

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
AT LOUISVILLE

ELECTRONICALLY FILED

GREGORY BOURKE, ET AL.)	
)	
PLAINTIFFS)	
)	CIVIL ACTION NO.
and)	
)	3:13-CV-750-JGH
TIMOTHY LOVE, ET AL.)	
)	
INTERVENING PLAINTIFFS)	
)	
v.)	
)	
STEVE BESHEAR, ET AL.)	
)	
DEFENDANTS)	
)	

MOTION TO INTERVENE

Pursuant to Fed. R. Civ. P. 24(b)(1)(B), Timothy Love and Lawrence Ysunza, along with Maurice Blanchard and Dominique James, by counsel, respectfully move this court for permission to intervene as co-plaintiffs in the action of *Gregory Bourke et al. v. Steve Beshear et al.* on the basis that their claim shares with the main action a common question of law or fact.

Fed. R. Civ. P. 24 (b)(1)(B) allows a party to intervene in an action with the Court's permission where there is a sufficient commonality of law and facts between the Intervening Plaintiffs' claim and the main action. The trial court has sound discretion to allow permissive

intervention.¹ In this case, the Equal Protection rights of same-sex couples under the Fourteenth Amendment of the U.S. Constitution are the same for both the existing Plaintiffs and the Intervening Plaintiffs. The Intervening Plaintiffs are two same-sex Kentucky couples who have sought a marriage license in the Commonwealth but have been denied on the basis of Kentucky Constitution Sec. 233A and KRS § 402.005 *et seq.*, the same discriminatory legal framework challenged in the existing action.

Further, the interest of judicial economy will be served by an adjudication of the parties' rights in one order, rather than in a piecemeal fashion with the risk of inconsistent opinions. This also serves the interests of the Commonwealth Defendants in terms of resources that would be devoted to litigating and/or appealing two cases that involve the same legal claims and defenses. The claims of both the Plaintiffs and the Intervening Plaintiffs are based upon identical legal arguments.

Intervening Plaintiffs' Complaint, setting forth their Equal Protection claims and request for relief, is attached hereto. Intervening Plaintiffs ask that this Court exercise its discretion and enter the attached Order allowing the interventions to further the interests of justice, consistency, and judicial economy.

¹ *Meyer Goldberg, Inc. v. Goldberg*, 717 F.2d 290, 294 (6th Cir. 1983).

Respectfully submitted,

s/Daniel J. Canon

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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2014, I electronically filed the foregoing with the clerk of the court by using the CM/ECF system, which will send a notice of electronic filing to the following:

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*Counsel for Defendants Steve Beshear and
Jack Conway*

/s/ Daniel J. Canon

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 TIMOTHY LOVE)
 3011 University Road)
 Louisville, Kentucky 40206)
)
 and)
)
 LAWRENCE YSUNZA)
 3011 University Road)
 Louisville, Kentucky 40206)
)
 and)
)
 MAURICE BLANCHARD)
 4204 Windy Oaks Road)
 Louisville, Kentucky 40241)
)
 and)
)
 DOMINIQUE JAMES)
 4204 Windy Oaks Road)
 Louisville, Kentucky 40241)
)
 INTERVENING PLAINTIFFS)

CIVIL ACTION NO.

3:13-CV-750-JGH

* * * * *

**INTERVENING COMPLAINT AND PETITION FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1. Intervening Plaintiffs Timothy Love, Lawrence M. Ysunza, Maurice Blanchard, and Dominique James are all residents of Jefferson County, Kentucky.

2. Defendant Steve Beshear is the Governor of the Commonwealth of Kentucky, an elected official charged with enforcing the laws of the Commonwealth of Kentucky.

3. Intervening Plaintiffs Timothy Love and Lawrence Ysunza (the “Love Plaintiffs”) have been living together as a couple for thirty-three years.

4. On February 13, 2014, the Love Plaintiffs appeared at the Jefferson County Clerk’s office and requested a Kentucky marriage license.

5. The Love Plaintiffs presented a valid drivers’ licenses and the \$35.50 fee to the clerk issuing Kentucky marriage licenses.

6. The Commonwealth refused to issue a marriage license to the Love Plaintiffs solely because they are a same-sex couple.

7. Intervening Plaintiffs Maurice Blanchard and Dominique James (the “Blanchard Plaintiffs”) have been together as a couple for ten years.

8. On June 3, 2006, the Blanchard Plaintiffs had a religious marriage ceremony in Louisville.

9. The Commonwealth of Kentucky refused, and continued to refuse, to issue a marriage license to the Blanchard Plaintiffs solely because they are a same-sex couple.

10. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343 because the suit raises federal questions under 42 U.S.C. § 1983 and the United States Constitution.

11. Venue is proper in the Western District of Kentucky under 28 U.S.C. § 1391(b) because Defendants perform official duties in this district.

12. The Commonwealth's refusal to issue marriage licenses to the Intervening Plaintiffs is due to, and enabled by, the Kentucky state statutory and constitutional provisions that this Court has determined violates the Fourteenth Amendment to the U.S. Constitution.

13. Defendants, in their official capacities, claim that they are charged with upholding this unconstitutional legal framework.

14. To the extent that Defendants rely upon any other provision of law in denying Intervening Plaintiffs the right to marry within the Commonwealth of Kentucky, any such provision must also violate the Fourteenth Amendment to the U.S. Constitution.

15. By preventing same-sex couples from marrying, the Commonwealth's law deprives them of numerous legal protections that are available to opposite-sex couples in Kentucky by virtue of their marriages.

16. The Defendants' refusal to issue Plaintiffs a marriage license violates the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution, as

determined by this Court in its Feb. 12, 2014 Opinion, other appropriate binding precedent, and virtually every court in the country to decide the issue in recent history.

17. Defendants' actions are actionable pursuant to 42 U.S.C. § 1983.

18. Plaintiffs are entitled to immediate temporary and permanent injunctive relief as a result of Defendants' violation of Plaintiffs civil and constitutional rights.

19. To the extent that the allegations set forth in the Second Amended Complaint filed by the Bourke Plaintiffs in this case apply to Intervening Plaintiffs, they are incorporated herein by reference.

WHEREFORE, Plaintiffs Timothy Love, Lawrence M. Ysunza, Maurice Blanchard, and Dominique James ask this Court for the following relief:

1. An Order allowing them to Intervene in the above Case;
2. An injunctive order directing the Defendants to cease any enforcement of Kentucky's unconstitutional marriage statutes and issue marriage licenses to Plaintiffs;
3. A declaration that Commonwealth's continued denial of marriage licenses to same-sex couples violates the U.S. Constitution.
4. A reasonable attorney's fee pursuant to 42 U.S.C. § 1988.
5. Any and all other relief to which Plaintiffs may be entitled.

Respectfully submitted,

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ORDER GRANTING MOTION TO INTERVENE

Plaintiffs Timothy Love, Lawrence Yzunza, Maurice Blanchard, and Dominique James have asked this Court to allow them to Intervene in the above case. Having considered the pleadings and determined that the Intervening Plaintiffs assert claims that are legally indistinguishable from the claims already before this Court, Plaintiffs' Motion is GRANTED.