

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

CHRISTOPHER INNISS and SHELTON )  
STROMAN; RAYSHAWN CHANDLER )  
and AVERY CHANDLER; MICHAEL )  
BISHOP and JOHNNY SHANE THOMAS; )  
and JENNIFER SISSON, on behalf of )  
themselves and all others similarly situated, )

Plaintiffs, )

v. )

DEBORAH ADERHOLD, in her official )  
capacity as State Registrar and Director of )  
Vital Records; BROOK DAVIDSON, in her )  
official capacity as Clerk of Gwinnett County )  
Probate Court; and the Honorable Judge )  
PINKIE TOOMER, in her official capacity as )  
Judge of Fulton County Probate Court, )

Defendants. )

CIVIL ACTION

FILE NO. 1:14-cv-01180-WSD

**DEFENDANT BROOK DAVIDSON’S ANSWER AND**  
**DEFENSES TO PLAINTIFFS’ CLASS ACTION COMPLAINT**  
**FOR INJUNCTIVE AND DECLARATORY RELIEF**

COMES NOW, Brook Davidson, in her official capacity as Clerk of Gwinnett County Probate Court (hereinafter “Defendant Davidson”), and files this her Answer and Defenses to Plaintiffs’ Class Action Complaint for Injunctive and Declaratory Relief (hereinafter “the Complaint”), and in support thereof respectfully shows the Court the following:

## INTRODUCTORY STATEMENT

Defendant Davidson, as a Clerk of the Gwinnett County Probate Court, has a legal duty to abide by the laws of the State of Georgia and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law. Defendant Davidson thus has no discretion regarding the issuance of marriage licenses. At all times relevant to this litigation, Defendant Davidson acted in good faith and with reasonable belief that her office's actions in issuing marriage licenses in conformance with existing Georgia state law were valid, necessary, and constitutionally proper. Not only that, Defendant Davidson is subject to criminal penalties if she knowingly violates her oath of office in which she affirmed that she will abide by the Constitution and laws of the State of Georgia. If the laws of the State of Georgia are amended by the citizens of the State of Georgia, the Georgia General Assembly (or otherwise), or are found to be unconstitutional by a court of competent jurisdiction, Defendant Davidson will continue to abide by and administer the law as amended or interpreted.

## FIRST DEFENSE

Defendant Davidson responds to the individual paragraphs of Plaintiffs' Class Action Complaint for Injunctive and Declaratory Relief as follows:

1.

In response to paragraph 1 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 1.

2.

In response to paragraph 2 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 2.

3.

In response to paragraph 3 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 3.

4.

In response to paragraph 4 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 4.

5.

In response to the first sentence of paragraph 5 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of the first sentence of paragraph 5. Finally, Defendant Davidson admits that through the filing of the Complaint in this action Plaintiffs ask this Court to hold that the State of Georgia cannot condition marriage on the sex of spouses.

6.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 6.

7.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 7.

8.

Defendant Davidson admits that through the filing of the Complaint in this action Plaintiffs purport to bring this action on behalf of themselves and the Plaintiff class defined in Section IV of the Complaint. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 8.

9.

In response to paragraph 9 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Defendant admits that same-sex marriage is not permitted under Georgia statutes and in the Georgia Constitution art. I, §IV, para. I which limits marriage to couples composed of a man and a woman. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 9.

10.

In response to paragraph 10 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 10.

11.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 11.

12.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 12.

13.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 13.

14.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 14.

15.

In response to paragraph 15 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 15.

**I. JURISDICTION AND VENUE**

16.

Defendant Davidson admits the allegations contained in paragraph 16 of the Complaint.

17.

Defendant Davidson admits that venue is proper in this action as to Defendant Davidson in the Northern District of Georgia. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 17.

18.

Defendant Davidson admits this Court has personal jurisdiction over Defendant Davidson. Otherwise, Defendant Davidson lacks knowledge or

information sufficient to form a belief about the truth of the allegations of paragraph 18.

19.

Defendant Davidson specifically denies the allegations of paragraph 19 to the extent that they relate to Defendant Davidson. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 19.

## **II. PARTIES**

### **A. Named Plaintiffs**

*Christopher Inniss and Shelton Stroman*

20.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 20.

21.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 21.

22.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 22.



23.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 23.

24.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 24.

25.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 25.

*RayShawn Chandler and Avery Chandler*

26.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 26.

27.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 27.

28.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 28.

29.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 29.

30.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 30.

*Michael Bishop and Johnny Shane Thomas*

31.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 31.

32.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 32.

33.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 33.

*Jennifer Sisson*

34.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 34.

35.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 35.

36.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 36.

37.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 37.

38.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 38.

39.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 39.

40.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 40.

41.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 41.

**B. Defendants**

42.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 42.

43.

Defendant Davidson admits that she has purportedly been sued in this action in her official capacity as a clerk of the Gwinnett County Probate Court.

Defendant Davidson also admits that as a clerk of the Gwinnett County Probate Clerk she has certain duties and responsibilities regarding the issuance of marriage licenses. Defendant Davidson further admits that she has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law, which excludes same-sex couples from marriage in the State of Georgia.

Otherwise, Defendant Davidson denies the remaining allegations of paragraph 43 of the Complaint.

44.

Defendant Davidson is without sufficient knowledge or information to admit or deny the remaining allegations of paragraph 44.

45.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 45.

### **III. STATEMENT OF FACTS**

46.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 46.

#### **A. Named Plaintiffs' Attempts to Marry And Lawful Marriages In other Jurisdictions**

47.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 47.

48.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 48.

49.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 49.

50.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 50.

51.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 51.

**B. The Plaintiff Class**

52.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 52.

53.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 53.

54.

Defendant Davidson admits that Georgia law denies same-sex couples the right to marry in Georgia and denies the recognition of marriages of same-sex couples performed outside of the State of Georgia. Otherwise, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 54.

**C. The Marriage Bans**

55.

In response to paragraph 55 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Nevertheless, Defendant Davidson admits that O.C.G.A. § 19-3-3.1 was enacted by the Georgia General Assembly in 1996. This statute speaks for itself, and to the extent that the allegations of this paragraph are inconsistent with the said statute, they are denied. Finally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 55 that are not otherwise directly addressed by Defendant Davidson above.

56.

In response to paragraph 56 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Nevertheless, Defendant Davidson admits that the Georgia Constitutional Amendment, eventually codified at Article I, Section IV, Paragraph I, was proposed to Georgia voters in 2004 and states that the Constitutional Amendment speaks for itself, and to the extent that Plaintiffs' allegations in this paragraph are inconsistent with the Constitutional Amendment, they are denied. Finally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 56 that are not otherwise directly addressed by Defendant Davidson above.

57.

Defendant Davidson admits the allegations contained in paragraph 57 of the Complaint.

**D. Illustrative Harms**

58.

In response to paragraph 58 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson



lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 58.

59.

In response to paragraph 59 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 59.

60.

In response to paragraph 60 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 60.

61.

In response to paragraph 61 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson

lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 61.

62.

In response to paragraph 62 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson denies that she has discriminated against Plaintiffs or others similarly situated to Plaintiffs, as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law. Finally, as to any remaining allegations of paragraph 62 not specifically addressed herein, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations.

63.

In response to paragraph 63 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 63.

**E. The Marriage Bans Pass No Level of Scrutiny**

64.

In response to paragraph 64 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 64.

65.

In response to paragraph 65 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 65.

66.

In response to paragraph 66 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 66.

67.

In response to paragraph 67 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 67.

68.

In response to paragraph 68 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 68.

69.

In response to paragraph 69 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 69.

70.

In response to paragraph 70 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 70.

71.

In response to paragraph 71 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 71.

72.

In response to paragraph 72 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 72.

73.

In response to paragraph 73 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 73.

74.

In response to paragraph 74 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 74.

75.

In response to paragraph 75 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 75.

#### **IV. CLASS ACTION ALLEGATIONS**

76.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 76.

77.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 77.

78.

In response to paragraph 78 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 78.

79.

In response to paragraph 79 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 79.

80.

In response to paragraph 80 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 80.

81.

In response to paragraph 81 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 81.

82.

In response to paragraph 82 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Defendant denies the last sentence of this paragraph. Except as answered, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 82.



**V. CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**Deprivation of Due Process**

**U.S. Const. Amend. XIV**

83.

Defendant Davidson incorporates by reference and re-alleges her responses to the preceding paragraphs of the Complaint as if each were fully set forth herein.

84.

Defendant Davidson admits the allegations of paragraph 84 of the Complaint, but denies they are entitled to the relief prayed for against Defendant Davidson.

85.

Defendant Davidson admits the allegations of paragraph 85 of the Complaint.

86.

In response to paragraph 86 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Defendant Davidson denies that the relief sought in this paragraph is against her or that the relief prayed for may be

found against her. The legal status of the provisions of the Georgia Constitution and the laws of Georgia are not subject to her control or ability to amend or repeal. Except as answered, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 86.

87.

In response to paragraph 87 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 87. Finally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law.

88.

In response to paragraph 88 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the

allegations of paragraph 88. Finally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law.

89.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 89.

90.

Defendant Davidson admits that she has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law which currently prohibits same-sex couples from obtaining marriage licenses in the State of Georgia. However, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or the unmarried members of the proposed Plaintiff Class, or otherwise violated any rights belonging to Plaintiffs or the unmarried members of the proposed Plaintiff Class. Any remaining allegation contained in paragraph 90 of the Complaint not expressly addressed herein is hereby denied by Defendant Davidson.

91.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 91.

92.

In response to paragraph 92 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 92. Finally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any due process rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law.

## **SECOND CLAIM FOR RELIEF**

### **Deprivation of Equal Protection**

#### **U.S. Const. Amend. XIV**

93.

Defendant Davidson incorporates by reference and re-alleges her responses to the preceding paragraphs of the Complaint as if each were fully set forth herein.

94.

Defendant Davidson admits the allegations of paragraph 94 of the Complaint, except that Defendant Davidson shows that the declaratory and injunctive relief Plaintiffs seek in this action is based on the constitutionality of Georgia Constitutional law and statutory law banning same-sex marriage over which she has no control or authority to amend or repeal.

95.

Defendant Davidson admits the allegations of paragraph 95 of the Complaint.

96.

In response to paragraph 96 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 96.

97.

In response to paragraph 97 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson

lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 97. Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law. Finally, Defendant Davidson is not responsible for the laws challenged in this paragraph and is not legally capable of providing the relief sought by Plaintiffs.

98.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 98.

99.

Defendant Davidson admits that she has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law which currently prohibits same-sex couples from obtaining marriage licenses in the State of Georgia. However, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or the unmarried members of the proposed Plaintiff Class, or otherwise violated any rights belonging to Plaintiffs or the unmarried

members of the proposed Plaintiff Class. Any remaining allegation contained in paragraph 99 of the Complaint not expressly addressed herein is hereby denied by Defendant Davidson.

100.

Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 100.

101.

In response to paragraph 101 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 101. Finally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law.

102.

In response to paragraph 102 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters

Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 102.

103.

In response to paragraph 103 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 103. Finally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law.

104.

In response to paragraph 104 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 104.



105.

In response to paragraph 105 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 105.

106.

In response to paragraph 106 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 106.

107.

In response to paragraph 107 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 107.

108.

In response to paragraph 108 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 108.

109.

In response to paragraph 109 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 109.

110.

In response to paragraph 110 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 110.

111.

In response to paragraph 111 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 111.

112.

In response to paragraph 112 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 112.

113.

In response to paragraph 113 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 113.

114.

In response to paragraph 114 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 114.

115.

In response to paragraph 115 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 115. Finally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law.

**DECLARATORY AND INJUNCTIVE RELIEF**

**28 U.S.C. §§2201 and 2202**

**Federal Rules of Civil Procedure, Rules 57 and 65**

116.

Defendant Davidson incorporates by reference and re-alleges her responses to the preceding paragraphs of the Complaint as if each were fully set forth herein.

117.

In response to paragraph 117 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson expressly denies that she has discriminated against Plaintiffs or otherwise violated any rights belonging to Plaintiffs as Defendant Davidson has a legal duty to abide by the laws of the State of Georgia, and is required by the Georgia Constitution and state statute to issue marriage licenses in accordance with existing Georgia state law. Finally, any remaining allegation contained in paragraph 117 of the Complaint not expressly addressed herein is hereby denied by Defendant Davidson.

118.

In response to paragraph 118 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Finally, any remaining allegation contained in paragraph 118 of the Complaint not expressly addressed herein is hereby denied by Defendant Davidson.

119.

In response to paragraph 119 of the Complaint, Defendant Davidson avers that this paragraph contains legal arguments, legal conclusions, and other matters Defendant Davidson is not required to answer. Additionally, Defendant Davidson lacks knowledge or information sufficient to form a belief about the truth of the allegations of paragraph 119. Finally, any remaining allegation contained in paragraph 119 of the Complaint not expressly addressed herein is hereby denied by Defendant Davidson.

## **VI. PRAYER FOR RELIEF**

120.

Defendant Davidson denies that Plaintiffs are entitled to any relief requested in the “Prayer for Relief” clause of the Complaint against Defendant Davidson. Defendant Davidson is not the proper subject or party against whom relief may be

granted as prayed for by Plaintiffs, and therefore Defendant Davidson should be dismissed as a matter of law. Defendant Davidson is without sufficient knowledge or information to admit or deny whether Plaintiffs are entitled to any relief requested in the “Prayer for Relief” clause of the Complaint against any of the other named Defendants.

121.

Any allegation in the Complaint not answered or otherwise responded to is hereby denied.

#### SECOND DEFENSE

Plaintiffs fail to state a claim on which relief can be granted as against Defendant Davidson, who has a legal duty to abide by the laws of the State of Georgia and has no authority to disregard those laws.

#### THIRD DEFENSE

Plaintiffs fail to state a claim on which relief can be granted as against Defendant Davidson, who has no discretion regarding the issuance of marriage licenses and is required by statute and the Georgia Constitution to issue marriage licenses in accordance with existing Georgia law.

#### FOURTH DEFENSE

Plaintiffs fail to state a claim on which relief can be granted as against Defendant Davidson, who acted in good faith and with reasonable belief that her actions in issuing marriage licenses in conformance with existing Georgia state law were valid, necessary, and constitutionally proper.

#### FIFTH DEFENSE

The injuries and damages sustained by Plaintiffs, if any, resulted from the acts or omissions of others, and without any fault on the part of Defendant Davidson.

#### SIXTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, including claims for attorneys' fees and expenses of litigation, by the doctrines of judicial immunity, quasi-judicial immunity, sovereign immunity, and qualified immunity.

#### SEVENTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by Plaintiffs' failure to provide ante litem notice to Defendants prior to the filing of the instant action.

#### EIGHTH DEFENSE

Upon information and belief, some or all of the Plaintiffs lack standing to assert the claims presented in the Complaint.



### NINTH DEFENSE

The Court lacks subject matter jurisdiction over the claims asserted in the Complaint, and the Complaint fails to raise a substantial federal question due to the application of the doctrine of *stare decisis*. See Baker v. Nelson, 409 U.S. 810 (1972).

### TENTH DEFENSE

Plaintiffs' claims against Defendant Davidson are not ripe for adjudication because Plaintiff Christopher Inniss and Plaintiff Shelton Stroman were not denied a marriage license by Defendant Davidson.

### ELEVENTH DEFENSE

Plaintiffs' complaint against Defendant Davidson should be dismissed as a matter of law for reason that she is not legally responsible for the same-sex marriage bans complained of nor is she legally capable of amending or repealing the laws to afford the relief prayed for by Plaintiffs.

### TWELFTH DEFENSE

Plaintiffs are not entitled to recover their attorneys' fees or expenses of litigation from Defendant Davidson since she is not legally responsible for or legally capable of redressing the constitutional deprivations alleged in their

complaint. Not only that, she is subject to criminal penalties if she knowingly fails to abide by the Constitution and laws of the State of Georgia.

WHEREFORE, Defendant Davidson prays for judgment as follows:

- (a) That judgment be rendered in her favor and against Plaintiffs;
- (b) That this case be dismissed as to Defendant Davidson as a matter of law;
- (c) That Plaintiffs take nothing from Defendant Davidson by the allegations of their Complaint;
- (d) That Defendant Davidson be awarded her reasonable attorneys' fees and costs to the extent permitted by law; and
- (e) All such other and further relief as this Court deems meet and proper in consideration of the premises.

This 21st day of July, 2014.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that on **July 21, 2014**, I electronically filed **Defendant Brook Davidson's Answer and Defenses to Plaintiffs' Class Action Complaint for Injunctive and Declaratory Relief** with the Clerk of Court using the CM/ECF system which will automatically send email notification of such filing to the following attorneys of record:

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I further certify that this document has been prepared with one of the font and point selections approved by the Court in LR 5.1(B) (Times New Roman 14 point).

Respectfully submitted,

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