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U.S. DISTRICT COURT
DISTRICT OF WYOMING
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UNITED STATES DISTRICT COURT
DISTRICT OF WYOMING

Plaintiffs,

Anne Marie Guzzo and Bonnie Robinson;
Ivan Williams and Charles Killion;
Brie Barth and Shelly Montgomery;
Carl Oleson and Rob Johnston;
and Wyoming Equality,

v.

Defendants,

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 Debra K. Lathrop, in her
official capacity as Laramie County Clerk

Case No. 14-CV-200-S

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1. In direct violation of the United States Constitution, Wyoming unlawfully denies the issuance of marriage licenses to same-sex couples, and refuses to recognize the marriages of same-sex couples lawfully entered in other jurisdictions. *See* Wyo. Stat. § 20-1-101.

2. “[T]he Fourteenth Amendment protects the fundamental right to marry, establish a family, raise children, and enjoy the full protection of a state’s marital laws. A state may not deny the issuance of a marriage license to two persons, or refuse to recognize their marriage, based solely upon the sex of the persons in the marriage union.” *Kitchen v. Herbert*, 755 F.3d 1193, 1199 (10th Cir. 2014), *cert. denied*, 2014 WL 3841263 (Oct. 6, 2014); *see also Bishop v.*

Smith, 760 F.3d 1070, 1080 (10th Cir. 2014) (reaffirming *Kitchen*'s "core holding" that "[s]tate bans on the licensing of same-sex marriage significantly burden the fundamental right to marry").

3. 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. The Plaintiff couples are active and contributing members of society, with diverse backgrounds and educations. They are distinguished counselors, professors, nurses, and artists, 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.

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 Due Process and Equal Protection Clauses of the United States Constitution. *See Kitchen*, 755 F.3d at 1229. 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 same-sex couples who are already married in other jurisdictions.

6. Plaintiffs Anne Marie Guzzo and Bonnie Robinson, Ivan Williams and Charles “Chuck” Killion, and Brie Barth and Shelly Montgomery (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.

7. 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.

8. 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.

9. Plaintiffs Carl Oleson and Rob Johnston (collectively the “Married Plaintiffs”), were legally married in Canada. However, in their home state of Wyoming, they are treated as legal strangers to one another.

10. Wyoming officials refuse to recognize the lawful marriages of same-sex couples who married in other jurisdictions and deny those married couples 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.

11. 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 couples 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.

12. 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); *Kitchen*, 755 F.3d at 1212. Wyoming's disparate treatment of same-sex couples "tells those couples and all the world that their [relationships] are unworthy" of recognition. *Windsor*, 133 S. Ct. at 2694; *Kitchen*, 755 F.3d at 1207. 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." *Windsor*, 133 S. Ct. at 2694; *Kitchen*, 755 F.3d at 1207.

13. 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. *Kitchen*, 755 F.3d at 1209–10.

14. 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. *Kitchen*, 755 F.3d at 1218. Wyoming’s refusal to respect their marriages further deprives the Married Plaintiffs of their constitutionally protected liberty interest in their fundamental right to remain married even if they move to another state. *Kitchen*, 755 F.3d at 1213.

15. Wyoming’s treatment of the Plaintiff couples is subject to strict scrutiny because it burdens fundamental constitutional rights. *Kitchen*, 755 F.3d at 1218. 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.

16. Plaintiffs seek a declaration from this Court that Wyo. Stat. § 20-1-101 and Wyoming’s practice of refusing to recognize the marriages of same-sex couples violate the Fourteenth Amendment to the United States Constitution, and a declaratory judgment to permanently enjoin the enforcement of Wyo. Stat. § 20-1-101 and any other Wyoming statutes or practices that refuse to allow same-sex couples to marry within the state or to recognize the validity of out-of-state marriages of same-sex couples.

17. Specifically, Plaintiffs seek: (a) a declaration that Wyoming's prohibition of marriage for same-sex couples violates the Due Process and Equal Protection Clauses of the United States Constitution; (b) a declaration that Wyoming's refusal to recognize the marriages of same-sex couples validly entered into in other jurisdictions violates the Due Process and Equal Protection Clauses of the United States 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.

18. Plaintiffs further seek attorney fees pursuant to 42 U.S.C. § 1988.

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

20. 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

21. This action arises under the Constitution and laws of the United States, including Article III, Section 1 of the United States Constitution and 42 U.S.C. § 1983. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1343. Jurisdiction supporting Plaintiffs' claims for attorneys' fees is conferred by 42 U.S.C. § 1988.

22. Venue is proper in the District of Wyoming pursuant to 28 U.S.C. § 1391(b). All of the events alleged herein occurred within the State of Wyoming, and all of the parties are and were residents of the State of Wyoming at all relevant times.

PARTIES

A. The Plaintiffs

23. 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. 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.

24. 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 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.

25. Plaintiffs Brie Barth and Shelly Montgomery have been in a committed relationship for the past year, and they reside in Carpenter, Wyoming. They meet all of Wyoming's qualifications for issuance of a marriage license, except that they are both women. Shelly has lived in Wyoming for eighteen years, and Brie has lived in Wyoming for more than three years, and both are committed to living in Wyoming. Both Brie and Shelly have minor children. Brie's children's father is deceased, and Brie's children see Shelly as their mother. Both Brie and Shelly are concerned that the children would be placed in foster care if Brie dies. Shelly is an employee of the State of Wyoming, and her state-provided health insurance is both less expensive than Brie's and it provides better coverage. Brie and Shelly both hope to have Brie added to Shelly's health insurance as well as Brie's children. Because they are unable to marry, however, Shelly cannot add Brie to her state-provided insurance. Brie is also a military veteran, and hopes to have Shelly and her children recognized as her spouse and family for those purposes. Like many other same-sex couples in Wyoming, because they are unable to marry, Brie and Shelly have had to spend hundreds of dollars to prepare legal documents that would be unnecessary if their marriage was allowed.

26. 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 a Community Prevention Professional at the Prevention Management Organization, an organization that is dedicated to preventing the health concerns attendant alcohol, tobacco, other drugs, and chronic disease, as well as preventing suicide in Wyoming. Rob recently retired from the Wyoming Department of Health, where he ran the HIV Prevention Program. While he worked for the State of Wyoming,

Rob was informed that he was unable to add Carl as his dependent. 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.

27. 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 Wyoming. 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

28. 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, Wyoming. Governor Mead was acting under color of state law at all times relevant to this complaint. He is sued in his official capacity.

29. 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, Wyoming. Defendant Fausset was acting under color of state law at all times relevant to this complaint. He is sued in his official capacity.

30. 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, Wyoming. Defendant Urquidez was acting under color of state law at all times relevant to this complaint. He is sued in his official capacity.

31. Defendant Debra K. 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.

32. 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 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

33. 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.

34. 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.”).

35. In contravention of its own statute, however, Wyoming does not recognize legal marriages of same-sex couples performed in other jurisdictions except for the limited purpose of allowing same-sex couples to divorce in 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

36. 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.

37. 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.

38. 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.

39. 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.

40. Plaintiffs Brie and Shelly went to the Laramie County Clerk's office to apply for a marriage license on October 7, 2014. Defendant Lathrop, directly or through her authorized

agent, informed Brie and Shelly that the Clerk could not issue them a marriage license at this time. The Clerk indicated that she was awaiting further guidance from the courts.

41. 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.

42. 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.

43. Moreover, once a couple is married in Wyoming, they are entitled to hundreds of additional benefits under federal law, which combined with the Wyoming benefits provide a safety net for those couples and their families. *See Windsor*, 133 S. Ct. at 2683 (noting that the General Accounting Office reported in 2004 that there were more than 1,000 references in federal law to marriage).

CLAIMS FOR RELIEF

First Claim for Relief:

Wyoming's Ban on Marriage by Same-Sex Couples Deprives the Unmarried Plaintiffs of Their Fundamental Right to Marry under the Due Process and Equal Protection Clauses of the United States Constitution

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

45. The Due Process Clause of the Fourteenth Amendment of the United States Constitution provides that no "State [shall] deprive any person of life, liberty, or property, without due process or law." U.S. CONST. AMEND. XIV § 1. The Due Process Clause protects individuals from arbitrary government intrusion into life, liberty, and property.

46. "[U]nder the Due Process and Equal Protection Clauses of the United States Constitution, those who wish to marry a person of the same sex are entitled to exercise the same fundamental right as is recognized for persons who wish to marry a person of the opposite sex"; accordingly, Wyoming Statute § 20-1-101 "and similar statutory enactments do not withstand constitutional scrutiny." *Kitchen*, 755 F.3d at 1229–30.

47. 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.

48. 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 refusal violates the Unmarried Plaintiffs' fundamental right to marry and fundamental interests in liberty, dignity, privacy, autonomy, family integrity, and intimate association.

49. 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 strict 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. *Kitchen*, 755 F.3d at 1218–19.

50. Wyoming Statute § 20-1-101 and all other sources of state law that preclude marriage for same-sex couples violate the Due Process and Equal Protection guarantees of the United States Constitution, both facially and as applied to the Plaintiff couples.

51. “The Equal Protection Clause ‘is essentially a direction that all persons similarly situated should be treated alike.’ Extending the benefits and protections of a civil society to some but not all similarly situated families violates this critical guarantee.” *Kitchen*, 755 F.3d at 1222. There is no meaningful distinction between same-sex couples and opposite-sex couples with respect to marriage. *Id.*

52. Insofar as they are enforcing Wyoming Statute § 20-1-101 and all other sources of Wyoming state law that preclude marriage for same-sex couples, the Defendants, acting under color of state law, are depriving and will continue to deprive the Unmarried Plaintiffs of

numerous civil rights secured by the Fourteenth Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

53. The Unmarried Plaintiffs have no adequate remedy at law to redress the wrongs alleged herein, which are of a continuing nature and 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
Deprives the Unmarried Plaintiffs of Their Fundamental Right to Marry under the Due
Process and Equal Protection Clauses of the United States 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 Carl and Rob are lawfully married under the laws of Canada.

56. 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. *Kitchen*, 755 F.3d at 1213 (“[T]he fundamental right to marry necessarily includes the right to remain married.”).

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 the Due Process and Equal Protection Clauses. *Kitchen*, 755 F.3d at 1229–30.

58. 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 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.

59. Defendants Mead, Fausset, and Urquidez (the “Wyoming 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 strict 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. *Kitchen*, 755 F.3d at 1218–19.

60. Wyoming’s refusal to recognize the valid marriages of these Plaintiffs, and the Wyoming Defendants’ actions effecting this refusal, impermissibly deprive the Married Plaintiffs of their fundamental liberty and property interests in their marriages, and violate the Due Process and Equal Protection guarantees of the United States Constitution, both facially and as applied to the Plaintiff couples.

61. By refusing to recognize the valid marriages of same-sex couples entered in other jurisdictions, the Wyoming Defendants, acting under color of state law, are depriving and will continue to deprive the Married Plaintiffs of numerous civil rights secured by the Fourteenth Amendment of the United States Constitution in violation of 42 U.S.C. § 1983.

62. 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.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

63. 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 or practice that excludes same-sex couples from marrying, violate the Unmarried Plaintiffs' rights under the Due Process and Equal Protection Clauses of the United States Constitution and 42 U.S.C. § 1983;

64. Declaring that the practice, by the Wyoming 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 United States Constitution and 42 U.S.C. § 1983;

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

66. 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;

67. Requiring Defendants to issue or permit issuance of marriage licenses to the Unmarried Plaintiffs, pursuant to the same restrictions and limitations applicable to opposite-sex couples, and without regard to the gender or sexual-orientation of the applicants, and to recognize the marriages validly entered into by the Married Plaintiffs;

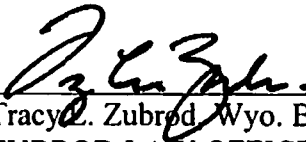
68. Awarding Plaintiffs their costs, expenses, and reasonable attorney fees pursuant to, *inter alia*, 42 U.S.C. § 1988 and other applicable laws;

69. Awarding pre- and post-judgment interest at the rate allowed by law; and

70. Granting such other and further relief as the Court deems just and proper and any other relief as allowed by law.

DATED: October 7, 2014.

Respectfully submitted,


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***Admission Pro Hac Vice Pending**