FIFTEENTH JUDICIAL CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

CASE NO.: 502015DR001070NB FI

IN RE: Marriage of
SONYA LYNN GOSSARD,
Petitioner,

v.

MARY COLLEEN BURNS
Respondent.
_____/

**RESPONDENT, MARY COLLEEN BURNS, MOTION TO DISMISS PETITION FOR LACK OF JURISDICTION AND MEMORANDUM IN RESPONSE TO COURT ORDER**

Respondent, MARY COLLEEN BURNS, by and through her undersigned counsel and pursuant to applicable Florida Family Rules of Procedure and Rule 1.140(b)(1), Florida Rules of Civil Procedure, hereby files her Motion to Dismiss Petitioner's Petition For Dissolution Of Marriage/Civil Union, and/or Declaratory Judgment To Determine Parentage And Other Declaratory Relief and Memorandum in Response to Court Order Dated June 19, 2015 and as grounds therefore, states as follows:

**STATEMENT OF FACTS**

1. Petitioner, SONYA LYNN GOSSARD, and Respondent, MARY COLLEEN BURNS at all material times were residents of the state of Florida.
2. In March 2005, Petitioner and Respondent traveled to Vermont and entered into "civil union." The parties were never married under any state's laws.
3. The State of Florida does not provide persons the legal right to enter into "civil unions" under Florida Law and has never passed any law recognizing the validity of "civil unions."

4. On February 5, 2015, Petitioner, SONYA LYNN GOSSARD, filed her Petition for Dissolution of Marriage/Civil Union and/or Declaratory Judgment to Determine Parentage and other Related Relief.

5. On June 26, 2015 the Supreme Court of the United States entered its holding in Obergefell v. Hodges, 135 S.Ct. 2584, 2588 (2015) holding that the Fourteenth Amendment requires a State to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out of state. [Emphasis Supplied]. The Supreme Court did not address the validity of a civil union.

6. On June 19, 2015 the Court entered an Order on Motion for Status Conference providing that "the Court currently dissolves 'marriages' from out of state pursuant to the statutory language. However, does not address dissolution of 'civil unions.'"

7. On July 9, 2015 Petitioner submitted her Response To Court And Motion For Immediate Ruling On The Motion For Declaratory Relief Contained In The Verified Petition ("Response") setting forth Petitioner's argument in support of this Court's jurisdiction over this matter seeking the dissolution of a Vermont civil union.

8. For the reasons set forth more fully herein, Respondent, MARY COLLEEN BURNS, moves to dismiss the underlying petition pursuant to Rule 1.140 (b)(1), Florida Rule of Civil Procedure for lack of jurisdiction over the subject matter and because there is no case or controversy before this court. See, Oliver v. Stufflebeam, 155 So. 3d 395, 396 (2014).

## FLORIDA CIRCUIT COURT'S DO NOT HAVE JURISDICTION TO DISSOLVE "CIVIL UNIONS"

It is well established that the power to grant a divorce is a statutory and not a common-law power. McGowin v. McGowin, 165 So. 274, 275 (Fla. 1936). The Supreme Court in McGowin also recognized that "[n]o principal of law is better settled than 'the right of every state, under the Constitution of the United States, to regulate the matter of marriage and divorce within its own borders and to defend it against encroachment, and to fix and declare the matrimonial status of its own citizens.'" Id.

The authority to regulate marriages and correspondingly provide for their dissolution is vested in the legislature. Ryan v. Ryan, 277 So.2d 266, 273 (Fla. 1973). A divorce is technically a process for dissolving a "marriage." Burger v. Burger, 166 So. 2d 433, (Fla. 1964). There can be no divorce unless there is first shown to be a valid marriage. Carretta v. Carretta, 58 So. 2d 439, 440 (Fla. 1952). Consistent with the premise set forth in the cases above, the court in Oliver v. Stufflebeam, 155 So.3d 395, 398 (Fla. 3d DCA 2014) succinctly summarized a Florida court's jurisdiction regarding divorces:

> Simply stated, one cannot dissolve a marriage where there is not a marriage to dissolve.
>
> It has long been the law of this state that the granting of a divorce "concedes that a valid marriage in fact exists." Kuehmsted v. Turnwall, 138 So. 775, 777 (Fla. 1932). Furthermore, the statute pursuant to which divorces are granted in this state requires a finding that a marriage is "irretrievably broken" before a dissolution of that marriage can be granted. § 61.052(1)(a), Fla. Stat. (2013) (requiring that facts must support a "**marriage** is irretrievably broken," to grant a dissolution of marriage) (emphasis added); Nelms v. Nelms, 285 So. 2d 50, 50 (Fla. 4th DCA 1973) ("It seems clear now that failure to contest the allegation that the **marriage** is **irretrievably broken,** or a stipulation that it is so **broken,** does not suffice. The chancellor must make that finding based upon the evidence adduced.") (emphasis added); see also § 61.001, Fla. Stat. (2013) (stating the purpose of the statute revolves around protecting the "integrity of **marriage**" and the "amicable settlement of disputes that arise between parties **to a marriage**") (emphasis added). Where there is no valid marriage there can be no divorce.

Groover v. Groover, 383 So. 2d 280, 283 (Fla. 5th DCA 1980). **[Emphasis Supplied]**

Florida Statutes specifically establish that jurisdiction of Florida Circuit Courts in dissolution proceedings is limited to the dissolution of "marriages" as specifically set forth in Sections 26.012, 61.043 and 61.001, Florida Statutes. Section 26.012, Florida Statutes, provides in pertinent part:

> **Jurisdiction of circuit court**
> ***
> (2) They shall have exclusive original jurisdiction:
> (a) In all actions at law not cognizable by the county courts;
> ***

Section 61.043, Florida Statutes, provides in pertinent part:

> **Commencement of a proceeding for dissolution of marriage or for alimony and child support; dissolution questionnaire.**
>
> (1) A proceeding for dissolution of marriage or a proceeding under s. 61.09[1] shall be commenced by filing in the circuit court a petition entitled "In re the marriage of , husband, and , wife." A copy of the petition together with a copy of a summons shall be served upon the other party to the marriage in the same manner as service of papers in civil actions generally.
>
> [Emphasis Supplied]

Section 61.001, Florida Statutes, provides in pertinent part:

> Purpose of chapter.
> (1) This chapter shall be liberally construed and applied.
> (2) Its purposes are:
> (a) To preserve the integrity of marriage and to safeguard meaningful family relationships;
> (b) To promote the amicable settlement of disputes that arise between parties to a marriage; and
> (c) To mitigate the potential harm to the spouses and their children caused by the process of legal dissolution of marriage.

[1] Section 61.09, Florida Statutes, provides: Alimony and child support unconnected with dissolution.—If a person having the ability to contribute to the maintenance of his or her spouse and support of his or her minor child fails to do so, the spouse who is not receiving support may apply to the court for alimony and for support for the child without seeking dissolution of marriage, and the court shall enter an order as it deems just and proper.

The jurisdiction of Florida Circuit Courts is limited to those powers granted to them by the legislature. There are no Florida laws recognizing the validity of "civil unions" and the legislature has not bestowed upon Florida Circuit Courts the authority to dissolve "civil unions." Rather, the Florida legislature has specifically limited Florida Circuit Court jurisdiction to the dissolution of "marriages" and it has long been recognized that the granting of a divorce "concedes that a valid marriage in fact exists." Oliver v. Stufflebeam, 155 So. 2d 395, 397 (Fla. 3d DCA 2014). Where there is no valid marriage, this Court lacks jurisdiction over the subject matter as recognized by the Court's June 19, 2015 Order. Accordingly the Petition must be dismissed for lack of jurisdiction pursuant to Rule 1.140(b)(1), Florida Rules of Civil Procedure and because there is no justiciable case or controversy before this court. See, Oliver v. Stufflebeam, 155 So. 3d 395, 396 (2014).

## THE U.S. SUPREME COURT'S HOLDING IN OBERGEFELL IS NOT INSTRUCTIVE TO THIS MATTER INVOLVING A VERMONT "CIVIL UNION"

Contrary to the assertions in Petitioner's Response, the United States Supreme Court's ruling in Obergefell v. Hodges, 135 S.Ct. 2584, 2588 (2015) does not compel this Court to exercise jurisdiction over this case. The holding in Obergefell is specifically limited and merely provides that the Fourteenth Amendment requires a state to license a marriage between two people of the same sex and to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out of state. [Emphasis Supplied]. The Supreme Court did not address the validity of a "civil union." Accordingly, in light of the holding in Obergefell, states are now merely required to acknowledge and permit same-sex marriages. The holding in Obergefell does not address nor require states to recognize "civil unions." Without an amendment or revocation of the relevant statute/constitutional

provision/policy, this court is not compelled by the Obergefell decision to take jurisdiction over this case.

**"CIVIL UNIONS" ARE NOT "MARRIAGES" UNDER VERMONT LAW**

Contrary to the representations contained at paragraphs 3 and 4 of Petitioner's Response, "civil unions" are not the same as "marriages" under Vermont law. Rather, as more specifically set forth below, both are separate and distinct legal relationships which still exist under Vermont law and are governed by separate statutes. In addition, a Vermont "civil union" did not "elevate" to the legal status of a "marriage" by virtue of the 2009 Vermont legislation as represented at paragraph 4 of Petitioner's Response. The 2009 legislation did nothing to change the status, treatment or interpretation of Vermont civil unions, it simply legalized marriage as an alternative for same-sex couples in Vermont.

Since the inception of civil unions in Vermont, they have always been deemed to provide to civil union partners all the *legal* benefits and obligations of marriage, and a partner to a civil union could not enter into another civil union or a marriage with anyone else without first dissolving the civil union. 15 V.S.A. §1204. The 2009 statute did not change this, and it's adoption did not mean that civil unions became marriages or that the two were to be considered the same as implied by Petitioner at paragraphs 3 through 6 of Petitioner's Response. See, Reporter's Note to Vermont Family Law Handbook, 2015 Edition, LexisNexis Matthew Bender, page 131]. In addition, Petitioner's representations at paragraph 5 of the Response that an individual who is a party to a Vermont civil union cannot marry or risk the crime of bigamy is only partially true because a party to a civil union who subsequently marries would only be guilty of bigamy under Vermont law or the law of another state that specifically recognizes civil unions as a legal relationship.

Vermont "Civil Unions" are governed by 15 V.S.A. §1201 et. seq., which for illustrative purpose provide in pertinent part:

> **§1201. Definitions**
>
> As used in this chapter:
>
> (1) "Certificate of civil union" means a document that certifies that the persons named on the certificate have established a civil union in this state in compliance with this chapter and 18 V.S.A. chapter 106.
>
> (2) "Civil union" means that two eligible persons have a established a relationship pursuant to this chapter, and may receive the benefits and protections and be subject to the responsibilities of spouses.
>
> (3) "Commissioner" means the commissioner of health.
>
> (4) [Repealed.]
>
> (5) "Party to a civil union" means a person who has established a civil union pursuant to this chapter and 18 V.S.A. chapter 106.
>
> **§1204. Benefits, protections, and responsibilities of parties to a civil union.**
>
> (a) Parties to a civil union shall have all the same benefits, protections, and responsibilities under law, whether they derive from statute, administrative or court rule, policy, common law, or any other source of civil law, as are granted to spouses in a civil marriage.
>
> ** *
>
> **§1206. Dissolution of civil unions**
>
> (a) The Family Division of the Superior Court shall have jurisdiction over all proceedings relating to the dissolution of civil unions. Except as otherwise provided, the dissolution of civil unions shall follow the same procedures and be subject to the same substantive rights and obligations that are involved in the dissolution of civil marriage in accordance with chapter 11 of this title, including any residency requirements.
>
> ***
>
> (d)(1) Except as provided in 18 V.S.A. 5131(a)(4), parties to a civil union certified in Vermont who wish to dissolve their civil union after legally marrying one another may do so by following the procedures set forth in this subsection and are not subject to the same substantive rights and obligations that are involved in the dissolution of civil marriage in accordance with chapter 11 of this title, including any hearings, waiting periods, or residency requirements.
>
> (2) Parties to a civil union who are legally wed to one another may dissolve their civil union by filing a petition for uncontested dissolution with the

> Family Division of the Superior Court in the county in which one or both reside. The application for uncontested dissolution shall be on a form prescribed by the Court Administrator. The form shall be signed by both parties. The parties shall provide a certified copy of their marriage certificate with the petition.
> (3) The grounds for dissolution pursuant to this subsection shall be that the parties are legally married at the time of the dissolution of the civil union.
>
> [See Exhibit "A" for full copy of statutes cited above from Vermont Family Law Handbook, 2015 Edition, LexisNexis Matthew Bender, pages 281-284,].

Marriage is defined under Vermont law at 15 V.S.A. §8 which provides:

> **§8 Marriage definition**
>
> Marriage is the legally recognized union of two people. When used in this chapter or in any other statute, the word "marriage" shall mean a civil marriage. Terms relating to the marital relationship or familial relationships shall be construed consistently with this section for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law, or any other source of civil law.
>
> [See Exhibit "B" for full copy of statute cited above from Vermont Family Law Handbook, 2015 Edition, LexisNexis Matthew Bender, page131].

Vermont law also prohibits a partner in a civil union or marriage from entering into another civil union or marriage during the pendency thereof as set forth in 15 V.S.A. §4 which provides:

> **§4 Civil marriage contracted while one in force**
>
> Civil marriages contracted while either party is legally married or joined in civil union to a living person other than the party to that marriage shall be void.
>
> [See Exhibit "B" for full copy of the statute cited above from Vermont Family Law Handbook, 2015 Edition, LexisNexis Matthew Bender, page 131].

Divorce or dissolution of a Vermont Marriage is governed by 15 V.S.A. §§551-637 which provide in illustrative part:

> **§ 592. Residence**
>
> (a) A complaint for divorce or annulment of civil marriage may be brought if either party to the marriage has resided within the State for a period of six months or more, but a divorce shall not be decreed for any cause, unless the plaintiff or the defendant has resided in the State one year next preceding the date of final hearing. Temporary absence from the State because of illness, employment without the State, service as a member of the Armed Forces of the United States, or other legitimate and bona fide cause shall not affect the six months' period or the one-year period specified in the preceding sentence, provided the person has otherwise retained residence in this State.
>
> (b) Notwithstanding provisions to the contrary, a complaint for divorce may be filed in the Family Division of Superior Court in the county in which the marriage certificate was filed by parties who are not residents of Vermont provided all of the following criteria are met:
>
> * * *

[See Exhibit "C" for full copy of statute from Vermont Family Law Handbook, 2015 Edition, LexisNexis Matthew Bender, pages 166-168].

As established by the illustrative statutes set forth above, "civil unions" and "marriages" are both are separate and distinct legal relationships which still exist under Vermont law and are governed by separate statutes. A party to a "civil union" cannot marry unless their "civil union" is "dissolved" in accordance with 15 V.S.A. §1206 and civil unions and marriages are dissolved pursuant to separate statutes, 15 V.S.A. §1206 and 15 V.S.A. §592, respectively. In conclusion, "civil unions" and "marriages" are not the same under Vermont law, Florida law does not recognize "civil unions" and the jurisdiction of this Court is limited to the dissolution of "marriages." Accordingly the Petition must be dismissed for lack of jurisdiction pursuant to Rule 1.140(b)(1), Florida Rules of Civil Procedure and because there is no case or controversy before this court. See, Oliver v. Stufflebeam, 155 So. 3d 395, 396 (2014).

**NEITHER COMITY NOR THE FULL FAITH AND CREDIT CLAUSE REQUIRE THE COURT TO ACCEPT JURISDICTION OVER THIS MATTER**

Contrary to the assertions in Petitioner's Response at paragraphs 9 and 14, neither the Full Faith and Credit Clause nor "comity" require the Court to "recognize" the Vermont "civil union" as a "marriage" in accordance with Vermont law. As set forth above, "civil unions" and "marriages' are two distinct legal relationships recognized by Vermont law. Florida law does not permit or recognize "civil unions" and accordingly, Petitioner is not "entitled to recognition [of the Vermont civil union] by this Court as a marriage in accordance with Vermont law" as asserted by Petitioner.

As set forth in the Florida Supreme Court's holding in Kellogg-Citizens National Bank v. Felton, 199 So. 50, 52 (1940):

> [t]he rule of judicial comity has reference to the principal in accordance with which the courts of one state or jurisdiction will give effect to the laws and judicial decisions of another state, not as a matter of obligation, but out of deference and respect.

It is well settled that the rule of comity is one of discretion and is not a matter of obligation. Kittell v. Kitell, 194 So. 2d 640, 642 (Fla. 3d DCA 1967). Neither the Full Faith and Credit Clause nor Comity may be used to override the forum state's established public policy or where contrary to statutory law. See, Anderson Contracting Company, Inc. v. Zurich Insurance Company, 448 So. 2d 37, 38 (Fla. 1st DCA 1984) (recognizing that "[c]omity does not require Florida public policy to be supplanted by foreign law. Comity is not a rule of law, but of practice, convenience and expediency. Where it would be contrary to the statutory law or contravene some established and important policy of the forum state, it is not applied.) and Johnson v Lincoln Square Properties, 571 So. 2d 541 (Fla. 2d DCA 1990) (recognizing that Florida law does not have to give full faith and credit to another state's law when it is repugnant

to the interest of Florida). See also, the United States Supreme Court's holding in Franchise Tax Board Of California v. Hyatt, et al., 538 U.S. 488, 494 (2003) providing:

> The Constitution's Full Faith and Credit Clause provides: "Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof." Art. IV, §1. As we have explained, "[o]ur precedent differentiates the credit owed to laws (legislative measures and common law) and to judgments." Baker v. General Motors Corp., 522 U. S. 222, 232 (1998). Whereas the full faith and credit command "is exacting" with respect to "[a] final judgment ... rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment," id., at 233, it is less demanding with respect to choice of laws. We have held that the Full Faith and Credit Clause does not compel " 'a state to substitute the statutes of other states for its own statues dealing with a subject matter concerning which it is competent to legislate.' " Sun Oil Co. v. Wortman, 486 U. S. 717, 722 (1988) (quoting Pacific Employers Ins. Co. v. Industrial Accident Comm'n, 306 U. S. 493, 501 (1939)).

Florida's public policy is clear: Florida statutes do not recognize "civil unions." Florida refused to follow Vermont's lead for the past fifteen (15) years following Vermont's passage of its civil union law in 2000 thus evidencing a strong public policy against civil unions (which are still not recognized in the vast majority of states[2]). The court's ruling in Oliver v. Stufflebeam, 155 So.3d 395 (Fla. 3d DCA 2014), while addressing same-sex marriages, is instructive regarding Florida public policy regarding civil unions and provides:

> Florida has evidenced a strong public policy against the recognition of same-sex marriages, including most recently by a super-majority vote of its citizens. See Art. I, § 27, Fla. Const. (eff. January 6, 2009);3 Advisory Opinion to the Attorney General Re Florida Marriage Protection Amendment, 926 So.2d 1229, 1235 (Fla. 2006) (stating that the proposed constitutional amendment recognizing only marriages between a man and a woman and invalidating same-sex marriages "implement[s] a public policy decision of statewide significance"). Subject to the enumerations of the Federal Constitution, the states "possess full power over the subject of

[2] States recognizing civil unions are limited to approximately fourteen (14) states: Connecticut, California (domestic partnership), Colorado, Hawaii, Illinois, Maine, New Hampshire, New Jersey, Nevada (domestic partnership), Rhode Island, Oregon (domestic partnership), Vermont, Washington and Wisconsin.

> marriage and divorce." U.S. v. Windsor, 133 S.Ct. 2675, 2691 (2013) (citing Ohio ex rel. Popovici v. Agler, 280 U.S. 379, 383-84 (1930)); see also Ryan v. Ryan, 277 So. 2d 266, 274-75 (Fla. 1973) ("[The dissolution of marriage] is the ongoing prerogative of the Legislature which also legislates the marriage in its creation"). Given Florida's exclusive right, subject only to the confines of our Federal Constitution, to define both marriage and its dissolution within this state and Florida's recognition of marriage as only between a man and a woman, same-sex couples do not have standing to seek in our courts the dissolution of a marriage that by Florida law does not exist. See Bashaway v. Cheney Bros., Inc., 987 So. 2d 93, 96 (Fla. 1st DCA 2008) (recognizing Florida's "public policy" that same-sex "legal relationship[s]" are "unattainable" in this state).

[Emphasis Supplied]

Given the Florida legislature's failure to recognize "civil unions" or provide jurisdiction to its courts to dissolve same, Florida courts simply do not have jurisdiction to dissolve civil unions. Furthermore, Florida public policy is against recognition of "civil unions" as recognized in Stufflebeam.

**PETITIONER'S RELIANCE UPON OTHER CIRCUIT COURT CASES IS MISPLACED BECAUSE THE CASES WERE NOT "CONTESTED" AND THE COURT IS NOT BOUND BY THE DECISIONS**

The Petitioner identifies two (2) decisions from other circuit courts in support of the relief requested:

1.) *Brassner v Lade*, Case No. 13-012058 (37) (by Judge Dale C. Cohen: recognizing the validity of the Vermont civil union on December 8, 2014 by Order Granting Petitioner's Motion for Declaratory Judgment; and,

2.) *Maxwell v Stephens Maxwell,* Case # 502014DF010428XXXXMB, division FD, Order Granting Petition to Determine Parenthood and Related Relief Final Judgment Recognizing Marriage of Lisa Marina Maxwell and Christine Stephens-Maxwell and Determining that Lisa Maxwell is the parent of [omitted name of minor child] dated January 21, 2015.

While Petitioner acknowledges that these decisions are not binding on this court, Petitioner fails to advise the Court that the final order in *Brassner* was entered after a default was entered against the respondent and that in neither of the cases does it appear that the issue of whether the

court had jurisdiction over a "civil union" was contested or addressed. The dockets for *Brassner* and *Maxwell* are attached as Exhibits "D" and "E," respectively, and neither docket indicates whether the respective court addressed the issue of whether the court has jurisdiction to address the dissolution of a civil union and accordingly neither court ruling is of any assistance or is instructive to this court in its determination of whether it has jurisdiction of an out of state "civil union."

## MISREPRESENTATIONS CONTAINED IN THE FACTUAL BACKGROUND SECTION OF PETITIONER'S RESPONSE

Petitioner's Response contains a number of misrepresentations concerning the factual background of this matter starting at page 10 of the Response, none of which have any bearing on the issue of whether this court has jurisdiction over a "civil union." While irrelevant to this Court's analysis, Respondent finds it necessary to refute some of the incorrect factual assertions at this time IN ALL CAPS in the numbered paragraphs below corresponding to the paragraphs as numbered in Petitioner's response. Petitioner reserves the right to supplement this portion of her memorandum following the Court's determination on jurisdiction over "civil unions" should it be necessary:

19. During the union of the parties, they jointly decided to have a child and both consented to the in vitro insemination of the Respondent in writing. FALSE. RESPONDENT WAS GOING TO HAVE A CHILD REGARDLESS OF HER RELATIONSHIP WITH PETITIONER. WHILE DISCUSSED WITH PETITIONER, IT WAS AGREED THAT RESPONDENT WOULD BE THE BIRTH MOTHER AND HAVE ALL RIGHTS PERTAINING TO THE CHILD.

21. The Respondent became pregnant with S.W.B. by virtue of in vitro fertilization performed at the parties' request and paid for in part by Petitioner. FALSE. PETITIONER DID NOT PAY FOR THE IN VITRO FERTILIZATION THAT WORKED. RESPONDENT REFINANCED HER HOUSE TO PAY FOR IN VITRO FERTILIZATION IN COLORADO THROUGH WHICH S.W.B. WAS CONCEIVED.

23. The donor was picked who had similar characteristics to Petitioner. FALSE. RESPONDENT PICKED THE DONOR ON HER OWN WHEN THE PARTIES WERE SEPARATED AND PEITONER WAS LIVING IN A SEPARATE RESIDENCE. THE PETITIONER DID NOT PARTICIPATE IN THE DONOR SELECTION PROCESS AND THE PETITIONER'S CHARACTERISTICS DO NOT RESEMBLE THAT OF THE DONOR'S BLOND HAIR, GREEN EYES AND 4.0 LAW SCHOOL GRADE POINT AVERAGE.

24. Petitioner contributed to Respondent's living, medical and birthing expenses before and during the pregnancy. FALSE. PEITIONER DID NOT CONTRIBUTE TOWARD RESPONDENT'S SUPPORT. RESPONDENT EVEN REIMBURSED PETITIONER FOR HEALTH INSURANCE PREMIUMS WHICH WERE PAID THROUGH PETITIONER'S EMPLOYER.

32. The parties sent out joint birth announcements welcoming their "Little Slugger". See Exhibit 3 attached to the Verified Petition. FALSE. PETITIONER PURCHASED AND SENT THE "LITTLE SLUGGER" BIRTH ANNOUNCEMENT WITHOUT RESPONDENT'S KNOWLEDGE, PARTICIPATION OR CONSENT.

33. The parties jointly picked the child's name. FALSE. RESPONDENT PICKED S.W.B.'s NAME. RESPONDENT HAD A G.I. JOE DOLL AS A KID WHO'S NAME WAS "S". MIDDLE NAME WAS NAMED AFTER DWAYNE WADE, RESPONDENT'S FAVORITE BASKETBALL PLAYER.

37. During S.W.B.'s lifetime, Respondent fostered a parent child relationship between S.W.B. and the Petitioner. RESPONDENT WAS AND STILL IS S.W.B.'s PRIMARY CAREGIVER.

39. Petitioner provided support to S.W.B. through the date of the parties' separation. FALSE. PETITIONER DOES NOT AND HAS NOT PROVIDED ANY SIGNIFICANT SUPPORT TOWARD S.W.B BEYOND PROVIDING MEDICAL INSURANCE CONVERAGE THROUGH HER EMPLOYER. PETITIONER REFUSES TO PAY FOR S.W.B.'S SPORTS ACTIVITIES, AFTER CARE OR ANYTHING DIRECTLY RELATED TO S.W.B. BEYOND GIFTS AND SPLITTING THE COST OF FOOD.

41. During his lifetime until separation Petitioner had been S.W.B.'s primary caregiver. Petitioner is the parent who helped S.W.B. with his homework and school projects, cooks the child's meals, packs his school lunches, acts as the room parent (this past school year she was the snack and treasure box parent in school) is a PTA member, volunteered at school events, cuts the child's nails, takes S.W.B. clothes shopping, and attended (with the Respondent) the child's medical appointments. FALSE. PETITIONER DOES NOT TAKE S.W.B TO DOCTOR APPOINTMENTS AND RESPONDENT TAKES S.W.B. TO ALL SPORTING EVENTS, CHURCH, ACTIVITIES AND HELPED HIM WITH HOMEWORK AND PROJECTS. PETITIONER AND RESPONDENT HAVE BOTH VOLUNTEERED AT SCHOOL.

43. Petitioner has demonstrated a full commitment to parent S.W.B., accepting both the rights and obligations of parenthood. FALSE. PETITIONER HAS NOT CONTRIBUTED ANY SIGNIFICANT FINANCIAL SUPPORT TOWARD S.W.B. OTHER THAN HAVING HIM COVERED UNDER HER HEALTH INSURANCE AND SPLITTING THE COST OF FOOD.

## CONCLUSION

The jurisdiction of Florida Circuit Courts is limited to those powers granted to them by the legislature. There are no Florida laws recognizing the validity of "civil unions" and the legislature has not bestowed upon Florida Circuit Courts the authority to dissolve "civil unions." Rather, the Florida legislature has specifically limited Florida Circuit Court jurisdiction to the dissolution of "marriages" which, under Vermont law, is a separate and distinct legal relationship for a "civil union." Also, it is well established under Florida law that the granting of a divorce "concedes that a valid marriage in fact exists." Oliver v. Stufflebeam, 155 So. 2d 395, 397 (Fla. 3d DCA 2014). Where there is no valid marriage, this Court lacks jurisdiction over the subject matter as recognized by the Court's June 19, 2015 Order and accordingly the Petition must be dismissed for lack of jurisdiction pursuant to Rule 1.140(b)(1), Florida Rules of Civil Procedure and because there is no justiciable case or controversy before this court. See, Oliver v. Stufflebeam, 155 So. 3d 395, 396 (2014).

Respectfully submitted,

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By: _____
THEODORE C. MILOCH, II, ESQ.
Florida Bar No.: 0040193

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via email this ____ day of August, 2015 to Georgia T. Newman, Esq., Law Office of Georgia T. Newman, 1555 Palm Beach Lakes Blvd. Suite 1208, West Palm Beach, Florida 33401, at georgia@gnewmanlaw.com; eservice@gnewmanlaw.com; Kristen@gnewmanlaw; and karen@gnewmanlaw.com.

By: _____
THEODORE C. MILOCH, II, ESQ.

Subdivision (a)(1)(D): Act No. 96 substituted "Department of State's Attorneys and Sheriffs" for "department of state's attorneys".

# CHAPTER 23
# CIVIL UNIONS

SECTION
1201. Definitions.
1202. Requisites of a valid civil union.
1203. Person shall not enter a civil union with a relative.
1204. Benefits, protections, and responsibilities of parties to a civil union.
1205. Modification of civil union terms.
1206. Dissolution of civil unions.
1207. Commissioner of health; duties.

## HISTORY

**Purpose of enactment.** 1999, No. 91 (Adj. Sess.), § 2, eff. April 26, 2000, provided:

"(a) The purpose of this act is to respond to the constitutional violation found by the Vermont Supreme Court in *Baker v. State*, and to provide eligible same-sex couples the opportunity to 'obtain the same benefits and protections afforded by Vermont law to married opposite-sex couples' as required by Chapter I, Article 7th of the Vermont Constitution.

"(b) This act also provides eligible blood-relatives and relatives related by adoption the opportunity to establish a reciprocal beneficiaries relationship so they may receive certain benefits and protections and be subject to certain responsibilities that are granted to spouses."

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this chapter.

**2009 statutory revision.** 2009, No. 3, § 12a provides: "The staff of the legislative council, in its statutory revision capacity, is authorized and directed to make such amendments to the Vermont Statutes Annotated as are necessary to effect the purpose of this act, including, where applicable, substituting the words 'civil marriage' for the word 'marriage.' Such changes shall be made when new legislation is proposed, or there is a republication of a volume of the Vermont Statutes Annotated."

**Legislative findings.** 1999, No. 91 (Adj. Sess.), § 1, eff. April 26, 2000, provides:

"The General Assembly finds that:

"(1) Civil marriage under Vermont's marriage statutes consists of a union between a man and a woman. This interpretation of the state's marriage laws was upheld by the Supreme Court in *Baker v. State*.

"(2) Vermont's history as an independent republic and as a state is one of equal treatment and respect for all Vermonters. This tradition is embodied in the Common Benefits Clause of the Vermont Constitution, Chapter I, Article 7th.

"(3) The state's interest in civil marriage is to encourage close and caring families, and to protect all family members from the economic and social consequences of abandonment and divorce, focusing on those who have been especially at risk.

"(4) Legal recognition of civil marriage by the state is the primary and, in a number of instances, the exclusive source of numerous benefits, responsibilities and protections under the laws of the state for married persons and their children.

"(5) Based on the state's tradition of equality under the law and strong families, for at least 25 years, Vermont Probate Courts have qualified gay and lesbian individuals as adoptive parents.

"(6) Vermont was one of the first states to adopt comprehensive legislation prohibiting discrimination on the basis of sexual orientation (Act No. 135 of 1992).

"(7) The state has a strong interest in promoting stable and lasting families, including families based upon a same-sex couple.

"(8) Without the legal protections, benefits and responsibilities associated with civil marriage, same-sex couples suffer numerous obstacles and hardships.

"(9) Despite longstanding social and economic discrimination, many gay and lesbian Vermonters have formed lasting, committed, caring and faithful relationships with persons of their same sex. These couples live together, participate in their communities together, and some raise children and care for family members together, just as do couples who are married under Vermont law.

"(10) While a system of civil unions does not bestow the status of civil marriage, it does satisfy the requirements of the Common Benefits Clause. Changes in the way significant legal relationships are established under the constitution should be approached carefully, combining respect for the community and cultural institutions most affected with a commitment to the constitutional rights involved. Granting benefits and protections to same-sex couples through a system of civil unions will provide due respect for tradition and long-standing social institutions, and will permit adjustment as unanticipated consequences or unmet needs arise.

"(11) The constitutional principle of equality embodied in the Common Benefits Clause is compatible with the freedom of religious belief and worship guaranteed in Chapter I, Article 3rd of the state constitution. Extending the benefits and protections of marriage to same-sex couples through a system of civil unions preserves the fundamental constitutional right of each of the multitude of religious faiths in Vermont to choose freely and without state interference to whom to grant the religious status, sacrament or blessing of marriage under the rules, practices or traditions of such faith."

## § 1201. Definitions

As used in this chapter:

(1) "Certificate of civil union" means a document that certifies that the persons named on the certificate have established a civil union in this state in compliance with this chapter and 18 V.S.A. chapter 106.

(2) "Civil union" means that two eligible persons have established a relationship pursuant to this chapter, and may receive the benefits and protections and be subject to the responsibilities of spouses.

(3) "Commissioner" means the commissioner of health.

(4) [Repealed.]

(5) "Party to a civil union" means a person who has established a civil union pursuant to this chapter and 18 V.S.A. chapter 106.

**Historical Citation.**
Added 1999, No. 91 (Adj. Sess.), § 3; amended 2009, No. 3, § 12, eff. Sept. 1, 2009.

## HISTORY

**Amendments—2009.** Subdivision (4): Repealed.

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

## LAW REVIEW COMMENTARIES

For article, "Issues in Vermont Law: Same-Sex Marriage in Vermont: Implications of Legislative Remand for the Judiciary's Role," see 26 Vt. L. Rev. 381 (2002).

For note, "Monkey See, Monkey Do: On Baker, Goodridge, and the Need for Consistency in Same-Sex Alternatives to Marriage," see 26 Vt. L. Rev. 959 (2002).



EXHIBIT
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### § 1202. Requisites of a valid civil union

For a civil union to be established in Vermont, it shall be necessary that the parties to a civil union satisfy all of the following criteria:

(1) Not be a party to another civil union or a marriage.

(2) Be of the same sex.

(3) Meet the criteria and obligations set forth in 18 V.S.A. chapter 106.

**Historical Citation.**
Added 1999, No. 91 (Adj. Sess.), § 3; amended 2009, No 3, § 6, eff. Sept. 1, 2009.

**HISTORY**

**Amendments—2009.** Subdivision (2): Deleted "and therefore excluded from the marriage laws of this state" following "same sex".

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

### § 1203. Person shall not enter a civil union with a relative

(a) A woman shall not enter a civil union with her mother, grandmother, daughter, granddaughter, sister, brother's daughter, sister's daughter, father's sister or mother's sister.

(b) A man shall not enter a civil union with his father, grandfather, son, grandson, brother, brother's son, sister's son, father's brother or mother's brother.

(c) A civil union between persons prohibited from entering a civil union in subsection (a) or (b) of this section is void.

**Historical Citation.**
Added 1999, No. 91 (Adj. Sess.), § 3.

**HISTORY**

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

### § 1204. Benefits, protections, and responsibilities of parties to a civil union

(a) Parties to a civil union shall have all the same benefits, protections, and responsibilities under law, whether they derive from statute, administrative or court rule, policy, common law, or any other source of civil law, as are granted to spouses in a civil marriage.

(b) A party to a civil union shall be included in any definition or use of the terms "spouse," "family," "immediate family," "dependent," "next of kin," and other terms that denote the spousal relationship, as those terms are used throughout the law.

(c) Parties to a civil union shall be responsible for the support of one another to the same degree and in the same manner as prescribed under law for married persons.

(d) The law of domestic relations, including annulment, separation and divorce, child custody and support, and property division and maintenance shall apply to parties to a civil union.

(e) The following is a nonexclusive list of legal benefits, protections, and responsibilities of spouses, which shall apply in like manner to parties to a civil union:

(1) laws relating to title, tenure, descent and distribution, intestate succession, waiver of will, survivorship, or other incidents of the acquisition, ownership, or transfer, inter vivos or at death, of real or personal property, including eligibility to hold real and personal property as tenants by the entirety (parties to a civil union meet the common law unity of person qualification for purposes of a tenancy by the entirety);

(2) causes of action related to or dependent upon spousal status, including an action for wrongful death, emotional distress, loss of consortium, dramshop, or other torts or actions under contracts reciting, related to, or dependent upon spousal status;

(3) probate law and procedure, including nonprobate transfer;

(4) adoption law and procedure;

(5) group insurance for state employees under 3 V.S.A. § 631, and continuing care contracts under 8 V.S.A. § 8005;

(6) spouse abuse programs under 3 V.S.A. § 18;

(7) prohibitions against discrimination based upon marital status;

(8) victim's compensation rights under 13 V.S.A. § 5351;

(9) workers' compensation benefits;

(10) laws relating to emergency and nonemergency medical care and treatment, hospital visitation and notification, including the Patient's Bill of Rights under 18 V.S.A. chapter 42 and the Nursing Home Residents' Bill of Rights under 33 V.S.A. chapter 73;

(11) advance directives under 18 V.S.A. chapter 111;

(12) family leave benefits under 21 V.S.A. chapter 5, subchapter 4A;

(13) public assistance benefits under state law;

(14) laws relating to taxes imposed by the state or a municipality;

(15) laws relating to immunity from compelled testimony and the marital communication privilege;

(16) the homestead rights of a surviving spouse under 27 V.S.A. § 105 and homestead property tax allowance under 32 V.S.A. § 6062;

(17) laws relating to loans to veterans under 8 V.S.A. § 1849;

(18) the definition of family farmer under 10 V.S.A. § 272;

(19) laws relating to the making, revoking and objecting to anatomical gifts by others under 18 V.S.A. § 5250i;

(20) state pay for military service under 20 V.S.A. § 1544;

(21) application for early voter absentee ballot under 17 V.S.A. § 2532;

(22) family landowner rights to fish and hunt under 10 V.S.A. § 4253;

(23) legal requirements for assignment of wages under 8 V.S.A. § 2235; and

(24) affirmance of relationship under 15 V.S.A. § 7.

(f) The rights of parties to a civil union, with respect to a child of whom either becomes the natural parent during the term of the civil union, shall be the same as those of a married couple, with respect to a child of whom either spouse becomes the natural parent during the marriage.

**Historical Citation.**

Added 1999, No. 91 (Adj. Sess.), § 3; amended 2001, No. 6, § 12(a), eff. April 10, 2001; 2001, No. 140 (Adj. Sess.), § 19, eff. June 21, 2002; 2009, No. 3, § 12a, eff. Sept. 1, 2009; 2009, No. 119 (Adj. Sess.), § 2.

### HISTORY

**References in text.** 8 V.S.A. § 1849, referred to in subdiv. (e)(17), was repealed by 1999, No. 153 (Adj. Sess.), § 27, effective January 1, 2001.

**Amendments—2009 (Adj. Sess.).** Subdivision (e)(19): Substituted "18 V.S.A. § 5250i" for "18 V.S.A. § 5240".

**—2001 (Adj. Sess.).** Subdivision (e)(14): Deleted "other than estate taxes" from the end of the subdivision.

**—2001.** Subdivision (e)(21): Inserted "early voter" preceding "absentee ballot".

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

**Applicability of 2002 amendment.** 2001, No. 140 (Adj. Sess.), § 43(3) provides that section 19 of this act [which amends this section] shall apply to estates of decedents with a date of death on or after January 1, 2005.

### ANNOTATIONS

**1. Child custody.** In rejecting a partner's proffered justifications for denying parent-child contact with the other partner to a former civil union, the family court properly found that the other partner's sexual orientation was irrelevant. Because same-sex couples had the same rights and responsibilities as opposite-sex couples, the sexual orientation of the parents was irrelevant in a custody determination. Miller-Jenkins v. Miller-Jenkins, 2010 VT 98, 189 Vt. 518, 12 A.3d 768.

### LAW REVIEW COMMENTARIES

For Article, "Vermont Civil Union: A Symposium on Vermont's Civil Unions: A Note From the Editors: A Vermont Law Review Milestone, a Landmark Case, and a Vermont Election," see 25 Vt. L. Rev. 1 (2001).

For Article, "Vermont Civil Union: The Baker Case, Civil Unions, and the Recognition of our Common Humanity: An Introduction and a Speculation," see 25 Vt. L. Rev. 5 (2001).

For Article, "Vermont Civil Unions: The New Language of Marriage," see 25 Vt. L. Rev. 15 (2001).

For Article, "Beyond Baker: The Case for a Vermont Marriage Amendment," see 25 Vt. L. Rev. 61 (2001).

For Article, "An Essay on the Passive Virtue of Baker v. State," see 25 Vt. L. Rev. 93 (2001).

For Article, "But Why Not Marriage: An Essay on Vermont's Civil Union Laws, Same-Sex Marriage, and Separate But (Un)equal," see 25 Vt. L. Rev. 113 (2001).

For Article, "For Today, I'm Gay: The Unfinished Battle for Same-Sex Marriage in Vermont," see 25 Vt. L. Rev. 149 (2001).

For Article, "Opposition to Amending the Vermont Constitution," see 25 Vt. L. Rev. 277 (2001).

## § 1205. Modification of civil union terms

Parties to a civil union may modify the terms, conditions, or effects of their civil union in the same manner and to the same extent as married persons who execute an antenuptial agreement or other agreement recognized and enforceable under the law, setting forth particular understandings with respect to their union.

**Historical Citation.**

Added 1999, No. 91 (Adj. Sess.), § 3.

### HISTORY

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

## § 1206. Dissolution of civil unions

(a) The Family Division of the Superior Court shall have jurisdiction over all proceedings relating to the dissolution of civil unions. Except as otherwise provided, the dissolution of civil unions shall follow the same procedures and be subject to the same substantive rights and obligations that are involved in the dissolution of civil marriage in accordance with chapter 11 of this title, including any residency requirements.

(b) Notwithstanding the provisions of sections 592 and 593 of this title, a complaint for civil union dissolution may be filed in the Family Division of Superior Court in the county in which the civil union certificate was filed by parties who are not residents of Vermont provided all of the following criteria are met:

(1) The civil union of the parties was established in Vermont.

(2) Neither party's state of legal residence recognizes the couple's Vermont civil union for purposes of dissolution.

(3) There are no minor children who were born or adopted during the civil union.

(4) The parties file a stipulation together with a complaint that resolves all issues in the dissolution action. The stipulation shall be signed by both parties and shall include the following terms:

(A) An agreement that the terms and conditions of the stipulation may be incorporated into a final order of dissolution.

(B) The facts upon which the Court may base a decree of dissolution of a civil union and that bring the matter before the Court's jurisdiction.

(C) An acknowledgment that:

(i) each party understands that if he or she wishes to litigate any issue related to the dissolution before a Vermont court, one of the parties

must meet the residency requirement set forth in section 592 of this title.

(ii) neither party is the subject of an abuse prevention order in a proceeding between the parties.

(iii) there are no minor children who were born or adopted during the civil union.

(iv) neither party's state of legal residence recognizes the couple's Vermont civil union for purposes of dissolution.

(v) each party has entered into the stipulation freely and voluntarily.

(vi) the parties have exchanged all financial information, including income, assets, and liabilities.

(c) The Court shall waive a final hearing on any dissolution action filed pursuant to subsection (b) of this section unless the Court determines upon review of the complaint and stipulation that the filing is incomplete or that a hearing is warranted for the purpose of clarifying a provision of the stipulation. Final uncontested hearings in a nonresident dissolution action shall be conducted by telephone unless one or both of the parties choose to appear in person.

(d)(1) Except as provided in 18 V.S.A. § 5131(a)(4), parties to a civil union certified in Vermont who wish to dissolve their civil union after legally marrying one another may do so by following the procedures set forth in this subsection and are not subject to the same substantive rights and obligations that are involved in the dissolution of civil marriage in accordance with chapter 11 of this title, including any hearings, waiting periods, or residency requirements.

(2) Parties to a civil union who are legally wed to one another may dissolve their civil union by filing a petition for uncontested dissolution with the Family Division of the Superior Court in the county in which one or both reside. The application for uncontested dissolution shall be on a form prescribed by the Court Administrator. The form shall be signed by both parties. The parties shall provide a certified copy of their marriage certificate with the petition.

(3) The grounds for dissolution pursuant to this subsection shall be that the parties are legally married at the time of the dissolution of the civil union.

(4) The benefits, protections, and responsibilities under law, whether they derive from statute, administrative or court rule, policy, common law, or any other source of civil law, shall continue in the same manner.

(5) Upon the filing of a petition for uncontested dissolution, the Court may immediately grant the petition without requiring a hearing by issuing an order of uncontested dissolution.

(6) The filing fee for a dissolution pursuant to this subsection shall be as provided in 32 V.S.A. § 1431(b)(2) for a complaint filed with a stipulation for a final order that is acceptable to the Court.

**Historical Citation.**

Added 1999, No. 91 (Adj. Sess.), § 3; amended 2009, No. 3, § 12a, eff. Sept. 1, 2009; 2009, No. 154 (Adj. Sess.), § 238; 2011, No. 92 (Adj. Sess.), § 4.

### HISTORY

**Amendments—2011 (Adj. Sess.).** Added the subsection (a) designation; and inserted "Except as otherwise provided" preceding "the dissolution" in the second sentence and added subsections (b) through (d).

**—2009 (Adj. Sess.).** Substituted "family division of the superior court" for "family court".

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

**Legislative intent.** 2011, No. 92 (Adj. Sess.), § 1 provides: "(a) On July 1, 2000, Vermont became the first state to provide same-sex couples the opportunity to obtain the same benefits and protections afforded by state law to married opposite-sex couples by enacting civil unions. In 2009, Vermont extended the right to establish a civil marriage to same-sex couples.

"(b) Today, the United States is a patchwork of laws regarding the recognition of legally joined same-sex couples. While several states now recognize civil unions and same-sex marriage, most do not.

"(c) Vermont law requires a person to have resided in Vermont for at least six months prior to filing a complaint for an annulment, divorce, or dissolution of a civil union. This long-standing rule is commonplace among the states and prevents parties from choosing a jurisdiction most likely to provide a favorable judgment. However, while an opposite-sex out-of-state couple who marries in Vermont can get divorced in the state of residence of either party, most same-sex out-of-state couples joined in a Vermont civil union or marriage do not have this option. Thus, there are many same-sex couples who established a civil union or married in Vermont who are no longer together, yet they continue to be legally bound with no recourse other than moving to Vermont and becoming residents.

"(d) It is the intent of the general assembly in this act to provide access to a civil union dissolution or a divorce to nonresident couples joined in a Vermont civil union or Vermont marriage who are legally barred from dissolving the union in their state of residence, provided that the parties file a stipulation outlining an agreement executed by both parties that sets out the terms and conditions of resolution for all issues in the dissolution or divorce action. The provisions of this act pertaining to a divorce for nonresident couples shall apply to both same-sex and opposite-sex couples."

## § 1207. Commissioner of health; duties

(a) The commissioner shall provide civil union license and certificate forms to all town and county clerks.

(b) The commissioner shall keep a record of all civil unions.

**Historical Citation.**

Added 1999, No. 91 (Adj. Sess.), § 3.

### HISTORY

**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

ing the dissolution of such marriage by death or divorce, unless the divorce is for a cause which shows the marriage to have been originally unlawful or void.

**Historical Citation.**
Amended 2009, No. 3, § 12a, eff. Sept. 1, 2009.

### HISTORY

Source. V.S. 1947, § 3153. P.L. § 3065. G.L. § 3513. P.S. § 3031. V.S. § 2630. R.L. § 2308. G.S. 69, § 3. R.S. 62, § 3.
**References in text.** Section 1, referred to in this section, was repealed by 2009, No. 3, § 12.

## § 4. Civil marriage contracted while one in force

Civil marriages contracted while either party is legally married or joined in civil union to a living person other than the party to that marriage shall be void.

**Historical Citation.**
Amended 1999, No. 91 (Adj. Sess.), § 24; 2009, No. 3, §§ 4, 12a, eff. Sept. 1, 2009.

### HISTORY

Source. V.S. 1947, § 3153. P.L. § 3065. G.L. § 3513. P.S. § 3031. V.S. § 2631. R.L. § 2309. G.S. 69, § 4. R.S. 62, § 4. R. 1797, p. 329, § 1.
**Amendments—2009.** Substituted "is legally married or joined in civil union to a living person other than the party to that marriage" for "has a living spouse or a living party to a civil union".
**—1999 (Adj. Sess.).** Substituted "has a living spouse or a living party to a civil union shall" for "has another wife or husband living shall".
**Severability—1999 (Adj. Sess.) amendment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

### ANNOTATIONS

**1. Nature of voidness.** Marriages forbidden by this section are void without any decree of the court. 1928-30 Op. Atty. Gen. 9.
Petition to annul marriage cannot be sustained after death of one of parties to marriage, where cause alleged renders marriage null and void from the beginning, without any such proceeding. Pingree v. Goodrich (1868) 41 Vt. 47.

## §§ 5, 6. Repealed. 2009, No. 3, § 12.

### HISTORY

Former § 5, relating to marriages entered into in another state, was derived from V.S. 1947, § 3154; P.L. § 3066; G.L. § 3514; and 1912, No. 110, § 1.
Former § 6, relating to marriage void in state of residence, was derived from V.S. 1947, § 3155; P.L. § 3067; G.L. § 3515, and 1912, No. 110, § 2.

## § 7. Affirmance of civil marriage by decree of court

When the validity of a civil marriage is denied or doubted by either of the parties, the other party may file a libel for affirming the marriage. Upon proof of the validity thereof, it shall be declared valid by a decree of the court. Such decree shall be conclusive upon persons concerned.

**Historical Citation.**
Amended 2009, No. 3, § 12a, eff. Sept. 1, 2009.

### HISTORY

Source. V.S. 1947, § 3161. P.L. § 3073. G.L. § 3520. P.S. § 3036. V.S. § 2643. R.L. § 2320. G.S. 70, § 17. R.S. 63, § 17.

### CROSS REFERENCES

Jurisdiction and power of superior courts to affirm marriage contract, see § 591 of this title.

## § 8. Marriage definition

Marriage is the legally recognized union of two people. When used in this chapter or in any other statute, the word "marriage" shall mean a civil marriage. Terms relating to the marital relationship or familial relationships shall be construed consistently with this section for all purposes throughout the law, whether in the context of statute, administrative or court rule, policy, common law, or any other source of civil law.

**Historical Citation.**
Added 1999, No. 91 (Adj. Sess.), § 25; 2009, No. 3, §§ 5, 12a, eff. Sept. 1, 2009.

### HISTORY

**Amendments—2009.** Substituted "two people" for "one man and one woman" in the first sentence and added the second and third sentences.
**Severability of enactment.** 1999, No. 91 (Adj. Sess.), § 41, contained a severability provision applicable to this section.

# CHAPTER 3

# RIGHTS OF MARRIED WOMEN

## SUBCHAPTER 1. GENERAL PROVISIONS

SECTION



## SUBCHAPTER 2. WIFE DESERTED OR LIVING APART FROM HUSBAND





EXHIBIT B

**Historical Citation.**
Amended 1973, No. 193 (Adj. Sess.), § 3, eff. April 9, 1974; 2009, No. 3, § 12a, eff. Sept. 1, 2009.

## HISTORY

**Source.** V.S. 1947, § 3221. P.L. § 3133. G.L. § 3567. P.S. § 3075. V.S. § 2678. 1894, No. 51. 1890, No. 76. 1886, No. 69. 1884, No. 94. R.L. § 2368. 1870, No. 27. G.S. 70, § 21. R.S. 63, § 20. 1805, p. 164.
**Revision note**—Substituted "complaints" for "libels" in the first sentence to conform language to Rules 3 and 80, Vermont Rules of Civil Procedure [for subject matter of former Rule 80, now see Rule 4, Vermont Rules for Family Proceedings], pursuant to 1971, No. 185 (Adj. Sess.), § 236(d). See note set out under § 219 of Title 4.
**Amendments—1973 (Adj. Sess.).** Substituted "superior courts" for "county courts" preceding "shall hear" in the first sentence and "superior court" for "county court" preceding "shall be triers" in the second sentence.

## CROSS REFERENCES

Exceptions unnecessary, see Rule 46, Vermont Rules of Civil Procedure.

## ANNOTATIONS

Civil liability of judge for actions, 5
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Review, 6
Weight and credibility of evidence, 3

**1. Jurisdiction.** Each state, by virtue of its command over its domiciliaries and its large interest in the institution of marriage, can alter within its own borders the marriage status of the spouse domiciled there, even though the other spouse is absent. Because the court upheld the trial court's finding that the wife was domiciled in Vermont, the trial court had personal jurisdiction to grant the divorce. Conley v. Crisafulli, 2010 VT 38, 188 Vt. 11, 999 A.2d 677.

A finding that divorce proceedings were ex parte overcomes the presumption that the court had full jurisdiction of the parties. Walker v. Walker (1964) 124 Vt. 172, 200 A.2d 267.

This section indicates that the jurisdictional limitations of the supreme court are not altered in divorce cases. Davidson v. Davidson (1939) 111 Vt. 24, 9 A.2d 114.

Nos. 27 and 28 of the acts of the legislature for 1870 conferred jurisdiction only on the county court in cases thereinafter instituted by libel for divorce or for the annulling of marriages, and to that extent, and not beyond, the jurisdiction is taken from the supreme court. Preston v. Preston (1872) 44 Vt. 630.

**2. Questions of fact.** This section and section 605 of this title show the legislative intent to have county courts and not the supreme court be the triers of all questions of fact concerning divorce libels. Davidson v. Davidson (1939) 111 Vt. 24, 9 A.2d 114.

**3. Weight and credibility of evidence.** A court trying an uncontested divorce action is not bound to believe uncontradicted testimony, for the trier has a broad latitude in determining what evidence is worthy of belief. Davis v. Davis (1970) 128 Vt. 495, 266 A.2d 466

**4. Findings.** Where findings of fact were waived, the court was not bound to reduce its findings to writing and place them on file, or to set forth in its order dismissing libel for divorce the material fact which was the basis for its action. Davis v. Davis (1970) 128 Vt. 495, 266 A.2d 466.

**5. Civil liability of judge for actions.** Where judge who presided over trial of divorce action was acting within the jurisdiction conferred by this section, he was immune from civil action under 42 U.S.C. § 1983 brought by one of the parties to the divorce who alleged that the judge's actions violated his constitutional rights. Ragosta v. State, 556 F. Supp. 220 (D. Vt. 1981), aff'd without op., 697 F.2d 296 (2d Cir. 1982).

**6. Review.** Determination that "none of the alleged statutory grounds for divorce were proved by credible evidence" was for trial court and could not be revised on review. Davis v. Davis (1970) 128 Vt. 495, 266 A.2d 466.

## § 592. Residence

(a) A complaint for divorce or annulment of civil marriage may be brought if either party to the marriage has resided within the State for a period of six months or more, but a divorce shall not be decreed for any cause, unless the plaintiff or the defendant has resided in the State one year next preceding the date of final hearing. Temporary absence from the State because of illness, employment without the State, service as a member of the Armed Forces of the United States, or other legitimate and bona fide cause shall not affect the six months' period or the one-year period specified in the preceding sentence, provided the person has otherwise retained residence in this State.

(b) Notwithstanding provisions to the contrary, a complaint for divorce may be filed in the Family Division of Superior Court in the county in which the marriage certificate was filed by parties who are not residents of Vermont provided all of the following criteria are met:

(1) The marriage was established in Vermont.

(2) Neither party's state of legal residence recognizes the couple's Vermont marriage for purposes of divorce.

(3) There are no minor children who were born or adopted during the marriage.

(4) The parties file a stipulation together with a complaint that resolves all issues in the divorce action. The stipulation shall be signed by both parties and shall include the following terms:

(A) An agreement that the terms and conditions of the stipulation may be incorporated into a final order of divorce.

(B) The facts upon which the court may base a decree of divorce and that bring the matter before the court's jurisdiction.

(C) An acknowledgment that:

(i) each party understands that if he or she wishes to litigate any issue related to the divorce before a Vermont court, one of the parties must meet the residency requirement set forth in subsection (a) of this section.

(ii) neither party is the subject of an abuse prevention order in a proceeding between the parties.

(iii) there are no minor children who were born or adopted during the marriage.

(iv) neither party's state of legal residence recognizes the couple's Vermont marriage for purposes of divorce.



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(v) each party has entered into the stipulation freely and voluntarily.

(vi) the parties have exchanged all financial information, including income, assets, and liabilities.

(c) The court shall waive a final hearing on any divorce action filed pursuant to subsection (b) of this section unless the court determines upon review of the complaint and stipulation that the filing is incomplete or that a hearing is warranted for the purpose of clarifying a provision of the stipulation. Final uncontested hearings in a nonresident divorce action shall be conducted by telephone unless one or both of the parties choose to appear in person.

**Historical Citation.**

Amended 1981, No. 2, eff. Feb. 12, 1981; 2009, No. 3, § 12a, eff. Sept. 1, 2009; 2011, No. 92 (Adj. Sess.), § 2.

## HISTORY

**Source.** V.S. 1947, § 3214. 1943, No. 32, § 1. 1939, No. 55, § 1. P.L. § 3126. G.L. § 3563. P.S. § 3071. V.S. § 2677. R.L. § 2367. 1878, No. 16, § 1. R.S. 63, § 21. 1831, No. 8. 1822, p. 17. 1807, p. 19. 1805, p. 164. 1802, p. 204.

**Revision note**—In the first sentence, substituted "complaint" for "libel", "plaintiff" for "libelant" and "defendant" for "libelee" to conform language to Rule 3, Vermont Rules of Civil Procedure pursuant to 1971, No. 185 (Adj. Sess.), § 236(d). See note set out under § 219 of Title 4.

**Amendments—2011 (Adj. Sess.).** Added the subsection (a) designation, and added subsections (b) and (c).

—**1981.** Substituted "if either party to the marriage" for "by a person who" following "brought" and inserted "or the libelee" following "libelant" in the first sentence and deleted "his" preceding "residence" in the second sentence.

**Legislative intent.** 2011, No. 92 (Adj. Sess.), § 1 provides: "(a) On July 1, 2000, Vermont became the first state to provide same-sex couples the opportunity to obtain the same benefits and protections afforded by state law to married opposite-sex couples by enacting civil unions. In 2009, Vermont extended the right to establish a civil marriage to same-sex couples.

"(b) Today, the United States is a patchwork of laws regarding the recognition of legally joined same-sex couples. While several states now recognize civil unions and same-sex marriage, most do not.

"(c) Vermont law requires a person to have resided in Vermont for at least six months prior to filing a complaint for an annulment, divorce, or dissolution of a civil union. This long-standing rule is commonplace among the states and prevents parties from choosing a jurisdiction most likely to provide a favorable judgment. However, while an opposite-sex out-of-state couple who marries in Vermont can get divorced in the state of residence of either party, most same-sex out-of-state couples joined in a Vermont civil union or marriage do not have this option. Thus, there are many same-sex couples who established a civil union or married in Vermont who are no longer together, yet they continue to be legally bound with no recourse other than moving to Vermont and becoming residents.

"(d) It is the intent of the general assembly in this act to provide access to a civil union dissolution or a divorce to nonresident couples joined in a Vermont civil union or Vermont marriage who are legally barred from dissolving the union in their state of residence, provided that the parties file a stipulation outlining an agreement executed by both parties that sets out the terms and conditions of resolution for all issues in the dissolution or divorce action. The provisions of this act pertaining to a divorce for nonresident couples shall apply to both same-sex and opposite-sex couples."

## CROSS REFERENCES

Residence requirement for divorce on ground of insanity, see § 631 of this title.

## ANNOTATIONS

Constitutionality, 1
Findings, 4
Jurisdiction without residence, 6
Requirements, 3
Retroactive effect, 2
Unity of spouses, 5

**1. Constitutionality.** Residency requirement of this section does not deny a libellant equal protection or due process of law. Place v. Place (1971) 129 Vt. 326, 278 A.2d 710.

**2. Retroactive effect.** This section was retroactively applied to permit New York resident to sue Vermont resident for divorce; language did not preclude such application. Zweig v. Zweig, 154 Vt. 468, 580 A.2d 939, cert. denied, 498 U.S. 942, 111 S. Ct. 350, 112 L. Ed. 2d 314 (1990).

**3. Requirements.** Duval v. Duval (1973) 149 Vt. 506, 546 A.2d 1357 [main volume], overruled on other grounds, Shute v. Shute (1992) 158 Vt. 242, 607 A.2d 890.

The concept of residency in a divorce proceeding is encompassed within the legal definition of domicile: an abode animo manendi, a place where a person lives or has his home, to which, when absent, he intends to return and from which he has no present purpose to depart. Duval v. Duval (1988) 149 Vt. 506, 546 A.2d 1357, overruled on other grounds, Shute v. Shute (1992) 158 Vt. 242, 607 A.2d 890.

Availability of statutory remedy of divorce is closely conditioned upon meeting procedural requirements outlined in this chapter. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8.

The two elements of domicile are residence and intention, and to make a change in domicile effective there must be a move to the new residence and dwelling there, coupled with an intention of remaining there indefinitely and neither residence alone, nor intention, without more, is enough. Walker v. Walker (1964) 124 Vt. 172, 200 A.2d 267.

Domicile, in divorce matters, is the place where a person lives or has his home, to which, when absent, he intends to return, and from which he has no present purpose to depart. Walker v. Walker (1964) 124 Vt. 172, 200 A.2d 267.

While the reason for a change in domicile will have no bearing if there is a valid intention to establish a new domicile, such purpose may well bear on the question of the validity of the intention to unconditionally assume the new domicile. Walker v. Walker (1964) 124 Vt. 172, 200 A.2d 267.

A bona fide residence under statutes in order to confer jurisdiction in divorce proceedings is within the legal meaning of domicile, that is, an abode animo manendi, a place where a person lives or has his home, to which, when absent, he intends to return and from which he has no present purpose to depart. Tower v. Tower (1958) 120 Vt. 213, 138 A.2d 602.

To constitute domicile essential to give jurisdiction of a libel for divorce, not only residence by the libelant in the county was necessary, but also an intention to remain therein. Taylor v. Taylor (1921) 95 Vt. 94, 112 A. 355.

It is sufficient if the libelant has her domicile in this state for the prescribed period, though she is actually living without this state. Miller v. Miller (1914) 88 Vt. 134, 92 A. 9.

**4. Findings.** Although the trial court found that a wife openly acknowledged that her sole reason for coming to Vermont was to take advantage of Vermont's no-fault divorce law, that she had family and a job in New York, and that she spent two nights per week at her mother's home in Albany after teaching exercise classes, the trial court properly held that she gave up her New York domicile and intended to remain in Vermont indefinitely. In reaching this conclusion, it relied on its findings that the wife had lived in Vermont since June 2008, had a Vermont operator's license, voted in Vermont in 2008 and 2009, paid Vermont taxes, and currently leased a residence in Vermont which she intended to renew; additionally, the wife stated that she had no current plans to move out of Vermont and had no plans to move following the divorce. Conley v. Crisafulli, 2010 VT 38, 188 Vt. 11, 999 A.2d 677.

Finding that both parties had lived on farm in county where suit was brought for many years prior to the bringing of the suit was sufficient to establish residence. Pacquin v. Pacquin (1965) 125 Vt. 243, 214 A.2d 90.

On the trial of a libel for divorce, the court's failure to find that the libelant had the residence within the county essential to jurisdiction of the case, was error only if the evidence was such as to entitle the libelant to such a finding as matter of law, the question being one of fact. Taylor v. Taylor (1921) 95 Vt. 94, 112 A. 355.

**5. Unity of spouses.** The identity of the wife's domicile and that of her husband, arising out of the common-law rule as to the unity of the spouses, is subject to an exception where the unit is no longer a fact because of separate residences of the spouses under hostile circumstances and there is no fault on the part of the wife. Tower v. Tower (1958) 120 Vt. 213, 138 A.2d 602.

**6. Jurisdiction without residence.** Whether libelee who had left Vermont after establishing residence intended to return was not of controlling significance with respect to her right to have her cross-libel heard and determined, because when she was called upon to answer the complaint of the resident libelant, she acquired standing to maintain the cross-libel. Lafko v. Lafko (1969) 127 Vt. 609, 256 A.2d 166.

**Cited.** Cited in In re B.J.C. (1988) 149 Vt. 196, 540 A.2d 1047.

## § 593. Place for bringing action; caption of divorce action

(a) Except as provided in subsection (b) of this section, complaints for divorce for any cause and for affirming or annulling the civil marriage contract shall be brought in the county in which the parties or one of them resides. Petitions directed to a Superior judge for temporary orders under the provisions of Vermont Rule of Civil Procedure 80(c) may be heard within or without the county where the cause is pending at a place convenient for the parties and the judge hearing the same.

(b) A complaint for divorce or dissolution of a civil union shall be brought in the county in which the marriage certificate or the civil union certificate was filed if neither of the parties resides in Vermont.

(c) An action for divorce or annulment may be captioned as follows:

Complaint for Divorce [Annulment]-Involving: [Names of Parties]

**Historical Citation.**

Amended 1995, No. 59, § 13; 2009, No. 3, § 12a, eff. Sept. 1, 2009; 2011, No. 92 (Adj. Sess.), § 3.

### HISTORY

**Source.** V.S. 1947, § 3213. 1947, No. 202, § 3236. 1935, No. 58, § 1. P.L. § 3125. G.L. § 3562. P.S. § 3070. V.S. § 2676. R.L. § 2366. G.S. 70, § 21. R.S. 63, § 20.

**References in text.** The reference to Vermont Rule of Civil Procedure 80(c) in subsec. (a) is obsolete. Provisions relating to temporary orders are contained in Rule 4 of the Vermont Rules for Family Proceedings.

**Revision note**—Substituted "complaints" for "libels" at the beginning of the section to conform language to Rules 3 and 80, Vermont Rules of Civil Procedure [for subject matter of former Rule 80, now see Rule 4, Vermont Rules for Family Proceedings], pursuant to 1971, No. 185 (Adj. Sess.), § 236(d). See note set out under § 219 of Title 4.

Reference to "sections 671 and 672 of this title" was changed to "Vermont Rule of Civil Procedure 80(c)" to conform reference to repeal of those sections and adoption of rules covering the same subject matter.

**Amendments—2011 (Adj. Sess.).** Inserted "Except as provided in subsection (b) of this section," preceding "complaints", added new subsection (b), and redesignated former subsection (b) as (c).

**—1995.** Added "caption of divorce action" following "bringing action" in the section catchline, designated the existing provisions of the section as subsec. (a) and added subsec. (b).

### ANNOTATIONS

Change of residence, 8
Construction with other laws, 3
Dismissal, 9
Purpose, 2
Requirements, 4
Residence of wife, 7
Situs of marriage, 6
Validity, 1
Waiver, 5

**1. Validity.** Legislature has power to apportion jurisdiction among its courts, and it clearly has the right to give venue statute such a "jurisdictional flavor" as would require divorcing parties to bring action in appropriate county court even if they mutually agreed to do otherwise. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8.

**2. Purpose.** This section recognizes and indicates that the libelant and libelee may reside in different counties and that the libelant, if the wife, need not rely upon a constructive residence with her husband in the county where he resides, if both are residents of the state. Tower v. Tower (1958) 120 Vt. 213, 138 A.2d 602.

**3. Construction with other laws.** This section was provided by legislature entirely separately from general venue statute, thereby showing intention to distinguish between them. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8.

**4. Requirements.** Availability of statutory remedy of divorce is closely conditioned upon meeting procedural requirements outlined in this chapter. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8; Ragosta v. Ragosta (1983) 143 Vt. 107, 465 A.2d 228.

**5. Waiver.** Venue provision governing all divorce actions is a jurisdictional requisite, nonwaivable and binding. Ragosta v. Ragosta (1983) 143 Vt. 107, 465 A.2d 228.

Legislature has specifically provided that divorce actions will be brought in a specific county, and this section cannot be lightly ignored, nor can policies or doctrines be applied which support view that general venue statutes are waivable. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8.

Existence of this special section governing place of bringing divorce action, side by side with venue statutes, shows legislative intention that place of divorce action be more than a mere waivable venue question. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8.

**6. Situs of marriage.** As an in rem action, proper court for divorce is determined by situs of marriage itself rather than location or residence of parties. Gerdel v. Gerdel (1973) 132 Vt. 58, 313 A.2d 8.

**7. Residence of wife.** Where a husband, having long resided with his wife in this state, gives her cause for divorce, he forfeits his right to determine her residence, and she may thereupon leave him and acquire an independent residence in another county in this state, and then the county court within that county has jurisdiction to grant her a divorce, although her husband continues to reside where she left him. Patch v. Patch (1912) 86 Vt. 225, 84 A. 815.

**8. Change of residence.** County court of Washington County had jurisdiction of divorce suit brought by woman residing in

# Case Detail

Broward County Case Number: **FMCE13012058**
Court Type: **Civil Division - Family Court**

Incident Date: **N/A**
Court Location: **Central Courthouse**
Magistrate ID / Name: **93 Ugarte, Rita**

State Reporting Number: **062013DR012058AXXXCE**
Case Type: **Diss. of Marriage +**
Sub Type: **DOM w/out Children**
Filing Date: **09/27/2013**
Case Status: **Disposition Entered**
Judge ID / Name: **37 Cohen, Dale C.**

Style: **Heather Brassner Petitioner vs. Megan E. Lade Respondent**

| Party(ies) | Disposition(s) | Event(s) |
|---|---|---|

[+] Expand All [-] Collapse All Document Options: Viewable Confidential

[-] Party Detail

| Party Type | Party Name | Address (Per AOSC14-19, the Court hereby adopts the Standards for Access to Electronic Court Records and Access Security Matrix, as amended by the Court, to supersede the restrictions imposed by AOSC07-49.) | Attorneys / Address ★ Denotes Lead Attorney (Per FL Bar Rule 1-3.3, the most current attorney contact information can be found on the Florida Bar website.) |
|---|---|---|---|
| **Petitioner** | **Brassner, Heather** | | Brodzki, Nancy<br>Retained<br>BRODZKI JACOBS & ASSOCIATES, P.L.<br>2855 University Dr<br>Suite 520<br>Coral Springs, FL 33065<br>★ Carlyle, Christopher V.<br>Retained<br>Holland & Knight<br>200 South Orange, Suite 2600<br>POBox 1526, Orlando, FL 32802-1526 |
| **Respondent** | **Lade, Megan E.** | | |

[-] Disposition Detail

| Date | Statistical Closure(s) |
|---|---|
| 08/04/2014 | Disposed by Judge |

| View | Date | Disposition(s) | Pages |
|---|---|---|---|
| | 12/18/2014 | **Final Judgment Dissolution of Marriage**<br>Comment (Default Final Judgment of Dissolution of Civil Union)<br>Vol./Book 51347 , Page 1584, 2 pages<br>Instrument Number 112718443 | 2 |
| | 12/18/2014 | **Final Judgment Dissolution of Marriage**<br>Comment (Default Final Judgment of Dissolution of Civil Union)<br>Vol./Book 51347 , Page 1755, 2 pages<br>Instrument Number 112718498 | 2 |
| | 12/08/2014 | **Order**<br>Comment (GRANTING PETITIONER'S MOTION FOR DECLARATORY JUDGMENT)<br>Vol./Book 51303 , Page 318, 17 pages<br>Instrument Number 112686825 | 17 |
| | 09/09/2014 | **Order Vacating Judgment**<br>Vol./Book 51078 , Page 314, 1 pages<br>Instrument Number 112517538 | 1 |
| | 08/04/2014 | **Order**<br>Comment (GRANTING PETITIONER'S MOTION FOR DECLARATORY JUDGMENT)<br>Vol./Book 51078 , Page 319, 16 pages<br>Instrument Number 112517540 | 16 |

EXHIBIT D tabbies

[-] Events, Hearings, Documents and Orde

| View | Date | Description | Additional Text | Pages |
|---|---|---|---|---|
| | 03/18/2015 | **Refund** | Payor: ROBBINS RIDDLE ; Userid: CTS-dlouis ; Receipt: 20151YC1B003394; ; Amount: $16.00 | |
| | 12/18/2014 | **Final Judgment Dissolution of Marriage** | | |
| | 12/18/2014 | **Final Judgment Dissolution of Marriage** | | |
| | 12/17/2014 | **Affidavit** | | 6 |
| | 12/17/2014 | **Affidavit of Diligent Search** | MEGAN E. LADE<br>Party: *Petitioner* Brassner, Heather | 6 |
| | 12/09/2014 | **Notice of Hearing** | December 17, 2014, at 1:15 p.m. Rm 336 | 2 |
| | 12/08/2014 | **Order** | | |
| | 10/23/2014 | **Notice of Filing** | RETURN RECEIPT<br>Party: *Petitioner* Brassner, Heather | 2 |
| | 10/22/2014 | **Memorandum in Opposition** | STATE OF FLORIDA'S MEMORANDUM OF LAW IN OPPOSITION TO PETITIONER'S MOTION FOR DECLARATORY RELIEF | 14 |
| | 10/08/2014 | **Notice of Hearing** | On October 29, 2014, at 9:45 a.m Room 336 | 2 |
| | 10/01/2014 | **Notice of Filing** | RETURN RECEIPT<br>Party: *Petitioner* Brassner, Heather | 2 |
| | 09/16/2014 | **Order** | ON MOTION TO INTERVENE/GRANTED | 1 |
| | 09/15/2014 | **Response to Motion** | Party: *Petitioner* Brassner, Heather | 3 |
| | 09/12/2014 | **Motion to Intervene** | | 10 |
| | 09/10/2014 | **Notice** | ATTY GENERAL'S NOTICE REGARDING STAYED ORDER | 4 |
| | 09/09/2014 | **Notice** | OF CONSTITUTIONAL QUESTION AND VERIFICATION OFCOMPLIANCE WITH FLORIDA STATUTE SECTION 86.091 | 3 |
| | 09/09/2014 | **Motion to Strike** | PETITIONER'S MOTION TO STRIKE ATTY GENERAL'S NOTICE REGARDING STAYED ORDER STAYED ORDER OR ALTERNATIVELY PETITIONER'S RESPONSE TO ATTORNEY GENERAL'S NOTICE REGARDING STAYED ORDER | 11 |
| | 09/09/2014 | **Affidavit in Support of Motion** | Party: *Petitioner* Brassner, Heather | 4 |
| | 09/09/2014 | **Order Vacating Judgment** | | |
| | 09/05/2014 | **Notice** | REGARDING STAYED ORDER | 4 |
| | 08/27/2014 | **Notice of Hearing** | September 10, 2014 @ 1:30 pm Room 336 | 1 |
| | 08/04/2014 | **Notice of Appearance** | Party: *Petitioner* Brassner, Heather | 2 |
| | 08/04/2014 | **Notice of Filing Designation of Emailing Addresses** | Party: *Petitioner* Brassner, Heather | 2 |
| | 08/04/2014 | **Order** | | |
| | 07/28/2014 | **Notice of Hearing** | 07/31/14 @ 9:15 AM RM 99 | 1 |
| | 06/26/2014 | **Motion** | MOT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF | 6 |
| | 04/01/2014 | **Memorandum in Support** | MEMORANDUM OF LAW IN SUPPORT OF PETITION FOR DISSOLUTION OF MARRIAGE<br>Party: *Petitioner* Brassner, Heather | 3 |
| | 03/19/2014 | **Notice of Hearing** | April 2,2014, at 2:30 p.m Room 999 | 1 |
| | 03/12/2014 | **Notice of Filing** | (NOT FOR FORECLOSURE SALE) proof of publication on Megan E Lade 2/27/14 | 2 |
| | 03/12/2014 | **Default** | Party: *Petitioner* Brassner, Heather | 2 |
| | 01/13/2014 | **Copy to Daily Business Review** | | |
| | 01/13/2014 | **Notice of Action** | FOR PUBLICATION// "On or before 2-27-2014"<br>Party: *Respondent* Lade, Megan E. | 1 |
| | 01/07/2014 | **Summons Returned Unserved** | MEGAN E. LADE | 10 |
| | 01/07/2014 | **Summons Returned Unserved** | Party: *Respondent* Lade, Megan E. | 10 |
| | 12/13/2013 | **Summons Returned Unserved** | MEGAN E. LADE | 1 |
| | 12/04/2013 | **Notice of Filing Financial Affidavit** | Family Law Financial Affidavit<br>Party: *Petitioner* Brassner, Heather | 1 |
| | 12/04/2013 | **Financial Affidavit** | FAMILY LAW FINANCIAL AFFIDAVIT<br>Party: *Petitioner* Brassner, Heather | 6 |
| | 09/30/2013 | **Filing Fee** | | |

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|---|---|---|---|---|
| | | | Payor: NANCY K BRODZKI ; Userid: CTS-fg/t ; Receipt: 20131FA1A070385; ; Amount: $409.00 | |
| | 09/30/2013 | **Summons Issued Fee** | Payor: NANCY K BRODZKI ; Userid: CTS-fg/t ; Receipt: 20131FA1A070385; ; Amount: $10.00 | |
| | 09/27/2013 | **Family Cover Sheet** | | 2 |
| | 09/27/2013 | **eSummons Issuance** | Party: *Petitioner* Brassner, Heather | 4 |
| | 09/27/2013 | **Petition (eFiled)** | (nsis) Civil Union | 3 |
| | 09/27/2013 | **Notice of Filing Designation of Emailing Addresses** | Party: *Attorney* Brodzki, Nancy | 1 |
| | 09/27/2013 | **Clerk's Certificate of Compliance W/AO 2012-64-UFC** | | 1 |

Perform Another Search Back

## Report Selection Criteria

**Case ID:** 502014DR010428XXXXMB
**Docket Start Date:**
**Docket Ending Date:**

## Case Description

**Case ID:** 502014DR010428XXXXMB
**Case Caption:** LISA MARINA MAXWELL V CHRISTINE STEPHENS-MAXWELL
**Division:** FD - SMITH
**Filing Date:** Wednesday, November 05th, 2014
**Court:** DR - DOMESTIC RELATIONS/FAMILY
**Location:** MB - MAIN BRANCH
**Jury:** N-Non Jury
**Type:** OD - OTHER DOMESTIC RELATIONS
**Status:** NJ - DISPOSED BY NON-JURY TRIAL

## Related Cases

*No related cases were found.*

## Case Event Schedule

*No case events were found.*

## Case Parties

| Seq # | Assoc | Expn Date | Type | ID | Name | | |
|---|---|---|---|---|---|---|---|
| 1 | | | PETITIONER | @3557177 | **MAXWELL, LISA MARINA** | **Aliases:** | *none* |
| 2 | | | RESPONDENT | @3557178 | **STEPHENS-MAXWELL, CHRISTINE** | **Aliases:** | *none* |
| 3 | 1 | | ATTORNEY | 0791709 | **JAMES ESQ, ELAINE JOHNSON** | **Aliases:** | *none* |

EXHIBIT E

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| 4 | | | JUDGE | FD | **SMITH, JUDGE AMY** | **Aliases:** | *none* |
| | | | | | | | |

**Docket Entries**

| **Docket Number** | **Docket Type** | **Book and Page No.** | **Attached To:** |
|---|---|---|---|
| | 00000 - ADDITIONAL COMMENTS | | |
| **Filing Date:** | 05-NOV-2014 | | |
| **Filing Party:** | | | |
| **Disposition Amount:** | | | |
| **Docket Text:** | *none.* | | |
| | 701FF - DRFF/OTHER | | |
| **Filing Date:** | 05-NOV-2014 | | |
| **Filing Party:** | MAXWELL, LISA MARINA | | |
| **Disposition Amount:** | | | |
| **Docket Text:** | *none.* | | |
| | PE - PENDING | | |
| **Filing Date:** | 05-NOV-2014 | | |
| **Filing Party:** | | | |
| **Disposition Amount:** | | | |
| **Docket Text:** | *none.* | | |
| | RCPT - RECEIPT FOR PAYMENT | | |
| **Filing Date:** | 05-NOV-2014 | | |
| **Filing Party:** | MAXWELL, LISA MARINA | | |
| **Disposition Amount:** | | | |
| **Docket Text:** | A Payment of -$301.00 was made on receipt DRMB306100. | | |
| 1 | CCS - CIVIL COVER SHEET | | |
| **Filing Date:** | 05-NOV-2014 | | |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON | | |
| **Disposition Amount:** | | | |
| **Docket Text:** | F/B ATTY JAMES | | |
| 2 | PET - PETITION | | |
| | | | |

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|---|---|
| **Filing Date:** | 05-NOV-2014 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | TO DETERMINE PARENTHOOD AND FOR RELATED RELIEF F/B ATTY JAMES |

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| 3 | NOH - NOTICE OF HEARING | | |

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|---|---|
| **Filing Date:** | 14-NOV-2014 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | TUESDAY NOVEMBER 25, 2014 8:45 A.M RM 6C F/B ATTY JAMES |

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| 4 | ANS - ANSWER | | |

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|---|---|
| **Filing Date:** | 17-NOV-2014 |
| **Filing Party:** | |
| **Disposition Amount:** | |
| **Docket Text:** | TO PETITION TO DETERMINE PARENTHOOD AND FOR RELATED RELIEF |

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| 5 | AMN - AMENDED | | |

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|---|---|
| **Filing Date:** | 15-DEC-2014 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | AMENDMENT TO PETITION TO DETERMINE PARENTHOOD AND FOR RELATED RELIEF F/B ATTY JAMES,ESQ |

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| 6 | TRNS - TRANSCRIPT | | |

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|---|---|
| **Filing Date:** | 18-DEC-2014 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | F/B ATTY JAMES |

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| 7 | NOH - NOTICE OF HEARING | | |

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|---|---|
| **Filing Date:** | 02-JAN-2015 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | DATE: TUESDAY JANUARY 13, 2015 TIME: 8:45 A.M. JUDGE: HON. LISA SMALL F/B PET |

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| 8 | NOH - NOTICE OF HEARING | | |

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|---|---|
| **Filing Date:** | 13-JAN-2015 |

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|---|---|
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | ON 01/21/2015 @ 8:45AM @ CENTRAL COURTHOUSE RM# 11C F/B ATTY JAMES OBO PETR. |

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|---|---|---|---|
| 9 | NOT - NOTICE | | |

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|---|---|
| **Filing Date:** | 13-JAN-2015 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | NOTICE OF SUPPLEMENTAL FILING OF ATTACHED CORRESPONDENCE F/B ATTY JAMES OBO PETR. |

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|---|---|---|---|
| 10 | AMN - AMENDED | | |

| | |
|---|---|
| **Filing Date:** | 15-JAN-2015 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | NOTICE OF SUPPLEMENTAL FILING F/B ATTY JAMES OBO BOTH PARTIES |

| | | | |
|---|---|---|---|
| 11 | NOT - NOTICE | | |

| | |
|---|---|
| **Filing Date:** | 15-JAN-2015 |
| **Filing Party:** | JAMES ESQ, ELAINE JOHNSON |
| **Disposition Amount:** | |
| **Docket Text:** | OF CONSTITUTIONAL QUESTION F/B ATTY JOHNSON JAMES OBO PET |

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|---|---|---|---|
| | NJ - DISPOSED BY NON-JURY TRIAL | | |

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|---|---|
| **Filing Date:** | 21-JAN-2015 |
| **Filing Party:** | |
| **Disposition Amount:** | |
| **Docket Text:** | *none.* |

| | | | |
|---|---|---|---|
| 12 | FJUD - FINAL JUDGMENT | Book 27299 - Page 414 | |

| | |
|---|---|
| **Filing Date:** | 21-JAN-2015 |
| **Filing Party:** | |
| **Disposition Amount:** | |
| **Docket Text:** | RECOGNIZING THE MARRIAGE OF LISA MARINA MAXWELL AND CHRISTINE STEPHENS-MAXWELL AND DETERMINING THAT LISA MAXWELL IS THE PARENT OF SATORI JOANN MAXWELL AND ORDER GRANTING AMENDED PETITION TO |

| | |
|---|---|
| | DETERMINE PARENTHOOD AND FOR RELATED RELIEF DTD 1-21-15 JD SMALL |