## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA HARRISONBURG DIVISION

| JOANNE HARRIS, <u>et</u> <u>al.</u> , | )                                      |
|---------------------------------------|--|
| on behalf of themselves and           | )                                      |
| all others similarly situated,        | )                                      |
|                                       | ) Civil Action No.: 5:13cv00077        |
| Plaintiffs,                           | )                                      |
| v.                                    | )<br>)<br>By: Hon. Michael F. Urbanski |
| JANET M. RAINEY, et al.,              | ) United States District Judge         |
| JANEI W. KAINE I, <u>et al.</u> ,     | )                                      |
| Defendants.                           | ,                                      |
|                                       | )                                      |
|                                       |  |

## <u>ORDER</u>

This lawsuit challenging Virginia's same-sex marriage ban was filed on August 1, 2013. (Dkt. No. 1). Plaintiffs originally named Robert F. McDonnell, in his official capacity as the Governor of Virginia, Janet M. Rainey, in her official capacity as the State Registrar of Vital Records, and Thomas E. Roberts, in his official capacity as the Staunton Circuit Court Clerk, as defendants. In the course of this litigation both the parties and their positions have changed.

Rainey denied plaintiffs' allegations that the challenged marriage laws are unconstitutional in her original answer, filed on August 16, 2013. (Dkt. No. 23). McDonnell asserted sovereign immunity and filed a motion to dismiss. (Dkt. No. 24). Roberts likewise filed a motion to dismiss, asserting that some plaintiffs had failed to state a claim and that the others lacked standing. (Dkt. No. 32). Plaintiffs, for their part, filed a motion for class certification, (Dkt. No. 27), and a motion for summary judgment, (Dkt. No. 44), to which defendants filed responses in opposition. (Dkt. Nos. 73, 74).

On October 29, 2013, the court heard oral argument on the motions to dismiss and the motion for class certification. (Dkt. No. 75). The day after the hearing, Plaintiffs filed a motion to amend the proposed class definition. (Dkt. No. 79). On December 23, 2013, the court granted McDonnell's motion to dismiss, and denied Roberts' motion to dismiss. (Dkt. No. 95). On January 22, 2014, Roberts filed his answer. (Dkt. No. 104). He denied that he had discriminated against or otherwise violated the constitutional rights of plaintiffs, but purported to take no position on the constitutionality of the challenged marriage laws.

On January 27, 2014, Rainey filed a notice of change of position and an amended answer. (Dkt. Nos. 110, 111). Rainey has reversed her position and now echoes plaintiffs' assertion that Virginia's same-sex marriage ban is unconstitutional. On January 29, 2014, Roberts filed a supplemental response to plaintiffs' motion for summary judgment. (Dkt. No. 113). Roberts states that he takes no position on the constitutionality of Virginia's marriage laws, but notes that he is constrained to abide by them until otherwise directed by an appropriate authority. In one final development, the court this day granted plaintiffs' class certification and class amendment motions. (Dkt. No. 116).

In light of this extensive procedural history and the changes in parties and positions, the court deems it prudent to hold a status conference. As such, the parties are hereby directed to contact my law clerk, Matthew Dinan, to schedule such a hearing. Mr. Dinan may be reached at MattD@vawd.uscourts.gov.

It is so **ORDERED**.

Entered: January 31, 2014

/s/ Michael 7. Urbanski
Michael F. Urbanski

United States District Judge