

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

CHRISTOPHER INISS and SHELTON,)
STROMAN; RAYSHAWN CHANDLER)
And AVERY CHANDLER; MICHAEL)
BISHOP and JOHNNY SHANE)
THOMAS; and JENNIFER SISSION)
On behalf of themselves and)
All others similarly situated)

Plaintiff,)

v.)

DEBORAH ADERHOLD, in her)
Official capacity as State)
Registrar and Director of)
Vital Records; BROOK DAVIDSON)
In her 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,)
et al.,)

Defendants.)
_____)

Civil Action No.:
1:14-CV-01180-WSD

**FULTON COUNTY PROBATE JUDGE PINKIE TOOMER'S ANSWER AND
AFFIRMATIVE DEFENSES**

COME NOW, Judge Pinkie Toomer by and through her undersigned counsel, and hereby responds to the individually-numbered paragraphs of Plaintiff's Complaint and asserts her affirmative defenses to Plaintiffs' Complaint as follows.

PRELIMINARY STATEMENT

Judge Toomer objects to Plaintiff's Complaint to the extent

it seeks to impose upon her an obligation to respond to lengthy and overbroad allegations of fact in violation of Rule 8.

FIRST DEFENSE

Plaintiffs' Complaint fails to state a claim against Judge Toomer upon which relief can be granted since as a judicial officer Judge Toomer is required to comply with state statutes and the Georgia Constitution.

SECOND DEFENSE

Plaintiffs' claims for injunctive relief are barred because Judge Toomer is entitled to absolute judicial immunity pursuant to 42 U.S.C. § 1983 from any claim for injunctive relief.

THIRD DEFENSE

Plaintiffs' claims are barred to the extent that Judge Toomer is entitled to judicial, qualified, official or sovereign immunity.

FOURTH DEFENSE

Plaintiffs' claims are barred to the extent that Judge Toomer is entitled to Eleventh Amendment Immunity.

FIFTH DEFENSE

Plaintiffs' claims for costs, expenses, and reasonable attorneys' fees, pursuant to 42 U.S.C. § 1988, are barred because Judge Toomer is entitled to absolute judicial immunity pursuant to 42 U.S.C. § 1988 from Plaintiffs' claims for costs,

expenses and attorneys' fees.

SIXTH DEFENSE

At all times Judge Toomer has acted in good faith, in compliance with Georgia Law and in conformance with her obligations under the Georgia Code of Judicial Conduct and her oath of office.

SEVENTH DEFENSE

Judge Toomer has not breached any official duty, any court duty, any court order compelling her to act, or any duty created under the Constitution of the United States compelling her to act with regard to the events allegedly giving rise to Plaintiffs' claims.

EIGHTH DEFENSE

Judge Toomer's compliance with Georgia law, with respect to her interaction with Plaintiffs, was carried out in good faith, without malice, spite, or conscious, reckless or negligent disregard of Plaintiff's rights, if any, and without improper or ill will of any kind.

NINTH DEFENSE

In no manner whatsoever has Judge Toomer discriminated against Plaintiffs.

TENTH DEFENSE

Judge Toomer has not subjected Plaintiffs to the deprivation of any rights, due process or otherwise, privileges or immunities secured by the Constitution or laws of the State of Georgia or the United State of America.

ELEVENTH DEFENSE

Judge Toomer is not capable of providing a remedy to Plaintiffs since her powers and duties as a probate court judge do not include the ability to determine the constitutionality of state statutes or the Georgia Constitution.

TWELFTH DEFENSE

Judge Toomer has no responsibility for the content of the Georgia Constitution or the content of any state statute.

THIRTEENTH DEFENSE

Judge Toomer responds to the enumerated allegations of the Complaint as follows:

INTRODUCTION

1.

Judge Toomer acknowledges that plaintiffs seek to bring this action pursuant to 42 U.S.C. § 1983 and under the Fourteenth Amendment to the United States Constitution.

2.

Paragraph 2 contains Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent that further response is required, the United States Constitution speaks for itself as to content and legal effect and Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore can neither admit nor deny same.

3.

The United States Constitution speaks for itself as to content and legal effect and Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore can neither admit nor deny same.

4.

The cited cases speak for themselves as to content and legal effect and Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore can neither admit nor deny same.

5.

Judge Toomer acknowledges that plaintiffs seek to enforce

"rights and liberties" and are requesting "this Court to hold that the State of Georgia cannot condition marriage on the sex of spouses."

6.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 6 and therefore can neither admit nor deny same.

7.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 7 and therefore can neither admit nor deny same.

8.

Judge Toomer acknowledges that plaintiffs seek to "bring this action on behalf of themselves and the Plaintiff Class."

9.

Paragraph 9 contains Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent that further response is required, Judge Toomer states that Georgia statutes and Georgia Constitution art. I, §IV, para. I speak for themselves as to content and legal effect and Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore can neither admit nor

deny same.

10.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 10 and therefore can neither admit nor deny same.

11.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 11 and therefore can neither admit nor deny same.

12.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 12 and therefore can neither admit nor deny same.

13.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 13 and therefore can neither admit nor deny same.

14.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 14 and therefore can neither admit nor deny same.

15.

Paragraph 15 contains Plaintiffs' contentions as to the

nature of their action and, as such, no admission or denial is required.

I. JURISDICTION AND VENUE

16.

Judge Toomer acknowledges that Plaintiffs seek to invoke the jurisdiction of this Court pursuant to 28 U.S.C. §§ 1331 and 1343.

17.

Judge Toomer admits that she resides within the Northern District of Georgia. Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 17 and therefore can neither admit nor deny same.

18.

Judge Toomer admits that she is domiciled in the State of Georgia. Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 18 and therefore can neither admit nor deny same.

19.

The allegations contained in Paragraph 19 are legal conclusions to which no response is required. Judge Toomer further states that she is entitled to absolute judicial

immunity under 42 U.S.C. § 1983 which provides in relevant part "that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable."

II. PARTIES

A. Named Plaintiffs

Christopher Innis and Shelton Stroman

20.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 20 and therefore can neither admit nor deny same.

21.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 21 and therefore can neither admit nor deny same.

22.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 22 and therefore can neither admit nor deny same.

23.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in

Paragraph 23 and therefore can neither admit nor deny same.

24.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 24 and therefore can neither admit nor deny same.

25.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 25 and therefore can neither admit nor deny same.

RayShawn Chandler and Avery Chandler

26.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 26 and therefore can neither admit nor deny same.

27.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 27 and therefore can neither admit nor deny same.

28.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 28 and therefore can neither admit nor deny same.

29.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 29 and therefore can neither admit nor deny same.

30.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 30 and therefore can neither admit nor deny same.

Michael Bishop and Johnny Shane Thomas

31.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 31 and therefore can neither admit nor deny same.

32.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 32 and therefore can neither admit nor deny same.

33.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 33 and therefore can neither admit nor deny same.

Jennifer Sisson

34.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 34 and therefore can neither admit nor deny same.

35.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 35 and therefore can neither admit nor deny same.

36.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 36 and therefore can neither admit nor deny same.

37.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 37 and therefore can neither admit nor deny same.

38.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 38 and therefore can neither admit nor deny same.

39.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 39 and therefore can neither admit nor deny same.

40.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 40 and therefore can neither admit nor deny same.

41.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 41 and therefore can neither admit nor deny same.

B. Defendants

42.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 42 and therefore can neither admit nor deny same.

43.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 43 and therefore can neither admit nor deny same.

44.

Judge Toomer acknowledges that Plaintiffs seek to sue her

in her official capacity as Judge of Fulton County Probate Court. Judge further responds that as a sworn judicial officer she has a legal duty to comply with Georgia statutes and the Georgia Constitution.

45.

Paragraph 45 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer further responds that as a sworn judicial officer she is required to comply with Georgia statutes and the Georgia Constitution.

III. STATEMENT OF FACTS

46.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 46 and therefore can neither admit nor deny same.

A. Named Plaintiffs' Attempts to Marry and Lawful and Lawful Marriages in Other Jurisdictions

47.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 47 and therefore can neither admit nor deny same.

48.

Judge Toomer is without knowledge of information sufficient

to form a belief as to the truth of the allegations set forth in Paragraph 48 and therefore can neither admit nor deny same.

49.

Admitted.

50.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 50 and therefore can neither admit nor deny same.

51.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 51 and therefore can neither admit nor deny same.

B. The Plaintiff Class

52.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 52 and therefore can neither admit nor deny same.

53.

Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 53 and therefore can neither admit nor deny same.

54.

Paragraph 54 contains legal conclusions and Plaintiffs'

contentions as to the nature of their action and, as such, no admission or denial is required.

C. The Marriage Bans

55.

O.C.G.A. §19-3-3.1 speaks for itself as to content and legal effect. Judge Toomer admits that Paragraph 55 accurately quotes O.C.G.A. §19-3-3.1. Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 55.

56.

The Georgia Constitution speaks for itself as to content and legal effect. Judge Toomer admits that Paragraph 56 accurately quotes from the Georgia Constitution. Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 56.

57.

Admitted.

D. Illustrative Harms

58.

Paragraph 58 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

59.

Paragraph 59 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent further response is required, Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 59 and therefore can neither admit nor deny same.

60.

Paragraph 60 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent further response is required, Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 60 and therefore can neither admit nor deny same.

61.

Paragraph 61 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent further response is required, Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 61 and therefore can neither admit nor

deny same.

62.

Paragraph 62 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent further response is required, Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 62 and therefore can neither admit nor deny same.

63.

Paragraph 63 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent further response is required, Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 63 and therefore can neither admit nor deny same.

E. The Marriage Bans Pass No Level of Scrutiny

64.

Paragraph 64 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

65.

Paragraph 65 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

66.

Paragraph 66 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

67.

Paragraph 67 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

68.

Paragraph 68 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

69.

Paragraph 69 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

70.

Paragraph 70 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no

admission or denial is required.

71.

Paragraph 71 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

72.

The cited cases speak for themselves as to content and legal effect and Judge Toomer is without knowledge or information sufficient to form a belief as to the truth of the remaining allegations and therefore can neither admit nor deny same.

73.

Paragraph 73 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

74.

Paragraph 74 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

75.

Paragraph 75 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

IV. CLASS ACTION ALLEGATIONS

76.

Judge Toomer acknowledges that Plaintiffs seek to bring this action pursuant to Rules 23(a), 23(b)(1) and 23(b)(2) of the Federal Rules of Civil Procedure. Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the remaining allegations set forth in Paragraph 76 and therefore can neither admit nor deny same.

77.

Paragraph 77 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

78.

Paragraph 78 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

79.

Paragraph 79 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

80.

Paragraph 80 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no

admission or denial is required.

81.

Paragraph 81 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

82.

Paragraph 82 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

V. CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF Deprivation of Due Process U.S. Const. Amend. XIV

83.

Judge Toomer incorporates by reference herein her responses set forth in Paragraphs 1-82, above.

84.

Judge Toomer acknowledges that Plaintiffs seek to bring this action against Defendants in their official capacities.

85.

The Fourteenth Amendment to the United States Constitution and 42 U.S.C. § 1983 speaks for themselves as to content and legal effect. Judge Toomer admits that Plaintiffs have accurately quoted from the Fourteenth Amendment to the United

States Constitution.

86.

Paragraph 86 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent that further response is required, the Georgia Constitution and Georgia law speak for themselves as to content and legal effect.

87.

Paragraph 87 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

88.

Paragraph 88 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

89.

Paragraph 89 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

90.

Paragraph 90 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

91.

Judge Toomer admits that as the Judge of Fulton County Probate Court she is required to comply with all Georgia statutes and the Georgia Constitution. Judge Toomer denies that she has discriminated against Plaintiffs. The remaining allegations contained in Paragraph 91 contain legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

92.

Paragraph 92 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer further denies that she has discriminated against Plaintiffs.

93.

Judge Toomer incorporates by reference herein her responses set forth in Paragraphs 1-92, above.

94.

Judge Toomer acknowledges that this action is brought against Defendants in their official capacities for purposes of seeking declaratory and injunctive relief. Judge Toomer denies that injunctive relief is an available remedy against her.

95.

The Fourteenth Amendment to the United States Constitution

and 42 U.S.C. § 1983 speaks for themselves as to content and legal effect. Judge Toomer admits that Paragraph 95 accurately quotes from the United States Constitution.

96.

Paragraph 96 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. To the extent further response is required, Judge Toomer is without knowledge of information sufficient to form a belief as to the truth of the allegations set forth in Paragraph 96 and therefore can neither admit nor deny same.

97.

Paragraph 97 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer further states that she has not discriminated against Plaintiffs and that she has a legal responsibility to comply with state statutes and the Georgia Constitution.

98.

Paragraph 98 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

99.

Paragraph 99 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

100.

Judge Toomer admits that as the Judge of Fulton County Probate Court she is required to comply with all Georgia statutes and the Georgia Constitution. Judge Toomer denies that she has discriminated against Plaintiffs. The remaining allegations contained in Paragraph 100 contain legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

101.

Paragraph 101 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer denies that she has discriminated against Plaintiffs.

102.

Paragraph 102 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

103.

Paragraph 103 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no

admission or denial is required.

104.

Paragraph 104 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

105.

Paragraph 105 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

106.

Paragraph 106 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

107.

Paragraph 107 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

108.

Paragraph 108 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

109.

Paragraph 109 contains legal conclusions and Plaintiffs'

contentions as to the nature of their action and, as such, no admission or denial is required.

110.

Paragraph 110 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer denies that she has discriminated against Plaintiffs.

111.

Paragraph 111 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

112.

Paragraph 112 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

113.

Paragraph 113 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

114.

Paragraph 114 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

115.

Paragraph 115 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer denies that she has discriminated against Plaintiffs.

DECLARATORY AND INJUNCTIVE RELIEF

28 U.S.C. §§2201 and 2202;

Federal Rules of Civil Procedure, Rules 57 and 65

116.

Judge Toomer incorporates by reference herein her responses set forth in Paragraphs 1-115, above.

117.

Paragraph 117 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required. Judge Toomer denies that she has discriminated against Plaintiffs.

118.

Judge Toomer acknowledges that Plaintiffs seek injunctive relief. Judge Toomer further states that she is entitled to absolute judicial immunity pursuant to 42 U.S.C. § 1983 from any claim for injunctive relief. The remaining allegations in Paragraph 118 contain legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no

further admission or denial is required.

119.

Paragraph 119 contains legal conclusions and Plaintiffs' contentions as to the nature of their action and, as such, no admission or denial is required.

GENERAL DENIAL

Judge Toomer denies that Plaintiffs are entitled to any of the relief requested against her in Plaintiffs' Prayer for Relief. Judge Toomer further denies each and every allegation of Plaintiffs' Complaint not specifically admitted, denied, or otherwise contradicted herein.

WHEREFORE, Judge Toomer prays that:

- A. Plaintiffs Complaint be dismissed in its entirety;
- B. All costs of this litigation be paid by Plaintiffs;
- C. Any other relief that this court deems just and proper be granted.

Respectfully submitted, this 21st day of July, 2014.

OFFICE OF THE COUNTY ATTORNEY
R. DAVID WARE
BAR NO: 737756

/s/ Kaye Woodard Burwell

KAYE WOODARD BURWELL
Georgia State Bar No. 775060
DIANA L. FREEMAN
Georgia State Bar No. 118898
Attorneys for Judge Pinkie Toomer

CERTIFICATE OF SERVICE

The undersigned counsel certifies that the foregoing **FULTON COUNTY PROBATE JUDGE PINKIE TOOMER'S ANSWER AND AFFIRMATIVE DEFENSES** has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1B. The undersigned counsel further certifies that a copy of this notice has been served on counsel of record with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification of such filing to the attorneys of record.

This 21st day of, July 2014.

/s/ Kaye Woodard Burwell
Kaye Woodard Burwell
Georgia Bar No. 775060

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