

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

ERIN DAWN BLANKENSHIP, individually  
and as parent and next friend of G.B. and S.B.,  
minors, and SHAYLA BLANKENSHIP,  
individually and as parent and next friend  
of G.B. and S.B., minors,

Plaintiffs,

Hon.  
Case No.

vs.

RICK SNYDER, in his official capacity  
as Governor of the State of Michigan,  
BILL SCHUETTE, in his official capacity  
as Attorney General for the State of Michigan,  
JOHN GLEASON, in his official capacity as  
Genesee County Clerk, and JAMES BAUER,  
in his official capacity as Administrator of  
the Probate Court for Genesee County,

Defendants.

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THERE IS ANOTHER PENDING CIVIL ACTION ARISING OUT OF THE SAME  
TRANSACTIONS OR OCCURRENCE AS ALLEGED IN THIS COMPLAINT,  
BEFORE THE HONORABLE JUDGE MARK A. GOLDSMITH, THAT CIVIL  
ACTION BEING CASE NO. 14-CV-1149.

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

NOW COME COMPLAINANTS, by and through their undersigned counsel, and assert  
as follows:

**PRELIMINARY STATEMENT**

1. This civil rights case challenges as unconstitutional the State of Michigan's refusal to recognize the existing marriages of same-sex couples residing in Michigan who were married in one of the many states or foreign jurisdictions that recognize their fundamental right to marry. The plaintiffs in this case are a committed same-sex couple raising children who, following the historic U.S. Supreme Court decision in *United States v.*

*Windsor*, traveled as a family to the State of New York and were married in accordance with the laws of that state. When they returned to Michigan, they were denied recognition of their marriage for any purpose. Yet the marriages of opposite-sex couples legal in other states but prohibited in Michigan are routinely accepted if those marriages are legal in the state of celebration. This targeted rejection of equal marriage recognition for same-sex couples in Michigan violates the rights secured by the United States Constitution. Plaintiffs seek declaratory and injunctive relief for themselves and hope to set a precedent that will afford similarly situated couples the relief and recognition guaranteed under the federal constitution.

#### JURISDICTION AND VENUE

2. Plaintiffs bring these claims pursuant to 42 U.S.C. § 1983 and 1988 to redress the deprivation of rights secured by the federal constitution under color of state law.
3. Jurisdiction over the federal claims is conferred on this Court by 28 U.S.C. §1331 and §1343(3) and (4). Jurisdiction to grant the declaratory relief requested is provided under 28 U.S.C. § 2201.
4. Venue is proper under 28 U.S.C. §1391(b) because Plaintiffs and Defendants reside and have offices within the District and because the events giving rise to Plaintiffs' claims occurred, and will occur, in this District .

#### PARTIES

5. Plaintiffs Erin Dawn Blankenship is a resident of Genesee County, Michigan. She is married to Shayla Blankenship. She appears individually and as parent and next-of-friend of G.B. and S.B., minors.

6. Plaintiff Shayla Dawn Blankenship is a resident of Genesee County, Michigan. She is married to Erin Dawn Blankenship. She appears individually and as parent and next friend of G.B. and S.B., minors.
7. Defendant Rick Snyder is the Governor of the State of Michigan. In that capacity, he is charged with ensuring that the laws of the State of Michigan are faithfully executed. Defendant Snyder is a person within the meaning of 42 U.S.C. §1983, and he is, was, and will be acting under color of state law at all times relevant to this Complaint. Defendant Snyder is sued in his official capacity.
8. Defendant Bill Schuette is the Attorney General for the State of Michigan. In that capacity, he is charged with ensuring that the laws of the State of Michigan are faithfully enforced. Defendant Schuette is a person within the meaning of 42 U.S.C. §1983 and is, was, and will be acting under color of state law at all times relative to this Complaint. Defendant Schuette is sued in his official capacity.
9. Defendant John Gleason is the County Clerk for Genesee County. In that capacity, he is responsible for ministerial functions relative to the family division for the Genesee County Circuit Court. *See Mich. Comp. Law § 600.1007.* Defendant Gleason is a person within the meaning of 42 U.S.C. § 1983 and is, was, and will be acting under color of state law at all times relative to this Complaint. Defendant Gleason is sued in his official capacity.
10. Defendant James Bauer is the Probate Register and Administrator for the Probate Court for Genesee County. In that capacity, he is responsible for carrying out certain ministerial functions related to the family division of the Genesee County Circuit Court.

Defendant Bauer is a person within the meaning of 42 U.S.C. § 1983 and is, was, and will be acting under color of state law at all times relative to this Complaint. Defendant Bauer is sued in his official capacity.

#### FACTS

11. Plaintiffs Erin and Shayla Blankenship are a committed same-sex couple who have been together for nearly two decades.
12. Plaintiffs met in college and began a romantic relationship shortly thereafter. They began living together in 1996.
13. In 1998, they moved into an apartment together and began attending law school together in 1999.
14. In 2002, Plaintiffs moved to Flushing, Michigan, and purchased a house, where they continue to reside today and work as attorneys.
15. In 2004, before the adoption of the Michigan Marriage Amendment, Plaintiffs held a private commitment ceremony in Flint, Michigan, before their friends and family.
16. In 2006, Plaintiffs decided to start a family. Erin Blankenship successfully underwent *in vitro* fertilization in 2007. In November of that year, she changed her name from Erin Dawn Western to Erin Dawn Blankenship. Her son, G.B., was born in 2007, and she raises her son with Shayla.
17. Erin and Shayla have raised G.B. together since birth, and consider themselves to be equal parents to G.B.
18. In 2012, the BLANKENSHIPS were put in touch with a woman who was considering placing her unborn child up for adoption. The BLANKENSHIPS accompanied the

woman on various doctor appointments throughout her pregnancy, and on June 11, 2013, S.B. was added to the Blankenship family.

19. After S.B. was placed with Shayla Blankenship, and following the Supreme Court's decision in *United States v. Windsor*, the family traveled to the State of New York with their children and were legally married in a small ceremony.
20. In October of 2013, S.B. was legally adopted by Shayla, as a single person, in Genesee County, Michigan.
21. It is Erin Blankenship's desire and intention to allow Shayla Blankenship to adopt G.B. as a second parent, and it is Shayla Blankenship's desire and intention to adopt G.B. as a second parent. Similarly, it is Shayla Blankenship's desire and intention to allow Erin Blankenship to adopt S.B. as a second parent, and it is Erin Blankenship's desire and intention to adopt S.B. as a second parent.
22. The Blankenships enjoy a close and loving relationship with one another and have created a stable, loving household for their minor children. They share finances, make joint decisions regarding their lives and the lives of their children, attending to one another's needs and the needs of their children.
23. Shayla and Erin are married under the laws of the State of New York as well as the laws of the United States. *See United States v. Windsor*, 570 U.S. 12 (2013).
24. The BLANKENSHIP' marriage is not recognized in the State of Michigan.
25. No Michigan law prohibited recognition of marriages between same-sex couples performed in other jurisdictions or the issuance of marriage licenses to same-sex couples until 1996, when the Michigan legislature passed Public Act 324. The act amended four

sections of Michigan's laws to invalidate all marriages between same-sex couples. See Mich. Comp. Law Sec 551.1, 551.2, 551.3 and 551.4. A related enactment, Public Act 334 of 1996, addressed marriages performed outside of Michigan and provided that such marriages were "invalid in this state regardless of whether the marriage is contracted according to the laws of another jurisdiction." Mich. Comp. Law 551.272.

26. In 2004, shortly after the BLANKENSHIP celebrated their commitment ceremony before friends and family, Michigan voters approved "Proposal 2," an amendment to the Michigan constitution that prohibited the State of Michigan and its political subdivisions from recognizing same-sex marriages or similar unions for "any purpose." See Mich. Const. 1963, Art. I, § 25 (hereinafter "Michigan Marriage Amendment" or "MMA").
27. As interpreted by the Michigan Attorney General and the Michigan Supreme Court, the amendment applies to state and local government. See Op. Mich. Atty. Gen., March 16, 2005, No. 7171; *Nat'l Pride at Work, Inc. v. Governor of Mich.*, 481 Mich. 56, 748 N.W.2d 524 (2008).
28. The 1996 statutes and the Michigan Marriage Amendment operate to strip the BLANKENSHIPS of any recognition at the state or local level of government.
29. Under Michigan law, only married couples and single individuals may file adoption petitions. See Mich. Comp. Law § 710.24.
30. Because of Michigan's prohibition on recognizing their marriage, the BLANKENSHIPS are unable to jointly adopt the children that they are raising together.
31. By prohibiting a second parent from adopting the child of that parent's married partner, Michigan law impairs the family units of gay and lesbian couples, depriving the minor

Plaintiffs of the many legal, social and psychological benefits that accompany legal recognition fo their family unit, while depriving the BLANKENSHIPS of their fundamental rights to the equal treatment promised by the federal constitution.

32. Before the adoption of Michigan’s anti-gay restrictions on marriage recognition, the State of Michigan recognized all marriages that were performed outside of its jurisdiction unless those marriages violated some firm public policy that was codified by statute.
33. Michigan restricts the ability of opposite-sex couples to marry under certain circumstances. For example, Michigan does not allow first cousins to marry. *See Mich. Comp. Law § 551.3* (“A man shall not marry his...cousin of the first degree.”).
34. Unlike same-sex couples, opposite-sex couples residing in Michigan may evade these restrictions on marriage by traveling to nearby states that permit prohibited marriages. When they return to Michigan, their marriages will be recognized by the State of Michigan. *See generally In re Miller's Estate*, 239 Mich. 455, 214 N.W. 428 (1927). The validity of a marriage between opposite-sex partners who would be prohibited from marrying under Michigan law is determined by the state of celebration, not the state of residence.
35. This difference in treatment is not supported by any legitimate state interest and causes substantial, concrete and real harm to married same-sex couples, including Shayla and Erin Blankenship.
36. In March, the District Court for the Eastern District of Michigan decided the case of *DeBoer v Snyder*, No 12-CV-10285, 2014 US Dist LEXIS 37274 (ED Mich Mar 21, 2014), *stayed by DeBoer v Snyder*, No 14-1341, 2014 US App LEXIS 7259 (6th Cir Mar

25, 2014). However, the *DeBoer* case did not involve a married same-sex couple, but a same-sex couple seeking a marriage license. Additionally, neither of the stay orders issued by the Sixth Circuit Court of Appeals addressed recognition of valid, existing same-sex marriages performed in Michigan on March 22, 2014 or those that had been entered into prior to the District Court's order.

37. Following the decision in *DeBoer*, Plaintiffs Erin and Shayla Blankenship prepared paperwork to effectuate a second-parent adoption, believing that any remaining impediments to the recognition of their marriage had evaporated. However, they were told by Genesee County court staff that the State of Michigan's continuing enforcement of the Michigan Marriage Amendment and the 1996 statutes prevented the staff from accepting any adoption petitions submitted by married same-sex couples.
38. Notwithstanding the ongoing litigation in *DeBoer*, which involves distinct legal issues that confront unmarried same-sex couples in Michigan, Defendants continue to refuse to recognize Plaintiffs' family unit. Because Plaintiffs were validly married at the time that *DeBoer* was decided and because Defendants continue to refuse to recognize their valid marriage, this case raises issues similar to the legal issues raised in the case of *Caspar v. Snyder*, Case No. 14-CV-1149. The primary difference is that the BLANKENSHIPS were married outside of Michigan.
39. Defendants' execution and defense of Michigan's restrictions on the recognition of valid marriages celebrated in neighboring states does not serve any compelling, substantial or otherwise sufficient government interest, nor does it serve such interests in an adequately tailored manner. As applied, Defendants' actions have the effect of unlawfully



discriminating against Plaintiff parents and Plaintiff children.

**COUNT I**

**VIOLATION OF THE FOURTEENTH AMENDMENT**

**EQUAL PROTECTION**

40. Plaintiffs repeat and re-allege paragraphs 1-39 as if set in full.
41. The 2004 amendment to the Michigan Constitution and the 1996 amendments to the State of Michigan's laws on recognition of same-sex marriages performed in other states and foreign jurisdictions prevent Plaintiffs from enjoying a broad array of statutory protections, benefits and mutual obligations that are conferred by state and local laws and regulations.
42. These protections, benefits and mutual obligations are conferred on similarly-situated opposite-sex couples with valid out-of-state marriage licenses who are otherwise prohibited from securing a marriage license in their home State of Michigan.
43. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall deny any person the equal protection of the laws.
44. As a result of the Michigan Marriage Amendment and the 1996 amendments to Michigan's statutory regulation of marriages performed in other states and foreign jurisdictions, and as a result of the Defendants' execution and defense of those laws, Plaintiffs are subjected to adverse treatment solely because of the sex and sexual orientation of Erin Blankenship and Shayla Blankenship.
45. This disparate treatment of Plaintiffs violates the rights secured under the Equal

Protection Clause of the United States Constitution.

**COUNT II**

**VIOLATION OF THE FOURTEENTH AMENDMENT**

**SUBSTANTIVE DUE PROCESS**

46. Plaintiffs repeat and re-allege paragraphs 1-45 as if set in full.
47. The Fourteenth Amendment to the United States Constitution prohibits states from depriving any person of “life, liberty, or property, without due process of law.”
48. The Due Process Clause guarantees more than a fair process for the deprivation of certain fundamental rights and liberty interests.
49. The Due Process Clause protects fundamental rights deeply rooted in the nation’s history and traditions, and implicit in the concept of ordered liberty.
50. The liberty protected by the Due Process Clause includes the right to marry and remain married, the right to establish a home, raise children and make personal decisions related to family, life partnerships and education. It also includes protection from unwarranted intrusions by the several states into decisions that are central to personal autonomy and dignity, including intimate relations and family life.
51. The relationship of loving, mutual obligations secured by familial recognition is an interest entitled to the highest constitutional protections conferred by the Due Process Clause.
52. A legal marriage, once entered into, vests a family with benefits, rights and obligations that cannot be rescinded by operation of legislative, executive or administrative action.
53. Defendants’ actions in upholding, enforcing and administering the Michigan’s Marriage

Amendment and the 1996 statutes violate the Due Process Clause of the United States Constitution by unconstitutionally burdening the exercise of fundamental rights while failing even the most minimal demands of the rational basis test, and it cannot survive any standard of scrutiny.

**PRAYER FOR RELIEF**

WHEREFORE, for the reasons expressed above, Plaintiffs respectfully request that this Court enter a judgment:

- A. Declaring that provisions of the Michigan Marriage Amendment and the 1996 marriage statutes prohibiting the recognition of valid, existing marriages between same-sex couples violates the Plaintiff childrens' and Plaintiff parents' rights under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.
- B. Declaring that the provisions of the Michigan Marriage Amendment and the 1996 marriage statutes prohibiting the recognition of valid, existing marriages between same-sex couples violates the Plaintiff childrens' and Plaintiff parents' rights under the Due Process Clause of the Fourteenth Amendment of the United States Constitution.
- C. Enjoining Defendants, in their official capacities, from attempting to block state and local governmental recognition of existing, valid marriages between same-sex couples performed in other jurisdictions.

- D. Awarding Plaintiffs reasonable attorneys' fees and costs under 42 U.S.C. § 1988;  
and
- E. Granting such other and further relief as the Court deems just and proper.

LAW OFFICES OF GREGORY T. GIBBS

Dated: June 5, 2014

/s/ Alec Scott Gibbs  
By: Alec Scott Gibbs (P73593)  
Law Offices of Gregory T. Gibbs  
Attorneys for Plaintiffs