



Article I, §§ 6, 12 (the right to privacy).

**ANSWER:** The Clerk admits the allegations of Paragraph 1.

2. Marriage is the universally recognized social structure for two people who have committed to build a life together. At heart, it is both a personal and a very public commitment of two people to each other. Marriage has a long and esteemed history as an institution that both is beneficial for society and contributes to individual happiness. However, lesbians and gay men long have been denied the ability to celebrate their committed relationships through marriage, as they have also been subject to discrimination in many other aspects of their lives. Recently, their exclusion from marriage has ended in several countries and in several states in the country.

**ANSWER:** The Clerk admits the allegations of Paragraph 2.

3. At one time, the right to marry in the United States was far more restricted than it is today. For example, marriage was not available to African-Americans held in slavery; and even after Emancipation, it was not available to couples who were thought not to be of the same race. People of different religious faiths, as a practical matter, typically were not permitted to marry. And historically, marriage was far from an equal partnership. Until surprisingly recently, married women were legally barred from making decisions about matters of finance and property, and married men were viewed, in the eyes of the law, as less capable in matters of child rearing.

**ANSWER:** The Clerk admits the allegations of the first sentence of Paragraph 3, but lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 3.

4. Six states and the District of Columbia have ended the bar against lesbians and gays marrying, including neighboring Iowa in 2009. But Illinois continues its refusal to recognize the fundamental right to marry of lesbian and gay Illinoisans, for no reason other than their sexual orientation and their sex in relation to one another. Instead, Illinois has created a specific form of legal recognition for same-sex couples that fails to fulfill the liberty and equality mandates of the Illinois Constitution. Illinois reserves marriage for different-sex couples, while it has created a

separate, novel, and inferior civil union status for lesbian and gay couples.

**ANSWER:** The Clerk admits the first, second and fourth sentences of paragraph 4 and admits further that portion of the third sentence that alleges that Illinois has created a specific form of legal recognition for same-sex couples that fails to fulfill the equality mandates of the Illinois Constitution. The remainder of the third sentence of Paragraph 4 states a conclusion of law to which the Clerk is not required to provide an answer.

5. Plaintiffs here are seven same-sex couples who seek the freedom to marry in order to reflect the commitment that they have already made to each other, as well as two same-sex couples who seek legal recognition of the marriages they entered into in Canada. Of those who have not married outside of Illinois, five have entered civil unions, while two have decided to forego civil unions to instead wait for the day when Illinois allows them to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 5, except to admit that Michelle Mascaro and Corynne Romine have entered into a civil union.

6. The plaintiff couples come from many parts of Illinois: Springfield, Chicago, Bloomington, Oak Park, Plainfield, Champaign, Marion, Evanston, and Aurora. The plaintiffs also come from many walks of life: a retired elementary school principal, a police detective, a retail clothing store manager, a college professor, nurses, and school teachers. These plaintiffs reflect the rich diversity of this State: they are African-American, Caucasian, and Latino; Jewish, Catholic, Protestant, religious and not. Some have been together for decades. Four are raising children together. One couple now has grandchildren.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 6.

7. The situations faced by these couples are similar to those faced by the many thousands of same-sex couples in this State who are being deprived of the freedom to marry. The injuries they have suffered present a snapshot of the many ways Illinois same-sex couples

are harmed by their inability to marry. Lynn Sprout and Randy Walden fear that without marriage they will again face a circumstance where their relationship with the person they most love in the world will be ignored, or that recognition will be delayed until they manage to explain the meaning of their civil union to a hospital, funeral home, or employer. Civil unions will not prevent the injuries that result when lesbian and gay couples are treated as strangers, because the legal status is so poorly understood, fails to garner the respect given marriage, and labels same-sex couples as different and inferior.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 7. The Clerk, in his capacity as administrator of the Domestic Partnership Registry in Cook County and of the civil union law in Cook County, admits the inequity and tangible harm done to same sex couples who are denied access to civil marriage licenses.

8. Illinois' continued failure to make marriage available to lesbian and gay couples who share their lives has led these plaintiffs to this Court. They ask this Court to perform what is perhaps its most solemn and sacred duty - ensuring that fundamental rights are extended to all Illinoisans. Plaintiffs are before this Court because offering them civil unions instead of marriage denies them the longstanding reverence, esteem, and universal recognition that are associated solely with marriage. Additionally, they are stigmatized by the creation of a separate, novel, and poorly understood legal status for them instead of marriage. Further, with civil unions, they will continue to be denied access to the federal protections provided to married couples even if the Defense of Marriage Act - which currently denies those protections to married same-sex couples - is repealed or overturned as unconstitutional. Finally, although civil unions purport to provide same-sex couples with all the protections and responsibilities offered to different-sex married couples, plaintiffs continue to be denied the fundamental right to marry the person of their choice, which our constitution guarantees to all Illinoisans.

**ANSWER:** The Clerk admits the second, fifth and sixth sentences of Paragraph 8. With respect to the first, third and fourth sentences of Paragraph 8, the Clerk lacks knowledge or information

sufficient to form a belief about the truth of those specific allegations. The Clerk, in his capacity as administrator of the Domestic Partnership Registry in Cook County and of the civil union law in Cook County, admits the inequity and tangible harm done to same sex couples who are denied access to civil marriage licenses.

9. Plaintiff couples seek access to the esteemed institution of marriage and the opportunity to express their commitment to one another through marriage not only for themselves, but also for their children. They bring this action to challenge, on its face and as applied, the constitutionality of the Illinois Marriage and Dissolution of Marriage Act (IMDMA), which violates the following provisions of the Illinois Constitution: Article I, § 2 (the rights to due process and equal protection), Article I, § 18 (the right to be free from gender discrimination), and Article I, § 6 (the right to privacy).

**ANSWER:** The Clerk admits that the provisions of the IMDMA that prohibit a county clerk from issuing marriage licenses and marriage certificate forms to same-sex couples and from registering the marriages of same-sex couples violate the plaintiffs' equal protection rights under Article I, § 2 of the Illinois Constitution. The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations contained within the first sentence and first clause of the second sentence of Paragraph 9. The remaining allegations of Paragraph 9 state conclusions of law to which the Clerk is not required to provide an answer.

#### **Jurisdiction**

10. This Court has jurisdiction over the subject matter pursuant to Article VI, § 9 of the Illinois Constitution. This Court has personal jurisdiction over the defendant pursuant to 735 ILCS 5/2-209(a).

**ANSWER:** The Clerk admits the allegations of Paragraph 10.

#### **Venue**

11. Venue is proper pursuant to 735 ILCS § 5/2-101, because the defendant resides in Cook County, and the acts from which this cause of action arose took place in Cook County.

**ANSWER:** The Clerk admits the allegations of Paragraph 11.

**The Plaintiffs**

12. Plaintiffs Tanya Lazaro ("Tanya") and Elizabeth Matos ("Liz") reside in Chicago, Cook County, Illinois. Tanya and Liz have been a couple for 15 years. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 12.

13. Plaintiffs Lynn Sprout ("Lynn") and Katherine Spegal ("Kathie") reside in Champaign, Champaign County, Illinois. Lynn and Kathie have been a couple for more than 10 years. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 13.

14. Plaintiff Ross Walden ("Randy"), and Robert Carey ("Robert") reside in Springfield, Sangamon County, Illinois. Robert and Randy will have been a couple for 7 years in August 2012. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 14.

15. Plaintiffs Michelle Mascaro ("Michelle") and Corynne Romine ("Corynne") reside in Chicago, Cook County, Illinois. Corynne and Michelle have been a couple for 20 years. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 15.

16. Plaintiffs Rick Wade ("Rick") and Tim Kee ("Tim") reside in Marion, Williamson County, Illinois. Rick and Tim have been a couple for 15 years. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth

of the allegations of Paragraph 16.

17. Plaintiffs Suzanna Hutton ("Suzie") and Danielle Cook ("Danielle") reside in Bloomington, McClean County, Illinois. Suzie and Danielle have been a couple for 10 years. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 17.

18. Plaintiffs Carlos Briones ("Carlos") and Richard Rykhus ("Richard") reside in Evanston, Cook County, Chicago. Carlos and Richard have been a couple for 11 years. They love each other and want their marriage to be recognized in Illinois.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 18.

19. Plaintiffs Tanya Lyonsford ("Tanya") and Kirsten Lyonsford ("Kirsten") reside in Aurora, DuPage County, Illinois. Tanya and Kirsten have been a couple for than [sic] 10 years. They love each other and wish to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 19.

20. Plaintiffs Edwin Hamilton ("Ed") and Gary Magruder ("Gary") live in Plainfield, Will County, Illinois. Gary and Ed have been a couple for 48 years. They love each other and want their marriage to be recognized in Illinois.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 20.

#### **The Defendant**

21. Defendant David Orr is the Cook County Clerk, whose official responsibilities and duties include issuing licenses to marry, 750 ILCS § 5/203, and registering the marriages after they have been solemnized. 750 ILCS § 5/209.

**ANSWER:** The Clerk admits the allegations of Paragraph 21, except that he denies that his responsibility

for registering marriages is pursuant to 750 ILCS § 5/209, but instead arises under 750 ILCS § 5/210.

### General Allegations

22. Illinois law would permit Tanya and Liz, Lynn and Kathy, Randy and Bob, Michelle and Corynne, Rick and Tim, Suzie and Danielle, and Tanya and Kirsten to marry each other but for the fact that they are same-sex couples. They are not related to one another by blood or marriage. None is married and all are over the age of 17. All of them have the capacity to consent to marry and each couple consents to marry one another.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 22.

### The Impact of Denying Plaintiffs the Right to Marry

#### **Tanya Lazaro and Elizabeth "Liz" Matos**

23. Tanya, 36, and Liz, 40, live in Chicago three blocks from the home in which Tanya grew up. They have been in a loving and committed relationship for fifteen years. A twelve-year veteran of the Chicago Police Department, Tanya has served as a patrol officer handling violent crimes and, most recently, as a police detective. Liz is the youngest of six children born to a Puerto Rican family who moved to Chicago in 1970. She works as a senior software analyst at Trading Technologies.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 23.

24. Tanya and Liz have a two-year-old daughter, Jaiden Elizabeth Lazaro-Matos, and Tanya recently gave birth to the couple's second child, Sophia Grace Lazaro-Matos, on May 18, 2012. Tanya and Liz work staggered shifts so that they can provide Jaiden, who has cerebral palsy and epilepsy, with the specialized care that she needs and care for their new baby, Sophie. They only see each other during the work week for the half hour or so that their shifts overlap. Liz and Tanya's lives revolve around providing the best care they can for their children. For example, in April, they took Jaiden to Dallas for 5 weeks of specialized treatment. Marriage



would affirm and reinforce the solid family ties that Liz and Tanya already have.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 24.

25. Tanya and Liz seek to enter a civil marriage to affirm their love and passion for one another and to demonstrate to others and their children that they are in a committed relationship that is everlasting. They also seek the additional security that marriage would provide to Liz, Jaiden, and Sophie, if Tanya were to be injured or killed in her work as a police detective through, for example, access to Tanya's pension and to social security survivor benefits, if the federal Defense of Marriage Act ("DOMA") were to be repealed or overturned.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 25.

26. Tanya and Liz have declined to enter into a civil union because that designation reinforces their status as second-class citizens who do not deserve the support and respect that other families receive. They fear that even with a civil union their family would be at risk of being denied recognition by, for example, a hospital or emergency room, because civil unions are poorly understood and are not likely to be legally recognized in many states outside of Illinois. Only marriage will honor the love and commitment they have for another and ensure that their family is secure during times of crisis.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 26.

**Lynn Sprout & Katherine "Kathie" Spegal**

27. Lynn is 61 years old, and has worked since 1978 as a registered nurse in Champaign, Silvis, Rock Island, Aledo and Moline, Illinois. She has worked at the Swarm Special Care Center in Champaign since August 2004. Before that, she worked at Manor Care Nursing Home for three years and Carle Hospital for 15 years. Kathie is 68 years old and works

as Case Manager in, a drug and alcohol rehabilitation center.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 27.

28. Lynn and Kathie met in October 2001. Lynn's former partner of 18 years, Linda Schurvinske, died in 2001. After Linda's death, she saw a counselor who suggested that she go to a support group for lesbians. Kathie was the contact person for the group, and Lynn and Kathie also attended the same church. They found that they had many interests in common and enjoyed each other's company, and, in time, that they loved one another.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 28.

29. On June 14, 2003, Kathie and Lynn celebrated their love and lifetime commitment to one another in a Holy Union Ceremony at McKinley Presbyterian Church in Champaign before their family and friends. Their family is a large one, since Lynn brought eight children to the family and Kathie brought three.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 29.

30. Lynn and Kathie want the responsibilities, benefits and protections of marriage because they seek the legitimacy and universal understanding associated only with marriage and because they know how devastating it can be at times of crisis in a couples' life when your most precious relationship is not recognized. Kathie has watched Lynn relive her anguish over losing her former partner, Linda, and the additional pain from knowing that Linda and Lynn and the children they raised were not respected as a family.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 30.

31. On June 5, 2011, Lynn and Kathy entered into a civil union, because of the protections they hoped the status would provide for them. However, their experience with a civil

unions has confirmed that it is "less than" marriage, offering "perks" but denying them the dignity of marriage. Marriage is the only acceptable and respected word for their relationship of love and commitment. Without it, they continue to fear that their family will not be respected when it matters most.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 31.

32. A civil union would not have prevented Lynn's former employer, Carle Hospital, from denying her the family leave to care for her former partner, Linda. Even though Lynn used her vacation until it was exhausted, she was constantly threatened with firing and her job performance was closely scrutinized.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 32.

33. Two days before Linda died, Lynn called her employer to say that she would need another day off and learned that her vacation would run out two days later, on a Thursday. If she did not come in on Friday she would be fired. Linda died on Thursday, her last day of vacation. Lynn called Carle and begged for two more days to take care of Linda's funeral arrangements, but she was told that, "her children" - Linda's children - could take care of that. Only because Lynn's staff at Carle donated their vacation to her was she able to have the time off.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 33.

34. Carle fired Lynn six months after Linda's death based on her job performance during Linda's illness and Lynn filed a charge of discrimination with the City of Urbana. The judge who heard the case agreed that Lynn's job performance - even while Linda was dying was the same as, if not better than, the performance of similar heterosexual employees whom Carle did not fire.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth

of the allegations of Paragraph 34.

35. For 18 years, Linda and Lynn raised 8 children together, since both had custody of children from prior marriages. Linda's children were 2, 9, 11, 13, and 15 years old when Lynn and Linda became a committed couple. Lynn's were 6, 9 and 11. Lynn and Linda were the parents of their 8 children, since neither of their former spouses took any parenting role or even offered financial support to assist Lynn and Linda in raising the children.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 35.

36. After Linda's death, Lynn and the children went to the funeral home to advise the director of Linda's desire to be cremated. When Lynn told the director Linda's wishes, he responded that she was not Linda's family and asked, "Who are Linda's children?" It was painful for Lynn to be told that she was not family, but it broke her heart to see the children she had brought to the family - who had been raised by Lynn and Linda for most of their lives - told that Linda was not their mother. Lynn's son told the funeral director, "I am her son too." Later he broke down and cried saying that he had also lost a Mom and that nobody would listen.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 36.

37. The Champaign News Gazette refused to print the obituary Lynn prepared, because it would not recognize Lynn and three of the children as Linda's family. To appear as a family, Lynn had to purchase a space in the paper for \$350 that set Linda's obituary apart from all the others in the paper and divided Lynn and the children from all the other families. That separation proclaimed that Lynn's family was not recognized and that their grief was less worthy.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 37.

38. Kathie and Lynn worry that their civil union will not protect them and their

families from again facing what Lynn and her children faced at Linda's death. Civil unions perpetuate and sanction the discriminatory attitudes and treatment, such as the treatment Lynn and her children received at Linda's death. Only by ending the exclusion of Kathy and Lynn from marriage can Illinois end the label of inferiority it places on same-sex couples, which will help to protect Kathy, Lynn and their children and grandchildren from a reoccurrence of the painful events Lynn and her children experienced.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 38.

39. Kathy and Lynn also seek the right to marry to overcome the powerful stigma placed on their family, including their 11 children and 15 grandchildren, because they are unable to marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 39.

**Ross "Randy" Walden & Robert "Bob" Carey**

40. Randy is 53 years old, and has worked since 1997 as a registered nurse in Champaign, Springfield and Decatur, Illinois. Currently, he works as Registered Nurse Case Manager for the Illinois Army National Guard, a position he has had for the last 6 years. Bob is 50 and has worked as performance manager for Ameren Illinois for the past 4 years.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 40.

41. Randy is a veteran of the U.S. Army, where he received letters of commendation, a good conduct medal, an overseas service ribbon, and was promoted very quickly to a rank above that of most enlisted personnel with his same years of service. However, in December 1983, because he is gay, he was honorably discharged against his will from his position as a Russian translator, soon after he was promoted to become a Russian instructor.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth

of the allegations of Paragraph 41.

42. In August 2012, Randy and Bob will celebrate 7 years together as a committed couple. They entered into a civil union on August 23, 2011, soon after they became available in Illinois. Bob and Randy enjoy caring for several rescue dogs and cats, some of which suffered serious abuse at the hands of previous owners, and they camp frequently. Both are Jewish and active in their local synagogue where Randy has been a member of the Board of Directors, and a member of the Executive Board where he held the position of Secretary. Randy has also taught 4th through 8th graders in the synagogue's religious school.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 42.

43. Randy knows first-hand what can happen when his committed relationship is not given the respect it is due, since before he met Bob he was in a 9-year committed relationship with Curt Sills who died of cancer in February 2004.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 43.

44. Curt was diagnosed with cancer in January 2002. Randy went to doctor visits with him and helped to monitor Curt's care and treatment. In February 2004, Curt became weaker. He had difficulty walking and he lost what little appetite he had left, so Randy took him to St. John's Hospital in Springfield.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 44.

45. While Curt was there, the hospital staff refused to talk to Randy about Curt's condition and repeatedly asked, "And who are you to him?" Not until Randy produced copies of a power of attorney and living will would they talk to Randy. Even after producing the legal documents, the hospital staff asked Curt's parents to make medical decisions. Each time the staff did so, Curt's parents said that they did not know about Curt's treatment and that Randy

was the one to ask.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 45.

46. The power of attorney and living will that Randy first gave to the hospital was stamped, "Permanent Chart Copy—Do Not Remove." However, in the three days that Curt was hospitalized, the documents disappeared twice and Randy had to provide other copies.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 46.

47. When Randy brought Curt to the hospital, he asked to be allowed to spend the night in the room with him. Although spouses were allowed to stay over, Randy was not. As a result, Curt was alone in his hospital room for the two nights he stayed there until he died.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 47.

48. Randy asked the hospital staff to call him immediately about any changes in Curt's condition, and asked that a note be placed on Curt's chart recording this request and listing Randy's home, cellular, and work phone numbers. They did not call. On the morning of Curt's third day in the hospital when Curt did not answer his room phone or his cell phone, Randy called the nurses' station and, after questioning once again his right to know, the nurse told him, "He hasn't been doing well all night. You need to get here as soon as you can." As Randy was leaving his home, he received a phone call from Curt's mother asking if the hospital had called him yet about Curt's worsening condition.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 48.

49. When Randy reached Curt's room, Curt awakened long enough to tell Randy that he loved him and then he lost consciousness and never regained it. Moments after Curt's death, a nurse came into the room, ignored Randy, and asked, "Is there a spouse?"

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 49.

50. Randy and Bob seek the right to marry because they want the assurance that they will never go through what Randy experienced when Curt became ill and died - the utter disregard for Randy and Curt's love and commitment. Although Bob and Randy acknowledge the additional legal protections provided them by civil unions, they know that nothing will provide them the security that comes from the understanding and respect that is only accorded marriage.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 50.

51. Bob and Randy also seek the right to marry as a step towards gaining access to the federal marriage protections currently offered only to different-sex married couples. For example, even if the Defense of Marriage Act were repealed or declared unconstitutional, Bob and Randy's civil union would not allow them to take advantage of the special mortgage interest rates available to veterans and their spouses.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 51.

52. Finally, Bob and Randy seek the right to marry to overcome the public message Illinois sends by offering them only civil unions, while reserving marriage only for different-sex couples. Only by allowing Bob and Randy to marry will Illinois stop denigrating and stigmatizing the worth of their relationship.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 52.

**Michelle Mascaro and Corynne Romine**

53. Michelle is 56 years old, and works at Children's Memorial Hospital in Chicago where she is a manager in the Family Services department with responsibility to supervise the



hospital chaplains, parent volunteers, and other programs. Corynne is 48 and teaches special education to sixth through eighth graders at a West side Chicago public school, after working for 13 years as a caseworker, supervisor, and post-adoption specialist in an agency that provides social services for children and then staying home for 3 years to care for her and Michelle's children.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 53.

54. Corynne and Michelle met while they were both doing a year-long chaplaincy residency at Rush Presbyterian St. Luke's Hospital in October 1990. In January 1991 they began to date. Their relationship grew as they recognized their shared goals and values and their deep love for one other. In 1992, they began to live together as a couple. They publicly affirmed and celebrated their love in a commitment ceremony before friends in 1995.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 54.

55. Michelle and Corynne have three children, a girl (14) and two boys (12 and 11), whom they adopted and have raised since infancy. Corynne's and Michelle's hours away from work are devoted primarily to school, church, sports, and other activities for their children.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 55.

56. Corynne and Michelle entered into a civil union on January 6, 2012. Although the event was significant for their entire family, it was primarily the legal protections from civil unions that motivated them to enter a civil union. Marriage, on the other hand, honors their love and commitment in a way that a civil union never can. Michelle avoids the questions of her clients at work about whether she is married, because answering usually requires her to out herself. If she discloses that she is in a civil union, she finds that she has to explain what it is and that she entered one instead of marrying because Illinois law denies her the ability to marry her female

partner. Marriage is important to Michelle and Corynne's children who seek the assurance that comes from knowing their parents are married. Michelle and Corynne want their children to have the comfort of knowing that their relationship and their entire family has the recognition and status that only marriage can provide.

**ANSWER:** The Clerk admits that Corynne and Michelle obtained a civil union license from the Clerk on December 22, 2011, and entered into a civil union on January 6, 2012. The Clerk lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 56.

57. Michelle and Corynne are fearful about their family's vulnerability during medical crises, especially when they travel. If they could marry, they would be more likely to be recognized as medical decision makers for each other and the children than they are with a civil union. They fear that their inability to marry puts them and their children at constant risk of not being recognized as a family unit.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 57.

#### **Tim Kee and Rick Wade**

58. Rick and Tim have spent their entire lives either in Johnson City, where Tim grew up, or 6 1/2 miles north in Marion where Rick grew up and where they have made their home as a couple. Rick is 41 and manages a retail optical store in Marion. Tim is 47 and teaches in the same elementary school in Johnson City that he attended as a child. Rick and Tim share the house, barn, and surrounding land that Rick inherited from his grandmother with a number of pets, including several dogs, cats, goats, and a pot belly pig.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 58.

59. Rick and Tim kept their relationship secret in the beginning, travelling to the St. Louis area for their dates to avoid being recognized. After fifteen years together, they are a well-

recognized and well-regarded couple in Marion and Johnson City. Still, they sometimes face people driving by and yelling anti-gay names at them when, for example, they are filling their car with gas. Although Tim received a threatening anonymous note at work, stating "I'm going to kill all the gays. Your [sic] going to be the first," he and Rick refuse to give into fear of being public about who they are.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 59.

60. Rick and Tim are Catholic and are active members of the church in Johnson City where Tim was baptized as a child. Their faith binds Rick and Tim together. Their church congregation is an extended family for them that has helped them through bad times and rejoiced with them about their accomplishments and other special events in their lives.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 60.

61. Rick and Tim share in each other's avocations and community activities. Tim recently completed the Nashville Marathon, and Rick took up running because of Tim's passion for it. Although Tim says that his marathon in Nashville was his first and last, he continues to oversee a 5K running event he helped to organize in 2010 to encourage youth in Johnson City to start running and to help raise money for their school.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 61.

62. Rick and Tim love each other and are committed to one another for life; they are also each other's best friend. Although Rick and Tim entered into a civil union on June 2, 2011, they know that only marriage fits the loving and committed relationship they have. They did not grow up with hopes of being "civil unionized." Their civil union represents a step in the right direction, but it is something less than marriage. As an elementary school teacher, Tim knows how important it is for students to be treated fairly. Illinois has failed to achieve this basic

principle by treating Tim and Rick fairly - giving them the same opportunity it gives to others.

**ANSWER:** The Clerk admits that Illinois does not give plaintiffs Kee and Wade the same opportunities with respect to marriage that it gives to different-sex couples; the Clerk lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 62.

**Carlos Briones and Richard Rykhus**

63. Carlos is 53 and a tenured professor of philosophy and humanities at Oakton Community College. He grew up in Mexico and taught chemistry there, but moved to Illinois in 1998 to complete his PhD in philosophy at the University of Illinois at Chicago and became a United States citizen almost 10 years ago. Richard is a 44-year-old Director in the Strategic Learning Group in a management consulting firm in Chicago. Richard grew up in Michigan where he finished his Bachelor's degrees in Marketing and Spanish. He completed a Master's degree in education at Northwestern University in 2000. Richard and Carlos' son, Ty'rith ("Ty") Briones Rykhus, is 7 and is a first grader in an Evanston public school.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 63.

64. Carlos and Richard have been a committed couple since 2001. Their common values, shared interests in education, and Richard's ability to speak Spanish fluently have helped sustain their relationship. Recently, Richard's commitment to education inspired him to run for a seat on the District 65 school board in order to play a more active role in improving the public schools in Evanston, a seat to which he was elected in 2011 to serve until 2015.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 64.

65. In 2004, Carlos and Richard officially registered as Domestic Partners in Cook County. In July 2005, they celebrated their commitment to one another in front of more than 120 family members and friends. Carlos' and Richard's parents as well as other family members

from Michigan, Mexico, more than a dozen other states and Canada were able to attend. In September 2005, Richard and Carlos married in Canada, because they felt that their marriage would reinforce the commitment they feel to one another and help others accept them as a devoted couple. They married too, because they believed that having a marriage license might help them prove their family relationship if it were ever challenged at a time of crisis, such as if one of them were to suddenly die or become seriously ill. Richard and Carlos call each other "husband," because "partner" sounds transactional to them and less permanent than their married relationship. Carlos and Richard's adoption of Ty four years ago has strengthened their sense of themselves as a family.

**ANSWER:** The Clerk admits that Carlos and Richard officially registered as Domestic Partners in Cook County in 2004. The Clerk lacks knowledge or information sufficient to form a belief about the truth of the remaining allegations of Paragraph 65.

66. But for the fact that they are a same-sex couple, Illinois law would recognize their marriage, rather than treat it as a civil union. Having their marriage recognized as only a civil union diminishes Richard and Carlos' relationship and their family as a whole. Richard had to correct an emergency room nurse earlier this year who described Carlos as his "partner" rather than "husband," even though Richard had already advised her that he and Carlos were married. When Carlos tells people that he and Richard are married, it pains him to have to qualify that statement with the explanation that their marriage occurred in Canada and is not recognized in Illinois. School, medical, and insurance forms remind them that their marriage is not legally recognized, because they can only check "married" when they are sure that there is no legal significance to their relationship status.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 66.

67. Carlos and Richard know that their commitment to one another transcends their legal status and that many who are married fail to live up to the ideal it signifies to them.

Nonetheless, the word "marriage" matters to their relationship and the public's perception of it. Saying that they are married reinforces and supports the strength of their relationship; telling others they are married helps friends and complete strangers see their commitment to one another.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 67.

68. Richard and Carlos recognize that people are defined in part by their relationships, so that downgrading their marriage to a civil union does nothing but stigmatize the two of them and injure their son in the process. They have explained to their son that while they are legally married in Canada, Illinois does not recognize their marriage and are concerned about how this lack recognition may hurt him, especially when comparing his family to the families of others. The civil union label designates a second-class relationship, which is the best Illinois currently allows them to have. Basic fairness demands that Richard and Carlos' marriage be treated as a marriage, and nothing less.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 20.

**Suzanna "Suzie" Hutton and Danielle Cook**

69. Suzie is a 43-year-old seventh-grade language arts teacher at Bloomington Junior High School where she has taught since 1998. Danielle is 50, and is starting her first year as an assistant principal at Bloomington High School after 8 years as an assistant principal at Urbana High School.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 69.

70. Danielle and Suzie began to date in 2002 and celebrated their love and commitment to one another in a commitment ceremony at their home church, New Covenant Community in Normal. In June of 2011, Suzie and Danielle had a civil union ceremony. Caleb

(Suzie's son from a former marriage) participated in both ceremonies. Both Danielle and Suzie are active members of the church, where Suzie is the director of children's programming and a substitute pianist. As a family, Danielle, Suzie and Caleb enjoy Friday pizza and movie nights, camping, and spending time with other family members and friends.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 70.

71. Suzie and Danielle have learned the importance of speaking openly about their relationship and have seen the level of acceptance in their community grow as people have gotten to know them as a couple. They entered a civil union on June 26, 2011 because of the legal protections the status offers them, but also because their civil union announced publicly, although inadequately, that they are a committed loving family. Suzie and Danielle believe that greater acceptance for lesbians and gay men requires that same-sex couples come forward and speak of their commitment to one another and that civil unions represent a step towards the family recognition that will only be fully achieved through marriage.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 71.

72. Suzie and Danielle have already experienced some of the inadequacies of civil unions through, for example, Danielle's employer requiring her to bring in her civil union certificate before it would add Suzie to her dental insurance policy, even though married teachers at her work place could not remember having to produce their marriage license to add their spouses to the dental policy. The forms Suzie and Danielle have had to fill out at medical and dental offices remind them that their civil union is commonly ignored absent their demand that it be acknowledged, since in their experience there is never a "civil union" box to check off to describe their relationship. They have had to write in their relationship status, prove it, and at the very least explain their relationship, even after disclosing they are in a civil union.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth

of the allegations of Paragraph 72.

73. Moreover, a civil union does not garner the respect given marriages, but can instead be the source of awkward attempts to use language that is inherently unequal to speak respectfully of a same-sex couple's relationship. For example, at the Danielle's first faculty meeting of the school year, the principal's announcement of her civil union with Suzie reminded Danielle of the inadequacy of the status to honor and celebrate her family. Other staff members who were married were recognized, but Danielle's principal could not find a word to describe her relationship with Suzie. Similarly, at the faculty meeting at Suzie's school, the announcement of her civil union again halted as the well-intentioned speaker was not sure what to say. In both schools, Suzie and Danielle made the impromptu decision to interject that their relationship was "civilized," using humor to escape from an uncomfortable situation. The laughter that followed was not intended to hurt them, but it reminded Danielle and Suzie that their relationship should not be a laughing matter. Suzie and Danielle know that only through marriage will the most loving and committed relationship of their lifetimes be easily understood and revered as are the relationships of different-sex married families.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 73.

**Tanya Lyonsford and Kirsten Lyonsford**

74. Kirsten is 35 years old and an operations manager for a national clothing retailer. Tanya is 47 years old and has gone back to school after being laid off from U.S. Cellular after 8 years there as an Inventory Coordinator. She expects to finish school in December 2012 when she will look for work as a physical trainer and/or a massage therapist. Tanya is also an avid athlete who completes on average one triathlon or competitive run per month.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 74.

75. Kirsten and Tanya met in September 1999 during mandatory diversity training at



AT&T Wireless where, by chance, they ended up in the same small session.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 74.

76. They played a game called "Diversity Bingo" in which they were given sheets with squares representing different minority groups, such as Jewish, African American and gay/lesbian. Since their assignment was to use the game to learn about others in the room, Kirsten slid her sheet across the table and Tanya surprised her by signing the "gay/lesbian" square rather than the African American one. Kirsten signed the same square, even though she is also African American. This first meeting led to a casual date and a strong friendship and, within a year to a committed intimate relationship.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 76.

77. In October 2002, Tanya and Kirsten celebrated their love and life together in a commitment ceremony before their friends, family and many of their co-workers, including many family members who flew in from out of town to attend. Even Tanya's 84-year-old grandfather gladly attended, even though until he received the announcement he didn't know she was lesbian. He told Tanya that he was there for himself and her grandmother, who had passed away almost 20 years before, and that Tanya's grandmother would be so proud of her.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 77.

78. Tanya and Kirsten had a traditional ceremony led by a Christian minister in which Tanya's sister and Kirsten's brother acted as their respective attendants. Afterwards, they ate, danced and celebrated with their families and friends at a local banquet hall.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 78.

79. It was painful for Tanya and Kirsten to hear a close family member say after their

ceremony that it was not legal, reminding them of their second-class citizenship when it comes to marriage. They want the freedom to marry, but they firmly believe that their relationship is much stronger than a piece of paper.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 79.

80. Tanya and Kirsten bought a home together in Aurora in October 2003. They have two children, Andrea (9) and Zachary (7), who were placed with them as foster children and whom they have now adopted.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 80.

81. Tanya and Kirsten's lives focus on their children, reading with them, helping them with homework, taking Andrea to her running club, her math and reading tutoring, taking Zach to physical and occupational therapy. The family attends a United Church of Christ in Naperville, where Tanya and Kirsten teach Sunday School.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 81.

82. Tanya and Kirsten have grown up with the knowledge that separate is not equal, so they decided against entering into a civil union. Recognizing that a civil union could help protect their family, they decided that they would wait two years for marriage in Illinois before they entered into a civil union.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 82.

83. Tanya and Kirsten's daughter, Andrea, sees the pictures from their 2002 ceremony and believes her parents are married. But when she talks about her parents to people who are not family friends, she gets confused when challenged: "But your Moms can't be married, that's not legal." When Tanya and Kirsten meet someone for the first time, they are

often asked why their last name is the same, saying "Are you sisters?" Although they respond that they are married, they sometimes face the same questions as their daughter about the legality of their marriage and are reminded that the law does not reflect or conform to their understanding of their relationship. When they fill out forms at their children's school and pediatrician, the dentist, medical offices and other places, they are faced with the difficult choice of whether they can describe themselves as "married" or must check off "single." Although Kirsten is able to insure Tanya as a domestic partner on the health insurance she receives through work, it concerns her that if Tanya were to be ill for an extended period Kirsten's employer could deny her request for family leave to care for Tanya. She knows that the protections provided by the Federal Medical Leave Act ("FMLA") are only available to married couples, and, as a result, even if DOMA's ban on the extension of these spousal protections to same-sex married couples were to be ended, Tanya and Kirsten would remain vulnerable until they can legally marry.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 83.

84. Tanya and Kirsten have felt as married as anyone who loves and lives with a spouse for over 10 years, and shares with him or her in the joys and responsibilities of creating a home. But they recognize that feeling married and actually being secure in the public recognition and esteem as well as the legal protections that legally married couples and their children enjoy are two different things. They want their family to have the sense of security that comes with the knowledge that their relationship is recognized by their community and by the laws of Illinois.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 84.

**Edwin "Ed" Hamilton and Gary Magruder**

85. Ed and Gary will celebrate 50 years together in January 2014.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 85.

86. Gary and Ed love each other and celebrated their 40 years of love and commitment to one another by marrying in Toronto, Canada on January 17, 2004. They joke that they had a 40-year engagement leading up to their marriage. Gary and Ed want their marriage to be recognized in Illinois. But for the fact that they are a same-sex couple, Illinois law would recognize the marriage, rather than downgrading its legal status to a civil union.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 86.

87. Ed is 75 years old. He retired in 1993 after a 31-year career as a public school educator in Will County, Illinois. He was a social studies teacher for 13 years and then an elementary school principal for 18 years. Next he taught as an adjunct instructor for 5 years at Lewis University until he retired in 1999. Gary is 70 years old. He retired in June 1994 after a 30-year career as a public school teacher. For 18 years, he taught art in elementary and junior high school. After that, for 12 years, Gary taught English in high school.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 87.

88. Ed and Gary are both active in churches. Gary is a member of the Unitarian/Universalist church, and Ed is active in an Episcopalian church.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 88.

89. Ed was born in Joliet, Illinois, moved to Plainfield in 1943, and has spent his entire life in Illinois, mostly in Plainfield or nearby. Gary was born in Kankakee County and has also spent almost his entire life in Illinois. Both of them completed college in Illinois, Gary at Illinois State University in Normal and Ed at the University of Illinois at Urbana-Champaign.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 89.

90. Gary and Ed met in January 1964 when a mutual friend from Plainfield made sure

that they were both at the same party. They were immediately attracted to one another, emotionally and intellectually, although they courted for a few months before they found an apartment together. They have learned over time that they share the capacity for profound love for one another and their love for one other has only deepened after 40 years of companionship and shared experiences. They have known heartaches as well as joys, and they intend to spend the rest of their lives together.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 90.

91. Even with the advent of civil unions in Illinois, Ed and Gary are concerned about whether their right to visit the other in the hospital as well as their authority to fulfill each other's medical and burial wishes will be recognized, since civil unions are not as easily understood nor do they command the same degree of respect as marriage. Gary and Ed carry copies of the powers of attorney that they have prepared whenever they travel for fear that their relationship will not be recognized. They are also fearful that, despite their commitment to remain together until the end, they will be separated in a retirement community if their civil union status in Illinois is not respected as would be a marriage.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 91.

92. Gary and Ed believe that anything short of civil marriage for same-sex couples would perpetuate second-class citizenship for lesbian and gay families. Gary and Ed were forced to hide their relationship during their years of working in public schools and were victims of various anti-gay-motivated crimes: "queers" written on their house, car tires slashed, eggs thrown at the house, and even a bullet shot through a window. Today they have less fear of anti-gay violence and discrimination, but Illinois' refusal to recognize Gary and Ed's marriage condones and perpetuates the stigma and discrimination they experienced in their earlier years together.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 92.

93. Gary and Ed emphatically respect the freedom of religious organizations to decline to perform religious wedding ceremonies for same-sex couples, but they believe that such religious freedom does not prevent the State of Illinois from recognizing their relationship as a civil marriage. They believe that a commitment such as theirs strengthens the institution of marriage and that a public lifetime commitment to each other to love and honor can only benefit society. They believe that they, too, are entitled to the dignity and respect that the recognition in Illinois of their marriage bestows.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 93.

#### **The Discriminatory Illinois Marriage Statute**

94. The State of Illinois establishes laws governing marriage. The Illinois Marriage and Dissolution of Marriage Act (IMDMA), on its face, does not permit plaintiffs to marry. Nor does it permit the recognition of Gary and Ed's and Richard and Carlos' Canadian marriages. 750 ILCS 5/212(5).

**ANSWER:** The Clerk admits the allegations of Paragraph 94.

95. The IMDMA prohibits defendant Orr from issuing a marriage license to plaintiffs because they are same-sex couples, 750 ILCS 5/203, and imposes criminal penalties upon him for doing so. 750 ILCS 5/215.

**ANSWER:** The Clerk admits the allegations of Paragraph 95.

96. Michelle and Corynne and Tanya and Kirsten applied for and were denied a marriage license at the Office of the Cook County Clerk. Lynn called the Office of the Cook County Clerk and stated her and Kathie's desire to marry and their willingness to come to Cook County for a license. They were told that they would be denied a marriage license.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth

of the allegations of Paragraph 96, but answers further that his office is prohibited under IMDMA from issuing a marriage license to a same-sex couple. The Clerk admits further that it is the practice of his office, pursuant to the Illinois Marriage and Dissolution of Marriage Act, to refuse to issue a marriage license to any couple prohibited from marrying pursuant to that Act.

97. Plaintiffs have suffered and will continue to suffer irreparable harm as a result of not being allowed to marry. Plaintiffs have no adequate remedy at law.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 97.

**Granting Plaintiffs And Other Same-Sex Couples Civil Unions  
While Still Denying Them The Right To Marry Injures Them**

98. In January 2011, the General Assembly passed the Illinois Religious Freedom Protection and Civil Union Act ("Civil Union Act"), which became effective June 1, 2011. The Act allows same-sex couples to enter into a civil union and provides civil union partners the "same legal obligations, responsibilities, protections, and benefits as are afforded or recognized by the law of Illinois to spouses, whether they derive from statute, administrative rule, policy, common law, or any other source of civil or criminal law." 750 ILCS 75/20.

**ANSWER:** The Clerk admits the allegations of Paragraph 98.

99. The Civil Union Act did not, however, end the exclusion of same-sex couples from marriage. Additionally, marriages between persons of the same sex legally entered into in other jurisdictions are recognized in Illinois only as a civil union. 750 ILCS 75/60.

**ANSWER:** The Clerk admits the allegations of Paragraph 99.

100. Denying two people in a loving, committed relationship the right to marry denies them the opportunity to express their commitment in the most serious way that society provides. It denies them the opportunity to enter into a relationship that is universally respected and recognized as a symbol of their love and commitment. The novel civil union designation withholds

from same-sex couples the reverence and recognition associated only with marriage. The new name transforms the official status of these relationships from a celebration of love and commitment into a mundane entryway to spousal benefits. The essence of marriage is a private and public celebration of love and commitment; civil unions fail to achieve that goal. Marriage is something many hope for from a young age, an ideal they aspire to; civil unions are not.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the particular allegations of Paragraph 100. The Clerk, in his capacity as administrator of the Domestic Partnership Registry in Cook County and of the civil union law in Cook County, admits the inequity and tangible harm done to same sex couples who are denied access to civil marriage licenses.

101. Denying plaintiffs and other lesbian and gay couples the right to marry also would make it impossible for them to receive the protections currently provided only to different-sex married couples under federal law, if the Defense of Marriage Act ("DOMA") is repealed or declared unconstitutional. If DOMA no longer excluded same-sex couples from access to federal marriage responsibilities and benefits, Illinois same-sex couples would still be denied the more than one thousand federal law protections for spouses, such as social security survivor benefits, family medical leave, and veteran spousal benefits.

**ANSWER:** Paragraph 101 states conclusions of law to which the Clerk is not required to provide an answer.

102. Illinois and this country have subjected lesbian and gay people to scorn and discrimination for many years, and they have done so because lesbians and gay men form intimate relationships with a person of the same-sex. Although Illinois and this country have taken some steps to reduce discrimination against lesbians and gays, Illinois' ban on marriage for same-sex couples is a striking and continuing vestige of the long history of discrimination towards lesbians and gay men. Offering lesbian and gay Illinoisans the new, separate, and inferior civil union status, instead of marriage, sends a powerful message to same-sex couples, their families, and the public - lesbians and gay men are not good enough for marriage and their



relationships are undeserving of the respect and dignity associated with marriage alone.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the particular allegations of Paragraph 102. The Clerk, in his capacity as administrator of the Domestic Partnership Registry in Cook County and of the civil union law in Cook County, admits the inequity and tangible harm done to same sex couples who are denied access to civil marriage licenses.

103. Because civil unions deny lesbian and gay couples the esteem and understanding associated with marriage and stigmatizes them by delegating them to a separate and unequal legal status, two of the plaintiff couples have refused to enter into a civil union. Two plaintiff couples legally married in Canada because marriage is unavailable in Illinois, but their marriages are recognized only as civil unions in Illinois. All plaintiff couples have been injured by Illinois' refusal to allow them to marry or to recognize their marriages entered elsewhere.

**ANSWER:** The Clerk lacks knowledge or information sufficient to form a belief about the truth of the allegations of Paragraph 103.

**No Adequate Governmental Interest Is Sufficiently Served,  
Or Even Rationally Connected, To The Exclusion Of Lesbian  
And Gay Couples From The Freedom To Marry**

104. Illinois' discriminatory exclusion of same-sex couples from marriage does not serve any compelling, important, or otherwise legitimate government interest, nor does it have any rational connection to a legitimate government interest.

**ANSWER:** The Clerk admits the allegations of Paragraph 104.

105. While the government has an interest in protecting child welfare, the exclusion of same-sex couples from marriage does not further this interest. There is no rational connection between excluding lesbian and gay male couples from marriage and encouraging "traditional" different-sex couples to have children within marriage. Further, there is a consensus among child welfare experts, reflecting over thirty years of research, that children raised by same-sex couples are just as well adjusted as are children raised by different-sex couples. Moreover, excluding same-sex couples from marriage serves only to harm the children raised by lesbian and

gay couples.

**ANSWER:** The Clerk admits the first two sentences of Paragraph 105, but lacks knowledge or information sufficient to form a belief about the truth of the allegations of the last two sentences of Paragraph 105.

106. There is no legitimate governmental interest in promoting traditional marriage or uniformity of marriage practices, since a discriminatory marriage law cannot be justified solely on the basis of its long tradition or its common practice. Similarly, there is no state interest in promoting traditional marriage or uniformity of marriage practices with regard to same-sex couples who already have legal marriages from other jurisdictions. Such couples merely seek to enjoy a legal status that has already been conferred.

**ANSWER:** The Clerk admits the first two sentences of Paragraph 106, but lacks knowledge or information sufficient to form a belief about the truth of the allegations of the last sentence of Paragraph 106.

107. While the government may have legitimate fiscal interests, the exclusion of same-sex couples from marriage is not the least restrictive means nor is it sufficiently narrowly tailored to further, nor even rationally related to, this interest, because allowing same-sex couples to marry will not increase any costs for the State of Illinois. Civil unions already provide couples who enter into them the same financial protections and responsibilities provided to married couples. Indeed, experience shows that states that have ended the exclusion of same-sex couples from marriage, including Iowa, have experienced increases in state revenues as a direct result. Moreover, cost savings alone cannot justify a discriminatory allocation of a government benefit, absent an independent justification for why one a class of people is burdened with the responsibility for the savings.

**ANSWER:** The Clerk admits the first, second and final sentences of Paragraph 107, but lacks knowledge or information sufficient to form a belief about the truth of the allegations of the third sentence of Paragraph 107.

108. Providing same-sex couples access to the protections and responsibilities of marriage, while denying them the esteem and universal recognition of marriage, can only be explained as an effort to denigrate lesbian and gay persons. Reminding lesbian and gay couples of the history of discrimination, the civil union status is separate and unequal. Labeling lesbian and gay couples as inferior is not a legitimate governmental interest, but is per se discriminatory.

**ANSWER:** The Clerk admits that the provisions of IMDMA that prohibit the Clerk from issuing marriage licenses and certificate forms to the plaintiffs and from registering their marriages violate plaintiffs' equal protection rights under Article I, § 2 of the Illinois Constitution. The Clerk lacks knowledge or information sufficient to form a belief about the truth of whether "denying them the esteem and universal recognition of marriage . . . can only be explained as an effort to denigrate lesbian and gay persons." The remainder of Paragraph 108 states conclusions of law to which the Clerk is not required to provide an answer.

#### **Count One: Violation of Due Process**

109. Plaintiffs re-allege paragraphs 1 through 108 as though fully set forth herein.

**ANSWER:** The Clerk restates and realleges its answers to paragraphs 1 through 108 of this Answer as his answer to Paragraph 109.

110. Article I, § 2 of the Illinois Constitution provides that "No person shall be deprived of life, liberty or property with due process of law . . . ."

**ANSWER:** The Clerk admits that Article I, § 2 of the Illinois Constitution provides that "No person shall be deprived of life, liberty or property without due process of law . . . ." (emphasis supplied) and denies all other allegations of Paragraph 110.

111. The Due Process Clause of the Illinois Constitution protects the fundamental right to marry the person of one's choice.

**ANSWER:** Paragraph 111 states a conclusion of law to which the Clerk is not required to provide an answer.

112. The IMDMA does not permit same-sex couples to marry nor does it permit the recognition of the marriages of same-sex couples lawfully entered into outside of Illinois.

**ANSWER:** The Clerk admits the allegations of Paragraph 112.

113. There is no adequate justification for the exclusion of plaintiffs from marriage or the refusal to recognize plaintiffs' marriages. Moreover, the exclusion of same-sex couples from marriage is not narrowly tailored nor is it the least restrictive alternative to further a compelling or important government interest, for at least the reasons stated in ¶¶ 104-108.

**ANSWER:** The Clerk admits the allegations of Paragraph 113, except as to those portions of ¶¶ 104-108 of which he lacks knowledge or information sufficient to state the truth of said allegations.

114. The Illinois law barring defendant from issuing a marriage license to plaintiffs and preventing them from lawfully marrying in the State of Illinois, and preventing the recognition of plaintiffs' marriages lawfully entered into outside Illinois, violates the Due Process Clause of the Illinois Constitution.

**ANSWER:** Paragraph 114 states conclusions of law to which the Clerk is not required to provide an answer.

115. WHEREFORE, plaintiffs request the following relief:

(A) entry of a declaratory judgment that the Illinois Marriage and Dissolution of Marriage Act violates the Due Process Clause of the Illinois Constitution by barring defendant from issuing a marriage license to plaintiffs and preventing them from lawfully marrying in the State of Illinois and by preventing the recognition of plaintiffs' marriages lawfully entered into outside of the State;

(B) entry of a permanent injunction ordering defendant to grant marriage licenses to the plaintiffs who have not already married and to register their marriages after they have been solemnized, to fully recognize plaintiffs' marriages lawfully entered outside Illinois, and to no longer infringe in any other ways upon plaintiffs' right to marry but treat them no differently than different-sex couples with respect to access to and recognition of marriage;

(C) award plaintiffs the costs and expenses of this action together with reasonable attorneys' fees; and

(D) enter such other and further relief as deemed appropriate by the Court.

**ANSWER:** Paragraph 115 is a remedial request to which the Clerk is not required to provide an answer, but the Clerk denies that Plaintiffs are entitled to an award of costs, expenses and/or attorneys' fees against the Clerk.

### **Count Two: Violation of Equal Protection Based on Sexual Orientation**

116. Plaintiffs re-allege paragraphs 1 through 108 as though fully set forth herein.

**ANSWER:** The Clerk restates and realleges its answers to paragraphs 1 through 108 of this Answer as his answer to Paragraph 116.

117. Article I, § 2 of the Illinois Constitution provides that "No person shall... be denied the equal protection of the laws."

**ANSWER:** The Clerk admits the allegations of Paragraph 117.

118. Same-sex couples in committed relationships or civil unions who wish to marry are similarly situated in every material respect to different-sex couples in committed relationships who wish to marry. Same-sex couples who have lawfully married outside of Illinois are similarly situated in every material respect to different-sex couples who have lawfully married outside of Illinois.

**ANSWER:** The Clerk admits the allegations of Paragraph 118.

119. The IMDMA does not permit same-sex couples to marry nor does it permit the recognition of marriages of same-sex couples lawfully entered into outside of Illinois and therefore discriminates facially and as applied to plaintiffs and other lesbian and gay couples on the basis of sexual orientation.

**ANSWER:** The Clerk admits the allegations of Paragraph 119.

120. Discrimination on the basis of sexual orientation is suspect and demands a heightened level of scrutiny under the Illinois Constitution, since the IMDMA and defendant's

actions in administering and enforcing it purposefully single out a minority group (lesbians and gay men) that historically has suffered discriminatory treatment and been relegated to a position of political powerlessness solely on the basis of stereotypes and myths regarding their sexual orientation - a characteristic that bears no relation to their ability to contribute to society and is immutable, in that it is central to their core identity.

**ANSWER:** Paragraph 120 states a conclusion of law to which the Clerk is not required to provide an answer.

121. There is no adequate justification for the exclusion of plaintiffs from marriage or the refusal to recognize plaintiffs' marriages. Moreover, the exclusion of same-sex couples from marriage is not narrowly tailored nor is it the least restrictive alternative to further a compelling or important government interest, for at least the reasons stated in ¶¶ 104-108.

**ANSWER:** The Clerk admits the allegations of Paragraph 121, except as to those portions of ¶¶ 104-108 of which he lacks knowledge or information sufficient to state the truth of said allegations.

122. The Illinois law barring defendant from issuing a marriage license to plaintiffs and preventing them from lawfully marrying in the State of Illinois, and preventing the recognition of plaintiffs' marriages lawfully entered into outside Illinois, deprives them of the equal protection of the laws based on their sexual orientation.

**ANSWER:** The Clerk admits the allegations of Paragraph 122.

### **Count Three: Violation of Equal Protection Based on Gender**

123. Plaintiffs re-allege paragraphs 1 through 108 as though fully set forth herein.

**ANSWER:** The Clerk restates and realleges its answers to paragraphs 1 through 108 of this Answer as his answer to Paragraph 123.

124. Article I, § 18 of the Illinois Constitution provides that "The equal protection of the laws shall not be denied or abridged on account of sex by the State or its units of local government . . ."

**ANSWER:** The Clerk admits the allegations of Paragraph 124.

125. The IMDMA discriminates based on gender because it permits a man and woman to marry, but does not allow a man to marry a man, or a woman to marry a woman and because it permits different-sex marriages lawfully entered into outside of Illinois to be recognized but does not allow the marriages of same-sex couples lawfully entered into outside of Illinois to be recognized.

**ANSWER:** The Clerk admits the allegations of Paragraph 125.

126. Discrimination on the basis of sex is suspect and demands suspect scrutiny under the Illinois Constitution.

**ANSWER:** Paragraph 126 states a conclusion of law to which the Clerk is not required to provide an answer.

127. There is no adequate justification for the exclusion of plaintiffs from marriage or the refusal to recognize plaintiffs' marriages. Moreover, the exclusion of same-sex couples from marriage is not narrowly tailored nor is it the least restrictive alternative to further a compelling or important government interest, for at least the reasons stated in ¶¶ 104-108.

**ANSWER:** The Clerk admits the allegations of Paragraph 127, except as to those portions of ¶¶ 104-108 of which he lacks knowledge or information sufficient to state the truth of said allegations.

128. The Illinois law barring defendant from issuing a marriage license to plaintiffs and preventing them from lawfully marrying in the State of Illinois, and preventing the recognition of plaintiffs' marriages lawfully entered into outside Illinois, deprives them of the equal protection of the laws based on their gender.

**ANSWER:** The Clerk admits the allegations of Paragraph 128.

129. WHEREFORE, plaintiffs request the following relief:

(A) entry of a declaratory judgment that the Illinois Marriage and Dissolution of Marriage Act deprives plaintiffs of the equal protection of the laws based on their gender guaranteed by Article I, § 18 of the Illinois Constitution by barring defendant from issuing a marriage license to plaintiffs

and preventing them from lawfully marrying in the State of Illinois and by preventing the recognition of the marriages of plaintiffs lawfully entered outside of the State;

(B) entry of a permanent injunction ordering defendant to grant marriage licenses to the plaintiffs who have not already married and to register their marriages after they have been solemnized, to fully recognize plaintiffs' marriages lawfully entered outside Illinois, and to no longer infringe in any other ways upon plaintiffs' right to marry but treat them no differently than different-sex couples with respect to access to and recognition of marriage;

(C) award plaintiffs the costs and expenses of this action together with reasonable attorneys' fees; and

(D) enter such other and further relief as deemed appropriate by the Court.

**ANSWER:** Paragraph 129 is a remedial request to which the Clerk is not required to provide an answer, but the Clerk denies that Plaintiffs are entitled to an award of costs, expenses and/or attorneys' fees against the Clerk.

#### **Count Four: Violation of Right to Privacy**

130. Plaintiffs re-allege paragraphs 1 through 108 as though fully set forth herein.

**ANSWER:** The Clerk restates and realleges its answers to paragraphs 1 through 108 of this Answer as his answer to Paragraph 130.

131. Article I, § 6 of the Illinois Constitution provides that "The people shall... be secure in their persons . . . against . . . unreasonable invasions of privacy . . . ."

**ANSWER:** The Clerk admits that Article I, § 6 states, among other things, that "The people shall have the right to be secure in their persons, houses, papers and other possessions against unreasonable searches, seizures, invasions of privacy or interceptions of communications by eavesdropping devices or other means" and denies all other allegations contained within Paragraph 131.

132. The right to privacy under the Illinois Constitution includes a right to be free from government interference with the core personal choice regarding whom to marry.

**ANSWER:** Paragraph 132 states a conclusion of law to which the Clerk is not required to provide an



answer.

133. The IMDMA does not permit same-sex couples to marry nor does it permit the recognition of the marriages of same-sex couples lawfully entered into outside of Illinois.

**ANSWER:** The Clerk admits the allegations of Paragraph 133.

134. There is no adequate justification for the state's interference with plaintiffs' own decisions about whom to marry. Moreover, the exclusion of same-sex couples from marriage is not narrowly tailored nor is it the least restrictive alternative to further a compelling or important government interest, nor can it be justified under even under a reasonableness test, for at least the reasons stated in ¶¶ 104-108.

**ANSWER:** The Clerk admits the allegations of Paragraph 134, except as to those portions of ¶¶ 104-108 of which he lacks knowledge or information sufficient to state the truth of said allegations.

135. The Illinois law barring defendant from issuing a marriage license to plaintiffs and preventing them from lawfully marrying in the State of Illinois, and preventing the recognition of plaintiffs' marriages lawfully entered into outside Illinois, violates Article I, § 6 of the Illinois Constitution.

**ANSWER:** Paragraph 135 states a conclusion of law to which the Clerk is not required to provide an answer.

136. WHEREFORE, plaintiffs request the following relief:

(A) entry of a declaratory judgment that the Illinois Marriage and Dissolution of Marriage Act violates Article I, § 6 of the Illinois Constitution by barring defendant from issuing a marriage license to plaintiffs and preventing them from lawfully marrying in the State of Illinois and by preventing the recognition of the marriages of plaintiffs lawfully entered outside of the State;

(B) entry of a permanent injunction ordering defendant to grant marriage licenses to the plaintiffs who have not already married and to register their marriages after they have been solemnized, to fully recognize plaintiffs' marriages lawfully entered outside Illinois, and to no

longer infringe in any other ways upon plaintiffs' right to marry but treat them no differently than different-sex couples with respect to access to and recognition of marriage;

(C) award plaintiffs the costs and expenses of this action together with reasonable attorneys' fees; and

(D) enter such other and further relief as deemed appropriate by the Court.

**ANSWER:** Paragraph 136 is a remedial request to which the Clerk is not required to provide an answer, but the Clerk denies that Plaintiffs are entitled to an award of costs, expenses and/or attorneys' fees against the Clerk.

WHEREFORE, Defendant David Orr, respectfully requests this Court to:

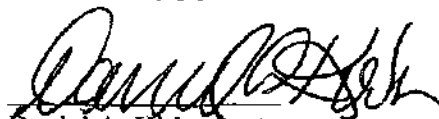
1. Declare that 750 ILCS 5/212(a)(5) is unconstitutional as it violates the Equal Protection Clause of the Illinois Constitution, Article I, Sections 2 and 18, and that marriages between two individuals of the same sex may not be prohibited in Illinois.
2. Declare that 750 ILCS 5/201 and 750 ILCS 5/213.1 are unconstitutional and unenforceable insofar as they purport to prohibit marriages between persons of the same sex.
3. Declare that David Orr, in his official capacity as Cook County Clerk is authorized to and shall license the marriages of Plaintiffs to their partners if all other requirements of Illinois law are met, and shall otherwise treat Plaintiffs in the same manner as is done for other applicants and marriages.
4. Declare that all remaining Illinois laws, whether deriving from statutory, administrative rule, policy, common law, or any other course of civil or criminal law, must be interpreted and applied in a manner allowing same-sex couples full access to the institution of civil marriage.
5. Deny Plaintiffs' requests for an award of costs, expenses and/or attorneys' fees against the Clerk.

6. Enter such further and other relief as may be appropriate.

Respectfully submitted,

ANITA ALVAREZ  
STATE'S ATTORNEY  
OF COOK COUNTY

By:

  
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Chief of Staff

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CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Illinois Code of Civil Procedure, the undersigned certifies that with respect to the matters within the attached answer for which it is indicated that the Clerk lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained within the complaint that these statements regarding the Clerk's want of knowledge are true.

Dated: June 14, 2012

A handwritten signature in cursive script, appearing to read "David Orr", is written over a horizontal line.

David Orr, Cook County Clerk