

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION**

**JAMES DOMER BRENNER,
CHARLES DEAN JONES,
STEPHEN SCHLAIRET and
OZZIE RUSS,**

Plaintiffs,

vs.

Case No.: 4:14-cv-00107-RH-CAS

**RICK SCOTT, in his official
capacity as Governor of Florida;
PAMELA BONDI, in her
official capacity as Attorney
General of Florida;
JOHN H. ARMSTRONG,
in his official capacity as
Surgeon General and Secretary
of Health for the State of Florida;
CRAIG J. NICHOLS, in his official
capacity as Agency Secretary for the
Florida Department of Management
Services; and HAROLD BAZZELL,
in his official capacity as Clerk of Court
and Comptroller for Washington
County, Florida,**

Defendants.

**FIRST AMENDED VERIFIED COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs, James Domer Brenner, Charles Dean Jones, Stephen Schlairet, and Ozzie Russ,
by and through undersigned counsel, hereby sue the Defendants and allege as follows:

INTRODUCTION

Plaintiffs bring this action to challenge the constitutionality of Florida's laws voiding or otherwise refusing to recognize the marriages of same-sex couples entered in other states or countries. In *United States v. Windsor*, --- U.S. ---, 133 S. Ct. 2675 (2013), the United States Supreme Court held that withholding federal recognition and benefits from legally married same-sex couples, as required by Section 3 of the Defense of Marriage Act (DOMA), violates the Federal Constitutional guarantees of equal protection and due process. Plaintiffs seek to apply this holding, and/or the reasoning underlying it, to invalidate and enjoin the enforcement of Florida's State Constitutional provision and statutes prohibiting the marriage of same-sex couples and the recognition of already legally married same-sex couples.

THE PLAINTIFFS

a. Plaintiffs Brenner and Jones

1. Plaintiffs James Domer Brenner and Charles Dean Jones are adult, male residents of Tallahassee, Leon County, Florida, having lived there since the mid-eighties.
2. Plaintiff Brenner has worked for the Florida Forest Service since 1981 and currently serves as a Fire Management Administrator.
3. Plaintiff Jones has worked for the Florida Department of Education since 2003 and currently serves as an Operations and Management Consultant.
4. Plaintiffs Brenner and Jones have been domestic partners in a long term, stable relationship since 1988.

5. Plaintiffs Brenner and Jones, seeking recognition of their relationship, were lawfully married in Alberta, Canada on September 3, 2009 and immediately returned to Tallahassee, Florida to reside as spouses.

6. Like other couples who have made a lifetime commitment to each other, Plaintiffs Brenner and Jones are spouses in every sense, except that their marriage is not currently recognized by the State of Florida.

7. The situation faced by Brenner and Jones is similar to that faced by many other legally married same-sex couples.

8. Plaintiffs Brenner and Jones seek to have their legal marriage recognized in the State of Florida in order to have the same legal protections afforded to legally married opposite-sex couples, including those who married in other jurisdictions.

9. While enrolling in Florida's Deferred Retirement Option Program, Plaintiff Brenner was unable to designate Plaintiff Jones, his lawful husband, as his spouse or joint annuitant under Florida law solely because Plaintiffs are both men.

10. When a state employee, who is in an opposite-sex marriage, enters retirement, he or she may designate his or her spouse as a joint annuitant.

11. The joint annuitant, upon the retiree's death, is entitled to the retiree's monthly benefits under certain retirement options.

12. However, because Florida refuses to recognize Plaintiffs Brenner and Jones' legal marriage, Plaintiff Brenner was prohibited for selecting a retirement option that would continue to provide for his spouse Jones after his death.

b. Plaintiffs Schlaiet and Russ

13. Plaintiffs Stephen Schlaiet and Ozzie Russ are adult, male residents of Chipley, Washington County, Florida.

14. Plaintiff Schlaiet has a Masters Degree in Hospital Administration and over 40 years of healthcare management experience.

15. As of 2013, Plaintiff Schlaiet is retired on Social Security and Medicare and volunteers as a horse trainer for a horse rescue in Marianna, Florida.

16. Plaintiff Russ currently works as a manager for McDonald's and has over 27 years of management and customer service experience.

17. Plaintiffs Schlaiet and Russ have been in a long-term, stable relationship since 1999.

18. Plaintiffs Schlaiet and Russ seek to have their love and commitment for each other recognized, but without being able to legally marry in the State of Florida, then registered as domestic partners in Fort Lauderdale, Florida, on November 4, 2001.

19. Plaintiffs Schlaiet and Russ, wishing to publicly recognize their commitment to each other, held a public commitment ceremony with their families and 100 close friends after registering as domestic partners.

20. Since being together, Plaintiffs Schlaiet and Russ have resided on a horse ranch in Chipley, Florida.

21. Plaintiffs Schlaiet and Russ seek to marry each other, but the State of Florida refuses to issue Plaintiffs Schlaiet and Russ a marriage license because both Plaintiffs are males.

22. Plaintiffs Schlaiet and Russ, per Florida law, have completed an online premarital counseling course which entitles prospective spouses to the immediate issuance of a marriage license. *See* Exhibit “A,” attached hereto.

23. However, because Plaintiffs Schlaiet and Russ are both males, the Washington County Clerk of Court refused to issue Plaintiffs Schlaiet and Russ a marriage license. *See* Exhibit “B,” attached hereto.

24. Due to their status as a same-sex couple who cannot legally marry in Florida, Plaintiffs Schlaiet and Russ have suffered injury they would not have suffered had they been an opposite-sex couple.

25. The house in which Plaintiffs Schlaiet and Russ reside is only titled in Plaintiff Schlaiet’s name, and the two do not qualify for homestead protection and are unable to hold the property as tenants by entireties.

26. During interrupted periods of employment, Plaintiffs Schlaiet and Russ were unable to have healthcare coverage under each other’s insurance plans due to Florida prohibiting them from marrying.

27. In sum, Plaintiffs Schlaiet and Russ seek to legally marry in the State of Florida in order to have the same legal protections and recognition afforded to married opposite-sex couples.

THE DEFENDANTS

28. Defendant Rick Scott is the Governor of the State of Florida. In his official capacity, Governor Scott is the chief executive officer of the State of Florida and is responsible for the faithful execution of the laws of the State of Florida, including the laws that exclude same-sex couples from having their out-of-state marriages recognized.

29. Defendant Pamela Bondi is the Attorney General of the State of Florida. In her official capacity, Attorney General Bondi is the chief legal officer of the State of Florida and is charged with advising state and local officials on questions of Florida and federal law.

30. Defendant John H. Armstrong is sued in his official capacity as the Surgeon General and Secretary of Health for the State of Florida. As head of the Florida Department of Health, Armstrong must “[p]lan, direct, coordinate, and execute the powers, duties, and functions vested in that department.” § 20.05, Fla. Stat. In his official capacity, he is responsible for creating forms for certificates of death, *see* § 382.008(1), Fla. Stat., as well as registering, recording, certifying, and preserving the State’s vital records, *see* § 382.003(7), Fla. Stat., including certificates of death.

31. Defendant Craig J. Nichols is sued in his official capacity as the Agency Secretary for the Florida Department of Management Services. As the head of the Florida Department of Management Services, Nichols must “[p]lan, direct, coordinate, and execute the powers, duties, and functions vested in that department.” § 20.05, Fla. Stat. In his official capacity, he is responsible for administering Florida’s public retirement and pension systems. *See* §121.025, Fla. Stat; *see also* § 121.021, Fla. Stat. (definitions).

32. Defendant Harold Bazzell is the Clerk of Court and Comptroller for Washington County, Florida. In his official capacity, Harold Bazzell is responsible for issuing marriage licenses and performing civil marriage ceremonies in Washington County, Florida.

33. Defendants are, and at all relevant times have been, acting under color of state law, and are sued in their official capacities.

34. By implementing and enforcing the Statute and Florida Constitutional Amendment discussed below, Defendants have deprived, and continue to deprive, Plaintiffs of rights guaranteed by the United States Constitution.

JURISDICTION AND VENUE

35. Plaintiffs bring this action under 42 U.S.C. §§1983 and 1988 to redress the deprivation, under color of state law, of their rights secured by the United States Constitution.

36. This Court has jurisdiction pursuant to 28 U.S.C. §§1331 and 1343.

37. This Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Fed.R.Civ.P. 57 and 65 and 28 U.S.C. §§ 2201 and 2202.

38. Venue is proper in this district pursuant to 28 U.S.C. §1391(b) because the Defendants have offices within the district, because Plaintiffs reside in this district, and because the events giving rise to Plaintiffs' claims occurred, continue to occur, and will occur, in this district.

CONSTITUTIONAL AND STATUTORY PROVISIONS CHALLENGED

39. Article I, section 27, of the Florida Constitution, adopted in 2008 provides:

Inasmuch as marriage is the legal union of only one man and one woman as husband and wife, no other legal union that is treated as marriage or the substantial equivalent thereof shall be valid or recognized.

40. Section 741.04(1), Florida Statutes (2013) provides in part:

No county court judge or clerk of the circuit court in this state shall issue a license for the marriage of any person unless there shall be first presented and filed with him or her an affidavit in writing, signed by both parties to the marriage, providing the social security numbers

or any other available identification numbers of each party, made and subscribed before some persons authorized by law to administer an oath, reciting the true and correct ages of such parties; unless both parties shall be over the age of 18, except as provided in s. 741.0405; and unless one party is a male and the other party is a female.

41. Section 741.212(1),(2), and (3), Florida Statutes (2013) provides:

- (1) Marriages between persons of the same sex entered into in any jurisdiction, whether within or outside the State of Florida, the United States, or any other jurisdiction, either domestic or foreign, or any other place or location, or relationships between persons of the same sex which are treated as marriages in any jurisdiction, whether within or outside the State of Florida, the United States, or any other jurisdiction, either domestic or foreign, or any other place or location, are not recognized for any purpose in this state.
- (2) The state, its agencies, and its political subdivisions may not give effect to any public act, or judicial proceeding of any state, territory, possession, or tribe of the United States or of any other jurisdiction, either domestic or foreign, or any other place or location respecting either a marriage or relationship not recognized under subsection (1) or a claim arising from such a marriage or relationship.
- (3) For purposes of interpreting any state statute or rule, the term “marriage” means only a legal union between one man and one woman as husband and wife, and the term “spouse” applies only to a member of such a union.

42. The above-described provisions of Florida law are in violation of the United States Constitution, insofar as they deny Plaintiffs and same-sex couples the rights, privileges, responsibilities and immunities extended to similarly situated opposite-sex couples.

43. Legally married same-sex couples such as Plaintiffs Brenner and Jones are similarly situated to legally married opposite-sex couples in all of the characteristics relevant to recognition of their legal marriages.

44. Florida has no legitimate state interest in treating legally married same-sex couples any differently from legally married opposite-sex couples.

45. Florida has no legitimate state interest in prohibiting same-sex couples from marrying while allowing opposite-sex couples to marry.

46. Florida has no legitimate state interest in enforcing the statutes or Florida constitutional amendment challenged by Plaintiffs in this case.

47. Any purported identifiable state interest is not served in an adequately and narrowly tailored manner by Article I, Section 27, of the Florida Constitution, or the statutes challenged in this litigation.

48. The purposes underlying Article I, Section 27, of the Florida Constitution, §741.04, Fla. Stat. (2013) and §741.212, Fla. Stat. (2013) are specifically forbidden by the United States Constitution in that they are designed specifically to carry out a desire to harm a politically unpopular class of individuals based solely on their sexual orientation.

CLAIMS FOR RELIEF

COUNT I:

DEPRIVATION OF DUE PROCESS

49. Paragraphs 1 through 48 above, are adopted and incorporated by reference herein.

50. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall “deprive any person of life, liberty, or property, without due process of law.”

51. The right to marry is a fundamental right under the United States Constitution and is protected by the Due Process Clause.

52. Same-sex spouses who have entered into legal marriages have a protected liberty interest in their marital status, and the State's refusal to recognize their marital status impermissibly deprives legally married same-sex spouses of that protected liberty interest.

53. Same-sex spouses who have entered into legal marriages in other jurisdictions have a reasonable expectation that they will continue to be protected by the rights and protections conferred by marriage when they relocate to another jurisdiction.

54. Same-sex spouses have a protected property interest in their marital status and in the comprehensive network of legal protections that marriage provides, including the accrual of certain marital benefits over time.

55. Refusing to allow same-sex couples to enter into the same officially sanctioned relationship as heterosexual individuals stigmatizes same-sex couples and denies the same dignity, respect, and legal standard afforded and officially recognized in heterosexual family relationships.

56. The Due Process Clause also protects choices central to personal dignity and autonomy, including each individual's rights to family integrity and association.

57. Article I, Section 27, of the Florida Constitution and §§ 741.04 and 741.212, Fla. Stat. (2013) violate the due process guarantees of the Fourteenth Amendment facially and/or as applied to Plaintiffs by infringing upon their right to have their marriage recognized in the State of Florida.

58. In addition, Article I, Section 27, of the Florida Constitution and §§ 741.04 and 741.212, Fla. Stat. (2013) conflict with other portions of the Florida Constitution, thereby

depriving same-sex couples of rights otherwise granted to all Florida citizens, thus depriving them of Due Process rights under both the state and federal constitutions.

59. Specifically, Article I, Sections 2, 3, 4, 5, 9, and 23 of the Florida Constitution guarantee the rights to equal protection, religious freedom, freedom of speech, right to associate, due process, the right to be free from governmental intrusions into a person's private life, and the right to enjoy life, all of which are infringed upon by article I, section 27, of the Florida Constitution, §§ 741.04 and 741.212, Fla. Stat. (2013).

COUNT II:
EQUAL PROTECTION

60. Paragraphs 1 through 48, above, are adopted and incorporated by reference herein.

61. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

62. The State of Florida has no legitimate interest in discriminating against citizens on the basis of sexual orientation.

63. The State of Florida has no legitimate interest in discriminating against citizens on the basis of sex.

64. There is no rational basis for the State of Florida to treat same-sex couples differently from opposite-sex couples.

65. There is no rational basis for the State of Florida to treat Florida citizens differently based solely on their sexual orientation.

66. Sexual orientation bears no relation to a person's ability to perform in or contribute to society.

67. By restricting the definition of marriage to "one man and one woman," and recognizing foreign marriages between opposite sex spouses while failing to recognize foreign marriages between same sex spouses, the State of Florida engages in sex-based discrimination without rational basis or a legitimate interest in doing so.

68. By restricting the definition of marriage to "one man and one woman," and prohibiting same-sex couples from marrying while allowing opposite-sex couples to marry, the State of Florida also engages in sex-based discrimination without rational basis or a legitimate interest in doing so.

69. Gay and lesbian people have experienced a history of discrimination in the United States and in the State of Florida.

70. Sexual orientation, including homosexuality, is an immutable trait.

71. Gay and lesbian people represent a small minority of the population and thus lack the political power to assert their rights to equal treatment under the law.

72. The purpose of Article I, Section 27, of the Florida Constitution, §§ 741.04 and 741.212, Fla. Stat. (2013) is to impose restrictions and disabilities on same-sex couples.

73. Article I, Section 27, of the Florida Constitution, §§ 741.04 and 741.212, Fla. Stat. (2013) are motivated by a desire to harm a politically unpopular group.

74. Article I, Section 27, of the Florida Constitution, §§ 741.04 and 741.212, Fla. Stat. (2013) also serve the impermissible purpose of enforcing and perpetuating sex stereotypes by

excluding Plaintiffs from being recognized as validly married because Plaintiffs have failed to conform to sex-based stereotypes that men should marry women, and women should marry men.

75. Article I, Section 27, of the Florida Constitution, §§ 741.04 and 741.212, Fla. Stat. (2013) violate the equal protection guarantees of the Fourteenth Amendment facially and/or as applied to Plaintiffs by infringing their right to have their legal marriage recognized in the State of Florida and refusing to allow Plaintiffs to marry.

COUNT III:
FREEDOM OF ASSOCIATION

76. Paragraphs 1 through 48, above, are adopted and incorporated by reference herein.

77. The First Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, ensures the right to freedom of association.

78. Article I, Section 27, of the Florida Constitution, and §§ 741.04 and 741.212, Fla. Stat. (2013) violate the freedom of association guarantees of the First Amendment facially and/or as applied to Plaintiffs by discriminating against them and penalizing them based solely upon the sex of the person they choose to marry, want to marry and/or their sexual orientation.

COUNT IV:
SUPREMACY CLAUSE

79. Paragraphs 1 through 48, above, are adopted and incorporated by reference herein.

80. Article VI, Section II of the United States Constitution provides: “This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.”

81. By virtue of the Supremacy Clause, state statutes, constitutions and amendments thereto are subject to applicable prohibitions and limitations of the Federal Constitution.

82. Article I, Section 27, of the Florida Constitution and §§ 741.04 and 741.212, Fla. Stat. (2013) violate the Supremacy Clause by contravening the United States Supreme Court's holding in *Windsor*.

83. The Fourteenth Amendment protects the liberty of individuals to travel throughout the nation, uninhibited by statutes, rules, or regulations that unreasonably burden or restrict their movement.

84. The right to travel prohibits both laws that affirmatively interfere with or prevent a citizen's travel, and also laws that penalize those who choose to migrate to another state.

85. The right extends not only to temporary visits to other states, but also to becoming a permanent resident of another state.

86. Article I, Section 27, of the Florida Constitution, and §§ 741.04 and 741.212, Fla. Stat. (2013) violate the right to travel as guaranteed by the Fourteenth Amendment facially and/or as applied to Plaintiffs by imposing a penalty on Plaintiffs for choosing to move to and/or reside in the State of Florida in that their residence in Florida requires them to relinquish all rights, privileges, benefits, and responsibilities of marriage.

COUNT V:
ESTABLISHMENT CLAUSE

87. Paragraphs 1 through 48, above, are adopted and incorporated by reference herein.

88. The First Amendment to the United States Constitution states, "Congress shall make no law respecting an establishment of religion . . ."

89. This prohibition is extended to the states through the Fourteenth Amendment.

90. Article I, Section 27, of the Florida Constitution, and §§ 741.04 and 741.212 Fla. Stat. (2013) were enacted for the purpose of establishing a definition of marriage based upon religious beliefs of the majority, and not for a secular legislative purpose.

91. The primary effect of the above legislation is to advance the religious beliefs of the legislative majority.

92. The constitutional amendment and above statutes result in an excessive government entanglement with religion.

COUNT VI:
HARM TO THE PLAINTIFFS AND NEED FOR INJUNCTIVE RELIEF

93. Paragraphs 1 through 48, above, are adopted and incorporated by reference herein.

94. This case presents an actual controversy because Defendants' present and ongoing denial of equal treatment to Plaintiffs subjects them to serious and immediate harms, warranting the issuance of a declaratory judgment.

95. By refusing to recognize Plaintiffs Brenner and Jones' legal marriage from Canada, and prohibiting Plaintiffs Schlairet and Russ from obtaining a marriage license, the State of Florida's laws deprive Plaintiffs of numerous legal protections that are available to opposite-sex couples in Florida.

96. The tangible and intangible harm to Plaintiffs affects virtually every aspect of Plaintiffs' lives, including but not limited to the following:

- a. The right to designate a spouse to receive retirement benefits upon the retiree's death, such as with the benefits for Deferred Retirement Options Program participants. *See generally* §121.091, Fla. Stat. (2013);

- b. The right to be supported financially during marriage, enforced by criminal penalties for non-support. *Killian v. Lawson*, 387 So.2d 960, 962 (Fla. 1980); §§61.09, 856.04, Fla. Stat. (2013);
- c. The right to dissolution of marriage and the rights ensuing therefrom;
- d. The right to spousal benefits under The State Group Insurance Program provided in §110.123, Fla. Stat. (2013);
- e. The right to make medical decisions for an ill or incapacitated spouse without an advance health care directive. §765.401, Fla. Stat. (2013);
- f. The right for spouses of qualified employees to also be exempt from public records. §119.071, Fla. Stat. (2013);
- g. The right to a court-ordered equitable distribution of property upon the dissolution of marriage. §61.075, Fla. Stat. (2013);
- h. The right to receive certain workers' compensation benefits for a deceased spouse who has died as a result of a work-related accident. §440.16, Fla. Stat. (2013).
- i. The right to inherit a share of the estate of a spouse who died without a will. §732.102, Fla. Stat. (2013).
- j. The right to priority in appointment as the personal representative of the estate of a spouse who dies without a will. §733.301, Fla. Stat. (2013).
- k. The right to refuse to testify against their spouse in a court proceeding about confidential communications made during the marriage. §90.504, Fla. Stat. (2013).

- l. The right to claim certain homestead protections. Art. X, §4, Fla. Const.;
- m. The right to hold property as a tenancy by the entirety;
- n. The right to be presumed as parent to a child born to a spouse during marriage. *Fla. Dep't. of Revenue v. Cummings*, 930 So.2d 604, 607 (Fla. 2006); §§742.091 and 741.11(a), Fla. Stat. (2013);
- o. Asset protection benefits available to married couples;
- p. Recognition as surviving spouse on Florida death certificates;
- q. Priority in disposition of a deceased spouse's remains. *See generally* §497.005, Fla. Stat. (2013); and
- r. The right to recover damages for loss of companionship and protection as surviving spouse. *See* §768.21, Fla. Stat. (2013).

97. Under the laws of the State of Florida, Plaintiffs Brenner and Jones and Plaintiffs Schlairet and Russ are treated differently from opposite-sex couples solely because they are in same-sex relationships.

98. If Plaintiffs were legally married opposite-sex couples, they would not suffer any of the harms or potential harms enumerated above.

99. Defendants' deprivation of Plaintiffs' constitutional rights under color of state law violates 42 U.S.C. § 1983.

100. 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.

101. The State of Florida will incur little to no burden in recognizing the valid marriages of same-sex couples from other jurisdictions on the same terms as opposite-sex

couples or littler or no burden in allowing same-sex couples to marry, whereas the hardship for Plaintiffs of being denied equal treatment is severe, subjecting them to an irreparable denial of their constitutional and statutory rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Enter a declaratory judgment that article I, section 27 of the Florida Constitution violates the Due Process, Equal Protection, Freedom of Association, Supremacy, and/or other clauses of the United States Constitution;

B. Enter a declaratory judgment that §741.04, Fla. Stat. (2013), violates the Due Process, Equal Protection, Freedom of Association, Supremacy, and/or other clauses of the United States Constitution;

C. Enter a declaratory judgment that §741.212, Fla. Stat. (2013), violates the Due Process, Equal Protection, Freedom of Association, Supremacy, and/or other clauses of the United States Constitution;

D. Enter an order directing Defendants Scott, Bondi, and Armstrong to recognize marriages in Florida that were validly entered into by Plaintiffs Brenner and Jones and other same-sex couples outside of the State of Florida;

E. Enter an order directing Defendant Bazzell to issue Plaintiffs Schlairet and Russ a marriage license;

F. Enter an Order directing Defendant Nichols to allow Plaintiff Brenner to designate his spouse, Plaintiff Jones, as a recognized spouse or annuitant for purposes of his state retirement benefits;

- G. Award costs of suit, including reasonable attorneys' fees under 42 U.S.C. § 1988; and
- H. Enter any and all further relief this Court deems just and proper.

Respectfully submitted,



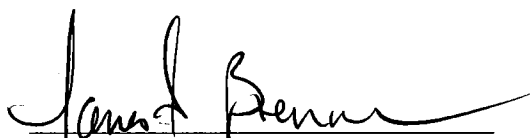
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VERIFICATION

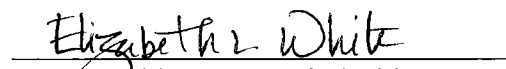
STATE OF FLORIDA }
 }
COUNTY OF DUVAL } ss.
 }

BEFORE ME, the undersigned authority, this day personally appeared **James Domer Brenner and Charles Dean Jones**, who first being duly sworn, say they are the Plaintiffs in this cause; they have read the foregoing First Amended Verified Complaint for Declaratory and Injunctive Relief; have personal knowledge of the facts and matters set forth and alleged; and state that each and all these matters are true and correct.


James Domer Brenner


Charles Dean Jones

The foregoing instrument was acknowledged before me this 15th day of March, 2014, by **James Domer Brenner and Charles Dean Jones**, who are personally known to me or who provided _____ as identification and who did/did not take an oath.


Notary Public - State of Florida

Elizabeth L. White
Name typed, printed or stamped




VERIFICATION

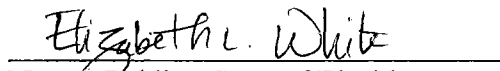
STATE OF FLORIDA }
 } ss.
COUNTY OF DUVAL }

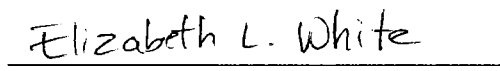
BEFORE ME, the undersigned authority, this day personally appeared **Stephen Schlairet** and **Ozzie Russ**, who first being duly sworn, say they are the Plaintiffs in this cause; they have read the foregoing First Amended Verified Complaint for Declaratory and Injunctive Relief; have personal knowledge of the facts and matters set forth and alleged; and state that each and all these matters are true and correct.

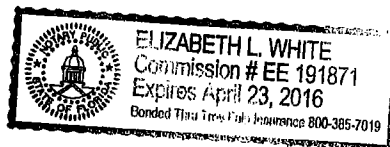

Stephen Schlairet


Ozzie Russ

The foregoing instrument was acknowledged before me this 15th day of March, 2014, by **Stephen Schlairet and Ozzie Russ**, who are personally known to me or who provided _____ as identification and who did/did not take an oath.

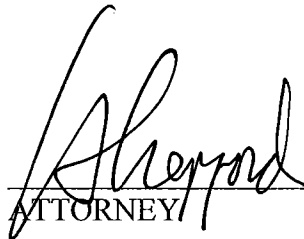

Notary Public - State of Florida


Name typed, printed or stamped



CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to **Allen C. Winsor, Esquire**, Florida Solicitor General, State of Florida, The Capitol PL-01, Tallahassee, Florida 32399-1050 (allen.winsor@myfloridalegal.com); and **Adam S. Tanenbaum, Esquire**, Chief Deputy Solicitor General, State of Florida, The Capitol, Suite PL-01, Tallahassee, Florida 32399-1050 (adam.tanenbaum@myfloridalegal.com), by Electronic Mail and United States First Class Mail; and to **John H. Armstrong, M.D., F.A.C.S**, Office of the State General Surgeon, 2585 Merchants Row Boulevard, Suite 140, Tallahassee, Florida 32399; **Craig J. Nichols**, Department of Management services, Office of the Secretary, 4050 Esplanade Way, Tallahassee, Florida 32399; and to **Harold Bazzell**, Clerk of Court and Comptroller of Washington County, Florida, 1293 Jackson Avenue, Chipley, Florida 32428, by delivering same to a Process Server for Service , this 18th day of March, 2014.



ATTORNEY

ldh[brenner.james.complaint.amend]

EXHIBIT “A”

Certificate of Completion

Presented to: Ozzie Marice Russ & Stephen Joseph Schlairet

for Completion of Premarital Counseling on March 13, 2014

at 1369 Century Oak Drive, Ocoee, Florida

Time spent on course: 4 hours

 Personal Instruction Video Electronic Method X Combination

Verified this 13th day of March, 2014

Presented by Ken E. Knox

Rev. Kevin E. Knox, Instructor

1-866-521-8697

of The United Methodist Church

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Florida



JAMES, DOMER BRENNER, CHARLES DEAN
JONES, STEPHEN SCHLAIRET and OZZIE RUSS

Plaintiff(s)

v.

RICK SCOTT, in his official capacity as Governor of
Florida, PAMELA BONDI, in her official capacity as
Attorney General of Florida; JOHN H. ARMSTRONG,
etc., et al.

Defendant(s)

Civil Action No. 4:14-cv-00107-RH-CAS

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

John H. Armstrong, M.D., F.A.C.S.
Office of the State General Surgeon
2585 Merchants Row Boulevard, Suite 140
Tallahassee, Florida 32399

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Wm. J. Sheppard, Esquire
Bryan E. DeMaggio, Esquire
Sheppard, White & Kachergus, P.A.
215 Washington Street, Jacksonville, Florida 32202

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 4:14-cv-00107-RH-CAS

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*:

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Florida



JAMES, DOMER BRENNER, CHARLES DEAN
JONES, STEPHEN SCHLAIRET and OZZIE RUSS

Plaintiff(s)

v.

RICK SCOTT, in his official capacity as Governor of
Florida, PAMELA BONDI, in her official capacity as
Attorney General of Florida; JOHN H. ARMSTRONG,
etc., et al.

Defendant(s)

Civil Action No. 4:14-cv-00107-RH-CAS

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Craig J. Nichols
Department of Management Services
Office of the Secretary
4050 Esplanade Way
Tallahassee, Florida 32399

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Wm. J. Sheppard, Esquire
Bryan E. DeMaggio, Esquire
Sheppard, White & Kachergus, P.A.
215 Washington Street, Jacksonville, Florida 32202

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 4:14-cv-00107-RH-CAS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

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was received by me on *(date)* _____.

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_____ on *(date)* _____; or

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_____, a person of suitable age and discretion who resides there,
on *(date)* _____, and mailed a copy to the individual's last known address; or

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Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

Northern District of Florida



JAMES, DOMER BRENNER, CHARLES DEAN
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Plaintiff(s)

v.

RICK SCOTT, in his official capacity as Governor of
Florida, PAMELA BONDI, in her official capacity as
Attorney General of Florida; JOHN H. ARMSTRONG,
etc., et al.

Defendant(s)

Civil Action No. 4:14-cv-00107-RH-CAS

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Harold Bazzell
Clerk of Court and Comptroller of Washington County, Florida
1293 Jackson Avenue
Chipley, Florida 32428

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Wm. J. Sheppard, Esquire
Bryan E. DeMaggio, Esquire
Sheppard, White & Kachergus, P.A.
215 Washington Street, Jacksonville, Florida 32202

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. 4:14-cv-00107-RH-CAS

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on *(date)* _____, and mailed a copy to the individual's last known address; or

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I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: