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10
11 *Attorneys for Plaintiff*

12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA
14 OAKLAND DIVISION

15
16 STACEY SCHUETT,
17 Plaintiff,
18 v.
19 FEDEX CORPORATION, FEDEX
20 CORPORATION EMPLOYEES’
21 PENSION PLAN, and FEDEX
22 CORPORATION RETIREMENT
23 APPEALS COMMITTEE,
24 Defendants.

Case No. 15-cv-00189-PJH

PLAINTIFF’S REQUEST FOR JUDICIAL NOTICE

Hearing Date: October 7, 2015
Time: 9:00 a.m.
Place: Courtroom 3

1 Pursuant to Federal Rule of Evidence 201, Plaintiff Stacey Schuett requests that the Court
2 take judicial notice of certain papers filed in a related proceeding in Sonoma County Superior
3 Court. Specifically, she requests judicial notice of (1) her Petition to Establish Fact, Date, and
4 Place of Marriage, and supporting memorandum of points and authorities and evidence filed with
5 the Petition, attached as Exhibit 1 (Parts A and B), (2) the Superior Court's order setting a hearing
6 on the Petition, attached as Exhibit 2, (3) Ms. Schuett's Notice of Hearing served on FedEx,
7 attached as Exhibit 3, and (4) the Order Establishing Fact of Marriage and Court Order Delayed
8 Certificate of Marriage, attached as Exhibit 4.

9 Courts may take judicial notice of facts that either (1) are generally known within the trial
10 court's territorial jurisdiction, or (2) can be accurately and readily determined from sources whose
11 accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b). Proceedings in state court on a
12 related matter are judicially noticeable and do not trigger conversion to a summary judgment
13 motion. *See, e.g., ScripsAmerica, Inc. v. Ironridge Global LLC*, 56 F. Supp. 3d 1121, 1136 (C.D.
14 Cal. 2014) (citing cases). The documents described above, and attached to this Request as
15 Exhibits 1-4, constitute proceedings in state court relating to Plaintiff's marriage to Lesly
16 Taboada-Hall. FedEx has challenged the validity of the marriage in its Motion for Judgment on
17 the Pleadings, so the state court proceedings are related to the instant proceedings. The
18 documents are thus properly the subject of judicial notice.

19 Accordingly, Plaintiff requests that the Court take judicial notice of the attached
20 documents and consider them in deciding Defendants' Motion for Judgment on the Pleadings.

21
22 Dated: September 16, 2015

Respectfully Submitted,

23 By: /s/ Nina Wasow
24 Nina Wasow
25 Julie Wilensky
26 LEWIS, FEINBERG, LEE
27 & JACKSON, P.C.
28 476 9th Street
Oakland, CA 94607
Telephone: (510) 839-6824
Facsimile: (510) 839-7839

Attorneys for Plaintiff

EXHIBIT 1A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT	FOR COURT USE ONLY ENDORSED FILED AUG - 6 2013 SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA CASE NUMBER: 85880
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Probate	
<input type="checkbox"/> ESTATE OF (Name): <input checked="" type="checkbox"/> IN THE MATTER OF (Name): Marriage of STACEY SCHUETT and LESLY TABOADA-HALL <input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input checked="" type="checkbox"/> OTHER	
NOTICE OF HEARING—DECEDENT'S ESTATE OR TRUST	

This notice is required by law.
This notice does not require you to appear in court, but you may attend the hearing if you wish.

1. NOTICE is given that (name): **STACEY SCHUETT**
 (representative capacity, if any): One of the persons named in this matter.

 has filed (specify):* **Petition to Establish Fact, Date, and Place of Marriage of STACEY SCHUETT and LESLY TABOADA-HALL.**


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- 2. You may refer to the filed documents for more information. (Some documents filed with the court are confidential.)
- 3. A HEARING on the matter will be held as follows:

a. Date: 8-12-13	Time: 3:30 Ex Park	Dept.: 18	Room:
b. Address of court <input checked="" type="checkbox"/> shown above <input type="checkbox"/> is (specify):			

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for Request for Accommodations by Persons With Disabilities and Order (form MC-410). (Civil Code section 54.8.)



* Do not use this form to give notice of a petition to administer estate (see Prob. Code, § 8100 and form DE-121) or notice of a hearing in a guardianship or conservatorship (see Prob. Code, §§ 1511 and 1822 and form GC-020).

<input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> IN THE MATTER OF (Name): Marriage of STACEY SCHUETT and LESLY TABOADA-HALL	CASE NUMBER:
<input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input checked="" type="checkbox"/> OTHER	

CLERK'S CERTIFICATE OF POSTING

1. I certify that I am not a party to this cause.
 2. A copy of the foregoing *Notice of Hearing—Decedent's Estate or Trust*
 a. was posted at (address):

b. was posted on (date):

Date: _____ Clerk, by _____, Deputy

PROOF OF SERVICE BY MAIL *

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
 2. My residence or business address is (specify): 7182 Healdsburg Avenue
 Sebastopol, California 95472
 3. I served the foregoing *Notice of Hearing—Decedent's Estate or Trust* on each person named below by enclosing a copy in an envelope addressed as shown below AND
 a. depositing the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
 b. placing the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
 4. a. Date mailed: 8/6/2013 b. Place mailed (city, state): Sebastopol, CA
 5. I served with the *Notice of Hearing—Decedent's Estate or Trust* a copy of the petition or other document referred to in the Notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 6, 2013

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Tate Birnie

(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM)

(SIGNATURE OF PERSON COMPLETING THIS FORM)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

Name of person served	Address (number, street, city, state, and zip code)
1. Constance Noemi Taboada Hall (mother of Lesly Taboada-Hall)	87738 Saltaire St. Florence, OR 97439
2. Kerry Hall (sister)	87738 Saltaire St. Florence, OR 97439
3. DeeAnn Hall-Brewer (sister)	1112 E 20th Ave. Eugene, OR 97403
4. Mark Hall (brother)	88 Saturn St. San Francisco, CA 94114

- Continued on an attachment. (You may use Attachment to Notice of Hearing Proof of Service by Mail, form DE-120(MA)/GC-020(MA), for this purpose.)

* Do not use this form for proof of personal service. You may use form DE-120(P) to prove personal service of this Notice.

<input type="checkbox"/> ESTATE <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP <input checked="" type="checkbox"/> MATTER OF	CASE NUMBER:
(Name): Marriage of STACEY SCHUETT and LESLY TABOADA-HALL	

ATTACHMENT TO NOTICE OF HEARING PROOF OF SERVICE BY MAIL

(This Attachment is for use with forms DE-120 and GC-020.)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

No.	Name of person served	Address (number, street, city, and zip code)
5	Alan Hall (brother)	2125 Woodbine Ave. Oakland, CA 94602
6	Wade Hall (brother)	585 N. San Pedro San Jose, CA 95110
7	Social Security Administration	2099 Range Avenue Building A Santa Rosa, CA 95401
8	FedEx Pension Plan Trustees	State Street Bank and Trust Company 2 Avenue de Lafayette 6th Floor
9	Vanguard Fiduciary Trust Company Attn: Plan #093111	100 Vanguard Boulevard Malvern, PA 19355
10	FedEx Corporation Employees Pension Plan FedEx Retirement Service Cent	P.O. Box 980 Deerfield, IL 60015
11	The Vanguard Group, Inc. Atn: Plan #09311	100 Vanguard Boulevard Malvern, PA 19355
12	William F. Rousseau	Sonoma County Clerk's Office 2300 County Center Drive Suite B-177 Santa Rosa, California 95403
13	Kathleen Larocque	Office of the County Counsel 575 Administration Drive, Room 105-A Santa Rosa, CA 95403
—		
—		AUG 12 2013
—		

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TATE BIRNIE, SBN 211633 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY ENDORSED FILED AUG - 6 2013	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		CASE NUMBER: <div style="text-align: center; font-size: 1.2em;">85880</div>	
PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE *		HEARING DATE AND TIME:	DEPT.:
<p style="text-align: center;">Notice to Petitioners</p> <p>At or before the court hearing on this petition, you must provide to the court a completed (filled-in) order for the judicial officer to sign. The order must be prepared on a form issued by the California Department of Public Health Vital Records (CDPH Vital Records), the <i>Order Establishing Fact of Marriage</i> (form VS 122). The top portion of that form is the court order. The bottom portion of that form is the marriage certificate you must submit for filing to CDPH Vital Records with a copy of the signed order certified by the clerk of the court. Form VS 122 may be obtained from CDPH Vital Records or from a county recorder or health department. Information about the form, including instructions on how to get it and how to complete and file it with the court and with CDPH Vital Records, is available online at www.cdph.ca.gov/certlic/birthdeathmar/Pages/CorrectingorAmendingVitalRecords.aspx.</p> <p>* Note: This form may help you establish the fact, date, and place of a marriage so you can create a record of the marriage. But the order on this petition or the marriage certificate filed with CDPH Vital Records will not necessarily establish the validity of the marriage for all purposes. Consultation with a California lawyer is recommended before you proceed.</p>			

1. a. Petitioner (name each): Stacey Schuett

is beneficially interested in and entitled under section 103450 of the California Health and Safety Code to an order establishing the fact and the date and place of the marriage of the persons named in item 2a.

b. Petitioner's beneficial interest in this matter is as follows:

- (1) I am one of the persons named in item 2a.
- (2) I am related to a person named in item 2a as follows (specify the relationships of all petitioners to that person):

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- (3) I am not related to a person named in item 2a.
- (4) I am interested in this matter for the following reasons (complete unless item 1b(1) is selected):

Continued in Attachment 1b(4).

2. Petitioner requests the court to establish the fact, date, and place of the marriage of:

a. Names: Stacey Schuett and: Lesly Taboada-Hall

b. Date of marriage: June 19, 2013

c. Place of marriage: City, town, township, or other (identify "other" if known): Sebastopol

- (1) County: Sonoma State (U.S.): California
- (2) State or province: Country: U.S.A.

MC-362

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
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3. (Check one of the following):

- a. There is no official record of the fact, date, and place of the marriage of the persons named in item 2a.
- b. A certified copy of the official record of the marriage of the persons named in item 2a cannot be obtained for the following reasons:

Continued in Attachment 3b.

4. The persons named in item 2a now reside at (street address and city of each person):

(Name): Stacey Schuett
7805 Anthony Street, Sebastopol

County: Sonoma
(Name): Lesly Taboada-Hall (deceased)

State: California

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County: State:

5. Petitioner requests that the court make an order determining that the marriage of the persons named in item 2a did in fact occur on the date and at the place stated in items 2b and 2c, as shown by the Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage (form MC-362A) and attachments, filed herewith, and by other proofs adduced at the hearing.

6. Number of pages attached: 47

Date: 8/5/13

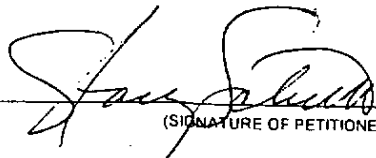
Tate Birnie
(TYPE OR PRINT NAME OF ATTORNEY FOR PETITIONER)


(SIGNATURE OF ATTORNEY)

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except as to those matters stated on information and belief, and as to those matters, I am informed and believe them to be true.

Date: 8/5/13

Stacey Schuett
(TYPE OR PRINT NAME OF PETITIONER)


(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER)

(SIGNATURE OF PETITIONER)

Date:

(TYPE OR PRINT NAME OF PETITIONER)

(SIGNATURE OF PETITIONER)

1 Tate Birnie (SBN 211633)
7182 Healdsburg Avenue
2 Sebastopol, CA 95472
(707) 823-8593

3 Attorney for Stacey Schuett
4
5
6
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SONOMA

9 *In re*) Case No.
10 Marriage of Stacey Schuett)
11 and) MEMORANDUM OF POINTS AND
12 Lesly Taboada-Hall) AUTHORITIES IN SUPPORT OF PETITION
13) TO ESTABLISH FACT, DATE AND PLACE
14) OF MARRIAGE

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15 I. INTRODUCTION

16 Petitioner Stacey Schuett ("Stacey") seeks this court's validation of her marriage to Lesly
17 Taboada-Hall ("Lesly"). As demonstrated by this memorandum, Stacey and Lesly complied
18 with every California legal requirement to obtain a marriage license, but were unable to marry
19 due to an unconstitutional law that was struck down six days after Lesly's death on June 20,
20 2013. But for this unconstitutional law, Stacey and Lesly would have been legally married.
21 Stacey and Lesly committed to each other to share all the rights and responsibilities of spouses
22 more than a decade ago but they are prevented from using the words "marriage" and "spouse".
23 Six days should not make the difference between being denied federal rights and protections and
24 receiving necessary financial support for this family. Stacey seeks a Court order establishing the
25 fact of her marriage to Lesly on June 19, 2013, so that she may enjoy all the rights and benefits
26 bestowed on "surviving spouses". As required by the California Family Code, when Stacey and
27 Lesly attempted to obtain a marriage license, they were not already married to each other or to
28 other individuals; they were physically present together in the same location with the officiant

Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 and witnesses; they applied for a marriage license; and, their marriage was solemnized by an
2 officiant with the credentials to perform marriage ceremonies. Cal. Fam. Code §400 *et seq.*
3 Stacey and Lesly had a marriage ceremony on June 19, 2013. Their marriage was not legally
4 recognized due to an unconstitutional law on the books in June, 2013, Proposition 8. At that
5 time, Proposition 8 was still in effect, codified at Family Code section 308.5, and stated that only
6 marriage between a man and a woman is recognized in California. Due to Proposition 8, Stacey
7 and Lesly were prevented from obtaining a marriage license because they are a same-sex
8 couple. Stacey and Lesly were aware that they would only be able to marry legally outside of
9 California. However, Lesly was dying of cancer, she was extremely ill and too weak to travel to
10 a nearby state. Stacey and Lesly spoke to and worked with the Sonoma County Clerk, and had
11 their County Supervisor standing by to marry them the minute that Proposition 8 was overturned.
12 Tragically, Lesly died only six days before Proposition 8 was declared to be unconstitutional and
13 nine days before marriage became available to all couples in California, regardless of sexual
14 orientation.

15 Stacey, now a widowed mother to Stacey and Lesly's two children, has been denied the
16 spousal benefits and protections now available to all same-sex married couples in California
17 because of an unconstitutional statute that prevented Stacey and Lesly from obtaining a marriage
18 license. But for Proposition 8, Stacey would be entitled to these critical benefits and protections.

19 California now recognizes the rights of same-sex couples to marry. Currently, 36 other
20 states do not. However, as set forth in detail below, that has not stopped at least two federal
21 courts in the last month from determining that same-sex couples, in situations similar to Stacey
22 and Lesly, should enjoy all the rights and privileges of marriage, even in a state that bars actual
23 recognition of a same-sex marriage.

24 Excluding Stacey and Lesly from the benefits and protections that marriage affords does
25 not rationally advance California's interest in promoting marriage. Because they were not
26 legally able to marry, Stacey is being directly harmed by her lack of access to spousal benefits
27

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Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 and protections that come with marriage. Stacey is subjected to extreme financial hardship as a
2 result. This is irrational and patently unfair.

3 In addition, one of the primary purposes behind promoting marriage is to encourage
4 stable family relationships and personal responsibility. Excluding Stacey and Lesly from the
5 institution of marriage only frustrates this goal. As the facts in this case clearly show, had Stacey
6 and Lesly been able obtain a marriage license, they would have. Stacey and Lesly were
7 registered as domestic partners in California, and have all the rights and responsibilities as same-
8 sex married couples, but are not able to use the terms "marriage" or "spouse" and do not have a
9 marriage license. Recognizing Stacey and Lesly as legal spouses would not conflict with current
10 case law declaring that same-sex couples have the right to marry in California. The requested
11 relief is consistent with the principles of fairness and equal justice, with the United States
12 Supreme Court rulings, and California law.

13 This memorandum will show that: Stacey's marriage to Lesly should be valid because
14 but for Proposition 8, they would be married; Stacey is authorized to make this request under
15 Health and Safety Code section 103450; the State of California has no interest in refusing to
16 recognize their status as "married"; and, Stacey will suffer substantial hardship if this request is
17 not granted.

18 Through her Petition to Establish Fact, Date and Place of Marriage ("Petition"), Stacey
19 respectfully requests the Court provide an order establishing the validity of her marriage to Lesly
20 and to construe the term "spouse" to include surviving same-sex spouses who were in a domestic
21 partnership, essentially a marriage-like relationship, who would have married legally if they
22 could have.

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24 II. STATEMENT OF FACTS

25 Stacey met Lesly 30 years ago. They share the same birthday and met through mutual
26 friends in 1983 when they were both having birthday party celebrations in San Francisco. (See
27 *Declaration of Stacey Schuett in Support of Petition to Establish Fact, Date, and Place of*
28 *Marriage* ¶. 2) They soon fell in love and became a committed, monogamous couple. Stacey

1 and Lesly have been a couple for 27 years. Stacey and Lesly have two children together. Their
2 daughter is 17 and their son is 14. Stacey is the birth mother of the children and Lesly completed
3 a second parent adoption of both children. (*Id.* ¶ 3.)

4 In November, 2001, Stacey and Lesly registered as domestic partners with the Secretary
5 of State's office in California. At that time, domestic partnership was the only means available
6 to legally formalize their relationship. Two years later, on September 19, 2003, the California
7 Domestic Partner Rights and Responsibilities Act of 2003 was signed into law. (Stats. 2003, ch.
8 421, introduced as Assem. Bill No. 205 (2003-2004 Reg. Sess.)) The new law dramatically
9 expanded the rights and responsibilities of domestic partners in California and treated domestic
10 partners essentially as married couples without using the term "marriage" or "spouse". Stacey
11 and Lesly were excited about the expanded rights and responsibilities under the new Registered
12 Domestic Partner ("RDP") law, as their relationship received more legal recognition and brought
13 them closer to the "married" status they so desired. Stacey and Lesly received three letters from
14 the California Secretary of State informing them that, as RDPs, they now had all the same rights
15 and responsibilities as spouses under California law. Stacey and Lesly understood that every
16 California law that referenced the word "spouse" would apply equally to RDPs. (*Schuetz Decl.* ¶
17 5.) Stacey and Lesly were informed by the California Secretary of State that if they did not want
18 to opt into the many new rights and responsibilities for RDPs, they would be required to
19 terminate their domestic partnership before January 1, 2005. They did not do so. (*Id.* ¶ 6.) Lesly
20 and Stacey wanted to have all the same rights and responsibilities as opposite-sex spouses.

21 For 27 years, Lesly and Stacey held themselves out as a couple. They have mutually
22 supported each other and their household together. Lesly worked outside the home for Federal
23 Express ("FedEx") for over 25 years while Stacey stayed at home with their children. Lesly was
24 a Cub Scout leader for their son's Boy Scout troop and Stacey was a leader for their daughter's
25 Girl Scout troop. In addition, Stacey is an artist and children's book illustrator, taught art in both
26 of their children's classrooms for several years, was a member of the PTA, and Vice President,
27 then President of the Sebastopol Educational Foundation. Together, as a family, Stacey and
28 Lesly have spent countless hours volunteering for their children's schools and in the community.

Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 (*Id.* ¶ 8-9.) Despite not being able to use the word marriage or spouse, Stacey and Lesly were a
2 model couple and were married in every sense of the word.

3 When same-sex marriage was legalized for a brief period in 2008, Lesly and Stacey
4 discussed getting married even though they already considered themselves “married”. They
5 thought they had every legal right and responsibility that a married couple could have due to the
6 domestic partnership laws. They did not believe they *needed* to get married in order to obtain
7 additional rights. When Stacey and Lesly spoke of marriage they agreed it was something they
8 wanted to do for themselves and their family as a significant, joyful, important and private
9 celebration. They wanted to wait for the media circus surrounding same-sex couples marrying to
10 cease before they got married and did not want to feel like they were marrying as part of a cause
11 or movement. For Stacey and Lesly, getting married meant a ceremonial union and they wanted
12 to have a wedding that reflected them. Lesly was a very private person and she wanted a quiet
13 wedding. Like many people, Stacey and Lesly were busy, their lives were full with their two
14 children, and they did not have the time to plan their dream wedding in the short time of 8
15 months that same-sex marriage was legal in California. In November 2008, Proposition 8 passed
16 and Stacey and Lesly were denied the right to have a wedding and marry legally. However, they
17 maintained their faith that the Courts would invalidate Proposition 8 and decided they would get
18 married when it became legal again. (*Id.* ¶ 10-11.)

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19 Tragically, Lesly was diagnosed with cancer before Proposition 8 was overturned and she
20 was never able to legally marry Stacey. On February 10, 2010, Lesly went to the doctor for what
21 she thought was bronchitis. She was diagnosed with uterine cancer that had already metastasized
22 to her lungs. In March 2010, she started chemotherapy. She was a fighter and continued to work
23 around her chemotherapy schedule whereby she was off work for two weeks for treatment and
24 then back to work for three weeks. (*Id.* ¶ 15-16.) In August 2010, Lesly had a full hysterectomy
25 for the uterine cancer but the cancer in her lungs was inoperable. The chemotherapy was helpful
26 in that for 16 months she was considered to be in remission. She worked at her job during this
27 whole time. However, in January 2012, the cancer lesions in her lungs showed growth and she
28 began another treatment of chemotherapy. By November 2012, the cancer spread to her brain.

Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 She underwent intensive radiation treatment for brain lesions. Over the next few months, the
2 cancer spread to her bones, pelvis and marrow. Throughout her illness, Lesly kept up her
3 strength and her spirits, and Stacey and Lesly believed that Lesly would fight and beat the
4 disease. (*Id.* ¶ 17-19.)

5 Throughout the chemotherapy, Lesly insisted on working as soon after treatment as she
6 was able; she was offered the opportunity to receive full disability benefits, but she refused. She
7 loved her job at FedEx, loved being outside, loved her route along the coast, and cared a great
8 deal for the people she worked with and for her customers. It was devastating when, because of
9 the brain lesions, she lost her right to drive for FedEx. (*Id.* ¶ 20.)

10 On June 3, 2013, a doctor first told the couple that Lesly's cancer was terminal.

11 While Stacey and Lesly had always wanted and intended to get married, they did not
12 believe there was any legal significance to the ceremony under the law. They believed they
13 shared all the same rights and responsibilities as spouses because they were informed as such
14 when Assembly Bill 205 passed. It was not until they sought legal advice regarding their estate
15 planning documents that they learned that Lesly's employer did not have to treat Stacey, as her
16 RDP, the same as a "surviving spouse" of a legally married opposite-sex couple. Lesly and
17 Stacey were shocked. They had no idea that a company doing business in California with
18 employees in California did not have to follow California law. ((*Id.* ¶ 23.) They knew Lesly's
19 employer added health insurance benefits for RDPs in California, and assumed all other benefits
20 would be afforded to them.

21 At that point, Stacey and Lesly tried to figure out where and how to get married.
22 However, Lesly's health was in rapid decline. She was also in increasing amounts of pain and
23 was placed in hospice care on June 10, 2013. Stacey and Lesly discussed flying to Seattle,
24 Washington, where legal marriage was available to same-sex couples. However, they learned
25 Washington requires the couple to remain in the State for three days between applying for a
26 license and getting married. They did not believe Lesly could survive the travel and stay in a
27 hotel room without any of her doctors nearby for three days. They then discussed trying to fly to
28

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Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 Iowa, the next closest state that recognized same-sex marriage, but the waiting period in Iowa is
2 four days. (*Id.* ¶ 24-26.)

3 Stacey obtained a marriage license application from the Sonoma County Clerk. The
4 couple completed the application and Stacey returned it to the Sonoma County Clerk on June 14,
5 2013. Stacey and Lesly decided their only option was to wait for the United States Supreme
6 Court to make a ruling in the matter of *Hollingsworth v. Perry* 570 U.S. ____ (2013) and strike
7 down Proposition 8. The Sonoma County Clerk was prepared to issue a marriage license as soon
8 as it was legally able to do so and on the same day as the United States Supreme Court decision
9 if possible. Supervisor Efren Carrillo was on-call to come to Stacey and Lesly's home to
10 officiate their legal wedding on the day of the decision. Stacey and Lesly made every
11 arrangement possible to be married to one another. (*Id.* ¶ 27-28.)

12 On June 18, 2013, Lesly's health was deteriorating rapidly, so on June 19, 2013, Stacey
13 and Lesly had their wedding with Supervisor Carrillo as the officiant. Every member of their
14 families was present, including their children, siblings, parents, nieces and nephews, as well as
15 friends. Although Lesly could not get up from her bed, the wedding came to her. Stacey and
16 Lesly had flowers in their hair and in their hands. Lesly was excited about the wedding and
17 smiled as she said "I do." Supervisor Carrillo pronounced them to be lawfully wedded
18 "spouses" and they received a marriage certificate signed by him. (*See* Declaration of
19 Supervisor Efren Carrillo; *See also*, Wedding Vows, attached as Exhibit B to the Declaration of
20 Stacey Schuett; Marriage Certificate, attached as Exhibit C to the Declaration of Stacey Schuett.)
21 Lesly died on June 20, 2013.

22 As set forth in the Declarations in Support of Petition to Establish Fact, Date, and Place
23 of Marriage, Stacey's and Lesly's wedding was witnessed and supported by their family and
24 friends. (*Id.* ¶32.) Notice of this Petition has been given to all of Lesly's family members since
25 Lesly is now deceased, exceeding the requirements of Probate Code §8110. Notice has also been
26 given to the potential interested parties, Social Security Administration and FedEx Corporation
27 to the addresses for service provided by those entities. (*See* Declaration of Tate Birnie for
28 complete service list.)

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Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

III. ARGUMENT

A. But For Proposition 8, which was Struck Down as Unconstitutional Following Lesly's Death, Stacey and Lesly Would have been Legally Married and Stacey Would have Been Entitled to Spousal Benefits

Stacey and Lesly were denied a marriage license on June 14, 2013 because they were a same-sex couple. This denial was unconstitutional. See *Perry v. Brown*, (9th Cir. 2012) 671 F.3d 1052 (hereafter "*Perry*"); *Perry v. Schwarzenegger*, (N.D. Cal., 2010) 704 F.Supp.2d 921¹. The *Perry* court stated that "[p]rior to November 4, 2008, the California Constitution guaranteed the right to marry to opposite-sex couples and same-sex couples alike. On that day, the People of California adopted Proposition 8, which amended the state constitution to eliminate the right of same-sex couples to marry. We consider whether that amendment violates the Fourteenth Amendment to the United States Constitution. We conclude that it does." *Perry*, 671 F.3d at 1063. The Court further held that "[a]ll that Proposition 8 accomplished was to take away from same-sex couples the right to be granted marriage licenses and thus legally to use the designation of 'marriage,' which symbolizes state legitimization and societal recognition of their committed relationships." *Id.*

The California Supreme Court determined in 2008 that the fundamental right to marry provided by the California Constitution could not be denied to same-sex couples who are guaranteed "the same substantive constitutional rights as opposite-sex couples to choose one's life partner and enter with that person into a committed, officially recognized, and protected family relationship that enjoys all of the constitutionally based incidents of marriage." *In re Marriage Cases* (Cal. 2008) 183 P.3d 384, at 43-34. The California Supreme Court further held that "[t]he current statutory assignment of different names for the official family relationship of opposite-sex couples on the one hand [marriage] and of same-sex couples [registered domestic

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¹ Because the United States Supreme Court in *Hollingsworth v. Perry* (formerly *Perry v. Brown* and *Perry v. Schwarzenegger*) 570 U.S. ____ (2013), held that the official sponsors of California Proposition 8, a 2008 ballot initiative, did not have Article III standing to appeal an adverse decision when public officials refused to do so, the lower court's opinions finding Proposition 8 unconstitutional is the controlling law in California.

1 partners] on the other” violated the equal protection clause in article I, section 7 of the California
 2 Constitution. *Id.* At 435, 452-453. Shortly after the holding in *In re Marriage Cases*, the State
 3 of California started issuing marriage licenses to same-sex couples.

4 In reaction, Proposition 8 sought to bypass the California Constitution and State Supreme
 5 Court and re-restrict marriage to opposite-sex couples. From November 4, 2008 until June 26,
 6 2013, Proposition 8 served as an unconstitutional bar to Stacey and Lesly obtaining a marriage
 7 license in California. The only reason that Stacey and Lesly were denied a marriage license
 8 before their marriage on June 19, 2013 was because they are of the same-sex and Proposition 8
 9 (and the stay that was in place during appeal of the decision that provided equal rights to
 10 marriage) prevented them from legally marrying. Here, like the plaintiffs in *Perry*, Stacey and
 11 Lesly wished only to exercise their fundamental right to marry. “The right to marry has been
 12 historically and remains the right to choose a spouse and, with mutual consent, join together and
 13 form a household.” *Perry v. Schwarzenegger*, (N.D. Cal., 2010) 704 F.Supp.2d 921 at 993.
 14 Stacey and Lesly chose one another, joined together, formed a household and had children. They
 15 registered as domestic partners in order to formalize their relationship and to protect their family.
 16 They had a wedding ceremony and took all steps possible to be married spouses. If Lesly had
 17 lived for 9 more days, Stacey and Lesly would have been able to obtain a marriage license
 18 without an additional petition to the Court. And, Stacey would have been entitled to the spousal
 19 benefits she rightfully deserves. Now Stacey must seek a court order to confirm her marriage or
 20 face raising a family without any benefits from Lesly’s employer of 25 years and without any of
 21 the federal benefits afforded to similarly situated couples, whether of the same or opposite sex.

22 By this Petition to Establish Fact, Date, and Place of Marriage, Stacey seeks the right “to
 23 obtain and use the designation of ‘marriage’ to describe their relationship. Nothing more, nothing
 24 less.” *Perry*, 671 F.3d at 1063. Stacey’s request is precisely what the California Supreme Court,
 25 the Ninth Circuit and U.S. District Court for the Northern District of California all determined
 26 was a guaranteed right in California. Going forward, no same-sex couple in California will be
 27
 28

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1 denied the right to marry. Stacey and Lesly should not be the last prospective same-sex couple
2 denied the right to marry their chosen spouse.

3 B. Stacey Schuett is Authorized to Bring a Petition Under Health and Safety Code
4 Section 103450

5 California Health and Safety Code provides that a “beneficially interested” person may
6 file a verified petition with the clerk of the superior court for “an order to judicially establish the
7 fact, of, and the time and place of, a birth, death, or marriage, that is not registered or for which a
8 certified copy is not obtainable.” Cal. Health & Saf. Code §103405(a).² As set forth above,
9 Stacey was denied a marriage license based on an unconstitutional restriction. Such a denial
10 should not thwart her ability to obtain relief from the Court.

11 Sonoma County is the proper county venue for this Petition because it is (1) the County
12 where the wedding between Stacey and Lesly occurred and (2) it is the county of residence of
13 Stacey and (3) it is the county where Lesly died. Cal. Health & Saf. Code §103450(a). This
14 Petition is verified and supported by the attached supporting Declarations under penalty of
15 perjury of Stacey, the witnesses, and the officiant. The Petition contains all the facts necessary to
16 establish the fact, date and place of marriage. Cal. Health & Saf. Code §103455.

17 C. The State of California has No Legitimate Interest in Refusing to Recognize this
18 Marriage Because Stacey and Lesly Were Already Registered Domestic Partners
19 Who Have All the Same State Rights As “Spouses”

20 For a decade, the State has bestowed on registered domestic partners all the same rights
21 and responsibilities as “spouses” under California law. In September, 2003, the California
22 Legislature dramatically expanded the scope of the rights of domestic partners in California by
23 enacting comprehensive domestic partnership legislation: the California Domestic Partner Rights
24 and Responsibilities Act of 2003 (“Domestic Partner Act”). (Stats. 2003, ch. 421, introduced as
25 Assem. Bill No. 205 (2003-2004 Reg. Sess.)) The Legislature specified that the provisions of

26 **AUG 12 2013**

27 _____
28 ² While the Judicial Council Form MC-362A states that “[t]he procedure described in Health and Safety Code sec
103450, *et seq.*, cannot establish the validity of a California marriage if no marriage license was obtained”, the
actual Health and Safety Code provisions have no such restriction.

1 the Domestic Partner Act “shall be construed liberally in order to secure to eligible couples who
 2 register as domestic partners *the full range of legal rights, protections and benefits, as well as all*
 3 *of the responsibilities, obligations, and duties to each other, to their children, to third parties*
 4 *and to the state, as the laws of California extend to and impose upon spouses.”* (Italics and
 5 emphasis added.) (Stats. 2003, ch. 421, § 15.) To effectuate this legislative purpose, the 2003
 6 Domestic Partner Act amended the existing statutory provisions relating to domestic partnerships
 7 by adding several entirely new provisions to the Family Code, most significantly section 297.5,
 8 which became operative on January 1, 2005. (Stats. 2003, ch. 421, § 14.) Section 297.5,
 9 subdivision (a), provides in broad and sweeping terms: “*Registered domestic partners shall have*
 10 *the same rights, protections, and benefits, and shall be subject to the same responsibilities,*
 11 *obligations, and duties under law, whether they derive from statutes, administrative regulations,*
 12 *court rules, government policies, common law, or any other provisions or sources of law, as are*
 13 *granted to and imposed upon spouses.”* (See *Koebke v. Bernardo Heights Country Club* (2005)
 14 36 Cal.4th 824, 839 [holding “[i]t is clear from both the language of section 297.5 and the
 15 Legislature's explicit statements of intent that a chief goal of the Domestic Partner Act is to
 16 equalize the status of registered domestic partners and married couples"].)

17 Stacey and Lesly availed themselves of these rights and responsibilities by registering as
 18 domestic partners in November, 2001. When they received letters from the Secretary of State
 19 indicating that the laws regarding domestic partners were expanding, and allowing them to opt
 20 out of the new laws, Stacey and Lesly decided to remain registered in order to obtain those
 21 additional rights and responsibilities. As RDPs, Stacey and Lesly have all the same rights and
 22 duties as “spouses” under California law. AUG 12 2013

23 The Domestic Partner Act granted all of the same rights and responsibilities to same-sex
 24 couples as it did to opposite-sex couples but “withheld only the official designation of marriage
 25 and thus the officially conferred and societally recognized status that accompanies that
 26 designation.” *Perry v. Brown* at 10. Stacey and Lesly as domestic partners lacked access to the
 27 use of the words “marriage” and “spouse”. The California Supreme Court held this distinction
 28

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1 was unconstitutional. *In re Marriage Cases*, 183 P.3d 384 at 434-435 (Cal. 2008). The Court
 2 noted specifically that “the distinction in nomenclature between marriage and domestic
 3 partnership cannot be defended on the basis of an asserted difference in the effect on children
 4 being raised by an opposite-sex couple instead of a same-sex couple,” because “the governing
 5 California statutes permit same-sex couples to adopt and raise children and additionally draw no
 6 distinction between married couples and domestic partners with regard to the legal rights and
 7 responsibilities related to children raised within each of these family relationships.” *Id.* at 452
 8 n.72. Restricting access to the designation of “marriage” did, however, “work [] a real and
 9 appreciable harm upon same-sex couples and their children,” because “providing only a novel,
 10 alternative institution for same-sex couples” constituted “an official statement that the family
 11 relationship of same-sex couples is not of comparable stature or equal dignity to the family
 12 relationship of opposite-sex couples.” *Id.* at 452.

13 The Ninth Circuit confirmed that taking away the word marriage from registered
 14 domestic partners violates the Fourteenth Amendment because there was no legitimate
 15 government interest in withholding the word “marriage” when all the same rights and
 16 responsibilities had already been conferred by the State. *See Perry v. Brown*, (9th Cir. 2012) 671
 17 F.3d 1052 at 1092 .

18 Stacey does not seek and will not receive any additional rights in California that she does
 19 not already enjoy as a domestic partner with Lesly if her marriage to Lesly is recognized as a
 20 valid marriage. Granting this petition signifies to the community and to their children, that
 21 Stacey and Lesly had a union that is equal in “stature and dignity” to marriage. It also will afford
 22 Stacey rights and privileges that the federal government confers on same-sex spouses.

23 D. Stacey Will Suffer Substantial Hardship If She is Denied the Right to be Lesly’s
 24 Spouse

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25 On June 26, 2013, only 6 days after Lesly died, the United States Supreme Court issued
 26 two landmark decisions: *Hollingsworth v. Perry* (the Proposition 8 case discussed above) and
 27 *U.S. v. Windsor* (2013) 570 U.S. _____. In *Windsor*, the Supreme Court held that Section 3 of the
 28

1 Defense of Marriage Act (“DOMA”) is unconstitutional under the Due Process Clause of the
 2 Fifth Amendment.³ Section 3 barred recognition of same- sex marriage for purposes of any
 3 federal law or regulation. *Windsor* has significant implications for retirement and health and
 4 welfare plans subject to federal laws, including Social Security, Medicare and Medicaid, and
 5 benefits governed by the Employee Retirement Income Security Act of 1974 (“ERISA”). Only 9
 6 days after Lesly died, marriage became available to same-sex couples in Sonoma County.

7 The ruling in *Windsor* has the immediate effect of granting same- sex couples who are
 8 married under state law the same Federal rights, protections and responsibilities as are afforded
 9 to married opposite- sex couples.⁴ California is a “marriage recognition” state, which means
 10 that California allows same- sex couples to be married in the state, and recognizes out of state
 11 same- sex marriages as valid. For a same- sex couple residing in a “marriage recognition” state,
 12 *Windsor* requires the Federal government to recognize the California marriage and confer on the
 13 parties to that same-sex marriage all of the rights and benefits afforded to “spouses” under
 14 federal law.

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15 For Stacey, an order by this Court stating she had a valid marriage to Lesly and is entitled
 16 to the status of “spouse” will qualify her to a wide range of benefits, including, but not limited to:
 17 Social Security survivor benefits, COBRA coverage for health insurance, and potentially
 18 traditional pension benefits from Lesly’s employer, FedEx.

19 Additionally, Stacey and Lesly’s children will be entitled to Social Security survivor
 20 benefits for minor children. However, Stacey has been told by the Social Security
 21 Administration that she cannot receive the corresponding caregiver benefits (informally called
 22 “mother’s benefit”) because she is not Lesly’s “spouse”. As the sole supporting mother of two
 23 minor children, who has lost the primary financially supporting parent, these benefits are
 24

25 ³ Section 3 of the Defense of Marriage Act states: “‘In determining the meaning of any Act of Congress, or any
 26 ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word
 27 ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’
 28 refers only to a person of the opposite sex who is a husband or a wife.”

⁴ There is still a question after *Windsor* about what happens for same-sex couples who are legally married but do not
 reside in a state that recognizes their marriage. That issue is not relevant here, since Stacey resides in California, a
 state that now recognizes and supports same sex marriage.

1 critically necessary for the family's well-being. Stacey would also not be allowed to collect
 2 Social Security Surviving Spouse benefits based on Lesly's work record in the way that opposite
 3 sex couples and post-*Windsor* same-sex couples are able.

4 Stacey may also be able to collect additional retirement benefits if she has the designation
 5 of "spouse". ERISA and the Internal Revenue Code require all defined benefit pension plans to
 6 pay a married participant's retirement benefits in the form of a qualified joint and survivor
 7 annuity. The FedEx traditional pension plan has this joint and survivor spousal annuity but
 8 Stacey has been told that she does not qualify to receive it. This is a traditional pension that
 9 Lesly worked 25 years to obtain, in which she was 100% vested. Upon her death, the benefit is
 10 not payable to anyone but a surviving "spouse". There is no benefit for the children. That joint
 11 and survivor annuity would pay a surviving spouse approximately \$1,000 per month for the
 12 lifetime of the recipient. This would be a tremendous benefit to Stacey and the children. While
 13 Stacey still has to make an appeal to FedEx regarding this benefit, she cannot start that process
 14 until she has the status of "surviving spouse."

15 Courts have already begun to hold that ERISA requires payment of certain plan and
 16 pension benefits to a surviving same-sex spouse. For example, in *Cozen O' Connor v. Tobits*,
 17 (E.D. Penn. 2013) Case No. 11-0045, filed 07/29/2013. Judge C. Darnell Jones II of the United
 18 States District Court for the Eastern District of Pennsylvania ordered payment of death benefits
 19 to Jennifer Tobits ("Jennifer"), the widow of Sarah Ellyn Farley ("Sarah"), under a profit-sharing
 20 plan governed by ERISA and administered by Sarah's employer, the law firm Cozen O'Conner
 21 P.C. The court held that because DOMA was recently deemed to be unconstitutional by the
 22 United States Supreme Court, federally-regulated retirement and benefit plans must recognize
 23 the legal marriages of same-sex couples for purposes of spousal benefits such as those due to
 24 Jennifer. AUG 12 2013

25 In *Cozen v. Tobits*, Jennifer and Sarah were legally married in Canada and lived in
 26 Illinois. Illinois does not provide marriage licenses to same-sex couples but will recognize a
 27 same- sex marriage performed in another jurisdiction as a civil union in Illinois. Upon Sarah's
 28 death, Jennifer's and Sarah's parents made competing claims to Sarah's pension plan benefits.

Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 Jennifer claimed she was the rightful recipient as a surviving spouse; Sarah's parents claimed
2 they were the beneficiaries if Sarah was considered unmarried under the plan terms.

3 The Court held that since Illinois, the couple's place of domicile, recognized their
4 marriage as a valid and legal relationship entitled "civil union", Jennifer was to be treated as the
5 spouse of Sarah for purposes of the pension plan benefits. The Court stated that "following the
6 [Supreme] Court's ruling [in *U.S. v. Windsor*,] the term 'Spouse' is no longer unconstitutionally
7 restricted to members of the opposite sex, but now rightfully includes those same-sex spouses in
8 'otherwise valid marriages.'" The court then found that "post-*Windsor*, where a state recognizes
9 a party as a 'Surviving Spouse', the federal government must do the same with respect to ERISA
10 benefits—at least pursuant to the express language of the ERISA-qualified Plan at issue here."
11 The Court read *Windsor* broadly in order to provide parity in the treatment of benefits for same-
12 sex couples. (Full opinion of *Cozen O. Connor v. Tobits* attached hereto as Exhibit A.)

13 In the instant matter, Stacey and Lesly are RDPs in California, which is legally similar to
14 Sarah and Jennifer's civil union in Illinois. Just as Sarah and Jennifer were deemed to be
15 spouses for purposes of a federal benefit under *Windsor*, Stacey and Lesly should also be deemed
16 to be spouses. But for the existence of Proposition 8, which has been declared to be
17 unconstitutional, Stacey and Lesly would have been legally married. If the Court grants this
18 Petition, Stacey will be a same-sex spouse, residing in a state that recognizes such a union and
19 there is no question that the protections for spouses under ERISA and the Internal Revenue Code
20 would apply to her.

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21 Other courts are also interpreting *Windsor* to allow for equal treatment of same- sex
22 couples. In the United States District Court for the Southern District of Ohio, Judge Timothy
23 Black ruled that a same-sex couple's Maryland marriage would be recognized in Ohio, despite
24 Ohio's constitutional ban on same- sex marriage. *Obergefell v. Kasich*, Case No. 1:13-cv-501
25 (S.D. Ohio, Western Div. July 22, 2013.) In that case, John Arthur ("John") and Jim Obergefell
26 ("Jim") were unable to marry in Ohio because they are a same-sex couple. John is terminally ill
27 with a neurological disease and is not well enough to leave his home. Through donations from
28 family and friends, the couple was able to cover the cost of a chartered, medically-equipped

Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 private plane. Despite his weakened medical state, John was then able to fly with Jim to
 2 Maryland where they legally married one another on the airport tarmac. The federal court held
 3 that John and Jim are entitled to use the term spouse and that the Ohio Constitution on the issue
 4 “violates rights secured by the ... United States Constitution in that same-sex couples married in
 5 jurisdictions where same sex- marriages are valid who seek to have their out-of-state marriage
 6 accepted as legal in Ohio are treated differently than opposite sex couples who have been
 7 married in states where their circumstances allow marriage in that state but not in Ohio.” (The
 8 full Order in *Obergefell v. Kasich* is attached hereto as Exhibit B.)

9 Similarly in the case at bar, Lesly was not well enough to travel to a nearby state to
 10 legally marry Stacey. However, the couple was not able to raise money to charter a private,
 11 medically-equipped plane. Thus, Stacey and Lesly were not able to marry in Washington or
 12 another state where marriage was legal. It is of note that Ohio currently has a constitutional ban
 13 against same-sex marriage, yet a federal judge in Ohio ruled that Jim and John are spouses.
 14 California has no such ban, and both allows same- sex couples to marry and recognizes out of
 15 state same sex marriages. It follows that if Ohio bans same- sex marriage but affords the term
 16 spouse to a same- sex couple, then California should certainly deem Stacey to be Lesly’s legal
 17 spouse, consistent with California’s affirmation of same-sex couples’ legal right to marry under
 18 the U.S. and State Constitutions.

19 IV. CONCLUSION

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21 It was the voters of California, and not the state legislature or courts, who took away the
 22 constitutionally protected right to marry and use of the word “marriage” and “spouse” from
 23 November 4, 2008 until June 26, 2013. The State of California did not change its Constitution
 24 or the core principals governing equality in the state. But for Proposition 8, Stacey and Lesly
 25 would have been legally married on the date of their wedding ceremony on June 19,
 26 2013. Stacey and Lesly already share all of the same rights and responsibilities as a married
 27 couple under the laws of this state because they are registered domestic partners and have been
 28 for over a decade. The State of California has no interest in denying Stacey and Lesly the right to

Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date, and Place of Marriage

1 be deemed legally married spouses. On the other hand, Stacey will suffer an actual harm, and
 2 will be denied hundreds of thousands of dollars of retirement benefits available to "surviving
 3 spouses" if she is not found to be Lesly's spouse. Like every spouse and parent, Lesly wanted to
 4 take care of her family. Lesly worked her whole life to provide for her wife and their children
 5 and fully expected that her work benefits would be paid to her family in the event of her
 6 untimely death.


7 The State of California honors the commitment that registered domestic partners have
 8 made to each other by conferring on this commitment all the same rights and responsibilities as
 9 previously granted to opposite- sex marriages. The State acted immediately to re-start same-sex
 10 marriages as soon as the U.S. Supreme Court cleared the path that had been blocked by
 11 Proposition 8. Following the ruling, Governor Jerry Brown declared, "[a]fter years of struggle,
 12 the U.S. Supreme Court today has made same sex marriage a reality in California. In light of the
 13 decision, I have directed the California Department of Public Health to advise the state's
 14 counties that they must begin issuing marriage licenses to same-sex couples in California as soon
 15 as the Ninth Circuit confirms the stay is lifted."

16 Unfortunately, marriages resumed in California 9 days too late for Lesly and Stacey to be
 17 able to apply for a marriage license without restriction. Nonetheless, they held their wedding the
 18 day before Lesly died and re-affirmed their commitment to one another. Today, Stacey Schuett
 19 respectfully requests the Court recognize her marriage to Lesly Taboada-Hall on June 19, 2013
 20 and declare them lawfully married and spouses.

21
 22 Respectfully submitted,

23
 24 Dated: 8/5/13

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25 
 26 Tate Birnie
 27 Attorney for Petitioner, Stacey Schuett
 28

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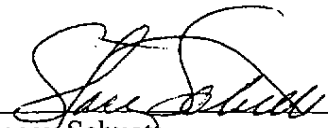
VERIFICATION

I, Stacey Schuett, say:

I am the Petitioner on the Petition to Establish Fact, Date, and Place of Marriage. The above Petition is true of my own knowledge except as to the matters that are stated in it on my information and belief, and as to those matters I believe it to be true.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: 8/5/2013



Stacey Schuett

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EXHIBIT

A

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EXHIBIT A

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

COZEN O'CONNOR, P.C.,	:	CIVIL ACTION
	:	
Plaintiff,	:	NO. 11-0045
	:	
v.	:	
	:	
JENNIFER J. TOBITS, <u>et al.</u>	:	
	:	
Defendants.	:	

MEMORANDUM

Jones, II, J.

July 29, 2013

The narrow issue presented in this case is whether the United States Supreme Court's decision in *United States v. Windsor*¹, declaring Section 3 of the Defense of Marriage Act unconstitutional as a deprivation of the equal liberty of persons that is protected by the Fifth Amendment, requires recognition of a valid Canadian same-sex marriage for purposes of benefits distribution pursuant to ERISA, a federal statute.²

I. FACTUAL BACKGROUND

Sarah Ellyn Farley began working at the Cozen O'Connor law firm in 2004, and subsequently became eligible to participate in the Firm's Profit Sharing Plan (the "Plan").³ In February of 2006, Ms. Farley married Jean Tobits in Toronto, Canada, as authorized under Canadian law. Shortly after her wedding, Ms. Farley was diagnosed with cancer and unfortunately later passed away on September 13, 2010.

¹ *United States v. Windsor*, 570 U.S. ___, 133 S. Ct. 2675 (2013).

² ERISA is codified as 29 U.S.C. §§ 1001-1461.

³ See Cozen O'Connor Profit Sharing Plan (the "Plan") (Dkt. No. 3-5).

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Cozen O'Connor's Plan requires that, upon the death of a Participant to the Plan, the Plan Administrator must pay death benefits in the form of a qualified Pre-Retirement Survivor Annuity in accordance with ERISA and the Internal Revenue Code (the "Code").⁴ The question herein is: Who should receive payment of the death benefits?⁵ Both Jean Tobits and Ms. Farley's parents (David and Joan, hereinafter "the Farleys") requested payment of the Pre-Retirement Survivor Annuity after Ms. Farley's death.⁶ In response to these competing claims,

⁴ See Plan §§ 6.2 (a),(e),(f).

⁵ The Plan language requires that death benefits will be paid to the Participant's "surviving Spouse" upon the death of the Participant. *See id.* The Participant may also designate a Beneficiary other than his or her Spouse to receive the death benefits; however, if the Participant has a Spouse, the Spouse must first waive his or her rights to be the Participant's Beneficiary before the designation of another Beneficiary can be deemed valid. *Id.* In the event there is no valid Beneficiary—Spouse or otherwise—the Plan's default provisions require that the death benefits are paid in the following order of priority: first to the Participant's surviving Spouse, and then to the Participant's surviving parents.

Because there is no debate that Ms. Tobits did not waive her right to be Ms. Farley's Beneficiary, a determination of whether Ms. Tobits is Ms. Farley's "surviving Spouse" pursuant to the Plan is dispositive of the distribution of death benefits. If Ms. Tobits is not Ms. Farley's "surviving Spouse," because she is not listed as Ms. Farley's Beneficiary, she has no rights to the death benefits under the Plan. If Ms. Farley is Ms. Tobits' Surviving Spouse, she is entitled to receive payment of the death benefits—the Pre-Retirement Survivor Annuity—via the Plan's priority order of payment. *Id.* §6.2 (f).

The Court notes that the Farleys submitted to Cozen a notarized Designation of Beneficiary Form dated September 12, 2010—the day before Ms. Farley's death—which lists the Farleys as "Primary Beneficiaries". The authenticity of this Form remains disputed. As discussed above, a Designation of Beneficiary Form is valid only if the Spouse—if there is a Spouse—has waived the Pre-Retirement Survivor Annuity by signing that same Designation of Beneficiary Form. There is no question that Ms. Tobits did not sign the Designation of Beneficiary Form, which would thereby waive her right to the death benefits. Thus the Court need not make a determination regarding the authenticity of the Designation, as a determination regarding whether Ms. Tobits is Ms. Farley's "surviving Spouse" could render the issue moot.

⁶ The Farleys, through their lawyer Jonathan W. Michael, first advised Cozen O'Connor that they believed they were owed Ms. Farley's death benefits in a letter to Cozen's Administrative Managing Partner, Vincent R. McGuinness, dated November 11, 2010. (Dkt. No. 3-2).

Ms. Tobits first advised Cozen O'Connor that she intended to file a claim with respect to Ms. Farley's death benefits in a letter to Cozen O'Connor's counsel, H. Robert Feibach, dated November 30, 2010. (Dkt. No. 3-3).

As to the Interpleader Action, there is no dispute that Cozen faced multiple competing claims under the Plan.

pursuant to Fed. R. Civ. P. 22, Cozen O'Connor filed an interpleader action in this Court in January, 2011 naming Ms. Tobits and the Farleys as Defendants.⁷

After significant motion practice between the original parties, the Court granted leave to intervene to the United States of America and the Bipartisan Legal Advisory Group ("BLAG") of the U.S. House of Representatives, given the looming Constitutional issues in this matter.⁸ This Court subsequently invited all interested parties to submit supplemental briefing on the outstanding Constitutional questions, and thereafter heard Oral Argument on pending motions.⁹ Given the likelihood of the United States Supreme Court issuing a ruling on the Constitutionality of DOMA Section 3 in its then-upcoming term, this Court placed the above matter on the Suspense Docket pending the outcome of those cases.¹⁰ On June 26, 2013, the United States Supreme Court rendered its decision in *United States v. Windsor*. On July 8, 2013, BLAG filed an Unopposed Motion to Withdraw, which this Court granted.¹¹

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⁷ See Cozen O'Connor's First Amended Complaint for Interpleader (Dkt. No. 3).

⁸ The Court also granted the motions of multiple parties to appear as *amicus curiae*. These parties included: Concerned Women for America, Frederick Douglass Foundation, Parents and Friends of Ex-Gays & Gays ("PFOX"), The Human Rights Campaign, Equality Forum, Professor Robert P. George, Sherif Girgis, Ryan T. Anderson, and Gage Raley.

⁹ The parties' briefs and oral arguments were well-prepared and of great assistance to the Court. The parties are commended in this regard.

¹⁰ See Dkt. No. 137.

¹¹ In its Motion, BLAG—which also argued for the constitutionality of DOMA Section 3 in *Windsor*—stated:

The Supreme Court recently resolved the issue of DOMA Section 3's constitutionality. See *United States v. Windsor*, 570 U.S. ___ (2013), 2013 WL 3196928 (U.S. June 26, 2013). Accordingly, the House no longer has a role to play in this litigation and now seeks to withdraw as a party defendant.

Id.

At the heart of this matter is whether Jean Tobits is Ms. Farley's "Spouse" pursuant to the Plan language. This court answers the question in the affirmative. As such, this finding is dispositive of issues that remain in this case.¹²

II. LEGAL STANDARD

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A. Interpleader

Cozen O'Connor brought this action in interpleader pursuant to Federal Rule of Civil Procedure 22, requesting that: 1) Tobits and the Farleys be required to interplead and settle among themselves their respective claims to the money due under the Plan; 2) Tobits and the Farleys be restrained from commencing any action against Cozen O'Connor on the Plan; 3) Cozen O'Connor be permitted to pay into the registry of the court all amounts due under the Plan and upon such deposit be discharged from all liability arising from the Plan; and 4) that Cozen O'Connor be awarded its costs and attorneys' fees.

Interpleader "allows 'a person holding property to join in a single suit two or more persons asserting claims to that property.'" *Metro. Life Ins. Co. v. Price*, 501 F.3d 271, 275 (3d Cir.2007) (citations omitted). "The plaintiff in an interpleader action is a stakeholder that admits it is liable to one of the claimants, but fears the prospect of multiple liability." *Id.* A party seeking the

¹² Currently before this Court are Cozen O'Connor's First Amended Complaint for Interpleader, dated January 24, 2011 (Dkt. No. 3); Defendant Farleys' Answer, Counterclaim, and Crossclaim, dated August 1, 2011 (Dkt. No. 14); Defendant Tobits' Answer, Affirmative Defenses, Counterclaim and Cross-Claims To Interpleader First Amended Complaint, dated August 1, 2011 (Dkt. No. 15); Defendant Farleys' Motion To Dismiss Jennifer J. Tobits' Crossclaims Pursuant to FRCP12 (b)(6), dated August 22, 2011 (Dkt. No. 25); Plaintiff Cozen O'Connor's Motion for Judgment on the Pleadings Pursuant to Rule 12(c), dated September 8, 2011, (Dkt. No. 31); Cross-Claimant Tobits' Motion for Judgment on the Pleadings as to the Farleys' Cross-Claim and Counterclaim For ERISA Relief, dated September 13, 2011, (Dkt. No. 36), and the various responses thereto.

For the reasons that follow, Cozen O'Connor's Motion for Interpleader is Granted in Part and Denied in Part. Tobits' Motion for Judgment on the Pleadings is Granted. The Farleys' Motion to Dismiss is Denied. All other pending Motions are Denied as Moot.

remedy of interpleader under FRCP 22 “may file suit, deposit the property with the court and then withdraw from the proceedings, leaving the competing claimants to litigate between themselves.” *Allstate Settlement Corp. v. United States*, 2008 WL 2221897, at *3 (E.D.Pa. May 28, 2008).

B. Judgment on the Pleadings

A party may move for judgment “after the pleadings are closed but within such time as not to delay the trial.” Fed. R. Civ. P. 12(c). In so doing, “the moving party must show that no issues of material fact exist and that judgment should be entered in its favor as a matter of law.” *S.B. v. United of Omaha Life Ins. Co.*, Civ. No. 13-1463, 2013 WL 2915973, at *3 (E.D. Pa. June 13, 2013) (citing *Bayer Chemicals Corp. v. Albermarle Corp.*, 171 Fed. App’x 392, 397 (3d Cir. 2006); *Jablonski v. Pan Amer. World Airways, Inc.*, 863 F.2d 289, 290 (3d Cir. 1988)). “In evaluating a Rule 12(c) motion, a court must view the pleadings in the light most favorable to, and draw all inferences in favor of, the nonmoving party.” *Jablonski*, 863 F.2d at 290. The court “need not accept as true legal conclusions or unwarranted factual inferences.” *Id.*

In considering a motion for judgment on the pleadings, a court is not limited to the pleadings themselves but may also consider facts of which the court may take judicial notice. *See Schott v. Doe*, CIVA 05-1730, 2007 WL 539645 (W.D. Pa. Feb. 15, 2007) (citing *Oran v. Stafford*, 226 F.3d 275, 289 (3d Cir.2000)).

Before this Court are both Cozen O’Connor’s and Ms. Tobits’ Motions for Judgment on the Pleadings. In addition to the Motions and the responses thereto, this Court considers a number of documents that are incorporated by reference in the Complaints and various pleadings, as well as judicially noticed facts. *See Southmark Prime Plus, L.P. v. Falzone*, 776 F. Supp. 888, 892 (D.

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Del. 1991) (noting that “the consideration of the judicially noticed facts does not convert the motion into a Rule 56 motion for summary judgment.”).

In its Motion for Judgment on the Pleadings, Cozen requests judgment as to its interpleader claim, in addition to judgment as to Tobits’ and the Farleys’ Counterclaims. Ms. Tobits, likewise requests, *inter alia*, “judgment as a matter of law that she is Ms. Farley’s surviving spouse and is therefore entitled to the Plan benefits.”

III. DISCUSSION

A. The Plan Terms

Because the competing claims to Ms. Farley’s death benefits require interpretation of the Plan, several key Plan provisions are discussed herein.

The Plan provides in relevant part:

ARTICLE I DEFINITIONS

1.55A “Spouse” means the person to whom the Participant has been married throughout the one-year period ending on the earlier of (1) the Participant’s annuity starting date or (2) the date of the Participant’s death. The Plan Administrator may rely on the Participant’s written statement regarding such Participant’s marital status.

ARTICLE VI DETERMINATION AND DISTRIBUTION OF BENEFITS

6.2 DETERMINATION OF BENEFITS UPON DEATH

(a) Upon the death of a Participant before the Participant’s Retirement Date or other termination of employment, all amounts credited to such Participant’s Combined Account shall become fully Vested. The Administrator shall direct the Trustee, in accordance with the provisions of Sections 6.6 and 6.7, to distribute the value of the deceased Participant’s accounts to the Participant’s Beneficiary

(e) Unless otherwise elected in the manner prescribed in Section 6.6, the Participant’s surviving Spouse shall receive a death benefit equal to the Pre-Retirement Survivor Annuity. The Participant may designate a Beneficiary other than the Spouse to receive that portion of the

Participant's death benefit which is not payable as a Pre-Retirement Survivor Annuity. The Participant may also designate a Beneficiary other than the Participant's Spouse to receive the Pre-Retirement Survivor Annuity but only if:

(1) the Participant and the Participant's Spouse have validly waived the Pre-Retirement Survivor Annuity in the manner prescribed in Section 6.6, and the Spouse has waived the right to be the Participant's Beneficiary, or

(3) the Participant has no Spouse, or

In such event, the designation of a Beneficiary shall be made on a form satisfactory to the Administrator . . .

(f) In the event no valid designation of Beneficiary exists, or if the Beneficiary is not alive at the time of the Participant's death, the death benefit will be paid in the following order of priority to:

(1) the Participant's surviving Spouse;

(2) the Participant's surviving parents, in equal shares

ARTICLE IX MISCELLANEOUS

9.3 CONSTRUCTION OF PLAN

This Plan shall be construed and enforced according to the [Internal Revenue] Code, [ERISA] and the laws of the Commonwealth of Pennsylvania, other than its laws respecting choice of law, to the extent not pre-empted by [ERISA].

The Plan (Dkt. No. 3-4 at 1-86).

B. Applicability of ERISA to the Plan

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The Code¹³ and ERISA mandate that employee benefit plans meet several requirements to be "qualified" for tax preferences.¹⁴ Among these mandates is the requirement that employee

¹³ The Code is codified as Title 26 of the U.S. Code.

¹⁴ ERISA requires that "[e]very employee benefit plan shall be established and maintained pursuant to a written instrument." 29 U.S.C. § 1102(a)(1).

benefit plans contain certain mandatory spousal benefits provisions.¹⁵ Cozen O'Connor has represented to the Court that the Plan is an ERISA-qualified Plan, such that it was drafted to comply with federal law and to enjoy those benefits that accompany an ERISA-qualified plan.¹⁶ Indeed, the Plan contains several hallmarks of an ERISA-qualified plan including those provisions that relate to the distribution of death benefits such as: the Plan's requirement that in order to qualify as "Spouse," the individual must be married to the Participant for at least one year;¹⁷ the Plan's requirement that a "Spouse" must waive his or her right to be the Participant's Beneficiary in writing;¹⁸ and the Plan's requirement that death benefits shall go to the "surviving Spouse," absent a spousal waiver.¹⁹ Not only does it contain language that mirrors the mandates of ERISA and the Code, the Plan expressly requires that the Plan is to be construed according to ERISA and the Code.²⁰ That is, ERISA and the Code shall supply meanings to the Plan not otherwise found therein, and the Administrator is bound by those terms in making any determination regarding benefits.²¹

¹⁵ ERISA and the Code merely establish a floor for privately sponsored employee benefit plans with respect to spousal benefits. Privately-sponsored plans have discretion to go beyond these requirements—indeed many do. Today's holding makes clear, however, that *Windsor* leveled the floor.

¹⁶ See Dkt. No. 90 at 4 ("Ms. Farley's death benefit, which is at issue in this case, although payable by a private employer, is absolutely federally mandated under ERISA and under the Internal Revenue Code. The Plan follows this federal law mandate"); see also, Mar. 20, 2013 Tr. at 62:12-16;63:20-64:10 ("The Cozen plan is an ERISA-qualified plan. What that means Your Honor, is in order to get the tax benefits and the other benefits of the plan, it has to follow ERISA. If it does not, if we do not comply with federal law, there are terrible tax consequences that follow both from the participants and to Cozen O'Connor. . . . So Your Honor, we then look at ERISA because our plan was drafted to comply with federal law. . . . and the definitions are there in order to comport with federal law.").

¹⁷ 29 U.S.C. Sec. 1055(b)(4); Plan §1.55A.

¹⁸ 29 U.S.C. § 1055(c)(2); Plan §§ 6.2 (e),(f).

¹⁹ 29 U.S.C. § 1055(b); Plan §§ 6.2 (e),(f).

²⁰ Plan §9.3.

²¹ See *id.*; see also *Kennedy v. Plan Admr for DuPont Sav. & Inv. Plan*, 555 U.S. 285 (U.S. 2009). In *Kennedy*, the United States Supreme Court held that the determination of the proper beneficiary under an ERISA-governed plan will be determined by the language of the plan itself. The *Kennedy* Court noted that "ERISA makes clear that plan administrators must pay benefits "in accordance with the documents

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Here, the definition of “Spouse” is undefined, except to the extent that it requires that anyone who is a “Spouse” must be married for a year prior to receiving benefits.²² This requirement—which tracks the ERISA mandates regarding spousal benefits—still leaves open the question of exactly *who* can be a “Spouse.” Based on the language of the Plan—which Cozen drafted pursuant to ERISA’s mandates—the Court must look to ERISA and then the Code for those definitions.²³

By reason of the operative language of the Plan, the determination of whether Ms. Tobits is Ms. Farley’s “Spouse” is dispositive of the distribution of death benefits.

C. *Windsor* and the Definition of “Spouse”

The Dictionary Act codifies rules of statutory construction for thousands of laws and federal regulations, including ERISA and the Code.²⁴ Section 3 of the federal Defense of Marriage Act (“DOMA”) amended the Dictionary Act, and provided that:

In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”

1 U.S.C. § 7.

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and instruments governing the plan.” 29 U.S.C. § 1104(a)(1)(D). Thus, the administrators of this Plan are required to make their benefits determination(s) according to the Code and ERISA, as the Plan language requires.

²² Plan §1.55A.

²³ Cozen O’Connor, a private employer, did not have to create an employee benefit plan. The Firm’s choice to create a tax-qualified employee benefit plan “to be construed and enforced” under ERISA, subjects the Firm’s Plan to federal law.

²⁴ See 1 U.S.C. § 1, et seq.

Thus, for purposes of ERISA, the Code and thousands of other regulations, DOMA, by operation of its Section 3, restricted any reference to “Spouse” to mean *only* opposite-sex spouses.²⁵

In *United States v. Windsor*, the United States Supreme Court considered whether Edith Windsor, a New York resident who married her late-wife, Thea Spyer in 2006 in Canada, qualified for a federal estate tax exemption as a “surviving spouse,” in light of Section 3 of DOMA. The *Windsor* Court held that because the state of New York recognized same-sex marriages as valid—and, to wit, the Canadian marriage of Edith Windsor and Thea Spyer—DOMA unlawfully deprived those couples of the equal liberty of persons that is protected by the Fifth Amendment. As it stood, DOMA, “wr[ote] inequality into the entire United States Code.”²⁶

That “written inequality” in DOMA Section 3 extended to the ERISA definition of “Spouse.” Prior to the Court’s decision in *Windsor*, under the plain language of ERISA, the Code, and the Plan at issue in this case, qualified retirement plans were under no obligation to provide benefits to same-sex Spouses. Following the Court’s ruling, the term “Spouse” is no longer unconstitutionally restricted to members of the opposite sex, but now rightfully includes those same-sex spouses in “otherwise valid marriages.”

D. Ms. Tobits is Ms. Farley’s “Spouse”

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There can be no doubt that Ms. Tobits is Ms. Farley’s “surviving Spouse” under the Plan in light of the Supreme Court’s decision in *Windsor*. Ms. Tobits and Ms. Farley were married in

²⁵ See *Windsor*, 133 S. Ct. at 2683 (“[DOMA’s] comprehensive definition of marriage for purposes of all federal statutes and other regulations or directives covered by its terms, however, does control over 1,000 federal laws in which marital or spousal status is addressed as a matter of federal law.”) (citing GAO, D. Shah, Defense of Marriage Act: Update to Prior Report 1 (GAO-04-353R, 2004)).

²⁶ *Id.* at 2681.

Toronto, Canada in 2006, just a year before Edith Windsor and Thea Spyer wed in Ontario. Ms. Tobits possesses uncontroverted evidence of a valid Canadian Marriage Certificate solemnizing that marriage.²⁷ Ms. Tobits and Ms. Farley celebrated that marriage with another ceremony in Illinois, where the couple lived together until Ms. Farley's untimely death in 2010.²⁸ Post-*Windsor*, where a state recognizes a party as a "Surviving Spouse," the federal government must do the same with respect to ERISA benefits—at least pursuant to the express language of the ERISA-qualified Plan at issue here. There can be no doubt that Illinois, the couple's place of domicile, would consider Ms. Tobits Ms. Farley's "surviving Spouse"—indeed it already has made that specific finding under state law.²⁹ *Windsor* makes clear that where a state has

²⁷ See Dkt. No. 3-4.

²⁸ The Court need not decide any issues of Pennsylvania state law in this matter, including that of the constitutionality of Pennsylvania's state DOMA statute. Although the Plan contains a choice of law provision that makes reference to Pennsylvania law, by the Plan's terms, Pennsylvania law is only applicable to the extent it is not pre-empted by ERISA. Here, the Court finds that, based on the terms of this Plan, ERISA pre-empts Pennsylvania law entirely.

That this Plan belongs to a company headquartered in Pennsylvania matters not. The issue here regards the definition of "Spouse" as supplied by ERISA—a federal regulation. For the purposes of determining the definition of "Spouse," if Courts were required to look at the state in which the policy was drafted, this could permit Plan administrators and drafters to forum shop among those jurisdictions with state DOMA statutes, in an effort to avoid providing benefits to same-sex couples with otherwise valid marriages. At its heart, ERISA was enacted to establish national uniformity among benefit plans. 120 CONG. REC. 29,197 (1974) ("With the preemption of the field, we round out the protection afforded participants by eliminating the threat of conflicting and inconsistent State and local regulation."); see also *Aetna Health Inc. v. Davila*, 542 U.S. 200, 208, (2004). Today's decision is consistent with that goal.

²⁹ Illinois, like many states, does not issue marriage licenses to same-sex couples. By virtue of its civil union statute, however, Illinois can recognize same-sex marriages solemnized in other jurisdictions, such as Canada. See 750 Ill. Comp. Stat. Ann. 75/1 *et seq.* (West 2011); see also 750 Ill. Comp. Stat. Ann. 75/5 (describing purpose of Illinois Religious Freedom Protection and Civil Union Act as "provid[ing] persons entering into a civil union with the obligations, responsibilities, protections, and benefits afforded or recognized by the law of Illinois to spouses".)

An Order from the Circuit Court for Cook County, Illinois, dated October 21, 2011, declared Ms. Tobits a party to a civil union with Ms. Farley and declared her Ms. Farley's sole heir. See Dkt No. 57, Circuit Court of Cook, County, Ill. Department - Probate Division Order Declaring Heirship. Furthermore, that court granted Ms. Tobits' request to become administrator, authorizing her to take possession of and collect the estate of the decedent and to do all acts required by law. Indeed, because the Illinois probate Court recognized Ms. Tobits as the sole heir to a civil union, it accepted as valid the marriage between Ms. Tobits and Ms. Farley that took place in Canada in 2006. This Court takes judicial

recognized a marriage as valid, the United States Constitution requires that the federal laws and regulations of this country acknowledge that marriage. In light of that, this Court finds that Ms. Tobits is Ms. Farley's "Spouse" pursuant to the terms of the Plan. This finding alone is dispositive of the issue of the proper recipient of Ms. Farley's death benefits.

IV. CONCLUSION

For the foregoing reasons, judgment shall be entered for Jennifer Tobits. The proceeds of the Plan, which shall be paid into the Registry of the Court pursuant to the accompanying Order, shall be paid in full to Jennifer Tobits. Plaintiff Cozen O'Connor is entitled to discharge of future liability to Defendants concerning the distribution of the Plan's death benefits.

An appropriate Order follows.

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notice of these decisions as bearing a direct relation to matters at issue before this Court. *See Golden v. Cook*, 293 F. Supp. 2d 546, 551 (W.D. Pa. 2003) ("[C]ourts are permitted to consider matters of which they may take judicial notice, including records and reports of administrative bodies . . . and publicly available records and transcripts from judicial proceedings in related or underlying cases which have a direct relation to the matters at issue."). As this Canadian marriage was deemed valid, albeit under the nominal title of "civil union" in Illinois, there can be no dispute that Ms. Tobits is a "surviving Spouse" pursuant to the Plan.

EXHIBIT

B

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EXHIBIT B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

JAMES OBERGEFELL, <i>et al.</i>	:	Case No. 1:13-cv-501
	:	
Plaintiffs,	:	
	:	Judge Timothy S. Black
vs.	:	
	:	
JOHN KASICH, <i>et al.</i>	:	
	:	
Defendants.	:	

**ORDER GRANTING PLAINTIFFS' MOTION FOR
A TEMPORARY RESTRAINING ORDER**

This is not a complicated case. The issue is whether the State of Ohio can discriminate against same sex marriages lawfully solemnized out of state, when Ohio law has historically and unambiguously provided that the validity of a marriage is determined by whether it complies with the law of the jurisdiction where it was celebrated.

Throughout Ohio's history, Ohio law has been clear: a marriage solemnized outside of Ohio is valid in Ohio if it is valid where solemnized. Thus, for example, under Ohio law, out-of-state marriages between first cousins are recognized by Ohio, even though Ohio law does not authorize marriages between first cousins. Likewise, under Ohio law, out of state marriages of minors are recognized by Ohio, even though Ohio law does not authorize marriages of minors.

How then can Ohio, especially given the historical status of Ohio law, single out same sex marriages as ones it will not recognize? The short answer is that Ohio cannot ...

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at least not under the circumstances here.

By treating lawful same sex marriages differently than it treats lawful opposite sex marriages (*e.g.*, marriages of first cousins and marriages of minors), Ohio law, as applied to these Plaintiffs, likely violates the United States Constitution which guarantees that "No State shall make or enforce any law which shall ... deny to any person within its jurisdiction equal protection of the laws."

The end result here and now is that the local Ohio Registrar of death certificates is hereby **ORDERED** not to accept for recording a death certificate for John Arthur that does not record Mr. Arthur's status at death as "married" and James Obergefell as his "surviving spouse."

I. AGREED FACTS AND CIRCUMSTANCES

Less than a month ago, on June 26, 2013, the United States Supreme Court issued its historic decision in *United States v. Windsor*, __ U.S. __, 133 S.Ct. 2675 (2013). The Supreme Court held that the federal Defense of Marriage Act ("DOMA"), which denied recognition to same-sex marriages for purposes of federal law, was unconstitutional, as it denied fundamental fairness and equal protection of the law to gay citizens. While the holding in *Windsor* is ostensibly limited to a finding that the federal government cannot refuse to recognize state laws authorizing same sex marriage, the issue whether States can refuse to recognize out-of-state same sex marriages is now surely headed to the fore. Indeed, just as Justice Scalia predicted in his animated dissent, by virtue of the present lawsuit, "the state-law shoe" has now dropped in Ohio. *Windsor*, 133 S.Ct. at 77-78.

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Plaintiffs James Obergefell and John Arthur are male Cincinnati residents who have been living together in a committed and intimate relationship for more than twenty years, and they were very recently legally married in the state of Maryland pursuant to the laws of Maryland recognizing same sex marriage.

Mr. Arthur is currently a hospice patient. He is dying of amyotrophic lateral sclerosis (“ALS”). ALS is a progressive disease that has caused Mr. Arthur severe and worsening muscle deterioration, has no known cure, and is fatal.

On July 11, 2013, Plaintiffs traveled to Maryland in a special jet equipped with medical equipment and a medical staff necessary to serve Mr. Arthur’s needs, whereupon Plaintiffs were married in the jet as it sat on the tarmac in Anne Arundel County, Maryland. They returned to Cincinnati that same day.

Plaintiffs’ marriage is legally recognized in Maryland and by the federal government by virtue of the very recent and historic decision of the United States Supreme Court in *United States v. Windsor*, __ U.S. __, 133 S.Ct. 2675 (2013). Plaintiffs’ marriage is not recognized in Ohio, as legal recognition of same-sex marriages is prohibited by Ohio law enacted in 2004. *See* Ohio Rev. Code. § 3101.01(C)(2)&(3) and Ohio Constitution Art. XV, §11.

Mr. Arthur is certain to die soon. Consistent with Ohio law, his death record will list his “marital status at time of death” as “unmarried” and will not record Mr. Obergefell as the “surviving spouse.”

II. PLAINTIFFS' MOTION

Plaintiffs seek an order of this Court declaring unconstitutional the Ohio laws forbidding recognition of legal same sex marriages from other states and requiring the Registrar of Ohio death certificates to record John Arthur as "married" and to record James Obergefell as his "surviving spouse" at the time of Mr. Arthur's death, which is imminent.

III. STANDARD OF REVIEW

In determining whether to grant injunctive relief, this Court must weigh four factors: (1) whether the moving party has shown a strong likelihood of success on the merits; (2) whether the moving party will suffer irreparable harm if the injunction is not issued; (3) whether the issuance of the injunction would cause substantial harm to others; and (4) whether the public interest would be served by issuing the injunction. *Overstreet v. Lexington-Fayette Urban County Gov't*, 305 F.3d 566, 573 (6th Cir. 2002). These four considerations are factors to be balanced, not prerequisites that must be met. *McPherson v. Michigan High Sch. Athletic Ass'n, Inc.*, 119 F.3d 453, 459 (6th Cir. 1997), and there is no "rigid and comprehensive test for determining the appropriateness of preliminary injunctive relief." *Tate v. Frey*, 735 F.2d 986, 990 (6th Cir. 1984).

Plaintiffs bear the burden of demonstrating their entitlement to a preliminary injunction, and an "injunction is an extraordinary remedy which should be granted only if the movant carries his or her burden of proving that the circumstances clearly demand it."

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Overstreet, 305 F.3d at 513. In the Sixth Circuit, “[t]he standard for issuing a temporary restraining order is logically the same as for a preliminary injunction with emphasis, however, on irreparable harm[.]” *Reid v. Hood*, No. 1:10 CV 2842, 2011 U.S. Dist. LEXIS 7631, at *2 (N.D. Ohio Jan 26, 2011) (citing *Motor Vehicle Bd. of Calif. v. Fox*, 434 U.S. 1345, 1347 n.2 (1977)). Moreover, “[a]lthough no one factor is controlling, a finding that there is simply no likelihood of success on the merits is usually fatal.” *Gonzales v. Nat’l Bd. of Med. Exam’rs*, 225 F.3d 620, 625 (6th Cir. 2000).

Even if the court is not certain that a plaintiff is likely to succeed on the merits, a preliminary injunction is still appropriate where the plaintiff shows “‘serious questions going to the merits and irreparable harm which decidedly outweighs any potential harm to the defendant’” or if “the merits present a sufficiently serious question to justify further investigation.” *In re DeLorean Motor Co.*, 755 F.2d 1223, 1229-30 (6th Cir. 1985) (quoting *Friendship Materials, Inc. v. Michigan Brick, Inc.*, 679 F.2d 100, 105 (6th Cir. 1982)).

IV. ANALYSIS

The Fourteenth Amendment to the Constitution of the United States provides that “No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. Amend. XIV.

Plaintiffs, a same-sex couple, are legally married in Maryland. They reside in Ohio where their marriage is not recognized as valid. They are treated differently than they would be if they were in a comparable opposite-sex marriage. By treating lawful same sex marriages differently than it treats lawful opposite sex marriages (e.g., marriages of first cousins and marriages of minors), Plaintiffs assert that the Ohio laws barring recognition of out-of-state same sex marriages, enacted in 2004, violate equal protection.

Although the law has long recognized that marriage and domestic relations are matters generally left to the states, see *Ex parte Burrus*, 136 U.S. 586, 593-94 (1890), the restrictions imposed on marriage by states, however, must nonetheless comply with the Constitution. *Loving v. Virginia*, 388 U.S. 1, 12 (1967) (statute limiting marriage to same-race couples violated equal protection and due process); *Zablocki v. Redhail*, 434 U.S. 374, 383 (1978) (statute restricting from marriage persons owing child support violated equal protection).

In *Windsor*, the Supreme Court again applied the principle of equal protection to a statute restricting marriage when it reviewed the constitutionality of the federal Defense of Marriage Act ("DOMA"), which denied recognition to same-sex marriages for purposes of federal law. This included marriages from the twelve states and District of Columbia in which same-sex couples could legally marry. The Supreme Court held that the federal law was unconstitutional because it violated equal protection and due process principles guaranteed by the Fifth Amendment. *Windsor*, 133 S. Ct. at 2675.

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In reality, the decision of the United States Supreme Court in *Windsor* was not unprecedented as the Supreme Court relied upon its equal protection analysis from an earlier case, where, in 1996, the Court held that an amendment to a state constitution, ostensibly just prohibiting any special protections for gay people, in truth violated the Equal Protection Clause, under even a rational basis analysis. *Romer v. Evans*, 517 U.S. 620 (1996).

In *Romer*, the Supreme Court struck down Colorado's Amendment 2 because, the Court held, "[w]e cannot say that Amendment 2 is directed to any identifiable legitimate purpose or discrete objective. It is a status-based enactment divorced from any factual context from which we could discern a relationship to legitimate state interests; it is a classification of persons undertaken for its own sake, something the Equal Protection Clause does not permit." *Id.* at 635. The Supreme Court deemed this "class legislation ... obnoxious to the prohibitions of the Fourteenth Amendment." *Id.* (quoting *Civil Rights Cases*, 109 U.S. 3, 24 (1883)).

As the Supreme Court in *Romer* held so succinctly: [Colorado law] "classifies homosexuals not to further a proper legislative end but to make them unequal to everyone else. This Colorado cannot do. A State cannot so deem a class of persons a stranger to its laws. Amendment 2 violates the Equal Protection Clause[.]" 517 U.S. at 635-36.

As the Supreme Court explained in striking down DOMA, "[t]he avowed purpose and practical effect of the law here in question are to impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the

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unquestioned authority of the States.” *Windsor*, 133 S. Ct. at 2693.

Similarly, in *Windsor*, the Supreme Court cited *U. S. Dept. of Agriculture v. Moreno*, 413 U.S. 528 (1973), for the proposition that a legislative desire to harm a politically unpopular group of people cannot justify disparate treatment of that group. *Windsor*, 133 S. Ct. at 2693. In *Moreno*, a federal statute prohibiting households containing “unrelated persons” from qualifying for food stamps was held to be in violation of the Equal Protection Clause under a rational basis analysis. The legislative purpose of the statute was to prohibit “hippies” from taking advantage of food stamps. The Supreme Court held that “the classification here ... is wholly without any rational basis.” *Moreno*, 413 U.S. at 538. Likewise, in *Windsor*, the Supreme Court held that the purpose of the federal DOMA was “to impose inequality, not for other reasons like governmental efficiency.” 133 S. Ct. at 2694.

Under Supreme Court jurisprudence, states are free to determine conditions for valid marriages, but these restrictions must be supported by legitimate state purposes because they infringe on important liberty interests around marriage and intimate relations.

In derogation of law, the Ohio scheme has unjustifiably created two tiers of couples: (1) opposite-sex married couples legally married in other states; and (2) same-sex married couples legally married in other states. This lack of equal protection of law is fatal.

As a threshold matter, it is absolutely clear that under Ohio law, from the founding of the State through at least 2004, the validity of an opposite-sex marriage is to be determined by whether it complies with the law of the jurisdiction where it was celebrated. That is, a marriage solemnized outside of Ohio is valid in Ohio if it is valid where solemnized. Thus the leading compendium of Ohio law states:

“Generally, a marriage solemnized outside of Ohio is valid in Ohio if it is valid where solemnized. Thus, the validity of a common-law marriage is determined by the law of the state where it was consummated, and that of a solemnized marriage by the law of the state where it was contracted. Likewise, a marriage created in a foreign nation is valid according to that nation's laws. [...] The fact that the parties to a marriage left the state to marry in order to evade Ohio's marriage laws is immaterial to the marriage's validity in Ohio.” *See* 45 Ohio Jur. 3d Family Law § 11.

Longstanding Ohio law has been clear: a marriage solemnized outside of Ohio is valid in Ohio if it is valid where solemnized. This legal approach is firmly rooted in the longstanding legal principle of “*lex loci contractus*” -- *i.e.*, the law of the place of the contracting controls. Ohio has adopted this legal approach from its inception as a State.

Thus, for example, under Ohio law, as declared by the Supreme Court of Ohio in 1958, out-of-state marriages between first cousins are recognized by Ohio, even though Ohio law does not authorize marriages between first cousins. *Mazzolini v. Mazzolini*, 155 N.E.2d 206, 208 (Ohio Sup. Ct. 1958) (marriage of first cousins was legal in Massachusetts and therefore is legal in Ohio regardless of the Ohio statute to the contrary).

Likewise, under Ohio law, out-of-state marriages of minors are recognized by Ohio, even though Ohio law does not authorize marriages of minors. *See Hardin v. Davis*, 16 Ohio Supp. 19, at *22 (Com. Pl. Hamilton Co. May 18, 1945) (“But, although first cousins cannot marry in Ohio, it has been held that if they go to another state where such marriages are allowed, marry, and return to Ohio, the marriage is legal in Ohio”); *see also Slovenian Mut. Ben. Ass’n v. Knafelj*, 173 N.E. 630, 631 (Ohio App. 1930) (“It is true that, under the laws of Ohio, if she were his first cousin he could not marry her; but they could go to the state of Michigan, or the state of Georgia, and perhaps many other states in the United States, and intermarry, and then come right back into Ohio and the marriage would be legal”); *see also Peefer v. State*, 182 N.E. 117, 121 (Ohio App. 1931) (where underage couples leave the state to marry in a state in which their marriage is valid and return to Ohio, the marriage cannot be set aside based on Ohio’s law against marriage of underage people); *see also Courtright v. Courtright*, 1891 Ohio Misc. LEXIS 161, at *7, *aff’d without opinion*, 53 Ohio 685 (Ohio 1895) (marriage between persons considered underage in Ohio married in a state where their marriage is legal “cannot be set aside, either because it was not contracted in accordance with the law of this state, or because the parties went out of the state for the purpose of evading the laws of this state”).

Quintessentially, Plaintiffs have established a substantial likelihood that they will prevail at trial on their claim that by treating lawful same sex marriages differently than it treats lawful opposite sex marriages (*e.g.*, marriages of first cousins and marriages of

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minors), Ohio law, as applied here, violates the United States Constitution which guarantees that "No State shall make or enforce any law which shall ... deny to any person within its jurisdiction equal protection of the laws."

Moreover, as the United States Supreme Court found in *Windsor*, there is no legitimate state purpose served by refusing to recognize same-sex marriages celebrated in states where they are legal. Instead, as in *Windsor*, and at least on this early record here, the very purpose of the Ohio provisions, enacted in 2004, is to "impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of the States." *Windsor*, 133 S.Ct. at 2639. The purpose served by treating same-sex married couples differently than opposite-sex married couples is the same improper purpose that failed in *Windsor* and in *Romer*: "to impose inequality" and to make gay citizens unequal under the law. *See Windsor*, 133 S.Ct. at 2694; *see Romer*, 517 U.S. at 635-36. It is beyond cavil that it is constitutionally prohibited to single out and disadvantage an unpopular group.

Even if there were proffered some attendant governmental purpose to discriminate against gay couples, other than to effect pure animus, it is difficult to imagine how it could outweigh the severe burden imposed by the ban imposed on same-sex couples legally married in other states. Families deserve the highest level of protection under the First Amendment right of association:

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“Marriage is a coming together for better or for worse, hopefully enduring, and intimate to the degree of being sacred. It is an association that promotes a way of life, not causes; a harmony in living, not political faiths; a bilateral loyalty, not commercial or social projects. Yet it is an association for as noble a purpose as any involved in our prior decisions.”

Zablocki v. Redhail, 434 U.S. 374, 384, (1978) (citing *Griswold v. Connecticut*, 381 U.S. 479, 486 (1965)). Even if the classification of same-sex couples legally married in other states is reviewed under the least demanding rational basis test, this Court on this record cannot find a rational basis for the Ohio provisions discriminating against lawful, out-of-state same sex marriages that is not related to the impermissible expression of disapproval of same-sex married couples.

Consequently, Plaintiffs have demonstrated a strong likelihood of success on the merits.

Moreover, denying Plaintiffs their associational rights under the circumstances presented here imposes irreparable harm. Constitutional violations are routinely recognized as triggering irreparable harm unless they are promptly remedied. *See, e.g., Elrod v. Burns*, 427 U.S. 347, 373 (1976) (loss of constitutional “freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury”). As stated, rights associated with marriage are fundamental. *Zablocki*, 434 U.S. at 374. Thus, this Court has routinely concluded that “Plaintiffs will suffer irreparable harm if the Court does not issue the injunction because of the threatened infringement of the Plaintiffs’ fundamental rights.” *See, e.g., Equal Found. of Greater Cincinnati, Inc. v. City of Cincinnati*, 838 F. Supp. 1235, 1242-43 (S.D. Ohio 1993) *rev’d and vacated*, 54 F.3d 261 (6th Cir. 1995)

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cert. granted, judgment vacated, 518 U.S. 1001 (1996). In fact, “when an alleged deprivation of a constitutional right is involved, most courts hold that no further showing of irreparable injury is necessary.” § 11A Fed. Prac. & Proc. Civ. § 2948.1 (2d ed.).¹

In addition to the alleged denial of Plaintiffs’ constitutional rights, the Court must also consider the fact that Mr. Arthur is in hospice care and death is imminent. Without a temporary restraining order, the official record of Mr. Arthur’s death, and the last official document recording his existence on earth, will incorrectly classify him as unmarried, despite his legal marriage to Mr. Obergefell. The death certificate will also incorrectly fail to record Mr. Obergefell as the “surviving spouse,” which status he lawfully enjoys. Furthermore, Mr. Arthur wants to be buried in his family plot at Spring Grove Cemetery. He also wants Mr. Obergefell to be buried next to him someday. The family plot directive limits those who may be interred in the plot to descendants and married spouses. Thus, without a temporary restraining order, Mr. Arthur’s burial may be delayed or his

¹ See, e.g., *Overstreet*, 305 F.3d at 578 (6th Cir. 2002) (a plaintiff can demonstrate that a denial of an injunction will cause irreparable harm if the claim is based upon a violation of plaintiff’s constitutional rights); *ACLU of KY v. McCreary County, Kentucky*, 354 F.3d 438, 445 (6th Cir. 2003) (if it is found that a constitutional right is being threatened or impaired, a finding of irreparable injury is mandated); *Connection Distrib. Co. v. Reno*, 154 F.3d 281, 288 (6th Cir. 1998) (recognizing that the loss of First Amendment rights, for even a minimal period of time, constitutes irreparable harm) (citations omitted); *Council of Alternative Political Parties v. Hooks*, 121 F.3d 876 (3rd Cir. 1997) (denial of preliminary injunctive relief was irreparable harm to plaintiffs’ voting and associational rights); *Covino v. Patrissi*, 967 F.2d 73, 77 (2d Cir. 1992) (holding that plaintiffs may establish irreparable harm based on an alleged violation of their Fourth Amendment rights); *McDonell v. Hunter*, 746 F.2d 785, 787 (8th Cir. 1984) (finding that a violation of privacy constitutes an irreparable harm); *Mitchell v. Cuomo*, 748 F.2d 804, 806 (2d Cir. 1984) (holding allegation of violation of Eighth Amendment rights sufficient showing of irreparable harm); *Doe v. Mundy*, 514 F.2d 1179 (7th Cir. 1975) (denial of constitutional privacy right was irreparable harm); *Beerheide v. Zavaras*, 997 F.Supp. 1405 (D.C. Colo. 1998) (irreparable harm satisfied by allegation of deprivation of free exercise of religion).

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remains may have to be exhumed when this case is finally decided. *See Yankton Sioux Tribe v. U.S. Army Corps of Engineers*, 209 F. Supp. 2d 1008, 1022 (D.S.D. 2002) (disruption of human remains can be irreparable harm).

Finally, the uncertainty around this issue during Mr. Arthur's final illness is the cause of extreme emotional hardship to the couple. Dying with an incorrect death certificate that prohibits Mr. Arthur from being buried with dignity constitutes irreparable harm. Furthermore, Mr. Arthur's harm is irreparable because his injury is present now, while he is alive. A later decision allowing an amendment to the death certificate cannot remediate the harm to Mr. Arthur, as he will have passed away.

Moreover, there is absolutely no evidence that the State of Ohio or its citizens will be harmed by the issuance of an order temporarily restraining the enforcement of these provisions against the Plaintiffs in this case. No one beyond Plaintiffs themselves will be affected by such a limited order at all. Without an injunction, however, the harm to Plaintiffs is severe. Plaintiffs are not currently accorded the same dignity and recognition as similarly situated opposite-sex couples. Moreover, upon Mr. Arthur's death, Plaintiffs' legally valid marriage will be incorrectly recorded in Ohio as not existing. Balanced against this severe and irreparable harm to Plaintiffs is the truth that there is no evidence in the record that the issuance of a preliminary injunction would cause substantial harm to the public.

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And, as a final consideration, "the public interest is promoted by the robust enforcement of constitutional rights." *Am. Freedom Def. Initiative v. Suburban 15*

Mobility for Reg. Transp., 698 F.3d 885, 896 (6th Cir. 2012).

Weighing all factors applicable to analyzing whether injunctive relief should issue, the Court finds that each factor supports the granting of a temporary restraining order.

V. CONCLUSION

This Court finds that Plaintiffs have established by clear and convincing evidence their entitlement to injunctive relief. Accordingly, Plaintiffs' motion for a temporary restraining order (Doc. 3) is **GRANTED**, and a temporary restraining order shall issue by separate order, directing, *inter alia*, that the local Ohio Registrar of death certificates is hereby **ORDERED** not to accept for recording a death certificate for John Arthur which does not record his status as "married" and/or does not record James Obergefell as Mr. Arthur's "surviving spouse" at the time of Mr. Obergefell's death, which is imminent.

IT IS SO ORDERED.

Date: July 22, 2013

/s/ Timothy S. Black
Timothy S. Black
United States District Judge

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ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY ENDORSED FILED AUG - 6 2013 SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER: 85880	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME: DEPT.:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE			

(Name of declarant): Stacey Schuett

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city): 7805 Anthony Street, Sebastopol

County: Sonoma

State: California

3. (Names) STACEY SCHUETT

and LESLY TABOADA-HALL

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

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IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
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5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each): June 14, 2013 (see Memorandum of Points and Authorities)
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each): Supervisor Efren Carrillo, dated August 4, 2012. See Exhibit C of Attachment 4 - Declaration of Efren Carrillo
 - c. Witness statements dated (date of each): See Exhibit E of Attachment 4 - Declarations of witnesses.
 - d. Other documents dated (describe and give the date of each document):
 Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date and Place of Marriage dated August 5, 2013
 Declaration of Domestic Partnership dated November 29, 2001 (see Exhibit A of Attachment 4)
 Wedding Vows for Stacey and Lelsy dated June 19, 2013 (see Exhibit B of Attachment 4)
 Marriage certificate signed at the home of Stacey Schuett and Lesly Taboada-Hall dated June 19, 2013 (see Exhibit D of Attachment 4)
 Tate Birnie's Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage dated August 5, 2013
 Continued on Attachment 5d.
6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)
 Notice of this Petition to Establish Fact, Date and Place of Marriage has been given as set forth in the Memorandum of Points and Authorities in Support of Petition to Establish Fact, Date and Place of Marriage dated August 5, 2013

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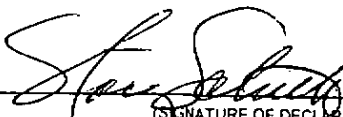
Continued on Attachment 6.

7. Number of pages attached: 44

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 5, 2013

Stacey Schuett
(TYPE OR PRINT NAME OF DECLARANT)


(SIGNATURE OF DECLARANT)

DECLARATION IN SUPPORT OF PETITION
TO ESTABLISH FACT, DATE AND PLACE OF MARRIAGE
ATTACHMENT 4

I, STACEY SCHUETT, declare as follows:

1. Lesly Taboada-Hall and I were married on June 19, 2013. We had a beautiful wedding ceremony surrounded by friends and family. We re-affirmed our commitment to each other and said "I do". The next day, Lesly passed away after a long battle with cancer.
2. Lesly and I have been in a committed partnership for 27 years. I met Lesly Taboada-Hall thirty years ago. We share the same birthday. We were introduced through mutual friends when we decided to both have birthday celebrations in San Francisco. After a couple of years of birthday celebrations together, we fell in love and became a couple.
3. We have two children together. Our daughter is 17 and our son is 14. I gave birth to the children and Lesly adopted them. In fact, Lesly is biologically related to the children, as well, since her brother agreed to be the sperm donor for conception.
4. On November 29, 2001, we registered as Domestic Partners. At that time, it was the only step that we could take to formalize our relationship at the state level. Attached as Exhibit A is a copy of our Registration for Domestic Partnership.
5. Several years after our registration, AB 205 was passed. We were excited about the expanded rights and responsibilities under the new Registered Domestic Partner (RDP) law. We received three letters from the California Secretary of State informing us that as RDPs we now had all the same rights and responsibilities as spouses under California law. We understood that everywhere that the word spouse appeared in California law, now that would also apply to RDPs.
6. We were informed by the California Secretary of State that if we didn't want to opt into the many new "rights and responsibilities" for Registered Domestic Partners then we needed to terminate our domestic partnership before January 1, 2005. We did not do so.
7. Lesly and I wanted to have all the same rights and responsibilities as spouses.

8. For 27 years we have held ourselves out as a couple. We have mutually supported each other and our household together. Primarily, Lesly worked outside the home. She was employed by FedEx for over 25 years. I stayed at home with our children.
9. Lesly was a Cub Scout leader for our son's troop, and I was a leader for our daughter's Girl Scout troop. In addition, I taught art in both kids' classrooms for several years, was a member of the PTA, Vice President and then President of the Sebastopol Educational Foundation, in addition to doing a wide variety of illustration work and being the at-home mom. We, as a family, have done a lot of volunteer work for the schools and in the community.
10. When same-sex marriage was legalized for a brief period in 2008, we discussed getting married. We already considered ourselves married. And we thought that we had every legal right and responsibility that a married couple could have because of AB 205. We did not believe that we *needed* to get married to have additional rights. We discussed that we wanted to let the hoopla and media circus surrounding gays getting married to die down before we got married. We did not want to have a marriage ceremony that was protested or that felt like it was part of a cause or movement.
11. To us, getting married meant a ceremonial union and we wanted it to have a wedding that reflected us. Lesly is a very private person and she wanted a quiet wedding in a space and time that allowed for that. Like many people, we were busy and life was full and we did not get a chance to plan our personal and private wedding in the 143 months that same-sex couples could marry in California.
12. Proposition 8 passed and we did not get a chance to have our wedding.
13. We had faith that the Courts would correct Proposition 8 and we figured that we would just get married when it became legal again.
14. Unfortunately, in the meantime, Lesly was diagnosed with cancer.
15. On February 10, 2010, Lesly went to the doctor for what she thought was bronchitis. She was diagnosed with uterine cancer that had already metastasized to her lungs. In March 2010, she started chemotherapy. She was a fighter and a trooper and continued to work around her chemotherapy schedule: off for two weeks for treatment, back to work for three weeks.

16. In August 2010, Lesly had a full hysterectomy for the uterine cancer but the cancer in her lungs was inoperable.
17. The chemotherapy did buy her some time and for 16 months she was considered in remission. She worked this whole time. However, in January 2012, the cancer lesions in her lungs showed growth and she went back onto chemotherapy.
18. By November, 2012, the cancer has spread to her brain. She underwent intensive radiation treatment for the brain lesions. Over the next few months, the cancer spread to her bone, pelvis, and marrow.
19. Throughout the process she kept up her strength and her spirits and we believed that she would fight and beat it.
20. Throughout the chemotherapy, Lesly insisted on working as soon after treatment as she was able; she was offered the opportunity to go on full disability, but she refused. She loved her job at FedEx, loved being outside, loved her route along the coast, and cared a great deal for the people she worked with and for her customers. It was devastating when, because of the brain lesions, she lost her right to drive.
21. On June 3, 2013, a doctor first told us that Lesly's cancer was terminal.
22. At that point, we decided we better make sure our affairs were in order. Several years before we had created estate planning documents, including a living trust, powers of attorney and medical directives.
23. When we sought legal counsel to review these documents and make sure they were in order; it was the first time we learned that under the law Lesly's employer did not have to treat me, as her Registered Domestic Partner, the same as a "surviving spouse". We were shocked. We had no idea that a company doing business in California with employees in California did not have to follow California law. We knew that the company had added health insurance benefits for Registered Domestic Partners in California and assumed that all other benefits would be the same.
24. At that point, we tried to figure out where and how to get married.
25. However, Lesly's health was in rapid decline. She was also in increasing amounts of pain. She was put on hospice care on June 10, 2013.
26. We discussed trying to fly up to Seattle, Washington, to get married. However, we learned that Washington had a three day waiting period between applying for a

license and getting married. We did not think that Lesly could survive the travel and stay in a hotel room without any of her doctors nearby for three days. We discussed trying to fly to Iowa, the next closest state that recognized same-sex marriage, however, the waiting period in Iowa is 4 days.

27. We knew that we wanted to get married so we went to the Sonoma County Clerk and got a marriage license application. We filled out the application and I returned it to the clerk on June 14, 2013. We decided that our only option was to try and wait for the United States Supreme Court to strike down Proposition 8.
28. I spoke to the County Clerk about getting a marriage license the same day as the decision. Our attorney, Tate Birnie, arranged for Supervisor Efren Carrillo to come to our home on whatever day the Supreme Court decided the case to try and perform a ceremony.
29. On June 18, 2013, Lesly seemed to really slow down. I didn't think that she would make it another week until the expected Supreme Court decision.
30. So on June 19, 2013, we had the wedding we had been waiting for. Supervisor Efren Carrillo officiated the ceremony they received a marriage certificate signed by him. We had every member of our families: our children, our siblings, our parents, nieces and nephews, as well as friends surrounding us.
31. Lesly rallied for the wedding. She knew what was going on and she joked and smiled and said "I do". Supervisor Carrillo pronounced us as spouses and gave us a marriage certificate signed by him. Attached as Exhibit B is a copy of the Wedding Vows used in our ceremony. Attached as Exhibit C is the Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage signed by Supervisor Efren Carrillo on August 4, 2013. Attached as Exhibit D is a copy of the marriage certificate signed by Supervisor Efren Carrillo on June 19, 2013.
32. Even though Lesly could not get up from bed, we had flowers in our hair and our hands. We were surrounded by love and we had the wedding ceremony that we dreamed about. Attached as Exhibit E is a separate Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage signed by each of the following witnesses of our wedding ceremony:

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Name of Witness	Date Declaration Signed	Residence of Witness
Wade Hall	July 30, 2013	585 N. San Pedro Street San Jose, California
Nancy DeMattei	July 30, 2013	585 N. San Pedro Street San Jose, California
Sondra Hall	July 31, 2013	2125 Woodbine Ave. Oakland, California
Dee Ann Hall	July 30, 2013	1112 E 20 th Ave Eugene, Oregon 97403
Laurie Moore	July 31, 2013	7960 Martinelli Road Forestville, California 95436
George P. Naylor	July 31, 2013	7960 Martinelli Road Forestville, California 95436
Stacy J. Low	July 29, 2013	414 Grundel Drive Sebastopol, California
Thomas J. Low	July 30, 2013	414 Grundel Drive Sebastopol, California
Frances Adrienne Kimball	July 30, 2013	402 Michael Place Sebastopol, California
Miram Block	July 30, 2013	557 N. Main Sebastopol, California
Annette Feeney	July 29, 2013	3664 Celesta Ct. Sebastopol, California 95472
Louisa Ernst	July 30, 2013	7044 Fellers Lane Sebastopol, California
Sarah Francis	July 30, 2013	7044 Fellers Lane Sebastopol, California
Kathy Patterson	July 30, 2013	270 Frankel Lane Sebastopol, California

33. I am so grateful that our children got to see us get married. My daughter said to me
"Mom, it is about time!"

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34. I consider myself married to Lesly. I feel so proud when I say that Lesly was "my spouse." This is a word that everyone understands; and now they can understand the level of grieving that I am going through having lost my best friend and partner of 27 years.

35. Being married and declared spouses will have a lasting and significant impact on my life and the life of my children. I was the stay-at-home mom. Lesly was the main "breadwinner" in our family. We planned for our future together and assumed that we would both be supported by the retirement benefits that she earned over the years.

36. By being named as Lesly's "spouse" I will be entitled to: Social Security Survivor benefits, spousal roll-over options for Lesly's 401(k), and potentially access to Lesly's traditional pension from her employer, FedEx.
37. Lesly worked for FedEx for twenty-five years. She was completely vested in the FedEx traditional pension plan. The traditional pension plan would pay her, on her retirement, approximately \$2000 per month for the rest of her life.
38. The FedEx Summary Pension Plan Document provides the following (in relevant part):
- Traditional Pension Benefits:
- You are unmarried, no Traditional Pension Benefits are payable to a beneficiary.
 - You are married, your spouse is automatically your beneficiary. A portion of your vested benefit will be paid to your spouse monthly.
 - The Pension Plan documents also say that:

Spouse: All references to "spouse" shall have the same meaning as set forth in 1 United States Code Annotated Section 7 (1 U.S.C.A. § 7) (a person of the opposite sex who is a husband or a wife) and shall be deemed to refer solely to the persons who have entered into a marriage, as defined in 1 U.S.C.A. § 7 (a legal union between one man and one woman as husband and wife). A common-law marriage will be valid where recognized in the applicable jurisdiction provided you have submitted an acceptable affidavit.

39. Fed Ex allows opposite sex couples to submit an affidavit that they have a "common law" marriage but does not recognize a couple that has been together for 27 years and have been Registered Domestic Partners for 12 years.
40. Fed Ex incorporates the definition of spouse from the Defense of Marriage Act.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

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Dated: August 5, 2013



STACEY SCHUETT

EXHIBIT 1B

EXHIBIT

A

AUG 12 2013

EXHIBIT A

State of California
Bill Jones
Secretary of State

FILE NO: 9207

FILED
In the office of the Secretary of State
of the State of California
NOV 29 2001
Bill Jones
BILL JONES, Secretary of State
(Office Use Only)

DECLARATION OF DOMESTIC PARTNERSHIP
(Family Code Section 299)

Instructions:

- 1. Complete and mail to: Secretary of State, P.O. Box 944225, Sacramento, CA 94244-2250 (916) 653-4984
- 2. Include filing fee of \$10.00. Make check payable to Secretary of State.

We the undersigned, do declare that we meet the requirements of Section 297 at this time:

We share a common residence;
We agree to be jointly responsible for each other's basic living expenses incurred during our domestic partnership;
Neither of us is married or a member of another domestic partnership;
We are not related by blood in a way that would prevent us from being married to each other in this state;
We are both at least 18 years of age;
We are both members of the same sex or we are both over the age of 62 and meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C Section 1381 for aged individuals;
We are both capable of consenting to the domestic partnership;
Neither of us has previously filed a Declaration of Domestic Partnership with the Secretary of State pursuant to Division 2.5 of the Family Code that has not been terminated under Section 299 of the Family Code.

The representations herein are true, correct and contain no material omissions of fact to our best knowledge and belief. Sign and print complete name. (If not printed legibly, application will be rejected.)
Signatures of both partners must be notarized.

Stacey Schuett
Signature
SCHUETT
(Last)
STACEY LYNN
(First) (Middle)

Lesly Frances Taboada-Hall
Signature
Taboada-Hall
(Last)
LESLY FRANCES
(First) (Middle)

7805 ANTHONY ST
Common Residence Address
SEBASTOPOC CA 95472
City State Zip Code

SAME
Mailing Address
Same as above
City State Zip Code

NOTARIZATION IS REQUIRED
State of California
County of Sonoma
On November 19, 2001, before me, Diane R. Tuttle, personally
appeared Lesly Frances Taboada-Hall and Stacey Lynn Schuett
personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s) executed the instrument.

Diane R. Tuttle
Signature of Notary Public

AUG 12 2013
DIANE R. TUTTLE
Commission # 1307604
Notary Public - California
Sonoma County
My Comm. Expires Jun 4, 2005
[PLACE NOTARY SEAL HERE]

EXHIBIT

B

AUG 12 2013

EXHIBIT B

❖ *Wedding Vows for Stacey and Lesly* ❖

❖ *June 19, 2013* ❖

Family and friends, today we are gathered with Stacey and Lesly as they make their vow of marriage. We celebrate with them the love they have discovered in each other and support their decision to commit themselves to one another in matrimony. Each of you has given something of yourselves into their lives and we are all grateful to share this most memorable occasion.

Stacey and Lesly, the relationship that you have nurtured together stands for love that has blossomed and grown with each passing day. Marriage is the clasping of hands, the blending of hearts, the union of two lives as one. Marriage is about caring as much for the welfare and happiness of one another as for yourself, it is looking outward in the same direction together. By a mutual commitment to love one another, you have created a home of balance and harmony. You are demonstrating the best that life can offer, your love, faith and respect for each other and your children. Love is the source of your security; friendship is the essence of your strength, and Claire and Ian are perfect examples of your loving relationship.

❖ *Vows* ❖

Do you Stacey; take Lesly from this day onward to be your lawful wedded wife? Will you share your life with her, love, honor and care for her, stand with her in sickness and in health, in joy and in sorrow, and do you pledge to her your respect and your love from this day forward? *I DO.*

Do you Lesly; take Stacey from this day onward to be your lawful wedded wife? Will you share your life with her, love, honor and care for her, stand with her in sickness and in health, in joy and in sorrow, and do you pledge to her your respect and your love from this day forward? *Please squeeze Stacey's hand to affirm*

Stacey, please repeat after me. "I Stacey, take you Lesly as my wife, my partner and my best friend. I promise to take you to my heart, as you are, and continue loving you and our family from this day forward.

Lesly, please squeeze Stacey's hand to affirm your intention to take Stacey as your wife, partner and best friend. By doing so, you promise to take Stacey to your heart, as she is, and to continue loving her and your family from this day forward.

❖ *Closing Comments & Pronouncement* ❖

AUG 19 2013

Stacey and Lesly, if there is anything that you remember of this marriage ceremony, may it be the love that brought you here today. Today your separate lives with your individual memories, desires, and hopes merge into one. You are agreeing to share strength, responsibilities and to nurture your sweet family. May you be a blessing and comfort to each other, sharers of each other's dreams, consolers of each other's sorrows, and helpers to each other in all of life's challenges. May you trust each other, trust life and be unafraid. Your love and commitment will forever be a wonderful example to your children, family, and friends.

Stacey and Lesly, you have expressed your love to one another through the commitment and promises you have just made. It is with these in mind that I pronounce you wife and wife.

You may now seal your vows with a kiss.

By the power vested in me by the state of California, it is my honor to present to you for the first time as a married couple.

❖ *Supervisor Efren Carrillo, officiant* ❖

EXHIBIT

C

AUG 12 2013

EXHIBIT C

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address). TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional) 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): Supervisor Efren Carrillo

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city):

575 Administration Drove Room 100a, Santa Rosa

County:

State:

3. (Names) Stacey Schuett

and Lesly Taboada-Hall

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration. (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I was the officiant for the wedding ceremony of Stacey Schuett and Lesly Taboada-Hall. I performed the ceremony with the language provided to me by the Sonoma County Clerk as the official language for a valid wedding ceremony.

AUG 12 2013

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER. MC-362A
--	----------------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

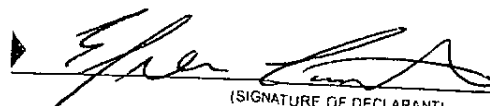
7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 08/04/13

Supervisor Efren Carrillo

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

Page 2 of 2

EXHIBIT

D

AUG 12 2013

EXHIBIT D





This certifies that

Stacey Schuett and Lesly Taboada-Hall

were joined in marriage

at their home on the 19th day of June, 2013

in the presence of family, friends and their children, Claire and Ian



Supervisor Eflen Carrillo

AUG 12 2013

EXHIBIT

E

AUG 12 2013

EXHIBIT E

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): Wade Hall

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.
 b. I reside at (street address and city):
585 N. SAN PEDRO ST
SAN JOSE
 County: **SANTA CLARA**

State: **CALIFORNIA** **AUG 12 2013**

3. (Names) STACEY SCHUETT
 were married on (date): June 19, 2013
 at the following place: 7805 Anthony Street
 a. City, town, township, or other (identify "other" if known): Sebastopol
 b. County: Sonoma State (U.S.): California
 c. State or province: Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the specs below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/30/13

WADE HALL

(TYPE OR PRINT NAME OF DECLARANT)

Wade Hall

(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DEPARTMENT:		DEPT.:	

(Name of declarant): Nancy DeMattei declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
 ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.

b. I reside at (street address and city):

585 N. SAN PEPRO ST
 SAN JOSE
 County: SANTA CLARA

AUG 12 2013

State: CALIFORNIA

and LESLY TABOADA-HALL

at the following place: 7805 Anthony Street

3. (Names) STACEY SCHUETT

were married on (date): June 19, 2013

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
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5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/30/13

 NANCY DeMattei
 (TYPE OR PRINT NAME OF DECLARANT)

 Nancy DeMattei
 (SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

**DECLARATION IN SUPPORT OF PETITION TO
 ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
 (Miscellaneous)**

Page 2 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		MC-362A FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): Sondra Hall

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
 ("Personal knowledge" of a fact is knowledge **not** gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city): **2125 Woodbine Ave Oakland**

County: **Alameda**

State: **CA**

3. (Names) STACEY SCHUETT and LESLY TABOADA-HALL
 were married on (date): June 19, 2013 at the following place: 7805 Anthony Street
 a. City, town, township, or other (identify "other" if known): Sebastopol
 b. County: Sonoma State (U.S.): California
 c. State or province: Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

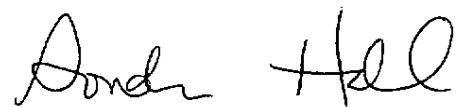
7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/31/13

SONDRA HALL

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State, number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): Dee Ann Hall

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.

b. I reside at (street address and city):

1112 E 20th Ave
Eugene, OR 97403

County:

State:

3. (Names) STACEY SCHUETT

and LESLY TABOADA-HALL

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

IN THE MATTER OF (Names): SCHUETT, Stacey and
TABOADA-HALL, Lesly

CASE NUMBER:

- 5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
 - a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

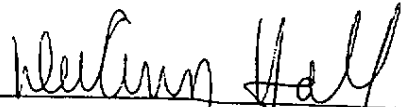
Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/30/13

DeeAnn Hall
(TYPE OR PRINT NAME OF DECLARANT)


(SIGNATURE OF DECLARANT)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law			
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		CASE NUMBER:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		HEARING DATE AND TIME:	DEPT.:

(Name of declarant): Laurie Moore

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.

b. I reside at (street address and city):

7960 Martinelli Rd
 Forestville CA

County: Sonoma

State: California

and LESLY TABOADA-HALL

at the following place: 7805 Anthony Street

3. (Names) STACEY SCHUETT

were married on (date): June 19, 2013

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):

- a. Marriage license* dated (date of each):
 * (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
- b. Officiating person's statement dated (date of each):
- c. Witness statements dated (date of each):
- d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 31 2013

Laurie Moore
 (TYPE OR PRINT NAME OF DECLARANT)

Laurie Moore
 (SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

**DECLARATION IN SUPPORT OF PETITION TO
 ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
 (Miscellaneous)**

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law			
IN THE MATTER OF (Names): SCHUETT, Stacey and TOBOADA-HALL, Lesly		CASE NUMBER:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		HEARING DATE AND TIME:	DEPT.:

(Name of declarant): George P. Naylor declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.

b. I reside at (street address and city): 7966 MARTINGLI ROAD
FORSTVILLE, CA, 95436

County: Sonoma

State: CALIFORNIA

AUG 12 2013

3. (Names) STACEY SCHUETT

were married on (date): June 19, 2013

and LESLY TOBOADA-HALL

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efen Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TOBOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/31/2013

 (TYPE OR PRINT NAME OF DECLARANT)

[Signature]

 (SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

DECLARATION IN SUPPORT OF PETITION TO
 ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
 (Miscellaneous)

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law			
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		CASE NUMBER:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		HEARING DATE AND TIME:	DEPT.:

(Name of declarant): Stacy J. Low

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city):
414 Grundel Dr.
Sebastopol
 County: Sonoma
3. (Names) STACEY SCHUETT
 were married on (date): June 19, 2013
 a. City, town, township, or other (identify "other" if known): Sebastopol
 b. County: Sonoma
 c. State or province:
 State: California
 and LESLY TABOADA-HALL
 at the following place: 7805 Anthony Street
 State (U.S.): California
 Country: USA
4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

AUG 12 2013

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
 * (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

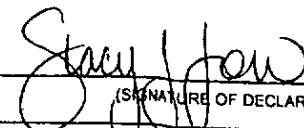
7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/29/13

Stacy J. Low

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

**DECLARATION IN SUPPORT OF PETITION TO
 ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
 (Miscellaneous)**

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): THOMAS S. LOW

declares as follows:

- I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
- I am at least 18 years of age.
 - I reside at (street address and city):
 414 GRUNDEL DRIVE, SEBASTOPOL, CA

AUG 12 2013

County: SONOMA

State: CA

- (Names) STACEY SCHUETT and LESLY TABOADA-HALL were married on (date): June 19, 2013 at the following place: 7805 Anthony Street

- City, town, township, or other (identify "other" if known): Sebastopol
- County: Sonoma State (U.S.): California
- State or province: Country: USA

- Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration. (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.



MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

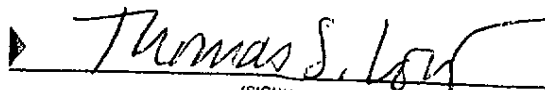
7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/30/13

THOMAS S. LOW

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

**DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)**

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT	FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law	CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:

(Name of declarant): *FRANCES Adrienne Kimball*

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city):

*402 Michael Place
 Sebastopol
 County: Sonoma*

State: *CA 95472*

AUG 12 2013

3. (Names) STACEY SCHUETT and LESLY TABOADA-HALL were married on (date): June 19, 2013 at the following place: 7805 Anthony Street

- a. City, town, township, or other (identify "other" if known): Sebastopol
- b. County: Sonoma State (U.S.): California
- c. State or province: Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration. (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

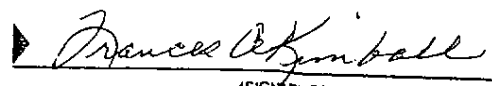
7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: Jul 30, 2013

Frances A Kimball

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

MC-362A [New July 1, 2012]

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

Page 2 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law			
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		CASE NUMBER	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		HEARING DATE AND TIME	DEPT.:

(Name of declarant): MIRIAM BLOCK

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city):
 557 N. MAIN
 SEBASTOPOL
 County: SONOMA
 State: CA
3. (Names) STACEY SCHUETT and LESLY TABOADA-HALL were married on (date): June 19, 2013 at the following place: 7805 Anthony Street
 a. City, town, township, or other (identify "other" if known): Sebastopol
 b. County: Sonoma State (U.S.): California
 c. State or province: Country: USA
4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER
--	-------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 19 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2013

MIRIAM BLOCK

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law			
IN THE MATTER OF (Names): SCHUETT, Stacey and TOBOADA-HALL, Lesly		CASE NUMBER:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		HEARING DATE AND TIME:	DEPT.:

(Name of declarant): Annette Feeney

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.

b. I reside at (street address and city): 3664 Celesta Ct. Sebastopol, CA 95472

County: Sonoma

State: California

3. (Names) STACEY SCHUETT

and LESLY TOBOADA-HALL

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TOBOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/29/2013

Annette Feeney
(TYPE OR PRINT NAME OF DECLARANT)

Annette Feeney
(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

Page 2 of 2

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): *Louisa Ernst*

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city):
7044 Fellers Lane
Sebastopol, CA
 County: *Sonoma* State: *CA*
3. (Names) STACEY SCHUETT and LESLY TABOADA-HALL
 were married on (date): June 19, 2013 at the following place: 7805 Anthony Street
 a. City, town, township, or other (identify "other" if known): Sebastopol
 b. County: Sonoma State (U.S.): California
 c. State or province: Country: USA
4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.


7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7-30-13

Louisa Ernst

(TYPE OR PRINT NAME OF DECLARANT)



(SIGNATURE OF DECLARANT)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): Sarah Francis declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
 ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)

2. a. I am at least 18 years of age.

b. I reside at (street address and city):

7044 Fellers Lane
Sebastopol, CA 95472
 County: ~~Sonoma~~ Sonoma

State: CA

AUG 12 2013

3. (Names) STACEY SCHUETT

and LESLY TABOADA-HALL

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER: MC-362A
--	----------------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
 * (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

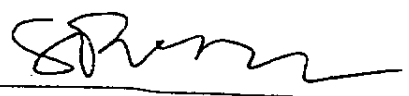
7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7/30/13

Sarah Francis

 (TYPE OR PRINT NAME OF DECLARANT)



 (SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

**DECLARATION IN SUPPORT OF PETITION TO
 ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
 (Miscellaneous)**

Page 2 of 2

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER:	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		DEPT.:	

(Name of declarant): Kathy Patterson

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge not gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city):

270 Frankel Lane, Sebastopol

County:

State:

3. (Names) STACEY SCHUETT

and LESLY TABOADA-HALL

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I attended the wedding ceremony of Stacey and Lesly at their home. I witnessed Efren Carrillo perform the ceremony. I witnessed Stacey and Lesly exchange vows and say "I do". I also witnessed Stacey and Lesly sign declarations of their intention to be married and I witnessed them sign the notary book for those declarations.

AUG 12 2013

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct*):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: July 30, 2013

Kathy Patterson
(TYPE OR PRINT NAME OF DECLARANT)

Kathy Patterson
(SIGNATURE OF DECLARANT)

MC-362A [New July 1, 2012]

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

Page 2 of 2

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY ENDORSED FILED AUG - 6 2013 SUPERIOR COURT OF CALIFORNIA COUNTY OF SONOMA	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law		CASE NUMBER: 85880	
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		HEARING DATE AND TIME: DEPT.:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE			

(Name of declarant): Tate Birnie

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5.
 ("Personal knowledge" of a fact is knowledge **not** gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city): 7182 Healdsburg Avenue, Sebastopol

County: Sonoma

State: California

3. (Names) Stacey Schuett

and Lesly Taboada-Hall

were married on (date): June 19, 2013

at the following place: 7805 Anthony Street

a. City, town, township, or other (identify "other" if known): Sebastopol

b. County: Sonoma

State (U.S.): California

c. State or province:

Country: USA

4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.

(If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

AUG 12 2013

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
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5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):
Susan Upchurch's Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage dated August 4, 2013 (see Attachment 4 - Exhibit C)

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013


Continued on Attachment 6.

7. Number of pages attached: 12

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 8/5/13

Tate Birnie
(TYPE OR PRINT NAME OF DECLARANT)


(SIGNATURE OF DECLARANT)

MC-362A (New July 1, 2012)

DECLARATION IN SUPPORT OF PETITION TO
ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
(Miscellaneous)

Page 2 of 2

DECLARATION IN SUPPORT OF PETITION
TO ESTABLISH FACT, DATE AND PLACE OF MARRIAGE
ATTACHMENT 4

I, TATE BIRNIE, declare as follows:

1. I am the attorney for Stacey Schuett ("Stacey") and Lesly Taboada-Hall ("Lesly").
2. Stacey and Lesly expressed to me their intention and desire to marry. I interviewed them about this intention and prepared the attached Affidavit of Intention to Marry. Attached as Exhibit A is the Affidavit of Intention to Marry executed by Lesly. Attached as Exhibit B is the Affidavit of Intention to Marry executed by Stacey.
3. I helped arrange for Stacey and Lesly to get married.
4. I spoke to a clerk at the Sonoma County Clerk's office on June 18, 2013 to discuss how to make arrangements for Stacey and Lesly to obtain a marriage license. I learned that Stacey had already been in touch with the clerk and had already completed her application. While the clerk acknowledged that she could not issue a marriage license at that time because of Proposition 8, she offered to keep Stacey and Lesly's application by the side of her desk for the moment that the Proposition 8 ban was lifted. She also informed me that the clerk's office could send an official to perform the ceremony out to Stacey and Lesly's home if Lesly was too ill to travel to Santa Rosa.
5. That same day, I also spoke to Susan Upchurch, District Director for Supervisor Efrén Carrillo. Supervisor Carrillo is the Supervisor for the Fifth District, which includes Sebastopol, where Stacey and Lesly reside. Ms. Upchurch immediately informed me that Supervisor Carrillo would do anything he could to help facilitate the marriage and could come to Stacey's and Lesly's house to perform the ceremony as soon as Proposition 8 was overturned.
6. The next day, Lesly's health began to decline rapidly. Supervisor Carrillo immediately agreed to come out to the home and perform a marriage ceremony in a one-hour window of availability that he had in the day. Attached as Exhibit C is the Declaration in Support of Petition to Establish Fact, Date, and Place of Marriage signed by Susann Upchurch on August 4, 2013.
7. On June 19, 2013, I attended the wedding of Stacey and Lesly.
8. I also notarized their Affidavits of Intention to Marry.

AUG 12 2013

9. Six days after Lesly passed away, the U.S. Supreme Court issued their decision in *Hollingsworth v. Perry*, which removed the Proposition 8 barrier to same-sex couples obtaining a marriage license in California.
10. I have spoken with Kathleen Larocque, counsel for Sonoma County, who represents William Rousseau in his role as Sonoma County Clerk. It was, in fact, Ms. Larocque who informed me of the Petition to Establish Fact, Date and Place of Marriage.
11. The County of Sonoma is not a party to this action, however, because the process set forth in Health and Safety Code section 103450 works directly with the Department of Public Health and the California Office of Vital Records.
12. I am informed and believe that the Sonoma County Clerk William Rousseau will not object if the Court determines that this Petition has established the fact, date and place of Stacey and Lesly's marriage and issues an Order accordingly.
13. If the Petition is granted, I will mail the Court order directly to the Office of Vital Records to obtain a marriage certificate for Stacey.
14. Notice of this petition and a copy of all documents filed with the Court will be given to the following individuals and entities:

Constance Noemi Taboada Hall (mother of Lesly Taboada-Hall; father deceased)
87738 Saltaire St.
Florence, OR 97439

Kerry Hall (sister)
87738 Saltaire St.
Florence, OR 97439

DeeAnn Hall-Brewer (sister)
1112 E 20th Ave.
Eugene, OR 97403

Mark Hall (brother)
88 Saturn St.
San Francisco, CA 94114

Alan Hall (brother)
2125 Woodbine Ave.
Oakland, CA 94602

AUG 12 2013

Wade Hall (brother)
585 N. San Pedro
San Jose, CA 95110

Social Security Administration
2099 Range Avenue Building A
Santa Rosa, CA 95401

FedEx Pension Plan Trustees
State Street Bank and Trust Company
2 Avenue de Lafayette
6th Floor
Boston, Massachusetts 02111

Vanguard Fiduciary Trust Company
Attn: Plan #093111
100 Vanguard Boulevard
Malvern, PA 19355

FedEx Corporation Employees Pension Plan
FedEx Retirement Service Center
P.O. Box 980
Deerfield, IL 60015

The Vanguard Group, Inc.
Atn: Plan #09311
100 Vanguard Boulevard
Malvern, PA 19355

AUG 12 2013

William F. Rousseau
Sonoma County Clerk's Office
2300 County Center Drive Suite B-177
Santa Rosa, California 95403

Kathleen Larocque
Office of the County Counsel
575 Administration Drive, Room 105-A
Santa Rosa, CA 95403

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: August 5, 2013


TATE BIRNIE

EXHIBIT

A

AUG 12 2013

EXHIBIT A

Affidavit of Intention to Marry


State of California,
County of Sonoma:

I, Lesly Taboada-Hall, hereby swear, certify, and affirm the following:

1. I want to be married to Stacey Schuett.
2. Stacey Schuett and I have been together for 27 years.
3. We have a 17 year old daughter and a 14 year old son together.
4. We are Registered Domestic Partners, and have been since we could first register in 2003.
5. We would love to also be married.
6. We wanted to be married when it first became legal in California. However, I am a very private person and I did not want to rush to have a wedding when there was so much hoopla about it in the media. I wanted our wedding to be special and planned. We were already Registered Domestic Partners. We understood that we had the exact same rights and responsibilities as married "spouses" under the law in California. We did not think that there was any urgency to rush to get married. Rather, we wanted it to be a special, private and solemn occasion. It was a surprise when the voters of California took away the right for us to marry.
7. We have been waiting since the passage of Proposition 8 to get married.
8. Unfortunately, during the wait, I was diagnosed with cancer. I am terminally ill.
9. I believe that I have days, not weeks, to live.
10. I am too ill to travel to one of the marriage equality states to get married.
11. I would like to get married in California.
12. I do not know if I will live to see marriage legalized again in California.
13. I have taken all the steps that I can take to get married.
14. We have filled out a marriage license. We have been told by the Sonoma County clerk that they will hold the license and process it just as soon as it is legal for them to do so.
15. We have arranged for an officiant to come to our home and marry us on June 25, 2013 with the hope that the United States Supreme Court will issue an opinion on the last day of its term that affirms that Proposition 8 is unconstitutional and that same sex couples in California should enjoy the right to marry.

AUG 12 2013

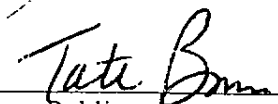
16. I have expressed my intention and desire to marry Stacey to my children, and family and friends.
17. In my heart I am already married to Stacey and have been for the last 2 decades. I would like our marriage recognized by the law as well.



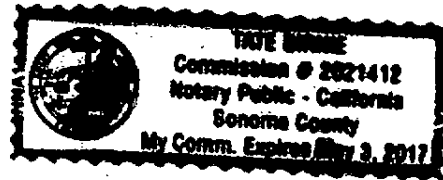
Lesly Taboada-Hall

State of California, County of Sonoma:

Subscribed and sworn to before me on
this 12 day of June, 2013,
by TATE BIRNIE, proved to me
on the basis of satisfactory evidence to be the person(s)
who appeared before me.



Notary Public



AUG 12 2013

EXHIBIT

B

AUG 12 2013

EXHIBIT B

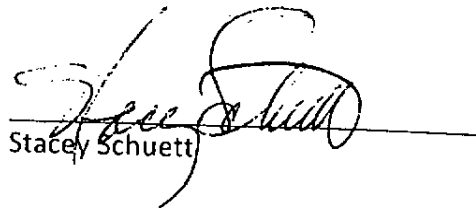
Affidavit of Intention to Marry

State of California,
County of Sonoma:

I, Stacey Schuett, hereby swear, certify, and affirm the following:

1. I want to be married to Lesly Taboada-Hall. AUG 12 2013
2. Lesly Taboada-Hall and I have been together for 27 years.
3. We have a 17 year old daughter and a 14 year old son together.
4. We are Registered Domestic Partners, and have been since we could first register in 2003.
5. We would love to also be married.
6. We wanted to be married when it first became legal in California. However, Lesly and I are both very private people, especially Lesly. We did not want to rush to have a wedding just because it was getting lots of attention in the media. I wanted our wedding to be special and planned. We were already Registered Domestic Partners. We understood that we had the exact same rights and responsibilities as married "spouses" under the law in California. We did not think that there was any urgency to rush to get married. Rather, we wanted it to be a special, private and solemn occasion. It was a surprise when the voters of California took away the right for us to marry.
7. We have been waiting since the passage of Proposition 8 to get married.
8. Unfortunately, during the wait, Lesly was diagnosed with cancer. She is terminally ill.
9. I believe that she has a very short time to live.
10. Lesly is too ill to travel to one of the marriage equality states to get married. We have discussed this option many times but she is on hospice care and in a lot of pain. I love her too much to ask her to try and get on an airplane to get married. She would not survive the trip. For her and for our children, I do not want our last moments together spent trying to figure out how to travel.
11. We would like to get married in California.
12. I do not believe, though, that Lesly will live to see marriage legalized in California.
13. We have taken all the steps that we can take to get married.
14. We have filled out a marriage license. We have been told by the Sonoma County clerk that they will hold the license and process it just as soon as it is legal for them to do so.

- 15. We have arranged for an officiant to come to our home and marry us on June 25, 2013 with the hope that the United States Supreme Court will issue an opinion on the last day of its term that affirms that Proposition 8 is unconstitutional and that same sex couples in California should enjoy the right to marry.
- 16. Lesly has expressed her intention and desire to marry me to me, our children, family and friends.
- 17. In my heart I am already married to Lesly and have been for the last 2 decades. I would like our marriage recognized by the law as well.


 Stacey Schuett

State of California, County of Sonoma:

Subscribed and sworn to before me on
 this 18 day of June, 2013,
 by TATE BIRNIE, proved to me
 on the basis of satisfactory evidence to be the person(s)
 who appeared before me.

AUG 12 2013


 Notary Public

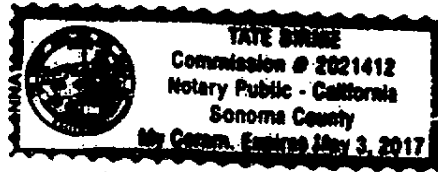


EXHIBIT C

AUG 12 2013

EXHIBIT C

MC-362A

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT		FOR COURT USE ONLY	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law			
IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly		CASE NUMBER:	
DECLARATION IN SUPPORT OF PETITION TO ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE		HEARING DATE AND TIME:	DEPT.:

(Name of declarant): Susan Upchurch

declares as follows:

1. I make the statements in this declaration based on my personal knowledge or on the contents of the documents identified in item 5. ("Personal knowledge" of a fact is knowledge *not* gained from another person's statements to you about that fact.)
2. a. I am at least 18 years of age.
 b. I reside at (street address and city): 575 Administration Drive, Room 100a, Santa Rosa

AUG 12 2013

- County: Sonoma State: California
3. (Names) Stacey Schuett and Lesly Taboada-Hall
 were married on (date): June 19, 2013 at the following place: 7805 Anthony Street
- a. City, town, township, or other (identify "other" if known): Sebastopol
- b. County: Sonoma State (U.S.): California
- c. State or province: Country: USA
4. Facts showing when and where the persons named in item 3 were married and explaining how I have personal knowledge of those facts are stated in the space below are stated in Attachment 4 to this declaration.
 (If you are relying solely on the contents of the documents identified in item 5, please advise in the space below.)

I am the District Director for Supervisor Efren Carrillo, Fifth District Representative for Sonoma County. I made arrangements for Efren Carrillo to perform the marriage ceremony for Stacey Schuett and Lesly Taboada-Hall. I personally witnessed the ceremony. I was also in contact with the Sonoma County Clerk's office to determine how to obtain a marriage license for Stacey and Lesly. I also made arrangements for Efren Carrillo to come back and perform an additional marriage ceremony, if necessary, after the clerk's office would issue a marriage license. It was my understanding that it was the intention and desire of Stacey and Lesly to be married and obtain a marriage license from the County of Sonoma.

MC-362A

IN THE MATTER OF (Names): SCHUETT, Stacey and TABOADA-HALL, Lesly	CASE NUMBER:
--	--------------

5. Attached are true and correct copies of the following documents (check each box that applies; statements of officiating persons and witnesses must be signed under oath, in an affidavit sworn before a Notary Public or with the following statement just above the signature: "I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct"):
- a. Marriage license* dated (date of each):
* (A marriage license is required for a valid marriage in California. The procedure described in Health and Safety Code sec. 103450, et seq., cannot establish the validity of a California marriage if no marriage license was obtained.)
 - b. Officiating person's statement dated (date of each):
 - c. Witness statements dated (date of each):
 - d. Other documents dated (describe and give the date of each document):

Continued on Attachment 5d.

6. The marriage of the persons named in item 3, or the date or place of the marriage is not is important to a court case or proceeding that is now pending and described below. (If you selected "is," briefly describe the proceeding and provide the case name and number, the name and address of the court where the proceeding is pending, the names of all parties to the proceeding, and the names, addresses, and telephone numbers of their attorneys. Note: A court order made on a petition under Health and Safety Code section 103450, et seq., may not be effective against claims of persons or organizations not given notice of the petition for the order.)

AUG 12 2013

Continued on Attachment 6.

7. Number of pages attached: _____

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: August 4, 2013

Susan Upchurch

 (TYPE OR PRINT NAME OF DECLARANT)



 (SIGNATURE OF DECLARANT)

MC-352A (New July 1, 2012)

DECLARATION IN SUPPORT OF PETITION TO
 ESTABLISH FACT, DATE, AND PLACE OF MARRIAGE
 (Miscellaneous)

Page 2 of 2

EXHIBIT 2

AUG 20 2013

ENDORSED
FILED

AUG 12 2013

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA

1 Hon. Nancy Case Shaffer
2 Superior Court for the County of Sonoma
3 Civil and Family Law Courthouse
4 3055 Cleveland Avenue
5 Santa Rosa, CA 95403
6 Telephone: (707) 521-6729

7
8 SUPERIOR COURT FOR THE STATE OF CALIFORNIA
9 COUNTY OF SONOMA

10
11 In the Matter of:

Case No.: SPR 85880

12
13 STACEY SCHUETT AND LESLY
14 TABOADA-HALL,

ORDER RE: CONTINUED HEARING
ON PETITION

15
16 Petitioners.

17
18 Petitioner Stacey Schuett filed a Petition to Establish Fact, Date, and Place of
19 Marriage. The Notice of Hearing on the Petition setting the hearing on August 12, 2013 at
20 3:30 p.m. on the Ex Parte Calendar for the Honorable Nancy Case Shaffer. There is no
21 emergency requiring an immediate ruling. However, Health and Safety Code § 103465
22 provides that the hearing must be set at a time not less than five nor more than 10 days after
23 the hearing on the Petition. The Petition was filed August 6, 2013.

24
25 The Birnie Law firm and Tate Birnie appeared on behalf of Petitioner Stacy Schuett;
26 Lesly Taboada-Hall is deceased. Section 103466 also provides that the court may, for good
27 cause, continue the hearing beyond the 10-day period. The Petition seeks recognition of
28 Stacey Schuett and Lesly Taboada-Hall, who were registered domestic partners, based on
their marriage ceremony on June 19, 2013 in Sonoma County, seven days before the Supreme
Court issued in *Hollingsworth v. Perry* (2013) __ U.S. __ [133 S.Ct. 2652, __ L.Ed. __] and
nine days before the United States Court of Appeals for the Ninth Circuit lifted the stay on the

1 August 4, 2010 order of the United States District Court for the Northern District of
2 California in the matter of *Perry v. Schwarzenegger* (2010) 704 F.Supp.2d 921. Petitioner
3 contends that despite representations that as Registered Domestic Partners, the parties would
4 receive the same benefits as if they were spouses. Petitioner testifies in her declaration in
5 support of the Petition that she and the parties' children have been denied benefits by Ms.
6 Taboada-Hall's employer and other benefits that they would have received if Petitioner and
7 Ms. Taboada-Hall had been married and that they carried out all of the steps necessary to
8 marry in California with the exception of having their marriage certificate filed by the Clerk
9 of the Court. Given the complexity of the issues raised by this Petition, the court finds good
10 cause to set the hearing more than ten days from the date the Petition was filed.

11 The hearing on this Petition will be at 8:30 a.m. in Dept. 18, on Wednesday,
12 September 18, 2013.

13 Dated: **AUG 12 2013**

14 **NANCY C. SHAFFER**
15 By: _____
16 NANCY CASE SHAFFER
17 Judge of the Superior Court
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EXHIBIT 3

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TATE BIRNIE, SBN 211633 BIRNIE LAW 7182 Healdsburg Avenue Sebastopol, CA 95472 TELEPHONE NO.: 707-823-8593 FAX NO. (Optional): 707-823-6894 E-MAIL ADDRESS (Optional): tate@birnielaw.com ATTORNEY FOR (Name): STACEY SCHUETT	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sonoma STREET ADDRESS: 3055 Cleveland Ave. MAILING ADDRESS: CITY AND ZIP CODE: Santa Rosa, CA 95403 BRANCH NAME: Family Law	
<input type="checkbox"/> ESTATE OF (Name): <input checked="" type="checkbox"/> IN THE MATTER OF (Name): STACEY SCHUETT and LESLY TABOADA-HALL <input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input checked="" type="checkbox"/> OTHER	
NOTICE OF HEARING—DECEDENT'S ESTATE OR TRUST	CASE NUMBER: 85880

**This notice is required by law.
 This notice does not require you to appear in court, but you may attend the hearing if you wish.**

1. NOTICE is given that (name): STACEY SCHUETT

(representative capacity, if any): One of the persons named in this matter.

has filed (specify)* Order Re: Continued Hearing on Petition to Establish Fact, Date, and Place of Marriage of STACEY SCHUETT and LESLY TABOADA-HALL.

2. You may refer to the filed documents for more information. (Some documents filed with the court are confidential.)

3. A HEARING on the matter will be held as follows:

a. Date: September 18, 2013 Time: 8:30 a.m. Dept.: 18 Room:

b. Address of court shown above is (specify):

Assistive listening systems, computer-assisted real-time captioning, or sign language interpreter services are available upon request if at least 5 days notice is provided. Contact the clerk's office for Request for Accommodations by Persons With Disabilities and Order (form MC-410). (Civil Code section 54.8.)



* Do not use this form to give notice of a petition to administer estate (see Prob. Code, § 8100 and form DE-121) or notice of a hearing in a guardianship or conservatorship (see Prob. Code, §§ 1511 and 1822 and form GC-020).

<input type="checkbox"/> ESTATE OF (Name): <input type="checkbox"/> IN THE MATTER OF (Name): Marriage of STACEY SCHUETT and LESLY TABOADA-HALL <input type="checkbox"/> DECEDENT <input type="checkbox"/> TRUST <input checked="" type="checkbox"/> OTHER	CASE NUMBER:
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CLERK'S CERTIFICATE OF POSTING

1. I certify that I am not a party to this cause.
2. A copy of the foregoing *Notice of Hearing—Decedent's Estate or Trust*
 - a. was posted at (address):
 - b. was posted on (date):

Date: _____ Clerk, by _____ Deputy

PROOF OF SERVICE BY MAIL *

1. I am over the age of 18 and not a party to this cause. I am a resident of or employed in the county where the mailing occurred.
2. My residence or business address is (specify): 7182 Healdsburg Avenue
Sebastopol, California 95472
3. I served the foregoing *Notice of Hearing—Decedent's Estate or Trust* on each person named below by enclosing a copy in an envelope addressed as shown below AND
 - a. depositing the sealed envelope on the date and at the place shown in item 4 with the United States Postal Service with the postage fully prepaid.
 - b. placing the envelope for collection and mailing on the date and at the place shown in item 4 following our ordinary business practices. I am readily familiar with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid.
4. a. Date mailed: _____ b. Place mailed (city, state): _____
5. I served with the *Notice of Hearing—Decedent's Estate or Trust* a copy of the petition or other document referred to in the Notice.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: _____

TATE BIRNIE _____
(TYPE OR PRINT NAME OF PERSON COMPLETING THIS FORM) (SIGNATURE OF PERSON COMPLETING THIS FORM)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

Name of person served	Address (number, street, city, state, and zip code)
1. Constance Noemi Taboada Hall (mother of Lesly Taboada-Hall)	87738 Saltaire St. Florence, OR 97439
2. Kerry Hall (sister)	87738 Saltaire St. Florence, OR 97439
3. DeeAnn Hall-Brewer (sister)	1112 E 20th Ave. Eugene, OR 97403
4. Mark Hall (brother)	88 Saturn St. San Francisco, CA 94114

Continued on an attachment. (You may use Attachment to Notice of Hearing Proof of Service by Mail, form DE-120(MA)/GC-020(MA), for this purpose.)

* Do not use this form for proof of personal service. You may use form DE-120(P) to prove personal service of this Notice.

NOTICE OF HEARING—DECEDENT'S ESTATE OR TRUST
 (Probate—Decedents' Estates)

DE-120(MA)/GC-020(MA)

<input type="checkbox"/> ESTATE <input type="checkbox"/> GUARDIANSHIP <input type="checkbox"/> CONSERVATORSHIP <input checked="" type="checkbox"/> MATTER OF CASE NUMBER:	
(Name): Marriage of STACEY SCHUETT and LESLY TABOADA-HALL	

ATTACHMENT TO NOTICE OF HEARING PROOF OF SERVICE BY MAIL

(This Attachment is for use with forms DE-120 and GC-020.)

NAME AND ADDRESS OF EACH PERSON TO WHOM NOTICE WAS MAILED

No.	Name of person served	Address (number, street, city, and zip code)
5.	Alan Hall (brother)	2125 Woodbine Ave. Oakland, CA 94602
6.	Wade Hall (brother)	585 N. San Pedro San Jose, CA 95110
7.	Social Security Administration	2099 Range Avenue Building A Santa Rosa, CA 95401
8.	FedEx Pension Plan Trustees	State Street Bank and Trust Company 2 Avenue de Lafayette, 6th Floor Boston, MA 02111
9.	Vanguard Fiduciary Trust Company Attn: Plan #093111	100 Vanguard Boulevard Malvern, PA 19355
10.	FedEx Corporation Employees Pension Plan FedEx Retirement Service Cent	P.O. Box 980 Deerfield, IL 60015 & via email cjyost@fedex.com
11.	The Vanguard Group, Inc. Atn: Plan #09311	100 Vanguard Boulevard Malvern, PA 19355
12.	William F. Rousseau	Sonoma County Clerk's Office 2300 County Center Drive Suite B-177 Santa Rosa, California 95403
13.	Kathleen Larocque	Office of the County Counsel 575 Administration Drive, Room 105-A Santa Rosa, CA 95403

EXHIBIT 4

ORDER ESTABLISHING FACT OF MARRIAGE

FILED

In the Superior Court of the State of California

In and for the County of SONOMA

SEP 18 2013
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SONOMA
By [Signature] DEPUTY CLERK

In the matter of the petition of
STACEY SCHUETT

To establish the fact of marriage of
Stacey Schuett and
Lesly Taboada-Hall

Number SPR-85880
Department PROBATE

The verified petition of Stacey Schuett to establish the fact of marriage of Stacey Schuett and Lesly Taboada-Hall having been filed herein on the 6th day of August, A.D., 2013, and such petition having by an order of court been duly set for hearing on the 18th day of Sept., A.D., 2013, at the hour of 8:30 o'clock A.M. of said day; and now on said day said matter coming on regularly for hearing and it appearing to the satisfaction of this court from the evidence introduced that the said Stacey Schuett petitioner herein, is beneficially interested in establishing of record the fact of the marriage of said Stacey Schuett and Lesly Taboada-Hall

in that she is a party to the marriage

DEC 9 2013

and it appearing that on the 19th day of June, A.D., 2013, the marriage, each to each other, of Stacey Schuett and Lesly Taboada-Hall occurred, and was solemnized at Sebastopol, in the County of Sonoma, State or Country of California;

that said marriage has not been registered in conformity with the provisions of law in effect at the time of said marriage, or such record has been lost or destroyed after having been filed; and no one appearing at said hearing to oppose the making of this order;

It is therefore ordered, adjudged, and decreed that on the 19th day of June, A.D., 2013, the marriage, each to each other, of Stacey Schuett and Lesly Taboada-Hall occurred at Sebastopol, County of Sonoma, State or Country of California

Done in court this 18 day of September, A.D., 2013

[Signature]
Judge of the Superior Court

Before filing the above order, insert in the certificate form below, as of the date of the marriage, the personal and statistical particulars required for the records of the State Registrar. A certified copy of the above order must be filed with the State Registrar before the order shall become effective. USE BLACK INK ONLY.

COURT ORDER DELAYED CERTIFICATE OF MARRIAGE STATE OF CALIFORNIA

NO ERASURES, WHITEOUTS, PHOTOCOPIES,
OR ALTERATIONS

STATE FILE NUMBER _____

LOCAL REGISTRATION NUMBER _____

TYPE OR PRINT CLEARLY IN BLACK INK ONLY - THIS FORM BECOMES THE OFFICIAL MARRIAGE RECORD

Groom Bride
FIRST PERSON DATA

1A. FIRST NAME Lesly		1B. MIDDLE Frances	
1C. CURRENT LAST Taboada-Hall		1D. LAST NAME AT BIRTH (IF DIFFERENT THAN 1C)	
2. DATE OF BIRTH (MM/DD/CCYY) 10/09/1956	3. STATE/COUNTRY OF BIRTH CA/USA	4. # PREV. MARRIAGES/SRDP 0	5A. LAST MARRIAGE/SRDP ENDED BY: <input type="checkbox"/> DEATH <input type="checkbox"/> DISSO <input type="checkbox"/> ANNULMENT <input type="checkbox"/> TERM SRDP <input type="checkbox"/> N/A
6. ADDRESS 7805 Anthony Street		7. CITY Sebastopol	8. STATE / COUNTRY CA
10A. MAILING ADDRESS (IF DIFFERENT)		10B. CITY	9. ZIP CODE 95472
11A. FULL BIRTH NAME OF FATHER/PARENT Don Lewis Hall		11B. STATE OF BIRTH (IF OUTSIDE U.S., ENTER COUNTRY) OH	
12A. FULL BIRTH NAME OF MOTHER/PARENT Constance Noemi Taboada		12B. STATE OF BIRTH (IF OUTSIDE U.S., ENTER COUNTRY) CA	

Groom Bride
SECOND PERSON DATA

13A. FIRST NAME Stacey		13B. MIDDLE Lynn	
13C. CURRENT LAST Schuett		13D. LAST NAME AT BIRTH (IF DIFFERENT THAN 13C)	
14. DATE OF BIRTH (MM/DD/CCYY) 10/09/1960	15. STATE/COUNTRY OF BIRTH IL/USA	16. # PREV. MARRIAGES/SRDP 0	17A. LAST MARRIAGE/SRDP ENDED BY: <input type="checkbox"/> DEATH <input type="checkbox"/> DISSO <input type="checkbox"/> ANNULMENT <input type="checkbox"/> TERM SRDP <input type="checkbox"/> N/A
18. ADDRESS 7805 Anthony Street		19. CITY Sebastopol	20. STATE / COUNTRY CA
22A. MAILING ADDRESS (IF DIFFERENT)		22B. CITY	21. ZIP CODE 95472
23A. FULL BIRTH NAME OF FATHER/PARENT Marvin Donald Schuett		23B. STATE OF BIRTH (IF OUTSIDE U.S., ENTER COUNTRY) SD	
24A. FULL BIRTH NAME OF MOTHER/PARENT Rita Cecile Hassenhauer		24B. STATE OF BIRTH (IF OUTSIDE U.S., ENTER COUNTRY) IL	

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FACTS OF MARRIAGE

25. DATE OF MARRIAGE—MM/DD/CCYY 06/19/2013	26. CITY/TOWN OF MARRIAGE Sebastopol	27. COUNTY OF MARRIAGE Sonoma
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NEW NAMES (IF ANY)

NEW MIDDLE AND LAST NAME OF PERSON LISTED IN 1A - 1D (IF ANY) FOR USE UPON SOLEMNIZATION OF THE MARRIAGE (IF DIFFERENT THAN 1B AND 1C)	
28A. FIRST - MUST BE SAME AS 1A	28B. MIDDLE
28C. LAST	
NEW MIDDLE AND LAST NAME OF PERSON LISTED IN 13A - 13D (IF ANY) FOR USE UPON SOLEMNIZATION OF THE MARRIAGE (IF DIFFERENT THAN 13B AND 13C)	
29A. FIRST - MUST BE SAME AS 13A	29B. MIDDLE
29C. LAST	

STATE REGISTRAR USE ONLY

OFFERED FOR FILING PURSUANT TO ORDER NUMBER _____
OF THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE COUNTY OF _____
MADE THE _____ DAY OF _____, A.D., 20_____, ESTABLISHING OF RECORD THE FACT OF MARRIAGE IN
THE STATE OR COUNTRY OF _____, NO MARRIAGE CERTIFICATE HAS BEEN FOUND ON FILE IN THE OFFICE OF VITAL
RECORDS FOR THE ABOVE PARTIES.

30. OFFICE OF VITAL RECORDS	31. DATE ACCEPTED FOR REGISTRATION
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