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COMMONWEALTH COURT  
OF PENNSYLVANIA

2013 DEC 11

**NOTICE TO PLEAD:**

Petitioners: You are hereby notified to plead to the enclosed Preliminary Objections within 30 days from service hereof or a judgment may be entered against you.

  
\_\_\_\_\_  
William H. Lamb  
*Attorneys for Respondents  
Corbett and Wolf*

**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

SASHA BALLEEN, *et al.*,

Petitioners

v.

No. 481 M.D. 2013

THOMAS W. CORBETT, JR.,  
Governor of the Commonwealth of  
Pennsylvania; KATHLEEN KANE,  
Attorney General of the Commonwealth of  
Pennsylvania; and MICHAEL WOLF,  
Secretary of Health of the Commonwealth  
of Pennsylvania,

Respondents.

**PRELIMINARY OBJECTIONS OF RESPONDENTS CORBETT AND  
WOLF TO THE AMENDED PETITION FOR REVIEW**

AND NOW come Respondents, Governor Thomas W. Corbett, Jr., and Secretary of Health Michael Wolf (hereinafter "Respondents"), by and through their undersigned counsel, to preliminarily object to the Amended Petition for Review filed by Petitioners. In support of their preliminary objections, Respondents state as follows:

### **BACKGROUND**

1. On September 25, 2013, the initial petitioners filed with this Honorable Court a Petition for Review ("Initial Petition").

2. These initial petitioners were 42 individuals who alleged that they were the same-sex spouse of another identified initial petitioner.

3. On November 8, 2013, after Respondents filed Preliminary Objections to the Initial Petition, 56 individuals ("Petitioners") filed with this Honorable Court an Amended Petition for Review ("Amended Petition").<sup>1</sup> A true and correct copy of the Amended Petition is attached hereto as Exhibit "A".

4. Petitioners are 56 individuals who allege that they are the same-sex spouse of another identified Petitioner. *See* Amended Petition ¶¶ 10-37.

5. Each Petitioner alleges that he or she was issued a marriage license by the Clerk of the Orphans' Court of Montgomery County ("Clerk") and had

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<sup>1</sup> Fourteen individuals were included in the Amended Petition who were not parties to the Initial Petition.

marriage ceremonies performed based on those licenses. *See* Amended Petition ¶¶ 8, 60.

6. Petitioners allege that the validity of the marriages that were performed and certified under the marriage licenses issued by the Clerk are in substantial doubt because of the following:

- (a) The Marriage Law (i) defines “marriage” as “[a] civil contract by which one man and one woman take each other for husband and wife,” 23 Pa.C.S. § 1102, and (ii) declares “the strong and longstanding public policy of [the] Commonwealth [to be] that marriage shall be between one man and one woman”, 23 Pa.C.S. § 1704;
- (b) In *Department of Health v. Hanes*, No. 379 M.D. 2013 (Pa. Cmwlth.), the Department of Health (headed by the Secretary of Health, a respondent in this action) initiated an action in mandamus against the Clerk based on his issuance of marriage licenses to same-sex couples in contravention of the Marriage Law; and
- (c) This Court on September 12, 2013, entered judgment in favor of the Department of Health and issued a writ of mandamus (i) directing the Clerk to comply with the Marriage Law, and (ii) to

cease and desist from issuing marriage licenses to, and accepting marriage certificates from, same-sex couples. *See Dep't of Health v. Hanes*, 2013 Pa. Commw. LEXIS 392 (per Pellegrini, P.J.), *appeal pending*, No. 77 MAP 2013.

*See* Amended Petition ¶¶ 62-65, 96-99.

7. Petitioners claim in their Amended Petition that 23 Pa.C.S. §§ 1102 and 1704 are unconstitutional because they violate their constitutional right to be married under Pennsylvania law and to be recognized as married under the laws of Pennsylvania.

8. Specifically, Petitioners claim that the Marriage Law provisions violate Article I, Sections 1 and 28, of the Constitution of Pennsylvania (*see* Amended Petition Counts II, III and V), and the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution (*see* Amended Petition Counts I and IV).

9. In Count VI, Petitioners seek a declaration under 23 Pa.C.S. § 3306 that the marriages performed and certified under the marriage licenses issued to them by the Clerk are legally valid under Pennsylvania law.

**FIRST PRELIMINARY OBJECTION – THE GOVERNOR IS AN  
IMPROPER PARTY**

10. Petitioners have named as Respondents in this action the Governor, the Attorney General, and the Secretary of Health – each solely in his or her official capacity.

11. The Governor is not a proper party because the executive's interests are fully represented in this case by the Secretary of Health, who is a named respondent.

12. Where a public official having executive powers and duties respecting a statute is a party to an action challenging the constitutionality of the statute, the participation of that public official alone is sufficient to represent the executive interest. *Leonard v. Thornburgh*, 467 A.2d 104, 105 (Pa. Cmwlth. 1983) (*en banc*), *rev'd on other grounds*, 489 A.2d 1349 (Pa. 1985).

13. It is both “more efficient and expeditious to avoid unnecessary duplication” in including as respondents both the Governor and a subordinate official who is responsible to administer and enforce the law at issue; it is simply not necessary for a just disposition of a case to include the Governor as a party where a subordinate official represents the same executive interests. *Id.*

14. In short, the party having the legally recognized interest in defending the constitutionality of a statute “belongs to the government official who

implements the law.” *Allegheny Sportsmen’s League v. Ridge*, 790 A.2d 350, 355 (Pa. Cmwlth. 2002).

15. The Secretary of Health fully represents the executive interests in defending the constitutionality of the Marriage Law provisions at issue against the claims that Petitioners have made in this case.

16. As President Judge Pellegrini described in *Dep’t of Health v. Hanes*:

Section 2104(c) of [T]he Administrative Code of 1929 [71 P.S. § 534(c)] empowers the Department [of Health] “[t]o see that laws requiring the registration of ... marriages ... are uniformly and thoroughly enforced throughout the State, and prompt returns of such registrations made to the department.” Thus, the General Assembly has specifically conferred upon the Department the duty to ensure the uniform and thorough enforcement of all provisions of the Marriage Law, including Section 1102, defining marriage as “[a] civil contract by which one man and one woman take each other for husband and wife,” and Section 1704, which makes same-sex marriages entered into in foreign jurisdictions void within the Commonwealth. 23 Pa.C.S. §§ 1102, 1704. In addition, the General Assembly has empowered the Department to enforce Section 1301(a), which prohibits persons from being joined in marriage until a license is obtained, and Section 1302, which requires a written and verified application by both parties before a license is issued requiring the disclosure [of] “[a]ny other facts necessary to determine whether legal impediment to the proposed marriage exists.” 23 Pa.C.S. §§ 1301(a), 1302(a), (b)(6). Further, Section 1104 requires that “[m]arriage licenses ... shall be uniform throughout this Commonwealth as prescribed by the department...,” in a form that states, under Section 1310, that “[y]ou are hereby authorized to join together in holy state of matrimony, according to the laws of the Commonwealth of Pennsylvania, (name) and (name)...” 23 Pa.C.S. §§ 1104, 1310. Finally, the Department has the duty to uniformly enforce the provisions of Section 1307, which state that “[t]he marriage license shall be issued if it appears from properly completed applications on

behalf of each of the parties to the proposed marriage that there is no legal objection to the marriage....” 23 Pa.C.S. § 1307.

2013 Pa. Commw. LEXIS 392, \*29-30 (footnotes omitted).

17. All of the claims that Petitioners have made directly implicate the statutory responsibilities and executive interests of the Secretary of Health as head of the Department of Health.

18. Because the executive interests are fully and adequately represented in this case by the Secretary of Health, and the Governor objects to his unnecessary involvement as a party, the Governor is not a proper respondent in this action and should be dismissed.

WHEREFORE, Governor Corbett respectfully requests this Honorable Court to sustain his preliminary objections and dismiss him as a party, with prejudice.

**SECOND PRELIMINARY OBJECTION**  
**- DEMURRER TO COUNT III**  
**(Pa. Const. art. I, § 28)**

19. Petitioners claim that the Marriage Law provisions violate Article I, § 28, of the Pennsylvania Constitution because there is no impediment to Petitioners being married to one another, other than their sex. Petitioners contend this impediment denies them equality of rights under the law based on their gender.

20. A statute is presumed to be constitutional and will not be adjudged unconstitutional “unless it clearly, palpably and plainly violates the Constitution.”

*Pennsylvanians Against Gambling Expansion Fund v. Commonwealth*, 877 A.2d 383, 393 (Pa. 2005) (“PAGE”); *Nixon v. Dep’t of Pub. Welfare*, 839 A.2d 277, 286 (Pa. 2003). There is a very heavy burden of persuasion upon one who attacks the constitutionality of the statute to demonstrate that the statute in question plainly violates the Constitution. *Commonwealth v. Barud*, 681 A.2d 162, 165 (Pa. 1996). All doubts and inferences are to be resolved in favor of finding a statute to be constitutional. *PAGE*, 877 A.2d 393; *see also Commonwealth v. Hendrickson*, 724 A.2d 315, 317 (Pa. 1999).

21. Under Article I, § 28, of the Pennsylvania Constitution, equality of rights under the law shall not be denied or abridged because of an individual’s sex. This provision of the Constitution is intended to equalize the benefits and the burdens between the sexes, so that gender alone is not an exclusive method of classification. *DiFlorido v. DiFlorido*, 331 A.2d 174 (Pa. 1975).

22. The ability to marry in Pennsylvania is available in an equal manner to both a man and a woman. The Marriage Law treats women as a class exactly the same as it treats men as a class. Both a man and a woman have the identical and equal right to enter into a contract to marry another person of the opposite sex. Both a man and a woman receive equal benefits and burdens in connection with the Marriage Law.



23. Both a man and a woman are equally prohibited from marrying someone of the same sex under the Marriage Law. There is no distinction in the treatment of a man or a woman under the law. They are treated identically.

24. The fundamental flaw with Petitioners' sex discrimination claim is that "the marriage laws are facially neutral; they do not single out men or women as a class for disparate treatment, but rather prohibit men and women equally from marrying a person of the same sex." *Baker v. State*, 744 A.2d 864, 880 n.13 (Vt. 1999). "[T]here is no discrete class subject to differential treatment solely on the basis of sex; each sex is equally prohibited from precisely the same conduct." *Id.* Other courts reject the claim that "defining marriage as the union of one man and one woman discriminates on the basis of sex." *Id.* (citing *Baker v. Nelson*, 191 N.W. 2d 185, 186-87 (Minn. 1971); and *Singer v. Hara*, 522 P.2d 1187, 1191-92 (Wash. Ct. App. 1974)); see also *Conaway v. Deane*, 932 A.2d 571, 585-602 (Md. 2007); *Hernandez v. Robles*, 855 N.E.2d 1, 10-11 (N.Y. 2006) (plurality); *id.* at 20 (Grafteo, J., concurring); *Andersen v. King Cnty.*, 138 P.3d 963, 988 (Wash. 2006) (plurality); *id.* at 1010 (J.M. Johnson, J., concurring in judgment only); *Jones v. Hallahan*, 501 S.W.2d 588, 590 (Ky. 1973).

WHEREFORE, Respondents respectfully request that this Honorable Court sustain their preliminary objections in the nature of a demurrer as to Count III of

the Amended Petition for Review (Pa. Const. art. I, § 28) and dismiss Count III with prejudice for legal insufficiency.

**THIRD PRELIMINARY OBJECTION**  
**- DEMURRER TO COUNTS IV AND V**

**(Pa. Const. art. I, § 1, and the Due Process Clause of the U.S. Const.  
Amend. XIV)**

25. Petitioners claim that the Marriage Law provisions are an unconstitutional violation of due process under the Pennsylvania Constitution and the U.S. Constitution because there is a recognized fundamental right to marry someone of the same sex under both the Pennsylvania and U.S. Constitutions. *See* Amended Petition ¶¶ 90, 94.

26. Article I, § 1, of the Pennsylvania Constitution provides as follows: “All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty....”

27. As set forth in the Second Preliminary Objection above, a statute is presumed constitutional and one who attacks the constitutionality of a statute has a heavy burden of persuasion.

28. The due process provisions of the United States and Pennsylvania Constitutions have been found to be coextensive, meaning that Pennsylvania courts are to engage in the same analysis under state law as is done under federal law. *Nixon*, 839 A.2d at 286.

29. When confronted with a challenge based on substantive due process grounds, the first question presented is “whether the challenged statute purports to restrict or regulate a constitutionally protected right.” See *Commonwealth v. Burnsworth*, 669 A.2d 883, 889 (Pa. 1995).

30. As one Pennsylvania court recently observed:

Courts should be reluctant to identify a right as fundamental when not clearly required by the constitution or established precedent. A court [that] finds a fundamental right where one does not exist bypasses the legislative process and denies the people a voice in effecting social policy, in essence, trumping democracy with judicial fiat.

*Kern v. Taney*, 11 Pa. D.&C.5<sup>th</sup> 558, 574 (Berks Co. 2010).

31. Pennsylvania courts have never recognized a fundamental right to marry a person of the same sex; consequently, no fundamental right protected under the Pennsylvania Constitution is at issue in Petitioners’ claims. See *DeSanto v. Barnsley*, 35 Pa. D.&C. 3d 7 (Del. Co. 1982); *Kern v. Taney*, 11 Pa. D.&C. 5<sup>th</sup> at 572 (“The proposition that a same-sex marriage passes the test of a fundamental right, described by the Pennsylvania Supreme Court as the type of right ‘inherent in man’s nature,’ among the ‘basic rights of human beings,’ and among the ‘Hallmarks of Western Civilization,’ is unsupportable.” (Citation omitted)).

32. The U.S. Supreme Court also has never recognized a fundamental right to marry a person of the same sex; it has recognized a fundamental right to marry only in cases involving persons of the opposite sex. See *Zablocki v. Redhail*,

434 U.S. 374, 384-86 (1978); *Skinner v. Oklahoma*, 316 U.S. 541 (1942); *Maynard v. Hill*, 125 U.S. 190, 211 (1888).

WHEREFORE, Respondents respectfully request that this Honorable Court sustain their preliminary objections in the nature of a demurrer to Counts IV and V of the Amended Petition for Review (Pa. Const. Article I, § 1, and the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution) and dismiss Counts IV and V with prejudice for legal insufficiency.

**FOURTH PRELIMINARY OBJECTION**  
**– DEMURRER TO COUNTS I AND II**

**(Pa. Const. art. I, § 26 & the Equal Protection Clause of the U.S. Const.  
Amend. XIV)**

33. Petitioners claim that the Marriage Law provisions violate Article I, § 26, of the Pennsylvania Constitution and the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution because those provisions “treat same-sex couples differently from heterosexual couples based on no more than animus and fear.” Amended Petition ¶ 75.

34. As set forth in the Second Preliminary Objection above, a statute is presumed constitutional and one who attacks the constitutionality of a statute has a heavy burden of persuasion.

35. Article I, Section 26, of the Pennsylvania Constitution is analyzed “under the same standards used . . . when reviewing equal protection claims under the Fourteenth Amendment to the United States Constitution.” *Love v. Borough of*

*Stroudsburg*, 597 A.2d 1137, 1139 (Pa. 1991). To properly state an equal protection claim, “a plaintiff must allege that he is receiving different treatment from that received by *other similarly situated individuals*.” *Myers v. Ridge*, 712 A.2d 791, 799 (Pa. Cmwlth. 1998) (emphasis added).

36. A state does not violate the Equal Protection Clause merely because the classification that is a result of the law is imperfect. *Dandridge v. Williams*, 397 U.S. 470, 485 (1970). “The Constitution does not require things which are different in fact or opinion to be treated as though they were the same.” *Tigner v. Texas*, 310 U.S. 141, 147 (1940).

37. Petitioners plead no facts demonstrating that same-sex couples are similarly situated for purposes of the challenged law.

38. Failing to make factual averments that would establish that two groups receiving different treatment are similarly situated, Petitioners have failed to state a claim for denial of equal protection under either the Pennsylvania Constitution or U.S. Constitution.

WHEREFORE, Respondents respectfully request that this Honorable Court sustain their preliminary objections in the nature of a demurrer as to Counts I and II of the Amended Petition for Review (Pa. Const. Art. I, § 26, and the Fourteenth Amendment of the U.S. Constitution) and dismiss Counts I and II with prejudice for legal insufficiency.

**FIFTH PRELIMINARY OBJECTION**  
**- DEMURRER TO COUNT VI**  
**(Declaratory Judgment – 23 Pa.C.S. § 3306)**

39. Petitioners seek a declaratory judgment under 23 Pa.C.S. § 3306 that their marriages are valid under Pennsylvania law. Amended Petition ¶ 99.

40. Petitioners' request for declaratory relief is wholly dependent upon the validity of Petitioners' constitutional challenges to 23 Pa.C.S. §§ 1102 and 1704, which are set forth in Counts I through V of the Amended Petition.


41. For the same reasons that Counts I through V of the Amended Petition should be dismissed with prejudice as set forth in the Second through Fourth Preliminary Objections above, which are incorporated herein by reference, Count VI should be dismissed with prejudice.

WHEREFORE, Respondents respectfully request that this Honorable Court sustain their preliminary objections in the nature of a demurrer as to Count VI of the Amended Petition for Review (Declaratory Judgment – 23 Pa.C.S. § 3306) and dismiss Count VI with prejudice for legal insufficiency.

Respectfully submitted,

**LAMB McERLANE PC**

Dated: December 9, 2013

By:  \_\_\_\_\_

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IN THE COMMONWEALTH COURT OF PENNSYLVANIA

SASHA BALLEEN, et al.,

Plaintiffs,

v.

THOMAS W. CORBETT, JR., GOVERNOR  
OF THE COMMONWEALTH OF  
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ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
and MICHAEL WOLF, SECRETARY OF  
HEALTH OF THE COMMONWEALTH OF  
PENNSYLVANIA,

Defendants,

NO. 481 MD 2013

2013 NOV -8 P 2:11  
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OF PENNSYLVANIA

NOTICE TO DEFEND



You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within thirty (30) days after this Complaint and Notice are served, by entering a written appearance personally or by an attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claims in the Complaint or for any other claim or relief requested by the plaintiffs. You may lose money or property or other rights important to you.

**YOU SHOULD TAKE THIS PAPER TO A LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.**

**DAUPHIN COUNTY BAR ASSOCIATION**

**Lawyer Referral Service  
213 North Front Street  
Harrisburg, PA 17101  
(717) 232-7536**

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**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

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SASHA BALLEEN, et al.,  
Plaintiffs,

v.

THOMAS W. CORBETT, JR., GOVERNOR  
OF THE COMMONWEALTH OF  
PENNSYLVANIA, KATHLEEN KANE,  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
and MICHAEL WOLF, SECRETARY OF  
HEALTH OF THE COMMONWEALTH OF  
PENNSYLVANIA,

Defendants,

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NO. 481 MD 2013

**AMENDED PETITION FOR REVIEW IN THE NATURE OF A CIVIL ACTION**  
**COMPLAINT**

Sasha Ballen, Diana Spagnuolo, and the other same-sex couples listed below<sup>1</sup> (collectively “Plaintiffs”), hereby bring the following action against the Governor and certain officers of the Commonwealth of Pennsylvania (collectively “Defendants”) seeking to have this Court declare their marriages valid and the Marriage Law, *see* 23 Pa. C.S. §§ 1102, 1704, which defines marriage as a union between one man and one woman, unconstitutional. These provisions of the Marriage Law violate Plaintiffs’ rights under the Equal Protection and Due Process clauses of the Fourteenth Amendment to the United States Constitution and under Article I of the Pennsylvania Constitution.

### INTRODUCTION

1. In 1996, as the federal government considered the federal Defense of Marriage Act, 1 U.S.C. § 7 (“DOMA”),<sup>2</sup> Pennsylvania debated and passed amendments to Pennsylvania’s Marriage Law, 23 Pa. C.S. §§ 1102, 1704 (the “Marriage Law”). *See* 1996 Pa. Legis. J. (House), at 2019.

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<sup>1</sup> The Plaintiffs include: Sasha Ballen and Diana Spagnuolo; Jennifer L. Anderson and Lisa A. Fraser; Gabriela Assagioli and Lynn Zeitlin; Youval Balistra and Glen Loev; Mark C. Baumann-Erb and Ronald S. Baumann-Erb; Jeffrey Becker and Kevin Taylor; Joan Bennett and Joanne Glusman; Joseph Billips and Andrew Pruessner; Loreen Bloodgood and Alicia Terrizzi; Leigh Taylor Braden and Sophie Forge; Joan Brown and Jill Galper; Henry Collins and Peter Friel; William B. Cook and Clarence Samuel Warden; Dr. Marta Dabezies and Patricia Rose; Dr. Mary Margaret DeSouza and Kimberly A. Lane; Mary E. Flynn and Elaine A. Spangler; William A. Gray, Jr. and John Kandray; Dawn Grove and Tracy Harper; Joann Hyle and Kathryn Kolbert; Charlene Kurland and Ellen Toplin; Christine Lindgren and Andrea Myers; Ethelda Makoid and Wendy Sheppard; Marcia Martinez-Helfman and Sarah Martinez-Helfman; Andrea McDonald and Patricia Traub; Nicholas Pantaleone and Anthony Ruffo; Ruth Parks and Michelle Schaeffer; Robert Polay and N. Nicholas Vlasisavljevic; Kenneth Robinson and Richard Strahm.

<sup>2</sup> Section 3 of DOMA provided: “In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.” 1 U.S.C. § 7.

2. Using similar language as that used in DOMA, the Marriage Law provides that marriage is “a civil contract by which one man and one woman take each other for husband and wife.” 23 Pa. C.S. § 1102. The law further states that “marriage shall be between one man and one woman.” *Id.* § 1704.

3. Pennsylvania legislators supporting the provision argued that “traditional” marriage was between one man and one woman. *See* 1996 Pa. Legis. J. (House), at 2018-19.

4. On June 26, 2013, in a landmark decision, the United States Supreme Court found DOMA unconstitutional. *See United States v. Windsor*, 133 S. Ct. 2675, 2694 (2013). The Supreme Court found: “The federal statute is invalid, for no legitimate purpose overcomes the purpose and effect to disparage and to injure those whom the State, by its marriage laws, sought to protect in personhood and dignity.” *Id.* at 2696. In so doing, the Supreme Court held that, because the law’s “principal purpose is to impose inequality,” it “demeans the couple, whose moral and sexual choices the Constitution protects.” *Id.* at 2694.

5. Like DOMA, the Marriage Law’s principal purpose is to impose inequality, and it demeans Plaintiffs and other same-sex couples.

6. On July 11, 2013, Pennsylvania Attorney General Kathleen G. Kane announced that the Office of Attorney General would not defend Pennsylvania’s Marriage Law in a case challenging the law’s constitutionality under the U.S. Constitution, *see Whitewood v.*

*Corbett*, No. 13-1861 (M.D. Pa. filed July 9, 2013), because, in light of *Windsor*, she had determined that the Marriage Law is “wholly unconstitutional.”<sup>3</sup>

7. Following Attorney General Kane’s pronouncement of her legal opinion, on July 23, 2013, the Clerk of the Orphans’ Court of Montgomery County, D. Bruce Hanes, announced that his office would begin issuing marriage licenses to same-sex couples.<sup>4</sup>

8. Over the course of several weeks, Plaintiffs applied for and obtained marriage licenses from Clerk Hanes, and were married pursuant to those licenses.

9. Plaintiffs ask this Court to declare Plaintiffs’ marriages valid and to nullify and declare invalid sections 1102 and 1704 of the Marriage Law, permanently enjoin Defendants from enforcing these provisions, and uphold Plaintiffs’ rights under the United States Constitution and Pennsylvania Constitution.

#### THE PARTIES

10. Plaintiffs Sasha Ballen and Diana Spagnuolo received the first marriage license that Clerk Hanes issued to a same-sex couple and were married on July 28, 2013.

11. Plaintiffs Jennifer L. Anderson and Lisa A. Fraser received a marriage license from Clerk Hanes and were married on August 11, 2013.

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<sup>3</sup> Press Release, Pennsylvania Attorney General Kathleen Kane, “Attorney General Kane Will Not Defend DOMA” (July 11, 2013), <http://www.attorneygeneral.gov/press.aspx?id=7043>.

<sup>4</sup> Press Release for Main Line Times, D. Bruce Hanes, “Montco Register of Wills D. Bruce Hanes on his Decision to Issue a Marriage License to a Same Sex Couple,” (July 23, 2013), [http://www.mainlinemedianews.com/articles/2013/07/23/main\\_line\\_times/news/doc51eeca35360b015385105.txt](http://www.mainlinemedianews.com/articles/2013/07/23/main_line_times/news/doc51eeca35360b015385105.txt)

12. Plaintiffs Gabriela Assagioli and Lynn Zeitlin received a marriage license from Clerk Hanes and were married on July 31, 2013.

13. Plaintiffs Youval Balistra and Glen Loev received a marriage license from Clerk Hanes and were married on July 27, 2013.

14. Plaintiffs Mark C. Baumann-Erb and Ronald S. Baumann-Erb received a marriage license from Clerk Hanes and were married on July 29, 2013.

15. Plaintiffs Jeffrey Becker and Kevin Taylor received a marriage license from Clerk Hanes and were married on July 28, 2013.

16. Plaintiffs Joan Bennett and Joanne Glusman received a marriage license from Clerk Hanes and were married on August 2, 2013.

17. Plaintiffs Joseph Billips and Andrew Pruessner received a marriage license from Clerk Hanes and were married on August 2, 2013.

18. Plaintiffs Loreen Bloodgood and Alicia Terrizzi received a marriage license from Clerk Hanes and were married on July 24, 2013.

19. Plaintiffs Leigh Taylor Braden and Sophie Forge received a marriage license from Clerk Hanes and were married on July 29, 2013.

20. Plaintiffs Joan Brown and Jill Galper received a marriage license from Clerk Hanes and were married on August 4, 2013.

21. Plaintiffs Henry Collins and Peter Friel received a marriage license from Clerk Hanes and were married on August 19, 2013.

22. Plaintiffs William B. Cook and Clarence Samuel Warden received a marriage license from Clerk Hanes and were married on August 14, 2013.
23. Plaintiffs Dr. Marta Dabezies and Patricia Rose received a marriage license from Clerk Hanes and were married on August 11, 2013.
24. Plaintiffs Dr. Mary Margaret DeSouza and Kimberly A. Lane received a marriage license from Clerk Hanes and were married on August 4, 2013.
25. Plaintiffs Mary E. Flynn and Elaine A. Spangler received a marriage license from Clerk Hanes and were married on August 4, 2013.
26. Plaintiffs William A. Gray, Jr. and John Kandray received a marriage license from Clerk Hanes and were married on August 5, 2013.
27. Plaintiffs Dawn Grove and Tracy Harper received a marriage license from Clerk Hanes and were married on August 4, 2013.
28. Plaintiffs Joann Hyle and Kathryn Kolbert received a marriage license from Clerk Hanes and were married on August 8, 2013.
29. Plaintiffs Charlene Kurland and Ellen Toplin received a marriage license from Clerk Hanes and were married on July 29, 2013.
30. Plaintiffs Christine Lindgren and Andrea Myers received a marriage license from Clerk Hanes and were married on August 3, 2013.
31. Plaintiffs Ethelda Makoid and Wendy Sheppard received a marriage license from Clerk Hanes and were married on August 8, 2013.

32. Plaintiffs Marcia Martinez-Helfman and Sarah Martinez-Helfman received a marriage license from Clerk Hanes and were married on July 29, 2013.

33. Plaintiffs Andrea McDonald and Patricia Traub received a marriage license from Clerk Hanes and were married on September 2, 2013.

34. Plaintiffs Nicholas Pantaleone and Anthony Ruffo received a marriage license from Clerk Hanes and were married on August 2, 2013.

35. Plaintiffs Ruth Parks and Michelle Schaeffer received a marriage license from Clerk Hanes and were married on August 7, 2013.

36. Plaintiffs Robert Polay and N. Nicholas Vlasisavljevic received a marriage license from Clerk Hanes and were married on July 28, 2013.

37. Plaintiffs Kenneth Robinson and Richard Strahm received a marriage license from Clerk Hanes and were married on August 16, 2013.

38. Defendant Thomas W. Corbett ("Corbett") is Governor of the Commonwealth of Pennsylvania.

39. Defendant Kathleen Kane ("Kane") is Attorney General of the Commonwealth of Pennsylvania.

40. Defendant Michael Wolf ("Wolf") is Secretary of the Pennsylvania Department of Health.



## JURISDICTION AND VENUE

41. Jurisdiction is proper in the Commonwealth Court of Pennsylvania pursuant to 42 Pa. C.S. § 761(a) because this action is brought against officers of the Commonwealth government acting in their official capacities.

42. Venue is proper in this Court pursuant to 42 Pa. C.S. § 8523(a).

## FACTS

43. Pennsylvania law defines "marriage" as "a civil contract by which one man and one woman take each other for husband and wife." 23 Pa. C.S. § 1102. The law further states that "marriage shall be between one man and one woman." *Id.* § 1704.

44. No person shall be joined in marriage unless and until a marriage license has been obtained. *See* 23 Pa. C.S. § 1301.

45. In Pennsylvania, as in most states, marriage carries with it certain tangible benefits available from the state. In 1999, the Center for Lesbian and Gay Civil rights conducted a survey of Pennsylvania laws and determined that 683 statutory provisions provide benefits or protections to married couples that are not, by virtue of section 1102, available to same sex couples. *See* Center for Lesbian and Gay Civil Rights, *Survey of Statutory Rights Associated with Marriage in Pennsylvania* 1-6 (1999), attached as Exhibit A.

46. Pennsylvania legal protections that are not available to same-sex couples impact all facets of life, including health care, parental rights, property rights, taxation, domestic relations, educational benefits, estate planning, family businesses, public assistance, public

employment benefits, consumer protections, criminal defenses, survivors' rights, and others. *Id.* at 6-12. As the study concluded, "marriage and the spousal relationship pervade[] almost every area of law, affecting the operation of the state and individual at every level." *Id.* at 13.

47. At its heart, the Pennsylvania Marriage Law was intended to demean, devalue, and degrade same-sex relationships.

48. Supporters of the law heavily relied on a "moral opposition to same-sex marriages." 1996 Pa. Legis. J. (House), at 2017. Legislators also asserted: "[T]he large majority [of Pennsylvanians] do not want our traditional marriage institution and our state of morals to be changed." *Id.* at 2019.

49. In addition to characterizing same-sex marriage as immoral, legislators suggested that homosexual couples threaten "family values and traditional beliefs," and that "it is imperative that we in Pennsylvania should stand up for traditional marriage for the benefit of families and children in the Commonwealth and our future." *Id.* at 2022.

50. Pennsylvania legislators thus cast aspersions on same-sex couples as immoral people who threaten the future of the Commonwealth, a manifestation of a deep-seated and long-standing animus against same-sex couples in the Commonwealth.

51. Plaintiffs are similarly situated to heterosexual couples who wish to be or are married in that each couple consists of two people who love each other, who are committed to each other, and who wish to have the legal and societal recognition of their relationship that comes from marriage.

52. Plaintiffs have all been negatively affected by the Marriage Law's definition of marriage as between one man and one woman. Without comprehensively listing every way same-sex couples are harmed, one example is that same sex couples with children, like Plaintiffs Loreen Bloodgood and Alicia Terrizzi, have had to pay for the non-biological parent to adopt their children so that both parents would have legal rights. They also have to explain to their children why they are not married like other children's parents. Plaintiffs Sasha Ballen and Diana Spagnuolo suffered anxiety during the periods between the birth of each of their children and that child's adoption by the non-biological parent, because until the adoption was finalized the non-biological parent had no legal rights. Moreover, because the Commonwealth does not recognize their relationship, they were forced to complete the Commonwealth's "Unwed Mother" forms when they each gave birth.

53. Other same-sex couples have been financially impacted by being unable to receive the benefits afforded married couples. For example, despite their committed and lengthy relationship, Plaintiffs Charlene Kurland and Ellen Toplin have paid higher rates on their long-term care insurance, because the Commonwealth does not allow them to qualify for benefits available to married couples. Plaintiffs Ruth Parks and Michelle Schaeffer have paid taxes on shared employee health benefits beyond what a heterosexual married couple would pay, because the Commonwealth does not consider them spouses. The financial impact also spreads to other family members who are not granted familial status and, thus, are subject to additional taxes for gifts and inheritance purposes. These taxes and higher rates can have an enormous impact on the finances of same-sex couples.

54. Same-sex couples also must take extra precautions to ensure that they are legally protected should one member become ill or die. Plaintiffs Ruth Parks and Michelle

Schaeffer used extreme caution in wording the deed to their home to ensure that neither would lose their home should something happen to the other. Plaintiffs Kenneth Robinson and Richard Strahm were forced to purchase extra life insurance coverage that would cover the Commonwealth's inheritance tax – a tax that heterosexual married couples do not have to pay – so that the surviving partner could afford the home they both live in.

55. The Commonwealth's continued refusal to recognize the basic dignity of same-sex couples also have an emotional impact on same-sex couples as a result of their being singled out as "other." Plaintiffs Joseph Billips and Andrew Pruessner felt humiliation from undergoing the process of attempting to locate a jurisdiction that would permit them to marry or recognize their marriage. Despite their marriage certificate being on file with the Commonwealth, their relationship continues to be treated as less by their employers, the Commonwealth, and the federal government.

56. In *United States v. Windsor*, the United States Supreme Court struck down the federal version of the Pennsylvania Marriage Law when it found DOMA unconstitutional. See *United States v. Windsor*, 133 S. Ct. at 2694. The Supreme Court found that DOMA "seeks to injure the very class that New York seeks to protect," such that it "violates basic due process and equal protection principles." *Id.* at 2693. In reaching this conclusion, the Supreme Court found that justifications based on "traditional" views of marriage "demean[] the couple, whose moral and sexual choices the Constitution protects" and fail constitutional scrutiny. *Id.* (internal quotations omitted). Such a purpose does not "overcome[] the purpose and effect to disparage and injure." *Id.* Although *United States v. Windsor* did not directly address the constitutionality of any state law restricting same-sex marriage, the Supreme Court's reasoning in that case also supports the conclusion that the Pennsylvania Marriage Law is unconstitutional.

57. Following the Supreme Court's decision in *United States v. Windsor*, Attorney General Kane, who is charged with defending and enforcing the Pennsylvania Marriage Law, announced that she believes that the Marriage Law is "wholly unconstitutional." See Press Release, *Pennsylvania Attorney General Kathleen Kane, "Attorney General Kane Will Not Defend DOMA"* (July 11, 2013), available at <http://www.attorneygeneral.gov/press.aspx?id=7043>.

58. Attorney General Kane's opinion on the Marriage Law states that she has concluded:

- Pennsylvania's DOMA, like the federal DOMA, imposes a disadvantage, a separate status, and a stigma on those who enter into same-sex marriages.
- Pennsylvania's DOMA wrongly denies same-sex couples the fundamental right to marry in Pennsylvania; and for those same-sex couples who legally marry outside Pennsylvania, it denies them the fundamental right to have their lawful marriage recognized in our state.
- Pennsylvania's DOMA has no legitimate purpose other than to disparage and injure same-sex couples by placing them in a less respected position than others.
- The discriminatory treatment explicitly authorized by DOMA violates both the US and Pennsylvania Constitution.

*Id.*

59. On July 23, 2013, Clerk Hanes, who is charged with determining the "legality" of and any "legal objection" to a contemplated marriage, 23 Pa. C.S. §§ 1306-07, reviewed the state of the law and also determined that the Marriage Law's definition of marriage is unconstitutional.

60. Upon receipt of marriage license applications from same-sex couples, Clerk Hanes began issuing marriage licenses to those applicants, including Plaintiffs. Plaintiffs subsequently were married pursuant to those licenses.

61. Defendant Corbett, acting through his General Counsel James D. Schultz, has stated that his administration will defend the constitutionality of the Marriage Law.<sup>5</sup>

62. On July 30, 2013, the Department of Health, managed by Defendant Wolf, filed a petition for mandamus against Clerk Hanes. *See Department of Health v. Hanes*, 379 MD 2013, Amended Petition for Review in the Nature of an Action in Mandamus at 19 (Cmwlth. Ct. 2013). Throughout its pleadings, attorneys for the Office of General Counsel and Department of Health repeatedly stated that Plaintiffs' marriage licenses and marriages are invalid, *see id.* at 18-19, and argued that the Department of Health has a statutory duty to ensure that the Marriage Law is uniformly enforced, *see id.* at 7-8.

63. On September 12, 2013, the Honorable Dan Pellegrini, Presiding Judge of the Commonwealth Court, granted the petition for mandamus but made no determination regarding the validity of the Marriage Law or of Plaintiffs' marriage licenses or marriages. *See Department of Health v. Hanes*, 379 M.D. 2013, Memorandum Opinion at 32 (Cmwlth. Sept. 12, 2013) (“[T]he legality of Hanes’ actions and any purported rights obtained thereby are not at issue and may not be established in the instant mandamus action.”).

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<sup>5</sup> *See* Letter from General Counsel James D. Schultz to First Deputy Attorney General Adrian R. King, at 4 (July 30, 2013) (“In so doing, [the Office of General Counsel] and its public official clients have decided to defend the constitutionality of the Marriage Law, as this Governor’s Administration would do where it is a party to the challenge of any duly enacted law the Attorney General has refused her obligation to defend.”), attached as Exhibit B.

64. Accordingly, Plaintiffs seek a declaration both that their marriages are valid and that sections 1102 and 1704 of the Marriage Law are unconstitutional under the United States Constitution and the Pennsylvania Constitution.

65. In the event that a court determines that Plaintiffs' marriages are not valid, each of the Plaintiff couples wish to be married, but are currently barred by sections 1102 and 1704 of the Marriage Law. Accordingly, Plaintiffs ask that the Court nullify and declare invalid sections 1102 and 1704 of the Marriage Law, permanently enjoin Defendants from enforcing these provisions, and uphold Plaintiffs' rights under the United States Constitution and the Pennsylvania Constitution.

**COUNT I**  
**UNITED STATES CONSTITUTION – FOURTEENTH AMENDMENT:**  
**EQUAL PROTECTION**

66. The previous paragraphs of the Complaint are hereby incorporated by reference as if fully set forth herein.

67. Sections 1102 and 1704 of the Marriage Law classify on the basis of sexual orientation and sex. Sections 1102 and 1704 (i) are not rationally related to furthering a legitimate state interest, (ii) do not further an important government interest in a way that is substantially related to that interest, and/or (iii) are not narrowly tailored and/or the least restrictive means to further a compelling government interest.

68. As the Supreme Court of the United States has explained, “[t]he Equal Protection Clause of the Fourteenth Amendment commands that no State shall ‘deny to any person within its jurisdiction the equal protection of the laws,’ which is essentially a direction

that all persons similarly situated should be treated alike.” *City of Cleburne v. Cleburne Living Ctr., Inc.*, 473 U.S. 432, 439 (1985) (quoting *Plyler v. Doe*, 457 U.S. 202, 216 (1982)).

69. Sections 1102 and 1704 of the Marriage Law impermissibly discriminate on the basis of sexual orientation and sex, because they have the purpose and effect of disparaging and injuring same-sex couples and lack any rational basis. Therefore, the laws are based on nothing more than animus, which is forbidden under the Equal Protection Clause. *See United States v. Windsor*, 133 S.Ct. at 2694.

70. To the extent that Pennsylvania lawmakers rely on “tradition” to justify sections 1102 and 1704 of the Marriage Law, that reliance cannot justify a law which denies certain rights and benefits to a group of individuals. *See Lawrence v. Texas*, 539 U.S. 558, 577-78 (2003) (“[T]he fact that the governing majority in a State has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law prohibiting the practice . . .”).

71. Because sections 1102 and 1704 of the Marriage Law violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, Plaintiffs ask that this Court declare sections 1102 and 1704 of the Marriage Law unconstitutional and enjoin their enforcement. *See* 42 Pa. C.S. § 7532.

**COUNT II**  
**PENNSYLVANIA CONSTITUTION – ARTICLE I:**  
**EQUAL PROTECTION**

72. The previous paragraphs of the Complaint are hereby incorporated by reference as if fully set forth herein.



73. Article I, Section 1 recognizes inherent and indefeasible rights of mankind, which include the right of Pennsylvanians to “pursu[e] their own happiness.” Pa. Const. art. I § 1. Section 26 further provides: “Neither the Commonwealth nor any political subdivision thereof shall deny to any person the enjoyment of any civil right, nor discriminate against any person in the exercise of any civil right.” Pa. Const. art. I § 26.

74. “The essence of the constitutional principle of equal protection under the law is that like persons in like circumstances will be treated similarly.” *DeFazio v. Civil Serv. Comm’n of Allegheny Cnty.*, 756 A.2d 1103, 1106 (Pa. 2000).

75. Sections 1102 and 1704 of the Marriage Law treat same-sex couples differently from heterosexual couples based on no more than animus and fear.

76. Because sections 1102 and 1704 of the Marriage Law violate the Equal Protection provisions of the Pennsylvania Constitution, Plaintiffs ask that this Court declare sections 1102 and 1704 of the Marriage Law unconstitutional and enjoin their enforcement. *See* 42 Pa. C.S. § 7532.

**COUNT III**  
**PENNSYLVANIA CONSTITUTION – ARTICLE I:**  
**EQUAL RIGHTS AMENDMENT**

77. The previous paragraphs of the Complaint are hereby incorporated by reference as if fully set forth herein.

78. The Equal Rights Amendment provides: “Equality under the law shall not be denied or abridged in the Commonwealth of Pennsylvania because of the sex of the individual.” Pa. Const. art. I, § 28.

79. As the Supreme Court of Pennsylvania has held: "In this Commonwealth, sex may no longer be accepted as an exclusive classifying tool." *Commonwealth v. Butler*, 328 A.2d 851, 855 (Pa. 1974).

80. The underlying principle behind the Equal Rights Amendment embodied in Article I, Section 28 is that one's sex should not define one's rights.

81. In the Marriage Law, "marriage" is defined as a "civil contract by which one man and one woman take each other for husband and wife." 23 Pa. C.S. § 1102. The Law explains further that "marriage shall be between one man and one woman." 23 Pa. C.S. § 1704.

82. The ability to marry within the state of Pennsylvania depends exclusively on the sex of the participants.

83. For instance, if Plaintiff Sasha Ballen were a man, this fictional man could marry Diana Spagnuolo; however, Plaintiff Ballen is a woman, so she is not entitled to do so by sole virtue of her sex.<sup>6</sup>

84. Under Pennsylvania's Equal Rights Amendment, such classifications are impermissible.

85. Because sections 1102 and 1704 of the Marriage Law violate the Equal Rights Amendment to the Pennsylvania Constitution, *see* Pa. Const. art. I, § 28, Plaintiffs ask

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<sup>6</sup> The same is true for a gay male couple. If Plaintiff Jeffrey Becker were a woman, this fictional woman could marry Plaintiff Kevin Taylor. However, because Plaintiff Becker is a man, he is not entitled to do so by sole virtue of his sex.

that this Court declare sections 1102 and 1704 of the Marriage Law unconstitutional and enjoin their enforcement. *See* 42 Pa. C.S. § 7532.

**COUNT IV**  
**UNITED STATES CONSTITUTION – FOURTEENTH AMENDMENT:**  
**DUE PROCESS**

86. The previous paragraphs of the Complaint are hereby incorporated by reference as if fully set forth herein.

87. The Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits states from depriving its citizens of fundamental rights without due process of law. *See Loving v. Virginia*, 388 U.S. 1, 12 (1967) (denying the fundamental freedom of marriage to some “is surely to deprive all the State’s citizens of liberty without due process of law”).

88. The right to marry is a fundamental right, and laws that infringe on that right are subject to strict scrutiny. *See Zablocki v. Redhail*, 434 U.S. 374, 388 (1978). “To survive strict scrutiny, a state must do more than assert a compelling state interest—it must demonstrate that the law is necessary to serve the asserted interest.” *Burson v. Freeman*, 504 U.S. 191, 199-200 (1992).

89. The Commonwealth has no compelling state interest in defining marriage as between one man and one woman. The policy articulated in sections 1102 and 1704 of the Marriage Law is “longstanding public policy.” Tradition, however, does not satisfy even rational basis review, let alone any heightened level of scrutiny. *See Heller v. Doe*, 509 U.S. 312, 326 (1993) (“[a]ncient lineage of a legal concept does not give a [law] immunity from attack”).

Morality alone also does not satisfy rational basis review. *See Lawrence v. Texas*, 539 U.S. at 577-78.

90. Because “tradition” and purported morality cannot withstand the rigors of strict scrutiny, sections 1102 and 1704 of the Marriage Law are unconstitutional violations of due process under the Fourteenth Amendment to the United States Constitution. Plaintiffs ask that this Court declare sections 1102 and 1704 of the Marriage Law unconstitutional and enjoin their enforcement. *See* 42 Pa. C.S. § 7532.

**COUNT V**  
**PENNSYLVANIA CONSTITUTION – ARTICLE I:**  
**DUE PROCESS**

91. The previous paragraphs of the Complaint are hereby incorporated by reference as if fully set forth herein.

92. Article I of the Pennsylvania Constitution recognizes a right to marry that is as fundamental as the right to life and liberty. *See Commonwealth v. Shoemaker*, 518 A.2d 591, 593 n.1 (Pa. Super. 1986); *Constant A. v. Paul C.A.*, 496 A.2d 1, 54 n.2 (Pa. Super. 1985).

93. When reviewing whether a state action unconstitutionally deprives a person of a protected interest, a substantive due process inquiry balances “the rights of the parties involved subject to the public interests sought to be protected.” *Johnson v. Allegheny Intermediate Unit*, 59 A.3d 10, 20 (Pa. Cmwlth. 2012).

94. Because “tradition” cannot withstand the rigors of strict scrutiny, sections 1102 and 1704 of the Marriage Law are an unconstitutional violation of due process under the

Pennsylvania Constitution. Plaintiffs ask that this Court declare sections 1102 and 1704 of the Marriage Law unconstitutional and enjoin their enforcement. *See* 42 Pa. C.S. § 7532.

**COUNT VI**  
**DECLARATORY JUDGMENT—23 Pa. C.S. § 3306**

95. The previous paragraphs of the Complaint are hereby incorporated by reference as if fully set forth herein.

96. Plaintiffs all have received marriage licenses and been married pursuant to those licenses.

97. The Department of Health's action for mandamus in *Department of Health v. Hanes*, 379 MD 2013 (Cmwlth 2013) and the Marriage Law cast doubt on the validity of Plaintiffs' marriages.

98. Under 23 Pa. C.S. § 3306, "both of the parties to the marriage may bring an action for a declaratory judgment seeking a declaration of the validity or invalidity of the marriage."

99. To lift the cloud over their unions, Plaintiffs seek a declaratory judgment that their marriages are valid under Pennsylvania law.

**PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiffs Sasha Ballen and Diana Spagnuolo, et al., pray for judgment as follows:

- A. Judgment in their favor, and against Defendants;
- B. Declaring the validity of their marriages;

C. Declaring their rights to equal protection under the laws and to due process as guaranteed by Amendment XIV of the United States Constitution and/or the Pennsylvania Constitution;

D. Nullifying and declaring unenforceable the Marriage Law, 23 Pa. C.S. §§ 1102, 1704, which defines marriage as "a civil contract by which one man and one woman take each other for husband and wife";

E. Preliminarily and permanently enjoining Defendants from enforcing 23 Pa. C.S. §§ 1102, 1704; and

F. Awarding such equitable/injunctive or other relief as the Court may deem just and proper.

Respectfully submitted,

Dated: November 8, 2013



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**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

---

SASHA BALLEEN, et al.,

Plaintiffs,

v.

THOMAS W. CORBETT, JR., GOVERNOR  
OF THE COMMONWEALTH OF  
PENNSYLVANIA, KATHLEEN KANE,  
ATTORNEY GENERAL OF THE  
COMMONWEALTH OF PENNSYLVANIA,  
and MICHAEL WOLF, SECRETARY OF  
HEALTH OF THE COMMONWEALTH OF  
PENNSYLVANIA,

Defendants,

---

NO. 481 MD 2013

**VERIFICATION**



I, Sasha Esther Ballen, state that I am a Plaintiff in this matter, and that the factual averments set forth in the foregoing Amended Complaint are true and correct to the best of my knowledge, information, and belief.

I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904.

Dated: November 7, 2013

  
\_\_\_\_\_  
Sasha Esther Ballen

**CERTIFICATE OF SERVICE**

I certify that the foregoing Amended Petition for Review in the Nature of A Civil Action Complaint was served upon the interested parties listed below on November 8, 2013 via prepaid First Class U.S. Mail, addressed as follows:

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Dated: November 8, 2013

*/s/ Joanna L. Barry*  
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**IN THE COMMONWEALTH COURT OF PENNSYLVANIA**

SASHA BALLEEN, <i>et al.</i> ,	:	
	:	
Petitioners,	:	
	:	
v.	:	No. 481 M.D. 2013
	:	
THOMAS W. CORBETT, JR.,	:	
Governor of the Commonwealth of	:	
Pennsylvania, <i>et al.</i> ,	:	
	:	
Respondents	:	

**CERTIFICATE OF SERVICE**

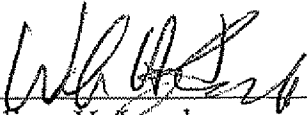
I, William H. Lamb, hereby certify that on December 9, 2013, I served the foregoing *Preliminary Objections of Respondents Corbett and Wolf to the Amended Petition for Review* by causing a copy of the same to be deposited in the United States mail, first-class, postage prepaid, addressed to the following:

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By:

  
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