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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,

v.

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

No: 2:14-cv-00518-JWS

DECLARATION OF ISABEL  
DUFF IN SUPPORT OF MOTIONS  
FOR TEMPORARY  
RESTRAINING ORDER AND  
PRELIMINARY INJUNCTION OF  
PLAINTIFF FRED MCQUIRE

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

6 Defendants.

7 Isabell Duff declares and states as follows:

8 1. I am 61 years old and reside in Las Vegas, Nevada. I am employed as the  
9 Director of the Veterans Administration Southern Nevada Healthcare System  
10 (“VASNHS”). I have personal knowledge of the matters stated in this declaration and  
11 could and would so testify if called as a witness. I make this declaration in support of  
12 Plaintiff Fred McQuire’s motions for a temporary restraining order and preliminary  
13 injunction.

14 2. I am the sister of George Martinez and have known Fred McQuire for more  
15 than 40 years. I have had a close and loving relationship with my brother and strongly  
16 supported his relationship with Fred. In recent years, both George and Fred have  
17 struggled with life-threatening illnesses. George updated his estate plan and other legal  
18 documents after receiving his serious pancreatic cancer diagnosis earlier this summer.  
19 Given Fred’s precarious health and financial vulnerability, George asked me to serve as  
20 the personal representative of his estate and to do my best to carry out his wish that Fred  
21 be taken care of and recognized in all possible ways as his husband, which I agreed to do.

22 3. On Monday, August 25, 2014, George called me and told me that he had  
23 been taken to the Veterans Administration (“VA”) Hospital in Tucson, Arizona. He told  
24 me that he had fallen, had not been able to get back up, and had been taken by ambulance  
25 to the hospital. He said the doctors were treating him for dehydration and malnutrition,  
26 which was caused by the cancer having spread to his liver. I spoke to George again on  
27 Tuesday and he seemed to be improving.

28 4. When I spoke to George on Wednesday morning, he sounded much worse.  
I immediately made plans to go to Tucson, and arrived there late in the day on Wednesday.

1 I went to see George in the hospital, and was distressed to find out that he was doing  
2 poorly. The doctor said his liver was failing. Fred was with him and was distraught  
3 and crying. Other family members began gathering at the hospital.

4 5. George passed away at 1:20 am on Thursday, August 28, 2014.

5 6. Later that day, Fred and I went to the VA's Decedent Affairs Office. Fred  
6 and I explained to the Decedent Affairs clerk that Fred is George's husband and  
7 beneficiary, and that I am his sister and the personal representative of George's estate.  
8 The clerk apologized and said that I had to complete the paperwork regarding George  
9 rather than Fred because I am his legal next of kin as Fred is not recognized as George's  
10 spouse under Arizona law. This was very upsetting to Fred, who was already distraught  
11 about George's death. Because there was no alternative, I completed the paperwork  
12 necessary for George's veterans burial benefit, other VA purposes, and to initiate the  
13 processing of a George's death certificate.

14 7. Fred and I then went to the Abbey Funeral Chapel, the mortuary that is  
15 handling the cremation, installation of George's ashes, and related matters. Like the VA  
16 Decedent Affairs clerk, the proprietor of Abbey Funeral Chapel said that I needed to  
17 provide the information about George and sign the application for processing George's  
18 death certificate rather than Fred. She said this had to be done by the legal next of kin and  
19 that Fred cannot be recognized as George's husband for this purpose.

20 8. I was stressed, frustrated, and upset that I was already being prevented from  
21 carrying out George's wish that Fred be recognized as his husband and treated with the  
22 appropriate respect as such within just hours of George's passing. I am angry that  
23 Arizona law prevented me from honoring George's request that Fred should be recognized  
24 as his spouse in all possible ways.

25 9. Fred was terribly hurt and distressed to understand that George's death  
26 certificate will identify George as having "never married" and that he cannot be identified  
27 as George's surviving spouse on that document.  
28

1           10.     In the days since George’s death, Fred’s emotional state has been bleak. He  
2 is heartbroken, depressed, and urgently wants the official record of George’s life to  
3 recognize him as George’s lawfully married spouse during this awful time of grief and  
4 loss. Because this is so important to Fred, I have asked the staff at the Chapel and at the  
5 VA hospital to pause the processing of George’s death certificate in order for Fred to seek  
6 an order from this Court that George and Fred’s marriage is to be recognized under  
7 Arizona law and that the appropriate State officials should respect it for purposes of  
8 preparing George’s death certificate.

9           11.     In connection with asking me to be the personal representative of his estate,  
10 George expressed concern about what would happen to Fred after his death because he  
11 had supported Fred financially during their years together. His will provides that Fred  
12 will inherit the balance of his bank account and his personal property. But these funds  
13 will not be sufficient for Fred to pay the monthly mortgage on their home of \$724.92, or  
14 to otherwise support himself without additional income as George’s surviving spouse.

15           12.     If Fred is recognized as George’s surviving spouse, I will be able to assist  
16 him in applying to receive “Dependency and Indemnity Compensation” (DIC), which is a  
17 veterans benefit paid to eligible survivors of veterans whose death resulted from a service-  
18 related injury or disease. Because the VA determined that George’s cancer was 100%  
19 related to his exposure to Agent Orange in Vietnam, and because George was receiving  
20 compensation as a result, Fred should be eligible for DIC as his spouse. I also would help  
21 Fred apply to receive “Special Monthly Compensation” (SMC), which is additional  
22 compensation that can be paid to the surviving spouse of a veteran due to the spouse’s  
23 need of “aid and attendance” from another person. Fred will not be able to apply for these  
24 surviving spouse benefits without George’s death certificate or other documentation that  
25 George and Fred’s marriage is considered valid under the law of their state of residence,  
26 which is Arizona.

1 I make this declaration in support of the motion for court order requiring  
2 that my brother's marriage to his life partner of 45 years be respected under Arizona law  
3 to honor my brother's wish that I do all I can to ensure that his husband has the dignity,  
4 respect, security, and resources he needs now that my brother has passed on.  
5

6 I, Isabel Duff, declare under penalty of perjury that the foregoing is true and correct  
7 and that this declaration was completed and signed on the 2 day of September,  
8 2014, at Tucson, Arizona.

9   
10 Isabel Duff

**CERTIFICATE OF SERVICE**

I hereby certify that on September 2, 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:

Robert L. Ellman: robert.ellman@azag.gov

Kathleen P. Sweeney: kathleen.sweeney@azag.gov

Bryon Babione: BBabione@alliancedefendingfreedom.org

Jonathan Caleb Dalton: CDalton@alliancedefendingfreedom.org

James A Campbell: jcampbell@alliancedefendingfreedom.org

Kenneth J. Connelly: kconnelly@alliancedefendingfreedom.org

I hereby certify that on September 2, 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/ D. Freouf