11.      Plaintiffs Caren Cafferata-Jenkins and Farrell Cafferata-Jenkins (full name, Janet  
8 Farrell Cafferata-Jenkins) are lesbian individuals who are a committed same-sex couple residing  
9 in Carson City, Nevada.

10          12.      Plaintiffs Megan Lanz and Sara Geiger are lesbian individuals who are a  
11 committed same-sex couple residing in Las Vegas, Nevada.

12           **B.       Defendants**

13          13.      Defendant Brian Sandoval is sued in his official capacity as Governor of the State  
14 of Nevada. As decreed by article 5, sections 1 and 7 of the Nevada Constitution, Governor  
15 Sandoval is vested with the executive power of the State and has the duty to see that the State's  
16 laws are faithfully executed, including the state's marriage ban. Governor Sandoval is a person  
17 within the meaning of 42 U.S.C. § 1983 and was acting under color of state law at all times  
18 relevant to this complaint.

19          14.      Diana Alba is sued in her official capacity as the County Clerk and Commissioner  
20 of Civil Marriages for Clark County, Nevada. Ms. Alba's duties include issuing marriage  
21 licenses, solemnizing marriages, certifying other persons who may solemnize a marriage in the  
22 county, and maintaining records relating to marriage licenses. Ms. Alba must ensure compliance  
23 through all of these functions with relevant Nevada laws, including those that exclude same-sex  
24 couples from marriage. Ms. Alba is a person within the meaning of 42 U.S.C. § 1983 and was  
25 acting under color of state law at all times relevant to this complaint.

26          15.      Amy Harvey is sued in her official capacity as the County Clerk and  
27 Commissioner of Civil Marriages for Washoe County, Nevada. Ms. Harvey's duties include  
28 issuing marriage licenses, solemnizing marriages, certifying other persons who may solemnize a

1 marriage in the county, and maintaining records relating to marriage licenses. Ms. Harvey must  
2 ensure compliance through all of these functions with relevant Nevada laws, including those that  
3 exclude same-sex couples from marriage. Ms. Harvey is a person within the meaning of 42  
4 U.S.C. § 1983 and was acting under color of state law at all times relevant to this complaint.

5 16. Alan Glover is sued in his official capacity as the Clerk-Recorder for Carson City,  
6 Nevada. As the Clerk-Recorder, Mr. Glover oversees the operations of the city's Marriage  
7 Bureau and his duties include issuing marriage licenses, certifying other persons who may  
8 solemnize a marriage in the city, and maintaining records relating to marriage licenses. Mr.  
9 Glover must ensure compliance through all of these functions with relevant Nevada laws,  
10 including those that exclude same-sex couples from marriage. Mr. Glover is a person within the  
11 meaning of 42 U.S.C. § 1983 and was acting under color of state law at all times relevant to this  
12 complaint.

13 17. Each of the Defendants, and those subject to their supervision, direction, and  
14 control, intentionally performed, participated in, aided and/or abetted in some manner the acts  
15 alleged herein, proximately caused the harm alleged herein, and will continue to injure Plaintiffs  
16 irreparably if not enjoined.

### 17 **JURISDICTION AND VENUE**

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

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

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

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



1 register as domestic partners, we don't do that here." When Beverly clarified that they had  
2 already registered as domestic partners in Nevada and wanted to get a marriage license, the  
3 employee refused their request. Beverly and Mary accordingly were denied the opportunity to  
4 obtain a marriage license by an employee of Defendant Glover based solely on Nevada's  
5 prohibition on marriage for same-sex couples and Plaintiffs' respective sex and sexual  
6 orientation.

7         26. On April 6, 2012, Antioco Carrillo and Theodore Small ("Theo") appeared in  
8 person at the Marriage Bureau for the Office of the Clerk for Clark County in Las Vegas, Nevada  
9 to seek a marriage license. They both were prepared to present valid forms of identification to  
10 prove their names and ages, pay the required \$60 fee, and complete a marriage application. As  
11 they approached the counter to apply for a marriage license they saw a sign indicating that  
12 applicants must be a "bride and groom only." Antioco and Theodore asked an agent or employee  
13 of Defendant Alba for a marriage license application, and she responded that the couple would  
14 have to contact the Secretary of State to register as domestic partners. When Antioco and Theo  
15 indicated that they had already registered as domestic partners and wished to marry, she said they  
16 could not because the state does not issue marriage licenses for same-sex couples. Defendant  
17 Alba's agent or employee denied the couple's request for a marriage license, based solely on  
18 Nevada's prohibition on marriage for same-sex couples and Plaintiffs' respective sex and sexual  
19 orientation.

20         27. On April 1, 2012, Karen Goody ("Karen G.") and Karen Vibe ("Karen V.")  
21 appeared in person at the Washoe County Marriage Bureau in Reno, Nevada to seek a marriage  
22 license. They both were prepared to present valid forms of identification to prove their names  
23 and ages, pay the required \$60 fee, and complete a marriage application. They were barred,  
24 however, from even going through security to enter the Marriage Bureau. When they entered the  
25 building a security officer asked about the purpose of their visit, and the couple said that they  
26 wanted to apply for a marriage license for the two of them to marry one another. The security  
27 officer then asked them "Do you have a man with you?" When Karen V. said no and explained  
28 that she and Karen G. wished to obtain a marriage license, the security guard told them that they

1 could not. Karen V. asked if they could at least fill out the marriage license application, and an  
2 employee of Defendant Harvey who was standing behind the Marriage Bureau counter responded  
3 “Two women can’t apply.” The security officer added that it has to “be between a man and a  
4 woman.” The employee behind the counter then indicated that the couple’s option was to “apply  
5 for a civil partnership with the Secretary of State.” Karen G. and Karen V. accordingly were  
6 denied the opportunity to obtain a marriage license by an employee of Defendant Harvey based  
7 solely on Nevada’s prohibition on marriage for same-sex couples and Plaintiffs’ respective sex  
8 and sexual orientation.

9       28. On April 4, 2012, Fletcher Whitwell and Greg Flamer appeared in person at the  
10 Marriage Bureau for the Office of the Clerk for Clark County in Las Vegas, Nevada to seek a  
11 marriage license. They both were prepared to present valid forms of identification to prove their  
12 names and ages, pay the required \$60 fee, and complete a marriage application. When the couple  
13 took their application for a marriage license to the clerk, who is an agent or employee of  
14 Defendant Alba, they were directed to the Secretary of State’s website to register as domestic  
15 partners. When Greg clarified that they were there to get a marriage license, the clerk denied  
16 their request, based solely on Nevada’s prohibition on marriage for same-sex couples and  
17 Plaintiffs’ respective sex and sexual orientation.

18       29. Mikyla Miller and Katrina Miller were validly married in another jurisdiction and  
19 seek through this suit to end the State’s current denial of recognition of their marriage on the  
20 ground that it is a marriage entered by two individuals of the same sex.

21       30. Adele Terranova and Tara Newberry were validly married in another jurisdiction  
22 and seek through this suit to end the State’s current denial of recognition of their marriage on the  
23 ground that it is a marriage entered by two individuals of the same sex.

24       31. Caren Cafferata-Jenkins and Farrell Cafferata-Jenkins were validly married in  
25 another jurisdiction and seek through this suit to end the State’s current denial of recognition of  
26 their marriage on the ground that it is a marriage entered by two individuals of the same sex.

27  
28



1           32. Megan Lanz and Sara Geiger were validly married in another jurisdiction and seek  
2 through this suit to end the State’s current denial of recognition of their marriage on the ground  
3 that it is a marriage entered by two individuals of the same sex.

4           **B. Nevada’s Exclusion of Same-Sex Couples from Marriage and Consignment of**  
5           **Same-Sex Couples to an Inferior Registered Domestic Partnership Status.**

6           33. Nevada Revised Statutes § 122.020(1) restricts marriage to a male and a female  
7 couple.

8           34. In 2000, a group called the Coalition for the Protection of Marriage collected the  
9 number of signatures required to place a proposed amendment to Nevada’s Constitution on the  
10 general election ballot that year. The proposed amendment provided that “Only a marriage  
11 between a male and female person shall be recognized and given effect in this state.” The voters  
12 approved the measure biennially (during the 2000 and 2002 general elections), as required to  
13 amend the state constitution, pursuant to Nev. Const. art. 1, § 21.

14           35. Many of the campaign messages used to persuade voters to amend the constitution  
15 relied on false, stigmatizing messages that same-sex couples are inferior to different-sex couples,  
16 and that both the institution of marriage and children need to be protected from same-sex couples.  
17 One 2002 flyer, for example, urged voters to adopt the constitutional amendment by saying “Let’s  
18 not experiment with Nevada’s children.” Other campaign material falsely suggested that  
19 allowing same-sex couples to marry would lead to schools teaching “explicit homosexual sex  
20 acts” and “promot[ing] homosexuality.”

21           36. In 2009, the Nevada state legislature enacted a law entitled the “Nevada Domestic  
22 Partnership Act” to allow eligible same-sex and different-sex couples who have “chosen to share  
23 one another’s lives in an intimate and committed relationship of mutual caring” to register with  
24 the state as domestic partners. Nev. Rev. Stat. §§ 122A.100, 122A.010 et seq. Couples are  
25 eligible to register if they share a common residence, are not married or in a domestic partnership  
26 with a different person, are not related by blood in a way that would prevent them from being  
27 married to each other in the State, are at least 18 years of age, and are competent to consent to the  
28 domestic partnership. Nev. Rev. Stat. § 122A.100. The law took effect on October 1, 2009.

1           37. Pursuant to Nevada Revised Statutes § 122A.200(1)(a), and with only a few  
2 exceptions described below, registered domestic partners “have the same rights, protections and  
3 benefits, and are subject to the same responsibilities, obligations and duties under law, whether  
4 derived from statutes, administrative regulations, court rules, government policies, common law  
5 or any other provisions or sources of law, as are granted to and imposed upon spouses.” That  
6 statute also provides that former domestic partners “have the same rights, protections and  
7 benefits, and are subject to the same responsibilities, obligations and duties under law, whether  
8 derived from statutes, administrative regulations, court rules, government policies, common law  
9 or any other provisions or sources of law, as are granted to and imposed upon former spouses,”  
10 and that a surviving domestic partner “has the same rights, protections and benefits, and is subject  
11 to the same responsibilities, obligations and duties under law, whether derived from statutes,  
12 administrative regulations, court rules, government policies, common law or any other provisions  
13 or sources of law, as are granted to and imposed upon a widow or a widower.” Registered  
14 domestic partners enjoy rights and responsibilities related to, for example, pre-marital  
15 agreements, Nev. Rev. Stat. § 123A.010 et seq.; postnuptial agreements, Nev. Rev. Stat. §  
16 123.070 et seq.; community property and community debt, Nev. Rev. Stat. § 123.220 et seq.;  
17 dissolution of the relationship in family court, Nev. Rev. Stat. § 125.010 et seq.; and spousal  
18 support, Nev. Rev. Stat. § 125.150 et seq.

19           38. The law expressly provides that the rights and responsibilities of registered  
20 domestic partners “with respect to a child of either of them are the same as those of spouses.”  
21 Nev. Rev. Stat. § 122A.200(1)(d). The State thus treats same-sex couples who are registered  
22 domestic partners as equal to different-sex spouses for the full spectrum of parenting obligations  
23 and protections. For example, as is true for different-sex spouses, both members of a registered  
24 domestic partnership are presumed parents of a child born to a domestic partner during the  
25 domestic partnership, Nev. Rev. Stat. § 126.051. The State also treats registered domestic  
26 partners in the same manner as spouses with respect to allocation of child custody and visitation,  
27 Nev. Rev. Stat. § 125.450 et seq. and Nev. Rev. Stat. § 125C.010 et seq.; child support, Nev. Rev.  
28

1 Stat. § 125B.020 et seq.; and access to joint and step-parent adoption, Nev. Rev. Stat. § 127.010  
2 et seq.

3 39. Although registered domestic partnership and civil marriage entail substantially  
4 similar rights and responsibilities, notable differences remain between the two statuses. Because  
5 of these differences, coupled with the stigma of exclusion and of being branded by government as  
6 inferior, same-sex couples and their children suffer both tangible and dignitary harms, all of  
7 which are of constitutional dimension.

8 40. The status of marriage has unique social significance and recognition. Without  
9 access to the familiar language and legal label of marriage, Plaintiffs are unable instantly or  
10 adequately to communicate to others the depth and permanence of their commitment, or to obtain  
11 respect for that commitment as others do simply by invoking their married status.

12 41. Plaintiffs' exclusion from marriage frustrates their life goals and dreams, their  
13 personal happiness, and their self-determination. For example, Plaintiffs Antioco Carrillo and  
14 Theo Small have family and friends eagerly awaiting the day that they can attend the couple's  
15 wedding. Antioco's family sees marriage as the honorable way to respect one's life partner and  
16 the couple's intentions for the future. He is disheartened that the law bars him from the state-  
17 sanctioned ceremony and ritual that means so much to his loved ones. As Plaintiff Beverly  
18 Sevcik said of her life partner Mary Baranovich, "We've been together for almost 41 years.  
19 We've seen each other through thick and thin, in sickness and in health. After four decades of  
20 sharing a life together, all we want is to commemorate our love for each other in the same way as  
21 other couples, through marriage."

22 42. The substantive and dignitary inequities imposed on committed same-sex couples  
23 include particular harms for same-sex couples' children, who are equally deserving of the  
24 stability, permanence, and legitimacy that children of different-sex spouses enjoy. Civil marriage  
25 affords official sanctuary to the family unit, offering parents and children a familiar and public  
26 means of demonstrating to third parties a legal basis for the parent-child relationship. By denying  
27 same-sex couples marriage, the State reinforces the view held by some that the family bonds that  
28 tie same-sex parents and their children are less consequential, enduring, and meaningful than

1 those of different-sex parents and their children. Same-sex parents and their children thus are  
2 deprived of the family security that inheres in a ready and familiar method of communicating to  
3 others the significance and permanence of their familial relationships. Same-sex couples and  
4 their children accordingly must live with the vulnerability and stress inflicted by the ever-present  
5 possibility that others may question their familial relationship—in social, educational, and  
6 medical settings and in moments of crisis—in a way that spouses can avoid by simple reference  
7 to being married.

8 43. Children from a young age understand that marriage signifies an enduring family  
9 unit, and likewise understand when the State has deemed a class of families as less worthy than  
10 other families, undeserving of marriage, and not entitled to the same societal recognition and  
11 support as other families. The State has no adequate interest to justify marking the children of  
12 same-sex couples, including the children of Plaintiffs Fletcher Whitwell and Greg Flamer, Adele  
13 Terranova and Tara Newberry, Caren and Farrell Cafferata-Jenkins, and Megan Lanz and Sara  
14 Geiger, and the expected daughter of Mikyla and Katrina Miller, with a badge of inferiority that  
15 invites disrespect in school, on the playground, and in every other sphere of their lives.

16 44. Couples who marry in Nevada have their marriages solemnized pursuant to state  
17 law, Nev. Rev. Stat. § 122.010(1), but the law provides no state-approved mechanism to  
18 solemnize a registered domestic partnership, Nev. Rev. Stat. § 122A.110. By solemnizing only  
19 marriages and not registered domestic partnerships, the State sends a message that marital  
20 commitments are preferred and are more significant.

21 45. The State refuses same-sex couples the same opportunity to celebrate their  
22 marriage with official State sanction, which can negatively affect how their family members and  
23 others view the couples' relationship. Same-sex couples instead must register as domestic  
24 partners by filing a notarized form with the Secretary of State, Nev. Rev. Stat. § 122A.100, a  
25 process not unlike that required to license a business, Nev. Rev. Stat. § 76.100; to apply for  
26 appointment as a notary, Nev. Rev. Stat. § 240.010; or to register as an athlete's agent, Nev. Rev.  
27 Stat. § 398.452. By treating same-sex couples as unworthy of state-sanctioned solemnization, the  
28

1 State denies them the dignity, respect, and stature afforded to different-sex couples who can  
2 marry.

3 46. Nevada law also fails to afford registered domestic partners the same streamlined  
4 process for one partner to adopt the other's surname, an important rite for many couples to signify  
5 to themselves, their children, and the community that they are forming a family. Unlike different-  
6 sex spouses, who can effect a name change through the federal Social Security Administration  
7 and Nevada Department of Motor Vehicles with a marriage certificate, registered domestic  
8 partners instead must obtain a court-ordered name change. This requires same-sex couples who  
9 wish to adopt a family name at the time that they enter into a legal relationship to file a verified  
10 petition in state court certifying that they are neither a felon nor attempting to defraud creditors,  
11 and to publish notice of the requested name change in a newspaper. Nev. Rev. Stat. §§ 41.270,  
12 41.280. This process not only requires time and expense, but also imposes the demeaning burden  
13 of publicly proving to others that one is not engaging in criminal or fraudulent activity before the  
14 name change can be granted, which is not required of different-sex spouses.

15 47. The government is a powerful teacher of discrimination to others. Bearing the  
16 imprimatur of the government, Nevada's statutory and constitutional marriage ban, which  
17 relegates same-sex couples and their children to the unfamiliar and lesser status of domestic  
18 partnership, not only proliferates confusion regarding the legal rights of committed same-sex  
19 couples, but also causes others to follow the government's example in discriminating against  
20 them. Many private entities defer to the State's bestowment of marital status in defining "family"  
21 for purposes of an array of important benefits, often resulting in the exclusion of same-sex  
22 couples and their children from important safety nets such as private employer-provided health  
23 insurance for family members. The State also encourages disrespect of committed same-sex  
24 couples and their children by others in workplaces, schools, businesses, and other major arenas of  
25 life, in ways that would be less likely to occur and more readily corrected if marriage were  
26 available to same-sex couples.

27 48. Plaintiffs do not challenge the inclusion of different-sex partners in the State's  
28 domestic partnership law. Different-sex couples, however, have two options for protecting their

1 families: marriage, which communicates a status with deep social significance that is readily  
2 understood and respected, and the novel alternative status of registered domestic partnership. In  
3 contrast, committed same-sex couples are denied that option and relegated to the latter, less-  
4 respected status.

5 49. Additionally, marriages entered by different-sex spouses in other jurisdictions  
6 regularly are honored as marriages by the State, without any additional steps required. The State  
7 refuses, however, to recognize marriages entered by same-sex spouses in other jurisdictions as  
8 marriages. Instead, a same-sex couple's marriage may only be recognized as a registered  
9 domestic partnership and only if the same-sex couple pays the fee required of couples registering  
10 as domestic partners, a step that no different-sex spouses need undertake. Nev. Rev. Stat. §  
11 122A.500.

12 **C. Plaintiffs Are Similarly Situated To Different-Sex Nevada Couples In All**  
13 **Material Respects And Are Injured By The State's Denial of Marriage**  
14 **Equality.**

15 50. Plaintiffs are loving and devoted same-sex couples who have pledged their  
16 commitment to love and to cherish one another, but the State denies them the ability to make the  
17 same state-sanctioned commitment to each other as spouses do through civil marriage.

18 *Plaintiffs Beverly Sevcik and Mary Baranovich*

19 51. Plaintiffs Beverly Sevcik, age 73, and Mary Baranovich, age 76, are a lesbian  
20 couple residing in Carson City, Nevada. They are proud grandmothers to their several  
21 grandchildren and will celebrate their forty-first year together as a couple in October of this year.

22 52. Beverly and Mary did not dream when they began their relationship decades ago  
23 that they might someday identify openly as a couple. When Beverly and Mary committed their  
24 lives to each other on October 2, 1971 and bought rings to signify their relationship, they were  
25 careful not to purchase matching rings for fear of having their relationship discovered. They  
26 worried about facing discrimination commonly visited upon lesbians and gay men at that time,  
27 such as harassment from their neighbors, being fired from their jobs, and potentially losing  
28 Beverly's children—then ages eight, ten, and twelve—whom they were raising together.



1 see himself with anyone else. For Theo, Antioco is the essential ingredient that allows Theo to be  
2 his “best self.” Each knows that the other will always be there for him, no matter what happens.

3 57. In 2010, in the middle of a bank lobby, the two of them raised their right hands  
4 before a notary public in order to complete a domestic partnership registration form, which they  
5 filed with the Secretary of State. It was a quiet and sterile process. When friends asked why the  
6 couple did not have a wedding-like ceremony to celebrate their registration, they explained that to  
7 do so would, for them, feel inauthentic. They do not want something “like” a wedding; they want  
8 a wedding. As Antioco puts it, he does not want the crumbs of a full life; he wants for them to  
9 live a full life. They both long for the day when they can invite their family and friends to bear  
10 witness to their love and commitment for each other in the same way that different-sex couples in  
11 Nevada are able to do, through marriage.

12 *Plaintiffs Karen Goody and Karen Vibe*

13 58. Plaintiffs Karen G., age 51, and Karen V., age 37, are a lesbian couple residing in  
14 Reno, Nevada. Karen G. works as a sales agent for a medical supply company, and Karen V. is a  
15 financial advisor. Karen V. also is a percussionist with the Reno Philharmonic Orchestra and  
16 mentors youth through a philharmonic program called Discovery Music. Karen G. and Karen V.  
17 have been in a loving, committed relationship since meeting during the summer of 2005. In  
18 December of 2005, Karen V. asked Karen G. to marry her, and they have been engaged ever since.  
19 They have not registered as domestic partners with the State because they do not want to enter into  
20 a second-class status that brands their relationship as “less than” others. As Karen V. describes it,  
21 when she proposed to Karen G., her question was “Will you marry me?” and not “Will you enter a  
22 secondary status with me?”

23 59. Marriage has played a significant role in both women’s families. Karen G.’s  
24 parents were married for 50 years before her father passed away, and Karen V.’s for more than 40  
25 years. The couple anxiously await the day that they can have such a state-sanctioned wedding that  
26 communicates to others the same depth of commitment as their parents’ marriages. Karen V. is so  
27 proud of their relationship that she wants to “tell the world about it,” but is frustrated not to have  
28 access to the language that readily expresses their lifelong commitment such as “spouse” or



1 “wife.” Without these terms, the couple struggles to explain their relationship to others, including  
2 at the networking events they often attend for work. They frequently have to correct others’  
3 confusion about whether they are business partners instead of life partners. They find the ongoing  
4 need to explain their relationship stressful and belittling when the State allows others to describe  
5 their relationships through one word instantly understood by others: marriage.

6 ***Plaintiffs Fletcher Whitwell and Greg Flamer***

7 60. Fletcher Whitwell, age 37, and Greg Flamer, age 39, are a gay male couple  
8 residing in Las Vegas, Nevada. Fletcher and Greg have been in a loving, committed relationship  
9 for 14 years and have registered as domestic partners in Nevada. Both share a passion for  
10 advancing child welfare. Greg helps find homes for abused and neglected children in his position  
11 as a licensing supervisor with the Clark County Department of Family Services. Fletcher, an  
12 advertising executive, serves on the board of a non-profit literacy program that distributes books  
13 to schools in southern Nevada. Fletcher also is an active member of a foundation engaged in an  
14 anti-bullying campaign, which was launched in 2010 after a surge in reported suicides among gay  
15 teens. Fletcher and Greg met in 1998 and instantly connected because of their mutual interest in  
16 sports, travel, music, and, most importantly, family and friends. The couple moved to Las Vegas  
17 in 2006 so that Fletcher could pursue his current job.

18 61. In 2011, Fletcher and Greg welcomed a baby girl, Hudson Whitwell, into their  
19 family through adoption. Fletcher and Greg share the typical responsibilities and joys of  
20 parenting a young child: they feed, bathe, and clothe her; they teach her to walk and to recognize  
21 different shapes and colors; they play peek-a-boo with her and take her to visit her grandparents;  
22 they care for her when she’s sick; they read her bedtime stories and rock her to sleep at night.  
23 Fletcher and Greg wish to marry for their daughter’s sake as well as for their own. Fletcher and  
24 Greg worry that, as Hudson grows older, she will be deprived of a sense of normalcy and may  
25 feel socially outcast because she will absorb the message she receives from her government that  
26 her parents are not worthy of marriage. They hope that, one day, Hudson can walk down the aisle  
27 at their wedding as their flower girl and that she will understand that the love and commitment  
28

1 her parents feel for one another—and for their family—is as great as that felt by other couples  
2 who currently may marry.

3 *Plaintiffs Mikyla Miller and Katrina Miller*

4 62. Plaintiffs Mikyla Miller, age 29, and Katrina Miller (“Katie”), age 27, are a lesbian  
5 couple residing in Reno, Nevada. Mikyla is a recent law school graduate who works part-time  
6 with a non-profit agency serving low-income clients and part-time at a restaurant to make ends  
7 meet. Katie is working on a Ph.D. in English at the University of Nevada, Reno. Shortly after  
8 they began dating in 2004, they each knew that the other was “the one,” and have been a  
9 committed, loving couple ever since. They married in California on June 17, 2008 and have  
10 registered as domestic partners in both Nevada and California. Mikyla adopted Katie’s surname  
11 and is carrying the couple’s first child, which is due in July. As part of a tradition in Katie’s  
12 family, their daughter will be named Amelia Love Miller, making her the sixth generation in  
13 Katie’s family to adopt the middle name “Love.”

14 63. While living in California, Katie and Mikyla each proposed to the other and  
15 planned a commitment ceremony. Just two days before the ceremony, the California Supreme  
16 Court ruled that same-sex couples must be permitted to marry. Although that decision was not  
17 yet in effect, Katie and Mikyla were overjoyed that their ceremony could feel more “real” in light  
18 of the Court’s ruling, and found that, because people understood it as such, it was an important  
19 rite of passage that drew their families closer together. Katie’s mom planned the ceremony, and  
20 all who attended took a vow during it to support the couple’s relationship. Mikyla’s mother  
21 began to treat Katie differently after the ceremony, introducing her to others as a daughter-in-law,  
22 instead of as Mikyla’s “friend.”

23 64. When the couple moved to Nevada, their family and friends were shocked to learn  
24 that their marriage is not recognized there and that they, in effect, have been “unmarried.” Since  
25 then, Mikyla and Katie repeatedly have encountered confusion from others about their  
26 relationship. When they looked for their first rental home, the landlord told them that she  
27 preferred to rent to a married couple, and they had to explain that they would offer the same  
28 stability as a married couple. When Mikyla went to the hospital in February for chest pain, with

1 Katie arriving separately from another location, Mikyla asked the receptionist to let Katie join her  
2 when Katie arrived. The receptionist refused, saying that only patients could be allowed in the  
3 emergency room treatment area, even though Mikyla could see that a heterosexual spouse of a  
4 patient had been admitted to the same area. When Katie arrived, the receptionist refused to let  
5 Katie join Mikyla, and Mikyla finally had to seek out her doctor for help, who then had to escort  
6 Katie back to Mikyla.

7 65. Based on these experiences, Mikyla and Katie feel anxiety about how the State's  
8 refusal to recognize them as married encourages disrespect from others, and worry particularly  
9 about how this will affect recognition of their legal relationship to their baby. When the child is  
10 born, Mikyla and Katie would like to insure her through Katie's health insurance plan, which  
11 provides far superior coverage to Mikyla's. Katie's insurance company, however, advised  
12 Mikyla that, unlike a marriage, a domestic partnership is not sufficient for their daughter's birth to  
13 be considered a qualifying event, and Katie may only insure her after an adoption. Katie and  
14 Mikyla will spend thousands of dollars in attorney and court fees for Katie to adopt their child—  
15 money they could otherwise set aside for their daughter's education.

16 *Plaintiffs Adele Terranova and Tara Newberry*

17 66. Plaintiffs Adele Terranova, age 31, and Tara Newberry, age 37, reside in Las  
18 Vegas, Nevada. Tara, formerly a police officer, is now an attorney at a small law firm, and Adele  
19 works as the firm's office manager. Their lives revolve around their two children, Evan  
20 Newberry, age two, and Emily Newberry, three months old, and they are actively involved in a  
21 children's play group for same-sex couples' families called "We Are Family." Tara also  
22 volunteers to help youth in a juvenile offender diversion program.

23 67. Adele and Tara have been a loving, committed couple since 2005. They married  
24 in California in 2008, and are registered domestic partners in both California and Nevada. They  
25 have encountered numerous examples of disrespect for their domestic partnership, including  
26 being denied marriage-related discounts by their insurance company for Tara's health coverage.  
27 They feel a particular sense of urgency about having their marriage recognized because of the  
28 confusion their domestic partnership has caused in circumstances involving their children. For

1 example, although registered domestic partners are presumed the parents of children born into the  
2 relationship, when Evan was born a hospital social worker insisted that “the dad” had to fill out  
3 the declaration of paternity and refused to let both parents be listed. Evan’s birth certificate was  
4 returned from the State with a blank for the second parent’s name, and it took a year-and-a-half to  
5 get a corrected certificate listing Tara as the second parent. During this process, Tara had to  
6 complete another declaration of paternity form, though she had to alter it by crossing out various  
7 provisions to make references to her in it accurate. The State returned the form, insisting that it  
8 could not be processed as altered, and Tara had to struggle to get the State to accept the form as  
9 modified, pointing out that to do otherwise would require Tara to perjure herself on the form.  
10 Adele and Tara also are distressed to find themselves answering questions that generally are  
11 never asked of different-sex spouses. For example, when the couple took their daughter Emily to  
12 the emergency room in February, hospital staff asked “which one is the real mom?” If they were  
13 able to inform hospital staff that they are married, their family structure and relationship to their  
14 children would not be as subject to question and disrespect.

15 ***Plaintiffs Caren Cafferata-Jenkins and Farrell Cafferata-Jenkins***

16 68. Caren Cafferata-Jenkins, age 53, and J. Farrell Cafferata-Jenkins, age 48, are a  
17 lesbian couple residing in Carson City, Nevada. Caren and Farrell have been in a loving,  
18 committed relationship for 15 years and have registered as domestic partners in Nevada. Caren is  
19 the Executive Director of the Nevada Ethics Commission and Farrell is the President and Founder  
20 of the Nevada Academy of Sign Language. Farrell’s family has deep ties to Nevada; her  
21 grandmother was the first woman in Nevada elected to federal office. Caren and Farrell have two  
22 boys, Dean and Quinn, ages 8 and 7, respectively. When Dean was diagnosed with autism at age  
23 2, Farrell learned sign language so that they could better communicate. The couple now serves  
24 on the board of a statewide advocacy and resource center for those who are deaf and hard of  
25 hearing.

26 69. Caren and Farrell met 15 years ago at a potluck, at which Caren had arrived on a  
27 motorcycle. When Caren took off her helmet, and Farrell locked eyes with her, there was an  
28 instant “zing.” Caren then hired Farrell to help with landscaping work and insists that Farrell

1 took longer than necessary pulling weeds so the two could spend more time together. They have  
2 been together ever since. In 2002, they held a commitment ceremony in Reno. Because they  
3 could not marry, they had to explain on their invitations that the ceremony was instead a *b'rit*  
4 *ahu'vah*, which is Hebrew for “covenant of love.” They also traveled to California in 2008 to  
5 marry.

6 70. Caren and Farrell know first-hand how marriage can change the way they and  
7 others view their relationship—but they also know first-hand how hurtful it can feel for that  
8 marriage to be disregarded. After returning to their home state of Nevada, they felt as though the  
9 State “unmarried” them and that they had to start over from scratch. Although they registered as  
10 domestic partners in Nevada, it felt like consigning themselves to bronze, when they previously  
11 had a taste of gold. Marriage has always been important to the couple: both Caren and Farrell’s  
12 parents have been married for more than 50 years, and Caren and Farrell yearn for the opportunity  
13 to follow in their parents’ footsteps and celebrate a golden anniversary. Recognition of their  
14 marriage would also be important for their children. Caren and Farrell experience difficulty in  
15 identifying to others that both of them are parents to their children, because school forms often  
16 only envision different-sex married parents.

17 ***Plaintiffs Megan Lanz and Sara Geiger***

18 71. Sara Geiger, age 27, and Megan Lanz, age 31, are a lesbian couple residing in Las  
19 Vegas, Nevada. The couple met in 2005 through their mutual passion for music. At the time,  
20 both were pursuing music degrees at the University of Nevada at Las Vegas. Megan now serves  
21 on the faculty at the College of Southern Nevada and maintains a flute studio. Sara is working  
22 toward her master’s degree in music performance. Sara proposed to Megan with the engagement  
23 ring that Sara’s father had given to her mother and the couple married in Vancouver, Canada in  
24 2007, surrounded by a handful of close family and friends.

25 72. The couple’s inability to be recognized as married in Nevada causes them harm.  
26 In January 2009, Sara gave birth in Nevada to the couple’s daughter, Jordan Geiger-Lanz. At the  
27 hospital, staff told Megan, “You know, we don’t have to let you stay here, but we’re just going to  
28 look the other way.” Jarred by this experience, Sara and Megan subsequently registered as

1 domestic partners in Nevada on the first day when they could do so. Although they had  
2 previously married outside Nevada at the time of Jordan's birth, Megan's parent-child  
3 relationship with Jordan is not afforded express protection under Nevada law, because Nevada  
4 does not recognize their marriage and because domestic partnerships were not even available at  
5 the time of Jordan's birth. As such, Megan's status as a parent is vulnerable to challenges by  
6 others, such as the hospital staff on the day of Jordan's birth. In the absence of the State's  
7 recognition of her marriage, Megan's only option is to adopt Jordan, the cost of which is currently  
8 prohibitive for the couple. Megan also finds this forced choice demeaning when different-sex  
9 married couples are not forced to adopt their own children to be recognized as parents. If the  
10 State recognized Sara and Megan's marriage as it would a different-sex couple's marriage (*i.e.*,  
11 existing as of the date it was entered), then there would be no question that the presumption of  
12 parenthood would apply to Megan.

13 73. While vulnerability surrounding their daughter is particularly distressing to the  
14 couple, Megan and Sara are frustrated that the law causes others confusion about their  
15 relationship in a range of contexts. For example, Megan and Sara also have car insurance in  
16 which Sara is listed as the primary insured, but when Megan tried to explain to a police officer  
17 during a traffic stop that Sara was her wife, the police officer asked, "What's that about? What  
18 do you mean, it's your wife?" Sara and Megan have been together as a same-sex couple in a  
19 loving, committed relationship for 6 years, have registered as domestic partners in Nevada, and  
20 wish to have their marriage recognized in Nevada.

21 **D. The State's Exclusion of Plaintiffs from Marriage Is Not Narrowly Tailored**  
22 **to a Compelling State Purpose or Even Reasonably Related To a Legitimate**  
23 **State Purpose.**

24 74. No legitimate, let alone important or compelling, interest exists to exclude same-  
25 sex couples from the historic and highly venerated institution of marriage, especially where the  
26 State already grants lesbians and gay men access to almost all substantive spousal rights and  
27 responsibilities through registered domestic partnership. As the State has acknowledged by  
28 creating the parallel, but less respected, institution of registered domestic partnership, an  
individual's capacity to establish a loving and enduring relationship does not depend upon sexual

1 orientation or his or her sex in relation to his or her committed life partner, nor is there even any  
2 legitimate interest justifying denial of spousal protections, rights, and responsibilities on such  
3 bases.

4 75. The State's decision to exclude same-sex couples from marriage, relegating them  
5 to the institution of registered domestic partnership, bears no relation to the State's interests in  
6 parenting or child welfare.

7 76. Barring lesbians and gay men from civil marriage does not affect who becomes a  
8 parent. Nevada same-sex couples can and do bear children through use of reproductive  
9 technology that is available to both same-sex and different-sex couples. They also bring children  
10 into their families through foster care or adoption or from a prior relationship.

11 77. Parentage can be determined for all children regardless of marital status, Nev. Rev.  
12 Stat. § 126.031 et seq., and parents are required to support their children regardless of marital  
13 status, Nev. Rev. Stat. § 125B.020 et seq. Moreover, marriage has never been the sole province  
14 of couples who are parents. Neither Nevada nor any other state in this country has ever restricted  
15 marriage to those capable of or intending to procreate.

16 78. The consensus within the scientific community is that children and adolescents  
17 reared by same-sex parents are as successful psychologically, emotionally, and socially as  
18 children and adolescents raised by different-sex parents. The consensus among respected  
19 researchers in the field is that parenting abilities are not a function of gender, sexual orientation,  
20 or biological connection.

21 79. This consensus is reflected by numerous leading organizations of child welfare,  
22 medical, and mental health professionals, which have issued statements confirming that same-sex  
23 parents are as effective as different-sex parents in rearing well-adjusted children and adolescents.  
24 The State's own public policy also incorporates this view by making no distinction with respect to  
25 the parenting rights of same-sex and different-sex couples.

26 80. Excluding same-sex couples from civil marriage will not make children of  
27 different-sex spouses more secure. Different-sex spouses' children will continue to enjoy the  
28

1 benefits that flow from their parents' marriage, regardless of whether same-sex couples are  
2 permitted to marry.

3 81. Excluding same-sex couples from marriage does, however, harm same-sex  
4 couples' children, including by branding their families as inferior and less deserving of respect,  
5 and by encouraging private bias and discrimination.

6 82. The State's interest in the welfare of children of lesbian and gay parents is as great  
7 as its interest in the welfare of any other children. The family security that comes from the  
8 State's official recognition and support is no less important for same-sex parents and their  
9 children than it is for different-sex parents and their children.

10 83. Excluding same-sex couples from marriage does nothing to protect or enhance the  
11 rights of different-sex spouses. Different-sex spouses will continue to enjoy the same rights and  
12 status conferred by marriage regardless of whether same-sex couples may marry, unimpaired by  
13 the acknowledgment that this freedom belongs equally to lesbians and gay men.

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

20 85. Although the State has a valid interest in protecting the public fisc, it may not  
21 pursue that interest by making invidious distinctions between classes of its citizens without  
22 adequate justification. Moreover, the State not only lacks any such fiscal justification but rather  
23 would likely accrue cost-savings by allowing same-sex couples to enter the institution of marriage  
24 rather than registered domestic partnership.

25 **CLAIM FOR RELIEF**

26 **Equal Protection on the Basis of Sexual Orientation and Sex**

27 **U.S. Const. Amend. XIV, 42 U.S.C. § 1983**

28



1           86.     Plaintiffs incorporate by reference and reallege paragraphs 1 to 85 of this  
2 complaint.

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

5           88.     The Fourteenth Amendment to the United States Constitution, enforceable  
6 pursuant to 42 U.S.C. § 1983, provides that no state shall deny to any person the equal protection  
7 of the laws. The conduct of Defendants and their agents in enforcing Nevada Constitution article  
8 1, § 21, and Nevada Revised Statutes § 122.020, and all other sources of state law that preclude  
9 marriage for same-sex couples and restrict them solely to registered domestic partnership, violates  
10 Plaintiffs' right to equal protection of the laws by discriminating impermissibly on the basis of  
11 sexual orientation and sex.

12           89.     Nevada Constitution article 1, § 21, Nevada Revised Statutes § 122.020, and all  
13 other sources of state law that preclude marriage for same-sex couples or prevent recognition of  
14 marriages because they were entered by individuals of the same sex violate the equal protection  
15 guarantee of the Fourteenth Amendment both facially and as applied to Plaintiffs.

16           90.     As the State's chief executive officer, Defendant Sandoval's duties and actions to  
17 enforce the State's discriminatory marriage ban violate Plaintiffs' constitutional rights to equal  
18 treatment, without regard to sexual orientation or sex, under the Fourteenth Amendment to the  
19 United States Constitution.

20           91.     As the County Clerk and Commissioner of Civil Marriages for Clark County,  
21 Defendant Alba's duties and actions to ensure compliance with the State's discriminatory  
22 marriage ban through denying marriage licenses, refusing to solemnize marriages, certifying  
23 those eligible to solemnize marriages, and maintaining marriage license records, violate the  
24 constitutional rights to equal treatment, without regard to sexual orientation or sex, under the  
25 Fourteenth Amendment to the United States Constitution of Plaintiffs Antioco Carrillo, Theo  
26 Small, Fletcher Whitwell, and Greg Flamer.

27           92.     As the County Clerk and Commissioner of Civil Marriages for Washoe County,  
28 Defendant Harvey's duties and actions to ensure compliance with the State's discriminatory

1 marriage ban through denying marriage licenses, refusing to solemnize marriages, certifying  
2 those eligible to solemnize marriages, and maintaining marriage license records, violate the  
3 constitutional rights to equal treatment, without regard to sexual orientation or sex, under the  
4 Fourteenth Amendment to the United States Constitution of Plaintiffs Karen Goody and Karen  
5 Vibe.

6 93. As the Clerk-Recorder for Carson City, Defendant Glover's duties and actions to  
7 ensure compliance with the State's discriminatory marriage ban through denying marriage  
8 licenses, certifying those eligible to solemnize marriages, and maintaining marriage license  
9 records, violate the constitutional rights to equal treatment, without regard to sexual orientation or  
10 sex, under the Fourteenth Amendment to the United States Constitution of Plaintiffs Beverly  
11 Sevcik and Mary Baranovich.

12 94. By acting intentionally to enforce the State's discriminatory marriage ban, each  
13 Defendant has set in motion, or has refused to terminate, acts by others to enforce and implement  
14 those laws that Defendants know, or reasonably should know, will cause others to inflict these  
15 constitutional injuries upon the Plaintiffs. Through this conduct, each Defendant also knowingly  
16 has acquiesced in the constitutional deprivations of those that he or she supervises, and has shown  
17 a reckless or callous indifference to the rights of Plaintiffs, thereby proximately causing them  
18 injury.

19 95. The State's marriage ban, and Defendants' actions to enforce it, denies same-sex  
20 couples equal dignity and respect and relegates them to a separate-and-unequal status that is  
21 demonstrably inferior. The State's marriage ban brands lesbians and gay men and their children  
22 as second-class citizens through a message of government-imposed stigma and causes private  
23 bias and discrimination. The State's marriage ban and Defendants' actions reflect moral  
24 disapproval and antipathy toward lesbians and gay men.

25 96. The State's marriage ban targets lesbian and gay Nevadans as a class for exclusion  
26 from marriage and discriminates against each Plaintiff based on his or her sexual orientation both  
27 facially and as applied.  
28

1           97. Plaintiffs are similarly situated to different-sex spouses in every relevant respect.  
2 Plaintiffs and their children are as worthy of respect, dignity, social acceptance, and legitimacy as  
3 different-sex spouses and their children. The emotional, romantic, and dignitary reasons  
4 Plaintiffs seek to marry are similar to those of different-sex couples who choose to marry.

5           98. Although the denial of equal treatment is invalid under any form of constitutional  
6 scrutiny, differential treatment by the government based on Plaintiffs' sexual orientation warrants  
7 at least heightened scrutiny. The government's differential treatment of Plaintiffs based on their  
8 sex also warrants heightened scrutiny.

9           99. Lesbians and gay men have suffered a long history of discrimination. They have  
10 endured hostility and antipathy from both public and private parties. Being gay or lesbian has  
11 been classified as a mental illness. The intimate relationships of same-sex couples have been  
12 criminalized. Lesbian and gay civil servants have been purged from federal and municipal  
13 employment. Lesbians and gay men disproportionately have been the victims of brutal hate  
14 crimes.

15           100. Further, as the State has acknowledged by granting same-sex registered domestic  
16 partners virtually the same family, parenting, and relationship rights and responsibilities as  
17 spouses enjoy and by prohibiting discrimination based on sexual orientation in employment  
18 housing, and public accommodations, Nev. Rev. Stat. §§ 613.330, 118.020, 651.070, neither  
19 Plaintiffs' sexual orientation nor their sex bears any relation to their worth as committed life  
20 partners or parents, or their ability to contribute to society.

21           101. Sexual orientation is a core, defining trait and is so fundamental to one's identity  
22 and conscience that a person cannot be required to abandon it as a condition of equal treatment.

23           102. Sexual orientation generally is fixed at an early age and highly resistant to change  
24 through intervention. No credible evidence supports the notion that such interventions are either  
25 effective or safe; indeed, they often are harmful and damaging. No mainstream mental health  
26 professional organization approves interventions to change sexual orientation, and virtually all of  
27 them have adopted policy statements cautioning professionals and the public about these  
28 treatments.





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

2 F. The relief requested in this action is sought against each Defendant; each  
3 Defendant's officers, employees, and agents; and against all persons acting in cooperation with  
4 any Defendant, or under a Defendant's supervision, direction, or control.

5 DATED: April 10, 2012.

6 LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.

7 

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