

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

Ron Ramsay and Peter Vandervort;

Celeste and Amber Carlson Allebach;

Brock Dahl and Austin Lang;

Michele Harmon and Joy Haarstick;

Bernie Erickson and David Hamilton;

**Matthew Lee Elmore and Beau Thomas
Downey; and**

Stephanie and Siana Bock,

Plaintiffs,

vs.

**Jack Dalrymple, in his official capacity as
Governor;**

**Wayne Stenehjem, in his official capacity as
Attorney General;**

**Ryan Rauschenberger, in his official capacity
as State Tax Commissioner;**

**Terry Dwelle, in his official capacity as State
Health Officer; and**

**Charlotte Sandvik, in her official capacity as
Cass County Treasurer,**

Defendants.

Court File No. 14-CV-_____
Case Type: Civil Rights / § 1983

3:14-CV-57

**COMPLAINT FOR PERMANENT
INJUNCTION AND
DECLARATORY RELIEF**

INTRODUCTORY FACTS

1. During the infancy of the United States, John Adams, James Madison, Alexis de Tocqueville, and others, warned of “tyranny of the majority.” Concerned that a direct democracy would allow a majority to stampede the rights and dignity of minorities, our nation’s founders created a constitutional representative democracy, establishing a system of government with several super-majoritarian checks and myriad institutional checks and balances pursuant and subordinate to the Constitution.

2. In 1898, South Dakota became the first State in the nation to allow a simple majority of its voting-eligible citizens to initiate and enact constitutional amendments. Since that time, and particularly in the last half century, our country has seen an explosion in the use of such statewide popular votes to circumvent the traditional legislative process and to override legislatures and judiciaries — often in a manner that tramples on the dignity and equality of minorities.

3. In 1992, a 53% majority of Colorado voters approved a ballot measure that added Amendment 2 to the Colorado Constitution. The amendment prohibited every county, city, and town within Colorado from protecting gay and lesbian individuals from discrimination. In 1996, the United States Supreme Court reviewed the amendment in Romer v. Evans, 517 U.S. 620 (1996). In the Court’s opinion, Justice Kennedy wrote, “laws of the kind... raise the inevitable inference that the disadvantage imposed is born of animosity toward the class of persons affected,” and concluded that the ballot measure was born of a “bare... desire to harm a politically unpopular group.” Id. at 634. The

Court added, “[i]f the constitutional conception of equal protection of the laws means anything, it must at the very least mean that a bare... desire to harm a politically unpopular group cannot constitute a *legitimate* governmental interest.” *Id.* (emphasis in original) (internal citations omitted).

4. In 2004, in response to the recognition of same-sex couples by the other States and jurisdictions, a group of North Dakotans sought to “protect marriage” by denying same-sex couples the right to marry in the State by restricting the definition of marriage to “a man and a woman” in the North Dakota Constitution via “North Dakota Constitutional Measure 1.” The amendment, which passed with approximately 73.23% of the vote on November 2, 2004, didn’t stop at denying loving and committed same-sex North Dakotan couples the right to marry within North Dakota; it also refuses to allow the North Dakota government the authority to recognize any union of a same-sex couple, “however denominated,” that has “the same or substantially equivalent legal effect” of marriage that was performed in other States and jurisdictions. The avowed purpose—and the practical effect—of Measure 1’s ratification was born of a bare desire to impose a disadvantage, a separate status, a stigma, and a harm upon a politically unpopular group.

5. North Dakota passed Measure 1 and implemented it in North Dakota Constitution, Article XI, § 28 despite the fact that in 1997 the North Dakota legislature had already banned same-sex marriage by enacting changes to North Dakota Century Code. These changes — intended as a response to court decisions indicating that Hawaii might allow same-sex couples to marry — included language that prohibited marriage of

same-sex couples and voided same-sex marriages from other jurisdictions. By way of example, North Dakota Century Code provides:

Marriage is a personal relation arising out of a civil contract between one man and one woman to which the consent of the parties is essential. The marriage relation may be entered into, maintained, annulled, or dissolved only as provided by law. A spouse refers only to a person of the opposite sex who is a husband or a wife.

N.D. Century Code § 14-03-01.

Except when residents of this state contract a marriage in another state which is prohibited under the laws of this state, all marriages contracted outside this state, which are valid according to the laws of the state or country where contracted, are valid in this state. This section applies only to a marriage contracted in another state or country which is between one man and one woman as husband and wife.

N.D. Century Code § 14-03-08.

6. With the adoption of the Fourteenth Amendment in 1868, our Constitution provided not only a more expansive definition of citizenship, but also the framework for assuring our Founders' "self-evident" truth of liberty and equality: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

7. Guided by this framework, the United States Supreme Court has declared the right to marry as "fundamental" and one of the "basic civil rights of man." Loving v. Virginia, 388 U.S. 1, 12 (1967). Its decisions have made clear that "the freedom of

personal choice in matters of marriage and family life is one of the liberties” protected by the Fourteenth Amendment. Zablocki v. Redhail, 434 U.S. 374, 393 (1978).

8. In United States v. Windsor, 133 S. Ct. 2675 (2013), the Supreme Court repeatedly emphasized that although the States may generally define and regulate marriage, that such laws, “of course, must respect the constitutional rights of persons.” Id. at 2691. In striking down Section 3 of the Defense of Marriage Act, the Court recognized that “the avowed purpose and practical effect of the law... [was] to impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages...” Id. at 2693.

9. Recognizing that the “liberty protected by the Fifth Amendment’s Due Process Clause contains within in the prohibition against denying to any person the equal protection of the laws,” the Court added that, “the equal protection guarantee of the Fourteenth Amendment makes the Fifth Amendment right all the more specific and all the better understood and preserved.” Id. at 2695.

10. Via the Constitution and the statutory bans (“hereinafter collectively referred to as “the marriage bans”), North Dakota refuses to confer the rights and responsibilities of marriage upon same-sex couples, and refuses to recognize same-sex marriages performed in other jurisdictions; by doing so, North Dakota has given effect to the private biases of a majority. Without any legitimate governmental interest, North Dakota has targeted a minority of individuals for discrimination on the basis of sexual orientation. By this Complaint, Plaintiffs seek to end that tyranny of the majority.

11. The above-named loving and committed couples ask this Court to hold that the State of North Dakota cannot discriminate against same-sex couples who seek the right to marry; and, they ask this Court to hold that North Dakota cannot discriminate against same-sex marriages in choosing whether or not to recognize marriages performed out of state.

12. Plaintiffs Brock Dahl and Austin Lang are individuals in a loving, committed, same-sex relationship; they are presently living in the State of North Dakota and seek the right to marry in North Dakota. They applied for a marriage license in North Dakota but were denied on the basis of their same-sex partnership. These Plaintiffs seek the right to marry in North Dakota, and for this Court to declare North Dakota's refusal to do so as unconstitutional.

13. Plaintiffs Matthew Lee Elmore and Beau Thomas Downey are individuals in a same-sex marriage who are presently living in the State of North Dakota but who were living outside of North Dakota when they were lawfully married by another State. North Dakota refused to recognize their union when they traveled and moved into the State. They wish for the State of North Dakota to now respect and recognize their lawfully obtained marriage and for this Court to declare North Dakota's refusal to do so as unconstitutional.

14. Plaintiffs Ron Ramsay and Peter Vandervort, Plaintiffs Celeste and Amber Carlson Allebach, and Plaintiffs Bernie Erickson and David Hamilton are individuals in same-sex marriages who are presently living in the State of North Dakota. These couples wished for the right to be married while living in the State of North Dakota but could not

do so due to North Dakota's discriminatory laws. Accordingly, these couples lawfully married outside the State of North Dakota and now seek North Dakota's respect and recognition of their marriages.

15. Plaintiffs Michele Harmon and Joy Haarstick are individuals in same-sex marriage who are presently living outside the State of North Dakota. This couple transacts business in North Dakota and one of them is employed by the State of North Dakota; they are negatively affected by North Dakota's refusal to recognize their marriage because they are denied joint health insurance, family and medical sick leave, survivorship benefits, and more. Accordingly, this couple now seeks North Dakota's respect and recognition of their marriage.

16. Marriage plays an important role in our society. In addition to being the celebration and hallmark of a couple's commitment to build their lives and family together, it confers dignity, status, rights, and responsibilities. Plaintiffs have formed or want to form enduring bonds worthy of the respect that the State affords to different-sex couples through marriage. Yet, the State has deprived gay and lesbian North Dakotans of the right to marry their chosen partners and declines to recognize lawful marriages entered in other jurisdictions based on sexual orientation and sex. The State's discriminatory "marriage bans" are enshrined in North Dakota statutes and in North Dakota Constitution Article XI, § 28, which limits marriage to couples composed of "a man and a woman."

17. The marriage bans inflict serious and irreparable harms upon same-sex couples and their children that cannot be explained by reference to any legitimate governmental interest.

18. Same-sex couples are identical to different-sex couples in all characteristics relevant to marriage.

19. Same-sex couples make the same commitment to each other as different-sex couples. Like different-sex couples, same-sex couples fall in love, build their lives together, plan their futures together, hope to grow old together, and seek to make decisions about end of life and post-life planning together. Like different-sex couples, same-sex couples support each other emotionally and financially, and take care of each other when faced with injury or illness.

20. Same-sex couples seek to marry for the same emotional and romantic reasons and the same reasons of dignity as different-sex spouses. They desire to declare their love and commitment before their families, friends, and community, and to obtain the status, security, protections, and responsibilities of marriage.

21. Like some different-sex couples, some same-sex couples, including Plaintiffs Celeste and Amber Carlson Allebach and Plaintiffs Stephanie and Siana Bock, are parents raising children together. These 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 different-sex couples and their children. For the many children born to or being raised by same-sex couples, the tangible resources and societal

esteem that marriage confers are no less necessary and precious than for children of different-sex couples.

22. Our courts and our society have discarded, one by one, marriage laws that violated the United States Constitution's mandate of equality and liberty, such as anti-miscegenation laws and laws that denied married women independence and the right to make their own decisions. History teaches us that the vitality of marriage does not depend on maintaining discriminatory laws, and that eliminating unconstitutional restrictions on marriage has enhanced the institution. Indeed, in 19 states and the District of Columbia, same-sex couples are legally marrying and the institution of marriage continues to thrive.

JURISDICTION AND VENUE

23. This action arises from a dispute involving the Constitution and the laws of the United States. This Court, therefore, has federal question subject matter jurisdiction pursuant to Title 28 United States Code §§ 1331 and 1343.

24. Venue is proper in this Court pursuant to 28 U.S.C. § 1391, as all Defendants reside within this State and District and a substantial part of the events that gave rise to Plaintiffs' claims took place in this State and District.

25. This Court has personal jurisdiction over Defendants because they are residents of, and domiciled in, this State and District.

26. This Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure and 28 U.S.C. §§ 2201 and 2202.

PARTIES

A. Plaintiffs

27. Plaintiffs are each individual “persons” within the meaning of 42 U.S.C. § 1983.

Ron Ramsay and Peter Vandervort

28. Plaintiffs Ron Ramsay, age 69, and Peter Vandervort, age 63, are adult individuals residing in Fargo, North Dakota who have been in a male same-sex relationship for 29 years.

29. Ron was born in the suburbs of Chicago, Illinois in 1945. He attended public school there and studied architecture at the University of Oklahoma and then at Columbia University in New York before accepting a faculty position at North Dakota State University in Fargo in 1971. There, Ron has taught for 42 years.

30. Peter was born and raised in Wisconsin, where he studied theater at the University of Wisconsin—Eau Claire. After college, Peter settled in Minneapolis, Minnesota, where he worked as an actor and a costumer for several Twin Cities theater groups, including the Chanhassen Dinner Theater. In 1985, Ron and Peter met at the Aquatennial Parade in Minneapolis. Soon thereafter, Peter moved to Fargo and the couple began dating.

31. For the past 29 years, Peter and Ron have shared a home and built their lives together. They have hosted two high school foreign exchange students — one from Austria and one from the Netherlands. Peter continues to work in theater, including work at the Fargo-Moorhead Community Theatre, Minnesota State University Moorhead, and

West Fargo High School. Ron continues to teach architectural design and history at North Dakota State University. The couple has two rescue animals, one cat and one dog. They enjoy reading, watching movies, viewing art, listening to classical music and opera, gardening (although not vegetables; Peter can't keep them alive), remodeling their home, learning about the world, and more. Ron is an advocate for historic preservation and does walking and driving tours for senior citizens and other groups in the Fargo area. Peter is a musical theater history buff and enjoys studying genealogy.

32. At midnight on August 1, 2013, at the Clay County Courthouse in Moorhead, Minnesota, Ron and Peter were finally married. For the first time in their nearly 30 years together, a government conferred upon them the same dignity and respect that it confers upon different-sex couples who, aside from gender, are otherwise identical to Ron and Peter in their love and commitment for one another. Yet, when Ron and Peter made the one-mile trip home, they crossed the border back into North Dakota and their marriage certificate was seen as worthless by the State they've lived in and contributed to for nearly three decades together.

33. Having their marriage recognized in North Dakota is important to Ron and Peter. They want to be sure that adequate legal protections are in place for their family and want their relationship recognized as equal. The State's refusal to recognize their marriage hurts them and burdens them in many ways. For example: unlike different-sex couples, Ron and Peter are not allowed to file a joint income State tax return; they are not allowed to be jointly covered under their employer's health insurance; under the State's intestacy laws, they are not protected in the event that the other passes away without a

will; there are hundreds of ways in which Ron and Peter are hurt by North Dakota's refusal to recognize their lawful Minnesota marriage.

Celeste and Amber Carlson Allebach

34. Plaintiffs Celeste and Amber Carlson Allebach are adult individuals in a female same-sex relationship. The couple resides in Fargo, North Dakota with their two children, K.C.A., age 5, and M.C.A., age 3. The family is excitedly waiting the arrival of the couple's third child, expected in Fall 2014.

35. Celeste is originally from Lisbon, North Dakota and has lived in North Dakota for the vast majority of her life. Celeste obtained her bachelor's degree from the University of Mary in Bismarck, North Dakota and her master's degree from the University of North Dakota. She is a social worker and works with homeless individuals and families.

36. Amber, originally from Menahga, Minnesota owns and operates an in-home daycare, which she started when the couple had their first son. Amber is also presently pursuing a degree in education, which will be in addition to her two previously obtained bachelor's degrees from Concordia College in Moorhead, Minnesota. Amber moved to North Dakota when she met and fell in love with Celeste.

37. Celeste and Amber met while out for an evening with friends in early 2007. They quickly saw their compatibility, began dating, and, before long, fell in love. Although the couple wanted to be married, the State of North Dakota would not allow them to do so. Accordingly, on December 8, 2007, in front of family and friends, the

couple celebrated their love and commitment to each other with a commitment ceremony and reception.

38. Early in their relationship, Celeste and Amber discussed their mutual desire to have children and raise a family. They were both concerned about the implications of raising a family without martial protections and spent considerable time and money in an effort to best prepare for starting a family. They made each other durable and medical power of attorneys, drafted living wills, and through court petition, jointly adopted each other's last names.

39. After careful planning, Celeste underwent intrauterine insemination, and, after a difficult pregnancy, in April 2009, the couple was thrilled to welcome their son K.C.A. into their family at Meritcare Hospital in Fargo, North Dakota. Despite the couple's love and commitment for each other and K.C.A., and despite the fact that Amber was involved in the planning, pregnancy care, and the birth of K.C.A., Amber was heartbroken when she was not allowed to be listed as a parent on their son's birth certificate.

40. After being denied recognition as K.C.A.'s parent by the State, the couple went through the time-consuming, expensive, and detailed process of Amber adopting her own child as a second parent. They were told there was no guarantee the State would even honor their request, but they went through the extensive background and criminal history checks and the home study program. Although it was time-intensive and emotionally and financially exhausting to be required to go through so many steps, and although doing so doesn't even secure all the rights that different-sex couples get upon

the birth of their children, Celeste and Amber are determined to protect their family as much as possible.

41. Celeste and Amber love children and love being parents so much that after the birth of their son, they opened an in-home daycare, run by Amber, so that at least one parent will be present with their children as often as possible.

42. In June 2011, Celeste and Amber celebrated the birth of their daughter M.C.A., who was also conceived via intrauterine insemination and delivered by Celeste at Sanford Hospital in Fargo, North Dakota. They were again forced to undergo the exhaustive process of Amber adopting their daughter as a second parent.

43. As a family, Celeste, Amber, K.C.A., and M.C.A. love to swim, walk, camp, go on bike rides, attend community events and kids' activities, and spend time with their extended families. Celeste and Amber love each other and their children more than anything in the world, and they are thrilled at the expected arrival of an additional member to their family this coming fall.

44. In 2013, after it was announced that Minnesota would have marriage equality beginning August 1, 2013, Celeste and Amber strongly considered selling their home and moving to Minnesota in order to better protect their family. But, the couple was deeply concerned about the expense and uncertainty of moving; they were also concerned about leaving their community, their family and friends, and their business and work.

45. In order to secure as many protections for their family as possible, at midnight on August 1, 2013, the first day of marriage equality in the State of Minnesota,

Celeste and Amber were married in Moorhead, Minnesota in a mass ceremony of same-sex couples who were also celebrating their love and commitment. It was an amazing evening, filled with love and positive energy.

46. Celeste and Amber want the State of North Dakota to recognize their marriage for several reasons, including to be recognized as a loving and committed couple without having to explain their relationship to others. As parents, they want to be recognized as a family equal to others. K.C.A. is old enough to begin understanding that North Dakota does not treat his family the same as others, and Celeste and Amber worry how they will explain it to him as he struggles to understand why.

47. Celeste and Amber feel that Fargo is a great place to raise children, and they love being close to their family, friends, and neighbors. It pains them, however, that their family is not seen as equal by the State.

48. According to the laws of North Dakota, different-sex married couples who conceive a child using intrauterine insemination are able to take advantage of the statutory presumption that both spouses are the parents of a child born during a marriage. Different-sex couples therefore are not required to take any additional steps in order to obtain legal recognition for both of them as the parents of the child they decided to have together. Because the State of North Dakota does not recognize Celeste and Amber's marriage, however, Amber cannot benefit from that marital presumption. If they are not able to use any such steps to confirm that both are the legal parents of their third child, Amber will lack any recognition as a parent of her own child – a status that automatically would be granted to any different-sex spouse immediately upon the child's birth. The

lack of automatic legal recognition that Amber is a parent of her and Celeste's own child exposes the couple and their child to unacceptable risks that deprive them of a host of critical legal protections should any health emergencies or other problems arise during or shortly after the birth of their child.

Brock Dahl and Austin Lang

49. Plaintiffs Brock Dahl and Austin Lang are adult individuals in a male same-sex relationship. They reside in Fargo, North Dakota and are presently shopping for their first home purchase together. Brock works as supervisor at US Bank, and Austin is a manager at Holiday Stationstores.

50. Brock was born in Cavalier, North Dakota and was raised in the Drayton, North Dakota area—just south of the Canadian border. After graduating from Drayton High School, Brock continued to live in Drayton until he met and fell in love with Austin.

51. Austin was born in Honolulu, Hawaii and later moved with his family and was raised in Warroad, Minnesota—also just south of the Canadian border. In 2009, Austin took a job transfer and moved to North Fargo, North Dakota, where he also attended school.

52. In 2011, Brock's sister began working with Austin. Brock, who stayed in touch with his sister, jokingly mentioned that she should find him a boyfriend since she was in Fargo and Brock was still in the more rural Drayton area. Two days later, Brock's sister introduced Austin and Brock via text message. After great conversation, about one week later, the two agreed to meet halfway in Grand Forks, North Dakota. There, they had their first date at the Blue Moose Bar and Grill. For many months, Brock and Austin

continued to date, taking turns making the long two-hour drive to see each other every few weekends. In 2012, in order to be closer to Austin, Brock decided to find a new job and moved to Fargo. They then became even closer, eventually falling in love.

53. Brock came up with a plan to propose to Austin; he picked a date, bought a ring, and thought through all of the logistics of how he was going to make the proposal. Then, on the evening of November 15, 2013, Brock just couldn't wait any longer. So, he scratched his plan and, early the next morning while Austin was still sleeping, he slid the ring onto Austin's finger. Brock then waited for what felt like an eternity. Finally, when Austin woke up and rubbed his eyes and noticed the ring, Brock asked him to marry him; Austin enthusiastically said, "yes!"

54. Brock and Austin love to fish, travel, golf, garden, spend time with their cats, watch various television series and sitcoms, do various handy work, and, spend time with each other. They also love North Dakota, and they don't want to leave the State. Brock grew up along the Red River; it's been part of his life since he was born. Brock even loves the cold winter climate. The couple loves the unique beauty of the river valley and the stability of the job market and general economy in the State. Their lives are centered in North Dakota, which also contains their friends, careers, family, many friendly people, and so much more. Brock and Austin want to grow with the State, but they are hurt that their engagement cannot become a marriage in the State that they love and cherish.

55. Brock and Austin want to be married because of the love and the commitment that they share for each other. They want to express their devotion towards

one another and toward being a family unit in their larger community and society. Brock and Austin have talked about having children together, and they want to be sure that if they do so that they can provide their family as much protection, dignity, legitimacy, and respect as possible. It hurts them that they cannot marry in North Dakota and they do not want to have to leave their home in order to be married.

56. Brock and Austin are legally qualified to marry under North Dakota law, but for the fact that they are the same sex. They are of sound mind and capable of consent. They are over the age of 18. They have no living spouse of a previous undissolved marriage. They are not related to each other within the prohibited degrees of blood or marriage. They are willing to provide the information to receive a marriage license and to pay the required fee. They are able and eager to assume the responsibilities of marriage.

57. On June 4, 2014, Brock and Austin applied for a marriage license at the Cass County Treasurer's office. An agent for Defendants Dalrymple, Stenehjem, and Sandvik denied the couple a marriage license simply because they are both male. The agent told them, "[w]e don't do same-sex marriages in North Dakota."

Michele Harmon and Joy Haarstick

58. Plaintiffs Michele ("Mickey") Harmon and Joy Haarstick are adult individuals in a female same-sex relationship; they reside in Erhard, Minnesota and have been together for 13 years.

59. Mickey was born and raised in Minot, North Dakota and is now a Captain at the Cass County Sheriff's Office in Fargo, North Dakota, where she has served for 26

years. Although she now lives with her wife Joy in Minnesota, she sees herself as a North Dakotan at heart and often visits her family and friends in the Minot and surrounding area.

60. Joy was born and raised in the Erhard, Minnesota area and spent a number of years living in South Dakota, Montana, and Washington. She moved back to Minnesota in 1990 when her parents became ill. She currently works at Minnesota State University in Moorhead and plans to retire in September 2015.

61. Mickey and Joy met in April 2001 and instantly fell in love. Mickey knew from the moment she saw Joy that she was a perpetual breath of fresh air and someone that she could always talk easily with about anything. Before long, the couple began living together in Mickey's lake home in Minnesota.

62. In 2011, as the State of Minnesota was beginning an excruciatingly painful discussion about whether to bar same-sex couples from marriage in its Constitution, the couple traveled to Iowa. There, after a decade together, Mickey and Joy expressed their love and commitment to each other for the duration of their lives and were lawfully married.

63. Upon returning to work, however, Mickey discovered that their marriage means nothing to the State that she has dutifully served and protected as police officer for nearly three decades. Although Cass County offers health benefits to its employees and families, when Mickey asked if Joy could be added to her health plan as her spouse, she was told that North Dakota did not consider Joy her spouse and therefore, no, she could not be added. Mickey and Joy were extremely hurt and disappointed by the denial of the

health insurance benefit. Being told that the State didn't consider them spouses was painful for the couple. Furthermore, Joy being added to Mickey's health insurance would save them over \$6000 per year in health insurance premiums. With Joy set on retiring next year, the State's refusal to include her on Mickey's health insurance plan hurts their family.

64. In addition to being denied health insurance benefits, if Mickey were to be killed in the line of duty protecting North Dakota or to die before Joy during retirement, unlike different-sex spouses, Joy would not be eligible for State survivor's benefits.

Bernie Erickson and David Hamilton

65. Plaintiffs Bernie Erickson and David Hamilton are adult males in a male same-sex relationship; they reside in Fargo, North Dakota and have been together for 12 years.

66. Bernie is originally from rural northwestern Minnesota. He attended undergraduate at Minnesota State University in Moorhead. After a successful career in the corporate retail industry, he made a career change, moved to both Bismarck and Minneapolis briefly, and eventually settled in Fargo. Bernie presently sells homes to area families as a realtor.

67. David is originally from Tulsa, Oklahoma. After high school, David obtained his bachelor's degree from the University of Iowa and went on to study at The Juilliard School in New York City. Subsequently, David had a successful career as an opera singer and lived in New York for approximately two decades. In 1994, David

moved to Fargo to take his current job as a professor of vocal music at Concordia College. David also serves as the General Director of the Fargo Moorhead Opera.

68. Bernie and David met by chance in 2002 and began dating. They eventually fell in love and moved in together in 2005, purchasing a home in South Fargo and sharing their lives together.

69. Together, the couple has four adult children. They are incredibly proud of their children and strongly believe that marriage is a positive and stabilizing force in raising a family. The couple's oldest son is an operations manager with a national hotel chain. He and his wife and Bernie and David's three grandchildren live in West Fargo. The couple's second oldest son attended North Dakota State University and is a civil engineer for the United States Department of Defense. Their oldest daughter is pursuing a doctorate in veterinary medicine at Iowa State University, where she ranks in the top of her class. And, the couple's youngest daughter is beginning graduate studies at Bethel College this fall.

70. On August 11, 2006, with their parents, children, and closest friends in attendance, Bernie and David were lawfully married in Winnipeg, Manitoba, Canada. The following evening, they held a reception at their home in Fargo.

71. Bernie and David enjoy traveling together, to both foreign and domestic destinations. David loves to cook and Bernie likes to decorate their home. When David isn't traveling around the country to sing, the couple enjoys relaxing at home and watching CSI, Modern Family, and other television shows. They also both like to work

on stained glass, although they insist that they have to do so in separate rooms because they otherwise bicker about each other's techniques.

72. David and Bernie want their marriage to be recognized by their State for several reasons, including to be seen as the loving and committed couple that they are without having to explain their relationship to others. They want to jointly file their State tax return like their different-sex coupled friends are allowed to do; they want to protect the life that they are building together and to be sure that end of life planning decisions, including the transfer of assets, available survivorship benefits, and all of the other rights, benefits, protections, and responsibilities available by law for marriage are secured. In short, Bernie and David cannot imagine how their marriage has done any harm to any single citizen of North Dakota and are certain that their relationship has allowed them to be make even more of a positive contribution to their State and society.

Matthew Lee Elmore and Beau Thomas Downey

73. Plaintiffs Matthew Lee Elmore and Beau Thomas Downey are adult individuals in a male same-sex relationship; they reside in Minot, North Dakota.

74. Matt is originally from Hustonville, Kentucky. Beau was born and raised in Mascoutah, Illinois. Matt is a personal banker at Wells Fargo and Beau is a missileer (someone who works with missiles, including nuclear missiles) in the United States Air Force.

75. The couple met in 2012 when Beau was attending school at the University of Kentucky in Lexington, Kentucky. Beau was attending his favorite musical with his

best friend; Matt was performing in the musical. During the show, the moment Beau first heard Matt sing, he turned to his friend and said, "I think I'm in love."

76. After the show, Beau asked Matt if he'd like to have coffee. A few days later, they had their first date, which lasted for hours as the couple talked and talked. They learned how much they had in common, adored each other's sense of humor, and felt incredibly content in the other's presence.

77. Matt and Beau began dating soon thereafter and discovered that they lived only two streets apart. They became inseparable.

78. Then, in May 2013, Beau left for California to attend Air Force training. Matt, who had studied voice in college, moved to New York City soon after Beau left. The couple's plan was to spend a year apart and then reevaluate their plans. But, they couldn't wait that long; it was extremely difficult for both of them to talk everyday but to be unable to see each other. So, a few months later, Matt moved to California to be with Beau. Eventually, Beau received his military orders transferring him to Minot.

79. As the couple prepared to move to North Dakota, Beau proposed to Matt on a California beach with an old skeleton key. They had previously talked about engagements and agreed that they didn't want a ring involved; Beau gave Matt the skeleton key to represent all the keys they would own together in the future. Filled with joy, Matt accepted. Knowing that they would be unable to be married by the State of North Dakota, the couple was married in Santa Maria by the State of California in October 2013 and has planned a more elaborate ceremony and reception with friends and family for May 2015.

80. Matt and Beau are a young couple, filled with optimism about their future—which they often discuss. When they moved to North Dakota, they began shopping for a home. They were crushed to discover that unlike their friends who are in different-sex marriages, Matt and Beau were not eligible for a co-owned home under Beau’s VA loan. Because the VA mortgage regulations are based off of State law, which considers Matt and Beau strangers to each other, this loving and committed couple who are starting out their lives together were denied the opportunity to own their first home *together*. If they had been allowed to apply together as the married couple that they are, they would have been eligible for a higher loan amount and a potentially better interest rate.

81. Matt and Beau love spending time with each other and with their friends. They are self-described musical theater nerds and are currently collecting playbills from shows they’ve seen together. They love working on their home and yard together and are constantly planning trips. They cannot wait to travel the world on their honeymoon. They have adopted a dog and are preparing to adopt another one soon. They have also begun talking about the possibility of eventually heaving children together.

82. Matt and Beau want their lawful marriage to be recognized by the State of North Dakota for a number of reasons. They are worried about protections for each other and want their relationship to be seen as equal; they want to file a joint State tax return; they want to be held to the same level of responsibility that different-sex spouses are held; they want their State to see them as the loving and committed couple that they are.

Stephanie and Siana Bock

83. Plaintiffs Stephanie and Siana Bock are adult individuals in a female same-sex relationship; they reside in Oakes, North Dakota.

84. Siana was born and raised in Fargo, North Dakota and Stephanie is originally from Burnsville, Minnesota. The couple met online in March 2011 while Stephanie was living in Oakes and Siana was living in Fargo. After three weeks of talking online, they had their first date. The couple quickly fell for each other and began dating.

85. They quickly learned that they both love to travel. For some of their first dates, Stephanie and Siana would travel to Minneapolis, Minnesota and Sioux City, Iowa for various nightlife and concert events. In addition to traveling and going to concerts, they enjoy going to the zoo, going bowling, and having late night conversations with their friends.

86. After a year and a half of dating, in 2012, Stephanie and Siana traveled to Huntington Beach, California for a weeklong vacation. Before leaving, Stephanie had formed an elaborate plan to propose to Siana on the trip. On their first day there, on the Pier on Huntington Beach, Stephanie slowly walked up to Siana, ring in hand, and attempted to start giving the speech she had exhaustively prepared. Stephanie quickly realized that she had forgotten everything she had planned to say and left her draft back in North Dakota. With her nerves overtaking her, Stephanie simply said to Siana, “you know how much I love you, right?” Then, Stephanie got down on one knee and asked Siana, “would you do me the honor of becoming my wife?” Siana enthusiastically responded, “Seriously? Yes!”

87. On March 8, 2013, Stephanie and Siana were lawfully married in Sioux City, Iowa. They saw it as the official start of their lives together, and were incredibly happy. As they left Iowa and traveled the Dakotas home, however, they were sad to realize their State would not see them as wife and wife. Upon arrival home, that reality soon became starker. In the year and three months since their marriage, Stephanie and Siana have faced challenges at the doctor's office, at their jobs, on their tax forms, and more. North Dakota's refusal to let their marriage be seen with the dignity and respect of different-sex couples bewilders Stephanie and Siana, who see themselves like most families in North Dakota.

88. Stephanie and Siana are excitedly awaiting the arrival of their son, K. J. B., who they plan to adopt upon his birth in September 2014. Stephanie and Siana plan to raise K.J.B. like other families raise their children—to respect his elders, to abide by the golden rule, to understand that life is best lived by loving others, and to have an open mind toward the world and other people. The couple is excited to play baseball with their son, to take him swimming, fishing and golfing, and to build snowmen and make snow angels with him. They plan to dry his tears and kiss his wounds, to help him with his homework, to teach him to drive, and to teach him how to love unconditionally as they already do for him. Yet, Stephanie and Siana are uncertain about whether their family will be protected, as North Dakota's adoption laws are unclear as they relate to same-sex couples and their adopted children. This scares Stephanie and Siana, who plan to dedicate their lives to their son and would be terribly upset if North Dakota's laws regarding

recognition of their marriage prevented their relationship to each other and their son from protected and recognized the same as families with different-sex couples.

89. Having their marriage recognized in their State is important to Stephanie and Siana, especially as they prepare for having children. They want to be sure that adequate legal protections are available for their family. The State's refusal to recognize their marriage hurts them and burdens their family in many ways. For example, unlike different-sex couples, they are forced to go through the onerous process of filing separate State tax returns, thus paying more in taxes unlike different-sex couples. The money they would save from being able to file jointly as a married couple would allow them to set aside money for their son, making the State's refusal to recognize their marriage especially painful for Stephanie and Siana. They also worry about having their son in North Dakota because of the stigma and lack of protections they and their son will face due to North Dakota's refusal to recognize their marriage.

B. Defendants

90. Each Defendant is an individual "person" within the meaning of 42 U.S.C. § 1983. Each Defendant, at all times relevant to this Complaint, was and is acting in the color and scope of their official capacity as an employee of the government of the State of North Dakota. Each individual Defendant is sued in their official capacity.

91. Defendant Jack Dalrymple is the Governor of North Dakota. In his official capacity, the Governor is the chief executive officer of the State of North Dakota. It is his responsibility to ensure that the laws of the State are properly enforced. The Governor maintains an office in Bismarck, North Dakota. The Governor oversees, directs, and

enforces each of the acts, omissions, duties, and responsibilities of every other named Defendant. The Governor enforces and executes the laws of the State of North Dakota, including the laws banning marriage and recognition of same-sex marriage and civil unions.

92. Defendant Wayne Stenehjem is the Attorney General of the State of North Dakota. In his official capacity, the Attorney General is the chief legal officer of the State of North Dakota. It is his duty to see that the laws of the State are uniformly and adequately enforced. The Attorney General maintains an office in Bismarck, North Dakota. The Attorney General enforces each of the acts, omissions, duties, and responsibilities of every other named Defendant. The Attorney General enforces and executes the laws of the State of North Dakota, including the laws banning marriage and recognition of same-sex marriages.

93. Defendant Terry Dwelle is the State Health Officer. In his official capacity as State Health Officer, Defendant Dwelle is responsible for overseeing the Division of Vital Records, the State's vital records registration system, and the applicable county offices that issue and maintain such records. This includes the registration, collection, preservation, amendment, and certification of vital records, including certificates of marriage, birth, and death. Defendant Dwelle's duties also include directing, supervising, and issuing instructions for administration and staff activities of the Department of Health, and promoting uniformity of policy and procedures throughout the State in these matters. Defendant Dwelle must ensure compliance through all of these functions with

relevant State laws, including those that exclude same-sex couples from marriage and birth records and from having lawful out-of-state marriages recognized.

94. Defendant Charlotte Sandvik is the Cass County Treasurer. In her official capacity, Ms. Sandvik's duties include issuing marriage licenses. Ms. Sandvik must ensure compliance through this function with relevant State laws, including those that exclude same-sex couples from marriage.

FURTHER FACTUAL BACKGROUND

95. Plaintiffs incorporate the allegations set forth in each of the preceding paragraphs of this Complaint as if fully set forth herein.

96. Gay and lesbian individuals have faced a long and painful history of societal and government-sponsored discrimination in this country. Although their sexual orientation bears no relation to their ability to contribute to society, gay men and lesbians have been singled out for discriminatory treatment. They have faced unconstitutional criminal penalties for private sexual conduct between consenting adults, harassment, hate crimes, and discrimination in employment and many other areas. They have even been the subject of laws stripping them of rights afforded to all other citizens.

97. North Dakota has been among the states that have enacted laws stripping gay men and lesbians of rights afforded to all other citizens. Gay men and lesbians also have been the subject of hate crimes in North Dakota.

98. Plaintiffs are residents of North Dakota who experience the same joys and challenges of family life as their heterosexual neighbors, co-workers, and other community members who may marry under North Dakota law or whose lawful out-of-

state marriages are recognized by North Dakota. Plaintiffs are productive, contributing citizens who support their families and nurture their children, but the State of North Dakota does not afford them the legal protections, dignity, and respect provided to other families through access to the status of marriage. By excluding Plaintiffs from marriage and from recognition of their lawful out-of-state marriages, the State subjects Plaintiffs to legal vulnerability, unequal financial burdens, and related stress, while depriving them and their children of equal dignity and security. North Dakota's marriage bans send a purposeful message that the State views lesbians and gay men and their children as second-class members of society who do not deserve the same legal sanction, legal protection, respect, support, responsibilities, and obligations as different-sex spouses and their families.

99. Barring same-sex couples from marriage or from recognition of their lawful out-of-state marriage disqualifies them from rights and responsibilities that different-sex couples rely on to secure their commitment to each other, and to safeguard their families. By way of example, North Dakota's marriage bans deny same-sex couples:

(a) The ability to celebrate a "marriage" through a state-approved ceremony, which symbolizes the binding together of two lives and two families, and creates relationships and memories that couples, families, and friends cherish for a lifetime. See generally N.D. Century Code § 14-03.

(b) The rights and responsibilities flowing from a spouse's statutory obligation toward each other of mutual respect, fidelity, and support. N.D. Century Code § 14-07-01.

(c) The rights and responsibilities to support oneself and their spouse out of their property or by their labor. N.D. Century Code § 14-07-03.

(d) The ability to safeguard family members and family resources under an array of laws that include, for example, the right to use force to defend one's spouse and the homestead tax exemption for disabled veterans or their surviving spouse. N.D. Century Code §§ 14-02-07; 57-02-08.

(e) The ability to make caretaking decisions and exercise other rights in times of death and disaster, including preference in making medical decisions for an incapacitated spouse, N.D. Century Code § 30.1-28-11 (5-311); the right to receive a spouses' autopsy results, N.D. Century Code § 23-01-05.5; priority to control disposition of a deceased spouse's remains and to make burial arrangements, N.D. Century Code §§ 23-06-02; 23-06-03; priority to make anatomical gifts of a decedent's body, N.D. Century Code § 23-06-03.4; first priority of benefit in actions for death by wrongful acts, N.D. Century Code § 32-21-03; and the ability to recover workers' compensation benefits for a spouse killed on the job, N.D. Century Code § 65-05-12.2.

(f) The ability to support each other in end-of-life circumstances, such as being assured privacy for visits with a spouse in a nursing home and the right to share a room with a spouse if both reside in the same nursing home. N.D. Century Code § 50-10.2-02.

(g) The right to inheritance under the laws of intestacy, N.D. Century Code § 30.1-04 *et seq.*; the right to a lump sum allowance for the surviving spouse and

children, N.D. Century Code § 30.1-07-02; the right to take an elective-share of the augmented estate in lieu of the will's provision for the spouse, N.D. Century Code § 30.1-05 *et seq.*; preference for appointment as an administrator of the deceased spouse's estate, N.D. Century Code § 30.1-13-03; and various survivor benefits, including benefits for a spouse and children of public employees such as law enforcement officers, firefighters, and other emergency personnel killed in the line of duty, N.D. Century Code §§ 15-10-18.5; 44-08-17.

(h) The ability to secure legal recognition for parent-child bonds, including presumptive parentage. N.D. Century Code §§ 14-20-06; 14-20-07; 14-20-10; and 14-09 *et seq.*

(i) The ability to access a child's educational, medical, dental, religious, insurance, and other records or information. N.D. Century Code § 14-09-28.

(j) The ability to file married and/or joint tax returns for both federal and North Dakota taxes. On August 29, 2013, the Internal Revenue Service issued Rev. Rule 2013-17, which provides that same-sex spouses will be treated as married for federal tax purposes whether or not the couple lives in a state that recognizes marriage between persons of the same sex. Under Rule 2013-17, same-sex spouses must now file federal income tax returns using a married filing separately or jointly status. Following the issuance of the ruling, however, the State of North Dakota has required same-sex married couples to file North Dakota taxes as if they are single. The North Dakota Office of State Tax Commissioner released a statement indicating that same-sex married couples must file North

Dakota taxes as if they were single. Pursuant to Bulletin 28247 (10-2013), a North Dakota resident in a marriage with a person of the same sex whose federal income tax status is “married filing separately” must complete a separate North Dakota Form ND-1; and, if their federal income tax status is “married filing jointly,” they must additionally complete Form ND-1S. These forms require them to recompute their federal Adjusted Gross income and deductions, effectively requiring them to prepare dummy individual federal returns.

(k) The right to take leave under the Family Medical Leave Act (“FMLA”) to care for a same-sex spouse. Under the FMLA, 29 U.S.C. §§ 2601 *et seq.*, employees are entitled to 12 weeks of unpaid leave in a 12-month period to care for a spouse with a serious medical condition, or 26 weeks to care for an eligible military service-member spouse with a serious injury or illness. Moreover, the spouses of service-members on covered active duty or who have been notified of an impending call or order to covered active duty may take FMLA leave to address short-notice deployment issues, for military events and ceremonies, to make or update financial or legal arrangements, for counseling, and other exigencies caused by a call to service, 29 C.F.R. § 825.126. Because by regulation the employee’s state of residence determines whether a person is considered a spouse under the FMLA, see 29 C.F.R. § 825.102, same-sex spouses residing in North Dakota are not considered spouses and would not be entitled to FMLA leave.

(l) Rights and responsibilities under more than 1,000 federal statutes and regulations involving marriage, including laws pertaining to Social Security, housing, taxes, criminal sanctions, copyright, and veterans' benefits. Couples lawfully married in other jurisdictions and living in North Dakota may qualify for some federal benefits and protections, but may be denied others, such as veteran's spousal benefits and Social Security survivor benefits. Many of these deprivations drain family financial resources, causing harm not only to same-sex couples but also to their children.

100. In addition to these tangible harms, the State's marriage bans deny Plaintiffs the unique social recognition that marriage conveys. Without access to the familiar language and legal label of marriage, Plaintiffs are unable to immediately or adequately communicate to others the depth and permanence of their commitment, or to obtain respect for that commitment simply by invoking their married status.

101. The inequities imposed on committed same-sex couples include harms specific to their children and grandchildren, who are equally deserving of the stability, permanence, and legitimacy enjoyed by children and grandchildren of different-sex spouses. Civil marriage affords official sanctuary to the family unit, offering parents and children critical means to secure legal parent-child bonds and a familiar, public way of demonstrating those bonds to third parties. By denying same-sex couples access to marriage, the State reinforces the view held by some that the family bonds that tie same-sex parents and their children are less consequential, enduring, and meaningful than those of different-sex parents and their children. Same-sex couples and their children must live

with the vulnerability and stress inflicted by a lack of access to the same mechanisms for securing their legal relationships, and the ever-present possibility that others may question their familial relationship — in social, legal, educational, and medical settings and in moments of crisis — in a way that spouses can avoid by simple reference to being married.

102. Children understand from an early age that marriage signifies an enduring family unit, and likewise understand that the State has deemed a class of families less worthy than others, undeserving of marriage, and not entitled to the same societal recognition and support as other families. The State has no adequate interest to justify marking the children of same-sex couples, including the children and grandchildren of Plaintiffs, with a badge of inferiority that will invite disrespect in school, on the playground, and in every other sphere of their lives.

103. The government is a powerful teacher of discrimination. By decreeing that same-sex relationships should be ignored in North Dakota and enforcing that decree, the State and Defendants instruct all persons who interact with same-sex couples, including those couples' own children and grandchildren, that their relationships are less worthy than others. Bearing the imprimatur of the government, the State's marriage bans and Defendants' enforcement of them communicate a view that same-sex couples and their children are unfit for the dignity, respect, and stature afforded to different-sex couples and their children. This encourages others in workplaces, schools, businesses, and other arenas of life to follow the government's example in discriminating against same-sex couples — and, in turn, lesbians and gay men.

104. Many private entities defer to the State's pronouncement of marital status in defining "family" for purposes of benefits, often resulting in the exclusion of same-sex couples and their children from safety nets such as public and private employer-provided health insurance for family members, including to some of the Plaintiffs in this matter.

105. There is no legitimate interest, let alone an important or compelling one, in excluding same-sex couples from the institution of marriage.

106. Neither history nor tradition can justify the exclusion of same-sex couples from marriage. Marriage has remained vital and enduring because of its resilience in response to a dynamic society, as society and the courts have cast off restrictions on, for example, interracial marriage and coverture.

107. As the Supreme Court has made clear, the law cannot, directly or indirectly, give effect to private biases. Liberty and equality, not moral disapproval, must be the guiding framework for a state's treatment of its citizens.

108. Excluding same-sex couples from marriage does nothing to protect or enhance the rights of different-sex couples. Different-sex spouses will continue to enjoy the same rights and status conferred by marriage, unimpaired by the acknowledgment that this freedom belongs equally to same-sex couples.

109. Although the State has a valid interest in protecting the public fisc, it may not pursue that interest by making invidious distinctions between classes of its citizens without adequate justification.

110. The State's interest in child welfare is harmed rather than furthered by excluding same-sex couples from marriage. That exclusion injures same-sex couples' children without offering any conceivable benefit to other children.

111. Barring same-sex couples from marriage does not affect which couples raise children together. Same-sex couples in North Dakota can and do bear children through reproductive technology that is available to different-sex couples, and also bring children into their families through foster care and adoption. Marriage has never been the sole province of couples who are or who may become parents. Neither North Dakota nor any other state has ever restricted marriage to those capable of or intending to procreate.

112. There is no valid basis for the State to assert a preference for parenting by different-sex couples over same-sex couples. Based on more than 30 years of research, the scientific community has reached a consensus that children raised by same-sex couples are as well-adjusted as children raised by different-sex couples. This consensus has been recognized by every major professional organization dedicated to children's health and welfare, including the American Academy of Pediatrics, the American Medical Association, the American Psychological Association, the National Association of Social Workers, and the Child Welfare League of America.

113. Other courts have found, after trials involving expert testimony, that there is no rational basis for favoring parenting by heterosexual couples over lesbian and gay couples. See, e.g., DeBoer v. Snyder, No. 12-CV-10285, 2014 WL 1100794, at *14 (E.D. Mich. Mar. 21, 2014) (finding that children's outcomes do not depend on the sex or sexual orientation of their parents); Perry v. Schwarzenegger, 704 F. Supp. 2d 921, 980

(N.D. Cal. 2010) (finding that the research supporting the conclusion that “[c]hildren raised by gay or lesbian parents are as likely as children raised by heterosexual parents to be healthy, successful and well-adjusted” is “accepted beyond serious debate in the field of developmental psychology”), aff’d sub nom. Perry v. Brown, 671 F.3d 1052 (9th Cir. 2012), vacated for lack of standing sub nom. Hollingsworth v. Perry, 133 S. Ct. 2652 (2013); In re Adoption of Doe, 2008 WL 5006172, at *20 (Fla. Cir. Ct. Nov. 25, 2008) (“based on the robust nature of the evidence available in the field, this Court is satisfied that the issue is so far beyond dispute that it would be irrational to hold otherwise; the best interests of children are not preserved by prohibiting homosexual adoption”), aff’d sub nom. Florida Dep’t of Children & Families v. Adoption of X.X.G., 45 So.3d 79 (Fla. Dist. Ct. App. 2010); Howard v. Child Welfare Agency Review Bd., Nos. 1999-9881, 2004 WL 3154530, at *9 and 2004 WL 3200916, at *3-4 (Ark. Cir. Ct. Dec. 29, 2004) (holding that “there was no rational relationship between the [exclusion of gay people from becoming foster parents] and the health, safety, and welfare of the foster children.”), aff’d sub nom. Dep’t of Human Servs. v. Howard, 238 S.W.3d 1 (Ark. 2006).

114. Excluding same-sex couples from marriage harms their children by, among other things, branding their families as inferior and less deserving of respect, and encouraging private bias and discrimination. Denying same-sex couples the dignity and status of marriage humiliates the children raised by those couples, and makes it more difficult for the children to understand the integrity and closeness of their own families and its concord with other families in their community.

115. Excluding same-sex couples from marriage will not make the children of different-sex spouses more secure. The children of different-sex spouses will continue to enjoy the benefits that flow from their parents' marriages regardless of whether same-sex couples are permitted to marry. The marriage bans have no conceivable effect on the choices different-sex couples make about such profound issues as whether to marry, whether to have children, and whether to raise their children in wedlock.

116. The State's interest in the welfare of children parented by same-sex couples is as great as its interest in the welfare of any other children. The family security that comes from the State's official recognition and support is no less important for same-sex parents and their children than it is for different-sex parents and their children.

CAUSES OF ACTION

Count I:

Deprivation of Equal Protection

Fourteenth Amendment to the United States Constitution

117. Plaintiffs incorporate the allegations set forth in each of the preceding paragraphs of this Complaint as if fully set forth herein.

118. Plaintiffs state this cause of action against Defendants in their official capacities for purposes of seeking declaratory and injunctive relief.

119. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to Title 42 U.S.C. § 1983, provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

120. As described throughout this Complaint, same-sex couples such as Plaintiffs are identical to different-sex couples in all characteristics relevant to marriage.

121. North Dakota's adoption of Measure 1 and its implementation into North Dakota Constitution Article XI § 28, North Dakota Century Code, and all other sources of North Dakota law that preclude marriage for same-sex couples or prevent recognition of their marriages violate the equal protection guarantee of the Fourteenth Amendment both facially and as applied to Plaintiffs. Defendants' conduct in enforcing these laws violates Plaintiffs' right to equal protection by discriminating impermissibly on the basis of sexual orientation and sex. Moreover, by enshrining discrimination in the State's Constitution, Measure 1 has deprived lesbian and gay North Dakotans of the equal protection of the laws by locking them out of the political process and making it uniquely more difficult to secure legislation on their behalf.

122. As the State Health Officer, Defendant Dwelle enforces the marriage bans by, among other things, prescribing, furnishing, and distributing forms that prohibit same-sex couples from marrying, and forms that prohibit same-sex couples from having their lawful out-of-state marriages recognized on birth and death certificates. These actions violate Plaintiffs' constitutional rights to equal treatment, without regard to sexual orientation or sex, under the Fourteenth Amendment to the United States Constitution. This includes the rights of Plaintiffs who wish to marry or have their existing marriages recognized, such as Plaintiffs Amber and Celeste Carlson Allebach, who want to be listed as parents on the birth certificates of their children.

123. As Attorney General, Defendant Stenehjem has enforced marriage bans by enforcing, directing, and defending the bans.

124. As Governor, Defendant Dalrymple has enforced marriage bans by overseeing and directing each of the Defendants and their acts, omissions, duties, and responsibilities.

125. The State's marriage bans, and Defendants' actions to enforce them, deny same-sex couples equal dignity and respect, and deprive their families of a critical safety net of rights and responsibilities. The marriage bans brand lesbians and gay men and their children as second-class citizens through government-imposed stigma and promote private bias and discrimination by instructing that same-sex relationships are less worthy than others. The marriage bans reflect moral disapproval and antipathy toward lesbians and gay men.

Discrimination Based on Sexual Orientation.

126. The State's marriage bans target lesbian and gay North Dakotans as a class for exclusion from marriage and discriminate against Plaintiffs based on their sexual orientation, both facially and as applied.

127. The exclusion of Plaintiffs from marriage based on their sexual orientation subjects Defendants' conduct to strict or at least heightened scrutiny. Defendants' conduct cannot withstand this scrutiny because the exclusion does not serve any legitimate governmental interests, let alone any important or compelling interests, and does not serve any interests in an adequately tailored manner.

128. Lesbians and gay men have suffered a long and painful history of discrimination in North Dakota and across the United States.

129. Sexual orientation bears no relation to an individual's ability to perform in or contribute to society.

130. Sexual orientation is a core, defining trait that is so fundamental to one's identity and conscience that a person may not legitimately be required to abandon it (even if that were possible) as a condition of equal treatment.

131. Sexual orientation generally is fixed at an early age and highly resistant to change through intervention. No credible evidence supports the notion that interventions are effective or safe; indeed, they often are harmful and damaging. No mainstream mental health professional organization approves interventions intended to change sexual orientation, and almost all of them have adopted policy statements cautioning professionals and the public against these treatments.

132. Prejudice against gay men and lesbians continues to curtail the operation of political processes that might ordinarily be relied upon to protect minorities. Lesbians and gay men have fewer civil rights protections at the state and federal level than racial minorities and women had when race and sex-based classifications were declared to be suspect and quasi-suspect, respectively.

133. Lesbians and gay men lack express statutory protection against discrimination in employment, public accommodations, and housing at the federal level and in more than half the states, including North Dakota. They are systematically under-represented in federal, state, and local democratic bodies. They have been denied the

right to marry through 30 state constitutional amendments and currently are not permitted to marry in 33 states.

Discrimination Based on Sex.

134. The State's marriage bans discriminate against Plaintiffs on the basis of sex, both facially and as applied, barring Plaintiffs from marriage or from recognition of their lawful marriages solely because each Plaintiff wants to be married to or married a spouse of the same sex. The sex-based restriction is plain on the face of the State's marriage bans, which restrict marriage to a "man and woman" and deny recognition of relationships involving people of "the same gender."

135. Because of these sex-based classifications, North Dakota prohibits Plaintiffs Brock Dahl and Austin Lang from marrying their devoted life partners because they are the same sex; individually, if these Plaintiffs were the opposite sex, they could marry their partner in North Dakota. The other Plaintiffs are precluded from having their marriages recognized as valid because they are not the opposite sex of their partners; individually, if these Plaintiffs were the opposite sex, North Dakota would recognize their lawful marriages.

136. The State's marriage bans also serve the impermissible purpose of enforcing and perpetuating sex stereotypes by excluding Plaintiffs from marriage or from being recognized as lawfully married because Plaintiffs have failed to conform to sex-based stereotypes that men should marry women, and women should marry men.

137. Because there are no longer legal distinctions between the duties of husbands and wives, there is no basis for the sex-based eligibility requirements for marriage.

138. The exclusion of Plaintiffs from marriage based on their sex and the enforcement of gender-based stereotypes cannot survive the heightened scrutiny required for sex-based classifications in laws.

Discrimination with Respect to Fundamental Rights and Liberty Interests Secured by the Due Process Clause.

139. The State's marriage bans discriminate against Plaintiffs based on sexual orientation and sex with respect to the exercise of the fundamental right to marry and their liberty interests in dignity, autonomy, and family integrity and association. Differential treatment of Plaintiffs' exercise of fundamental rights and liberty interests based on their sexual orientation and sex subjects Defendants' conduct to strict or at least heightened scrutiny, which Defendants' conduct cannot withstand.

**Count II:
Deprivation of Due Process
*Fourteenth Amendment to the United States Constitution***

140. Plaintiffs incorporate the allegations set forth in each of the preceding paragraphs of this Complaint as if fully set forth herein.

141. Plaintiffs state this cause of action against Defendants in their official capacities for purposes of seeking injunctive and declaratory relief.

142. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to Title 42 U.S.C. § 1983, provides that no state shall “deprive any person of life, liberty, or property, without due process of law.” U.S. Const. amend. XIV, § 1.

143. North Dakota’s adoption of Measure 1 and its implementation into North Dakota Constitution Article XI § 28, North Dakota Century Code, and all other sources of North Dakota law that preclude marriage for same-sex couples or prevent recognition of their marriages violate the due process guarantee of the Fourteenth Amendment both facially and as applied to Plaintiffs.

144. The right to marry the unique person of one’s choice and to direct the course of one’s life in this intimate realm without undue government restriction is one of the fundamental liberty interests protected for all by the Due Process Clause of the Fourteenth Amendment. Defendants’ enforcement of the marriage bans impermissibly infringes on Plaintiffs’ choice of whom to marry and their ability to have their marriages recognized, interfering with a core, life-altering, and constitutionally protected choice.

145. The Due Process Clause also protects choices central to privacy, personal dignity, and autonomy, including each individual’s rights to family integrity and association. Defendants’ enforcement of the marriage bans impermissibly infringes Plaintiffs’ intimate, personal, and private decisions about family life, and precludes Plaintiffs from obtaining full liberty, dignity, and security for themselves, their family, and their parent-child bonds.

146. As the State Health Officer, Defendant Dwelle enforces the marriage bans by, among other things, prescribing, furnishing, and distributing forms that prohibit

same-sex couples from marrying and forms that prohibit same-sex couples from having their lawful out-of-state marriages recognized on birth and death certificates. These actions violate Plaintiffs' fundamental rights with respect to marriage and constitutional rights to liberty, dignity, autonomy, family integrity, association, and due process under the Fourteenth Amendment to the United States Constitution. This includes the rights of Plaintiffs who wish to marry and to have their existing marriages recognized, such as Plaintiffs Amber and Celeste Carlson Allebach, who want to be listed as parents on the birth certificates of their planned children.

147. As Cass County Treasurer, Defendant Sandvik ensures compliance with the marriage bans by, for example, denying same-sex couples marriage licenses. These actions violate the fundamental right to marry and the rights, protected under the Fourteenth Amendment to the United States Constitution, to liberty, dignity, autonomy, family integrity, association, and due process of Plaintiffs Brock Dahl and Austin Lang.

148. As Attorney General, Defendant Stenehjem has enforced marriage bans by enforcing, directing, and defending the bans.

149. As Governor, Defendant Dalrymple has enforced marriage bans by overseeing and directing each of the Defendants and their acts, omissions, duties, and responsibilities.

150. Defendants cannot satisfy the Due Process Clause's decree that governmental interference with a fundamental right or liberty interest may be sustained only upon a showing that the burden is narrowly tailored to serve a compelling or

important governmental interest, because the marriage bans are not even tailored to any legitimate interest.

Count III:
Deprivation of Fundamental Right To Travel
Fourteenth Amendment to the United States Constitution

151. Plaintiffs incorporate the allegations set forth in each of the preceding paragraphs of this Complaint as if fully set forth herein.

152. 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. This right guards against interference with citizens' rights "to migrate, resettle, find a new job, and start a new life." Shapiro v. Thompson, 394 U.S. 618, 629 (1969). The right to travel prohibits both laws that affirmatively interfere with or prevent a citizen's travel, and also laws that "penalize[e] those who choose to" migrate to another state. Id. at 631. The right extends not only to temporary visits to other States, but also to becoming a permanent resident of another State. Id.

153. Defendants' refusal, under color of State law, to respect the valid out-of-state marriages of Plaintiffs and other same-sex couples unconstitutionally burdens and infringes on Plaintiffs' right to travel throughout the nation and to resettle and make a new home in North Dakota, such as Plaintiffs Beau Thomas Downey and Matthew Lee Elmore.

154. By conditioning Plaintiffs' move to North Dakota on relinquishment of all rights, benefits, and responsibilities of their marriages lawfully celebrated in other States, the State has imposed a penalty on Plaintiffs' exercise of their constitutionally protected

right to travel. Defendants' actions therefore constitute a "deprivation of the liberty of the person," Windsor, 133 S. Ct. at 2695, protected by the Fourteenth Amendment. For this reason, North Dakota's adoption of Measure 1 and its implementation into North Dakota Constitution Article XI § 28, North Dakota Century Code, and all other sources of North Dakota that preclude recognition of marriages performed in other States or jurisdictions, are unconstitutional on their face and as applied to Plaintiffs.

155. A law that has the effect of imposing a penalty on the exercise of the right to travel is subject to strict scrutiny and may be upheld only upon a showing that the restriction is narrowly tailored to advance a compelling government interest. Defendants cannot satisfy this requirement; indeed, the challenged statutes are not even rationally related to the furtherance of a legitimate government interest.

156. Plaintiffs have no adequate remedy at law to dress the wrongs alleged herein, which are of a continuing nature and will cause them irreparable harm.

157. Accordingly, Plaintiffs are entitled to declaratory and injunctive relief as requested in this Complaint.

Declaratory and Injunctive Relief
Title 28 U.S.C. §§ 2201 and 2202;
Fed. R. Civ. P., Rules 57 and 65

158. This case presents an actual controversy because Defendants' present and ongoing denial of due process, equal protection, and privileges or immunities subjects Plaintiffs to serious and immediate harms, warranting the issuance of a declaratory judgment.

159. Plaintiffs seek injunctive relief to protect their constitutional rights and avoid the injuries described above. A decision enjoining Defendants would redress and prevent irreparable injuries to Plaintiffs, for which Plaintiffs have no adequate remedy at law or in equity.

160. The State will incur little to no burden in allowing same-sex couples to marry and in recognizing the lawful marriages of same-sex couples from other jurisdictions on the same terms as different-sex couples, while the hardship to Plaintiffs of being denied due process, equal protection, and privileges or immunities is severe, subjecting them to an irreparable denial of their constitutional rights. The balance of hardships thus tips strongly in favor of Plaintiffs.

PRAYER FOR RELIEF

Plaintiffs request that this Court enter judgment:

A. Declaring that the provisions of and enforcement by Defendants of Measure 1, North Dakota Constitution Article XI § 28, North Dakota Century Code, and all other sources of North Dakota law that prohibit same-sex couples from marrying or refuse recognition to North Dakota out-of-state marriages of same-sex spouses violate Plaintiffs' rights under the Fourteenth Amendment to the United States Constitution;

B. Permanently enjoining enforcement by Defendants of Measure 1, North Dakota Constitution Article XI § 28, North Dakota Century Code, and all other sources of North Dakota law that exclude same-sex couples from marriage or that refuse recognition to lawful out-of-state marriages of same-sex couples;

C. Requiring Defendants in their official capacities to permit issuance of marriage licenses to same-sex couples and to recognize lawful out-of-state marriages of same-sex couples, subject to the same restrictions and limitations applicable to different-sex couples;

D. Awarding Plaintiffs their costs, expenses, and reasonable attorneys' fees pursuant to Title 42 U.S.C. § 1988 and other applicable laws; and

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

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

Respectfully submitted this 6th day of June, 2014,

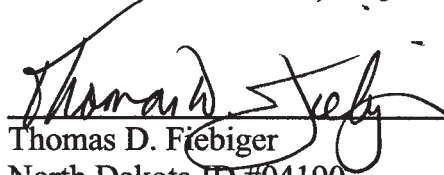
MADIA LAW LLC

/s/Joshua A. Newville .

Joshua A. Newville*
345 Union Plaza
333 Washington Avenue North
Minneapolis, Minnesota 55401
Phone: (612) 349-2743
Fax: (612) 235-3357
joshuanewville@madialaw.com

** Pro hac vice application forthcoming*

THOMAS D. FIEBIGER, ESQ.


Thomas D. Fiebiger
North Dakota ID #04190
15 Broadway, Suite 301
Fargo, North Dakota 58102
Phone: (701) 293-0333
Fax: (701) 293-7199
tfiebiger@gmail.com

Counsel for Plaintiffs

CIVIL COVER SHEET

JS 44 (Rev. 12/12)

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Ramsay, et al.

DEFENDANTS

Dalrymple, et al.

(b) County of Residence of First Listed Plaintiff Cass
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)
Joshua A. Newville, Madia Law 345 Union Plaza, 333 Washington Ave.
N. Minneapolis, MN 55401 612.349.2743
Thomas Fiebiger, 15 Broadway St. #301, Fargo, ND, 701.293.0333

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	PERSONAL INJURY	PERSONAL INJURY	LABOR	PROPERTY	OTHER
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	<input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from Another District (specify)
- 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Title 42 U.S.C. § 1983

Brief description of cause:

Deprivation of Equal Protection; Deprivation of Due Process; Deprivation of Right to Travel (privileges or immunities)

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ _____ CHECK YES only if demanded in complaint. JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____

DOCKET NUMBER _____

DATE

6/6/14

SIGNATURE OF ATTORNEY OR RECORD

Thomas Fiebiger

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
 United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; NOTE: federal question actions take precedence over diversity cases.)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerk(s) in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.
- V. Origin.** Place an "X" in one of the six boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.