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Martinez, Fred McQuire, Michelle Teichner,
Barbara Morrissey, Kathy Young, Jessica
Young, Kelli Olson, Jennifer Hoefle Olson, Kent
Burbank, Vicente Talanquer, C.J. Castro-Byrd,
Jesús Castro-Byrd, Patrick Ralph, Josefina
Ahumada and Equality Arizona

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Nelda Majors; Karen Bailey; David Larance;
Kevin Patterson; George Martinez; Fred
McQuire; Michelle Teichner; Barbara
Morrissey; Kathy Young; Jessica Young;
Kelli Olson; Jennifer Hoefle Olson; Kent
Burbank; Vicente Talanquer; C.J. Castro-
Byrd; Jesús Castro-Byrd; Patrick Ralph;
Josefina Ahumada; and Equality Arizona,

Plaintiffs,

No. 2:14-cv-00518-JWS

**SECOND AMENDED
COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF**

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v.

Michael K. Jeanes, in his official capacity as Clerk of the Superior Court of Maricopa County, Arizona; Will Humble, in his official capacity as Director of the Department of Health Services; and David Raber, in his official capacity as Director of the Department of Revenue,

Defendants.

Plaintiffs Nelda Majors and Karen Bailey, David Larance and Kevin Patterson, George Martinez and Fred McQuire, Michelle Teichner and Barbara Morrissey, Kathy Young and Jessica Young, Kelli Olson and Jennifer Hoefle Olson, Kent Burbank and Vicente Talanquer, C.J. Castro-Byrd and Jesús Castro-Byrd, Patrick Ralph, Josefina Ahumada, and Equality Arizona (collectively “Plaintiffs”) file this Amended Complaint against Defendants Michael K. Jeanes, Will Humble, and David Raber (collectively “Defendants”), and allege as follows:

INTRODUCTION

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

2. Marriage plays a unique role in society as the universally recognized and celebrated hallmark of a couple’s commitment to build family life together. It confers upon couples a dignity and status of immense import. Plaintiffs have formed committed, enduring bonds equally worthy of the respect afforded by the State to different-sex

1 couples through marriage. Yet, the State, without any adequate justification, has enacted
2 statutory and constitutional amendments and otherwise interpreted and enforced its laws
3 in ways that single out lesbian and gay Arizonans by excluding them from the freedom to
4 marry and by refusing to recognize and respect their lawful marriages from other
5 jurisdictions, based solely on their sexual orientation and their sex.

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

17 4. The marriage ban inflicts serious and irreparable harm on same-sex couples
18 and their children. Nelda Majors and Karen Bailey and David Larance and Kevin
19 Patterson are not married, and each couple wishes to marry for the same reasons as
20 different-sex couples: to publicly declare their love and commitment before their family,
21 friends, and community, and to give one another and the children they are raising the
22 security and protections that marriage provides. George Martinez and Fred McQuire,
23 Michelle Teichner and Barbara Morrissey, Kathy Young and Jessica Young, Kelli Olson
24 and Jennifer Hoefle Olson, Kent Burbank and Vicente Talanquer, and C.J. Castro-Byrd
25 and Jesús Castro-Byrd all married in other jurisdictions, but are treated as legal strangers
26 in the state they call home—a hurtful invalidation of their relationships, which deprives
27 them of the protections that a legally recognized marriage most securely provides.

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1 5. George Martinez has terminal pancreatic cancer and measures the rest of his
2 life in months, not in years. George married his husband Fred McQuire on July 19, 2014
3 in California; but the State of Arizona refuses to recognize George's legal marriage to
4 Fred. The State's denial of legal recognition to their marriage is deeply hurtful to George
5 and Fred at a time when they are already experiencing immense grief and pain in coping
6 with George's terminal illness. When George dies, Fred will receive a death certificate
7 from the State that records George as unmarried, which will interfere with Fred's ability
8 to take care of George's affairs after his death and to access survivor's benefits generally
9 available to a surviving spouse. It is George's desire as he prepares for his imminent
10 death that Fred be recognized as his husband and be entitled to receive the financial and
11 dignitary benefits to which other surviving spouses are entitled. During this period of
12 medical and emotional challenges related to George's illness, Fred and George are both
13 entitled to the certainty of knowing that Fred's right to be at George's bedside will not be
14 questioned and that they will be afforded the same protections and respect as any other
15 married couple in Arizona with respect to medical decision-making and other matters.

16 6. Patrick Ralph married his husband Gary Hurst in California; but when Gary
17 passed away in August 2013 after a lengthy disability needing around-the-clock care by
18 Patrick, the State would not permit Patrick to be listed as Gary's husband on Gary's death
19 certificate. Josefina Ahumada and Helen Battiste married in New Mexico; but when
20 Helen died on January 31, 2014, Josefina was not even permitted to apply for Helen's
21 death certificate, let alone be listed on it as Helen's spouse. For both Patrick and Josefina,
22 the State's refusal to identify them properly as spouses on the official document recording
23 their beloveds' end of life was a shocking denial of their relationships at the time of most
24 intense loss and grief, and remains a source of pain and deep sadness. Many members of
25 Equality Arizona are in committed same-sex relationships, many are raising children
26 together, and many are harmed in these and other ways by Arizona's discriminatory
27 marriage ban.

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1 12. Plaintiffs Michelle Teichner and Barbara Morrissey are lesbian individuals
2 who are a committed same-sex couple residing in Phoenix, Arizona.

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

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

7 15. Plaintiffs Kent Burbank and Vicente Talanquer are gay male individuals
8 who are a committed same-sex couple residing in Tucson, Arizona.

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

11 17. Plaintiff Patrick Ralph is a gay male individual residing in Phoenix,
12 Arizona.

13 18. Plaintiff Josefina Ahumada is a lesbian individual residing in Tucson,
14 Arizona.

15 19. Plaintiff Equality Arizona is the leading statewide organization advocating
16 for lesbian, gay, bisexual, and transgender (“LGBT”) people and their families in the State
17 of Arizona. It is a 501(c)(3) corporation, and is incorporated under the laws of the State
18 of Arizona with the legal name Arizona Human Rights Fund, which does business as
19 Equality Arizona.

20 **B. Defendants**

21 20. Defendant Michael K. Jeanes is sued in his official capacity as Clerk of the
22 Superior Court of Maricopa County, Arizona, an office authorized by Article 6,
23 Section 23 of the Arizona Constitution. Defendant Jeanes’s duties include, among others,
24 issuing marriage licenses. Defendant Jeanes must ensure compliance in all of these
25 functions with the relevant State laws, including those that exclude same-sex couples from
26 marriage. Defendant Jeanes is a person within the meaning of 42 U.S.C. § 1983 and was
27 acting under color of state law at all times relevant to this amended complaint.
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1 31. On March 4, 2014, Nelda Majors and Karen Bailey appeared in person at
2 the Maricopa County Superior Court Clerk's Office, North East Facility to seek a
3 marriage license. When the couple requested a marriage license, they were denied by an
4 employee of Defendant who told them, "You know we can't give you a marriage license
5 in Arizona right now."

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

13 33. George Martinez and Fred McQuire were validly married in California 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 34. Michelle Teichner and Barbara Morrissey were validly married in New
17 York and seek through this suit to end the State's current denial of recognition of their
18 marriage on the ground that it is a marriage entered by two individuals of the same sex.

19 35. Kathy Young and Jessica Young were validly married in New York and
20 seek through this suit to end the State's current denial of recognition of their marriage on
21 the ground that it is a marriage entered by two individuals of the same sex.

22 36. Kelli Olson and Jennifer Hoefle Olson were validly married in Minnesota
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 37. Kent Burbank and Vicente Talanquer were validly married in Iowa and seek
26 through this suit to end the State's current denial of recognition of their marriage on the
27 ground that it is a marriage entered by two individuals of the same sex.
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1 38. C.J. Castro-Byrd and Jesús Castro-Byrd were validly married in Washington
2 and seek through this suit to end the State’s current denial of recognition of their marriage
3 on the ground that it is a marriage entered by two individuals of the same sex.

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

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

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

13 41. Arizona has enacted statutory and constitutional bans designed to exclude
14 same-sex couples from marriage and has interpreted and enforced the State’s law to do so
15 as well. The State’s marriage ban cannot be explained by reference to legitimate public
16 policies that could justify the disadvantages the marriage ban imposes on same-sex
17 couples and their family members.

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

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

1 44. In 2006, Arizona voters considered Proposition 107, an initiated
2 constitutional amendment which proposed to amend the Arizona Constitution to provide
3 that, to “protect” marriage, only marriages of different-sex couples would be considered
4 valid and would be recognized under Arizona law, and that the State and municipalities in
5 Arizona “shall not create or recognize a legal status for unmarried persons that is similar
6 to marriage.” This proposal was described during the ballot campaign as likely to
7 preclude civil unions, comprehensive domestic partnerships, and other broad, non-marital
8 legal protections for unmarried different-sex couples as well as for same-sex couples.
9 Arizona voters rejected this proposal.

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

19 **C. The State’s Exclusion of Same-Sex Couples from Marriage Inflicts**
20 **Profound Harms on Plaintiffs.**

21 46. Barring same-sex couples from marriage disqualifies them from the simple,
22 direct route through which different-sex couples access critically important rights and
23 responsibilities that allow them to secure their commitment to each other and to safeguard
24 their families. As to many of these rights and responsibilities, marriage is the only access
25 route; as to others, marriage is far simpler and less expensive than other options. By way
26 of example only, same-sex couples are denied the ability offered to different-sex couples
27 through marriage:
28

- 1 a. To solemnize their relationships through a state-sanctioned
2 ceremony. *See* A.R.S. § 25-111. The denial of state sanction or
3 recognition deprives same-sex couples of important legal protections
4 that automatically come with state-sanctioned marriage.
- 5 b. To safeguard family resources under an array of laws that protect
6 spousal finances, including, for example, the exemption of taxes on
7 the property of widows and widowers. *See Id.* § 42-11111; Ariz.
8 Const. art. 9, §§ 2-2.3.
- 9 c. To pay their fair share of taxes as legally married couples by filing
10 Arizona income tax returns based on marital status that is not in
11 conformity with the marital status reported on their federal income
12 tax returns, A.R.S. §§ 43-102(A)(1); 43-301; 43-309.
- 13 d. To secure legal recognition for parent-child bonds through the
14 mechanisms afforded to spouses, including joint adoption, *id.* § 8-
15 103(A); adoption of a spouse's child as a stepparent, *see, e.g., id.* § 8-
16 105(N)(1); the more streamlined procedures for the social study
17 required for stepparent adoptions used when the prospective adoptive
18 stepparent has been married to the legal parent for at least one year
19 and has resided with the child for at least six months, *id.* § 8-
20 112(D)(1); and the presumption of parentage for children born into a
21 marriage, *id.* § 25-814(A)(1).
- 22 e. To receive benefits for families of veterans of the armed forces who
23 have made some of the greatest sacrifices for our country, including
24 educational benefits, *id.* § 15-1808.
- 25 f. To make caretaking decisions in times of death or disaster, including
26 priority to make medical decisions for an incapacitated spouse,
27 A.R.S. § 36-3231; and the automatic right and priority to make
28 anatomical gifts of a decedent's body, *id.* § 36-848(A)(2).

- 1 g. To inherit under the laws of intestacy, *id.* § 14-2102; and rights in the
2 family residence pending final determination of the estate, *id.* § 14-
3 2402.
- 4 h. In the event that a couple separates, to access an orderly dissolution
5 process for terminating the relationship and assuring an equitable
6 division of the couple's assets and debts. *See id.* §§ 25-301 - 381.01.
- 7 i. To assume a range of important responsibilities that, like rights,
8 enhance the dignity and integrity of the person. As one example,
9 same-sex couples are denied the ability to be made formally
10 accountable to each other through obligations of spousal support, *id.*
11 § 25-319, and child support, *id.* § 25-320.
- 12 j. To assert the privilege not to testify against one another as to matters
13 protected by spousal privilege. *See id.* § 13-4062(1).
- 14 k. To access a host of federal rights and responsibilities that span the
15 entire United States Code and the whole realm of federal regulations.
16 Unmarried couples are denied recognition for most purposes
17 throughout the more than 1,000 provisions of federal law relating to
18 marriage, including laws and regulations pertaining to Social
19 Security, housing, immigration, taxes, criminal sanctions, copyright,
20 and veterans' benefits. Same-sex couples validly married in another
21 jurisdiction and living in the State are likely to qualify for many
22 federal benefits and protections, but to be denied others, such as
23 Social Security survivor benefits and protections under the Family
24 Medical Leave Act. These deprivations can drain family economic
25 resources, causing financial harm not only to same-sex couples but to
26 their children and other dependents as well. In addition, some same-
27 sex couples are unable to travel out of state to marry due to, for
28 example, illness or other physical limitations, child care or other

1 family responsibilities, or cost. Moreover, many same-sex couples
2 wish to marry at home in Arizona, in the company of family and
3 friends, who may not be able to travel out of state to attend a wedding
4 for financial or other reasons.

5 47. In addition to the tangible harms listed above, Plaintiffs are denied the
6 unique social recognition that marriage conveys. Without access to the familiar language
7 and legal label of marriage, Plaintiffs are unable instantly or adequately to communicate
8 to others the depth and permanence of their commitment, or to obtain respect for that
9 commitment as others do simply by invoking their married status.

10 48. The substantive and dignitary inequities imposed on committed same-sex
11 couples include particular harms to same-sex couples' children, who are equally deserving
12 of the stability, permanence, social recognition, and financial supports that are enjoyed by
13 children of different-sex couples who marry. Civil marriage affords official sanctuary to
14 the family unit, offering parents and children critical means to secure parent-child legal
15 bonds, and a familiar, public way of demonstrating those bonds to third parties. By
16 denying same-sex couples marriage, the State reinforces the view held by some that the
17 family ties binding same-sex parents and their children are less consequential, enduring,
18 and meaningful than those of different-sex parents and their children. Same-sex couples
19 and their children accordingly must live with the vulnerability and stress inflicted by a
20 lack of access to the same mechanisms for securing their legal relationships, and the ever-
21 present possibility that others may question their familial relationships—in social, legal,
22 educational, and medical settings and in moments of crisis—in ways that spouses can
23 avoid by simple reference to being married.

24 49. Children from a young age understand that marriage signifies an enduring
25 family unit, and likewise understand when the State has deemed a class of families less
26 worthy than other families, undeserving of marriage, and not entitled to the same societal
27 recognition and support as other families. The State has no adequate interest to justify
28 marking the children of same-sex couples, including the children of Plaintiffs, with a

1 badge of inferiority that often invites disrespect in school, on the playground, and in many
2 other spheres of their lives.

3 50. The government is a powerful teacher of discrimination to others. By
4 decreeing that the relationships of same-sex couples should be ignored in the State and
5 enforcing that policy, the State and Defendants instruct all persons with whom same-sex
6 couples interact, including those couples' own children, that their relationships are less
7 worthy than others. Bearing the imprimatur of the government, the State's marriage ban,
8 and Defendants' enforcement of it, communicates a view that same-sex couples and their
9 children are unfit for the dignity, respect, and stature afforded to different-sex couples and
10 their children, and this encourages others to follow the government's example in
11 discriminating against same-sex couples, their children, and all lesbian and gay people.

12 51. Many private entities defer to the State's and Defendants' conferral of
13 marital status in defining "family" for purposes of an array of important benefits, often
14 resulting in the exclusion of same-sex couples and their children from important safety
15 nets such as private employer-provided health insurance for family members. The State
16 and Defendants also encourage disrespect of committed same-sex couples and their
17 children by others in workplaces, schools, businesses, and other major arenas of life, in
18 ways that would be less likely to occur and more readily corrected if marriage were
19 available to same-sex couples.

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

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

27 *Plaintiffs Nelda Majors and Karen Bailey*

28 53. Plaintiffs Nelda Majors, age 75, and Karen Bailey, age 74, are a lesbian
couple residing in Scottsdale, Arizona. Nelda and Karen met in college in Texas in 1957

1 and they have been in a loving, committed relationship for fifty-six years. Nelda ran a
2 successful physical therapy business in Houston for many years and Karen worked for
3 Nelda's company. They retired in the 1990's and moved from Texas to Arizona in 2005.

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

12 55. Nelda and Karen are proud parents to Karen's great grand-nieces, Sharla,
13 age 21, and Marissa, age 15. Nelda and Karen raised the girls since Sharla was four and
14 Marissa was three. The girls' mother, Karen's great-niece, had substance abuse problems
15 and was not providing a safe living environment for the girls. Sharla's father was going
16 through difficult life circumstances and Marissa's father also had substance abuse
17 problems and abandoned her. Nelda and Karen raised the two girls as if they were the
18 couple's own daughters. In 2008, they finally told Sharla and Marissa that they are gay
19 and a couple. Both girls expressed their enthusiastic support and happiness for them.
20 They told Nelda and Karen that they are the "best moms in the whole world."

21 56. As women in their mid-70s, Nelda and Karen worry that one or the other of
22 them will be turned away by hospital staff and prevented from being there for the other if
23 either becomes ill and is hospitalized. Once in Houston, Texas, in the late 1990s, Nelda
24 was in the hospital having surgery and Karen was asked to leave by an anesthesiologist
25 even though she had proper legal documents establishing her right to be there. They fear
26 that something similar could happen again. Nelda and Karen believe that the State's
27 refusal to allow same-sex couples to marry fosters stigma and disrespect for same-sex
28 couples. They would be more secure if their relationship was respected and recognized

1 like other couples' relationships, and believe it would make a significant difference if they
2 could tell hospital staff that they are married. Having always to bring their legal
3 documents to the hospital is demeaning because different-sex couples do not have to
4 present legal documents attesting to their relationship to accompany each other to the
5 hospital.

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

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

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

25 ***Plaintiffs David Larance and Kevin Patterson***

26 60. Plaintiffs David Larance, age 35, and Kevin Patterson, age 30, are a gay
27 male couple residing in Phoenix, Arizona. David is a Training Manager and specializes in
28 training faculty in organizational development and diversity at Western International

1 University. Kevin is a Director of Executive Development and trains managers for a
2 hospital. Both David and Kevin are pursuing their doctorates in education.

3 61. David and Kevin have been in a loving, committed relationship for seven
4 years. They met when they both worked for Apollo Group. David and Kevin were
5 friends and got to know each other after they went bowling with a group of friends. David
6 jokes that Kevin fell in love with him when he saw what a great bowler he is. David
7 invited Kevin to see a movie with him and his friends. None of the other friends showed
8 up, so they saw the movie together. They both were unimpressed by the movie they saw,
9 “Fantastic 4: The Rise of the Silver Surfer,” but they were impressed with each other and
10 started dating. They have been together ever since. David and Kevin pledged their love
11 and commitment to each other in a commitment ceremony in 2009, with a big celebration
12 attended by many friends and family.

13 62. In May 2013, David and Kevin welcomed two little girls, ages four and
14 seven, into their family through adoption. Although they are a couple, they were told that
15 only one of them would be permitted to adopt the girls. Kevin became the girls’ legal
16 father. David also wanted to adopt the girls, but he was told the State would not permit
17 the men to adopt the girls jointly. Thus, although he is a father in practical and emotional
18 terms, David has no legal parental rights or responsibilities with respect to either of his
19 daughters-in-fact. He fears that if something were to happen to Kevin, his role as the
20 girls’ other father would be vulnerable to challenges by others, such as the girls’ existing-
21 but-absent blood relatives. Without parental rights, David cannot make medical and
22 educational decisions for the girls and, if something happened to Kevin, the girls again
23 would be legally adrift, as David would not have the right to retain their custody. If David
24 and Kevin could marry in Arizona, David would be able to petition to adopt the girls as a
25 stepparent. As it is, the vulnerability of David’s legal status as a parent to the couple’s
26 two daughters is a source of ongoing stress and anxiety for both men.

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1 68. George also has suffered very serious illness. He was diagnosed with
2 Stage IV prostate cancer three years ago. The Department of Veterans Affairs issued a
3 determination that George's prostate cancer is 100% associated with his exposure to
4 Agent Orange during the Vietnam War, and that George is entitled to federal disability
5 benefits, which he currently receives. George underwent surgery and radiation to
6 eradicate the prostate cancer and he was able to work again. In June 2014, George was
7 diagnosed with Stage IV pancreatic cancer that has metastasized to his liver. Doctors
8 have told George that he has only months to live. George's recent diagnosis of terminal
9 pancreatic cancer has been devastating for the couple.

10 69. Fred is George's primary caregiver, despite the fact that Fred struggles with
11 his own serious health issues. George now relies on Fred to take care of him every day.
12 Fred gives George his shots, helps him shower, does all the grocery shopping, gives
13 George medications, makes the bed, takes him to doctors and chemotherapy
14 appointments, and runs all of their errands. Acting as caregivers for one another over the
15 years has brought George and Fred even closer together and has strengthened their love
16 and commitment to each other.

17 70. When George and Fred found out that George has terminal cancer, the
18 couple decided it was urgent that they get married. They had always wanted to get
19 married but for most of their four and a half decades together, it was not possible, and was
20 hardly even conceivable. Even when same-sex couples began marrying in other states
21 years ago, doing so would not have provided them legal recognition under either federal
22 law or the law of their home state, Arizona. By the time married same-sex couples started
23 receiving some legal protections and benefits under federal law one year ago, both Fred
24 and George were in poor health and traveling had become very difficult for both of them.
25 They considered traveling to California to get married, but hoped marriage might soon
26 become possible for them in Arizona because that would have been so much easier and
27 more practical. When they learned that George has only months to live, they realized they
28 could not afford to wait any longer.

1 71. George and Fred traveled to California and were married on July 19, 2014.
2 They did so with the love, help, and support of many friends, family, and George's co-
3 workers, who made the journey and celebration possible for them. George's co-worker
4 Beth hosted their wedding party in her beach house in Encinitas. She and George's co-
5 workers took care of all the arrangements and ordered food, drinks, and a beautiful cake
6 for the party. About thirty of their friends and family members traveled from Tucson to
7 Encinitas to attend their wedding. Several of George's co-workers came, including his
8 supervisor who gave a toast. George's friend and co-worker Therese officiated the
9 ceremony. George and Fred say their wedding day was the happiest day of their lives.
10 Yet, both men had to sit during the ceremony because they were too weak to stand. Even
11 so, they managed to get up and dance a slow dance to their song, "You Are So Beautiful"
12 by Joe Cocker, the song that Fred used to sing to George when they were young.

13 72. George and Fred were ecstatic to finally marry each other. Throughout their
14 lives, both men have had to lie constantly about their relationship because society was
15 hostile and discriminatory toward gay men. It made them feel vulnerable, fearful, and like
16 second class citizens, despite their military service, productive work lives, and other
17 honorable contributions to society. Getting married made them feel validated and
18 respected in a way they had never felt before. It meant so much to them that their family
19 members and George's co-workers traveled such a long distance to attend their wedding
20 and express support for the couple's relationship. They both observe that they have been
21 treated with a new kind of respect as a couple now that they are married.

22 73. Although George and Fred had a joyful marriage celebration, traveling to
23 California to get married was excruciating and difficult for them. Travelling was
24 especially hard on George. He is currently undergoing chemotherapy, which makes him
25 feel dizzy, nauseous, exhausted, and weak. George and Fred flew from Tucson to
26 Phoenix and from Phoenix to Long Beach, which was incredibly difficult. Waiting in
27 lines at airports, getting on and off planes, and repeatedly having to get up to use the
28 restroom on the plane was excruciating and exhausting for George. He and Fred had to be

1 escorted through each airport in wheelchairs because George was too weak to walk, and
2 Fred was too weak to push him in a wheelchair. The couple drove to Norwalk, California
3 to obtain their marriage license and then south to Encinitas for the ceremony. All that
4 driving was exhausting, too. At one point during the celebration, George felt fatigued and
5 had to lie down. George and Fred felt as if it was almost a miracle that they survived
6 traveling to California to get married.

7 74. George and Fred feel sad and angry that because of the State's
8 discriminatory ban on marriage for same-sex couples, they were forced to travel to
9 California to marry. It would have been so much more convenient for them, and their
10 friends and families, if they could have married at home, in Arizona. Instead, George and
11 Fred and their loved ones had to spend time, money, and effort to attend their wedding.
12 Several of their friends and family members, including George's sister and cousins, could
13 not afford to take time off or spend the money that would have been required for them to
14 travel to California and so were not able to attend the wedding.

15 75. George and Fred went through a tremendous ordeal to get married in
16 California and it is painful and demeaning to them that their marriage is not recognized in
17 their home state of Arizona.

18 76. The State's refusal to recognize George's legal marriage to Fred causes
19 George to feel frightened and worried about what will happen to Fred after he passes
20 away. Although he and Fred are legally married under the laws of California, the fact that
21 the U.S. Government honors their marriage while Arizona does not is confusing and
22 stressful. George would like to secure his state court retirement, Social Security, and
23 federal disability survivor benefits for Fred. The financial support to which Fred should
24 be entitled as George's spouse will be very important to Fred because George has always
25 supported Fred. If Fred cannot receive George's benefits as his surviving spouse, Fred
26 will suffer very considerable and immediate financial hardship and may not be able to
27 afford to remain in the couple's home. George and Fred understand that Arizona's refusal
28

1 to recognize the couple's marriage is a legal barrier to Fred being eligible for some of the
2 important spousal benefits he should be able to receive as George's lawful husband.

3 77. George and Fred also fear that they will be prevented from seeing and being
4 with each other when either one is next hospitalized. George's health is precarious and he
5 could face a medical emergency on any given day. George is terrified that the lack of
6 recognition for their relationship and marriage under Arizona law could cause someone to
7 prevent Fred from being by his side or from making decisions on his behalf.

8 78. Their fears about being denied the ability to care for each other are
9 worsened by their past experiences. On prior occasions, George was prevented by staff in
10 Arizona hospitals from being with Fred because the staff did not consider George to be a
11 legally recognized family member to Fred. For example, four or five years ago, Fred was
12 in the Intensive Care Unit at the hospital. George went to see him and told a nurse that he
13 was Fred's partner. The nurse told George, "Do you realize that I won't be able to tell
14 you anything because you're not his relative?" George felt so deeply humiliated, shaken
15 and upset that he went to the patient advocate department of the Veterans Administration
16 hospital to complain and ask for help. As a result, the nurse was taken off Fred's case.
17 Three years ago, George had another negative experience visiting Fred in the hospital.
18 Fred was in the emergency room and when George went to see him, the Emergency Room
19 nurse came out and said "Who are you?" George said, "I'm his partner." The nurse said,
20 rudely, "Oh, you'll have to wait." George felt humiliated, degraded and helpless. He felt
21 certain that if he had been Fred's wife the nurse immediately would have let him in the
22 room to be with Fred without question. George told the nurse that the way he had been
23 questioned was disrespectful and very upsetting, and even more so because it was during
24 his loved one's health crisis. The nurse apologized. But, George still remembers how
25 angry, humiliated, and frightened he felt when prevented from seeing Fred just because
26 they are gay. George and Fred hope they never have to experience that type of painful,
27 frustrating rejection and homophobia at the hospital ever again.

28

1 79. George and Fred need their marriage to be recognized in Arizona
2 immediately so that Fred can take care of George's affairs after George's death, and
3 access survivor's benefits that are generally available to a surviving spouse. George and
4 Fred fear that when George dies, Fred will be prevented from obtaining a death certificate
5 for him and/or Fred will receive a death certificate from the State that records George as
6 having been unmarried, which will interfere with Fred's ability to access benefits as
7 George's surviving husband. More importantly, though, the State's insistence that George
8 is unmarried would constitute a deeply hurtful denial of Fred's pain and loss as a
9 surviving spouse, compounding his grief at the worst possible time. As he confronts the
10 likelihood of his own imminent death, George wants Fred recognized as his husband, and
11 wants both of them to be afforded the same protections, recognition and respect as any
12 other married couple in the state.

13 80. Based on the foregoing, if George and Fred are not declared married in
14 Arizona, they will be irreparably and immediately injured.

15 ***Plaintiffs Michelle Teichner and Barbara Morrissey***

16 81. Michelle "Mish" Teichner, age 49, and Barbara "Barb" Morrissey, age 59,
17 are a lesbian couple residing in Phoenix, Arizona. Mish and Barb met at a support group
18 meeting in 2004. One day after a meeting, Mish's car broke down and Barb gave her a
19 ride home. They have been together as a couple ever since. Mish and Barb have been in
20 a loving, committed relationship for more than ten years and share all their finances. In
21 2006 they had a religious commitment ceremony that their friends and family attended.
22 They were legally married in New York on July 23, 2013.

23 82. Mish formerly worked as a high school math teacher, tutor, and librarian
24 and Barb previously taught special education as well as after-school tutoring. Mish
25 stopped working when she started having serious kidney problems in June 2012. Barb
26 stopped working the same year so that she could take care of Mish.

27 83. Mish and Barb both have ongoing health problems and their partnership
28 involves significant caretaking of each other. Barb has diabetes and struggles with obesity

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 84. 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 85. 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 86. 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 87. Since getting married, Mish and Barb have found it confusing, stressful and
7 time-consuming to file their federal income tax returns as a married couple and then file
8 their separate state income tax returns as unmarried individuals. They usually prepare
9 their tax returns themselves using TurboTax. But, they did not use the software this year
10 because the inconsistency between state and federal law required additional software that
11 would cost more money. Mish spent at least seven hours calling the IRS and other
12 individuals for advice about how to prepare her and Barb's tax returns. They prepared
13 their returns themselves by hand because they could not afford to have them prepared by a
14 professional. They now are anxious because they are unsure whether they prepared them
15 correctly because the process was so confusing as well as stressful. If their marriage were
16 recognized by the state of Arizona, Mish and Barb would file a joint state tax return, in
17 conformity with the marital status reported on their federal tax return, and enjoy the
18 relative simplicity that would result from filing consistent federal and state tax returns in
19 contrast to their filing of one federal return and two separate individual state returns along
20 with the additional income allocation schedules Arizona requires of same-sex married
21 couples and does not require of different-sex married couples.

22 88. Mish and Barb are active in their community. They have volunteered for
23 Aunt Rita's Foundation, the HIV/AIDS awareness foundation, and One Voice community
24 center, and they are active in their local church. They also sing in the Phoenix Women's
25 Chorus, love to go dancing, and have three dogs. They strongly wish for an end to the
26 anti-gay message and social stigma imposed by Arizona's laws denying lesbian and gay
27 couples the opportunity to marry in this state and forbidding recognition of the marriages
28 they validly celebrate elsewhere.

Plaintiffs Kathy Young and Jessica Young

1
2 89. Plaintiffs Kathy Young, age 41, and Jessica “Jess” Young, age 29, are a
3 lesbian couple residing in Phoenix, Arizona. Kathy is Vice President of the youth market
4 for the American Heart Association and Jess is a senior customer service representative
5 with Blue Cross Blue Shield. Their daily lives revolve around their 7-year old son, Ian.

6 90. Kathy and Jess have been in a loving, committed relationship for almost ten
7 years. Kathy first met Jess when she owned a martial arts studio where Jess was a
8 taekwondo student and employee. Both women have achieved the black belt level in
9 taekwondo. After being friends for five years, Kathy and Jess started dating in 2004. In
10 2005 they pledged their love and commitment to each other in a large commitment
11 ceremony attended by friends and family. In 2009, on their anniversary, they registered as
12 domestic partners in Phoenix. On June 11, 2013, they married in New York.

13 91. Kathy and Jess have a particular sense of urgency about having their
14 marriage recognized for the sake of their son. Kathy and Jess have experienced and
15 continue to experience stress and confusion in identifying to others that they both are
16 parents to Ian because school forms only recognize different-sex married parents. For
17 example, Kathy is listed as an emergency contact on Ian’s school forms, but not as a
18 parent. All of Ian’s school forms state that Ian is being raised by a single-parent, despite
19 the fact that Ian actually has two parents—his two mothers.

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

26 93. Jess has been hospitalized for mental health issues on multiple occasions in
27 the past, and sometimes has had to remain in the hospital for as long as a week. Kathy
28 and Jess worry that if Jess ever has to be hospitalized again in the future, Kathy will not

1 have any legal authority to take care of Ian and make educational and medical decisions
2 for him. If the State recognized Kathy and Jess's marriage as it would a different-sex
3 couple's marriage, then parentage presumptions would apply and, if the couple wished,
4 Kathy also could secure her parental role through adoption as Jess's spouse. Currently,
5 same-sex married couples are ineligible for stepparent adoption in Arizona. Kathy and
6 Jess want the State to recognize their marriage so they can pursue the full range of legal
7 protections for their family and be secure in the knowledge that, if something were to
8 happen to Jess, Kathy would be able to function fully as a legal parent and as a recognized
9 spouse.

10 94. Since getting married, Kathy and Jess have found it confusing, inconvenient
11 and frustrating to file their federal income tax returns as a married couple, and then file
12 their separate state income tax returns as unmarried individuals. The tax preparer they
13 have used for several years was unsure how to prepare taxes for same-sex couples who
14 married outside Arizona. As a result, Kathy and Jess had to find another person to prepare
15 their tax returns and spend more money to have their returns prepared by someone who
16 could do so competently. If their marriage were recognized by the state of Arizona, Kathy
17 and Jess would file a joint state tax return, in conformity with the marital status reported
18 on their federal tax return, and enjoy the relative simplicity that results from filing
19 consistent federal and state tax returns in contrast to their filing of one federal return and
20 two separate individual state tax returns along with the additional income allocation
21 schedules Arizona requires of same-sex married couples and does not require of different-
22 sex married couples. Kathy and Jess felt as if they were being forced to lie about their
23 marital status by having to identify themselves on their state income tax forms as not
24 married, even though they are.

25 ***Plaintiffs Kelli Olson and Jennifer Hoefle Olson***

26 95. Kelli Olson, age 36, and Jennifer "Jen" Hoefle Olson, age 38, are a lesbian
27 couple residing in Tucson, Arizona. Kelli is an attorney and Jen is a Program Director of
28 a student center at the University of Arizona. Kelli and Jen met in 2004 through their best

1 friends who were dating each other. Although Kelli and Jen's friends eventually broke
2 up, Kelli and Jen ended up pursuing their own relationship. They fell in love, bonding
3 over their love of yoga, intellectual conversations, dogs, laughter, and silly jokes. On
4 December 31, 2009, they pledged their love and commitment to each other in a ceremony
5 attended by many friends and family. From that day on, New Year's Eve would always
6 be their anniversary.

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

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

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

25 99. Kelli and Jen fear that as the girls grow older and eventually start attending
26 school, Kelli's lack of parental rights will cause yet more confusion and problems.
27 Without parental rights, Kelli does not have the ability to make medical and educational
28 decisions for the girls. Moreover, if something happens to Jen, there will be no one with

1 the legal right to come forward to protect the couple's children. If Kelli and Jen's
2 marriage were recognized in Arizona, Kelli would be recognized as a legal parent of both
3 girls due to parentage presumptions. She also would be able to formalize her relationship
4 with each of the girls through stepparent adoption.

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

12 101. Since getting married, Kelli and Jen have found it confusing to file their
13 federal income tax returns as a married couple and then file their separate state income tax
14 returns as unmarried individuals. When it came time to prepare their state taxes, their tax
15 return preparer at H&R Block experienced technical difficulties and was unable to use his
16 software to prepare their separate state tax returns. As a result, the preparer had to prepare
17 all the paperwork for their state tax returns by hand and ask them to return several days
18 later to finalize their returns, making the process of filing their taxes more time-
19 consuming and inconvenient. If their marriage were recognized by the state of Arizona,
20 Kelli and Jen would file a joint state tax return, in conformity with the marital status
21 reported on their federal tax return, and enjoy the relative simplicity that results from
22 filing consistent federal and state tax returns in contrast to their filing of one federal return
23 and two separate individual state tax returns along with the additional income allocation
24 schedules Arizona requires of same-sex married couples and does not require of different-
25 sex married couples. In addition to the frustration and additional time involved due to the
26 inconsistency between state and federal law, Kelli and Jen felt that it was demeaning to
27 have to file their taxes as single individuals in Arizona when they are not single.
28

1 if they could marry and have their marriage recognized in Arizona. Instead, they were
2 forced to make the stressful, awkward decision about which of them would be the sole
3 parent with legal rights, and by a decision as arbitrary as a coin toss, they decided that
4 Vicente would be the parent with legal rights. Kent has no legal rights or binding legal
5 responsibilities with respect to his sons.

6 106. Vicente and Kent married in Iowa right after the U.S. Supreme Court issued
7 its *Windsor* decision last year, with hopes that the decision would lead to the legal
8 recognition of their marriage in their home state of Arizona. They were disappointed to
9 learn that their marriage in fact would not be respected by Arizona, and that Kent remains
10 ineligible to establish a legal relationship with his sons through the stepparent adoption
11 procedure based on his marriage to Vicente.

12 107. Kent and Vicente share parenting responsibilities and everything they do as
13 parents is impacted by the fact that only one of them is a legal parent to their sons. Kent
14 feels chronic stress, anxiety and vulnerability because he is not legally recognized as a
15 parent to his children. Kent is the parent that most frequently takes Martín and Daniel to
16 their doctors' appointments and to school activities. Kent fears constantly that his status
17 as a parent will be questioned by school and medical professionals. For example, he was
18 told by his sons' school that he could not sign any parental-permission forms for activities
19 like field trips. Vicente and Kent even gave their sons the very long last name of
20 "Burbank-Talanquer" so that there would be some acknowledgement of Kent's tie to their
21 children. When Kent travels with their sons to other countries without Vicente, he is
22 questioned for long periods of time by immigration officials about his relationship to
23 Daniel and Martín. Vicente always has to write letters that Kent brings with him that
24 explain Kent's relationship to his own sons.

25 108. Kent and Vicente know that their children are vulnerable and unprotected
26 because only one of their parents has a legal bond with them. If something were to
27 happen to Vicente, Daniel and Martín would receive social security benefits based on their
28 relationship with him, but Kent would be denied any social security benefits as Vicente's

1 lawful spouse. And if something were to happen to Kent, neither Vicente nor Martín and
2 Daniel would be eligible to receive the social security benefits to which they should be
3 entitled as Kent's husband and sons, respectively. Similarly, if Vicente were to lose his
4 job, Kent would not be able switch the couple's sons onto his health insurance plan.
5 Martín and Daniel participated in Vicente and Kent's marriage ceremony last year. They
6 love, depend upon, and understand both men to be their fathers. It is extremely painful to
7 Kent that the State refuses to acknowledge his marriage and deprives him of the right to
8 be recognized legally as a "forever father" to his sons. Kent says that in the eyes of the
9 State, "I'm nothing to them."

10 109. Since getting married, Kent and Vicente have found it confusing, distressing
11 and time-consuming to file their federal income tax returns as a married couple, and then
12 to file their separate state income tax returns as unmarried individuals. Kent and Vicente
13 have spent hours trying to sort through the confusing process of doing their tax returns as
14 a married couple this year. Kent and Vicente usually prepare their tax returns online using
15 TurboTax. But, because they could not obtain any assurances from TurboTax that the
16 software could accommodate their specific needs given the inconsistent treatment of their
17 marital status under state and federal law, they spent double their usual amount to have
18 their tax returns prepared by a private accountant who understood the tax issues facing
19 same-sex couples who have married outside Arizona. If their marriage were recognized
20 by the state of Arizona, Kent and Vicente would file a joint state tax return, in conformity
21 with the marital status reported on their federal tax return, and enjoy the relative
22 simplicity that results from filing consistent federal and state tax returns in contrast to
23 their filing of one federal return and two separate individual state tax returns along with
24 the additional income allocation schedules Arizona requires of same-sex married couples
25 and does not require of different-sex married couples. Kent and Vicente felt disrespected
26 and demeaned that they had to file their state taxes as single individuals when, in fact,
27 they are married.

28

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

1
2 110. Plaintiffs Clayton John “C.J.” Castro-Byrd, age 23, and Jesús Castro-Byrd,
3 age 27, are a gay male couple residing in Tempe, Arizona. C.J. is a medical equipment
4 sales representative and Jesús works at a call center for the public transit system. C.J. and
5 Jesús have associate’s degrees. C.J. is completing a bachelor’s degree in business
6 management and hopes to complete an MBA in health administration. Jesús is earning a
7 second associate’s degree in interior design.

8 111. C.J. and Jesús have been in a loving, committed relationship for two years.
9 In April 2012, they met each other through a dating website. When they first met, they
10 liked each other so much that they deleted their online profiles the same day. They knew
11 right away that they were meant for each other and have been inseparable ever since.
12 They enjoy spending time outdoors and biking together, and are the proud owners of a
13 tandem bicycle. C.J. and Jesús got married in Seattle, Washington, C.J.’s home state, on
14 December 14, 2012. They would have preferred to marry in Arizona, with friends and
15 family to share the special event. Instead, a year later on their anniversary, they held a
16 ceremony in Arizona that was attended by their friends and family who had not been able
17 to travel to Seattle for their wedding. But that ceremony conveyed no legal rights or
18 status under Arizona law.

19 112. Under federal law, however, C.J. and Jesús’ marriage has opened up a
20 pathway for Jesús to apply to become a permanent resident. Jesús, who was born in
21 Sonora, México, immigrated to Arizona with his family in 2001 when he was 14 years
22 old. Jesús lived as an undocumented immigrant in the United States for the years since
23 then. He obtained temporary authorization to remain in the country and a work permit
24 after he successfully applied for deferred action under the DACA (“Deferred Action for
25 Childhood Arrivals”) program, which was authorized by President Obama in 2012.

26 113. Even though he was granted deferred action, Jesús still was not eligible to
27 adjust his status because a grant of deferred action does not provide a path to lawful
28 permanent resident status or U.S. citizenship. However, as a result of the Supreme

1 Court's 2013 ruling striking down the core provision of the Defense of Marriage Act,
2 same-sex couples who are able to marry finally are eligible for many federal protections
3 and benefits available to heterosexual spouses, including the right of a U.S. citizen to
4 sponsor a spouse to adjust status and remain in the United States. As a result of the
5 *Windsor* decision, Jesús was able to apply for a green card to remain with his husband just
6 like other immigrants married to U.S. citizens.

7 114. Jesús is particularly vulnerable and stigmatized as a gay formerly
8 undocumented immigrant living in Arizona. When Arizona's restrictive immigration bill,
9 SB 1070, was signed into law in 2010, Jesús was undocumented. SB 1070's passage and
10 the State's subsequent harsh treatment of immigrants made Jesús feel targeted,
11 stigmatized, and vulnerable as a Latino immigrant. He was constantly afraid that he and
12 his family would be stopped, harassed and deported. Arizona's discriminatory marriage
13 law compounds the stigma and discrimination that Jesús has experienced as a gay Latino
14 man living in the state.

15 115. Since getting married, C.J. and Jesús have found it confusing and stressful
16 to file their federal income tax returns as a married couple and then file their separate state
17 income tax returns as unmarried individuals. C.J. and Jesús usually prepare their taxes
18 online using TurboTax. But, they were unable to confirm that TurboTax could
19 accommodate their needs as a same-sex married couple living in a state that does not
20 honor their marriage. Accordingly, they concluded that they had to spend more money
21 than usual to hire a professional who was competent to prepare their tax returns. If their
22 marriage were recognized by the state of Arizona, C.J. and Jesús would file a joint state
23 tax return, in conformity with the marital status reported on their federal tax return, and
24 enjoy the relative simplicity that results from filing consistent federal and state tax returns
25 in contrast to their filing of one federal return and two separate individual state tax returns
26 along with the additional income allocation schedules Arizona requires of same-sex
27 married couples and does not require of different-sex married couples. C.J. and Jesús felt
28

1 that it was demeaning and upsetting to have to file their state tax returns as single
2 individuals when, in fact, they are married.

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

8 117. They are young and in love and want their marriage to be honored by the
9 State to which they pay taxes and in which they make their home and are building their
10 life together.

11 ***Plaintiff Patrick Ralph***

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

23 119. In 2008, Gary suffered a massive brain bleed and became severely disabled.
24 He could not swallow or walk, had a trach placed in his throat and a pegline in his
25 stomach, and needed intensive physical therapy and care. Patrick became Gary's full-time
26 caregiver and dedicated his life to taking care of him. He fed, bathed, and dressed Gary
27 every day, helped him use the bathroom, and took him to his medical appointments.
28

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

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

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

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

1 death certificate because the State does not recognize same-sex couples' marriages from
2 other states.

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

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

13 ***Plaintiff Josefina Ahumada***

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

25 127. Josefina and Helen pledged their lifelong commitment to each other in a
26 religious commitment ceremony in July 1994. On October 22, 2013, they celebrated their
27 beautiful relationship by marrying legally in Albuquerque, New Mexico. The pastor from
28 their church in Tucson flew to New Mexico to attend and officiate their wedding.

1 welfare of LGBT people in the State. Many Equality Arizona members desire and intend
2 to marry a same-sex life partner in Arizona, but have been prevented from doing so by
3 Arizona's law denying same-sex couples the freedom to marry. Similarly, many Equality
4 Arizona members have married in states outside of Arizona, but their marriages are not
5 recognized in Arizona due to the State's discriminatory marriage law.

6 **E. The State's Exclusion of Same-Sex Couples from Marriage is Not Even**
7 **Rationally Related to a Legitimate Governmental Purpose, Let Alone**
8 **Substantially Related to an Important Government Purpose or Narrowly**
9 **Tailored to a Compelling Governmental Purpose.**

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

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

21 135. As the Supreme Court has made clear, the law cannot, directly or indirectly,
22 give effect to private biases. Liberty and equality, not moral disapproval, must be the
23 guiding framework for a state's treatment of its citizens.

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

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

6 138. The State's interest in child welfare is affirmatively harmed rather than
7 furthered by the exclusion of same-sex couples from marriage. That exclusion injures
8 same-sex couples' children without offering any conceivable benefit to other children.

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

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

24 141. Other courts have found, after considering expert testimony, that there is no
25 rational basis for favoring parenting by heterosexual couples over parenting by gay and
26 lesbian couples. *See, e.g., Perry v. Schwarzenegger*, 704 F. Supp. 2d 921, 980 (N.D. Cal.
27 2010) (finding that the research supporting the conclusion that “[c]hildren raised by gay or
28 lesbian parents are as likely as children raised by heterosexual parents to be healthy,

1 successful and well-adjusted” is “accepted beyond serious debate in the field of
2 developmental psychology”), *aff’d sub nom. Perry v. Brown*, 671 F.3d 1052 (9th Cir.
3 2012), *vacated for lack of standing sub nom. Hollingsworth v. Perry*, 133 S. Ct. 2652
4 (2013); *In re Adoption of Doe*, 2008 WL 5006172, at *20 (Fla. Cir. Ct. Nov. 25, 2008)
5 (“[B]ased on the robust nature of the evidence available in the field, this Court is satisfied
6 that the issue is so far beyond dispute that it would be irrational to hold otherwise; the best
7 interests of children are not preserved by prohibiting homosexual adoption.”), *Fla. Dep’t*
8 *of Children & Families v. Adoption of X.X.G.*, 45 So. 3d 79 (Fla. Dist. Ct. App. 2010);
9 *Howard v. Child Welfare Agency Review Bd.*, Nos. 1999-9881, 2004 WL 3154530, at *9
10 and 2004 WL 3200916, at *3-4 (Ark. Cir. Ct. Dec. 29, 2004) (holding based on factual
11 findings regarding the well-being of children of gay parents that “there was no rational
12 relationship between the [exclusion of gay people from becoming foster parents] and the
13 health, safety, and welfare of the foster children.”), *aff’d sub nom. Dep’t of Human Servs.*
14 *v. Howard*, 238 S.W.3d 1 (Ark. 2006).

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

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

27 144. The State’s interest in the welfare of children raised by same-sex couples is
28 as great as its interest in the welfare of any other children. The family security that comes

1 from the State's official recognition and support is no less important for same-sex parents
2 and their children than it is for different-sex parents and their children.

3
4 **FIRST CLAIM FOR RELIEF**

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

7 145. Plaintiffs incorporate by reference and reallege paragraphs 1 to 144 of this
8 amended complaint.

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

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

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

27 149. As Clerk of the Superior Court of Maricopa County, Arizona, Defendant
28 Jeanes's ensuring, under color of state law, compliance with the State's discriminatory

1 marriage ban by, for example, denying same-sex couples marriage licenses, violates the
2 constitutional right to equal treatment of the unmarried Plaintiffs.

3 150. 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.

10 151. As the Director of the Department of Revenue, Defendant David Raber's
11 ensuring, under color of state law, compliance with the State's discriminatory marriage
12 ban by, for example, not allowing same-sex married couples to file a joint Arizona income
13 tax return and instead requiring them to each individually file as single and submit an
14 additional form identifying which individual earned which portion of the income reported
15 on the joint federal return, violates the constitutional rights of Plaintiffs to equal treatment
16 regardless of sexual orientation and sex.

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

26 153. Same-sex couples such as the plaintiff couples are identical to different-sex
27 couples in all of the characteristics relevant to marriage. Same-sex couples make the
28 same commitment to one another as different-sex couples. Like different-sex couples,

1 same-sex couples fall in love, build their lives together, plan their futures together, and
2 hope to grow old together. Like different-sex couples, same-sex couples support one
3 another emotionally and financially and take care of one another physically when faced
4 with injury or illness, as for example Plaintiff Fred McQuire does for his husband George
5 Martinez who is battling terminal cancer, as Plaintiff Barbara Morrissey did for her wife
6 Michelle Teichner when Mish had a kidney transplant earlier this year, and as Plaintiff
7 Patrick Ralph did for his husband Gary Hurst during Gary's lengthy illness.

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

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

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

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

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

27 158. Lesbians and gay men have suffered a long and painful history of
28 discrimination in the State and across the United States.

1 159. Sexual orientation bears no relation to an individual's ability to perform in
2 or contribute to society.

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

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

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

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

25 164. The sexual orientation classification in Arizona's marriage ban, which
26 permits heterosexual couples to marry and be recognized as married, and excludes
27 Plaintiffs and other lesbian and gay couples from marriage, imposes inequality on lesbians
28 and gay men, sends a message of second-class status, and cannot survive the heightened

1 scrutiny required for such classifications, or even any form of review, because it
2 perpetuates discrimination and stigma against lesbian and gay individuals, couples and
3 their families without being justified by any legitimate purpose.

4 **B. Discrimination Based on Sex.**

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

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

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

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

25 169. The exclusion of Plaintiffs from marriage based on their sex and the
26 enforcement of gender-based stereotypes cannot survive the heightened scrutiny required
27 for sex-based discrimination.
28

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.

3 176. 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.

8 177. 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.

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

21 179. 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
28

1 integrity, association, and due process under the Fourteenth Amendment to the United
2 States Constitution.

3 180. As the Director of the Department of Revenue, Defendant David Raber's
4 ensuring, under color of state law, compliance with the State's discriminatory marriage
5 ban by, for example, not allowing same-sex married couples to file a joint Arizona income
6 tax return and instead requiring them to each individually file as single and submit an
7 additional form identifying which individual earned which portion of the income reported
8 on the joint federal return, violates the Plaintiffs' fundamental right to marry and
9 constitutional rights to liberty, dignity, autonomy, family integrity, association, and due
10 process under the Fourteenth Amendment to the United States Constitution.

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

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

20 **DECLARATORY AND INJUNCTIVE RELIEF**

21 **28 U.S.C. § 2201 and 2202, Federal Rules of Civil Procedure, Rules 57 and 65**

22 183. Plaintiffs incorporate by reference and reallege paragraphs 1 to 182 of this
23 amended complaint.

24 184. This case presents an actual controversy because Defendants' present and
25 ongoing denial of equal treatment to Plaintiffs, and denial to Plaintiffs of their
26 fundamental rights and protected liberty interests, subjects them to serious and immediate
27 harms, warranting the issuance of a declaratory judgment.

28

1 fact that the couple is a same-sex couple or that an individual's spouse is or was of the
2 same sex as that individual;

3 C. Requiring Defendants in their official capacities to allow same-sex couples
4 to marry on the same terms as different-sex couples, and to recognize the valid marriages
5 of same-sex couples from other jurisdictions on the same terms as the valid marriages of
6 different-sex couples from other jurisdictions;

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

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

10 Dated: August 5, 2014

**LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.**

11
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CERTIFICATE OF SERVICE

I hereby certify that on August 5, 2014, I electronically transmitted the attached documents to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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I hereby certify that on August 5, 2014, I served the attached document by first class mail on Honorable John W. Sedwick, United States District Court, Federal Building and United States Courthouse, 222 West 7th Avenue, Box 32, Anchorage, Alaska 99513-9513.

s/ S. Neilson