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18 Ralph, Josefina Ahumada, and Equality Arizona*

19 UNITED STATES DISTRICT COURT

20 DISTRICT OF ARIZONA

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

25 Plaintiffs,

26 v.

27
28 Michael K. Jeanes, in his official capacity as

No: 2:14-cv-00518-JWS

DECLARATION OF GEORGE
MARTINEZ

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

7 Defendants.

8 George Martinez declares and states as follows:

9 1. I am a Plaintiff in this lawsuit along with my husband Fred McQuire. I am
10 62 years old and Fred is 69. We reside together in Green Valley, Arizona. I have personal
11 knowledge of the matters stated in this declaration and could and would so testify if called
12 as a witness.

13 2. I grew up in Arizona and have lived in this state my entire life. I am
14 Mexican-American and Yaqui. I did not go to college and served in the United States Air
15 Force. I am a Vietnam War veteran. After I was released from the Air Force, I started
16 working part-time as a clerk for the State Appeals Court of Arizona in 1972 as part of a
17 government manpower program, designed to teach unemployed workers job skills. In
18 1976, I was promoted and became the first Deputy Clerk of the State Appeals Court of
19 Arizona.

20 3. I love my job and have proudly worked as a Deputy Clerk for over three
21 decades. I find my job interesting because I meet different people and am exposed to
22 different issues like criminal, mental health and juvenile justice issues. I love the people
23 that I work with and have strong friendships with my co-workers. I retired three years ago
24 when I was diagnosed with prostate cancer, but I underwent surgery and radiation and
25 went back to work part-time. I am currently on medical leave under the Family and
26 Medical Leave Act.

27 4. I have been in a loving relationship with my life partner and husband Fred
28 McQuire for forty-five years. Fred has worked as a manager at Wal-Mart, as a lieutenant
at the Arizona Department of Corrections and as a car salesman. He is now retired. Fred

1 is also a veteran and was in the Air Force, although our paths never crossed when we were
2 on duty.

3 1. I first met Fred in December 1969. Fred was serving in the Air Force and
4 he had just moved to Arizona from Guam. We met in a gay bar in Arizona. Back then,
5 gay bars played an important role in the gay community. We did not have any gay support
6 groups to go to and you had to go to a bar if you wanted to meet other gay people. During
7 the day, we had to hide that we were gay from our co-workers, but at night at gay bars
8 where we were surrounded by friends and men like us, we could be ourselves. After Fred
9 and I met, we became close friends right away. By March 17, 1970, we were a couple and
10 moved in together. We realized early on that we found the perfect match in one another.
11 We began a committed relationship of love and support that continues to this day.

12 5. Fred and I had a commitment ceremony in 1980 to celebrate ten years of
13 being together. Back then gay people could not get married so we had a commitment
14 ceremony. A friend told us that there was one priest in Arizona who would officiate
15 commitment ceremonies for same-sex couples. We met with the priest, whose name was
16 Father Francis, and he told us that he could not wear any of his vestments for the
17 ceremony because we were gay. We had dinner with Father Francis and he got to know
18 us. He ended up wearing his vestments anyways during the ceremony. Our commitment
19 ceremony was very special. At least a hundred of our friends came and we held the
20 ceremony in a historical house downtown. Fred surprised me with a mariachi band and we
21 had a big potluck. Unfortunately, our families were not there. Back then Fred and I were
22 too afraid to tell our families that we were gay, although I wished and hoped that they
23 could have been there. We do not have to hide our relationship from our families now, but
24 things were so different in the past.

25 6. For most of our lives, Fred and I had to hide that we are gay and in a
26 relationship from our families and co-workers. When Fred and I were in the Air Force, we
27 pretended that we were heterosexual because we feared being abused or discharged if
28 people found out that we were gay. Back then, the higher-ups in the air force would have

1 meetings with us soldiers and say, “If you know someone is a homosexual, you have to
2 turn them in right away.” I was always terrified that someone would find out that I was
3 gay and turn me in. Similarly, when I first started working at the court in the 1970’s, I was
4 deathly afraid that my co-workers and judges would find out that I was gay and that they
5 would find some reason to fire me. Fred was a car salesman and he was also afraid that his
6 co-workers and customers would reject him if they found out that he was gay. I could not
7 answer the phone in our home because Fred was afraid that his employer would call and
8 find out that he was gay if I answered it. We lived in constant fear that we would lose our
9 jobs and grew accustomed to hiding our relationship and the pain and inconvenience that
10 resulted from us doing so.

11 7. Family parties were unbearable because I had to pretend that I was
12 heterosexual. I used to quake in my boots during family gatherings when aunts and uncles
13 asked me why I was not married and why I did not have a girlfriend. Fred and I pretended
14 like our relationship did not exist. It was stressful to constantly deal with the daily
15 humiliation of keeping our identities and relationship a secret. Over the years, our families
16 eventually showed their love and support for our relationship. I never told my father that I
17 was gay but my father loved Fred and never asked us any questions. My mother knew that
18 I was gay and was supportive and so were my brothers and sisters. Fred’s family is also
19 very supportive of us now.

20 8. Fred and I enjoyed camping and traveling to different states in the country
21 together. We visited California, Nevada and Utah and we visited Fred’s family in
22 Mississippi and Springfield, Illinois, where Fred grew up. Like every other relationship,
23 we have had our ups and downs. But our love has persevered through all the good and the
24 bad times. We’ve gone through rough times but we’ve always ended up together and have
25 built a life together. Just last March, we bought our dream house in Green Valley and we
26 live in our house with our poodle terrier, Buggy.

27 9. Fred and I have battled life-threatening illnesses in recent years and our
28 relationship involves significant caretaking of each other. Taking care of each other as we

1 struggle with poor health has brought us closer together and has made us stronger. Fred
2 suffers with chronic obstructive pulmonary disease, vascular problems and Parkinson's
3 disease. He has chronic neck and back aches and walking is very difficult for him. In the
4 past few years, Fred has been hospitalized several times. I have acted as his caregiver.
5 When Fred was in the hospital I went to the hospital every day to see him. I lectured him
6 about how he had to eat and get strong. Now the tables have turned and I am sick and do
7 not feel like eating or doing anything. And now Fred is the one taking care of me and
8 urging me to eat every day.

9 2. I am also fighting life-threatening illness. Three years ago I was diagnosed
10 with Stage IV prostate cancer, which was terminal. The Department of Veterans Affairs
11 issued a determination that my prostate cancer is 100% associated with exposure to Agent
12 Orange during the Vietnam War, and that I am entitled to federal disability benefits,
13 which I currently receive. I underwent surgery and radiation to eradicate the prostate
14 cancer and I was able to work again part-time.

15 3. In June 2014, I was diagnosed with Stage IV pancreatic cancer that has
16 metastasized to my liver. Doctors have told me that I only have months to live. This
17 diagnosis is devastating.

18 10. Now that I am very sick, I rely on Fred to take care of me every day. He
19 takes care of me despite the fact that he struggles with his own serious health issues. I
20 have blood clots in my lungs and legs and Fred gives me shots every day in my stomach.
21 Fred helps me shower, does all the grocery shopping for us, prepares small meals for me,
22 gives me my medications, takes me to my doctors and chemotherapy appointments and
23 runs all of our errands. I am thankful for the love and care that he shows me every day. I
24 know it is not easy for him to take care of me when he is also struggling with health
25 issues. I love and appreciate him very much.

26 4. When we found out that I was dying, Fred and I felt that it was urgent for us
27 to get married. We always wanted to get married but for most of our lives together, it was
28 not possible. We never dreamed that it would someday be possible for us to get married.

1 Even when same-sex couples began marrying in other states years ago, we knew that if we
2 got married in other states, we still would not have had legal recognition in Arizona. By
3 the time married same-sex couples started receiving some legal protections and benefits a
4 year ago, both Fred and I were too sick and traveling had become very difficult for both
5 of us. We considered traveling to California to get married, but we hoped marriage would
6 become legal in Arizona because it would have been so much easier and more practical to
7 marry in our home state. When I received my diagnosis of terminal cancer, we felt that
8 we could not afford to wait any longer.

9 11. Fred and I traveled to California and got married on July 19, 2014. We did
10 so with the love and support of our friends, family and my co-workers, who made the
11 journey and celebration possible for us. When my co-workers learned that Fred and I
12 wanted to get married in California, they planned a party for us. My co-worker Beth
13 hosted our wedding party in her beach house in Encinitas. She and some of my co-
14 workers took care of all the arrangements and ordered the food, drinks and a beautiful
15 cake for our party. About thirty of our friends, family, and my co-workers traveled from
16 Tucson to Encinitas to attend our wedding. My supervisor came to our wedding and gave
17 a toast and my friend and co-worker Therese officiated the ceremony. When I think about
18 the love and support my co-workers showed me and Fred, I get emotional. It is surreal and
19 beautiful to celebrate my marriage to Fred with the support of my supervisor and co-
20 workers, considering how terrified I used to be that people at work would find out that I
21 was gay and fire me. Times have really changed.

22 12. Our wedding day was the happiest day of my life. Fred said beautiful things
23 during the ceremony and he said that it was the happiest day of his life too. Fred and I
24 both sat down during the ceremony because we were too weak to stand. We still managed
25 to get up and dance a slow dance to our song, "You Are So Beautiful" by Joe Cocker. We
26 picked that song to dance to because Fred used to sing that to me when it came on the
27 radio when we were young.

28

1 13. It feels wonderful to finally marry Fred after so many years of being
2 together. Having to constantly lie about our relationship our whole lives because we
3 faced so much hostility and discrimination as gay men made us feel like second class
4 citizens. Being able to get married has made us feel validated and respected. Unlike our
5 commitment ceremony in 1980 where we did not feel comfortable inviting our family
6 members and co-workers, we celebrated our marriage surrounded by our families and my
7 co-workers. It means so much to us that our family members and my co-workers travelled
8 such a long distance to share our wedding day with us. Their love and support means so
9 much to me. I could tell that they truly respect and support our marriage. For the first
10 time in my life I feel legitimate.

11 14. Our wedding celebration was joyful, but traveling to California to get
12 married was excruciating and difficult for me and Fred. The travel was especially hard on
13 me. I am undergoing chemotherapy, which makes me feel dizzy, nauseous, exhausted and
14 weak. Flying was difficult for both of us. We flew from Tucson to Phoenix and from
15 Phoenix to Long Beach. Waiting in lines at airports, getting on and off planes, and going
16 to the bathroom in airports and on the airplane was exhausting. Fred and I had to be
17 escorted through each airport in wheelchairs because I was too weak to walk, and Fred
18 was also too weak to push me in a wheelchair. We drove to Norwalk, California to obtain
19 our marriage license and then south to Encinitas to the ceremony. All that driving was
20 exhausting too. At one point during the celebration, I felt fatigued and I had to lie down.
21 Fred and I felt as if it was almost a miracle that we survived traveling to California to get
22 married.

23 15. I feel sad and angry that because of the State's ban on marriage for same-sex
24 couples, Fred and I were forced to travel to California to marry. It would have been so
25 much more convenient for us and our friends and families, if we could have married at
26 home, in Arizona. It me and Fred at least \$800 to fly to California, which is a lot of
27 money. Our friends and family who came to our wedding had to spend money on plane
28 tickets and gas to travel to California. They also had to take time off work on a Friday to

1 have enough time to drive to California. Several of my friends and family members,
2 including my sister and several of my cousins, could not afford to take time off or spend
3 money to travel to California. I know that if we had gotten married in Arizona, more of
4 our friends, co-workers and family would have attended. It makes me feel sad and angry
5 that some of the people who are closest to us could not attend our wedding because we
6 were forced to hold it out of state. I do not want anyone to have to go through what I did
7 and have to travel out of state to marry their partner when they are sick and dying. Luckily
8 Fred and I could afford our plane tickets, but people with financial hardship cannot afford
9 to spend a couple hundred dollars to fly to another state to get married. It is appalling and
10 outrageous that Fred and I had to go through that when we should have been able to marry
11 in our home state like other couples.

12 16. We went through such an ordeal to get married in California and it is even
13 more painful and demeaning that our marriage is not recognized in our home state of
14 Arizona. Arizona's refusal to recognize our marriage makes us feel like second-class
15 citizens.

16 17. Because the State does not recognize my legal marriage to Fred, I am
17 prevented from receiving additional compensation for my veterans' disability benefit that
18 is available to disabled veterans with spouses. I believe that I would be eligible to receive
19 a higher amount of my veterans' disability benefit if my marriage was recognized by the
20 State because the U.S. Department of Veterans Affairs ("VA") awards higher benefit
21 amounts to veterans with spouses than it does to single veterans. Since Fred and I live in
22 a state that does not recognize our marriage, the VA will not recognize our marriage. As a
23 result, I am not eligible for an increase in my veterans' disability benefit that I would be
24 entitled to if I was married to a woman.

25 18. Because the State refuses to recognize my legal marriage to Fred, I feel
26 frightened and worried about what will happen to Fred after I die. Although Fred and I are
27 legally married under the laws of California, the fact that the U.S. Government honors our
28 marriage while Arizona does not is confusing and stressful. I have always supported Fred

1 financially. I financially support Fred through the income that I receive from my state
2 court retirement, Social Security and veterans' disability benefits. Fred is retired and his
3 only source of income is Social Security. Fred is in extremely poor health and unable to
4 work, has no savings or assets, and has no family members that he can move in with if he
5 lost his home. After I pass away, Fred will no longer be able to rely on me for financial
6 support. If Fred cannot receive benefits as my surviving spouse, Fred will suffer
7 immediate financial hardship and he will not be able to afford to remain in our house. I am
8 worried about what will happen to him. Arizona's refusal to recognize our marriage is a
9 legal barrier to Fred being eligible for important spousal benefits he should be able to
10 receive as my husband.

11 19. Fred and I also fear that he will be prevented from seeing and being with me
12 if I am hospitalized. My health is precarious, and I could face a medical emergency on any
13 given day. I am terrified that the lack of recognition for our relationship and marriage
14 under Arizona law could cause someone to prevent Fred from being by my side or from
15 making decisions on my behalf. I also fear that I will be prevented from seeing Fred if he
16 is hospitalized with a medical emergency.

17 20. Our fears about being denied the ability to care for each other are worsened
18 by our actual past experiences. On prior occasions, I was prevented by staff in Arizona
19 hospitals from being with Fred because the staff did not consider me to be a legally
20 recognized family member to Fred. For example, four or five years ago, Fred was in the
21 Intensive Care Unit at the hospital. I went to see him and told a nurse that I was his
22 partner. The nurse told me, "Do you realize that I won't be able to tell you anything
23 because you're not his relative?" I started to leave and she changed her mind and said that
24 I could see him. I felt so shaken and upset that I went to the patient advocate department
25 of the Veterans Administration hospital and complained. As a result, that nurse was taken
26 off Fred's case. I'll never forget how humiliating, stressful and scary it was to be told by
27 a nurse that I could not see Fred when he was seriously ill.

28

1 21. Three years ago, I had another negative experience visiting Fred in the
2 hospital. Fred was in the emergency room and when I went to see him, the ER nurse came
3 out and said “Who are you?” I said, “I’m his partner.” The nurse said rudely, “Oh, you’ll
4 have to wait.” I felt humiliated and degraded. I knew that if I had been Fred’s wife he
5 would have let me in the room to see Fred. I talked to the nurse and said, “Do you guys
6 discriminate against gay people?” He said, “No, absolutely not.” I said, “Well you could
7 have said that in a better way.” I told him that the way he asked me who I was, was
8 incredibly disrespectful. The nurse apologized. I still remember how angry, humiliated
9 and frightened I felt being prevented from seeing Fred just because I am gay. I do not
10 want to ever experience that rejection and homophobia ever again.

11 22. These negative experiences of being rejected by hospital staff make me
12 especially anxious and fearful about how Fred and I will be treated if we are ever
13 hospitalized. I am very sick and need to feel sure that Fred will be able to be by my side
14 when I need him, and that we will not face any disrespect or humiliation during a medical
15 emergency. I want the State to recognize our marriage to put an end to the stress,
16 confusion, and disrespect that I have received in medical settings.

17 23. I fear that when George dies, Fred will be prevented from obtaining a death
18 certificate for me. I also fear that Fred will receive a death certificate from the State that
19 records my marital status as unmarried, which is untrue and would interfere with Fred’s
20 ability to access benefits as my surviving spouse. It is painful thinking that after I die, the
21 State will continue to insist that I was unmarried and deny my marriage to the man I love.
22 As I grapple with the knowledge that I will die soon, I want Fred to be recognized as my
23 husband, and I want both of us to be afforded the same protections, recognition and
24 respect as any other married couple in the state. It is overwhelming, stressful and
25 terrifying to wonder if my husband will be able to be by my side while I am dying,
26 whether he will suffer financial hardship after my death, and whether he will even be able
27 to get a death certificate for me after I die. I would like to die feeling peace knowing that
28 the man I love will be taken care of.

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24. It is painful and sad that Arizona refuses to recognize our marriage. I am tired of being treated as a second-class citizen and do not want anyone to have to go through what Fred and I are going through right now.

25. Attached to this declaration as "Attachment A" are two photographs of Fred and me, taken in July, 2014.

I, _____, declare under penalty of perjury that the foregoing is true and correct and that this declaration was completed and signed on the _____ day of August, 2014, at _____, Arizona.

George Martinez

ATTACHMENT A

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