

**IN THE CIRCUIT COURT OF COOK COUNTY  
COUNTY DEPARTMENT, CHANCERY DIVISION**

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JAMES DARBY and PATRICK BOVA; )  
DONALD JULIAN and TIMOTHY RICE; )  
JANEAN WATKINS and LAKEESHA )  
HARRIS; MERCEDES SANTOS and )  
THERESA VOLPE; LEE KORTY and BERT )  
MORTON; BRIAN FLETCHER and )  
ROBERT HICKOK; RYAN CANNON and )  
DAPHNE SCOTT-HENDERSON; )  
ANGELICA LOPEZ and CLAUDIA )  
MERCADO; JACQUELINE MICHELLE )  
CHAPPELL and MICHELLE FRANKE; )  
HECTOR MARTINEZ and ROBERT )  
PROCTOR; JULIE BARTON and PATRICIA )  
GARCIA; DONNA O’CROWLY and PEGGY )  
BURTON; LAURA HARTMAN and ANNE )  
DICKEY; BRANDON BOWERSOX- )  
JOHNSON and KEVIN BOWERSOX- )  
JOHNSON; ROBERTA O’MARA and )  
LYNNE BURNETT; JAIME GARCIA and )  
DARYL RIZZO, )

Plaintiffs, )

v. )

DAVID ORR in his official capacity as COOK )  
COUNTY CLERK, )

Defendant )

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CASE NO. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. This is an action under the Illinois Constitution to declare invalid and enjoin the enforcement of the State’s prohibition on marriages between two individuals of the same sex. Plaintiffs, who comprise 16 same-sex couples, are 32 lesbian or gay individuals who wish to marry the unique and irreplaceable person each one loves. Plaintiffs are couples who have been together in loving committed relationships for periods ranging from 6 to 48 years. Each Plaintiff sought a license to marry in May 2012, in Cook County, Illinois, but were turned away solely

because each Plaintiff is the same sex as his or her respective life partner. Plaintiffs challenge their exclusion from civil marriage, and seek to end the stigmatization and disrespect the State imposes upon them and their children by relegating them solely to the inferior status of civil union.

### **THE PARTIES**

2. Plaintiff JAMES DARBY, 80, and PATRICK BOVA, 73, reside together in Hyde Park, Chicago, Cook County, Illinois. DARBY, a proud veteran, was born on the south side of Chicago, where he worked in the stockyards before enlisting in the Navy to serve in the Korean War. He served 4 years before receiving an honorable discharge. DARBY taught Spanish, French and English in the Chicago Public Schools for 30 years before retiring. BOVA was a data archivist and librarian for 38 years at the University of Chicago National Opinion Research Center. The couple met at the University of Chicago and fell in love 48 years ago. They held a private commitment ceremony in front of friends in 1995 before the grave of gay veteran Technical Sergeant Leonard Matlovitch (1943-1988), whose gravestone reads: “[T]hey gave me a medal for killing two men, and a discharge for loving one.” DARBY and BOVA entered into a civil union in Illinois on June 2, 2011, in Millennium Park, Chicago, Illinois. Although they were grateful to receive broader protections for their relationship through a civil union, marriage alone can encompass the depth of what they mean to each other, and their lifelong commitment. DARBY and BOVA, both gay men, have been in a loving committed relationship for 48 years, and wish to marry.

3. Plaintiffs DONALD (“Don”) JULIAN, 51, and TIMOTHY (“Tim”) RICE, 50, reside together in Alto Pass, Union County, Illinois. JULIAN was born in Mount Vernon Illinois and served in the United States Army for six years. He has a master’s degree from Southern

Illinois University and has worked as a Clinical Services Supervisor for the Department of Juvenile Justice in Murphysboro, Illinois for the past 13 years. RICE, also a graduate of Southern Illinois University, is a social worker who works as a Child Welfare Advanced Specialist for the Department of Children and Family Services. On August 10, 1996, their pastor blessed them in a holy union ceremony. Fifteen years later, on August 14, 2011, the same pastor united them in a civil union in a celebration at a local inn attended by 150 guests, including the village mayor and many family members and long time friends. JULIAN and RICE felt honored when the village historian and curator of the local museum asked them to submit photographs for inclusion in the village archives as a record of the first civil union in the Village of Cobden and Union County. Many people, however, do not understand what the novel status of civil union means, and JULIAN and RICE continually have to explain what it is and the significance of their relationship to others, which underscores to them that their status is inferior to married couples. JULIAN and RICE, who are both gay men, have been in a loving committed relationship for 18 years, and wish to marry.

4. Plaintiffs JANEAN WATKINS, 38 and LAKEESHA HARRIS, 37, reside together in Rogers Park, Chicago, Cook County, Illinois. Together they are rearing six children: Desiree (20), Kiara (18), Natasha (17), Christopher (15), Ramil (15), and Malcom (12). WATKINS is a McNair Scholar pursuing a degree in history, and HARRIS is the Lincoln Laureate at Northeastern Illinois University, obtaining a masters degree in political science. HARRIS also works part-time as an archivist. WATKINS and HARRIS fear that lack of respect for their committed relationship to each other will interfere with their ability to protect and provide for their children. When WATKINS and HARRIS went to a police station for a restraining order against a person who was stalking one of their teenage daughters, they were

asked “Who’s her mother?” and then, “No, who’s her real mother?” After WATKINS and HARRIS disclosed to officers that HARRIS was the biological parent, which was not information they preferred to share in that context, WATKINS was shut out and precluded from speaking further to the police officers. WATKINS believes that the officers would have treated them differently if she could have said that she was married to HARRIS, and the experience left her fearful that she cannot keep her family safe. WATKINS and HARRIS were so excited to obtain a civil union that they stood in line overnight and were the first in Cook County to get a license. On June 2, 2011, they entered into a civil union in Millennium Park, Chicago, Illinois. WATKINS and HARRIS struggle in other contexts for recognition as a family, as many people do not understand what a civil union means. WATKINS and HARRIS also felt hurt when their children asked if WATKINS and HARRIS were now married after their civil union, but WATKINS and HARRIS had no appropriate word to explain their status, and were left to answer that they are not married but only “civilized.” WATKINS and HARRIS have been in a loving committed relationship for 11 years, and wish to marry.

5. Plaintiffs MERCEDES SANTOS, 46, and THERESA VOLPE, 41, reside together in Rogers Park, Chicago, Cook County, Illinois. SANTOS and VOLPE, small business owners, work at a publishing company they started together. VOLPE grew up in an Italian-American family in the Chicago suburbs, and SANTOS was born in the Philippines and moved to the United States at age 14 and was naturalized in 1990. SANTOS and VOLPE decided together to have children and VOLPE gave birth to Ava (7) and Jaidon (4), who were conceived via anonymous donor insemination with a Filipino donor selected to match SANTOS’ background. SANTOS and VOLPE underwent an expensive and intrusive adoption proceeding to secure SANTOS’ legal relationship to both children. Nevertheless, SANTOS and VOLPE have

struggled with school and hospital administrators for recognition that they are a family, including when Jaidon was hospitalized close to death in intensive care for kidney failure. VOLPE traveled with Jaidon to the hospital in an ambulance and SANTOS took the family car, arriving at the hospital ahead of the ambulance. SANTOS was given a “parent” wrist band and ushered into the pediatric intensive care unit (“ICU”) to await Jaidon’s and VOLPE’s arrival. When VOLPE briefly left the ICU and attempted to return, a hospital administrator refused to let her back in unless she could identify herself as a “stepmother.” The administrator told VOLPE that a “stepmother” can wear a “parent” wristband, but a child could have only one “real” mother, and SANTOS was already inside wearing the “mother” wrist band. Admission to the pediatric ICU was for “parents only.” VOLPE called SANTOS on her cell phone, and SANTOS was forced to leave their son’s side despite his condition to talk to the administrator and insist that VOLPE be allowed in. Eventually, the administrator permitted VOLPE to enter, but solely with a “guest” pass. SANTOS and VOLPE worry that they will have to fight for respect as a family in future emergencies. They also are concerned that Ava and Jaidon do not receive the respect conferred on children of married parents by Illinois law, which provides security to children in good times and bad. Additionally, SANTOS and VOLPE fear that Ava and Jaidon will internalize the message that they receive from their government that their family is not as worthy as other families. SANTOS and VOLPE entered into a civil union on June 2, 2011 in Millennium Park, Chicago, Illinois and felt proud to show their children through the ceremony that their family deserves some measure of respect and state sanction. Ava was excited to share the news of her parents’ civil union with her class. However, some of her classmates did not know what a civil union meant, and Ava was forced to explain that a civil union is like a

marriage but not the same. SANTOS and VOLPE, both lesbian women, have been in a loving committed relationship for 20 years, and wish to marry.

6. Plaintiffs LEE KORTY, 53, and BERT MORTON, 64, reside together in Springfield, Sangamon County, Illinois. KORTY grew up on a farm near Springfield and works at the Illinois Workers Compensation Commission. MORTON, a landscape architect, built their home at age 28 and worked in construction before retiring in 2009. MORTON had a heart attack six years ago, and while he lay in the emergency room filled with anxiety over his condition, he felt additional stress because he could hear KORTY's frustrated voice outside, as KORTY struggled to explain his relationship to MORTON so that he could gain access to MORTON's bedside. Hospital staff asked KORTY if he were married, and KORTY found himself weeping as he was left to answer that he was single even though he had been in a committed relationship with MORTON for 24 years at that point. KORTY and MORTON entered into a civil union on June 7, 2011, but the experience seemed anticlimactic because they still cannot refer to themselves as married. For MORTON, getting a civil union to KORTY was particularly bittersweet, because he was married briefly to a woman many years ago when he was young, and he remembers the civil and social status accorded to married couples but now denied to him and KORTY. MORTON and KORTY, both gay men, have been in a loving committed relationship for almost 30 years, and wish to marry.

7. Plaintiffs BRIAN FLETCHER, 52, and ROBERT HICKOK, 42, reside together in Oak Park, Cook County, Illinois. FLETCHER and HICKOK have jointly adopted three children, Jack (6), Hank (3), and Ellie (2). They are members of First United Church of Christ in Oak Park, and held a commitment ceremony in front of family and friends in 2004. They entered into a civil union with a service at their church, in which their children participated, on

March 17, 2012. Despite their civil union, FLETCHER and HICKOK carry numerous legal documents with them wherever they go, including powers of attorney and confidential adoption decrees, for fear that they and their children will not be recognized as a family. FLETCHER and HICKOK wish to marry to secure their children's future and to demonstrate, both to each other and to their children, the depth of their commitment to each other. FLETCHER and HICKOK, who are both gay men, have been in a loving committed relationship for more than 12 years, and wish to marry.

8. Plaintiffs RYAN CANNON, 34, and DAPHNE SCOTT-HENDERSON, 41, reside together in Bloomington, McLean County, Illinois. CANNON is an owner and the Business Development Manager at MAD Marketing, a small firm she started with her brother. SCOTT-HENDERSON graduated from nursing school in Peoria and works as a critical care nurse. Together, CANNON and SCOTT-HENDERSON are rearing three children. The couple are co-parenting their son, Sebastian (4), conceived through donor insemination, and share custody of SCOTT-HENDERSON's children, Sonnet (15), and Autumn (11), with SCOTT-HENDERSON's former husband. When CANNON gave birth to Sebastian, hospital staff initially barred SCOTT-HENDERSON from her hospital room, refusing to allow her to visit CANNON and their baby. The hospital also refused to acknowledge Sonnet and Autumn as Sebastian's half-sisters. CANNON and SCOTT-HENDERSON know that if they could express to others that they are a married family, their relationships to each other would receive greater respect. CANNON and SCOTT-HENDERSON entered into a civil union on June 3, 2011. They wish to marry for the sake of their children, and to ensure that Sebastian, Autumn, and Sonnet receive respect as members of a legitimate family. CANNON and SCOTT-HENDERSON, both

lesbian women, have been in a loving committed relationship for more than 6 years, and wish to marry.

9. Plaintiffs ANGELICA LOPEZ, 36, and CLAUDIA MERCADO, 35, reside together in Logan Square, Chicago, Cook County, Illinois. LOPEZ is a lawyer for the Legal Assistance Foundation, which provides civil legal assistance to low income residents of Cook County, and MERCADO is the Director of Admissions for Northeastern Illinois University. LOPEZ was born and grew up in St. Louis, Missouri. MERCADO was born in Los Angeles and moved to Missouri with her family at age eight. Both LOPEZ and MERCADO value highly their respective families' rich Mexican-American culture and traditions. The couple met at Missouri State University, fell in love, and attended graduate school together in Kansas before moving to Chicago. LOPEZ and MERCADO are both Catholic and served as board members of Dignity Chicago. LOPEZ and MERCADO are both the legal parents of their children, Isabel (3), and Indigo (6 months), who were conceived via anonymous donor insemination. They wish to marry because civil marriage is central to their values and concept of family. In 2007, LOPEZ and MERCADO held a commitment ceremony in front of family and friends. They later entered into a civil union with a ceremony at Millennium Park, Chicago, Illinois, on June 2, 2011. Although LOPEZ and MERCADO were happy to receive some degree of state recognition for their commitment to each other through a civil union, they yearn to be able to say that they are married, which evokes a legal, cultural, and symbolic meaning that is not encompassed in any other term. LOPEZ and MERCADO, both lesbian women, have been in a loving committed relationship for more than 14 years, and wish to marry.

10. Plaintiffs JACQUELINE MICHELLE CHAPPELL, 45, and MICHELLE FRANKE, 46, reside together in Champaign, Champaign County, Illinois. CHAPPELL and



FRANKE are raising their daughter, Rose (9), who was conceived via anonymous donor insemination. CHAPPELL gave birth to Rose, and although Rose's birth was a joyful event for both CHAPPELL and FRANKE, the couple later felt humiliated when a hospital administrator came to their room to collect information for Rose's birth certificate and the administrator asked FRANKE repeatedly if CHAPPELL really did not know the name of the father, suggesting that CHAPPELL could be lying. FRANKE later secured her parental relationship to Rose through a second parent adoption. CHAPPELL, FRANKE, and Rose dote on the family's two chocolate Labrador retrievers. CHAPPELL is a meeting planner and FRANKE is a manager within the fundraising arm for the University of Illinois. FRANKE and CHAPPELL are active members of Community United Church of Christ, where FRANKE served as the moderator of the church board. CHAPPELL and FRANKE met and fell in love while working at the Red Cross performing First Aid and CPR training for corporations. On June 28, 1997, FRANKE's and CHAPPELL's respective fathers walked them down the aisle of a Unitarian church and they made commitments to each other in a holy union ceremony. Fourteen years later, on June 28, 2011, they renewed those promises in a civil union ceremony in their home church in Champaign, Illinois. CHAPPELL and FRANKE seek to marry not only for the legal recognition and cultural acceptance it would bring, but to express their love for each other and the value of their family. FRANKE, who is disabled (Spinal Muscular Atrophy), uses a motorized wheelchair for mobility, and needs assistance with activities associated with daily living, also fears that CHAPPELL will be denied access to her when a medical situation arises in the future. CHAPPELL and FRANKE, both lesbian women, have been in a loving committed relationship for more than 21 years, and wish to marry.

11. Plaintiffs HECTOR MARTINEZ, 49, and ROBERT PROCTOR, 49, reside together in Peoria, Peoria County, Illinois. MARTINEZ was born and raised in Chicago Heights and was the first child in his family to attend college. He formerly worked in the financial services industry and currently is studying to become a physical therapist. PROCTOR, who is a research scientist, met MARTINEZ after moving to Peoria in 1992 to take a job at a research laboratory. MARTINEZ and PROCTOR could not bring themselves to enter into a civil union because only marriage would reflect the depth of their feelings for each other and the significance of their relationship, and the term “civil union” would brand their family as inferior to others and less deserving of respect. MARTINEZ and PROCTOR, who are both gay men, have been in a committed relationship for more than 19 years, and wish to marry.

12. JULIE BARTON, 50, and PATRICIA GARCIA, 54, reside together in Evanston, Cook County, Illinois. BARTON moved here from California to obtain her medical degree and is now an obstetrician in private practice and an assistant professor of Obstetrics and Gynecology at Northwestern University Feinberg School of Medicine. GARCIA grew up in Fairmont City, Illinois, and attended the University of Illinois at Urbana-Champaign. She is an associate professor of Obstetrics and Gynecology and director of the Perinatal HIV Program at Northwestern University Feinberg School of Medicine. BARTON and GARCIA together helped rear Max, now age 22 and a recent graduate of the University of Wisconsin, who is GARCIA’s son from her prior marriage. BARTON and GARCIA also have a daughter, Olivia (“Livi”), 15, who was conceived via anonymous donor insemination and whose relationship to both BARTON and GARCIA was secured by adoption. BARTON and GARCIA also have opened their home to GARCIA’s two nieces after GARCIA’s older sister recently passed away. BARTON and GARCIA find it demeaning that they cannot answer “yes” whenever someone

asks them if they are married. For example, GARCIA was appointed to the Presidential Advisory Council on HIV/AIDS, and was subject to a background check and interviews by the FBI, but could not give an unqualified “yes” to questions about her marital status. BARTON and GARCIA are most distressed about their inability to marry when they think about what it means to their daughter, Livi, who has asked BARTON and GARCIA many questions about why they are not married, and found it crushing to learn that her government does not permit her parents to marry. BARTON and GARCIA entered into a civil union on December 31, 2011, with a small ceremony in front of family. The civil union felt “administrative, incomplete, and hollow” to the couple, and not celebratory, as a marriage would be. BARTON and GARCIA have been in a loving committed relationship for 20 years, and wish to marry.

13. Plaintiffs DONNA O’CROWLY, 66, and PEGGY BURTON, 65, reside together in Bloomington, McLean County, Illinois, where they both worked for State Farm for decades before recently retiring. BURTON, who grew up on a small farm in Montana, taught school in Oregon until she was fired when the principal learned of her sexual orientation. O’CROWLY grew up in Salem, Oregon. The couple moved to Illinois after O’CROWLY received a promotion at State Farm. O’CROWLY and BURTON spend their free time in retirement as community volunteers, reading, and golfing. O’CROWLY and BURTON entered into a civil union on July 23, 2011. Since their civil union, O’CROWLY and BURTON have found it frustrating to explain their novel status to others, including at a medical clinic just prior to O’CROWLY’s surgery, when the couple struggled to fill out forms that asked solely whether O’CROWLY was married or single, but did not contain a reference to civil unions. O’CROWLY and BURTON, who are both lesbian women, have been in a loving committed relationship for more than 36 years, and wish to marry.

14. Plaintiffs LAURA HARTMAN, 34, and ANNE DICKEY, 37, reside together in Rock Island, Rock Island County, Illinois. They are both legal parents to their son, Theodore (2), who was conceived by DICKEY via donor insemination and adopted by HARTMAN. HARTMAN is an assistant professor of religious studies, and DICKEY is Theodore's stay-at-home parent. HARTMAN and DICKEY entered into a civil union in Illinois on June 2, 2011, and felt it was an important step toward shoring up their lives legally, but in their hearts they knew that a civil union is "not the real thing." Both HARTMAN and DICKEY cherish their faith and are deeply involved in St. John's Lutheran Church in Rock Island. HARTMAN and DICKEY are waiting to rejoice without reservation in their relationship with a church celebration on the day when they can enter a civil marriage under Illinois law. Additionally, HARTMAN and DICKEY wish to marry for their son, who has already asked them if they are married. They wish to marry so that he fully understands – in language of marriage, which is comprehended even by a child – the permanence and commitment of their family, and so that as he gets older, he can express at school that his parents are as married as other children's parents, and that his family is worth as much in the eyes of his government as any other family. HARTMAN and DICKEY have been in a loving committed relationship for almost seven years, and wish to marry.

15. Plaintiffs BRANDON BOWERSOX-JOHNSON, 31, and KEVIN BOWERSOX-JOHNSON, 40, reside together in Urbana, Champaign County, Illinois. KEVIN and BRANDON are legal parents by adoption to their son, Garrett (5). KEVIN and BRANDON have lived in Champaign-Urbana almost all their lives. KEVIN is completing his Doctorate in Education and teaches at the University of Illinois and the University of Wisconsin-Stout. BRANDON graduated from the University of Illinois with a degree in Mathematics. He is part-

owner of and vice-president of technology for a small software company. On April 22, 2006, KEVIN and BRANDON celebrated their love and commitment with a ceremony in front of family and friends. They felt it was important to have this public ceremony before starting their family because they wanted friends and family to know that their child was coming into a committed relationship and they wished society to see that Garrett would have two dads. On June 3, 2011, KEVIN and BRANDON entered into a civil union in Urbana, Champaign County, Illinois. KEVIN and BRANDON wish to marry so that their son may grow up feeling pride in his parents and to protect him from having to defend the worth of his parents' relationship. KEVIN BOWERSOX-JOHNSON and BRANDON BOWERSOX-JOHNSON have been in a loving committed relationship for 10 years, and wish to marry.

16. Plaintiffs ROBERTA ("Robyne") O'MARA, 56, and LYNNE BURNETT, 55, reside together in Godfrey, Madison County, Illinois. O'MARA, a nurse, supervises a department in the laboratory at a hospital in Belleville. BURNETT, who grew up in Elsah, Illinois, attended Principia College and Southern Illinois University, graduating with a master's degree in counseling, and worked as a child protection worker in St. Louis and a business analyst in the healthcare industry until recently. Without the language of marriage, O'MARA and BURNETT cannot effectively communicate to others that they are a family. For example, when BURNETT was hospitalized in intensive care, hospital staff permitted BURNETT's blood relatives to visit her, including BURNETT's mother, but prevented O'MARA from seeing BURNETT even though BURNETT had drawn up a health care power of attorney document designating O'MARA as the person authorized to make medical decisions for her, and despite BURNETT's mother's insistence that O'MARA be permitted to see BURNETT. O'MARA and BURNETT believe that they would have been treated differently by the hospital if they had been

married. O'MARA and BURNETT entered into a civil union on September 10, 2011. Even after having been informed of the couple's civil union, O'MARA's employer has refused O'MARA's request to place BURNETT on her health insurance even though her employer grants spousal health insurance to employees with different-sex spouses. On May 23, 2012, O'MARA experienced chest pains and BURNETT took her to an emergency room. The registrar who admitted O'MARA struggled to understand who BURNETT was in relation to O'MARA. Even after learning that BURNETT and O'MARA are civil union partners, the registrar continued to question BURNETT on their relationship, including whether they live together and share the same phone number. The exchange was unnecessarily difficult for BURNETT because the registrar was confused and unfamiliar with what a civil union meant. O'MARA and BURNETT, both lesbian women, have been in a loving committed relationship for almost 32 years, and wish to marry in Illinois.

17. Plaintiffs JAIME GARCIA, 47, and DARYL RIZZO, 50, reside together in La Grange, Cook County, Illinois. GARCIA and RIZZO are legal parents to their daughter, Siena (4), whom they adopted from foster care. GARCIA was born in Texas to a military family that moved frequently, and settled in Illinois when he was 14. He has worked as a hair stylist for over 25 years. RIZZO grew up in Des Plaines, Illinois. He has had a variety of roles in the museum education field including planning programs for disadvantaged youth. Until Siena entered preschool, both GARCIA and RIZZO limited their working hours to four days per week to maximize the time that they were home with Siena. GARCIA has experienced numerous health problems and the couple worries that RIZZO will not be respected as GARCIA's family in an emergency. For example, when GARCIA needed an emergency appendectomy at 3 a.m. in the morning, they had to wait for GARCIA's brother to arrive at the hospital to sign various

forms because the hospital did not recognize RIZZO as GARCIA's family. GARCIA and RIZZO entered into a civil union on June 2, 2011, in Millennium Park, Chicago, Illinois. Although they refer to each other now as "married" and use the term "husband," the use of these terms stings because they know that their government does not recognize them as married, and they hope soon to be able to use these terms not as a reminder of what they lack, but as a celebration of what they have. GARCIA and RIZZO have been in a loving committed relationship for 11 years, and wish to marry.

18. Defendant DAVID ORR ("COOK COUNTY CLERK") is sued in his official capacity as COOK COUNTY CLERK and has offices at 50 West Washington Street, Chicago, Illinois 60602. The COOK COUNTY CLERK is authorized and required by law to issue marriage licenses and certificates for marriages in Cook County. 750 ILCS 5/203.

19. Parties to a prospective marriage in Cook County may apply for and obtain a marriage license only from the COOK COUNTY CLERK. 750 ILCS 5/203.

20. If all legal requirements for a marriage in Cook County are met by applicants for a marriage license, the COOK COUNTY CLERK "shall issue a license to marry and a marriage certificate." 750 ILCS 5/203.

21. A license to marry is effective the day after issuance and permits a marriage to be solemnized only in the county where issued. 750 ILCS 5/207.

22. The marriage certificate for a marriage in Cook County must be completed within ten days after the marriage is solemnized, and returned to the COOK COUNTY CLERK. 750 ILCS 5/209.

23. The COOK COUNTY CLERK must register solemnized marriages and "make to the [Illinois] Department of Public Health a return of such marriage" by forwarding required

forms and data to the Department. 750 ILCS 5/209, 5/210, 5/211; 410 ILCS 535/23. The COOK COUNTY CLERK also is responsible for furnishing the Illinois Department of Public Health with forms and data concerning civil unions. *Id.*; 750 ILCS 75/35.

24. Applicants for a marriage license for a Cook County marriage must furnish the COOK COUNTY CLERK with “satisfactory proof that the marriage is not prohibited.” 750 ILCS 5/203.

25. The COOK COUNTY CLERK and staff at his direction have refused to issue marriage licenses to the Plaintiffs or to accept marriage license applications from them solely because each is a lesbian or gay person who seeks to marry a person of the same sex.

### **JURISDICTION AND VENUE**

26. This is an action for a declaratory judgment under § 5/2-701 of the Code of Civil Procedure that will resolve an actual controversy between the parties, and for permanent injunctive relief.

27. Venue is proper in this Court under 735 ILCS 5/2-101 and 750 ILCS 5/104. All Plaintiffs sought to apply for marriage licenses from the COOK COUNTY CLERK in Cook County for the purpose of marrying in Cook County and were denied marriage licenses and applications in Cook County. Defendant has offices in Cook County.

### **STATEMENT OF FACTS**

#### **A. Illinois Law Excludes Plaintiffs And Their Children From Marriage And Relegates These Families To Civil Unions.**

28. Illinois law excludes lesbian and gay couples from marriage. The Illinois Marriage and Dissolution of Marriage Act, 750 ILCS 5/201 (the “Marriage Act”) authorizes marriages “between a man and a woman,” 750 ILCS 5/201, expressly prohibits marriages “between 2 individuals of the same sex,” 750 ILCS 5/212(a)(5), and states that marriages of



same-sex couples are “contrary to the public policy of this State,” 750 ILCS 5/213.1. The provisions of the Marriage Act that individually and collectively exclude lesbian and gay couples from marriage are referred to herein as the “marriage ban.”

29. The Marriage Act further states that any marriage contracted in another jurisdiction that would be prohibited if solemnized in Illinois “shall be null and void for all purposes in this state with the same effect as though such prohibited marriage had been entered into in this state.” 750 ILCS 5/216(a). A marriage between persons of the same-sex legally entered into in another jurisdiction is recognized in Illinois solely as a civil union. 750 ILCS 75/60.

30. To be valid under the Illinois statutes, a marriage must be “licensed, solemnized and registered” in accordance with the Marriage Act. 750 ILCS 5/207.

31. Plaintiffs are unable to enter into legally sanctioned civil marriages in Illinois without marriage licenses. Common law marriages are not valid in Illinois. 750 ILCS 5/214.

32. In 2011, the Illinois legislature passed the Illinois Religious Freedom Protection and Civil Union Act, 750 ILCS 75/1, *et seq.* (“Civil Union Act”), which provides “procedures for the certification and registration of a civil union and provides persons entering into a civil union with the obligations, responsibilities, protections, and benefits afforded or recognized by the law of Illinois to spouses.” 750 ILCS 75/5. A person may enter into a civil union with someone of the same sex or someone of a different sex. 750 ILCS 75/10.

33. A party to a civil union is entitled to the same legal obligations, responsibilities, protections, and benefits as are afforded or recognized by the law of Illinois to spouses, whether they derive from statute, administrative rule, policy, common law, or any other source of civil or criminal law. 750 ILCS 75/20.

34. The eligibility requirements for entering into a civil union are similar to those for entering into a marriage except that civil unions – in contrast to marriage – are available to both same-sex couples and different-sex couples, 750 ILCS 75/25, 75/30; there is no express provision specific to civil unions comparable to the provision permitting marriages of parties under the age of 18 with the consent of a parent, guardian, or judicial approval, 750 ILCS 5/203; and there is no express provision specific to civil unions comparable to the provision permitting marriages of first cousins if both parties are 50 years of age or older or either party is sterile, 750 ILCS 5/203.

35. Thus, different-sex couples have two options to secure legal recognition of their families: they may marry, or they may enter the novel and less familiar status of a civil union. Same-sex couples have only one option: a civil union.

B. Excluding Same-Sex Couples From Marriage Harms Plaintiffs And Their Children.

36. Plaintiffs and their children are harmed in numerous respects by the exclusion of same-sex couples from the right to marry in Illinois.

37. Civil marriage plays a unique role in society as the universally recognized and celebrated hallmark of a couple's commitment to build family life together. Although civil unions provide substantially similar legal responsibilities and legal rights to same-sex couples under Illinois law, differences remain between the two statuses. Because of these differences, coupled with the stigma of exclusion and of having their families branded as inferior by their government, same-sex couples suffer both tangible and dignitary harms, all of which are of constitutional dimension.

38. The status of marriage has unique social significance and recognition. Without access to the familiar language and label of marriage, Plaintiffs are unable instantly or

adequately to communicate to others the depth and permanence of their commitment, or to obtain respect for that commitment as others do simply by invoking their married status.

39. Plaintiffs' exclusion from marriage frustrates their life goals and dreams, their ability to fulfill their personal values, their happiness, and self-determination. For many Plaintiffs, marriage is a deeply held value. These Plaintiffs have grown up yearning to get married, with a profound sense of loss and grief that they may never be able to realize this ideal for themselves and/or their children as a result of the State's marriage ban. For example, BURTON's inability to celebrate her 36-year committed relationship with O'CROWLY as a marriage diminishes her sense of self-worth. JAIME GARCIA feels hurt each time he refers to his relationship with RIZZO as a marriage because he knows that it is not true, but he wishes it were, because only marriage can portray the depth of what he feels for RIZZO.

40. There is no social or cultural institution, legal mechanism, or status that can substitute for legal marriage and provide Plaintiffs and their children what marriage would provide them. Civil unions are a novel status in Illinois without the same expressive value or communicative weight and significance as marriage. Many people encountered by Plaintiffs and their children express confusion, or otherwise indicate that they do not understand what the term "civil union" means, or what legal protections and responsibilities should accrue to members of a civil union. Plaintiffs and other same-sex couples and their children must explain and defend their family relationships in numerous contexts.

41. Because of confusion about what a civil union means, and because civil unions are held in less regard than marriages, some Plaintiffs and their children have felt hurt when their extended family members have not recognized and understood that their relationships deserve as much respect as marital relationships. For example, all but two of SANTOS' siblings declined

SANTOS' and VOLPE's invitation to attend their civil union ceremony, citing routine obligations that almost certainly would not have prevented them from attending a family wedding. SANTOS knows that these members of her extended family would have a different feeling of respect and support for her relationship to VOLPE if she were legally married.

42. The substantive and dignitary inequities imposed on committed same-sex couples include particular harms for same-sex couples' children, who are equally deserving of the stability, permanence, and legitimacy that children of different-sex spouses enjoy. Plaintiffs' children suffer from stigma directed at their parents as a consequence of their State-imposed second-class status, and they also are denied the same level of security and legal protection afforded their peers whose parents may marry.

43. Civil marriage affords official sanctuary to the family unit, offering parents and their children a familiar and public means of demonstrating to third parties a legal basis for the parent-child relationship. By denying Plaintiffs and other same-sex couples 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. Plaintiffs and their children thus are deprived of the family security that inheres in a ready and familiar method of communicating to others the significance and permanence of their familial relationships. Plaintiffs and their children accordingly must live with the vulnerability and stress inflicted by the ever-present possibility that others may question their familial relationship – in social, educational, medical, or law enforcement settings and in moments of crisis – in a way that spouses can avoid by simple reference to being married.

44. For example, LOPEZ and MERCADO continue to encounter people who do not respect MERCADO's parent-child relationship to their son, Indigo, even though: Indigo was

born via anonymous donor insemination to LOPEZ during LOPEZ's civil union to MERCADO, and therefore MERCADO is Indigo's presumed parent under Illinois law, *see* 750 ILCS 45/5, 410 ILCS 535/12, 750 ILCS 5/212, 750 ILCS 5/303, 750 ILCS 40/2, 750 ILCS 40/3; LOPEZ and MERCADO performed an expensive adoption to ensure an added layer of security to MERCADO's parent-child relationship; and Indigo's birth certificate lists both LOPEZ and MERCADO as his parents. Recently, when LOPEZ, MERCADO, their daughter, Isabel, and Indigo went to the office of the COOK COUNTY CLERK after Indigo's adoption to pick up Indigo's birth certificate, which lists both LOPEZ and MERCADO as his parents, an administrator prevented MERCADO from approaching the vital records counter. The administrator asked MERCADO and LOPEZ why they were there, and upon hearing that they wished to pick up Indigo's birth certificate, the administrator asked, "Who's the mother?" MERCADO and LOPEZ answered, "We both are." LOPEZ informed the administrator that she and MERCADO are in a civil union, that the birth certificate lists them both, and that they also have an adoption decree listing both of them as parents. Nevertheless, the administrator then asked, "Well, which one of you gave birth to the child?" Upon learning that LOPEZ was the parent who had given birth, which was not information that the couple would have preferred to share in that context, the administrator told LOPEZ, "Okay, you can go [up to the counter]," but forced MERCADO to wait in the waiting area as though she were not a true parent. MERCADO and LOPEZ found this humiliating. Further, by telling MERCADO in front of Indigo and Isabel that MERCADO alone was not permitted to approach the counter, the administrator sent a message to the children that MERCADO's parental relationship to each of them is less secure and worthy of respect than LOPEZ's, which undermines the values that LOPEZ and MERCADO are rearing their children to understand – namely, that Indigo and Isabel have two equal parents

who will always love and protect them as a family. LOPEZ and MERCADO believe that they would have been treated differently if they could have said, “We are married.”

45. Children from a young age understand that marriage signifies an enduring family unit, and likewise understand when the State has deemed a class of families less worthy than other families, undeserving of marriage, and not entitled to the same societal recognition and support as other families. Because of the State’s marriage ban, Plaintiffs’ children are left to grow up with the State-sponsored message that their families are inferior to others, and that they and their parents do not deserve as much respect and State sanction as families headed by different-sex couples who are permitted to marry. The State has no adequate interest in marking the children of same-sex couples – including Ava, Jaidon, Desiree, Kiara, Natasha, Christopher, Ramil, Malcom, Jack, Hank, Ellie, Sebastian, Sonnet, Autumn, Isabel, Indigo, Rose, Theodore, Garrett, Max, Livi, and Siena – with a badge of inferiority that invites disrespect and shame in school, on the playground, and in every other sphere of their lives.

46. The government is a powerful teacher of discrimination to others. Bearing the imprimatur of the government, the State’s marriage ban, which relegates same-sex couples and their children to the unfamiliar and lesser status of civil union, not only causes confusion regarding the legal rights of same-sex couples and their children, but also invites others to follow the government’s example in discriminating against them.

47. Many private entities defer to the State’s conferral of the status of marriage in defining family for purposes of an array of benefits, often resulting in the exclusion of same-sex couples and their children from safety nets such as private employer-provided health insurance for family members. By designating same-sex couples and their children as unworthy of marriage and branding them as inferior, the State causes disrespect of committed same-sex

couples and their children by others in schools, workplaces, businesses, and other major arenas of life.

C. Plaintiffs Applied For Marriage Licenses But Were Denied Them.

48. Each Plaintiff wishes to marry his or her partner in Cook County, is of lawful age to do so, is not married to any other person, was and remains prepared to pay all applicable fees, and otherwise meets all legal requirements to marry except the requirement that he or she be of a different sex from his or her prospective spouse.

49. On or about the 15th day of May, 2012, Plaintiffs JAMES DARBY and PATRICK BOVA appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the State of Illinois. DARBY and BOVA asked an employee of the COOK COUNTY CLERK for an application for a marriage license but the employee declined to give them one on the ground that, “[W]e only issue marriage licenses to one man and one woman.”

50. On or about the 25th day of May, 2012, Plaintiffs DONALD JULIAN and TIMOTHY RICE appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the State of Illinois. An employee of the COOK COUNTY CLERK denied them an application, stating, “We can’t give a marriage license to a same-sex couple.”

51. On or about the 15th day of May, 2012, Plaintiffs JANEAN WATKINS and LAKEESHA HARRIS appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application

for a marriage license so that they could marry each other in the State of Illinois. An employee of the COOK COUNTY CLERK declined their request, stating, “Sorry, we don’t issue marriage licenses to same-sex couples.”

52. On or about the 16th day of May, 2012, Plaintiffs MERCEDES SANTOS and THERESA VOLPE appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK, Department of Vital Records, to request an application for a marriage license so that they could marry each other in the State of Illinois. An employee of the COOK COUNTY CLERK consulted with a fellow employee, asking whether a same-sex couple in a civil union could get what the employee characterized as “an upgrade” to a marriage. Upon being told that two women are not permitted to marry in Illinois, the employee declined VOLPE’s and SANTOS’ request.

53. On or about the 24th day of May, 2012, Plaintiffs LEE KORTY and BERT MORTON appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied them an application and handed them a copy of the State’s marriage ban.

54. On or about the 16th day of May, 2012, Plaintiffs BRIAN FLETCHER and ROBERT HICKOK appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the State of Illinois. They asked an employee of the COOK COUNTY CLERK for an application for a marriage license but were denied an application on the ground that they are two men.



55. On or about the 7th day of May, 2012, Plaintiffs RYAN CANNON and DAPHNE SCOTT-HENDERSON appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK. CANNON and SCOTT-HENDERSON requested an application for a marriage license so that they could marry each other in the State of Illinois. An employee of the COOK COUNTY CLERK denied them an application, stating, “according to statute, marriage is between one man and one woman.”

56. On or about the 23rd day of May, 2012, Plaintiffs ANGELICA LOPEZ and CLAUDIA MERCADO appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied them an application stating, “We can’t issue marriage licenses to same-sex couples.”

57. On or about the 29th day of May, 2012, Plaintiffs JACQUELINE MICHELLE CHAPPELL and MICHELLE FRANKE appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied them an application for a marriage license because they are a same-sex couple.

58. On or about the 11th day of May, 2012, Plaintiffs HECTOR MARTINEZ and ROBERT PROCTOR appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of

the COOK COUNTY CLERK denied them an application for a marriage license because they are two men.

59. On or about the 23rd day of May, 2012, Plaintiffs JULIE BARTON and PATRICIA GARCIA appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied them an application for a marriage license because they are a same-sex couple.

60. On or about the 22nd day of May, 2012, Plaintiffs DONNA O’CROWLY and PEGGY BURTON appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied them an application because, “Marriage is for different-sex couples only.”

61. On or about the 15th day of May, 2012, Plaintiffs LAURA HARTMAN and ANNE DICKEY appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. They asked an employee of the COOK COUNTY CLERK for an application for a marriage license but were denied one because they are a same-sex couple.

62. On or about the 25th day of May, 2012, Plaintiffs BRANDON BOWERSOX-JOHNSON and KEVIN BOWERSOX-JOHNSON appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK

to request an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied their request on the ground that they are a same-sex couple.

63. On or about the 17th day of May, 2012, Plaintiffs ROBERTA O'MARA and LYNNE BURNETT appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK. They asked for an application for a marriage license so that they could marry each other in the state of Illinois. An employee of the COOK COUNTY CLERK denied their request on the ground that they are a same-sex couple.

64. On or about the 22nd day of May, 2012, Plaintiffs JAIME GARCIA and DARYL RIZZO appeared in person, prepared to tender the \$60 application fee and identification documents, at the office of the COOK COUNTY CLERK to request an application for a marriage license so that they could marry each other in the state of Illinois. They asked an employee of the COOK COUNTY CLERK for an application but were denied one on the ground that they are a same-sex couple.

**COUNT ONE**

**Denial of Due Process:**

**Undue Governmental Interference with the Fundamental Right to Marry  
and to Family Integrity and the Right to Privacy  
Ill. Const. Art. I, §§ 2, 6**

65. Plaintiffs reallege and incorporate all prior allegations made in this Complaint into this Count as if fully restated herein.

66. The State's Due Process Clause, Article I § 2, provides that "No person shall be deprived of life, liberty or property without due process of law."

67. The State Constitution, Article I § 6, also contains an express guarantee of privacy, providing that “The people shall have the right to be secure in their persons...against...invasions of privacy.”

68. 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 Article I, § 2 of the Illinois Constitution. The guarantees of liberty, privacy, and autonomy contained in this Clause protect each individual’s rights to family integrity and association, and to make decisions about personal relationships and about whether and when to create a family free of unwarranted government interference.

69. The refusal of Defendant COOK COUNTY CLERK to issue marriage licenses or applications to Plaintiffs (“Defendant’s actions”) has harmed each of the Plaintiffs.

70. Defendant’s actions interfere directly and substantially with each Plaintiff’s choice of whom to marry, interfering with a core, life-altering, and intimate personal choice.

71. Defendant’s actions interfere directly and substantially with each Plaintiff’s deeply intimate, personal and private decisions regarding family life, and precludes them from obtaining full liberty, dignity, integrity, autonomy, and security for themselves, their family, and their parent-child bonds.

72. Defendant’s actions thus deny and abridge each Plaintiff’s fundamental right to marry, fundamental right of privacy and guarantee of personal liberty, and penalizes Plaintiffs’ self-determination in the most intimate sphere of their lives.

73. Defendant’s actions have no compelling or otherwise sufficient justification and violate each Plaintiff’s right of substantive due process under Article I, § 2 of the Illinois Constitution.

**COUNT TWO**  
**Denial of Equal Protection**  
**Ill. Const. Art. I, §§ 2, 18**

74. Plaintiffs reallege and incorporate all prior allegations made in this Complaint into this Count as if fully restated herein.

75. The State's Equal Protection Clause, Article I § 2, provides that "No person shall . . . be denied the equal protection of the laws."

76. Article I, § 18 of the Illinois Constitution provides that, "The equal protection of the laws shall not be denied or abridged on account of sex by the State or its units of local government and school districts."

77. Defendant's actions violate Plaintiffs' right to equal protection of the laws by discriminating impermissibly on the basis of sexual orientation and sex.

78. The State's marriage ban violates the equal protection guarantee of the Illinois Constitution, Article I, §§ 2, 18, both facially and as applied to Plaintiffs.

79. Plaintiffs are similarly situated to different-sex spouses in every relevant respect. Plaintiffs and their children are as worthy of respect, dignity, social acceptance, and legitimacy as different-sex spouses and their children. The emotional, romantic, and dignitary reasons Plaintiffs seek to marry are similar to those of different-sex couples who choose to marry.

80. Defendant's actions have harmed each of the Plaintiffs.

81. The State's marriage ban, and Defendant's actions to enforce it, denies same-sex couples and their children equal dignity and respect and relegates them to a status that is demonstrably inferior. The State's marriage ban brands lesbians and gay men and their children as members of less worthy families through a message of government-imposed stigma, and causes private bias and discrimination.

82. The State's marriage ban and Defendant's actions reflect animus, moral disapproval and antipathy toward lesbians and gay men.

83. The State's marriage ban targets lesbian and gay Illinoisans as a class for exclusion from marriage and discriminates against each Plaintiff based on her or his sexual orientation both facially and as applied.

84. Although the denial of equal treatment to the Plaintiffs is invalid under any form of constitutional scrutiny, differential treatment by the government based on Plaintiffs' sexual orientation warrants at least heightened scrutiny.

85. The State's marriage ban also discriminates against each Plaintiff on the basis of his or her own sex both facially and as applied, barring each Plaintiff from marriage and relegating him or her to a civil union solely because he or she is of the same sex as the person whom he or she wishes to marry. For example, if JAMES DARBY were a woman, then the State would permit JAMES DARBY to marry PATRICK BOVA, but because JAMES DARBY is a man, the State's marriage ban prevents him from doing so.

86. Additionally, the State's marriage ban serves the impermissible purpose of blocking departures from sex stereotypes by excluding each Plaintiff from marriage and relegating him or her to a civil union with the one person he or she loves, because Plaintiffs fail to conform to the prevailing and State-enforced stereotype that men should marry women and that women should marry men.

87. The State's marriage ban also discriminates against Plaintiffs in the enjoyment of equal liberties and equal exercise of fundamental rights.

88. Defendant's actions have no compelling, important, or otherwise sufficient justification and violate each Plaintiff's rights under Article I, §§ 2, 18 of the Illinois Constitution.

**COUNT THREE**  
**Denial of Guarantee Against Special Legislation**  
**Ill. Const. Art. I, § 13**

89. Plaintiffs reallege and incorporate all prior allegations made in this Complaint into this Count as if fully restated herein.

90. Article IV, § 13 of the Illinois Constitution provides that, "The General Assembly shall pass no special or local law when a general law is or can be made applicable. Whether a general law is or can be made applicable shall be a matter for judicial determination."

91. The Marriage Act and Defendant's actions violate the guarantee against special legislation, Article IV, § 13, by preferring different-sex couples to same-sex couples, and according different-sex couples a benefit that is prohibited to Plaintiffs and other same-sex couples.

92. Plaintiffs are similarly situated to different-sex spouses in every relevant respect. Plaintiffs and their children are as worthy of respect, dignity, social acceptance, and legitimacy as different-sex spouses and their children. The emotional, romantic, and dignitary reasons Plaintiffs seek to marry are similar to those of different-sex couples who choose to marry.

93. The Marriage Act and Defendant's actions afford different-sex couples and their children greater opportunities for dignity and respect and promotes them to a status that is demonstrably superior than that given to Plaintiffs. The State's Marriage Act classifies different-sex couples and their children as members of more worthy families through a message of

government-imposed selective honor, and causes private parties to favor their families more than those of Plaintiffs.

94. The State's Marriage Act selects non-gay Illinoisans as a class for inclusion in marriage and excludes each Plaintiff based on her or his sexual orientation both facially and as applied.

95. Although the marriage ban, which reserves marriage and its attendant benefits exclusively to different-sex couples, is invalid under any form of constitutional scrutiny, differential treatment by the government based on sexual orientation warrants at least heightened scrutiny.

96. The State's reservation of marriage exclusively to different-sex couples, and Defendant's actions in enforcing that preference, have no compelling, important, or otherwise sufficient justification.

97. A general law is or can be made applicable to marriage. The legitimate purposes of the Marriage Act could be achieved without its prohibition on marriages "between 2 individuals of the same sex," 750 ILCS 5/212(a)(5).

98. Moreover, the passage of the Civil Union Act did not cure the special law defect, because non-gay couples and their children continue to receive both tangible and dignitary benefits not given to Plaintiffs, and they are promoted as members of superior families by their inclusion in marriage, and raised to a higher status.

#### **PRAYER FOR RELIEF**

99. This case presents an actual controversy because Defendant's actions subject Plaintiffs to serious and immediate harms, warranting the issuance of a declaratory judgment.



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

WHEREFORE, Plaintiffs pray for a judgment on each Count:

1. Declaring that 750 ILCS 5/212(a)(5) is unconstitutional and that marriages between two individuals of the same sex may not be prohibited in Illinois.

2. Declaring that 750 ILCS 5/201, 750 ILCS 5/203(2) and 750 ILCS 5/213.1 are unconstitutional and unenforceable insofar as they purport to prohibit marriages between persons of the same sex.

3. Declaring that DAVID ORR in his official capacity as COOK COUNTY CLERK is authorized to and shall license the marriages of Plaintiffs to their partners if all other requirements of Illinois law are met, and shall otherwise treat Plaintiffs in the same manner as is done for other applicants and marriages.

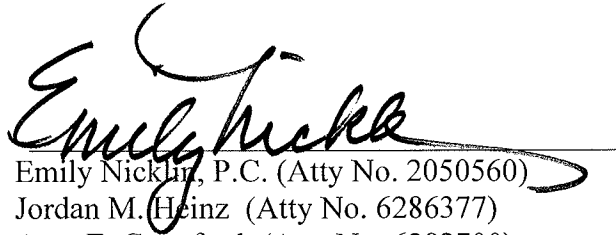
4. Enjoining DAVID ORR in his official capacity as COOK COUNTY CLERK from treating same-sex couples as ineligible to marry under Illinois law, inhibiting the licensing, solemnizing, certification, registration and equal treatment of these marriages under Illinois law, or otherwise complying with or enforcing those provisions of Illinois marriage laws that have been declared unconstitutional.

5. Declaring that all remaining Illinois laws, whether deriving from statutory, administrative rule, policy, common law, or any other source of civil or criminal law, must be interpreted and applied in a manner allowing lesbian and gay people full access to the institution of civil marriage.

6. Awarding Plaintiffs their reasonable attorneys' fees, costs, and such further and other relief as may be appropriate.

Dated: May 30, 2012

Respectfully Submitted,



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