

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	)	Civil Action Number
Themselves and all others similarly	)	1:14-CV-01180-WSD
situated,	)	
Plaintiffs,	)	
v.	)	
	)	
Deborah Aderhold et al,	)	
Defendants.	)	

**ANSWER AND DEFENSES OF DEFENDANTS ADERHOLD AND  
FENTON IN THEIR OFFICIAL CAPACITIES TO PLAINTIFFS’ FIRST  
AMENDED COMPLAINT**

Come Now, Defendants Aderhold and Fenton in their official capacities,  
through Counsel and file this, their answer and defenses to Plaintiffs’ complaint.

**FIRST DEFENSE**

The Complaint fails to state a claim upon which relief can be granted.

**SECOND DEFENSE**

Defendants deny that they are the proper parties for the instant action.

### **THIRD DEFENSE**

Plaintiffs lack standing to bring this action.

### **FOURTH DEFENSE**

The Defendants reserve the right to raise any other defenses allowed by law at such time as the allegations are more specifically pled or developed.

### **FIFTH DEFENSE**

Without waiving any of the foregoing defenses, the Defendants respond to the numbered paragraphs of the Amended Complaint as follows:

1.

Defendants admit that the named Plaintiffs bring this action pursuant to 42 U.S.C § 1983 for the claims alleged. Defendants further admit that Plaintiffs have stated that they seek to be recognized as a class action but deny Plaintiffs have sought such distinction. Defendants deny that they have violated Plaintiffs' rights and that the Court has jurisdiction to hear these claims. All remaining claims are denied.

2.

Paragraph 2 does not appear to require a response. To the extent a response is required, Defendants admit the allegations to the extent they accurately reflect

documented historical events. To the extent the allegations stray from those documented events they are denied.

3.

Defendants state that the plain language of the Fourteenth Amendment speaks for itself. To the extent paragraph 3 strays from the plain language of the Fourteenth Amendment it is denied.

4.

Paragraph 4 contains legal conclusions to which no response is required. To the extent that a response is required, where paragraph 4 accurately references cited case law it is admitted. Defendants otherwise deny the allegations in paragraph 4.

5.

Defendants admit that paragraph 5 states a claim for relief sought by Plaintiffs. To the extent a further response is required, Defendants deny the allegations in paragraph 5.

6.

Defendants admit that Inniss and Stroman are named Plaintiffs in this action.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 6 and therefore deny same.

7.

Defendants admit that Ray Chandler, Avery Chandler and Jennifer Sisson are named Plaintiffs in this action. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 7 and therefore deny same.

8.

Defendants admit that Plaintiffs allege they are pursuing this action as a class but deny that such status has been sought or granted and deny that Plaintiffs are entitled to such status based upon the claims as alleged.

9.

Defendants admit that the State of Georgia defines marriage as a union between man and woman. As the remaining allegations in paragraph 9 are argumentative they are denied as written.

10.

The allegations in paragraph 10 are denied as written.

11.

The allegations in paragraph 11 are denied.

12.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 12 and therefore can neither admit nor deny same.

13.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 13 and therefore can neither admit nor deny same.

14.

Defendants admit that children are raised by both same sex and different sex couples. Defendants are without information or belief sufficient to form a belief as to the truth of the remaining allegations in paragraph 14 and therefore deny same.

15.

Paragraph 15 is argumentative and contains legal conclusions to which no response is required. To the extent a response is required Defendants note that there is a split in the Circuits as to the constitutionality of laws similar to those in Georgia and that the Supreme Court has recently accepted certiorari in four cases. Any remaining allegations are denied.

16.

Defendants admit that the Court has jurisdiction over claims brought pursuant to 42 U.S.C. § 1983 but deny the Court has Jurisdiction over the claims at bar. *See Baker v. Nelson*, 409 U.S. 810 (1972).

17.

Defendants admit that venue is proper in the Northern District of Georgia.

18.

Defendants admit that the Court has personal jurisdiction over Defendants in their official capacities for actions for declaratory and injunctive relief.

19.

Defendants deny that the Court has jurisdiction to provide Plaintiffs the relief they seek and therefore deny the allegations in paragraph 19.

20.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 20 and therefore can neither admit nor deny same.

21.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 21 and therefore can neither admit nor deny same.

22.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 22 and therefore can neither admit nor deny same.

23.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 23 and therefore can neither admit nor deny same.

24.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 24 and therefore can neither admit nor deny same.

25.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 25 and therefore can neither admit nor deny same.

26.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 26 and therefore can neither admit nor deny same.

27.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 27 and therefore can neither admit nor deny same.

28.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 28 and therefore can neither admit nor deny same.

29.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 29 and therefore can neither admit nor deny same.



30.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 30 and therefore can neither admit nor deny same.

31.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 31 and therefore can neither admit nor deny same.

32.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 32 and therefore can neither admit nor deny same.

33.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 33 and therefore can neither admit nor deny same.

34.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 34 and therefore can neither admit nor deny same.

35.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 35 and therefore can neither admit nor deny same.

36.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 36 and therefore can neither admit nor deny same.

37.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 37 and therefore can neither admit nor deny same.

38.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 38 and therefore can neither admit nor deny same.

39.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 39 and therefore can neither admit nor deny same.

40.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 40 and therefore can neither admit nor deny same.

41.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 41 and therefore can neither admit nor deny same.

42.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42 and therefore can neither admit nor deny same.

43.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 43 and therefore can neither admit nor deny same.

44.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44 and therefore can neither admit nor deny same.

45.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45 and therefore can neither admit nor deny same.

46.

Defendants admit that upon information and belief based upon Georgia Death Certificate 2014GA00000826 that Pamela Drenner died in her home on March 1, 2014.

47.

Defendants deny that Jennifer Sisson is not recognized on the death certificate of Pamela Drenner as Ms. Sisson is listed as the “Partner” to the decedent on the death certificate. Defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 47 and therefore deny same.

48.

Defendants admit that Pamela Drenner’s death certificate notes that she was “never married.” Defendants further admit that Jennifer Sisson is listed as the decedent’s partner and the informant as she was the individual who provided the information relayed to the funeral home. Defendants admit that Deborah Aderhold signed the death certificate. Defendants are without knowledge or information sufficient to form a belief as to the remaining allegations in paragraph 48 and therefore can neither admit nor deny same.

49.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 and therefore can neither admit nor deny same.

50.

Defendants deny that Deborah Aderhold is the State Registrar but admit she was sued in her official capacity. As she was sued in her official capacity her successor, Donna Moore should be substituted by operation of law. Defendants admit that Ms. Aderhold in her official capacity is a person within the meaning of 42 U.S.C. § 1983 for claims for declaratory and injunctive relief. Defendants state that the law relating to the vital records is contained within O.C.G.A. § 31-10-1 et seq. To the extent the allegations match the duties outlined within the statutory scheme they are admitted otherwise they are denied. Any remaining claims in paragraph 50 are denied.

51.

Defendants admit that Monica Fenton is sued in her official capacity as Director of Systems Benefits—Healthcare and Pharmacy Plans for the Board of Regents for the University System of Georgia. Defendants admit that the Board of Regents selects providers of health insurance for the campuses within the system including the College of Coastal Georgia. Defendants admit that the offered policies speak

for themselves. To the extent the allegations conform to the plain language of the relevant policies they are admitted otherwise they are denied. Defendants admit that Monica Fenton in her official capacity is a person within the meaning of 42 U.S.C. § 1983 for claims for declaratory and injunctive relief only. Any remaining allegations in paragraph 51 are denied as written.

52.

Defendants admit that Brook Davidson is sued in her official capacity as the Clerk of Gwinnett County Probate Court. Defendants admit that Ms. Davidson must comply with the law. Defendants admit that Brook Davidson, in her official capacity, is a person within the meaning of 42 U.S.C. § 1983 for claims for declaratory and injunctive relief. Any remaining allegations in paragraph 52 are denied as written.

53.

Defendants admit that Judge Pinkie Toomer is sued in her official capacity as Judge of the Fulton County Probate Court. Defendants admit that Judge Toomer must comply with the law. Defendants admit that Judge Toomer, in her official capacity, is a person within the meaning of 42 U.S.C. § 1983 for claims for declaratory and injunctive relief. Any remaining allegations in paragraph 53 are denied as written.

54.

Defendants admit that they must comply with the law and their statutory duties as prescribed by the law. Defendants admit that they performed their job duties in compliance with the law. The remaining allegations in paragraph 54 are denied as written.

55.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 55 and therefore can neither admit nor deny same.

56.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 56 and therefore can neither admit nor deny same.

57.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 57 and therefore can neither admit nor deny same.



58.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 58 and therefore can neither admit nor deny same.

59.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 59 and therefore can neither admit nor deny same.

60.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 60 and therefore can neither admit nor deny same.

61

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 61 and therefore can neither admit nor deny same.

62.

Defendants admit that Plaintiffs propose a class as defined but deny that class certification has been sought or that Plaintiffs have made the proper showing related to such certification.

63.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 63 and therefore can neither admit nor deny same.

64.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 64 and therefore can neither admit nor deny same.

65.

Defendants admit that in 1996 the Georgia legislature enacted O.C.G.A. § 19-3-3.1 and state that the law speaks for itself. To the extent that Plaintiffs' allegations in paragraph 65 differ from the plain language of the law they are denied.

66.

Defendants admit that in 2004 a constitutional amendment was included on the ballot in Georgia and state that the law speaks for itself. To the extent that

Plaintiffs' allegations in paragraph 66 differ from the plain language of the law they are denied.

67.

The allegations in paragraph 67 are admitted.

68.

Defendants state that the law speaks for itself. To the extent that Plaintiffs' allegations in paragraph 68 differ from the plain language of the law they are denied.

69.

Defendants are without knowledge or information sufficient to form a belief as to the truth of paragraph 69 and therefore can neither admit nor deny same.

70.

To the extent that paragraph 70 calls for a legal conclusion no response is required. As to the remaining allegations in paragraph 70, Defendants are without knowledge or information sufficient to form a belief as to the truth of the matter and therefore can neither admit nor deny same.

71.

To the extent that paragraph 71 calls for a legal conclusion no response is required. As to the remaining allegations in paragraph 71, Defendants are without

knowledge or information sufficient to form a belief as to the truth of the matter and therefore can neither admit nor deny same.

72.

Defendants deny that they have fostered or encouraged discrimination. To the extent paragraph 72 calls for a legal conclusion no response is required. As to the remaining allegations in paragraph 72 Defendants are without knowledge or information sufficient to form a belief as to the truth of the matter and therefore can neither admit nor deny same.

73.

Defendants are without knowledge or information sufficient to form a belief as to the truth of paragraph 73 and therefore can neither admit nor deny same.

74.

The allegations in paragraph 74 are denied as written.

75.

The allegations in paragraph 75 are denied as written.

76.

The allegations in paragraph 76 are denied as written.

77.

The allegations in paragraph 77 are denied as written.

78.

The allegations in paragraph 78 are admitted.

79.

The allegations in paragraph 79 are denied as written.

80.

Defendants admit that same sex couples do raise children together, utilize reproductive technology to procreate, adopt children and foster children. The remaining allegations in paragraph 80 are denied as written.

81.

The allegations in paragraph 81 are denied as written.

82.

Defendants state that the holdings in the cited cases in paragraph 82 speak for themselves. To the extent that the cited provisions vary from the holdings in the cited cases they are denied.

83.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 83 and therefore can neither admit nor deny same.

84.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 84 and therefore can neither admit nor deny same.

85.

Defendants admit that the State's interest in the welfare of children parented by same-sex couples is as great as its interest in the welfare of any other children. The remaining allegations in paragraph 85 are denied as written.

86.

Defendants deny that plaintiffs meet the criteria for class certification or that the allegations as made are sufficiently developed to evidence relevant criteria and thus are denied.

87.

Defendants deny that plaintiffs meet the criteria for class certification or that the allegations as made are sufficiently developed to evidence relevant criteria and thus are denied.

88.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 88 and therefore can neither admit nor deny same.

89.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 89 and therefore can neither admit nor deny same.

90.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 90 and therefore can neither admit nor deny same.

91.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 91 and therefore can neither admit nor deny same.

92.

Defendants admit that Georgia's laws regarding marriage are uniformly applicable. Any remaining allegations in paragraph 92 are denied as written.

93.

Defendants incorporate by reference their responses to the preceding paragraphs.

94.

Defendants admit that Plaintiffs seek relief against them in their official capacities but deny that they are entitled to such relief.

95.

Paragraph 95 contains a statement of law thus no response is required. To the extent that Plaintiffs' allegations in paragraph 95 differ from the plain language of the law they are denied.

96.

Defendants state that the law speaks for itself. To the extent that Plaintiffs' allegations in paragraph 96 differ from the plain language of the law they are denied.

97.

The allegations in paragraph 97 are denied.

98.

The allegations in paragraph 98 are denied.

99.

The allegations in paragraph 99 are denied.



100.

The allegations in paragraph 100 are denied.

101.

The allegations in paragraph 101 are denied.

102.

The allegations in paragraph 102 are denied.

103.

The allegations in paragraph 103 are denied.

104.

Defendants incorporate by reference their responses to the preceding paragraphs.

105.

Defendants admit that they are being sued in their official capacity for declaratory and injunctive relief but deny plaintiffs are entitled to such relief.

106.

Paragraph 106 contains a statement of law thus no response is required. To the extent that Plaintiffs' allegations in paragraph 95 differ from the plain language of the law they are denied.

107.

The allegations in paragraph 107 are denied.

108.

The allegations in paragraph 108 are denied.

109.

The allegations in paragraph 109 are denied.

110.

The allegations in paragraph 110 are denied.

111.

The allegations in paragraph 111 are denied.

112.

The allegations in paragraph 112 are denied.

113.

The allegations in paragraph 113 are denied.

114.

The allegations in paragraph 114 are denied.

115.

The allegations in paragraph 115 are denied.

116.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 116 and therefore can neither admit nor deny same.

117.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 117 and therefore can neither nor deny same.

118.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 118 and therefore can neither admit nor deny same.

119.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 119 and therefore can neither admit nor deny same.

120.

Defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 120 and therefore neither admit nor deny same.

121.

Defendants state that the law speaks for itself. To the extent that Plaintiffs' allegations in paragraph 121 differ from the plain language of the law they are denied.

122.

The allegations in paragraph 122 are denied.

123.

The allegations in paragraph 123 are denied.

124.

The allegations in paragraph 124 are denied.

125.

The allegations in paragraph 125 are denied.

126.

It appears that paragraph 126 calls for a legal conclusion and no response is required. To the extent a response is required it is denied.

127.

The allegations in paragraph 127 are denied.

128.

It does not appear that a response is required to paragraph 128. To the extent a response is required defendants adopt their responses to the preceding paragraphs.

129.

Defendants admit that this case presents an actual controversy but deny the remaining allegations in paragraph 129.

130.

The allegations in paragraph 130 are denied as written.

131.

The allegations in paragraph 131 are denied.

132.

To the extent that any allegation has not been admitted, denied or otherwise responded to it is hereby denied.

VI.

PRAYER FOR RELIEF

Defendants deny that plaintiffs are entitled to the relief requested in requests A, B, C,D,E,F or G.

Respectfully Submitted,

SAMUEL S. OLENS                      551540  
Attorney General

KATHLEEN M. PACIOUS              558555  
Deputy Attorney General

s/Britt Grant \_\_\_\_\_              113403  
Solicitor General

/s/ Devon Orland                      554301  
Senior Asst. Attorney General  
Counsel for Defendant Aderhold and Fenton

## CERTIFICATE OF COMPLIANCE

Pursuant to Local Rule 7.1(D), I hereby certify that the foregoing has been prepared in compliance with Local Rule 5.1(B) in 14-point New Times Roman type face.

This the 13th of February, 2015.

/s/ Devon Orland  
Sr. Assistant Attorney General

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## CERTIFICATE OF SERVICE

I hereby certify that on this date I have electronically filed the foregoing **Answer to Amended Complaint of Defendants Aderhold and Fenton in their official capacity** using the CM/ECF system which will automatically send electronic mail notification of such filing to counsel of record as follows:

Tara Borelli  
William Custer  
Jennifer Odom  
Jennifer Dempsey  
Luke Lantta

I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participants: NONE

Done this 13<sup>th</sup> Day of February, 2015.

s/Devon Orland

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