UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KARI L. CHIN and DEBORAH E. CHIN, ALMA A. VEZQUEZ and YADIRA ARENAS, and EQUALITY FLORIDA INSTITUTE, INC.,

Plaintiffs,

v.

JOHN H. ARMSTRONG, in his official capacity as Surgeon General and Secretary of Health for the State of Florida, and KENNETH JONES, in his official capacity as State Registrar,

Defendants.

Case No. 4:15-cv-00399-RH-CAS

PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' SUGGESTION OF MOOTNESS

Defendants argue that certain recent policy changes make judicial relief in this action unnecessary. However, Defendants' recent changes are inadequate to fully remedy their constitutional violations and leave unaddressed a significant portion of the conduct challenged in this action. Moreover, even the limited changes Defendants have adopted are not final and remain contingent on uncertain future

events. For the reasons stated below, Plaintiffs respectfully request that the Court reject Defendants' Suggestion of Mootness and rule on Plaintiffs' pending Motion for Summary Judgment.

I. This Action Is Not Moot

"It is well settled that 'a defendant's voluntary cessation of a challenged practice does not deprive a federal court of its power to determine the legality of the practice.'" *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc*., 528 U.S. 167, 189 (2000) (quoting *City of Mesquite v. Aladdin's Castle, Inc.*, 455 U.S. 283, 289 (1982)). The Supreme Court has described the standard for establishing mootness as "stringent;" "[t]he 'heavy burden of persua[ding]' the court that the challenged conduct cannot reasonably be expected to start up again lies with the party asserting mootness." *Id.* (quoting *United States v. Concentrated Phosphate Export Assn.*, 393 U.S. 199, 203 (1968)). "That burden will have been borne only if: '(1) it can be said with assurance that there is no reasonable expectation ... that the alleged violation will recur, and (2) interim relief or events have completely and irrevocably eradicated the effects of the alleged violation.'" *Harrell v. The Florida Bar*, 608 F.3d 1241, 1265 (11th Cir. 2010) (*quoting Los Angeles County v. Davis*, 440 U.S. 625, 631 (1979)).

Defendants cannot establish either element of the *Davis* standard. First, their recent changes are incomplete and do not fully remedy the constitutional violations

at issue in this case. Those changes also are not final and are contingent on future events that may not occur. Second, under the circumstances of this case, Defendants cannot show "with assurance" that the violations at issue in this action will not recur. Accordingly, this case is not moot.

A. Defendants Have Neither "Completely" Nor "Irrevocably" Ceased Their Unconstitutional Conduct.

Defendants' recent changes have not "completely and irrevocably eradicated the effects of the alleged violation," *Davis,* 440 U.S. 631, for several reasons. First, Defendants' recent remedial measures are incomplete because Defendants still are not issuing corrected birth certificates to married same-sex couples who had children in Florida prior to January 5, 2015. *See* Declaration of Karen Lee-Duffell, ¶¶ 2-6. Defendants' recent changes leave out the many couples who were validly married in another jurisdiction and gave birth in Florida before this Court's preliminary injunction in *Brenner* took effect and allowed same-sex couples to begin marrying in this state. Plaintiffs' motion for summary judgment requests a permanent injunction requiring Defendants to issue corrected birth certificates to *all* "married same-sex couples who were not provided with a birth certificate listing both parents as required by Section 382.013(2)(a)" (Dkt. 24 at ix), regardless of the date of the marriage or the date of birth of the child. Accordingly, there remains a live controversy with respect to issuance of corrected birth certificates for children born before January 5, 2015.

It is beyond reasonable dispute that the Supreme Court's decision in *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), is fully retroactive and requires Florida to respect the marriages of same-sex couples and to offer them all the same rights, benefits, and obligations, regardless of whether the couple's entitlement to a particular marital benefit accrued before or after Florida began allowing same-sex couples to marry. *See Harper v. Virginia Dep't of Taxation*, 509 U.S. 86, 97 (1993) ("When this Court applies a rule of federal law to the parties before it, that rule is the controlling interpretation of federal law and must be given full retroactive effect in all cases still open on direct review and as to all events, regardless of whether such events predate or postdate our announcement of the rule."); *Abella v. Rubino*, 63 F.3d 1063, 1064 (11th Cir. 1995) (same).

In *Obergefell*, the Supreme Court discussed many of the rights that states provide to spouses, including "adoption rights; . . . birth and death certificates; . . . and child custody, support, and visitation rules," and held that *all* such benefits provided to married spouses must be equally provided to same-sex spouses "on the same terms and conditions as opposite-sex couples," *Obergefell*, 135 S. Ct. at 2604-05. Thus, *Obergefell* expressly requires that same-sex couples who married in any jurisdiction before *Obergefell* was decided are entitled to be treated the same as different-sex couples, regardless of when their state of residence began allowing same-sex couples to marry. Indeed, the Supreme Court's judgment in one of the

cases before it in *Obergefell* had the direct effect of requiring the State of Ohio to issue birth certificates listing both same-sex parents to the plaintiffs' children, born between 2010 and 2014, even though Ohio did not begin allowing same-sex couples to marry until after June 26, 2015. *See Henry v. Himes*, 14 F. Supp. 3d 1036, 1041-42 (S.D. Ohio 2014), *aff'd sub nom. Obergefell v. Hodges*, 135 S. Ct. 2584 (2015). Because Defendants continue to violate their constitutional obligation to issue corrected birth certificates to married same-sex couples who had children before January 5, 2015, this case is not moot.

Second, Defendants also have failed to completely eradicate the effects of their constitutional violations – indeed, they presently are *compounding* those violations – because, even though Defendants will now correct a couple's birth record (the record maintained in the Department's own files) for free, Defendants insist on charging couples an additional $9 "certification fee" should they wish to receive a copy of the corrected birth cerificate. *See* Declaration of Chrysti Reichert, ¶¶ 2-6 & Exh. A. It perhaps goes without saying that a change in the birth record maintained by the Department is of little value in itself, and that nearly every affected couple will need to order a copy of the birth certificate, since couples will often need that document to prove a child's parentage to third parties.

In effect, Defendants' recent changes require married same-sex couples to compensate *Defendants* for having violated the couples' constitutional rights. Under

this supposed "remedy," Defendants are actually being rewarded for their constitutional violations by collecting fees to which they otherwise would not have been entitled. Couples who previously were able to obtain birth certificates listing only one parent have already paid Defendants any fees necessary for issuance of a birth certificate. But for Defendants' constitutional violations, those couples would already have birth certificates listing both parents. Such couples should not be required to pay any additional fees to correct Defendants' violations.

Plaintiffs' motion for summary judgment requests a permanent injunction requiring Defendants to provide couples with a copy of the corrected birth certificate "without charging such couples *any* fees that would otherwise apply to issuance of a corrected birth certificate." (Dkt. 24 at ix (emphasis added).) Thus, there remains a live controversy as to whether Defendants may charge any fees when issuing corrected birth certificates. Plaintiffs respectfully request that the Court's final judgment in this action not only prohibit Defendants from charging such fees to future applicants, but also require Defendants to refund the $9 "certification fee" to any same-sex couples who have already paid that fee under Defendants' recent policy changes.

Third, not only do Defendants' actions fail to fully remedy Plaintiffs' claims, but by Defendants' own admission, those remedial actions also are *not final* and depend on future contingencies that may or may not occur. Defendants state that

they have initiated rulemaking to modify their forms to allow the designation of "mother, father, or parent" on birth records. (Dkt. 28 at 3.) Defendants concede, however, that those forms are not yet in use, and will not be in use until July 2016 at the earliest, and then only if there are no legal challenges to the proposed rule. (*Id.*, Exh. B.)

Changes occurring after the filing of a lawsuit do not moot a claim for injunctive relief when those changes are contingent on future events that may prevent the parties' dispute from being fully resolved. *Cf. Havens Realty Corp. v. Coleman*, 455 U.S. 363, 371 n.10 (1982) (holding that a proposed settlement between the parties that remains contingent on court approval does not moot the case); *Barnes-Wallace v. City of San Diego*, 530 F.3d 776, 783-84 (9th Cir. 2008) (holding that termination of disputed lease following district court judgment did not moot appeal where notice of termination indicated that termination would be rescinded if district court judgment was reversed). Here, Defendants have not issued the new forms and cannot say with certainty when, or whether, the proposed forms will be in use. At most, their argument amounts to a contention that this action *may* become moot at some unknown future time, *if* there is no successful legal challenge to their proposed rulemaking. On these facts, they cannot carry their "heavy burden" of demonstrating mootness.

Moreover, the proposed rule Defendants have recently published remains inadquate to fully implement the requirements of *Obergefell.* With respect to same-sex parents who have obtained court judgments of parentage, for example, the proposed rule continues to refer only to issuance of birth certificates based on judgments of paternity and omits any reference to judgments of maternity. *See* Notice of Proposed Rule 64V-1.032 (May 27, 2016), *available at* https://www.flrules.org/gateway/ruleNo.asp?id=64V-1.001. Refusing to allow same-sex married couples who have obtained a parentage judgment to amend their children's birth certificates on the same terms as couples who have obtained a paternity judgment would violate equal protection and substantive due process for the same reasons that the Supreme Court required states to allow same-sex couples to marry in *Obergefell*: it would discriminate against those families and deny the couples and their children important protections.

B. Under the Circumstances of this Case, Defendants Cannot Carry Their Burden of Demonstrating That The Challenged Conduct Will Not Recur.

As shown above, Defendants' recent remedial measures are both substantively incomplete and procedurally lacking in finality. Because Defendants have not fully ceased the unconstitutional conduct at issue in this action, their suggestion of mootness should be rejected. However, even if Defendants had fully and finally ceased their unconstitional conduct, dismissal of this action still would

not be warranted. That is because, under the circumstances present here, Defendants cannot carry their burden of showing that there is no reasonable expectation that the alleged violations will recur.

When a party ceases challenged conduct, a claim for injunctive relief "will be moot only if it is '*absolutely clear* that the allegedly wrongful behavior could not reasonably be expected to recur.'" *Harrell*, 608 F.3d at 1265 (quoting *Laidlaw*, 528 U.S. at 189) (emphasis added by *Harrell* court). "[V]oluntary cessation of offensive conduct will only moot litigation if it is clear that the defendant has not changed course simply to deprive the court of jurisdiction." *Nat'l Advert. Co. v. City of Miami*, 402 F.3d 1329, 1333 (11th Cir. 2005). "[T]he 'timing and content' of a voluntary decision to cease a challenged activity are critical in determining the motive for the cessation and therefore 'whether there is [any] reasonable expectation . . . that the alleged violation will recur.'" *Harrell*, 608 F.3d at 1266 (quoting *Burns v. Penn. Dep't of Corr.*, 544 F.3d 279, 284 (3d Cir. 2008)).

"As for timing, a defendant's cessation before receiving notice of a legal challenge weighs in favor of mootness, . . . while cessation that occurs 'late in the game' will make a court 'more skeptical of voluntary changes that have been made.'" *Id.* (quoting *Burns*, 544 F.3d at 284). "With respect to content, [courts] look for a well-reasoned justification for the cessation as evidence that the ceasing party intends to hold steady in its revised (and presumably unobjectionable) course." *Id.*

"Short of repealing a statute, if a governmental entity decides in a clandestine or irregular manner to cease a challenged behavior, it can hardly be said that its 'termination' of the behavior is unambiguous." *Id.* at 1266-67. In these circumstances, governmental entities will not receive the benefit of any presumption that the challenged conduct will not recur. *See id.*

Such circumstances are present here. Defendants' change of conduct occurred "late in the game," and only after Plaintiffs had filed their complaint, a motion for preliminary injunction, and a motion for summary judgment. Counsel for Plaintiffs first contacted Florida officials concerning the issuance of birth certificates to married same-sex couples in early 2015, shortly after this Court's injunction in *Brenner* took effect. *See* Declaration of Christopher F. Stoll in Opposition to Defendants' Suggestion of Mootness, ¶ 2. At that time, counsel hoped to achieve a resolution of this issue without the need for litigation. Counsel attempted for months to persuade the Department that the clear import of this Court's injunction in *Brenner* and, later, the Supreme Court's decision in *Obergefell*, was that Florida must treat married same-sex couples equally in every way under state law, including with respect to birth certificates. The Department took no action to address the issue of birth certificates, and Plaintiffs were required to initiate this action to remedy Defendants' constitutional violations. Only after the Court's recent order in the *Brenner* case made clear that Plaintiffs are likely to prevail on the merits in this

action (and after Plaintiffs' attorneys had spent considerable time working on this case) did Defendants begin their remedial measures.

In addition to the late timing of the change, Defendants lack a "well-reasoned" basis for their change; while they claim that the Court's recent order in *Brenner* "clarified" their constitutional obligations, those obligations were already clear in the Court's *Brenner* injunction and in the Supreme Court's *Obergefell* decision. And as noted above, the changes Defendants have made remain insufficient in several respects to correct their constitutional violations.

Defendants also appear to have made these changes without taking any steps to publicize that same-sex married couples may apply for a corrected birth certificate or to contact couples who previously were denied birth certificates acknowleging both same-sex parents. *See* Stoll Decl., ¶¶ 3-4. Despite their frequent communications to the public through press releases, website updates, and social media posts, Defendants appear to have quietly implemented these changes without any effort to inform Florida's same-sex married couples of these new procedures. *See id.* Taken together, the timing and content of Defendants' recent actions suggests that their primary purpose in undertaking these changes is not to bring themselves into compliance with the law, but to avoid an unfavorable judgment in this case, and thereby avoid liability for plaintiffs' attorneys' fees. Given these facts, "the circumstances here raise a substantial possibility that 'the defendant has . . . changed

course simply to deprive the court of jurisdiction,' which itself prevents [the Court] from finding the controversy moot." *Harrell*, 608 F.3d at 1267 (quoting *Nat'l Adver. Co.*, 402 F.3d at 1333).

In sum, not only is this a case in which Defendants cannot establish mootness "just by promising to sin no more," *Watkins v. Jones*, No. 4:12-cv-215-RH/CAS, 2015 WL 5468648, *1 (N.D. Fla. Sept. 15, 2015), it is a case in which Defendants have not even fully stopped "sinning" in the first place. For these reasons, this action is not moot.

II. Defendants' Remaining Arguments Are Without Merit.

For the same reasons discussed above, Defendant's remaining arguments also lack merit. Defendants have not fully ceased the constitutional violations at issue in this case, and even the inadequate remedial measures they have taken to date are not final and remain subject to uncertain future contingencies. Because Defendants' constitutional violations are continuing, the Eleventh Amendment does not bar this suit, *see Ex Parte Young*, 209 U.S 123 (1908), and declaratory and injunctive relief remains necessary and appropriate. As argued above, Defendants' conduct is not in compliance with the injunction and declaratory relief requested in Plaintiffs' summary judgment motion because Defendants are not issuing corrected birth certificates for children born before January 5, 2015, and because even for those couples who are now able to obtain a corrected birth certificate, Defendants are

repeating and compounding their past constitutional violations by charging such couples an additional fee to obtain a new birth certificate. Moreover, injunctive and declaratory relief remains necessary because Defendants concede that they have not completed their rulemaking process to issue updated forms. For the reasons stated in Plaintiffs' memoranda in support of their motion for summary judgment, Plaintiffs respectfully request the Court to issue injunctive and declaratory relief to comprehensively remedy Defendant's violations.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court reject Defendants' suggestion of mootness, grant Plaintiffs' motion for summary judgment, and issue the requested declaratory relief and permanent injunction.

Dated: May 27, 2016

Respectfully Submitted,

/s/ Christopher F. Stoll

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COUNSEL FOR PLAINTIFFS

CERTIFICATE OF COMPLIANCE

I certify that this document complies with the length limitation set forth in Northern District of Florida Local Rule 7.1(F). Plaintiffs' Response in Opposition to Defendants' Suggestion of Mootness contains 2,969 words according to the word count feature of the word processing program used to prepare the memorandum.

/s/ Christopher F. Stoll
Christopher F. Stoll

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KARI L. CHIN and DEBORAH E. CHIN, ALMA A. VAZQUEZ and YADIRA ARENAS, CATHERINA M. PARETO and KARLA P. ARGUELLO, and EQUALITY FLORIDA INSTITUTE, INC.,

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JOHN H. ARMSTRONG, in his official capacity as Surgeon General and Secretary of Health for the State of Florida, and KENNETH JONES, in his official capacity as State Registrar,

Defendants.

Case No. 4:15-cv-00399-RH-CAS

DECLARATION OF KAREN LEE-DUFFELL

I, KAREN LEE-DUFFELL, hereby declare and state as follows:

1. I am a member of Equality Florida Institute, Inc. one of the Plaintiffs in this action. I have personal knowledge of the matters stated in this Declaration and could and would competently testify to these facts.

2. My wife and I were legally married in Massachusetts in 2009. We moved to Florida in 2010.

3. My wife and I had a child who was born in Florida in 2012. Because I delivered the child, the birth certificate lists only me as a parent and excludes my spouse.

4. On May 26, 2016, I contacted Betty Hodges Shannon, Program Administrator at the Florida Department of Health, Department of Vital Statistics, to obtain information about updating my child's birth certificate to include both my name and the name of my spouse as parents.

5. On May 26, 2016 I spoke to Ms. Shannon on the phone regarding the process for updating my child's birth certificate.

6. Ms. Shannon informed me that the Department of Vital Statistics is currently only updating birth certificates for children born after the marriage equality decision in January 2015.

7. Ms. Shannon informed that the Department of Vital Statistics is waiting to hear from the General Counsel about issuing amended birth certificates for children born before January 2015.

I sign this Declaration under penalty of perjury under the laws of the State of Florida.

DATED this 26th day of May 2016.

Karen Lee-Duffell

Karen Lee-Duffell

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
TALLAHASSEE DIVISION

KARI L. CHIN and DEBORAH E. CHIN, ALMA A. VAZQUEZ and YADIRA ARENAS, CATHERINA M. PARETO and KARLA P. ARGUELLO, and EQUALITY FLORIDA INSTITUTE, INC.,

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JOHN H. ARMSTRONG, in his official capacity as Surgeon General and Secretary of Health for the State of Florida, and KENNETH JONES, in his official capacity as State Registrar,

Defendants.

Case No. 4:15-cv-00399-RH-CAS

DECLARATION OF CHRYSTI REICHERT

I, CHRYSTI REICHERT, hereby declare and state as follows:

1. I am a member of Equality Florida Institute, Inc. one of the Plaintiffs in this action. I have personal knowledge of the matters stated in this Declaration and could and would competently testify to these facts.

2. I am the parent of a child born in Florida on January 26, 2015.

3. On May 5, 2016, I contacted Betty Hodges Shannon, Program Administrator at the Florida Department of Health, Department of Vital Statistics, to obtain information

about updating my child's birth certificate to include both my name and the name of my spouse as parents.

4. On May 5, 2016 I received a letter from Ms. Shannon, attached hereto as Exhibit A, with instructions and a form to amend my child's birth certificate.

5. The letter informed me that "[t]he amendment processing fee of $20.00" would be "waived for this action," but that if I "wish to order a certified copy of the amended birth record a fee of $9.00 will be required."

6. The letter also informed me that the labels on the birth certificate would still read "mother and father."

I sign this Declaration under penalty of perjury under the laws of the State of Florida.

DATED this 25 day of May 2016.

Chrysti Reichert

EXHIBIT A

Mission:
To protect, promote & improve the health of all people in Florida through integrated state, county & community efforts.

Florida HEALTH

Vision: To be the Healthiest State in the Nation

Rick Scott
Governor

Celeste Phillip, MD, MPH
Interim State Surgeon General

May 5, 2016

Chrysti Reichert
[redacted]

Dear Ms. Reichert:

This is in reference to our recent conversation.

Please find enclosed the form used to add the spouse to the birth record. Please complete sections A and B and each mother sign below this section attesting to the information listed above, in the presence of a notary public. The witnessing officer must also sign, date and affix the seal of office to your signatures.

The amendment processing fee of $20.00 is hereby waived for this action. Should you wish to order a certified copy of the amended birth record a fee of $9.00 will be required. A photocopy of your identification must be submitted with your request. Please note, the labels will still reflect mother and father at this time. Once the forms and rule promulgation is completed, we will be happy to exchange this certified copy with a new certification with the updated labels. We will contact you at that time.

If you have any questions, please feel free to contact me at (904) 359-6900, ext. 1003.

Sincerely,

Betty Hodges Shannon

Betty Hodges Shannon
Program Administrator
Records Amendment Section
Bureau of Vital Statistics
Email: Betty.Shannon@flhealth.gov

bjhs
Enclosures

A. INFORMATION REGARDING ORIGINAL STATUS OF CHILD

Birth Certificate No. _____ (If Known)

1a. Child's Name _____ (First / Middle / Last) 1b. Child's Sex _____

1c. Child's Date of Birth _____ 1d. Child's Place of Birth _____ (City / State / Country)

2a. Name of Father/Parent _____ (First / Middle / Last Name Prior to First Marriage (if applicable) / Suffix) 2b. Father's/Parent's Race _____

3a. Name of Mother/Parent _____ (First / Middle / Last Name Prior to First Marriage (if applicable) / Suffix) 3b. Mother's/Parent's Race _____

B. INFORMATION FOR A NEW CERTIFICATE OF BIRTH

1. Child's Name _____ (First / Middle / Last / Suffix)

FATHER/PARENT	MOTHER/PARENT
2a. Name: _____ (First / Middle / Last / Suffix)	3a. Name: _____ (First / Middle / Last / Suffix)
2b. Name prior to first marriage (if applicable) _____	3b. Name prior to first marriage (if applicable) _____
2c. Birth Date: _____	3c. Birth Date: _____
2d. Birth Place: _____	3d. Birth Place: _____
2e. Race: _____	3e. Race: _____
2f. Social Security Number: _____	3f. Social Security Number: _____

5. Mailing address if different from residence address: _____

6. We affirm we were married at the time of this child's birth.

I HEREBY DECLARE UPON OATH THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT (SIGNATURE)	STATE OF: _____ COUNTY OF: _____ Personally Known __ or Produced Identification __ Type Identification Produced _____
SUBSCRIBED AND SWORN BEFORE ME THIS ____ day of _____, 20____ _____ (Signature of Notary) _____ (Printed Name of Notary)	COMMISSION EXPIRES: _____ SEAL
I HEREBY DECLARE UPON OATH THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT (SIGNATURE)	STATE OF: _____ COUNTY OF: _____ Personally Known __ or Produced Identification __ Type Identification Produced _____
SUBSCRIBED AND SWORN BEFORE ME THIS ____ day of _____, 20____ _____ (Signature of Notary) _____ (Printed Name of Notary)	COMMISSION EXPIRES: _____ SEAL

Florida HEALTH

State of Florida
Department of Health
Office of Vital Statistics
APPLICATION FOR FLORIDA BIRTH RECORD

Requirement for ordering: If applicant is self, parent, guardian, or legal representative, then the applicant must complete this application and provide a copy of a valid photo identification. If applicant is not one of the above, the Affidavit to Release a Birth Certificate must be completed by an authorized person and submitted in addition to this application form. Acceptable forms of identification are the following: Driver's License, State Identification Card, Passport, and/or Military Identification Card.

SECTION A – REGISTRANT INFORMATION

CHILD'S FULL NAME AS SHOWN ON BIRTH RECORD	FIRST	MIDDLE	LAST	SUFFIX	
IF NAME WAS CHANGED SINCE BIRTH, INDICATE NEW NAME	FIRST	MIDDLE	LAST	SUFFIX	
DATE OF BIRTH	MONTH / DAY / YEAR (4-DIGIT)	STATE FILE NUMBER (If known)	SEX		
PLACE OF BIRTH	HOSPITAL	CITY OR TOWN	COUNTY		
MOTHER'S MAIDEN NAME (Name before marriage)	FIRST	MIDDLE	LAST	SUFFIX	
FATHER'S NAME	FIRST	MIDDLE	LAST	SUFFIX	

SECTION B – FEES & PAYMENT

A BIRTH RECORD SEARCH REQUIRES ADVANCE PAYMENT OF A NON-REFUNDABLE SEARCH FEE OF $9.00 AND VALID PHOTO IDENTIFICATION.

A Computer Certification requires the $9.00 fee which entitles the applicant to one registered birth (1917 to present) or if a record is not found, a certified "No Record Found" statement will be issued.

- The Computer Certification is recognized and accepted by ALL State and Federal Agencies.
- **Normal processing time is 4-6 days,** provided the record and application are complete and in order.

A Photocopy Certification (*in place of a Computer Certification*) requires an additional charge of $5.00 and includes the $9.00 search fee. **Normal processing time is approximately 10 business days.**

Definitions of the two types of Certifications are on the reverse side.

Additional Computer Certifications:
$4.00 for each subsequent Computer Certification

Additional Photocopy Certifications:
$4.00 for each subsequent Photocopy Certification

Additional Years to be Searched:
$2.00 for each additional year. The maximum additional year search fee is $ 50.00 regardless of the total number of years to be searched. **(Indicate the range of years to be searched in the 2nd Box.)**

$9.00	X	1	=	$9.00
$5.00	X		=	
$4.00	X		=	
$4.00	X		=	
$2.00	X		=	

RUSH ORDERS (Optional): RUSH Fees are an additional $10.00.
If you desire RUSH service, mark the outside of your envelope "RUSH" (*Processing time in our office for Rush Service is 2-3 business days; routine processing time within our office is 4-6 business days.)*

Check here for Rush Order ☐

TOTAL AMOUNT ENCLOSED: Check or Money Order Payable to: Vital Statistics. **(DO NOT SEND CASH)**
International payments should be made by Cashier's Check or Money Order in U. S. Dollars.
Florida Law imposes an additional service charge of $15.00 for dishonored checks.

ENCLOSE COPY OF VALID PHOTO IDENTIFICATION OR YOUR ORDER WILL NOT BE COMPLETED

SECTION C – APPLICANT/MAILING INFORMATION

Any person who willfully and knowingly provides any false information on a certificate, record or report required by Chapter 382, Florida Statutes, or on any application or affidavit, or who obtains confidential information from any Vital Record under false or fraudulent purposes, commits a felony of the third degree, punishable as provided in Chapter 775, Florida Statutes.

Applicant's Name TYPE OR PRINT	FIRST	MIDDLE	LAST (INCLUDING ANY SUFFIX)
DELIVERY ADDRESS (INCLUDE APT. NO., IF APPLICABLE)	CITY	STATE	ZIP CODE
HOME PHONE NUMBER WORK PHONE NUMBER	RELATIONSHIP TO REGISTRANT	SIGNATURE OF APPLICANT	
IF ATTORNEY, PROVIDE BAR/PROFESSIONAL LICENSE NO.	IF ATTORNEY , PROVIDE NAME OF PERSON YOU REPRESENT AND THEIR RELATIONSHIP TO REGISTRANT		

IF THE CERTIFICATION IS TO BE MAILED TO ANOTHER PERSON OR ADDRESS USE THE SPACES BELOW TO SPECIFY SHIP TO NAME AND ADDRESS.

SHIP TO NAME TYPE OR PRINT	FIRST	MIDDLE	LAST (INCLUDING ANY SUFFIX)
HOME PHONE NUMBER	SHIP TO STREET ADDRESS (AND APT. NO. IF APPLICABLE)		
WORK PHONE NUMBER	CITY	STATE	ZIP CODE

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Defendants.

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DECLARATION OF CHRISTOPHER F. STOLL

I, CHRISTOPHER F. STOLL, hereby declare and state as follows:

1. I am one of the attorneys representing the Plaintiffs in this action. I have personal knowledge of the matters stated in this Declaration and could and would competently testify to these facts.

2. Counsel for Plaintiffs first contacted Florida state officials concerning issues related to state recognition of existing marriages of same-sex couples on

January 5, 2015. Counsel for Plaintiffs began communicating with Defendant Kenneth Jones about the issue of birth certificates for children of married couples by email no later than March 24, 2015, after a number of married same-sex couples who had recently had children or were soon expecting children contacted our office. Despite repeated communications by Plaintiffs' counsel with the Department of Health, Defendants took no action to issue birth certificates to such couples, thus necessitating the filing of this action in August 2015.

3. On May 25, 2016, I examined the "Vital Statistics" section of Defendants' website (http://floridahealth.gov) to determine what information, if any, Defendants had disseminated about "Amendments and Corrections" to birth certificates for same-sex married couples. I could find no information explaining that same-sex married couples can apply for an amended birth certificate and no instructions on how to obtain such an amendment. Defendants' form "DH660 Instructions for Amending a Certificate of Live Birth" did not appear to have been updated with any information about this issue. The "DH429 Application for Amendment to Florida Birth Record" similarly had no information at all about this issue.

4. I also checked the Department of Health's Facebook and Twitter accounts. Although the Department posts frequently on both of these social media

sites, I could find no posts or other information about the issuance of birth certificates to married same-sex couples.

I sign this Declaration under penalty of perjury under the laws of the State of Florida.

DATED this 27 day of May 2016.

Christopher F. Stoll