



Administrative Orders providing that marriage licenses will be issued to same-sex applicants on the same basis as other applicants. The Amended Complaint seeks no relief against the Clerks and indeed none can be afforded that has not already been made available to these Plaintiffs. The claim against the Clerks must be dismissed for lack of standing, lack of a present case or controversy, or as moot; this claim is not within the Article III jurisdiction of this Court, or is prudentially moot. The claim against the Clerks is also barred by Eleventh Amendment immunity. In the alternative, Plaintiffs have failed to join necessary and indispensable parties as required by Fed. R. Civ. P. 19.

As required by D. Kan. 7.6, a memorandum in support of the motion to dismiss is submitted herewith.

This action against the Clerks must be dismissed for lack of jurisdiction. For this reason and as elaborated upon in the attached Memorandum, Douglas A. Hamilton, Clerk of the District Court for the 7<sup>th</sup> Judicial District, and Bernie Lumbreras, Clerk of the District Court for the 18<sup>th</sup> Judicial District, move this Court for an Order dismissing them from this action.

Respectfully Submitted,

OFFICE OF THE ATTORNEY GENERAL  
DEREK SCHMIDT

/s M.J. Willoughby \_\_\_\_\_

M.J. Willoughby #14059

Assistant Attorney General

Office of the Attorney General

120 S.W. 10th Avenue

Topeka, Kansas 66612-1597

Tel: (785) 296-2215

Fax: (785) 296-6296

Email: [MJ.Willoughby@ag.ks.gov](mailto: MJ.Willoughby@ag.ks.gov)

Attorney for Defendants Hamilton and Lumbreras

**CERTIFICATE OF SERVICE**

This is to certify that on this 10<sup>th</sup> day of December, 2014, a true and correct copy of the above and foregoing was filed by electronic means via the Court's electronic filing system which serves a copy upon Plaintiffs' counsel of record, Stephen Douglas Bonney, ACLU

Foundation of Kansas, 3601 Main Street, Kansas City, MO 64111 and Mark P. Johnson, Dentons US, LLP, 4520 Main Street, Suite 1100, Kansas City, MO 64111, [dbonney@aclukansas.org](mailto:dbonney@aclukansas.org) and [Mark.johnson@dentons.com](mailto:Mark.johnson@dentons.com) with a courtesy copy served by email upon Joshua A. Block, American Civil Liberties Foundation, 125 Broad Street, 18<sup>th</sup> Floor, New York, NY 10004, [jblock@aclu.org](mailto:jblock@aclu.org) and Steve R. Fabert, Assistant Attorney General, Attorney for Defendant Robert Moser.

/s M.J. Willoughby

M.J. Willoughby, Assistant A.G.

Attorney for Defendants Hamilton and Lumbreras