

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA**

ELLEN W. GERBER; PEARL BERLIN; LYN MCCOY; JANE BLACKBURN; ESMERALDA MEJIA; CHRISTINA GINTER-MEJIA, for herself and as guardian *ad litem* for J.G.-M., a minor;

Plaintiffs,

v.

ROY COOPER, in his official capacity as the Attorney General of North Carolina; JEFF THIGPEN, in his official capacity as the Register of Deeds for Guilford County; DONNA HICKS SPENCER, in her official capacity as the Register of Deeds for Catawba County; JOHN W. SMITH, in his official capacity as the Director of the North Carolina Administrative Office of the Courts; AL JEAN BOGLE, in her official capacity as the Clerk of the Superior Court for Catawba County.

Defendants.

CIVIL ACTION NO. 1:14-cv-299

AFFIDAVIT OF JANE BLACKBURN

JANE BLACKBURN, being duly sworn, deposes and says:

1. I am over 18 years of age, legally competent to give this affidavit and have personal knowledge of the facts set forth in this affidavit.
2. I am a citizen and resident of Greensboro, North Carolina where I have lived for six years.

3. I submit this affidavit in order to explain to the Court the risk of immediate harm that my spouse, Lyn McCoy, and I face as result of our marriage not being recognized under North Carolina law. I have Stage IV cancer, which is incurable and imminently life-threatening. Because of my illness, there is a substantial risk that I will die before my marriage is legally recognized, meaning that I could never be compensated for the injuries I suffer as a result of this lack of recognition.

Marriage to Lyn McCoy

4. Lyn McCoy and I met in 1991, and have been in a stable, loving and committed relationship for more than twenty years. She has supported me through my battle with cancer, and I can't imagine getting through it without her.

5. Although we had hoped to marry in our home state, Lyn and I were legally married on August 27, 2011 in Washington D.C. We picked this date because it was as close to our 20-year anniversary as we could get. We had a large celebration with at least 40 of our friends and family and all of our Greensboro friends joining via Skype. It was important to me and to us as a couple that we feel the community support and acknowledgement that comes with a legally recognized and public marriage. It was an amazing day in our relationship.

6. However, it was upsetting to go home and know that our marriage is not recognized under North Carolina law.

How We Are Harmed Because North Carolina Does Not Respect Our Marriage

7. I was diagnosed with breast cancer in early 2012, and have been undergoing treatment for it since then, including surgeries and radiation. In February 2013, I began having difficulty walking and pain in my hips. The doctors then discovered that the cancer had spread to my bones. I currently have been diagnosed with Stage IV cancer.

8. The doctors tell us that my cancer is not curable, so we're just doing everything we can to keep it at bay. Although I am hopeful about my prognosis, Stage IV cancer is widely considered to be imminently life-threatening. While I hope for the best, I must plan for the worst.

9. Because of my illness and the refusal of North Carolina to recognize our marriage, I always worry about what would happen to me if there was an emergency and Lynn was not allowed to exercise her proper role as my medical proxy, or allowed to be by my side. This causes constant worry on many fronts. Lyn has been my rock throughout my bout with cancer. When I was diagnosed and my doctors explained my aggressive treatment options, I was so stunned that I was incapable of doing much of anything. Lyn kept me positive and focused, and has supported me through everything. I could not have gone through what I have had to without her support. She attends my treatments with me, and her presence helps me through even painful procedures. If I were ever in an emergency situation where Lyn was prevented from being with me like any other spouse, I would be scared and anxious to go through it alone, and I fear the outcome would be worse. Lyn is my spouse, and is the person who best understands my needs and wants. She is the person that I want to make decisions for me in an emergency situation, but I always fear that she will be denied that role in an emergency procedure.

10. If I were to die before our marriage is recognized by North Carolina, my relationship with Lyn would never be legal there. In addition to the sadness that brings, if I die without the state recognizing our marriage, there is no way for us to ever obtain the benefits that we would have been entitled to if the state had recognized our marriage during my lifetime.

11. More painfully, I also would die knowing that Lyn is not considered my legal spouse in the place where I live, and her name would not even appear on my death certificate as my spouse. This demeans our marriage and would deny me the right to die and be buried with dignity and respect. We have been in a stable and committed relationship for 22 years, but every day that goes by that the State refuses to recognize our commitments as valid or equal to those of different-sex couples demeans us. It tells us and our community that, in the eyes of the state, our relationship—and we as individuals—are inferior because of our sexual orientation.

12. We have done what we can to cope with the uncertainty of our status, including making wills, end-of-life directives and putting everything we can into trusts in order to control where it goes when one of us dies. But there are certain things we cannot do, for instance, putting our IRAs into trusts, so I worry about how North Carolina's inheritance laws may hurt Lyn if I predecease her.

13. Because North Carolina does not recognize our marriage, we are denied both federal and state benefits and protections on a daily basis. Certain federal protections are available only to couples whose marriages are legally recognized by their home state, including social security benefits. Since we moved to North Carolina in 2008, we have been denied the tax benefits that the State of North Carolina confers upon married couples. I also worry about estate issues.

14. Every day that goes by that our marriage is not recognized as valid by the state, we are deprived of our constitutional rights to dignity and respect. If our marriage is not recognized before I die, we can never be compensated for these harms.


Furthermore, the affiant saith not.

This the 8th day of April, 2014.

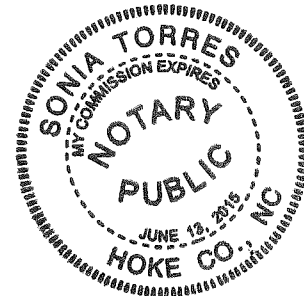

Jane Blackburn

STATE OF NORTH CAROLINA
COUNTY OF GUILFORD

Sworn to and subscribed before me
this 8th day of April, 2014.


Notary Public Signature

SONIA TORRES
Notary Public Name



My Commission Expires: June 13, 2015