

FILED
U.S. DISTRICT COURT
EASTERN DISTRICT ARKANSAS

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS**

JUL 15 2013

**RITA AND PAM JERNIGAN; BECCA
AND TARA AUSTIN; AND RANDY AND
GARY EDDY-MCCAIN**

JAMES W. MCCORMACK, CLERK
By: *J. Brown*
DEP. CLERK

PLAINTIFFS

v.

4:13-CV-410

**LARRY CRANE, IN HIS OFFICIAL CAPACITY
AS CIRCUIT AND COUNTY CLERK FOR
PULASKI COUNTY, ARKANSAS;
GOVERNOR MIKE BEEBE, IN HIS OFFICIAL
CAPACITY AS GOVERNOR AND CHIEF
EXECUTIVE OFFICER FOR THE STATE OF
ARKANSAS; AND DUSTIN McDANIEL, IN
HIS OFFICIAL CAPACITY AS ATTORNEY
GENERAL FOR THE STATE OF ARKANSAS**

This case assigned to District Judge *Holmes*
and to Magistrate Judge *Kearney*

DEFENDANTS

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs, for their Complaint for Declaratory and Injunctive Relief, state:

I. NATURE OF THE ACTION

1. Plaintiffs bring this action to challenge the constitutionality of Arkansas's laws excluding same-gender couples from marriage and forbidding recognition of legitimate same-gender marriages entered into in other states. Arkansas Constitution, Amendment 83; Ark. Code Ann. § 9-11-208; and Ark. Code Ann. § 9-11-107(b).

2. Plaintiffs seek a declaration that Amendment 83 and the referenced statutes violate the right to equal protection and due process of law under the Fourteenth Amendment to the United States Constitution. Plaintiffs also seek an injunction prohibiting the State of Arkansas, and all political subdivisions thereof, from enforcing Amendment 83 or the referenced statutes. Declaratory relief is sought under

the United States Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, and Federal Rule of Civil Procedure 57. Injunctive relief is sought pursuant to Federal Rule of Civil Procedure 65.

II. PARTIES

A. Plaintiffs

3. Plaintiffs Becca and Tara Austin and Rita and Pam Jernigan are lesbian couples who wish to marry for the same reasons so many other couples get married—to publicly declare their love and commitment for each other before their family, friends and community, and to give one another the security and protections that only marriage provides.

4. Plaintiffs Becca and Tara Austin have been in a committed relationship for over nine (9) years. Becca and Tara are both employees at the University of Arkansas for Medical Sciences, where They have twins—a boy and a girl—who are four and a half (4½) years old. Tara is the biological mother of the children. Because Becca is not a biological parent to the children and cannot legally marry Tara, Becca is not considered a parent to the twins under Arkansas law. The fact that Becca and Tara Austin are not permitted to marry harms them in other material ways, including reducing family resources and stigmatizing the Austins and their children by denying them family social recognition and respect. When their children were born, Becca was denied family leave time to spend with the twins at home after they were born because she and Tara were not married and the children were not legally her dependents. Tara wanted to stay home after the children were born but had to return to work full time in order to have health insurance for her and the children. Becca could not carry Tara and the children

on a family health insurance plan because she and Tara were not (and could not *be*) married and the children were not her legal dependents.

5. Plaintiff Rita Jernigan retired after teaching math in the Little Rock School District for over twenty-eight (28) years. She participated in the Arkansas Teacher Retirement System (ATRS) while employed and currently receives retirement pay from ATRS. Amendment 83 to the Arkansas Constitution prohibits Rita's life partner, Pam, from receiving surviving spouse benefits under ATRS in the event of Rita's death.

6. Plaintiffs Randy and Gary Eddy-McCain are a gay couple who are already married under New York law. They have been in a committed relationship for twenty-one (21) years. They were married in 2012 in the State of New York, which recognizes same-sex marriage. A copy of Randy and Gary Eddy-McCain's New York State Marriage License is attached as **Exhibit 1**. Although Randy and Gary Eddy-McCain are legally married, they are treated as legal strangers in their home state of Arkansas.

7. Plaintiffs come from various walks of life and occupations—a nurse practitioner, an executive assistant, a retired schoolteacher, a minister, an artist, and the owner of a pet-sitting service. All of the Plaintiffs are homeowners and reside in Pulaski County, Arkansas. They are involved in their communities and have been in committed relationships with one another for many years. The situations faced by these couples are similar to those faced by thousands of same-sex couples in the State of Arkansas who are being denied the basic rights that are afforded by marriage. They have cared for one another, supported each other, sacrificed for each other, and made plans for the future with each other. They have gone through hardships, illness, joy and success during the course of their relationships. As with other couples that have made a lifetime

commitment to each other, the Plaintiff couples are spouses in every sense, except that Arkansas law says they cannot marry and, even if they are legally married under the laws of another state, Arkansas law says that their marriages are not honored here.

8. On June 26, 2013, the United States Supreme Court affirmed the decision of the Second Circuit Court of Appeals in *United States v. Windsor*, 133 S. Ct. 2675, Case No. 12-307, Slip Op. (June 26, 2013), and invalidated Section 2 of the federal “Defense of Marriage Act” (DOMA), where Congress defined “marriage” for purposes of all federal laws to only include marriage of opposite-sex couples. The Supreme Court held that this law served no legitimate purpose other than targeting a certain class of people for unlawful discrimination based on sexual preference. The Supreme Court found that Section 2 of DOMA violated the Equal Protection and Due Process clauses of the Fifth Amendment to the United States Constitution.¹

9. In *Windsor*, the Supreme Court stated “State laws defining and regulating marriage, of course, must respect the constitutional rights of persons.” *Windsor*, Slip Op. at 18. As authority for this statement, the Court cited the 1967 case of *Loving v. Virginia*, 388 U.S. 1, where the Court held that it was unconstitutional for states to prohibit individuals of different races from marrying. *Loving* also found that “the freedom to marry has long been recognized as one of the vital personal rights essential to the

¹ *Windsor* was analyzed under the Equal Protection and Due Process clauses of the Fifth Amendment to the United States Constitution because it involved actions of the federal government. These same Constitutional protections were extended to actions of the States by the Fourteenth Amendment to the U.S. Constitution. This case involves state action rather than federal action, so references are to the Fourteenth Amendment rather than the Fifth Amendment. The analysis, however, is the same. See *Buckley v. Valeo*, 424 U.S. 1, 93 (1976) (“Equal protection analysis in the Fifth Amendment area is the same as that under the Fourteenth Amendment.”); *Town of Tonawanda v. Lyon*, 181 U.S. 389, 21 S. Ct. 609, 45 L. Ed. 908 (1901) (“The purpose of [the Fourteenth] Amendment is to extend to the citizens and residents of the states the same protection against arbitrary state legislation affecting life, liberty, and property, as is afforded by the 5th Amendment against similar legislation by Congress.”)

orderly pursuit of happiness by free men.” *Loving*, 388 U.S. at 12. In *Windsor*, the Court echoed the same principles set forth in *Loving* forty-six (46) years earlier, finding that such discrimination “demeans the couple, whose moral and sexual choices the Constitution protects.” *Windsor*, Slip Op. at 23 (citing *Lawrence v. Texas*, 539 U.S. 558 (2003)). The Court went on to state that the discriminatory treatment “humiliates tens of thousands of children now being raised by same-sex couples” and that “the law in question makes it even more difficult for the children to understand the integrity and closeness of their own family and its concord with other families in their community and in their daily lives.” *Id.*

10. Although *Windsor* invalidated only federal law refusing to recognize legitimate same-sex marriages performed in states where such marriages are lawful, the reasoning in *Windsor* is equally applicable to Arkansas’s refusal to allow same-sex marriages and refusal to recognize same-sex marriages performed in other states. Even Justice Scalia, in his vigorous dissent in *Windsor* stated that “the view that *this* Court will take of state prohibition of same-sex marriage is indicated beyond mistaking by today’s opinion.” *Id.* Scalia, J., dissent, at 22. Justice Scalia even stated: “How easy it is, indeed how inevitable, to reach the same conclusion with regard to state laws denying same-sex couples marital status.” *Id.* at 23.

11. In view of the *Windsor* decision, the Austins and the Jernigans applied for marriage licenses with the Pulaski County Circuit and County Clerk on July 11, 2013. The Pulaski County Clerk rejected their applications on the basis of Amendment 83 and Ark. Code Ann. §9-11-208. The Austins’ and Jernigans’ marriage applications are attached as **Exhibits 2 and 3**. The Pulaski County Circuit Clerk also wrote letters to the

Austins and the Jernigans in connection with their rejected marriage applications. These letters are attached as **Exhibits 4 through 7**.

12. The Jernigans intend to marry in November 2013 in the State of Washington, where same-sex marriage is legal. Because the State of Arkansas will not allow them to marry, they must incur expense and inconvenience in traveling to another state to marry. Even after they marry, Arkansas will not recognize their marriage as legal. Rita Jernigan has already been told by the ATRS that even after the planned Washington marriage, ATRS will not allow Rita to name Pam as her surviving spouse on her ATRS retirement plan.

13. Because the State of Arkansas refuses to allow Plaintiffs to marry, or to have their legitimate marriages in other states recognized in Arkansas, Plaintiffs are being denied the right to equal protection of the law. Arkansas law confers countless benefits and privileges that apply only to married couples. Examples include: Ark. Code Ann. §§ 20-9-602 (allowing spouse or parent to consent to medical treatment for spouse and child); 28-6-204 (preference to spouse or person related by blood in guardianship proceedings); 16-61-102 (right to prosecute and defend civil actions in spouse's name), 24-7-710 (teacher retirement benefits); 24-4-406 (public employee benefits before retirement); 11-9-812 (workers' compensation benefits); 23-83-108 (group life insurance policies and annuities); 23-79-128 (life insurance); Arkansas Probate Code (Ark. Code Ann. §28-1-101 *et seq.* (rights to dower/curtesy for widow/widower of deceased spouse, rights to certain statutory allowances for surviving spouse, homestead rights, right to inherit from deceased spouse, right of children to inherit from legal parent); and Arkansas Rule of Evidence 504 (Husband-Wife testimonial privilege). Married couples

may also take advantage of the right to file joint state and federal tax returns and may receive numerous other tax benefits available to married couples and their families. These are just a few of the many of sections of the Arkansas Code that draw distinctions in treatment based on whether one is a “spouse.”

B. Defendants

14. Defendant Larry Crane is sued in his official capacity as Circuit/County Clerk for Pulaski County, Arkansas. Arkansas Code Ann. § 9-11-203 requires that the County Clerk issue a marriage license if application is made and the requirements of the Code section are met. The Austins and the Jernigans applied for marriage licenses on July 11, 2013, but Mr. Crane's office refused to issue them marriage licenses because Ark. Code Ann. § 9-11-208 and Amendment 83 prohibit the Clerk from issuing a marriage license to persons of the same gender.

15. Defendant Mike Beebe is Governor of the state of Arkansas and is sued in that capacity. Under Article 6, Section 2 of the Arkansas Constitution, the “supreme executive power” of the State of Arkansas is vested in the Governor. He thus is responsible for assuring that the laws of the State, including the provisions of Amendment 83 and the statutes challenged herein, are administered.

16. Defendant Dustin McDaniel is the Attorney General of the State of Arkansas and is sued in that capacity. His office is created by Article 6, Section 1 of the Arkansas Constitution. His duties include both enforcing the law and advising officials within the State of the requirements of the law, including Amendment 83 and the challenged statutes. He is specifically authorized by Arkansas law to “maintain and defend the interests of the State in matters before . . . federal courts” and he is the

“legal representative of all state officers, boards, and commissioners in all litigation where the interests of the state are involved.” Ark. Code Ann. § 25-16-703.

III. JURISDICTION AND VENUE

17. Amendment 83 and the challenged statutes purport to be valid state laws existing under color of state law. By implementing and enforcing the unconstitutional Amendment and statutes, the individual defendants have deprived Plaintiffs of rights guaranteed by the United States Constitution, as more specifically described below, thereby violating and threatening to violate 42 U.S.C. § 1983.

18. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1331 as this is a civil action arising under the United States Constitution and the laws of the United States, namely the Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983.

19. Venue is proper under 28 U.S.C. §1391(b) in that the Federal Judicial District for the Eastern District of Arkansas is a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred. Venue is also proper under 28 U.S.C. § 1391(a) because one or more of the named Defendants reside in the District.

IV. CLAIMS FOR RELIEF

A. COUNT I: Deprivation of the Fundamental Right to Marry in Violation of the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

20. The right to marry is a fundamental right.

21. “The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men.” *Loving v.*

Virginia, 388 U.S. 1, 12 (1967). Marriage has further been described by the United States Supreme Court as one of the “basic civil rights of man” and as a “fundamental freedom.” *Id.* A law is most likely to be held unconstitutional when it “inhibits personal relationships.” *Lawrence v. Texas*, 539 U.S. 558, 580 (2003)(O’Connor, J., concurring).

22. “Liberty,” as referred to in the Fourteenth Amendment, includes the right of an individual to marry. *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923). “[T]his liberty may not be interfered with, under the guise of protecting the public interest,” by legislation lacking a sufficient rationale. *Id.* at 399–400. The Supreme Court has specifically found that the right to marry is “one of the liberties protected by the Due Process Clause of the Fourteenth Amendment.” *Cleveland Board of Education v. Laflour*, 414 U.S. 632, 639–40 (1974). *See also Windsor*, Slip Op. at 18 (recognizing marriage as conferring a “dignity and status of immense import” and “an essential part of the liberty protected by” the U.S. Constitution).

23. The sponsor of Amendment 83 was the Arkansas Marriage Amendment Committee. The sponsor of this Committee, Jerry Cox, who is also the head of a Christian organization known as the “Family Council,” spoke out as to the purpose of the Amendment prior to its passage. He stated that the purpose of the Amendment was to preserve marriage and families, arguing that locations in which a child has both a mother and a father are areas in which crime is lower and education is better, while locations in which single-parent households were common are higher-crime areas. Laura Kellams, *Foes Use Family, Fairness in Amendment 3 Debate: It Limits Marriage to Union of Man, Woman*, ARK. DEMOCRAT-GAZETTE, Sep. 5, 2004, at 1A. Mr. Cox did not explain how a comparison of crime rates in “single parent neighborhoods” and

“mother/father neighborhoods” relates to crime rates in “same-sex parent neighborhoods.” Indeed, it is unlikely that there are any statistics on crime rates in “same-sex parent neighborhoods”—if such neighborhoods even exist.

24. There is no credible evidence that banning same-sex marriage serves in any way to “preserve marriage and families.” As the American Psychological Association (APA) stated in the *amicus* brief filed with the Supreme Court in *Windsor*:

[s]cientific evidence strongly supports the conclusion that homosexuality is a normal expression of human sexuality; that most gay, lesbian, and bisexual adults do not experience their sexual orientation as a choice; that gay and lesbian people form stable, committed relationships that are equivalent to heterosexual relationships in essential respects; and that same-sex couples are no less fit than heterosexual parents to raise children and their children are no less psychologically healthy and well-adjusted than children of heterosexual parents. In short, the claim that legal recognition of marriage for same-sex couples undermines the institution of marriage and harms their children is inconsistent with scientific evidence.

Windsor, Case No. 12-307, Brief of American Psychological Association, at 4–5 (Mar. 1, 2013). The APA is the world’s largest professional association of psychologists. The American Medical Association, the American Academy of Pediatrics, the American Psychiatric Association, and the National Association of Social Workers joined in the APA *amici curiae* brief in *Windsor*. The American Medical Association is the Nation’s largest organization of doctors and medical students in the United States. The American Academy of Pediatrics is the largest professional organization of pediatricians in the United States. The American Psychiatric Association is the Nation’s largest organization of physicians specializing in psychiatry. And the National Association of Social Workers is the Nation’s largest association of professional social workers.

25. Amendment 83 and the challenged statutes cannot survive rational basis review, much less the “strict scrutiny” review accorded to laws affecting fundamental rights, where such laws must be narrowly tailored to specific achieve the purpose behind the law.

26. The relationship between preservation of marriage and excluding same-sex couples is tenuous at best. Legalization of same-sex marriage has not negatively affected heterosexual marriage rates in the states that have legalized same-sex marriage or in other countries where it is legal. Banning such marriages is not rationally related to the interest of protecting marriage.

27. The relationship between “preserving families” appears to relate to procreation. But this is illogical because procreation and marriage do not necessarily go hand in hand. A requirement of procreation is not a prerequisite to marriage and many heterosexual couples who marry choose not to have children. On the other hand, pregnancies between couples who are unwed are commonplace. Therefore, because having children is not presumed for couples who marry and because marriage is not necessary for couples to produce children, the relationship between banning same-sex marriage and the interest of promoting procreation is not rational.

28. The purported purposes of Amendment 83 are, in reality, merely a ruse to do what was forbidden by the Supreme Court in *Windsor*—to carry out a “desire to harm a politically unpopular group.” *Windsor*, Slip Op. at 20.

29. Arkansas law denies Plaintiffs and other same-sex couples the fundamental right to marry by denying them access to the state-recognized institution of marriage and refusing to recognize the marriages they entered into in other states.

30. The State can demonstrate no important interest to justify denying the Plaintiff couples this fundamental right. Indeed, it cannot demonstrate that the denial is tailored to any legitimate interest at all.

31. The State's prohibition of marriage between persons of the same sex and its refusal to recognize marriages entered into by same-sex couples in other jurisdictions violates the Due Process Clause.

32. Defendants, acting under color of state law, are depriving Plaintiffs of rights secured by the Due Process Clause of the Fourteenth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983.

B. COUNT II: Discrimination on the Basis of Sexual Orientation in Violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

33. Plaintiffs incorporate by reference all preceding paragraphs of this Complaint as if set forth word for word herein.

34. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that "no State shall...deny to any person within its jurisdiction the equal protection of the laws."

35. By denying the Plaintiff couples and other lesbian and gay couples the ability to marry and to have their out-of-state marriages recognized, the State, through the actions of Defendants, discriminates against gay and lesbian couples on the basis of their sexual orientation. It denies them significant legal protections. It "degrade[s] and demean[s] them by instruct[ing]...all persons with whom same-sex couples interact, including their own children," that their relationship is "less worthy" than the relationships of others. *Windsor*, Slip Op. at 23.

36. Same-sex couples and opposite sex couples are similarly situated for purposes of marriage.

37. Classifications based on sexual orientation demand heightened scrutiny for a number of reasons. These include:

- a. Lesbians and gay men are members of a discrete and insular minority that has long suffered a history of discrimination in Arkansas and in the United States;
- b. Sexual orientation bears no relation to an individual's ability to perform or contribute to society;
- c. Sexual orientation is a core, defining trait that is so fundamental to one's identity that a person may not legitimately be required to abandon it (even if that were possible) as a condition of equal treatment. Sexual orientation is not something over which the vast majority of gay and lesbian people feel they have any choice. "[C]linical interventions that purport to change sexual orientation from homosexual to heterosexual...have not been shown to be effective or safe." *Windsor*, Case No. 12-307, Brief of American Psychological Association, at 10. "In 2009, a review of the scientific literature by an APA task force concluded that "sexual orientation change efforts are unlikely to succeed and indeed can be harmful." *Id.* (citations omitted). No mainstream professional mental health organization approves interventions that attempt to change sexual identity. In fact, the American Psychological Association and the

American Psychiatric Association have both issued policy statements cautioning professionals and the public about these treatments.

d. Prejudice against lesbians and gay men continues to seriously curtail the operation of the political process and prevents this group from obtaining redress through legislative means. The group lacks statutory protection under the law against discrimination in employment, public accommodations, and housing at the federal level and in more than half the states, including Arkansas. Lesbians and gay men have far fewer civil rights protections at the state and federal level than women and racial minorities had when sex and race classifications were declared to be suspect or quasi-suspect. They have been stripped of the right to marry through constitutional amendments or other laws in thirty (30) states and have been targeted through the voter initiative process more than any other group.

37. For the reasons set forth above, classification based on sexual orientation should be reviewed under heightened scrutiny. But the classification involved in this case cannot survive under any level of Constitutional scrutiny. The exclusion of same-sex couples from marriage is not related to *any* legitimate governmental interest. All this classification does is disparage and injure lesbian and gay couples and their children.

38. The State's prohibition of marriage for same-sex couples and its refusal to recognize the marriages of same-sex couples entered into elsewhere violates the Equal Protection Clause.

39. Defendants, acting under color of state law, are depriving Plaintiffs of rights secured by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, in violation of 42 U.S.C. § 1983.

C. COUNT III: Discrimination on the Basis of Gender in Violation of the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

40. Plaintiffs incorporate by reference all of the preceding paragraphs of this Complaint as if set forth word for word herein.

41. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that “no State shall . . . deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. XIV, § 1.

42. Arkansas Code Ann. § 9-11-101 provides that marriage is a civil contract. But under the authority of Amendment 83’s definition of marriage as consisting “only of the union of one man and one woman,” numerous Arkansas statutes were revised after Amendment 83 was enacted in 2004. Ark. Code Ann. § 9-11-109 restates the Amendment 83 definition of marriage as “between a man and a woman” and declares all same-sex marriages to be void. Ark. Code Ann. §9-11-17 provides for recognition of marriages from other states or countries, but excludes marriages from persons of the same sex. Ark. Code Ann. §9-11-208 provides that the State only recognizes the marital union of “man and woman” and forbids the Clerk from issuing a marriage license to same-sex couples.

43. By defining marriage as only between a man and a woman, the State of Arkansas discriminates on the basis of sex. For example, Becca Austin is not legally

permitted to marry Tara Austin because Tara is female. But if Tara was male, the couple would be free to marry.

44. In addition, Amendment 83 and the various statutes enacted pursuant to its authority preclude the recognition of legitimate marriages performed under the laws of other states or countries. For example, Ark. Code Ann. § 9-11-107(b) specifically states that the statute, which otherwise recognizes all legitimate marriages contracts formed in foreign countries or other states, does not apply to marriages “between persons of the same sex.”

45. The New York marriage of Randy and Gary Eddy-McCain, for example, is denied recognition solely because they are both men.

46. The Supreme Court has made it clear that perpetuation of traditional gender roles is not a legitimate governmental interest.

47. Given that the law no longer recognizes legal distinctions between the duties of husbands and wives, there is no basis for these sex-based eligibility requirements for marriage.

48. In 2013, Defendants can demonstrate no exceedingly persuasive justification for this discrimination based on sex.

49. Arkansas laws prohibiting marriage and recognition of marriage for same-sex couples thus violates the Equal Protection Clause.

50. Defendants, acting under color of state law, are depriving plaintiffs of rights secured by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution in violation of 42 U.S.C. § 1983.

V. PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

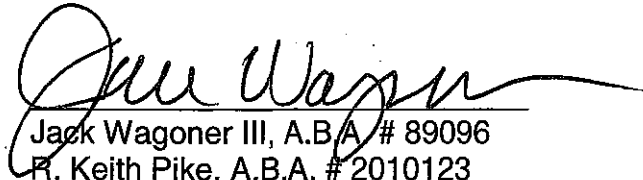
1. Enter a declaratory judgment that Amendment 83 to Arkansas' Constitution and all other Arkansas statutes that prevent same-sex couples from marrying, or from having their legitimate marriages entered into in other states recognized in Arkansas, violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;
2. Enter a declaratory judgment that Amendment 83 to Arkansas' Constitution and all other Arkansas statutes that prevent same-sex couples from marrying, or from having their legitimate marriages entered into in other states recognized in Arkansas, violate the Due Process Clause of the Fourteenth Amendment to the United States Constitution;
3. Enter a permanent injunction enjoining defendants from denying Plaintiffs and all other same-sex couples the right to marry in Arkansas and directing the Defendants to recognize marriages validly entered into by the Eddy-McCains and other same-sex couples outside of Arkansas. This should include mandatory injunctive relief requiring Defendant Mike Beebe, as the chief executive officer of the State of Arkansas, to instruct all state counties and their employees and agents accordingly;
4. Award costs of this suit, including reasonable attorneys' fees under 42 U.S.C. § 1988; and
5. Order all other appropriate relief to which it determines Plaintiffs are entitled.

Dated: July 15, 2013

Respectfully submitted,

WAGONER LAW FIRM, P.A.

By:

A handwritten signature in black ink, appearing to read "Jack Wagoner", with a long, sweeping horizontal line extending to the right.

Jack Wagoner III, A.B.A. # 89096

R. Keith Pike, A.B.A. # 2010123

Angela Mann, A.B.A. # 2011225

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Email: angela@wagonerlawfirm.com

M-2012-4

THE CITY OF NEW YORK
OFFICE OF THE CITY CLERK
MARRIAGE LICENSE BUREAU

License Number

M-2012-19952

Certificate of Marriage Registration

This Is To Certify That RANDALL A MCCAIN JR New Surname : EDDY-MCCAIN

residing at 6012 Buffalo River Road , North Little Rock, AR 72116, United States

born on 06/07/1956 at Walnut Ridge Arkansas United States

and GARY DEAN EDDY New Surname : EDDY-MCCAIN

residing at 6012 Buffalo River Road , North Little Rock, AR 72116, United States

born on 08/04/1954 at Rapid City South Dakota United States

Were Married

on 08/09/2012 at CENTRAL PARK
By JAMIE BAKKER at RAMBLE
NEW YORK, NY
United States

as shown by the duly registered license and certificate of marriage of said persons on file in this office.

CERTIFIED THIS DATE AT THE CITY CLERK'S OFFICE

Manhattan

N.Y.

August 10, 12
20

PLEASE NOTE: Facsimile Signature
and seal are printed pursuant
to Section 11-A, Domestic
Relations Law of New York.



Michael McSweeney
Michael McSweeney
City Clerk of the City of New York

PLAINTIFF'S
EXHIBIT
1

CET-F

M0038819

Groom

Please Print

Bride

Full Name: Tara Lynn AustinAddress: 2110 S. SummitLittle Rock AR 72202 PulaskiCity State Zip County
Phone: 501-416-0786SSN: [REDACTED] DOB: 6-10-76What State where you born in: AR Or Country —

(Genealogy Optional)

Father's Name: Bill Austin

(Genealogy Optional)

Mother's First and Maiden Name: Deborah WilliamsonType of ID: DL ☒, ID ☐, Military ID ☐, Passport ☐, Other ☐What State Issued ID: AR ☒, Other ☐**Bride**

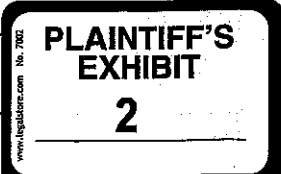
Please Print

Full Name: Becca Carol Carle AustinIs the Last Name above your Maiden Name? Yes ☐If no, what is your Maiden Name: CarleAddress Same as Above, Yes ☒Address: —City State Zip County
Phone: 501-416-5997SSN: [REDACTED] DOB: 10-10-80What State where you born in: AR Or Country —

(Genealogy Optional)

Father's Name: Kenneth Carle

(Genealogy Optional)

Mother's First and Maiden Name: Martha HamptonType of ID: DL ☒, ID ☐, Military ID ☐, Passport ☐, Other ☐What State Issued ID: AR ☒, Other ☐

Groom

Please Print

Bride

Full Name: Rita Jo JerniganAddress: 12 Oakwood Rd.Little Rock AR 72202 Pulaski
City State Zip CountyPhone: 501-920-1940SSN: [REDACTED] DOB: 2-11-53What State where you born in: Arkansas Or Country (Genealogy Optional) Father's Name: Marvin Ray Jernigan(Genealogy Optional) Mother's First and Maiden Name: Monica BrownType of ID: DL ☒, ID ☐, Military ID ☐, Passport ☐, Other ☐What State Issued ID: AR ☒, Other ☐**Bride**

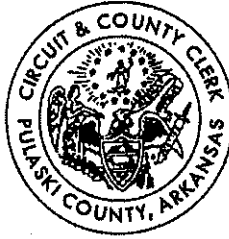
Please Print

Full Name: PAMELA LEE JERNIGANIs the Last Name above your Maiden Name? Yes NoIf no, what is your Maiden Name: PAMELA LEE LANGFORDAddress Same as Above, Yes ☒Address: 12 OAKWOOD RD.LITTLE ROCK AR 72202 PULASKI
City State Zip CountyPhone: 501-454-3500SSN: [REDACTED] DOB: 11/21/59What State where you born in: PENNSYLVANIA Or Country (Genealogy Optional) Father's Name: LARRY K. LANGFORD(Genealogy Optional) Mother's First and Maiden Name: VIRGINIA HOFFMANType of ID: DL ☒, ID ☐, Military ID ☐, Passport ☐, Other ☐What State Issued ID: AR ☒, Other ☐PLAINTIFF'S
EXHIBIT

3

LARRY CRANE
PULASKI CIRCUIT/COUNTY CLERK

401 WEST MARKHAM STREET, SUITE 100
LITTLE ROCK, ARKANSAS 72201



July 10, 2013

Tara Lynn Austin
2110 S. Summit
Little Rock, AR 72202

Re: Notice of Intent to Wed Application

Dear Miss Austin:

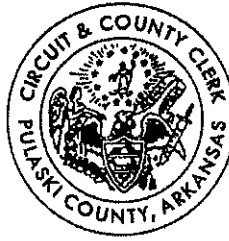
Thank you for visiting our office. With regard to the Notice of Intent to Wed Application you presented, we regret to inform you that, pursuant to the provisions of Amendment 83 to the Arkansas Constitution, and Arkansas Code Annotated §9-11-203 (a), our office is currently not authorized to issue a marriage license to you.

Sincerely,

Larry Crane
Pulaski County Clerk

LARRY CRANE
PULASKI CIRCUIT/COUNTY CLERK

401 WEST MARKHAM STREET, SUITE 100
LITTLE ROCK, ARKANSAS 72201



July 10, 2013

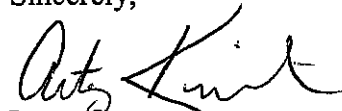
Becca Carol Carle Austin
2110 S. Summit
Little Rock, AR 72202

Re: Notice of Intent to Wed Application

Dear Miss Austin:

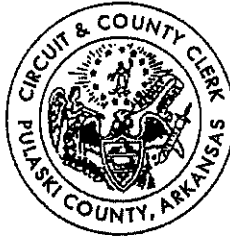
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Sincerely,


Larry Crane
Pulaski County Clerk

LARRY CRANE
PULASKI CIRCUIT/COUNTY CLERK

401 WEST MARKHAM STREET, SUITE 100
LITTLE ROCK, ARKANSAS 72201



July 10, 2013

Rita Jo Jernigan
12 Oakwood Rd
Little Rock, AR 72202

Re: Notice of Intent to Wed Application

Dear Miss Jernigan:

Thank you for visiting our office. With regard to the Notice of Intent to Wed Application you presented, we regret to inform you that, pursuant to the provisions of Amendment 83 to the Arkansas Constitution, and Arkansas Code Annotated §9-11-203 (a), our office is currently not authorized to issue a marriage license to you.

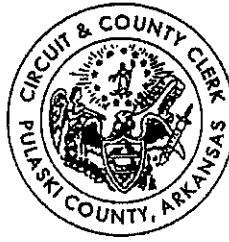
Sincerely,



Larry Crane
Pulaski County Clerk

LARRY CRANE
PULASKI CIRCUIT/COUNTY CLERK

401 WEST MARKHAM STREET, SUITE 100
LITTLE ROCK, ARKANSAS 72201



July 10, 2013

Pamela Lee Jernigan
12 Oakwood Rd
Little Rock, AR 72202

Re: Notice of Intent to Wed Application

Dear Miss Jernigan:

Thank you for visiting our office. With regard to the Notice of Intent to Wed Application you presented, we regret to inform you that, pursuant to the provisions of Amendment 83 to the Arkansas Constitution, and Arkansas Code Annotated §9-11-203 (a), our office is currently not authorized to issue a marriage license to you.

Sincerely,


Larry Crane
Pulaski County Clerk