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*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; and Josefina  
Ahumada; and Equality Arizona

Plaintiffs,

v.

Michael K. Jeanes, in his official capacity as  
Clerk of the Superior Court of Maricopa

No. 2:14-cv-00518-JWS

**LODGED: Proposed**  
**PLAINTIFFS' SEPARATE**  
**STATEMENT OF UNDISPUTED**  
**MATERIAL FACTS IN SUPPORT**  
**OF THEIR MOTION FOR**  
**SUMMARY JUDGMENT attached**

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**PLAINTIFFS' SEPARATE  
STATEMENT OF UNDISPUTED  
MATERIAL FACTS IN SUPPORT  
OF THEIR MOTION FOR  
SUMMARY JUDGMENT**

1 County, Arizona; Will Humble, in his  
2 official capacity as Director of the  
3 Department of Health Services; and David  
4 Raber, in his official capacity as Director of  
5 the Department of Revenue,

6 Defendants.

7 Pursuant to Federal Rule of Civil Procedure 56 and Local Civil Rule 56.1(a),  
8 named Plaintiffs Nelda Majors, Karen Bailey, David Larance, Kevin Patterson, George  
9 Martinez, Fred McQuire, Michelle Teichner, Barbara Morrissey, Kathy Young, Jessica  
10 Young, Kelli Olson, Jennifer Hoefle Olson, Kent Burbank, Vicente Talanquer, C.J.  
11 Castro-Byrd, Jesús Castro-Byrd, Patrick Ralph, Josefina Ahumada, and Equality Arizona  
12 (collectively “Plaintiffs”), respectfully submit this Separate Statement of Undisputed  
13 Material Facts in support of their Motion for Summary Judgment, which is filed herewith:

14 1. Plaintiffs are eight loving, committed same-sex couples, two individual  
15 Arizona residents who were married to a same-sex spouse, and an organization with  
16 members who are same-sex couples in Arizona—all of whom either want to marry or to  
17 have their out-of-state marriages recognized under Arizona law. [Declaration of Carmina  
18 Ocampo (“Ocampo Decl.”) Ex. L, ¶¶ 6,12; Ex. I, ¶¶ 4, 7; Ex. J, ¶¶ 3, 7; Ex. B, ¶¶ 12, 13;  
19 Ex. C, ¶¶ 2, 16, 17; Ex. D, ¶¶ 15, 20, 28; Ex. E, ¶¶ 14, 17, 23; Ex. F, ¶¶ 2, 10; Ex. H, ¶¶ 6,  
20 11; Ex. G, ¶¶ 2, 3; Ex. M, ¶ 7; Ex. K, ¶ 2, 12]

21 2. Plaintiffs Nelda Majors, age 75, and Karen Bailey, age 74, are a lesbian  
22 couple who have been in a committed relationship for 56 years. They are parents to  
23 Karen’s great grand-nieces, Sharla Curtis, age 21, and M.D., age 15. [Ocampo Decl. Ex.  
24 B, ¶1, 9]

25 3. As women in their mid-70s, Nelda and Karen worry that one or the other of  
26 them will be prevented by hospital staff from being at the other’s side and making  
27 necessary decisions if either is hospitalized. Based on many life experiences, both believe  
28 it would make a difference if they could tell hospital staff that they are married. They also  
want to marry as further evidence of the family ties between Nelda and M.D. Karen is a

1 court-appointed legal guardian for both Sharla and M.D., but Nelda has no legal  
2 relationship to either of them in part due to the State's marriage ban. Nelda and Karen  
3 fear that if anything were to happen to Karen, other relatives might seek appointment as  
4 M.D.'s guardian. If they were married, Nelda and Karen's status would help confirm for  
5 the court that M.D. would have greater stability and support with Nelda as her guardian.  
6 Nelda and Karen both are recipients of Social Security. If they were married as a matter of  
7 Arizona law, both would be eligible for Social Security surviving spouse benefits. [*Id.* ¶¶  
8 14, 15, 16]

9 4. On March 4, 2014, Nelda and Karen applied for a marriage license at the  
10 Maricopa County Superior Court Clerk's Office. They were denied because they are both  
11 women. [*Id.* ¶ 13]

12 5. Plaintiffs David Larance, age 35, and Kevin Patterson, age 30, are a gay  
13 male couple who have been in a committed relationship for seven years. In May 2013,  
14 David and Kevin became the parents of two girls, biological siblings ages four and seven,  
15 who had been removed from their parents' custody due to neglect. Although David and  
16 Kevin are a committed couple, they were not both able to become adoptive fathers to their  
17 girls because Arizona law only permits married couples to adopt jointly. Kevin became  
18 the girls' legal father. David has no legal parental rights or responsibilities with respect to  
19 either of his daughters. [Ocampo Decl. Ex. C, ¶¶ 2, 8, 10, 11]

20 6. David fears that if anything happens to Kevin, his own role as the girls'  
21 other father would be vulnerable to challenges by others. David also cannot make  
22 medical and other decisions for the girls. If David and Kevin were married under Arizona  
23 law, David could petition to adopt the girls as a step-parent. On March 10, 2014, David  
24 and Kevin applied for a marriage license from the Maricopa County Superior Court  
25 Clerk's Office; they were denied because they both are men. [*Id.* ¶ 11,13,14]

26 7. Plaintiffs George Martinez, age 62, and Fred McQuire, age 69, are a gay  
27 male couple who have been in a committed relationship for 45 years. Both men are  
28 disabled veterans. In more recent years, both men have battled life-threatening illnesses.

1 Fred suffers with chronic obstructive pulmonary disease, vascular problems and  
2 Parkinson's disease; he has been hospitalized several times in recent years. George was  
3 diagnosed with Stage IV prostate cancer three years ago, from which he largely recovered  
4 after extensive medical care. The cancer has been attributed to Agent Orange exposure  
5 and he receives veteran's disability benefits. In June 2014, George was diagnosed with  
6 Stage IV pancreatic cancer that has metastasized to his liver; his doctors predict that he  
7 has only months to live. [Ocampo Decl. Ex. D, ¶¶ 1, 4, 10, 11, 12]

8 8. George and Fred traveled to California and married there on July 19, 2014.  
9 Their marriage is not recognized by the State of Arizona. Both men feel it is unfair and  
10 demeaning that their marriage is not recognized in their home state. Arizona's refusal to  
11 recognize George's status as married prevents him from receiving additional disabled  
12 veteran's compensation that the Veterans Administration provides to veterans with a  
13 spouse. [*Id.* ¶¶ 15, 20, 21]

14 9. Both men fear being prevented from being at the other's side when either is  
15 next hospitalized. George also worries about how Fred will survive financially after  
16 George dies because Fred has been dependent upon George. If Fred is denied benefits as  
17 George's surviving spouse, Fred will suffer considerable, immediate financial hardship  
18 and probably will be unable to remain in the couple's home. Both men fear that, when  
19 George dies, Fred will be prevented from obtaining a death certificate for him or will  
20 receive a certificate that records George as having been unmarried, which would block  
21 Fred's access to an increase in Social Security benefits as George's surviving spouse. [*Id.*  
22 ¶¶ 22, 23, 24, 26, 27; Ex. E, ¶¶ 20- 23]

23 10. Michelle "Mish" Teichner, age 49, and Barbara "Barb" Morrissey, age 59,  
24 are a lesbian couple who have been in a committed relationship for more than 10 years.  
25 They married in New York on July 23, 2013. Their marriage is not recognized by the  
26 State of Arizona. Both women have ongoing health problems and their life partnership  
27 involves significant caretaking of each other. Mish has experienced kidney failure, has  
28 had two kidney transplants including one in January 2014; she has been hospitalized

1 multiple times over the years, including in recent months. Mish and Barb's greatest fear is  
2 being kept from each other if one of them is hospitalized. Mish and Barb want their  
3 marriage to be recognized in Arizona at least in part to reduce the confusion, disrespect,  
4 and hostility they repeatedly have experienced from medical professionals. [Ocampo  
5 Decl. Ex. F, ¶¶ 1, 2, 3, 4, 8]

6 11. Since getting married, Mish and Barb have found it confusing and  
7 frustrating to have to file separate state income tax returns as unmarried individuals while  
8 having to file their federal income tax returns as a married couple. If their marriage were  
9 recognized by the Arizona, the couple would simply file a joint state tax return. [*Id.* ¶ 11,  
10 13]

11 12. Plaintiffs Kathy Young, age 41, and Jessica "Jess" Young, age 29, are a  
12 lesbian couple who have been in a committed relationship for almost 10 years. On June  
13 11, 2013, they married in New York. Their marriage is not recognized by the State of  
14 Arizona. Kathy and Jess feel that it is urgent to have their marriage recognized for the  
15 sake of their 7 year-old-son, I.Y. Jess and Kathy planned for their son together and Jess  
16 gave birth to him. Kathy's relationship with I.Y. has no legal recognition or support under  
17 Arizona law. The fact that Arizona does not recognize Jess and Kathy's New York  
18 marriage precludes Kathy from securing her parent-child relationship with I.Y. through  
19 Arizona's streamlined stepparent adoption process. Kathy and Jess both experience  
20 stress, confusion and other practical difficulties making clear to others that they both are  
21 parents of their son because school forms and other documents only recognize different-  
22 sex married parents. [Ocampo Decl. Ex. G, ¶¶ 1, 2, 3, 6, 7]

23 13. Jess has been hospitalized for mental health issues in the past. The couple  
24 worries that if Jess requires hospital care in the future, Kathy will be kept from Jess' side  
25 and also will lack legal authority to make educational and medical decisions for their son.  
26 If the State recognized Kathy and Jess's marriage as it does marriages of different-sex  
27 couples, parentage presumptions would apply and also Kathy could secure her parental  
28 role through adoption as Jess's spouse. Now that they are married, Kathy and Jess have

1 found it confusing and frustrating to have to file separate state income tax returns as  
2 unmarried individuals while having to file their federal income tax returns as a married  
3 couple. If their marriage were recognized by the State of Arizona, Kathy and Jess would  
4 simply file a joint state tax return consistently with their joint federal return. [*Id.* ¶¶ 5, 6,  
5 8, 9, 10]

6 14. Plaintiffs Kelli Olson, age 36, and Jennifer “Jen” Hoefle Olson, age 38, are  
7 a lesbian couple who have been in a committed relationship for 10 years. In 2012, they  
8 became the proud parents of two fraternal twin girls, E. and S., to whom Jen gave birth.  
9 On August 7, 2013, Kelli and Jen married in Minnesota. Their marriage is not recognized  
10 by the State of Arizona. [Ocampo Decl. Ex. H, ¶¶ 1, 3, 5, 6]

11 15. Kelli and Jen believe their daughters are legally vulnerable because their  
12 marriage is not recognized in Arizona and only Jen has a legal bond with them. Although  
13 both women planned for their daughters together, Kelli has no parental rights. She carries  
14 power of attorney forms confirming her right to take certain actions for the girls, but she  
15 fears what could happen in an emergency if she does not have the documents or they are  
16 not honored. Without parental rights, Kelli’s ability to make medical and educational  
17 decisions for the girls is limited and, if something were to happen to Jen, she would lack  
18 the right to protect the couple’s children. If Kelli and Jen’s marriage were recognized in  
19 Arizona, Kelli could claim rights based on state law parentage presumptions. She also  
20 could formalize her relationship with each of the girls through stepparent adoption. Kelli  
21 and Jen have found it confusing and frustrating to have to file separate state income tax  
22 returns as unmarried individuals while having to file their federal income tax returns as a  
23 married couple, rather than simply filing a joint state tax return consistently with their  
24 joint federal return. [*Id.* ¶¶ 7, 8, 9, 10, 12]

25 16. Plaintiffs Kent Burbank, age 46, and Vicente Talanquer, age 51, are a gay  
26 male couple who have been together in a committed relationship for almost 20 years.  
27 They are fathers to two boys, D.B.T., age 12, and M.B.T., age 14, blood siblings who  
28 came to Vicente and Kent through the foster care system. Kent and Vicente tried but were

1 not permitted to adopt their sons jointly because Arizona only permits one member of an  
2 unmarried couple to adopt a child or children. As a result, Vicente is the only parent with  
3 legal rights and Kent has neither legal rights nor binding legal responsibilities with respect  
4 to the couple's sons. [Ocampo Decl. Ex. I, ¶¶ 1, 3, 5, 6, 11]

5 17. Vicente and Kent married in Iowa in 2013. Their marriage is not recognized  
6 by the State of Arizona. Kent remains ineligible to establish a legal relationship with his  
7 sons through the stepparent adoption procedure. Kent feels chronic stress and  
8 vulnerability because he has no legal ties to his children. He constantly fears that his  
9 parental status will be questioned by school and medical professionals. Both men know  
10 their children are only partially protected because they lack a legal bond with Kent, and  
11 because Arizona refuses to honor their parents' marriage. Kent and Vicente have found it  
12 confusing, frustrating and burdensome to be required to file their federal and state income  
13 tax returns with discordant filing statuses. If Arizona honored their valid Iowa marriage,  
14 they simply would file both returns jointly as the married couple they are under federal  
15 law. [*Id.* ¶¶ 4, 7, 9, 11, 14, 15]

16 18. Plaintiffs Clayton John "C.J." Castro-Byrd, age 23, and Jesús Castro-Byrd,  
17 age 27, are a gay male couple who have been in a committed relationship for two years.  
18 C.J. and Jesús married in Seattle, Washington, on December 14, 2012. Their marriage is  
19 not recognized by the State of Arizona. They would like to bring children into their  
20 family within the next two to three years, even though they worry about raising children in  
21 a state that does not respect their marriage. They are concerned that Arizona's refusal to  
22 honor their marriage will prevent them both from being recognized as parents to their  
23 future children and providing their children and each other the full range of legal  
24 protections and supports. Since getting married, like the other married Plaintiffs, C.J. and  
25 Jesús have found it confusing, stressful and frustrating to be required to file their federal  
26 and state income tax returns using two different filing statuses; and, if Arizona treated  
27 them as married, as federal law does, they would simply file both returns jointly.  
28 [Ocampo Decl. Ex. J, ¶¶ 1, 3, 7, 5, 6]



1           19. Plaintiff Patrick Ralph, age 59, was in a committed relationship with his  
2 late-husband Gary Hurst for 39 years. The couple resided in Phoenix together, where  
3 Patrick currently resides. Gary would have turned 73 earlier this month had he not died  
4 suddenly one year ago. [Ocampo Decl. Ex. K, ¶¶ 1, 2]

5           20. Patrick and Gary married in California on October 31, 2008. Their marriage  
6 is not recognized by the State of Arizona. Gary passed away on August 8, 2013.  
7 Thereafter, Patrick applied for Gary's death certificate as Gary's surviving spouse, but his  
8 application was rejected by the Maricopa County Office of Vital Records. The Arizona  
9 Department of Health Services informed Patrick that Arizona's law precluding  
10 recognition of same-sex couples' marriages prevented the State from honoring his request  
11 to be listed as Gary's husband on the death certificate. To Patrick, this rejection expresses  
12 the State's official disrespect of his and Gary's love and shared life together; it has  
13 significantly exacerbated his grief. [*Id.* ¶¶ 6, 8, 11, 12]

14           21. Moreover, because Arizona refuses to recognize Gary and Patrick's  
15 marriage on Gary's death certificate and in other records, Patrick is not eligible to receive  
16 Social Security surviving spouse's benefits because eligibility depends on whether a  
17 couple was considered married under the law of the decedent's domicile. Patrick received  
18 a letter from the Social Security Administration on August 6, 2014 informing him that he  
19 is not entitled to surviving spouse benefits because he does not meet this requirement. [*Id.*  
20 ¶ 13]

21           22. Plaintiff Josefina Ahumada, age 68, was in a relationship with her wife  
22 Helen Battiste, who would be 77, for 20 years. On October 22, 2013, they were legally  
23 married in Albuquerque, New Mexico. Their marriage is not recognized by the State of  
24 Arizona. [Ocampo Decl. Ex. L, ¶¶ 1,2,6]

25           23. Helen passed away on January 31, 2014. Josefina applied for a death  
26 certificate for Helen and her application was rejected because the State does not recognize  
27 the couple's marriage. It was incredibly painful for Josefina to learn that her application  
28 was rejected. She describes the rejection as "an official negation" of what was most

1 important to her, her relationship with her wife. Moreover, because Arizona refuses to  
2 acknowledge Josefina and Helen’s marriage on Helen’s death certificate and in other  
3 records, Josefina is ineligible to pursue surviving spouse’s Social Security benefits. [*Id.*  
4 ¶¶ 8, 10, 11, 12]

5 24. Organizational Plaintiff Equality Arizona is a statewide organization  
6 advocating for LGBT people and their families in Arizona, with members throughout the  
7 state. Many Equality Arizona members desire and intend to marry a same-sex life partner  
8 in Arizona, but have been prevented from doing so by Arizona law. Similarly, many  
9 Equality Arizona members have married a same-sex spouse in states outside of Arizona,  
10 but State law precludes recognition of their actual marital status in Arizona. [Ocampo  
11 Decl. Ex. M, ¶¶ 4,6,7]

12 25. Article 30, §1, of the Arizona Constitution, approved by the voters in 2008  
13 as Proposition 102, provides: “Only a union of one man and one woman shall be valid or  
14 recognized as a marriage in this state.”

15 26. A.R.S. § 25-101(C), provides that, “[m]arriage between persons of the same  
16 sex is void and prohibited.” The Arizona legislature also banned recognition of the  
17 marriages same-sex couples lawfully celebrated in other states. *See* A.R.S. § 25-112(A).

18 27. In 1999, the legislature further amended the marriage statutes to add a  
19 provision specifying that a valid marriage is one “contracted by a male person and a  
20 female person with a proper marriage license.” *See* A.R.S. § 25-125(A)

21 28. In 2006, Arizona voters considered Proposition 107, an initiated  
22 constitutional amendment which proposed to amend the Arizona Constitution to provide  
23 that, to “protect” marriage, only marriages of different-sex couples would be considered  
24 valid and would be recognized under Arizona law, and that the State and municipalities in  
25 Arizona “shall not create or recognize a legal status for unmarried persons that is similar  
26 to marriage.” The 2006 proposed language provided, “The State of Arizona and its cities,  
27 towns, counties or districts shall not create or recognize a legal status for unmarried  
28

1 persons that is similar to marriage.” [See [http://ballotpedia.org/Arizona\\_Protect\\_](http://ballotpedia.org/Arizona_Protect_Marriage,_Proposition_107_(2006))  
2 [Marriage,\\_Proposition\\_107\\_\(2006\); http://www.azsos.gov/election/2006/Info/PubPamphl](http://www.azsos.gov/election/2006/Info/PubPamphlet/english/Prop107.htm)  
3 [et/english/Prop107.htm.](http://www.azsos.gov/election/2006/Info/PubPamphlet/english/Prop107.htm))]

4 29. Two years later, in 2008, the Arizona legislature referred another proposal to  
5 amend the Arizona Constitution to reinforce the State’s exclusion of same-sex couples  
6 from marriage. The resolution became Proposition 102, called the “Marriage Protection  
7 Amendment” and Arizona voters approved Proposition 102 on November 4, 2008. This  
8 amendment, placed into the State’s constitution as Article 30, Section 1, provides: “Only a  
9 union of one man and one woman shall be valid or recognized as a marriage in this state.”  
10 [Ocampo Decl., Ex. A at 1; see also [http://www.azsos.gov/election/2008/Info/Pub](http://www.azsos.gov/election/2008/Info/PubPamphlet/english/prop102.htm)  
11 [Pamphlet/english/prop102.htm](http://www.azsos.gov/election/2008/Info/PubPamphlet/english/prop102.htm)]

12 30. The arguments “for” Proposition 102 in the 2008 Ballot Proposition Guide  
13 included assertions that the Arizona Constitution should be amended to prevent same-sex  
14 couples from “attacking” marriage by invoking state constitutional protections, as couples  
15 did successfully in Massachusetts and California. [Ocampo Decl. Ex. A at 3]

16 31. For example, the chair of “Arizona for Marriage in favor of SCR 1042,”  
17 Peter Gentala, urged voter approval of Proposition 102 as follows:

18 Judges should not distort the meaning of marriage. But that is  
19 just what is happening in California. On May 15, 2008, the  
20 California Supreme Court ... voted to redefine marriage. This  
21 extreme decision ... shows why the Arizona Constitution  
22 needs to reaffirm marriage ... **The California decision means  
more legal attacks on marriage in Arizona.** It’s only a  
matter of time before redefined marriages from California are  
used as **legal weapons** to change the law here in Arizona.

23 [Ocampo Decl. Ex. A, at 7, emphasis added] Others argued for passage of Proposition  
24 102 by claiming that permitting same-sex couples to marry and be treated as married  
25 would have grave consequences for Arizona, especially for the State’s children. For  
26 example, the ballot statement of Mesa’s Shauna Smith states:

27 “Do not let what happened in California repeat itself in  
28 Arizona. **Same-sex marriages are detrimental to families,**  
which are vital to any community. Families provide stabile

1 [sic] environments for children and every child has the right to  
2 a mother and a father. **Join us in protecting marriages** in  
3 Arizona and Vote yes on Prop 102.”

4 [*Id.* at 6, emphasis added]

5 32. Some proponents of the measure used stronger language. For example,  
6 Arizona Senator Sylvia Allen led the ballot presentations “for” the proposition, saying:

7 Society has set up our laws to protect the children and to  
8 provide in the case of a spouse dying. **All of that would**  
9 **change if same sex marriage gets its foot hold** and demands  
10 are then placed upon government and businesses for benefits.  
11 ... same sex marriage is about forcing all within our society  
12 regardless of religious or traditional beliefs to accept radical  
13 changes which will have far reaching consequences.  
14 **Consequences that change the very core of our society and**  
15 **how it functions. The loser will be the children who must**  
16 **endure the selfish desires of adults.**

17 [*Id.* at 1, emphasis added] And, speaking for "Arizona for Marriage in favor of SCR  
18 1042," Pastor Frank Macias added, “Altering the meaning of marriage affects all of us.  
19 We certainly do not want the public schools to teach our elementary school children that  
20 gay ‘marriage’ is okay.” [*Id.* at 7] Finally, Representative Cecil Ash, then a candidate for  
21 the Arizona House seat he now holds, called for “yes” votes as follows:

22 By passing this Marriage Amendment to the Constitution, we  
23 take away the power of activist judges to over-rule our law,  
24 and to dictate to us what a marriage means. If society’s  
25 definition of marriage is changed to allow same sex couples,  
26 then what is next? Why not three people who all love each  
27 other? Or four? Why not allow polygamy? Or a whole  
28 community to marry if everyone agrees? **Or a person to**  
**marry a pet?** ... In our culture, people cohabit and enter into  
various sexual relationships without government interference.  
While these relationships may offer a certain amount of  
personal fulfillment, **they do not benefit our society, nor do**  
**they receive the protection of the law.** That is reserved for  
marriage between a man and a woman.

[*Id.* at 6, emphasis added] Further, Coy and Tanya Johnston’s ballot statement stated:

Our agenda is not to punish, segregate, or discriminate against  
gay/lesbian people, but to protect the safest unit in the world,  
the family. . . . Just as we would protect our homes and  
country against attack, we support this defense for the sacred  
family unit. Whether a person desires to marry his daughter,

1           **homosexual partner, a son, dog, tree, underage**  
2           **neighborhood girl or car; we cannot allow this**  
3           **diminishment of the sacred union of marriage and its**  
4           **symbolism by “naturalizing” unnatural marriage . . .** The  
          natural traditional family unit is the foundation of society.  
          Protect USA. Protect Societies. Protect the Family.

5           [*Id.* at 4, emphasis added]

6           33.     Barring same-sex couples from marriage disqualifies them from critically  
7           important rights and responsibilities that would allow them to secure their commitment to  
8           each other and to safeguard their families, and which are readily available to different-sex  
9           couples who marry. As to many of these rights and responsibilities, marriage is the only  
10          access route; as to others, marriage is far simpler and less expensive than other options.  
11          By way of example only, Plaintiffs and other same-sex couples in Arizona are denied the  
12          ability offered to different-sex couples through marriage:

- 13           a.     To solemnize their relationships through a state-sanctioned  
14           ceremony. *See* A.R.S. § 25-111. The denial of state sanction or  
15           recognition deprives same-sex couples of important legal protections  
16           that automatically come with state-sanctioned marriage.
- 17           b.     To safeguard family resources under an array of laws that protect  
18           spousal finances, including, for example, the exemption of taxes on  
19           the property of widows and widowers. *See id.* § 42-11111; Ariz.  
20           Const. art. 9, §§ 2-2.3.
- 21           c.     To pay their fair share of taxes as legally married couples by filing  
22           Arizona income tax returns based on marital status that is not in  
23           conformity with the marital status reported on their federal income  
24           tax returns, A.R.S. §§ 43-102(A)(1); 43-301; 43-309.
- 25           d.     To secure legal recognition for parent-child bonds through the  
26           mechanisms afforded to spouses, including joint adoption, *id.* § 8-  
27           103(A); adoption of a spouse’s child as a stepparent, *see, e.g., id.* § 8-  
28           105(N)(1); the more streamlined procedures for the social study

1 required for stepparent adoptions used when the prospective adoptive  
2 stepparent has been married to the legal parent for at least one year  
3 and has resided with the child for at least six months, *id.* § 8-  
4 112(D)(1); and the presumption of parentage for children born into a  
5 marriage, *id.* § 25-814(A)(1).

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

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

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

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

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

24 j. To assert the privilege not to testify against one another as to matters  
25 protected by spousal privilege. *See id.* § 13-4062(1).

26 34. As a result of the marriage ban, two Plaintiffs have been denied the right to  
27 obtain death certificates for their spouses based on their out-of-state marriages. [Ocampo  
28 Decl. Ex. L, ¶ 10; Ex. K, ¶ 11] Plaintiff Josefina Ahumada's application for her wife's

1 death certificate was rejected because the State of Arizona would not recognize her as a  
2 person authorized to apply for her wife's death certificate because the State does not  
3 recognize her marriage to her deceased wife. [Ocampo Decl. Ex. L, ¶ 10] Josefina's  
4 wife's son Jack had to submit an application for the death certificate. [*Id.*; Ex. Q, ¶ 13]  
5 Josefina who was already grieving, felt incredible pain when she was prevented from  
6 getting a death certificate for her wife. [*Id.*] Plaintiff Patrick Ralph similarly received a  
7 letter from the Arizona Department of Health Services saying that the State could not  
8 honor his request to be listed as his husband's spouse on his death certificate because the  
9 State does not recognize same-sex couples' marriages from other states. [Ocampo Decl.  
10 Ex. K, ¶ 11] His husband Gary's death certificate says that Gary was "unmarried." [*Id.*]  
11 Plaintiff Fred McQuire fears that when his terminally ill husband George dies, he will not  
12 be able to get a death certificate for him properly identifying Fred as George's surviving  
13 husband which Fred will need to pursue spousal survivor benefits and to take care of his  
14 husband's affairs after his death. [Ocampo Decl. Ex. E, ¶ 23]

15 35. Plaintiffs suffer unequal tax treatment as a result of the marriage ban.  
16 Arizona's marriage ban prevented numerous married Plaintiffs from filing a joint state tax  
17 return, in conformity with the marital status reported on their federal tax return. [Ocampo  
18 Decl. Ex. F, ¶¶ 11-13; Ex. J, ¶¶ 5-6; Ex. G, ¶ 5; Ex. H, ¶ 12; Ex. I, ¶¶ 14-15] The married  
19 Plaintiffs had to file their federal returns as married and their state returns as unmarried  
20 individuals along with the additional "income allocation schedules" Arizona now requires  
21 of same-sex married couples and does not require of different-sex married couples. [*Id.*]

22 36. For example, Plaintiff David Larance cannot marry his partner in Arizona,  
23 and as a result he does not have a legal relationship with his adopted daughters, which  
24 means that if one of them falls ill, he is not entitled to take leave under the Family  
25 Medical Leave Act. [Ocampo Decl. Ex. C, ¶ 13] Any leave that he takes from work has to  
26 be counted as vacation time or at the discretion of his employer. [*Id.*]

27 37. Plaintiffs face barriers to Social Security and veterans benefits as a result of  
28 the marriage ban. Plaintiff Patrick Ralph recently learned that he is not eligible to receive

1 Social Security surviving spouse's benefits based on his deceased husband's Social  
2 Security pension rights because eligibility depends on whether a couple was considered  
3 married under the law of the decedent's domicile. He received a letter from the Social  
4 Security Administration dated August 6, 2014 informing him that he is not entitled to  
5 surviving spouse benefits because he does not meet this requirement. [Ocampo Decl. Ex.  
6 K ¶ 13] Plaintiff Josefina Ahumada is also ineligible to receive Social Security surviving  
7 spouse's benefits based on her deceased wife's Social Security pension rights. [Ocampo  
8 Decl. Ex. L, ¶ 11] Other Plaintiffs worry that they or their spouse will also be denied  
9 surviving spouse benefits by Social Security as a result of Arizona's marriage ban in the  
10 event that one spouse passes away. [Ocampo Decl. Ex. E, ¶ 20; Ex. D, ¶¶ 22, 27; Ex. B, ¶  
11 16; Ex. I, ¶ 11]

12 38. Plaintiff George Martinez would be eligible to receive a higher amount of  
13 veterans' disability compensation if his marriage was recognized by the State because the  
14 U.S. Department of Veterans Affairs ("VA") awards higher benefit amounts to veterans  
15 with spouses than it does to single veterans. [Ocampo Decl. Ex. D, ¶ 21] Since George  
16 and his husband live in a state that does not recognize their marriage, the VA will not  
17 recognize their marriage. [*Id.*] As a result, George is not eligible for an increase in his  
18 veterans' disability benefit that he would be entitled to if he was married to a woman. [*Id.*]

19 39. Some same-sex couples are unable to travel out of state to marry due to, for  
20 example, illness or other physical limitations, child care or other family responsibilities, or  
21 cost. Moreover, many same-sex couples wish to marry at home in Arizona, in the  
22 company of family and friends, who may not be able to travel out of state to attend a  
23 wedding for financial or other reasons. Plaintiffs Nelda Majors and Karen Bailey and  
24 David Larance and Kevin Patterson wish to marry at home in Arizona so that their friends  
25 and family will not have to travel to attend their wedding. [Ocampo Decl. Ex. C, ¶ 6; Ex.  
26 B, ¶ 13] Plaintiffs George Martinez and Fred McQuire had no choice but to travel to  
27 California to get married because of George's fast declining health. But they would have  
28 preferred to marry at home in Arizona because traveling out-of-state to get married was



1 very difficult and exhausting for them since they are both disabled and in poor health, and  
2 George is undergoing chemotherapy for terminal cancer. [Ocampo Decl. Ex. D, ¶¶18, 19]

3 40. Same-sex couples and their children must live with the vulnerability and  
4 stress inflicted by a lack of access to the same mechanisms for securing their legal  
5 relationships, and the ever-present possibility that others may question their familial  
6 relationships—in social, legal, educational, and medical settings and in moments of  
7 crisis—in ways that spouses can avoid by simple reference to being married. [Ocampo  
8 Decl. Ex. C ¶¶ 12-13, 16; Ex. G ¶7; Ex. H ¶¶ 8-10; Ex. I ¶ 10]

9 41. Plaintiff couples wish to marry or wish to have their out-of-state marriages  
10 recognized because marriage will afford Plaintiffs' families and children greater comfort,  
11 stability, and security, and will enable children to grow up feeling that their family is  
12 worthy of equal dignity and respect. [Ocampo Decl. Ex. C, ¶¶ 11, 12, 16, 17; Ex. I, ¶¶ 9-  
13 11; Ex. H, ¶¶ 10-11; Ex. B, ¶ 15; Ex. G, ¶¶ 7-11]

14 42. The State's refusal to recognize Plaintiffs' marriages hinders Plaintiffs  
15 ability to be recognized as legal parents of their children. As a result, Plaintiffs with no  
16 legal ties to their children are often unable to make educational and medical decisions for  
17 their children. [Ocampo Decl. Ex. C, ¶¶ 11, 12; Ex. H, ¶ 10; Ex. G, ¶ 7-11; Ex. I, ¶ 9]

18 43. Plaintiffs wish to formalize the ties between their children and the one  
19 member of the couple who lacks a legal bond with their child or children, using the  
20 streamlined process available to stepparents. For Kathy Young, in-state respect for her  
21 New York marriage to Jessica Young also would provide additional security in case  
22 Jessica has further health problems. [Ocampo Decl. Ex. G, ¶¶ 8, 10] For Kent Burbank,  
23 in-state recognition of the marriage he and Vicente Talanquer celebrated in Iowa also  
24 would reinforce to the couple's adopted sons that both of their fathers are fully committed  
25 to them and that their family is "forever." [Ocampo Decl. Ex. I, ¶¶ 7, 13] For Kelli  
26 Olson and Jennifer Hoefle Olson, recognition in Arizona of their Minnesota marriage  
27 similarly would facilitate Kelli's establishment of parental ties to the couple's two-year-  
28 old twin girls, which would allow Kelli to provide health insurance and other benefits to

1 them, while simplifying her day-to-day parenting logistics, such as managing pediatric  
2 medical visits. [Ocampo Decl. Ex. H, ¶¶ 8-10]

3 44. Children from a young age understand that marriage signifies an enduring  
4 family unit, and likewise understand when the State has deemed a class of families less  
5 worthy than other families, undeserving of marriage, and not entitled to the same societal  
6 recognition and support as other families. Plaintiffs do not want their children to grow up  
7 feeling insecure and stigmatized by the State's refusal to recognize their parents'  
8 marriage. [Ocampo Decl. Ex. C, ¶ 17, Ex. H, ¶ 11] Plaintiffs Kelli Olson and her wife  
9 Jennifer Hoefle worry that the State's exclusion of same-sex couples from marriage  
10 reinforces the negative and stigmatizing message that same-sex couples like them are  
11 inferior, which is a message that they do not want their children to learn. [Ocampo Decl.  
12 Ex. H, ¶ 11] Similarly, Plaintiffs' children think it is unfair that their parents' marriage is  
13 not recognized in Arizona and they want their parents to be recognized as a married  
14 couple by the State. [Ocampo Decl. Ex. N, ¶ 17; Ex. O, ¶ 8, 10; Ex. P, ¶ 9] Plaintiffs'  
15 parents also want their children's marriages to be legally recognized in Arizona because  
16 they believe that their children and grandchildren are negatively impacted when only one  
17 of the parents is recognized a legal parent as a result of the marriage ban. [Ocampo Decl.  
18 Ex. S, ¶ 10, Ex. R, ¶ 10, Ex. T, ¶ 8]

19 45. Jesús and C.J. Castro-Byrd have not yet started their family. They look  
20 forward to becoming parents but want their future children to have the additional security,  
21 legal supports and affirmation they will have when Arizona honors the marriage the  
22 couple celebrated last year in Washington. [Ocampo Decl. Ex. J, ¶ 7] Jesús wants their  
23 future children to feel included and respected as equals by their community and  
24 government. [*Id.* ¶¶ 4, 7]

25 46. As a result of the marriage ban, Plaintiffs fear that they will not be able to be  
26 by each other's side during future health emergencies or be able to make medical  
27 decisions for each other. [Ocampo Decl. Ex. D, ¶¶ 23-26; Ex. F, ¶¶ 4, 5, 7, 8, 9; Ex. B, ¶  
28 14; Ex. G, ¶¶ 8-10] Plaintiffs worry and fear that the lack of recognition for their

1 relationship and marriage under Arizona law will cause hospital staff to prevent them  
2 from being by their spouse's side or from making decisions on their behalf or prevent  
3 their spouse from being by their side. [Ocampo Decl. Ex. D, ¶¶ 23-26; Ex. F, ¶¶ 4, 5, 7, 8,  
4 9; Ex. B, ¶14; Ex. G, ¶¶ 8-10] For example, Barbara Morrissey has cared for her wife  
5 Michelle Teichner through years of health challenges. [Ocampo Decl. Ex. F, ¶ 3] In the  
6 past, when Mish was hospitalized, Barb was prevented from seeing Mish by hospital staff  
7 who did not respect their relationship despite their medical powers of attorney. [*Id.* ¶¶ 5,  
8 7] Barb's greatest fear is that she will be prevented from seeing and being with Mish if  
9 either is hospitalized again. [*Id.* ¶ 4]

10 47. Many Plaintiffs feel stigmatized and that they have an inferior status or are  
11 "second class" citizens because they cannot marry or because their out-of-state marriages  
12 are not recognized. [Ocampo Decl. Ex. B, ¶ 13; Ex. F, ¶ 10; Ex. D, ¶20; Ex. H, ¶ 11; Ex.  
13 I, ¶ 13] Plaintiffs Nelda Majors and Karen Bailey are in their 70's and they have been a  
14 couple since the 1950's. They are distressed that Arizona refuses the right to marry to  
15 same-sex couples like them who have been in a loving committed relationship for  
16 decades. [Ocampo Decl. Ex. B, ¶ 13] Plaintiffs George Martinez and Fred McQuire  
17 traveled to California to get married even though they are both in extremely poor health  
18 and George was undergoing chemotherapy for his terminal illness and traveling was  
19 incredibly difficult for them. [Ocampo Decl. Ex. D, ¶ 18] They feel that it is painful,  
20 demeaning and unfair that their marriage is not recognized in their home state of Arizona.  
21 [*Id.* ¶ 20] Plaintiffs' exclusion from marriage or the State's refusal to recognize their out-  
22 of-state marriages frustrates their happiness and self-determination and causes them  
23 distress and humiliation. [Ocampo Decl. Ex. D, ¶ 20; Ex. B, ¶ 13. Ex. F, ¶ 10; Ex. H, ¶  
24 11; Ex. I, ¶ 13] Plaintiffs Josefina Ahumada and Patrick Ralph felt that the State's refusal  
25 to recognize their respective marriages to their deceased spouses is an official negation of  
26 the love they have for their spouses and the life they built with them, and the grief that  
27 they feel as a widow and widower. [Ocampo Decl. Ex. K ¶ 12; Ex. L, ¶ 10, ¶ 12]

28

1 Dated: August 14, 2014

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**CERTIFICATE OF SERVICE**

I hereby certify that on August 14, 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 14, 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