UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

APRIL DEBOER, *et al.*,

Plaintiffs,

-vs-

ED Mi #12-civ-10285
Hon. Bernard A. Friedman

RICHARD SNYDER, *et al.*,

Defendants.

PLAINTIFFS' BRIEF IN OPPOSITION TO
STATE DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

I. THE MICHIGAN MARRIAGE AMENDMENT AND MCLA §§551.1-551.4 AND 551.272 DEPRIVE PLAINTIFFS OF DUE PROCESS AND EQUAL PROTECTION IN VIOLATION OF U.S. CONST., AM XIV.

The State Defendants concede, as they must, that "there is a fundamental right to marry". Brief in Support of Motion for Summary Disposition (R69), p 12. This case is, therefore, ultimately about whether gay and lesbian citizens are entitled to the same legal status, the same right to be *visible* in the eyes of the law, as heterosexual citizens.

If marriage is a fundamental right, then logic and emerging Supreme Court precedent dictate that the legitimacy of two adults' love for one another is the same in the eyes of the law regardless of sexual orientation and that the rights of consenting

adults to marry and to form a family, should they choose to do so, do not depend on sexual orientation.

The key Supreme Court precedent governing this case is the trilogy of *Romer v Evans*, 517 US 620 (1996), *Lawrence v Texas*, 539 US 558 (2003), and *United States v Windsor*, 133 SCt 2675, 2691 (2013), each of which is discussed in detail in Plaintiffs' Brief in Support of Motion for Summary Judgment. Remarkably, however, the State Defendants' Brief fails even to mention *Lawrence*, mentions *Romer* only once (and then only with respect to the applicable standard of scrutiny), and fails to acknowledge that in *Windsor* the Court reiterated that states' regulation of civil marriage "'*must respect the constitutional rights of persons*'", citing *Loving v Virginia*, 388 US 1 (1967) (emphasis added).

Also absent from the State Defendants' Brief is any recognition that, as discussed in Plaintiffs' Brief in Support of Motion for Summary Judgment –

- there is no single "traditional" notion of marriage; the institution has continually evolved over time as the rights of women have grown, and it is today fundamentally different from what it was even a half-century ago,
- laws based on the gender stereotypes that underlie virtually all of the State Defendants' arguments are in almost all circumstances unconstitutional, and

- the political process cannot trump constitutional rights.

These absences are as revealing as they are disturbing. To the State Defendants, gays and lesbians do not exist as full citizens in our society, and transformative precedent rejecting that view does not exist. The State Defendants could not be more wrong. In light of *Romer*, *Lawrence* and, most recently, *Windsor*, there is no principled, rational basis for arguing that gays and lesbians do not have the same fundamental human rights to intimate association and to form a family as do heterosexuals. *Lawrence* makes the point bluntly:

> "At the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe, and of the mystery of human life. Beliefs about these matters could not define the attributes of personhood were they formed under compulsion of the State." *Ibid. Persons in a homosexual relationship may seek autonomy for these purposes, just as heterosexual persons do.*

539 US at 574 (emphasis added; citation omitted).

The State Defendants are equally wrong in asserting that Michigan's ban on same-sex marriage is not the result of long-standing, deep-seated *animus*. Plaintiffs' Brief (R67), p 21. The extensive discussion of the *animus* of the proponents of the Michigan Marriage Amendment is well documented in the Brief of the *Amicus Curiae* of Michigan Law Professors (R65-1), pp 8*ff*.

The State Defendants also conflate discrimination based on *gender*, which is

not at issue in this case, with the distinctly different concept of discrimination based on *sexual orientation*. Brief, p 15. For this simple but dispositive reason, the State Defendants' argument that Michigan's laws against marriage equality do not violate the equal protection clause because they equally prohibit both men and women from marrying someone of the same sex is utterly beside the point.[1]

In arguing that Plaintiffs' right to marry each other should not be recognized as a matter of constitutional law, the State Defendants also argue that a rational basis for denying same-sex couples the right to marry is the state's right not to "experiment[] with social change which could result in the redefinition of marriage and could have serious unintended consequences", Brief, p 18, that it is for the State to determine "whether there is a social benefit to be gained from the promotion of same-sex partnerships", Brief, p 24, and that, with respect to adoption, that "it is not irrational for Michigan to proceed with deliberate caution before placing adoptive children in an alternative, unproven, family structure". Brief, p 32. This argument is based on a manifestly false premise – that the question presented by this case is whether there *should be* same-sex relationships, same-sex marriages, and families

[1]This argument also recalls Anatole France's oft-cited lament that "'The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread.'" *Griffin v Illinois*, 351 US 12, 23 (1956), Frankfurter, J., concurring.

headed by same-sex parents. As the facts of this case well illustrate, the assumption denies reality. There *are* same-sex relationships, there *are* same-sex marriages recognized in other states and nations (including couples who have moved to Michigan whose marriages are not recognized in the state because of the MMA), there *are* families headed by same-sex parents, and there will continue to be same-sex couples and families. The question is not whether they have a right to *be*; the question is whether – given the reality of same-sex couples and families headed by same-sex parents – there is a legitimate state interest, a rational basis, for denying these couples and these families all of the many legal rights and obligations enjoyed by married heterosexual couples and families headed by heterosexual parents. *Cf.* Plaintiffs' Brief in Support of Motion for Summary Judgment, pp 11-12.

In denying the reality that there are same-sex couples and families headed by same-sex parents, the State Defendants ultimately attempt to deny the fundamental humanity of Plaintiffs and all other gays and lesbians. The State Defendants seek nothing short of rendering Plaintiffs invisible in the eyes of the law; if Plaintiffs do not really exist, they cannot be hurt by the discrimination imposed on them. As Shakespeare wrote of another group that long endured dehumanizing discrimination, including expulsion from England for over 300 years and demonization as usurers on the stage:

> Hath not a Jew eyes? [H]ath not a Jew hands, organs, dimensions, senses, affections, passions? Fed with the same food, hurt with the same weapons, subject to the same diseases, warmed and cooled by the same summer and winter as a Christian is? If you prick us do we not bleed? If you tickle us do we not laugh? If you poison us do we not die?

Merchant of Venice, act III, scene 1. Here and now, as a matter of constitutional law as well as of social policy, the time for such dehumanization is past.

For all of these reasons, Plaintiffs' dispositive motion as to Count II should be granted, and the State Defendants' motion as to Count II should be denied.

II. THE MICHIGAN SECOND PARENT ADOPTION STATUTE DEPRIVES PLAINTIFFS OF DUE PROCESS AND EQUAL PROTECTION, IN VIOLATION OF U.S. CONST., AM XIV.

In responding to Plaintiffs' challenge, the State Defendants quote repeatedly from *Lofton v Secretary of the Department of Children and Family Services*, 358 F3d 804, 818 (11th Cir 2004), which upheld a complete ban on adoptions by any "homosexual". Other courts analyzing *Lofton* have discounted it, however, noting that while it was decided shortly after *Lawrence*, it relied heavily on pre-*Lawrence* decisions which "suffer from a complete lack of analysis". See, *e.g.*, *Kerrigan v Commissioner of Public Health*, 957 A2d 407 (Conn 2008). It is extremely unlikely that *Lofton* would be decided the same way today, by any federal court, post-*Windsor*. Notably, a Florida appellate court later struck down the statute on state constitutional grounds. *Florida Department of Children and Families* v *Adoption of S.S.G. and*

N.R.G., 45 So3d 79, 85 (Fla App 2010).

The State Defendants' argument that "Michigan's paramount interest . . . is identifying individuals whom it deems most capable of parenting adoptive children and providing them with a secure family environment" is also wanting. While the objective is laudable, as noted above, *Windsor* instructs that, where (as here) liberty interests are at stake, the State may only seek to achieve it "subject to constitutional guarantees." A state may not constitutionally rely on a categorical exclusion where any valid state interest can be furthered by an individualized determination, *Orr v Orr*, 440 US 268 (1979); *Stanley v Illinois*, 405 US 645, 655-656 (1972); *Carrington v Rash*, 380 US 89, 95-96 (1965); and Michigan's legal and regulatory framework for adoption provides the means for such a determination: Michigan's adoption law mandates a comprehensive, individualized assessment of a petitioner's qualifications before she or he may become a parent. *Cf.* MCLA §710.46 (describing home-study investigation process); §710.51 (court may only approve pre-adoptive placement if in the child's best interests); §710.56 (except in limited circumstances, court may not enter order of adoption until six months after the pre-adoptive placement hearing). See also R 67, Plaintiffs' Brief, pp 30-31.

In support of their "traditional family" argument, the State Defendants rely on *Michael H.* v *Gerald D.*, 491 US 110, 122 (1989), for the proposition that "[o]ur

traditions have protected the marital family ..." In *Michael H.*, the Court rejected an alleged birth father's right to visitation to a child born during a valid marriage between a woman and another man. The State in that case was concerned that the child would be disinherited by the cuckolded husband if the identity of the birth father were litigated in court. However, the Court expressly stressed that " ... in modern times ... the rigid protection of the marital family has in other respects been relaxed ..."; and that while "'the unitary family' is typified, of course, by the married family, *[it] also includes the household of unmarried parents and their children*. Perhaps the concept can be expanded beyond this ...." *Id*. at 125, 123, n 2 (emphasis added). The Court also reiterated key language from *Stanley v Illinois*, *supra*, 405 US at 651, noting that it "forbade the destruction of ... a family when, upon the death of the mother, the State had sought to remove the children from the custody of the [unmarried] father who had lived with and supported them and their mother for 18 years." *Id*. For these reasons, neither the statute nor Supreme Court jurisprudence in any way supports the State Defendants' narrow definition of what constitutes a "traditional family".

The State Defendants' argument that Plaintiffs have not demonstrated injury in fact because the parents can use "alternative legal measures" to provide the children with a degree of legal protection merely invites the Court to accept a 21st

century version of "separate but equal" as applied to gay and lesbian parents. Just as "separate but equal" was a demeaning legal fiction as applied to racial segregation, it is a dehumanizing figment of the imagination as applied to alternatives to parental rights based on sexual orientation. As a matter of law, there cannot be "separate but equal" based on sexual orientation; as a matter of fact, there is no such thing. There are simply *no* legal documents which could be executed by the adult Plaintiffs to convey to each other rights which in any way approach the protections either would have as a legal parent of the other's children:

- A power of attorney may only delegate certain limited parental responsibilities to a non-legal parent, for a period which may not exceed six months, and the power may be revoked at will. MCLA §700.5103;

- A guardian is not the equivalent of a legal parent. The legal parent of an unmarried minor may appoint a guardian for the minor, to act in the event of incapacity or death of the legal parent, by will or by another writing signed by the parent. MCLA §700.5202. However, such an appointment is not assured, as a probate court hearing is required, at which the court determines whether the requested appointment appropriately serves the minor's welfare. MCLA §700.5213(2); and

- The law permits nearly anyone to petition the court for guardianship

of a minor, as long as they are "a person interested in the welfare of a minor", a definition which includes distant relatives, friends and Department of Human Services (DHS) caseworkers, each of whom can challenge the appointment of the legal parent's unmarried partner and each of whom stands on equal legal footing with the second parent. MCLA §700.5204. Further, the law requires that such guardianships be reviewed annually, and a guardianship can be terminated by the court for "any…factor the court considers relevant to the minor's welfare." MCLA §700.5207(1)(f). The State's own Child Welfare Law Manual, in fact, cautions that "[g]uardianship should not be seen as a cure-all, nor can it be equated with… parental rights and adoption in terms of the security it offers." State of Michigan, Department of Human Services, *Child Welfare Law Manual* (11/9/07).

The U.S. Supreme Court has also long recognized that a foster parent does not enjoy the same constitutionally protected rights as a full legal parent. As the Court explained in *Smith v. Org. of Foster Families for Equality and Reform*, 431 US 816, 845 (1977), in a foster family, the State retains legal custody over the child, while the foster parents enjoy only the right to care for and supervise the child while in their care. *Id.* at 826-827. By its nature, the foster relationship is "temporary" and "transitional". *Id.* at 824. The liberty rights associated with being a legal parent are,

in contrast, constitutionally grounded and "older than the Bill of Rights", *id*. at 845; a legal parent (even if incarcerated)[2] may only have his or her rights limited by a state wardship over the family, or terminated, after protracted hearings at which the parent enjoys full due process safeguards. See MCR 3.911; 3.903(A)(18)(b); *Matter of Youmans*, 156 Mich App 679, 686-687 (1986) (rights to adequate notice, trial by jury); *In re Richard Hudson*, 483 Mich 928, 931 (2009); *In the Matter of C.R.*, 250 Mich App 185, 198 (2001) (parent's right to counsel is "statutory, court-rule based, and constitutional").

The State Defendants' implication that the adult Plaintiffs could bestow upon each other's children their rights to Social Security disability and death benefits is flatly untrue: A child may be eligible for such benefits only if they are the "child or legally adopted child" of the insured; the adoption laws of the State where the adoption occurred determine whether an individual qualifies as the insured's legally adopted child. 42 USC §402(d) and (e); 20 CFR §404.356. Consequently, the child of a "second" parent in Michigan has *no* right to the second parent's social security benefits.

Similarly, the State Defendants cite no authority for the proposition that the adult Plaintiffs could bestow their health insurance benefits on each other's children.

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[2] *In re Mason*, 486 Mich 142 (2010).

Taking the State Defendants' position to its logical conclusion demonstrates its absurdity. If there were no discernible difference between the rights of a legal parent and those that could be cobbled together in favor of a non-legal parent, and if – as appears to be the case – the State Defendants would accept the adult Plaintiffs having such cobbled-together rights, then what exactly is the State's rational basis for barring the adult Plaintiffs from becoming legal adoptive parents? The question answers itself; there is no rational basis for excluding second parent adoptions by same-sex couple parents.

Further, since the law does not require a parenting competency test or a gender-role fulfillment test of heterosexual couples before they are allowed to marry and procreate, there is, for this reason, too, no rational basis to treat adult Plaintiffs and other same-sex couples differently before they are allowed to marry, adopt each other's children or otherwise form a family.

For all of these reasons, Plaintiffs are entitled to summary judgment as to Count I as a matter of law, and the arguments of the State Defendants and their *Amici* as to the alleged factual benefits of a child being raised by two parents of different genders are beside the point. If this Court chooses to consider such arguments, however, it can only conclude that these arguments, too, are wholly without merit.

The overwhelming consensus of the scientific community is that two key

factors determine child-rearing outcomes: (1) the stability of the home environment and (2) the availability of financial resources. Parental gender and gender roles are *not* determinants of child-rearing outcomes. See discussion in R 25, Plaintiffs' Motion for Summary Judgment, p 9, n 1; Howard, Second Declaration, Exhibit B appended.

The State Defendants' attempt to obscure this fact is based heavily on one thoroughly debunked study. The study, Mark Regnerus, *How Different Are the Adult Children of Parents Who Have Same-Sex Relationships? Findings from the New Family Structures Survey*, 41 Social Science Research 752 (2012), asserts that children fare better with opposite-sex parents than with same-sex parents. The Regnerus study does not meet the standard of *Daubert v Merrell Dow Pharmaceuticals, Inc.,* 509 US 579 (1993), for consideration by this Court,[3] however, and it has no scientific credibility.

The Regnerus study fails at least two *Daubert* requirements: Regnerus' methods have not gained general acceptance in the relevant scientific community; and his methodology has not been subjected to the requisite peer-review. *Id.* at 591-595.

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[3]Even at the summary judgment stage, *Daubert* and FRE 702 require that this Court act as a "gatekeeper"; that is, the Court must be satisfied that the proffered expert scientific testimony meets certain standards of reliability before it is considered. *Id*. at 595-597. See also *Ancho v Pentek Corporation*, 157 F3d 512 (7th Cir 1998) (court applies *Daubert* at summary judgment stage).

Within the relevant social science community, the Regnerus study has been universally condemned for its flawed methodology. In the same journal that originally published Regnerus' study, for example, a group of over one hundred social scientists signed a letter faulting the Regnerus study for failing to follow standard peer review requirements and for failing to take account of family structure and family instability. Gary J. Gates et al., *Letter to the Editor and Advisory Editors of Social Science Research*, 41 Social Science Research 1350 (2012).[4] By way of explanation, the letter specifically criticized the Regnerus study's failure to distinguish between (a) the impact of having a parent who has a continuous same-sex relationship from (b) the impact of having same-sex parents who have broken up and separated from (c) the impact of living in a same-sex step-family from (d) the impact of living with a single parent who may have only dated a same-sex partner. *Id.* The Gates letter also explained that the failure of an "apples-to-apples" comparison means that Regnerus was unfairly comparing the outcomes for children raised in a same-sex parent home *without* "family ... stability" with outcomes for children raised from birth in an intact "stable" heterosexual household, with the former, predictably, coming up short; a "fair" comparison would have been between the children of a family much

[4]The Gates article also criticizes the Regnerus study for researcher bias and conflict of interest.

like DeBoer and Rowse's – *i.e.*, children raised from at or near birth by the same parents in a stable household – with children raised from birth in an intact "stable" heterosexual household. *Id.*[5] See also Brief of *Amicus Curiae* of American Sociological Association in Support of Respondent Kristin M. Perry and Respondent Edith Schlain Windsor, pp 16-22, filed in *Hollingsworth v Perry*, S Ct #12-144, and *United States v Windsor*, S Ct #12-307 (criticizing Regnerus methodology) and submitted as Exhibit A, appended; see also Howard, Second Declaration, appended as Exhibit B.[6],[7]

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[5]In a 2012 statement quixotically identified as an interview with himself, Regnerus admitted that his study included only two children raised from birth to age 18 in "stable" "intact" households, i.e., raised non-stop, by the birth parent and the birth parent's partner. When asked why he did not include more such families in the study, Regnerus responded that such children were "relatively scarc[e] in the NFSS data". M. Regnerus, *Q & A With Mark Regnerus About the Background of His New Study,* p 3, (2012), http://www.patheos.com/blogs/blackwhiteandgray/2012/06/q-a-with-mark-regnerus-about-the-background-of-his-new-study/ . Exhibit C, appended. Notably, Regnerus also acknowledged that "it's possible" that his study "reveals evidence that gay and lesbian parents would benefit from access to the relative security of marriage". *Id.* at 2. He also conceded that "[t]here are no doubt excellent gay parents and terrible straight parents. The study is ... not about sexual orientation, at least not overtly." *Id.* at 3. He also conceded that nothwithstanding his own views, the matter of "no differences" is considered "settled . . . in the wider social science community". *Id.* at 1.

[6]The State Defendants' and their *Amici*'s reliance on other research finding that the children of *unmarried* parents fare more poorly than do the children of married parents, Defendants' Brief, p 31, n 10, is inapposite given that (1) Michigan law allows single persons to adopt regardless of sexual orientation and (2) the adult Plaintiffs would marry if they could and will do so if this Court

Further, since Michigan law allows single gays and lesbians to adopt, the Regnerus study would fail to provide a rational factual basis for the ban on second parent adoptions by parents in a same-sex couple even if it were scientifically sound. That is, the study would provide no support for the State Defendants' arguments for the additional reasons that –

- The State certified April DeBoer and Jayne Rowse *as a couple* to be foster parents; and

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strikes down Michigan's ban on same-sex marriage.

[7]The social science literature relied on by the State Defendants at pp 31-32, n10 of their brief, and by their *Amici* Michigan Catholic Conference and Michigan Family Forum, is unreliable and misleading. The State Defendants and both *Amici* cite to "Marriage From a Child's Perspective: How Does Family Structure Affect Children . . .?" , K. Moore, S. Jekielek, and C. Emig, *Child Trends Research Brief* (2002), for the proposition that ". . . the presence of two biological parents" best supports a child's development. However, the State Defendants and both *Amici* inexplicably ignore the current preamble to this research brief, a copy of which is attached hereto as Exhibit D:

> Note: This Child Trends brief summarizes research conducted in 2002, when neither same-sex parents nor adoptive parents were identified in large national surveys. Therefore, no conclusions can be draw from this research about the well-being of children raised by same-sex parents or adoptive parents.

Virtually all of the studies the State Defendants cite at footnote 10 and most of the other studies relied upon by their *Amici* also pre-date 2002 or use data from surveys prior to 2002 and are thus subject to the same limitations admitted by the Child Trends brief.

- The State Defendants have conceded during this litigation that the adult Plaintiffs "have created a stable, loving household for these three children." R 14, Defendants' Answer to Motion to Dismiss, p 10; R 1, Complaint, ¶13; see also Hearing Tr, 3/7/13, p 5 (["DeBoer and Rowse] should be praised for what they are doing for their children, and they're doing a wonderful job.").

Given the limitations of the studies proffered by the State Defendants and their *Amici*, and in light of the peer-reviewed studies in the brief of the ASA and the observations of the Howard declaration, if this Court reaches the factual claims as to Count I, it can and should perform its gatekeeper function and find the studies cited by the State Defendants outdated and/or unreliable under *Daubert* and thus inappropriate for this Court to rely upon in making its determination. If need be, Plaintiffs stand ready and able to demonstrate that same-sex couples can and do provide loving, nurturing home environments and that the children of same-sex couples thrive every bit as well with same-sex couple parents as they do with opposite-sex couple parents. For the reasons stated above and in Plaintiffs' earlier briefs, however, this fact is now beyond serious dispute, and Count I, too, is ripe for decision as a matter of law.

III. PLAINTIFFS' CHALLENGES TO MICHIGAN'S

MARRIAGE AND ADOPTION LAWS ARE NOT PRECLUDED BY PRIOR SUPREME COURT PRECEDENT.

In their motion to dismiss, the State Defendants argued that Plaintiffs' challenges were precluded by *Baker v Nelson*, 291 Minn 310, 191 N.W.2d 185 (1971), *appeal dismissed* 409 US 810 (1972). *Cf.* R44, pp 5-14. In denying that motion, however, this Court has apparently, and for sound reasons, rejected the State Defendants' argument. R54, pp 2-4.

Again, in *Baker*, the Minnesota Supreme Court held that under then-existing constitutional doctrine, Minnesota did not violate the 14th Amendment's equal protection clause or other constitutional provisions by failing to include same-sex couples in the state's classification of persons authorized to marry. In *Hicks v Miranda*, 422 US 332, 334 (1975), under prior and no longer followed Supreme Court practice, the Supreme Court held that a summary affirmance or dismissal for want of a substantial federal question of a lower court decision was a holding on the merits and that "[u]nless and until the Supreme Court should instruct otherwise, inferior federal courts had best adhere to the view that if the Court has branded a question as unsubstantial, it remains so *except where doctrinal developments indicate otherwise*." (emphasis added). See also *Mandel v Bradley*, 432 US 173, 176-177 (1977).

In the forty years since *Baker* was decided, there have, in fact, been profound developments in the relevant constitutional doctrine, as this Court noted in its Opinion and Order denying the State Defendants' motion to dismiss. In 1972, there could have been no plausible claim that discrimination on the basis of sexual orientation was unconstitutional. In 1972, neither *Romer*, *supra*, nor *Lawrence*, *supra*, nor *Windsor* had been decided.

As the Second Circuit stated in concluding that *Baker* did not preclude a constitutional challenge to the federal Defense of Marriage Act ("DOMA"), "[i]n the forty years after *Baker*, there have been manifold changes in the Supreme Court's equal protection jurisprudence .... These doctrinal changes constitute another reason why *Baker* does not foreclose our disposition of this case." *Windsor v United States*, 699 F3d 169, 178-179 (2nd Cir 2012), aff'd *sub nom. United States v Windsor*, *supra*. Indeed, while Justice Scalia strongly disagrees with the Court's decisions in *Lawrence* and *Windsor*, he, too, agrees that these decisions represent a fundamental alteration in the Court's jurisprudence as it relates to the rights of gay and lesbian citizens. *Lawrence*, *supra*, 539 US at 604-605, Scalia, J., dissenting; *Windsor*, *supra*, 133 SCt at 2705, Scalia, J., dissenting.

Further, unlike the instant case, *Baker* did not involve a challenge to a state constitutional amendment that prohibited any recognition whatever of same-sex

relationships, including a ban on a governmental body providing domestic partner benefits to its same-sex partnered employees. *See National Pride at Work v. Governor of Michigan*, 481 Mich 56 (2008).

Finally, in *Hollingsworth v Perry*, 133 SCt 2652 (2013), the Supreme Court vacated only the Ninth Circuit's decision, leaving intact the district court's decision. If *Baker* still represented viable constitutional doctrine, the district court's decision, too, would have been vacated.

For all of these reasons, *Baker* does not preclude this Court from addressing Plaintiffs' challenges to the Michigan ban on marriage equality and to its adoption law.

RELIEF REQUESTED

WHEREFORE, for all of the foregoing reasons, Plaintiffs respectfully request that this Court deny the State Defendants' motion for summary judgment and grant the relief requested in the Amended Complaint.

Respectfully submitted,

s/Carole M. Stanyar
CAROLE M. STANYAR P34830
221 N. Main Street, Suite 300
Ann Arbor, MI 48103
(313) 819-3953
cstanyar@wowway.com

s/ Dana Nessel
DANA M. NESSEL P51346
645 Griswold St., Suite 3060
Detroit, MI 48226
(313) 556-2300
dananessel@hotmail.com

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Attorneys for Plaintiffs

Of counsel:

s/Robert A. Sedler
ROBERT A. SEDLER P31003
Wayne State University Law School
471 W. Palmer Street
Detroit, MI 48202
(313) 577-3968
rsedler@wayne.edu

s/ Kenneth M. Mogill
Kenneth M. Mogill P17865
MOGILL, POSNER & COHEN
27 E Flint Street, 2nd Floor
Lake Orion, MI 48362
(248) 814-9470
kmogill@bignet.net

CERTIFICATE OF SERVICE

CAROLE M. STANYAR hereby certifies that a copy of Plaintiffs' Brief in Response to Defendants' Motion for Summary Judgment, and this Certificate of Service were served upon Assistant Attorneys General Kristin Heyse and Tonya Jeter, and upon counsel for Ms. Brown, Andrea Johnson and Michael Pitt, ECF filers, on September 9, 2013.

s/Carole M. Stanyar
CAROLE M. STANYAR