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Same-Sex Marriage Case Filed in Federal Court
37 States Do Not Recognize Lawful Same-Sex Marriages

A federal suit was filed today in Philadelphia to declare unconstitutional the Pennsylvania statute that bans recognition of same-sex marriage legally entered into states that authorize same-sex marriages. The suit raises important constitutional questions that the courts have not addressed, including the impact of full faith and credit clause, which requires states to respect judgment, decrees and orders of other states, and the constitutional right to travel between states without penalty or deprivation of legal rights. Thirteen states and the District of Columbia permit same-sex couples to marry.

The focus of the suit is Pennsylvania's Defense of Marriage Act, which singles out same-sex couples for discriminatory treatment by refusing to recognize their marriage licenses that were properly issued in other states. The suit also raises claims under the Equal Protection and Due Process clauses of the U.S. Constitution.

The suit was brought by Cara Palladino and Isabelle Barker, who were married in February 2005 in Massachusetts, where they then resided. The couple has been together since 1998. The couple relocated to Pennsylvania in August 2005, when Isabelle Palladino accepted a post-doctoral fellowship at Bryn Mawr College in Bryn Mawr, Pennsylvania. Cara and Isabelle desired to have children. Isabelle became pregnant and delivered a son in January 2009.

The complaint names Governor Thomas Corbett and Attorney General Kathleen Kane as the defendants. Pennsylvania is one of 37 states that does not recognize legally sanctioned same-sex marriages. Pennsylvania law states that marriages of same-sex couples from other states are considered "void". There are an estimated 125,000 same-sex married couples in the United States. Like heterosexual married couples, many same-sex families relocate to another state for business, education, family and/or other reasons.

The lawsuit is designed to eliminate legally married same-sex couples and their families being demeaned and treated as second class citizens if they move to Pennsylvania, as has happened to Cara, Isabelle and their son.

"I want to thank the plaintiffs, Cara Palladino and Isabelle Barker, for having the courage to bring this important action. For more than 225 years, states have honored valid marriages entered into in other states – with rare exception. But even in those rare exceptions, most

notably inter-racial marriages, the Supreme Court eventually held that states could not deny a valid marriage from another state.”, stated California Lt. Governor Gavin Newsom. “This summer, the Supreme Court finally recognized that same-sex couples should be treated equally under the law. Ideally every state would marry couples without regard to gender. But until that is the universal truth, we expect states to recognize legally valid marriages performed in California, regardless of that state’s position on same-sex marriage.”

Equality Forum, which is a national and international LGBT civil rights organization with an educational focus is coordinating the suit. “Since the inception of the nation, almost all marriages sanctioned by one state have been accepted by all other states.”, stated Malcolm Lazin, Executive Director, Equality Forum. “Failure by Pennsylvania to recognize a legal marriage denigrates Cara, Isabelle and their son and denies them important family protections and benefits.”

Michael Banks and Eric Kraeutler, partners, Morgan Lewis & Bockius are lead counsel. Morgan Lewis & Bockius is a law firm headquartered in Philadelphia with 24 offices worldwide and over 1,600 law professionals. Tiffany Palmer and Benjamin Jerner of Jerner & Palmer, P.C. are co-counsel. Jerner & Palmer, P.C. is a law firm focusing on LGBT family law and estate planning in Pennsylvania and New Jersey.

Co-lead counsel Michael Banks and Eric Kraeutler stated, “Given the importance of these constitutional issues and the impact on so many same-sex couples and children, we hope that the court will decide this case quickly so that the rights and dignity of all people in Pennsylvania will be respected.”

“Upon crossing the border into Pennsylvania, Cara and Isabelle’s marital status was stripped from them by Pennsylvania’s Defense of Marriage Act (DOMA). Pennsylvania’s DOMA took away from Cara and Isabelle monetary rights, property rights, tax exemptions, the right to make medical decisions for each other if they are sick or injured, among hundreds of other state and federal benefits,” stated Ben Jerner, partner at Jerner & Palmer, P.C.

According to Delaware Governor Jack A. Markell, “When an opposite-sex couple is married in Delaware, other states historically have recognized the validity of that marriage. Why should it be any different for same-sex couples? When a same-sex couple is married under Delaware law, other states should recognize the validity of that marriage and afford that couple the fundamental rights and privileges to which they are entitled. Simply put, it’s a matter of fairness.”

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