IN THE FIRST JUDICIAL DISTRICT COURT

STATE OF WYOMING, COUNTY OF LARAMIE

DOCKET 182 NUMBER 262

Cora Emma-Terese Sacah Courage and Wyoma Kay Proffit; Carl Oleson and Rob Johnston; Anne Marie Guzzo and Bonnie Robinson; Ivan Williams and Charles Killion; and Wyoming Equality,

Plaintiffs,

v.

State of Wyoming; Matthew H. Mead, in his official capacity as the Governor of Wyoming; Dean Fausset, in his official capacity as Director of the Wyoming Department of Administration and Information; Dave Urquidez, in his official capacity as Administrator of the State of Wyoming Human Resources Division; and Debbye Balcaen Lathrop, in her official capacity as Laramie County Clerk,

Defendants.

FILED

MAR - 5 2014

SANDY LANDERS
CLERK OF THE DISTRICT COURT

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Wyoming's state motto is "Equal Rights." Wyoming's reputation as the Equality State is well-deserved. As often noted by the Wyoming courts, "the Wyoming Constitution offers more robust protection against legal discrimination than the federal constitution." *See Allhusen v. State By and Through Wyoming Mental Health Professions Licensing Bd.*, 898 P.2d 878, 884 (Wyo. 1995).

2. Wyoming has a long history of respecting marriages that were validly entered into in other jurisdictions and affording those marriages all of the rights and privileges of a Wyoming marriage. But in 1977, Wyoming singled out the marriages of same-sex couples by excluding them from recognition.

3. Plaintiffs bring this action to challenge the constitutionality of Wyoming's statute that excludes same-sex couples from marriage, and Wyoming's practice—in contravention of its own law—of refusing to recognize the marriages of same-sex couples lawfully entered into in other jurisdictions. *See* Wyo. Stat. §§ 20-1-101; § 20-1-111.

4. Wyoming, like other states, encourages and regulates marriage through hundreds of laws that provide benefits to and impose obligations upon married couples. In exchange, Wyoming receives the well-established benefits that marriage brings: stable, supportive families that create loving homes for children and contribute to both the social and economic well-being of Wyoming.

5. Wyoming's refusal to marry same-sex couples and recognize the valid out-of-state marriages of same-sex couples violates the guarantees of the Wyoming Constitution. This Court should so declare and issue an injunction requiring defendants to issue marriage licenses to the unmarried plaintiffs without regard to their status as same-sex couples, and to recognize the existing marriages of the married plaintiffs.

6. Plaintiffs are same-sex couples who live in Wyoming, and Wyoming Equality, a non-profit organization dedicated to securing full equality for Wyoming's lesbian, gay, bisexual, and transgender ("LGBT") community.

7. The Plaintiff couples are active and contributing members of society, with diverse backgrounds and educations. They are distinguished war veterans, counselors, professors, and sheep ranchers, among other professions. Some are parents; others do not have children. The situations faced by these couples are similar to those faced by many other same-sex couples in Wyoming who are denied the basic rights, privileges, and protections of marriage for themselves and their children.

8. Plaintiffs Cora Courage and Wyoma "Nonie" Proffit, and Carl Oleson and Rob Johnston (collectively the "Married Plaintiffs"), are legally married same-sex couples, having wed in Iowa and Canada respectively. However, in their home state of Wyoming, they are treated as legal strangers to their spouses.

9. Although Wyoming law states that "[a]ll marriage contracts which are valid by the laws of the country in which contracted are valid in this state," Wyo. Stat. § 20-1-111, and does not specifically exempt same-sex marriages from that recognition, it has been the practice of Wyoming officials to refuse to recognize the lawful marriages of same-sex couples who married in other jurisdictions and to deny those married couples any of the rights and protections of marriage. By refusing to recognize the lawful marriages of the Married Plaintiffs and denying them all of the rights and protections given to other legally married couples, Wyoming has effectively nullified their legal status and their rights and responsibilities as married people.

10. Plaintiffs Anne Marie Guzzo and Bonnie Robinson, and Ivan Williams and Charles "Chuck" Killion (collectively the "Unmarried Plaintiffs"), are unmarried same-sex couples in committed relationships who desire to marry in Wyoming. The Unmarried Plaintiffs meet all the requirements Wyoming imposes for the issuance of marriage licenses except that they are same-sex couples.

11. The Unmarried Plaintiffs wish to publicly declare their love and commitment before their family, friends, and community; to join their lives together and enter into a legally binding commitment to one another; and to share in the protections and security that marriage provides. The Unmarried Plaintiffs have strong ties to Wyoming and getting married in their home state of Wyoming is of immense personal importance to them.

12. Like many other couples with a life-long commitment, the Unmarried Plaintiffs are spouses in every sense except for their inability to legally marry under Wyoming law, which provides that "[m]arriage is a civil contract between a male and a female person to which the consent of the parties capable of contracting is essential." Wyo. Stat. § 20-1-101. This provision forbids the Unmarried Plaintiffs from marrying in Wyoming.

13. Wyoming's exclusion of same-sex couples from marriage and refusal to respect the marriages of legally married same-sex couples adversely impact the Plaintiff couples, and other Wyoming same-sex who are members of Wyoming Equality, in real and significant ways. When Wyoming withholds a marriage license from a same-sex couple, or refuses to recognize a same-sex couple's valid marriage from another jurisdiction, it circumscribes the affected individuals' basic life choices, classifies the affected individuals and couples in a manner that denies them the public recognition and myriad benefits of marriage, prevents the couple from making a legally binding commitment to one another and from being treated by the government and by others as a family rather than as unrelated individuals, and harms society by burdening and disrupting committed families and preventing couples from being able to fully protect and assume responsibility for one another and their children. The Plaintiff couples and their children are stigmatized and relegated to second-class status.

14. Wyoming's exclusion of same-sex couples from marriage and refusal to respect existing marriages undermines the Plaintiff couples' ability to achieve their life goals and dreams, disadvantages them financially, and denies them "dignity and status of immense import." *United States v. Windsor*, 133 S. Ct. 2675, 2692 (2013). Wyoming's disparate

treatment of same-sex couples "tells those couples and all the world that their [relationships] are unworthy" of recognition. *Id.* at 2694. By singling out same-sex couples and their families and excluding them from any type of marital protection, Wyoming "humiliates . . . children now being raised by same-sex couples" and "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.*

15. Seventeen states and the District of Columbia have extended the freedom to marry to same-sex couples, and the institution of marriage continues to thrive. Marriage contributes to the happiness, security, and peace of mind of countless couples and their families, and to the stability and well-being of society.

16. History has taught that the legitimacy and vitality of marriage do not depend on upholding discriminatory marriage laws. Accordingly, our courts and society have discarded, one by one, marriage laws that violated the mandate of equality guaranteed by the Constitution.

17. In the not so distant past, the majority of states, including Wyoming, had laws prohibiting marriage between people of different races.[1] The Supreme Court held such exclusions from marriage to be unconstitutional in *Loving v. Virginia*, 388 U.S. 1, 12 (1967), declaring: "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" and women. This principle is equally applicable to same-sex couples. Eliminating the remaining unconstitutional barriers to marriage further enhances the institution and society, while protecting the fundamental rights of individuals.

18. Wyoming's exclusion of same-sex couples from marriage, and its refusal to respect the marriages of same-sex couples validly entered into in other jurisdictions, violate the Due Process and Equal Protection guarantees in Article 1 of the Wyoming Constitution. Section 2 provides that "[i]n their inherent right to life, liberty and the pursuit of happiness, all members of the human race are equal." Section 3 provides that "[s]ince equality in the enjoyment of natural and civil rights is only made sure through political equality, the laws of this state affecting the political rights and privileges of its citizens shall be without distinction of race, color, sex, or any circumstance or condition whatsoever other than individual incompetency, or

[1] Wyoming eliminated all legal barriers to interracial marriage in 1965. *See* Kim Ibach and William H. Moore, "The Emerging Civil Rights Movement: The 1957 Wyoming Public Accommodations Statute as a Case Study," 73 Annals of Wyoming 8 (Winter 2001).

unworthiness duly ascertained by a court of competent jurisdiction." Section 6 provides that "[n]o person shall be deprived of life, liberty or property without due process of law."

19. Wyoming's exclusion of same-sex couples from marriage and its refusal to respect the marriages of same-sex couples validly entered into in other jurisdictions deprive the Plaintiffs of their fundamental right to marry and infringe upon their constitutionally protected interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association. Wyoming's refusal to respect their marriages further deprives the Married Plaintiffs of their constitutionally protected liberty interest in their marital status and their right to have their marriage accorded the same recognition in Wyoming as it would be accorded in the state in which it was entered. Wyoming's refusal to recognize valid same-sex marriages entered into in other jurisdictions also discriminates against the class of legally married persons.

20. Wyoming's treatment of the Plaintiff couples is subject to heightened scrutiny because it burdens fundamental constitutional rights and because it discriminates on the basis of sex and sexual orientation. Wyoming's treatment of the Plaintiff couples and other same-sex couples cannot survive any level of constitutional scrutiny, however, because it does not rationally further any legitimate government interest, but serves only to injure and humiliate same-sex couples and their families.

21. Plaintiffs bring this suit pursuant to Wyoming Statutes § 1-37-103 for declaratory relief, and Wyoming Statutes §§ 1-28-101 through 104 for injunctive relief. Specifically, Plaintiffs seek: (a) a declaration that Wyoming's prohibition of marriage for same-sex couples violates the Wyoming Constitution; (b) a declaration that Wyoming's refusal to recognize the marriages of same-sex couples validly entered into in other jurisdictions violates Wyoming law and the Wyoming Constitution; and (c) a permanent injunction (i) preventing Defendants from denying the Unmarried Plaintiffs the right to marry, and (ii) directing Defendants to recognize the marriages of the Married Plaintiffs that were validly entered into in other jurisdictions.

22. Plaintiffs state the below causes of action against Defendants in their official capacities for purposes of seeking declaratory and injunctive relief.

23. The declaratory and injunctive relief requested in this action is sought against each Defendant; against each Defendant's officers, employees, and agents; and against all persons acting in active concert or participation with any Defendant, or under any Defendant's supervision, direction, or control.

JURISDICTION AND VENUE

24. This Court has subject matter jurisdiction over this equitable action pursuant to Wyo. Const. Art. 5 § 10, Wyo. Stat. §§ 1-28-101 *et seq.*, and the Uniform Declaratory Judgments Act, Wyo. Stat. §§ 1-37-101 *et seq.*

25. Venue is proper in this district court pursuant to Wyo. Stat. §§ 1-5-104.

PARTIES

A. The Plaintiffs

26. Plaintiffs Cora Courage and Wyoma "Nonie" Proffit have been in a committed relationship for nine years and reside in Evanston, Wyoming. They were legally married in Iowa in December 2009. Cora is a decorated veteran of the armed services and a Major in the Army Reserves. Nonie is a part-time librarian, and a sheep herder on her family's ranch. Cora is the Clinical Director of the Wyoming State Hospital. As an employee of the State of Wyoming, Cora is entitled to enroll her spouse in her health and dental insurance coverage. Wyo. Stat. § 9-3-209. Cora's application to add Nonie as her dependent spouse was denied by the Human Resources Division of the Department of Administration and Information, under authority of Defendants Urquidez and Fausset respectively, on September 18, 2013, on grounds that Nonie "does not qualify as a dependent as defined by the State of Wyoming." Had Cora's spouse been a man, there is no question that Cora's spouse would have "qualified as a dependent as defined by the State of Wyoming."

27. Plaintiffs Carl Oleson and Rob Johnston have been in a committed relationship for 16 years, and reside in Casper, Wyoming. They were legally married in Ontario, Canada, on July 16, 2010. Carl manages a retail shop, and is very active in the United Church of Christ. Rob, who has a master's degree in counseling education, is the program director at Project ReGain, a life skills program for people recovering from addiction. Rob recently retired from the Wyoming Department of Health, where he ran the HIV Prevention Program. Rob has a pension from the State of Wyoming, which lists Carl as his spouse and beneficiary. But, even though Rob and Carl are legally married, neither can have confidence that the state will recognize this designation in the event of Rob's death and, based on Wyoming's current practice of denying recognition to same-sex spouses, have a strong basis for concern that the state will not recognize Carl as a surviving spouse. Rob and Carl should not be deprived of the security that other married couples enjoy and should not have to wait until Rob's death to determine

whether the State of Wyoming will honor this contract because any delay in Carl's receipt of those benefits will have detrimental consequences. *See* Wyo. Stat. §§ 1-37-101 *et seq.*

28. Plaintiffs Anne Marie Guzzo and Bonnie Robinson have been in a committed relationship for four years, and reside in Laramie, Wyoming. They meet all of Wyoming's qualifications for issuance of a marriage license, except that they are both women. Anne was born and raised in Wyoming, and both Anne and Bonnie have a special connection to the state and wish to get married here. Anne is a professor at the University of Wyoming. If Anne and Bonnie were able to marry, Anne could add Bonnie to her state-offered health insurance plan. Wyo. Stat. § 9-3-209. Because they are unable to marry, however, the couple must purchase insurance for Bonnie on the private market, at added cost. Like many other same-sex couples in Wyoming, because they are unable to marry, Anne and Bonnie also must hire an attorney to draft will and estate documents that would be unnecessary if their marriage was allowed.

29. Plaintiffs Ivan Williams and Charles "Chuck" Killion have been in a committed relationship for nearly two years, and reside in Cheyenne, Wyoming. They meet all of Wyoming's qualifications for issuance of a marriage license, except that they are both men. Chuck was born and raised in Wyoming, and both Ivan and Chuck have a special connection to the state and wish to get married here. Ivan is an employee of the State of Wyoming. If Ivan and Chuck were able to marry, Ivan could add Chuck to his state-offered health insurance plan Wyo. Stat. § 9-3-209, and designate Chuck as the beneficiary of his pension. Because they are unable to marry, however, Chuck bought into his employer's health insurance plan, which is more expensive than Ivan's monthly premiums and provides fewer benefits. Additionally, Ivan and Chuck hired a lawyer to prepare advanced healthcare directives, durable powers of attorney, and other trust and estate documents that would be unnecessary if their marriage was allowed.

30. Plaintiff Wyoming Equality is the state's largest civil rights organization dedicated to securing full equality for Wyoming's LGBT community. The organization has many members throughout the state. Since its inception, the organization has represented the interests of Wyoming's LGBT citizens through public education, coalition-building, advocacy, and grassroots organizing. Wyoming Equality also coordinates public education campaigns and events for policymakers, LGBT people, and the public at large on issues affecting the LGBT community. Wyoming Equality's members include many same-sex couples throughout Wyoming, including residents of Laramie County who wish to marry and intend to apply for

marriage licenses if the Wyoming law and practice prohibiting same-sex couples from marrying are declared unconstitutional as a result of this action. Wyoming Equality's members also include same-sex couples who lawfully married in other jurisdictions and who wish to have those marriages recognized by their state. Wyoming Equality brings this action in an associational capacity on behalf of its members who desire to marry in Wyoming but are prevented from doing so by enforcement of Wyoming's law and practice excluding same-sex couples from marriage, or who have married in another state and whose marriages are not recognized by the State of Wyoming.

B. The Defendants

31. Defendant Matthew "Matt" Mead is Governor of the State of Wyoming. Article 4, section 4 of the Wyoming Constitution states: "[The Governor] shall expedite all such measures as may be resolved upon by the legislature and shall take care that the laws be faithfully executed." Defendant Mead is responsible for upholding and ensuring compliance with the state constitution and statutes prescribed by the legislature, including Wyoming's law barring same-sex couples from marriage. Governor Mead also bears the authority and responsibility for the formulation and implementation of policies of the executive branch. Governor Mead's official residence is in Cheyenne, within Laramie County. Governor Mead was acting under color of state law at all times relevant to this complaint. He is sued in his official capacity.

32. Defendant Dean Fausset is the Director of the Wyoming Department of Administration and Information, which is the agency responsible for oversight of the Human Resources Division, which is in turn responsible for determining eligibility for benefits for state employees. Mr. Fausset is responsible for ensuring that state employees are able to add their spouses as dependents on their health and dental insurance policies. Mr. Fausset's official residence is in Cheyenne, within Laramie County. Defendant Fausset was acting under color of state law at all times relevant to this complaint. He is sued in his official capacity.

33. Defendant Dave Urquidez is the Administrator of the State of Wyoming Human Resources Division, which is responsible for determining eligibility for benefits for state employees. Mr. Urquidez is responsible for ensuring that state employees are able to add their spouses as dependents on their health and dental insurance policies. Mr. Urquidez's official

residence is in Cheyenne, within Laramie County. Defendant Urquidez was acting under color of state law at all times relevant to this complaint. He is sued in his official capacity.

34. Defendant Debbye Balcaen Lathrop is the Clerk of Laramie County, Wyoming. Under Wyoming law, as the Laramie County Clerk, Defendant Lathrop may issue a license to marry, and must record returned marriage licenses. Wyo. Stat. §§ 20-1-103(b); 20-1-107(b). Defendant Lathrop was acting under color of state law at all times relevant to this complaint. She is sued in her official capacity.

35. Defendants, through their respective duties and obligations, are responsible for enforcing Wyoming's laws barring same-sex couples from marriage and Wyoming's policy of refusing to recognize the valid marriages of same-sex couples entered into in other jurisdictions. Each Defendant, and those subject to their supervision and control, have caused the harms alleged, and will continue to injure Plaintiffs if not enjoined. Accordingly, the relief requested is sought against all Defendants, as well as all persons under their supervision and control, including their officers, employees and agents.

GENERAL ALLEGATIONS

Wyoming's Laws Barring Same-Sex Couples from Marriage and Refusing to Recognize the Valid Out-of-State Marriages of Same-Sex Couples

36. Wyoming law defines marriage as "a civil contract between a male and a female person." Wyo. Stat. § 20-1-101. This definition on its face excludes same-sex couples.

37. Generally, Wyoming recognizes marriages from other states or countries that are valid under the other jurisdiction's laws. Wyoming Statute § 20-1-111 provides that "[a]ll marriage contracts which are valid by the laws of the country in which contracted are valid in this state," and does not specifically exempt same-sex marriages from that recognition. For example, although Wyoming does not recognize common-law marriages, it will recognize a common-law marriage established under laws of another jurisdiction, and give such marriage the same binding effect it would have in the state in which it was consummated. *See Compton v. Davis Oil Co.*, 607 F. Supp. 1221, 1229 (D. Wyo. 1985); *see also Bowers v Wyoming State Treasurer, ex. Rel. Workman's Comp Div.*, 543 P.2d 182 (Wyo. 1979) ("As has been the law of this state since 1876, marriages outside the state which are valid therein are valid in this state.").

38. In contravention of its own statute, however, Wyoming does not recognize legal marriages of same-sex couples performed in other jurisdictions. For example, Plaintiffs Cora

and Nonie were legally married in Iowa. But when Cora, who is a Wyoming state employee, applied to add Nonie to Cora's health and dental insurance coverage, she was informed that Nonie "does not qualify as a dependent as defined by the State of Wyoming."

Harms Caused by Wyoming's Laws Barring Same-Sex Couples from Marriage and Refusing to Recognize Same-Sex Couples' Valid Out-of-State Marriages

39. The Plaintiff couples are residents of Wyoming who experience the same joys and challenges of family life as their neighbors, co-workers, and other community members who may marry freely and whose legal marriages are respected under Wyoming law. The Plaintiff couples, and other same-sex couples represented in interest by Wyoming Equality, are productive, contributing citizens who support their families and nurture their children, but must do so without the same legal shelter, dignity, and respect afforded by Wyoming to other families through access to the universally celebrated status of marriage.

40. Wyoming's exclusion of the Plaintiffs from marriage, and Defendants' enforcement of that exclusion, as well as Wyoming's refusal to respect the marriages of legally married same-sex couples from other jurisdictions, subject the Plaintiff couples to an inferior "second class" status as Wyoming citizens relative to the rest of the community. These laws deprive the Plaintiff couples and their children of equal dignity, security, and legal protections afforded to other Wyoming families.

41. Plaintiffs Cora and Nonie were married in Iowa in 2009 and would be recognized as such under Wyoming law but for the fact that they are a same-sex couple. Instead, they are treated as legal strangers to one another under Wyoming law.

42. Plaintiffs Carl and Rob were married in Canada on July 16, 2010, and would be recognized as such under Wyoming law but for the fact that they are a same-sex couple. Instead, they are treated as legal strangers to one another under Wyoming law.

43. Plaintiffs Ivan and Chuck went to the Laramie County Clerk's office to apply for a marriage license on February 27, 2014. Defendant Lathrop, directly or through her authorized agent, informed Ivan and Chuck that they could not apply for a marriage license because they were a same-sex couple. On March 3, 2014, Defendant Lathrop called Ivan and Chuck to inform them that they could apply for a marriage license, but that the application would likely be denied because Ivan and Chuck are a same-sex couple. Ivan and Chuck applied for a license later that day, but Defendant Lathrop did not issue them a license. Defendant Lathrop has acknowledged that she has a duty to issue marriage licenses to qualified couples such as Ivan and Chuck, but

has not issued a license to Ivan and Chuck because Wyoming statute only allows marriage between "a male and a female person." Wyo. Stat. § 20-1-101.

44. Plaintiffs Anne and Bonnie went to the Laramie County Clerk's office to apply for a marriage license on February 27, 2014. Defendant Lathrop, directly or through her authorized agent, informed Anne and Bonnie that they could not apply for a marriage license because they were a same-sex couple. On March 3, 2014, Defendant Lathrop, directly or through her authorized agent, called Anne and Bonnie to inform them that they could apply for a marriage license, although the application would likely be denied because Anne and Bonnie are a same-sex couple. Anne and Bonnie applied for a license on March 4, 2014, but Defendant Lathrop would not issue a license. Defendant Lathrop has acknowledged that she has a duty to issue marriage licenses to qualified couples such as Anne and Bonnie, but has not issued a license to Anne and Bonnie because Wyoming statute only allows marriage between "a male and a female person." Wyo. Stat. § 20-1-101.

45. In addition to stigmatizing an entire class of Wyoming's population as second-class citizens, Wyoming's prohibition on marriage by same-sex couples, and its refusal to recognize valid marriages from other jurisdictions, deprive same-sex couples of critically important rights and responsibilities that married couples rely upon to secure their marriage commitment and safeguard their families. By way of example, and without limitation, same-sex partners are denied:

a. The right to spousal insurance coverage and benefits, when spousal benefits are otherwise available. Wyo. Stat. § 9-3-209.

b. The right to be provided for by their spouse during marriage. Wyo. Stat. § 20-3-101.

c. The right to a court-ordered equitable distribution of property upon the dissolution of the marriage. Wyo. Stat. § 20-2-114.

d. The right to inherit a share of the estate of a spouse who dies without a will. Wyo. Stat. § 2-4-101.

e. The right to receive a distribution of the property of a deceased spouse, free from testamentary disposition. Wyo. Stat. §§ 2-5-101 and 2-7-723.

f. The right to priority in appointment as the personal representative of the estate of a spouse who dies without a will. Wyo. Stat. § 2-4-201.

g. The right to be a presumed parent to a child born to a spouse during marriage. Wyo. Stat. § 20-1-113.

h. The right to file a joint adoption petition. Wyo. Stat. § 1-22-104.

i. The right to have priority when making medical decisions for an ill or incapacitated spouse without an advance health care directive. Wyo. Stat. § 35-22-406.

j. The right to receive certain worker's compensation benefits for a deceased spouse who died as a result of a work-related accident. Wyo. Stat. § 27-14-403.

k. The right of one spouse to be protected from having to testify against the other. Wyo. Stat. § 1-12-104.

l. The right of spouses of military personnel to be eligible for licensure in Wyoming based on experience in another state. Wyo. Stat. § 33-1-117.

m. The right to rely on a spouse's residency for purposes of obtaining a resident hunting and fishing license, and to fish on certain property of a spouse without a fishing license. Wyo. Stat. §§ 23-1-107 and 23-2-208.

CLAIMS FOR RELIEF

First Claim for Relief: Wyoming's Ban on Marriage by Same-Sex Couples Deprives the Unmarried Plaintiffs of Their Rights to Due Process under the Wyoming Constitution

46. Plaintiffs incorporate by reference and re-allege all of the preceding paragraphs of this complaint as though fully set forth herein.

47. Wyoming Statute § 20-1-101 and all other sources of state law that preclude marriage for same-sex couples violate the Due Process guarantees of the Wyoming Constitution, both facially and as applied to the Plaintiff couples. Wyo. Const. art. 1, § 6.

48. The right to marry the unique person of one's choice and to direct the course of one's life without undue government restriction is one of the fundamental rights protected by Due Process. Defendants' actions prohibiting the Plaintiff couples from entering marriage directly and impermissibly infringe upon the Plaintiff couples' choice of whom to marry, interfering with a core, life-altering, and intimate personal choice.

49. Due Process also protects choices central to personal dignity, privacy, and autonomy, including each individual's fundamental liberty interests in family integrity and intimate association. Defendants' actions prohibiting the Plaintiff couples from entering

marriage directly and impermissibly infringe upon the Plaintiff couples' deeply intimate, personal, and private decisions regarding family life, and preclude them from obtaining full liberty, dignity, privacy, and security for themselves, their family, and their parent-child relationships.

50. As Wyoming's Governor and chief executive officer, Defendant Mead's duties and actions to enforce Wyoming's exclusion of same-sex couples from marriage, including those actions taken pursuant to his responsibility for the policies and actions of the executive branch relating to, for example and without limitation, health insurance coverage, vital records, tax obligations, and state employee benefits programs, violate the Unmarried Plaintiffs' fundamental right to marry and fundamental interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association. The actions of Defendant Fausset and Defendant Urquidez likewise violate the Unmarried Plaintiffs' fundamental right to marry and fundamental interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association.

51. As the clerk of Laramie County, Wyoming, Defendant Lathrop ensures compliance with Wyoming's exclusion of same-sex couples from marriage by, for example, refusing to issue marriage licenses to same-sex couples. This violates the Unmarried Plaintiffs' fundamental right to marry and fundamental interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association.

52. Defendants cannot satisfy the requirements of Due Process because Wyoming's exclusion of same-sex couples from marriage is not rationally related to any legitimate governmental interest and thus cannot survive even rational basis review, much less the heightened level of scrutiny that applies to deprivation of the fundamental right to marry and interference with fundamental interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association.

53. The Unmarried Plaintiffs have no adequate remedy at law to redress the wrongs alleged herein, which are of a continuing nature and will cause them irreparable harm, and the Unmarried Plaintiffs are entitled to declaratory and injunctive relief on this basis.

Second Claim for Relief:
Wyoming's Failure to Recognize the Marriages of the Married Plaintiffs Violates Their Rights to Due Process under the Wyoming Constitution

54. Plaintiffs incorporate by reference and re-allege all of the preceding paragraphs of this complaint as though fully set forth herein.

55. Plaintiffs Cora and Nonie are lawfully married under laws of the state of Iowa.

56. Plaintiffs Carl and Rob are lawfully married under the laws of Canada.

57. When a marriage is legally entered into in another state or country, numerous rights, responsibilities, benefits, privileges, and protections attach to that status under state and federal law regardless of where the married couple chooses to live within the United States. Once a couple enters into a valid marriage, the couple has a liberty interest in their marital status that is protected by Due Process.

58. The Married Plaintiffs in this case have a protected liberty interest and property interest in their lawful marital status and in the comprehensive protections and obligations that marriage provides.

59. While Wyoming law expressly states that "[a]ll marriage contracts which are valid by the laws of the country in which contracted are valid in this state," Wyo. Stat. § 20-1-111, in practice the legal marriages of the Married Plaintiffs have been treated as non-existent and without any legal effect or status in Wyoming. This practice effectively strips the Married Plaintiffs of a valuable and fundamental legal status that was conferred on them when they entered into a valid marriage in another jurisdiction, and deems them legal strangers to each other under Wyoming law.

60. Moreover, Wyoming's refusal to recognize the valid marriages of the Married Plaintiffs also impermissibly burdens and interferes with their exercise of the fundamental right to marry in violation of Due Process. Wyo. Const. art. 1, § 6.

61. Accordingly, Wyoming's refusal to recognize the valid marriages of these Plaintiffs, and Defendants' actions effecting this refusal, impermissibly deprive the Married Plaintiffs of their fundamental liberty and property interests in their marriages, and the comprehensive protections afforded by marriage, in violation of Due Process.

62. Defendants cannot satisfy the requirements of Due Process because Wyoming's refusal to recognize legal same-sex marriages entered into in other jurisdictions is not rationally related to any legitimate governmental interest and thus cannot survive even rational basis review, much less the heightened level of scrutiny that applies to deprivation of the fundamental right to marry and interference with fundamental interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association.

63. The Married Plaintiffs have no adequate remedy at law to redress the wrongs alleged herein, which are of a continuing nature and will cause them irreparable harm, and the Married Plaintiffs are entitled to declaratory and injunctive relief on this basis.

Third Claim for Relief:
Wyoming's Ban on Marriage by Same-Sex Couples Deprives Plaintiffs of Their Rights to Equal Protection of the Laws under the Wyoming Constitution

64. Plaintiffs incorporate by reference and re-allege all of the preceding paragraphs of this complaint as though fully set forth herein.

65. Wyoming Statute § 20-1-101 and all other sources of state law or practice that preclude marriage by same-sex couples violate the equal protection guarantees of the Wyoming Constitution both facially and as applied to the Plaintiffs. Wyo. Const. art. 1, §§ 2, 3.

66. Wyoming's exclusion of same-sex couples from marriage and Defendants' actions effecting this exclusion deny same-sex couples equal dignity and respect, and deprive their families of a critical safety net of rights and responsibilities.

67. Wyoming brands same-sex couples and their children as second-class citizens through government-imposed stigma. Wyoming fosters private bias and discrimination by instructing all persons with whom same-sex couples interact, including their own children, that their relationships and families are less worthy than others. Wyoming's exclusion of same-sex couples from marriage and Defendants' actions enforcing this exclusion reflect moral disapproval and animus toward same-sex couples, and an improper purpose to impose inequality on same-sex couples and their children.

68. Same-sex couples such as the Plaintiff couples are similar to opposite-sex couples in all of the characteristics relevant to marriage. Committed same-sex couples make the same commitment to one another as other couples. They build their lives together, plan their futures together, and hope to grow old together, caring for one another physically, emotionally, and financially. The Unmarried Plaintiffs seek to marry for the same types of reasons, and to provide the same legal shelter to their families, as opposite-sex spouses.

69. Same-sex couples such as the Plaintiff couples and their children are equally worthy of the tangible rights and responsibilities—as well as the respect, dignity, and legitimacy—that access to marriage confers on opposite-sex couples and their children. For the many children being raised by same-sex couples, the tangible resources and societal esteem that marriage confers on families is no less precious than for children of opposite-sex couples.

70. Wyoming's exclusion of same-sex couples from marriage discriminates against the Plaintiffs with respect to the exercise of the fundamental right to marry the person of one's choice, and with respect to their liberty interests in personal autonomy, and family integrity, association, and dignity. Such discrimination is subject to heightened scrutiny. Wyoming's disparate treatment of same-sex couples cannot survive such scrutiny, and indeed cannot survive even rational basis review.

71. Wyoming's laws barring same-sex couples from marriage also unlawfully discriminate against Wyoming couples as a class by excluding them from marriage or any other form of relationship recognition on the basis of sexual orientation and sex.

72. The Unmarried Plaintiffs have no adequate remedy at law to redress the wrongs alleged herein, which are of a continuing nature and will cause them irreparable harm, and the Unmarried Plaintiffs are entitled to declaratory and injunctive relief on this basis.

A. Discrimination Based on Sexual Orientation

73. Wyoming's law barring same-sex couples from marriage targets same-sex Wyoming couples as a class by excluding them from marriage or any other form of relationship recognition on the basis of sexual orientation.

74. Lesbians and gay men have suffered a long and painful history of discrimination in Wyoming and across the United States. Laws that discriminate based on sexual orientation should be subjected to heightened equal protection scrutiny for numerous reasons.

75. Lesbian, gay, and bisexual persons are a discrete and insular minority, and strong ongoing prejudice against them continues to seriously curtail the political processes that might ordinarily be relied upon to protect them. In Wyoming, lesbian, gay, and bisexual persons lack any express statutory protection against discrimination in employment, public accommodations, and housing.

76. Sexual orientation bears no relation to an individual's ability to perform in or contribute to society. Sexual orientation is a core, defining trait that is so fundamental to one's identity and autonomy that a person may not legitimately be required to abandon or change it (even if that were possible) as a condition of equal treatment under the law.

77. Wyoming's statute excluding same-sex couples from marriage constitutes discrimination based upon sexual orientation and is unlawful under the Wyoming Constitution because it denies same-sex couples equal protection under the laws of Wyoming.

78. The exclusion of same-sex couples from marriage based on sexual orientation cannot survive heightened equal protection scrutiny because the State of Wyoming cannot offer a persuasive showing that the exclusion or practice is essential to achieving a compelling state interest.

79. Moreover, because the exclusion of same-sex couples from marriage does not rationally advance any legitimate government interest at all, the exclusion violates the equal protection guarantees of the Wyoming Constitution even under rational basis review.

B. Discrimination Based on Sex

80. Wyoming's exclusion of same-sex couples from marriage discriminates against the Plaintiff couples on the basis of sex, barring the Plaintiff couples from marriage solely because each of the individual Plaintiffs wishes to marry a life partner of the same sex. The sex-based restriction is plain on the face of the Wyoming's law, which restricts marriage to "a male and a female person." Wyo. Stat. § 20-1-101.

81. Because of these sex-based classifications, Anne is precluded from marrying her devoted life partner Bonnie because Bonnie is a woman; were Bonnie a man, she could marry Anne. Likewise, Ivan is precluded from marrying his devoted life partner Chuck because Chuck is a man; were Chuck a woman, he could marry Ivan.

82. Wyoming's exclusion of same-sex couples from marriage also serves the impermissible purpose of enforcing and perpetuating sex stereotypes by excluding the Plaintiff couples from the benefits of marriage because the individual Plaintiffs do not conform to sex-based stereotypes that women should be attracted to, form intimate relationships with, and marry men rather than other women, and that men should be attracted to, form intimate relationships with, and marry women rather than other men. The exclusion of same-sex couples from marriage also perpetuates and enforces conformity to stereotypes concerning the roles that men and women, respectively, should play within marriage and family life.

83. Given that there are no longer significant legal distinctions between the duties of husbands and wives under Wyoming law, there is no basis for the sex-based eligibility requirements for marriage.

84. The exclusion of the Plaintiff couples from marriage based on the individual Plaintiffs' sex and the enforcement of gender-based stereotypes cannot survive the heightened

scrutiny required for sex-based discrimination, nor is it rationally related to any legitimate governmental purpose.

Fourth Claim for Relief:
Wyoming's Failure to Recognize the Marriages of the Plaintiffs Who Are Lawfully Married in Other Jurisdictions Violates Their Rights to Equal Protection of the Laws under the Wyoming Constitution

85. Plaintiffs incorporate by reference and re-allege all of the preceding paragraphs of this complaint as though fully set forth herein.

86. Wyoming's practice of refusing to recognize legal same-sex marriages entered into in other jurisdictions is unlawful discrimination and violates the equal protection guarantees of the Wyoming Constitution. Wyo. Const. art. 1, §§ 2, 3.

87. While the states have traditionally had the authority to regulate marriage, that authority "must respect the constitutional rights of persons," and is "subject to constitutional guarantees." *Windsor*, 133 S. Ct. at 2691.

88. Like many other couples, same-sex couples are often parents raising children. Plaintiffs Nonie and Cora have children.

89. The principal purpose and effect of Wyoming's refusal to recognize same-sex marriages lawfully performed in other jurisdictions "is to identify a subset of state-sanctioned marriages and make them unequal." *Windsor*, 133 S. Ct. at 2694. These laws "impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of [other] States." *Id.* at 2693. Same-sex couples raising children should not be forced to raise their children under the stigma imposed by Wyoming's refusal to recognize their marriages. *Id.*

90. If Cora and Nonie had devoted life partners who were men, there is no question that their marriages would be recognized in Wyoming. Likewise, if Carl and Rob had devoted life partners who were women, there is no question that their marriages would be recognized in Wyoming. Wyoming's refusal to recognize the lawful marriages of the Married Plaintiffs discriminates based on sex and sexual orientation.

91. Wyoming's refusal to recognize the lawful marriages of the Married Plaintiffs also discriminates against the class of legally married persons and discriminates against the Married Plaintiffs with respect to the exercise of the fundamental right to marry the person of one's choice and fundamental liberty interests in personal autonomy, dignity, privacy, family integrity, and intimate association.

92. Wyoming's practice of singling out legally married same-sex couples in order to exclude their marriages from recognition cannot survive heightened scrutiny under the equal protection provisions of the Wyoming Constitution because the State of Wyoming cannot offer a persuasive showing that the exclusion or practice is essential to achieving a compelling state interest.

93. Moreover, because excluding legally married same-sex couples from recognition does not serve any legitimate government interest at all, the practice violates the equal protection guarantees of the Wyoming Constitution even under rational basis review. A purpose to harm a minority class of persons cannot justify disparate treatment of that group because it is not a legitimate governmental interest. *Romer v. Evans*, 517 U.S. 620, 635 (1996); *Windsor*, 133 S. Ct. at 2693.

94. The Married Plaintiffs have no adequate remedy at law to redress the wrongs alleged herein, which are of a continuing nature and will cause them irreparable harm, and the Married Plaintiffs are entitled to declaratory and injunctive relief on this basis.

Fifth Claim for Relief:
Defendants' Failure to Recognize the Marriages of the Married Plaintiffs Violates Wyoming Statute Section 20-1-111

95. Plaintiffs incorporate by reference and re-allege all of the preceding paragraphs of this complaint as though fully set forth herein.

96. Generally Wyoming does not question the legitimacy of marriages from other states that are valid under the other state's laws. Indeed, Wyoming Statute specifically provides that marriages lawfully entered into in another state or country will be fully recognized in Wyoming. Wyo. Stat. § 20-1-111.

97. Defendants' refusal to recognize the Married Plaintiffs' marriages—which were lawfully entered into in Iowa (Cora and Nonie) and Canada (Carl and Rob) and would be treated in these jurisdictions in a manner identical to opposite-sex marriages—violates Wyo. Stat. § 20-1-111.

98. The Married Plaintiffs have no adequate remedy at law to redress the wrongs alleged herein, which are of a continuing nature and will cause them irreparable harm, and Cora and Nonie are entitled to declaratory and injunctive relief on this basis.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

99. Declaring that the provisions of and enforcement by Defendants of Wyoming's laws excluding same-sex couples from marriage, including Wyoming Statute § 20-1-101, and any other sources of state law that exclude same-sex couples from marrying violate the Unmarried Plaintiffs' rights under the Due Process and Equal Protection Clauses of the Wyoming Constitution;

100. Declaring that the practice, by Defendants and their subordinates, of refusing to recognize the valid out-of-state marriages of the Married Plaintiffs and other legally married same-sex couples violates Plaintiffs' rights under the Due Process and Equal Protection Clauses of the Wyoming Constitution;

101. Declaring that the Married Plaintiffs' marriages are valid in the State of Wyoming, in accordance with Wyoming Statute § 20-1-111;

102. Permanently enjoining enforcement by Defendants of Wyoming Statute § 20-1-101, and any other sources of state law, policy, or practice that exclude the Unmarried Plaintiffs from marriage or that refuse recognition of the marriages of the Married Plaintiffs;

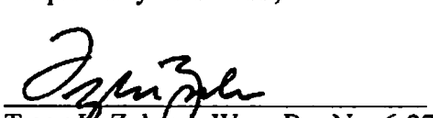
103. Requiring Defendants to permit issuance of marriage licenses to the Unmarried Plaintiffs, pursuant to the same restrictions and limitations applicable to opposite-sex couples, and to recognize the marriages validly entered into by the Married Plaintiffs;

104. Awarding Plaintiffs their costs, expenses, and reasonable attorneys' fees pursuant to Wyo. Stat. § 1-37-112, and other applicable laws; and

105. Granting such other and further relief as the Court deems just and proper.

DATED: March 5, 2014.

Respectfully submitted,



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*Admission Pro Hac Vice Pending