

1 Jennifer C. Pizer (Admitted *pro hac vice*)
2 Carmina Ocampo (Admitted *pro hac vice*)
3 **LAMBDA LEGAL DEFENSE AND**
4 **EDUCATION FUND, INC.**
5 4221 Wilshire Blvd., Suite 280
6 Los Angeles, California 90010
7 Telephone: 213.382.7600
8 Facsimile: 213.351.6050
9 Email: jpizer@lambdalegal.org
10 cocampo@lambdalegal.org

11 Paul F. Eckstein (Bar No. 001822)
12 Daniel C. Barr (Bar No. 010149)
13 Kirstin T. Eidenbach (Bar No. 027341)
14 Barry G. Stratford (Bar No. 029923)
15 Alexis E. Danneman (Bar No. 030478)
16 **PERKINS COIE LLP**
17 2901 North Central Avenue, Suite 2000
18 Phoenix, Arizona 85012-2788
19 Telephone: 602.351.8000
20 Facsimile: 602.648.7000
21 Email: PEckstein@perkinscoie.com
22 DBarr@perkinscoie.com
23 KEidenbach@perkinscoie.com
24 BStratford@perkinscoie.com
25 ADanneman@perkinscoie.com
26 DocketPHX@perkinscoie.com

27 *Attorneys for Plaintiffs Nelda Majors, Karen*
28 *Bailey, David Larance, Kevin Patterson,*
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,

v.

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

No: 2:14-cv-00518-JWS

SUPPLEMENTAL
DECLARATION OF FREDERICK
"FRED" MCQUIRE IN SUPPORT
OF MOTION FOR TEMPORARY
RESTRAINING ORDER AND
PRELIMINARY INJUNCTION

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 Frederick "Fred" McQuire declares and states as follows:

8 1. I am a Plaintiff in this lawsuit and I reside in Green Valley, Arizona. I am
9 69 years old and will turn 70 on September 17, 2014. I have personal knowledge of the
10 matters stated in this declaration and could and would so testify if called as a witness. I
11 make this declaration to supplement my declaration of August 13, 2014 and in support of
12 my motions for a temporary restraining order and for a preliminary injunction.

13 2. I served in the U.S. Army and the U.S. Air Force, and am considered a
14 Vietnam-era veteran. I met George Martinez, the man who would become my husband, in
15 Tucson, Arizona in 1969. We soon became a couple and remained in a committed
16 relationship for 45 years.

17 3. George also served in the U.S. Air Force and was a Vietnam War veteran.
18 He then became the first Deputy Clerk of Division Two of the Arizona Court of Appeals
19 in 1976 and served that court for over 30 years. When the State of Arizona began offering
20 health insurance coverage for the domestic partners of state employees within the State's
21 group health plan for spouses and other family members of state employees, George
22 enrolled me for coverage in his United Healthcare plan as his domestic partner.

23 4. Three years ago George was diagnosed with prostate cancer. I took care of
24 him and visited him at the hospital when he was receiving radiation for the cancer. The
25 U.S. Department of Veterans Affairs ("VA") determined that his cancer was caused by
26 exposure to Agent Orange in Vietnam, and he received compensation as a fully disabled
27 veteran as a result.

28 5. In June 2014, George was diagnosed with Stage IV pancreatic cancer that
had spread to his liver. Doctors told us then that George only had months to live.

1 Because his condition was so serious, George and I traveled to California and got married
2 the following month. Although traveling to California was very difficult for both of us
3 due to George's illness and chemotherapy and my multiple health problems, our wedding
4 day still was the high point of my life.

5 6. My health is very poor. I suffer from chronic obstructive pulmonary
6 disease, vascular problems, and Parkinson's disease. The Parkinson's disease makes my
7 hands and body shake and has been worsening. I cannot type or read on a computer. I
8 also have chronic neck and back pain and have difficulty walking and lifting things. In
9 the past five years, I have been hospitalized repeatedly, sometimes for extended periods,
10 for pneumonia, vascular surgery, nerve surgery, and bladder surgery. I am scheduled for a
11 back operation next month. I receive my medical care at the VA hospital in Tucson.

12 7. I have also struggled for years with mental health issues including anxiety
13 and depression. George's diagnosis of terminal illness was a terrible shock. George and I
14 always thought that he would outlive me because he was younger and healthier. Over the
15 past several months, I have struggled to cope with the reality that I would probably have
16 to go on without George, and my worries and stress about how I would be able to support
17 myself without him made my depression and anxiety much worse.

18 8. Last Monday, August 25, 2014, George woke up, got up to make coffee, but
19 had no energy. He then fell and could not get back up. He was taken by ambulance to the
20 VA hospital. The doctors said he was extremely dehydrated and malnourished because
21 his liver was not functioning properly. This sudden change in George's condition caused
22 me to panic. It was terrible seeing him in pain and being unable to help him. The only
23 thing I could do was hold his hand and keep him company.

24 9. Once George was in the hospital and receiving treatment, he started to
25 recover. But then his condition worsened. George died in the early hours of Thursday,
26 August 28, 2014. George was my best friend and the center of my life. His death has left
27 me overwhelmed with sadness, emptiness, and depression. I am truly at a loss.
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10. Some hours after George's passing, I went with Isabel Duff, George's sister, to the VA's Decedent Affairs Office to complete paperwork that was necessary for the processing of George's burial benefits and related matters. Isabel and I explained to the Decedent Affairs clerk that I am George's husband and she is his sister, and that I wanted to fill out the paperwork concerning George. The clerk apologized to me and said that I could not be recognized as George's spouse, and that Isabel had to complete the papers work as his next-of-kin. I was told that I could sign the paperwork after Isabel, but that my marriage to George would not make any difference in the process.

11. Isabel and I then went to Abbey Funeral Chapel, the mortuary that had been selected to handle the arrangements related to George's cremation and installation of his ashes. Among the first matters we had to take care of there was the application for George's death certificate. The proprietor said that Isabel had to provide information about George and about herself because she is the legal next of kin. We explained that I am George's spouse and that I wanted to fulfill that official role for my husband. The proprietor told me that she would accept information about me if I wanted to provide it, but it would not matter in the process because I am not an "eligible" person to request George's death certificate or to be identified on it because our marriage is not recognized under Arizona law and I am not an "immediate family member" by blood.

12. Although I had tried to prepare myself for this kind of rejection, hearing those comments only hours after George's passing was devastating. George is my husband. It is more hurtful than I can describe that our government refuses to acknowledge that and is insisting on producing a death certificate for George that denies who he was in life and who he still is to me. There are no words for how I will feel if I am forced to accept an official last record of his life that identifies him as "never married" and has the space for a surviving spouse left blank. It would be a negation of our love, our lives together, and my grief.

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13. Despite all the years of coping with society's hostility and discrimination against us as gay men and the innumerable circumstances where we had to hide our relationship because we feared losing our jobs or violence or other things, George and I were able to legally marry and were happy and proud that we survived long enough to achieve that public validation of our relationship. I do not want that validation and my role erased from the official document that records the conclusion of my husband's life.

14. Because Arizona refuses to recognize my marriage to George, I am frightened and worried about how I will support myself or be able to live in our home now that George has passed. I am retired, unable to work, and have no assets. My only sources of income are my monthly Social Security check of \$1,197 and my monthly veterans disability check of \$130. George was always the higher wage earner between the two of us and he supported me financially. He received retirement payments through the state court, Social Security payments of \$1,454 per month, and veterans disability benefits of \$2,868 per month. The monthly mortgage payment for our home is \$724.92.

15. If Arizona recognized our marriage, I would be able to apply to Social Security as George's surviving spouse to increase my monthly pension payment to the level that he was receiving. I would also be able to apply to the VA for benefits as the surviving spouse of a fully disabled veteran.

16. If I cannot receive benefits as George's surviving spouse, I will not be able to afford to remain in our house. I feel desperate and angry knowing that Arizona's refusal to recognize our marriage is a legal barrier to me being eligible to pursue spousal benefits as George's husband.

17. It is especially painful, and even infuriating, that Arizona treats us with so little respect and concern when George worked for more than 30 years as a dedicated staff member of the Arizona Court of Appeals. He and I both served our country honorably in the military. George became disabled and lost his life as a result of his military service, and I continue to suffer my own serious health problems. All George and I have wanted is

1 the same courtesies and support that are provided to other married couples who have spent
2 a lifetime of work in service to their community, state, and country.
3

4 I, Frederick McQuire, declare under penalty of perjury that the foregoing is true
5 and correct and that this declaration was completed and signed on the 2 day of
6 September, 2014, at GREEN VALLEY, Arizona.
7

8 
9 Frederick McQuire

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