

IN THE
UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 17-1141

ASHLEE and RUBY HENDERSON, a married couple and L.W.C.H., *et al.*,

Plaintiffs/Appellees,

v.

DR. JEROME M. ADAMS, in his official capacity as Indiana State Health
Commissioner,

Defendant/Appellant.

On Appeal from the United States District Court for the
Southern District of Indiana, No. 1:15-cv-220-TWP-MJD,
The Honorable Tanya Walton Pratt, Judge

APPELLANT'S APPENDIX

CURTIS T. HILL, Jr.
Attorney General of Indiana

THOMAS M. FISHER
Solicitor General

Office of the Attorney General
IGC South, Fifth Floor
302 W. Washington Street
Indianapolis, IN 46204
(317) 232-6255
Tom.Fisher@atg.in.gov

LARA LANGENECKERT
CALE ADDISON BRADFORD
Deputy Attorneys General

Counsel for Defendant/Appellant

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE HENDERSON and)	
RUBY HENDERSON a married couple, and)	
L.W.C.H. by his parent and next friend Ruby)	
Henderson., <i>et al.</i> ,)	
)	Case No. 1:16-cv-763-TWP-DML
Plaintiffs,)	
)	
v.)	
)	
DR. JEROME ADAMS in his official capacity)	
as Indiana State Health Commissioner, <i>et al.</i> ,)	
)	
Defendants.)	

**DECLARATION OF BRIAN CARNES IN SUPPORT OF
DEFENDANTS' MOTION TO ALTER OR AMEND JUDGMENT**

I, Brian Carnes, pursuant to 28 U.S.C. § 1746, declare the following to be true:

1. I am over 18 years of age and a resident of the State of Indiana.
2. This declaration is made on my personal knowledge and I am competent to testify and will testify to the matters stated herein.
3. I am the Indiana State Registrar and Director of Vital Records at the Indiana State Department of Health (ISDH). I have held this position since March 17, 2014. Pursuant to Indiana Code section 16-37-1-2, I am responsible for keeping the files and records pertaining to vital statistics; administering the putative father registry; and maintaining records of paternity determinations. Additionally, I am responsible for adoption records, terminated pregnancy reports, marriage records, and any other duties prescribed by the Department.
4. I am also responsible for supervising ISDH's implementation of the Permanent Injunction (ECF No. 117) and Final Judgment (ECF No. 118) in this matter, both of which were

issued by this Court on June 30, 2016. I am making this declaration to demonstrate how compliance with the injunction and final judgment is proceeding to date.

5. The Indiana Birth Registration System currently generates a birth certificate with spaces labeled “mother” and “father.” At the time the Court issued its June 30 injunction and final judgment, ISDH was in the process of renegotiating its contract with Genesis, the company that designs and maintains the system, to implement sex-neutral labeling on Indiana birth and death certificates. In the case of birth certificates, the new labeling will read “parent” and “parent.”

6. Following the Court’s June 30 final judgment and injunction, each of the plaintiff couples in this case had the option of either (1) waiting until the “parent” and “parent” labeling is implemented to receive a new birth certificate listing both same-sex spouses’ names, or (2) immediately receiving a new birth certificate that would still retain the “mother” and “father” labeling, but would list both spouses’ names (with one of the spouses necessarily being listed in the space for “father”).

7. To the best of my knowledge, all plaintiffs who have requested a new birth certificate listing the names of both the birth mother and her wife have been issued such a certificate by their local county health department (albeit with the “mother” and “father” labeling).

8. Furthermore, as of June 30, 2016, a child born to a married, female, same-sex couple will receive a birth certificate listing both spouses’ names as parents.

9. A birth certificate listing both female spouses’ names can be obtained from ISDH or county offices for children born prior to this ruling if the couple presents a marriage certificate demonstrating they were married at the time of the child’s birth. ISDH is working on

establishing a form and a Department policy to ensure that in such cases both spouses consent to the birth certificate amendment and that the couple was married prior to the birth of the child.

10. I am unclear whether the Court's June 30 final judgment declares Ind. Code § 31-14-7-1 invalid on its face or only as applied to wives of birth mothers. If it is facially invalid, that would affect the ability of ISDH to issue birth certificates listing a father's name without a court order since no presumption of paternity could apply.

11. I am unclear whether the Court's June 30 final judgment and injunction apply to all wives of birth mothers or only to wives of birth mothers who conceived via artificial insemination by an anonymous donor.

I declare under penalties for perjury that the foregoing is true and correct to the best of my knowledge. Executed on the 18th day of July, 2016.



Brian Carnes
State Registrar
Indiana State Department of Health

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

NOELL and CRYSTAL ALLEN, *et al*,)
)
 Plaintiffs,)
)
 -vs-)
)
 DR. JEROME M. ADAMS, in his official capacity as)
 Indiana State Health Commissioner, *et al*,)
)
 Defendants.)

AFFIDAVIT OF NOELL & CRYSTAL ALLEN

Noell and Crystal Allen, being of lawful age and being duly sworn state as follows:

1. We are over the age of eighteen, competent to testify in these proceedings and have personal knowledge of the facts and matters contained within this affidavit.
2. We were lawfully married on November 22, 2013 in New York City, New York. We have been together over 16 years.
3. Noell is an administrative law judge with the Indiana Civil Rights Commission. Crystal is a certified public accountant with the Department of Defense.
4. The couple has a five year old daughter, E.A., who was conceived through artificial insemination and delivered by Noell. Crystal subsequently adopted E.A. and both Noell and Crystal are the legal parents of E.A.

Affidavit of Noell and Crystal Allen
Page 2 of 5

5. Noell and Crystal decided they wanted to expand their family and Crystal wanted to experience the joy of giving birth so the couple agreed that Crystal would become pregnant with their next child. With Intrauterine Insemination performed by a licensed physician and a third party sperm donor, Crystal was able to conceive. The couple was joyous to learn that Crystal was carrying twins.

6. Crystal began to develop an infection which threatened both her life and the lives of the twins. Doctors advised her to induce labor or risk three fatalities. As a result, the twins, Ashton David Allen and Alivea Deon Allen, were born on November 21, 2015,, five weeks too early for them to have a chance. Because the babies were born prematurely, they passed away just moments after their birth .

7. On November 22, 2015, the day of their wedding anniversary, as the couple sat grieving together in Community Hospital North, a staff member came in and told Crystal that she needed information for the Indiana Birth Certificate Worksheet which Community would be completing on behalf of Crystal and the twins. When the staff member finished and started to leave, Crystal asked, "Don't you want to talk to my spouse, Noell?" Crystal and Noell were told that because Indiana does not recognize Noell as the parent of the twins, she would not be included on the birth certificate.

8. "The fact that we have to go through this process in the

Affidavit of Noell and Crystal Allen
Page 3 of 5

midst of such circumstances is extremely painful," said Crystal. "I could not help but think about the fact that Crystal could have died during those 10 days in the hospital and I would have been denied the right to memorialize OUR babies - a situation we cannot fathom." said Noell.

9. While the State of Indiana would not let Noell be joined with the twins in life, the Marion County Coroner's Office did allow Noell to be joined with the twins in death. A true and accurate copy of the death certificates is attached hereto as Attach. A. Both Noell and Crystal are listed on the death certificate. "It is clear to us that there is inconsistency in the procedural guidance throughout the state of Indiana and concise and objective guidance is needed," said Noell.

10. As public servants and taxpaying citizens, we are extremely disappointed in the state of Indiana. As we assess all the problems across our communities, we cannot help but think of the resources being used to address this through the courts. We have a duty to be good stewards of the state's resources, and we are currently failing.

11. As if the indescribable pain that accompanies the loss of children that were perfectly made in the image of God was not enough, this undue burden has made it even more difficult to move forward. The agony of this hurt is amplified by an obligation to fight this battle, to right this wrong for our family and families to come. This issue has interrupted time that should be for grieving and healing and has indeed

Affidavit of Noell and Crystal Allen
Page 4 of 5

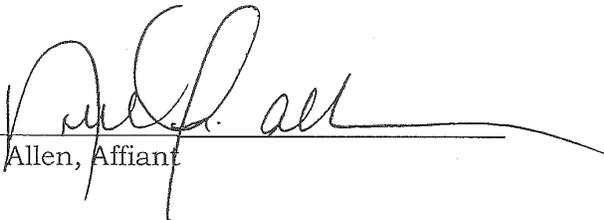
imposed a great deal of emotional distress on our entire family. It is clear that our marriage is still not recognized in the same manner as others. "My children were taken from me twice - once when they passed and the second time when the State of Indiana said I could not be recognized as mother to my babies," said Noell. "I will continue to feel that pain every day until I am recognized on their birth certificates."

(Continued on Next Page)

Affidavit of Noell and Crystal Allen
Page 5 of 5

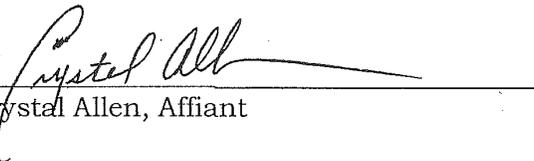
I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 9, 2015.



Noell Allen, Affiant

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 9, 2015.



Crystal Allen, Affiant

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

NOELL and CRYSTAL ALLEN, <i>et al</i> ,)
)
Plaintiffs,)
)
-vs-)
)
DR. JEROME M. ADAMS, in his official capacity as)
Indiana State Health Commissioner, <i>et al</i> ,)
)
Defendants.	

**AFFIDAVIT OF
JACQUELINE & LISA PHILLIPS-STACKMAN**

Jacqueline "Jackie" Phillips-Stackman and Lisa Phillips-Stackman, being of lawful age and being duly sworn state as follows:

1. We are over the age of eighteen, competent to testify in these proceedings and have personal knowledge of the facts and matters contained within this affidavit.

2. We were lawfully married on October 4th, 2015 in Marion County, Indiana and have been together since 2014.

3. Jackie is a Detective with the Indianapolis Metropolitan Police Department and Lisa is a hair stylist. Lisa's hair salon is in their home so she is also a stay-at-home mom.

4. Jackie has always had dreams of being a mother. Due to medical issues Jackie had to have an emergency hysterectomy in 2009. In 2012 she harvested eggs and with the assistance of a physician and a known donor who

Affidavit of Jackie & Lisa Phillips-Stackman

signed away his paternal rights, created two viable embryos. Until Jackie met Lisa she had planned to hire a gestational carrier to birth her biological child.

5. Jackie met Lisa at a fundraiser event in February of 2014 and about a year into their relationship the couple decided to have a child which Lisa would carry, using Jackie's egg. October 4th, 2015 Jackie and Lisa were married and on October 21st, 2015 their child was born.

6. The process to just harvest the eggs cost upwards of \$20,000. The medical process for Lisa to conceive L.J.P-S cost the couple an additional \$15,000. The process in its entirety was not easy for either Jackie or Lisa and was very expensive. They pooled together all financial resources to build an addition onto to their home and pay the costs associated with conception. Their baby was born on October 21st, 2015.

7. While in utero it was discovered that the baby was suffering from hydrocephaly and had a rare chromosome deletion known as 6q terminal deletion syndrome. Within 24 hours of life, L.J.P-S had to have a shunt placed to relieve the pressure building on her brain. She was hospitalized for nearly a month following her birth. While L.J.P-Sis doing well it is unknown what developmental delays if any L.J.P-Swill have to battle in the future. Medical costs for the baby continue to grow.

8. While at the hospital, the birth certificate representative completed the Electronic Birth Certificate Worksheet and listed Lisa as the parent. The

3

hospital representative very apologetically explained that her hands were tied and that she could not put Jackie on the birth certificate without a court order.

9. Jackie will not be listed on the birth certificate. A true and accurate copy of the birth confirmation letter is attached hereto as Attach. 1.

10. Jackie and Lisa love each other immensely and wanted to bring a child into the world together so they could complete their family. "While our family may not have been made 'traditionally', the advancements of science did in fact allow us as two women to bring life into this world together. [L.J.P-S] was in fact born into an awesome village of love and we are so grateful to be her mothers. We simply want to protect our daughter in every way possible and part of doing that is by ensuring that we are both named as her legal mothers."

11. The couple knew they would be married when the baby was born, and had hoped that both of them would be able to be listed as parents on the birth certificate. Sadly, Jackie was not included on the birth certificate but Jackie and Lisa are determined to fight for their family and see that the state of Indiana makes this right.

12. Their daughter is currently covered by Jackie's health insurance. Typically, the insurer does not continue to cover stepchildren if the insured's relationship with the mother of the children terminates due to death or divorce. This means that if Lisa was to die unexpectedly, it is uncertain whether her insurer would continue to insure her "stepchild", particularly if the child is receiving expensive medical care.

Affidavit of Jackie & Lisa Phillips-Stackman

12. "Fighting to be legally recognized as a couple was frustrating enough, fighting to be recognized as a mother to my biological child is infuriating and senseless," said Jackie. The reason why they are fighting is for the future of their child and if something happens to Lisa, they want to make certain that their child will go with Jackie and no one else.

13. "Lisa and I both went through so much physically, emotionally, and financially to have our baby," said Jackie, who added, "The day we were told legally I was merely a stepparent to my biological child and that we would have to go through a stepparent adoption process was absolutely heart wrenching and its just plain wrong."

14. Jackie and Lisa received a birth confirmation letter which simply listed Lisa as the sole parent to their baby. See, Attach. 1. Accompanying the birth confirmation letter was also a notice was a letter that allowed Lisa to correct information except she could not add the name of the father to the birth certificate. A true and accurate copy of the letter is attached hereto as Attach. 2. Instead, the letter referenced a notice which advised Lisa that to add a second parent onto the birth certificate would require a court order among other things for children born out-of-wedlock. A true and accurate copy of the notice is attached hereto as Attach. 3. Lisa, who was married to Jackie at the time the child was born is upset that government officials consider her child to be a child born out-of-wedlock.

15. "We followed all the rules Indiana said we must follow to conceive a child as a married couple," said Lisa. "We were legally married and I delivered a child who is biologically related to Jackie yet the state refuses to name Jackie as a legal parent on our child's birth certificate, a right that is extended to heterosexual married couples. Not only are we suffering and having to fight for legal rights to our daughter but our daughter is having to suffer as well and this is unacceptable, " continued Lisa.

16. After birth Jackie and Lisa's child was in the neonatal intensive care unit for over 28 days. Prior to their child being born Lisa was admitted to the hospital due to preclampsia related health problems and had to undergo not only a c-section but an emergency hysterectomy as well. Lisa was in the hospital another two weeks after L.J.P-S was born. As Jackie observes:

Experiencing my wife and my daughter fighting for their lives at the same time is something I wouldn't wish on my worst enemy. Frightening doesn't even begin to describe the string of events I witnessed on October 21st, 2015. I don't know what I would have done if I would have lost both Lisa and [L.J.P-S]. Having no legal right to my daughter if something should have happened to my wife was absolutely horrifying. It is a fear I continue to live with every day. Every day I am also being denied legally recognized parental rights and relationship with my child. We are simply requesting the state of Indiana grant us the same rights to our family that are afforded to families headed by a man and a woman."

(Continued on Next Page)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

December 9, 2015.



Jacqueline Phillips-Stackman, Affiant

I declare under penalty of perjury that the foregoing is true and correct. Executed on

December 9, 2015.



Lisa Phillips-Stackman, Affiant

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married couple)
and L.W.C.H., by his parent and next friend,)
Ruby Henderson, *et al.*,)

Plaintiffs,)

vs.)

) Case No.
) 1:15-cv-220-TWP-MJD

DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

NOELL and CRYSTAL ALLEN, a married couple;)
et al.,)

Plaintiffs,)

vs.)

DR. JEROME M. ADAMS, in his official capacity as)
Indiana State Health Commissioner, *et al.*,)

Defendants.)

ORDER ON MOTION TO CONSOLIDATE ACTIONS

The Plaintiffs in the above-captioned cases have filed their motion, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure to consolidate the two actions for the purpose of resolving both actions through the entry of a single judgment. Defendants in both matters do not oppose the motion to consolidate. [Dkt. 90 at 4.] The Court has read the motion, and being duly advised, now finds that the above-captioned cases have common questions of law and fact, and should be consolidated for purposes of discovery and trial in order to resolve these cases through entry of a single judgment.

IT IS THEREFORE ORDERED that the above-captioned cases be, and they are hereby, consolidated for all purposes pursuant to Fed. R. Civ. P. 42(a). The Clerk is directed to file a copy of this order in Case No. 1:15-cv-01929-TWP-MJD and to close that case. All future filings in the consolidated matter will be made in Case No. 1:15-cv-220-TWP-MJD using the following caption:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married couple and L.W.C.H., by his parent and next friend, Ruby Henderson, *et al.*,

Plaintiffs,

vs.

DR. JEROME M. ADAMS, in his official capacity as Indiana State Health Commissioner, *et al.*,

Defendants.

) Case No.
) 1:15-cv-220-TWP-MJD

NOELL and CRYSTAL ALLEN, a married couple; *et al.*,

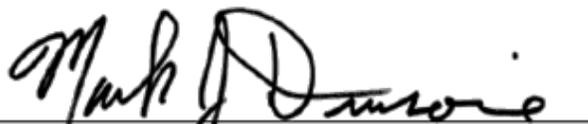
Plaintiffs,

vs.

DR. JEROME M. ADAMS, in his official capacity As Indiana State Health Commissioner, *et al.*,

Defendants.

Dated: 08 FEB 2016



Mark J. Dinsmore
United States Magistrate Judge
Southern District of Indiana

COPIES TO:

Karen Celestino-Horseman
karen@kchorseman.com

William R. Groth
wgroth@fdgtlaborlaw.com

Raymond L. Faust
rfaust@housereynoldsfaust.com

Richard A. Mann
RMann@mannlaw.us

Thomas M. Fisher
Tom.Fisher@atg.in.gov

Lara K. Langeneckert
lara.langeneckert@atg.in.gov

Douglas J. Masson
djm@hlblaw.com

Anthony Scott Chinn
scott.chinn@faegrebd.com

Anna M. Konradi
anna.konradi@Faegrebd.com

Anne Kramer Ricchiuto
anne.ricchiuto@FaegreBD.com

J. Grant Tucker
gtucker@jpt-law.com

Michael J. Wright
mwright@wslfirm.com

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)
couple and L.W.C.H., by his parent and next)
friend Ruby Henderson, *et al.*,)

Plaintiffs,)

vs.)

No. 1:15-cv-220-TWP-MJD

DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

**DECLARATION OF BRIAN CARNES IN OPPOSITION
TO PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT AND
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Brian Carnes, pursuant to 28 U.S.C. § 1746, declares as follows:

1. I am over eighteen years of age and a resident of the State of Indiana.
2. This declaration is made on my personal knowledge, and I am competent to testify and will testify to the matters stated herein.
3. I am the Indiana State Registrar and Director of Vital Records at the Indiana State Department of Health. I have held this position since March 17, 2014. Pursuant to Indiana Code section 16-37-1-2, I am responsible for keeping the files and records pertaining to vital statistics; administering the putative father registry; and maintaining records of paternity determinations. Additionally, I am responsible for adoption records, terminated pregnancy reports, marriage records, and any other duties prescribed by the Department.

4. The Department is responsible for the creation of the Indiana Birth Worksheet (attached as Attachment 1), a questionnaire used to collect vital statistics, demographic, and medical history information about the child and the child's biological parents.

5. Particularly because, at a child's birth, Indiana vests legal parental rights in the biological parents, the Worksheet is designed to identify a child's biological parents so that they may be accurately recorded on the child's birth certificate.

6. The Worksheet is to be completed by the birth mother of a child, and her answers to the questions are used to generate the child's birth certificate. It is a Level 6 felony offense for a birth mother knowingly to give an untruthful response to any of the questions on the Worksheet. Ind. Code § 16-37-1-12.

7. Question 37 on the current version of the Worksheet is "MOTHER'S Marital Status, ARE YOU MARRIED TO THE FATHER OF YOUR CHILD?" If a married birth mother answers Question 37 "yes" and provides her husband's name, he is listed on the birth certificate as the child's father. If she answers "no," he is not listed on the birth certificate and, unless and until a court enters an order of adoption or paternity or the birth mother and biological father execute a paternity affidavit, no one's name other than the birth mother is listed as a parent on the birth certificate.

8. The Department has a statutory obligation to issue a new birth certificate upon receiving an official report of adoption unless the court, the adoptive parents, or the adopted person request otherwise. Ind. Code § 31-19-13-1. When a court makes a conclusive finding of paternity in a paternity action, the clerk of the court must send a record of the finding for the Department including "[f]acts necessary to locate and identify the birth certificate of the child whose paternity has been established," Ind. Code §§ 31-14-9-1, -2, so that the Department can

make the necessary addition or correction to the child's birth certificate. The Department may also make "corrections in a certificate of birth on receipt of adequate documentary evidence, including the results of a DNA test . . . or a paternity affidavit." Ind. Code § 16-37-2-10(b). If a father is not already named on the birth certificate, the Department may add his name on receipt of a DNA test identifying him as the father. Ind. Code § 16-37-2-10(c).

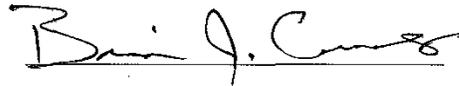
9. Presuming paternity in a birth mother's male spouse is a highly accurate way to identify biological fathers. I am aware of at least one study saying that the incidence of misattributed paternity in the United States is less than 1%. L.F. Ross, Good Ethics Requires Good Science: Why Transplant Programs Should NOT Disclose Misattributed Parentage, 10 Am. J. of Transplantation 742, 744 (2010) (attached hereunto as Attachment 2).

10. DNA testing for a mother, alleged father, and child can be quite expensive and time-consuming. I am aware that DNA Paternity Testing, LLC charges \$345 for standard testing (5-7 business days) and \$600 for expedited testing (24 hours). Fee Schedule, DNA Paternity Testing LLC, http://www.dnapaternitytestingllc.com/fee_schedule.html (attached as Attachment 3). I am aware that Indiana Blood Center charges \$390 for standard testing. Lab Services: Relationship Testing, Indiana Blood Center, <https://www.indianablood.org/lab-services/HLA-DNA-Lab/Pages/default.aspx> (attached as Attachment 4). According to regularly kept Department of Health records, there are roughly 80,000 births in Indiana each year; based on the amounts charged by these companies, testing all of these families could cost between \$28 and \$48 million annually, leaving aside the open question whether that cost would be borne by parents or taxpayers.

11. Additionally, state law requires that a birth certificate must be filed no more than five days after the birth occurs. Ind. Code § 16-37-2-3. DNA testing would delay the process such that the statutory deadline would be nearly impossible to meet.

12. Thus, given the high cost and lengthy delay associated with DNA testing of each birth mother, putative father, and child, the high rate of accuracy in presuming biological fatherhood of the birth mother's male spouse, and the available channels for overcoming that presumption in appropriate circumstances, presuming the paternity of a birth mother's male spouse, and asking the birth mother to confirm or deny it through the Worksheet, is the most practical way to identify a child's biological parents.

I declare under penalties for perjury that the foregoing is true and correct to the best of my knowledge. Executed on the 8th day of January, 2016.



Brian Carnes
State Registrar
Indiana State Department of Health

Mother's Name _____
Mother's Medical Record # _____

CERTIFICATE OF LIVE BIRTH WORKSHEET

The information you provide below will be used to create your child's birth certificate. The birth certificate is a document that will be used for legal purposes to prove your child's age, citizenship and parentage. This document will be used by your child throughout his/her life. State laws provide protection against the unauthorized release of identifying information from the birth certificates to ensure the confidentiality of the parents and their child.

It is very important that you provide complete and accurate information to all of the questions. In addition to information used for legal purposes, other information from the birth certificate is used by health and medical researchers to study and improve the health of mothers and newborn infants. Items such as parent's education, race, and smoking will be used for studies but will not appear on copies of the birth certificate issued to you or your child.

TYPE OF BIRTH - PICK ONE:

- Born at Facility Born En-Route to Facility Born at Non Participating Facility
- Born En-Route to Non Participating Facility Home Birth Foundling

1. Facility name:* _____

(If not institution, give street and number)

2. City, Town or Location of birth: _____

3. County of birth: _____

4. Place of birth:

Hospital Freestanding birthing center (freestanding birthing center is one that has no direct physical connection to a hospital)

Home birth Planned to deliver at home? Yes No

Clinic/Doctor's Office Other (specify, e.g., taxi cab, train, plane _____)

*Facilities may wish to have pre-set responses (hard-copy and/or electronic) to questions 1-5 for births which occur at their institutions.

5. Time of birth: _____

- AM PM NOON MIDNIGHT

6. Date of birth: ____/____/____ M M D D Y Y Y Y

7. Plurality (Specify SINGLE, TWIN, TRIPLET, QUADRUPLET, QUINTUPLET, SEXTUPLET, SEPTUPLET, or OCTUPLET for 8 or more. (Include all live births and fetal losses resulting from this pregnancy.): _____

8. If not single birth (Order delivered in the pregnancy, specify 1st, 2nd, 3rd, 4th, 5th, 6th, 7th, etc.) (Include all live births and fetal losses resulting from this pregnancy): _____

9. If not single birth, specify number of infants in this delivery born alive: _____

10. Sex (Male, Female, or Not yet determined): _____

11. What will be your BABY'S legal name (as it should appear on the birth certificate)?

First Middle Last Suffix (Jr., III, etc.)

12. MOTHER: What is your current legal name?

First Middle Last Suffix (Jr., III, etc.)

13. MOTHER: Where do you usually live—that is—where is your household/residence located?

Building number: _____ Pre-directional _____
Name of street _____
Street Designator, eg Street, Avenue, etc. _____
Post Directional _____ Apartment Number _____
State: _____ (or U.S. Territory, Canadian Province)
If not United States, Country _____
City, Town, or Location: _____ County: _____ Zip: _____

14. Is this household inside city limits (inside the incorporated limits of the city, town or location where you live)? Yes No Don't know

15. MOTHER: What is your mailing address? Same as residence [Go to next question]

Building number: _____ Pre-directional _____
Name of street _____
Street Designator, eg Street, Avenue, etc. _____
Post Directional _____ Apartment Number _____
State: _____ (or U.S. Territory, Canadian Province)
If not United States, Country _____
City, Town, or Location: _____ County: _____ Zip: _____

16. MOTHER: What is your date of birth? (Example: 03-04-1977)

____/____/____ M M D D Y Y Y Y AGE: _____

17. MOTHER: In what State, U.S. territory, or foreign country were you born? Please specify one of the following:

State _____ County _____ City _____
OR U.S. territory, i.e., Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Marianas
_____ OR Foreign country _____

MOTHER: If you were born in the U.S. please answer the next two questions as well.

In What County were you born? _____

In What City were you born? _____

UNKNOWN

18. MOTHER: What is your Social Security Number?

____-____-____

19. Do you want a Social Security Number issued for your baby?

- Yes (Please sign request below)
- No (Continue)

I request that the Social Security Administration assign a Social Security number to the child named on this form and authorize the State to provide the Social Security Administration with the information from this form which is needed to assign a number. (Either parent, or the legal guardian, may sign.)

Signature of infant's mother or father _____

Date: ____/____/____ M M D D Y Y Y Y

20. Will infant be placed for Adoption?

- Yes
- No

21. MOTHER: What is the highest level of schooling that you will have completed at the time of delivery? (Check the box that best describes your education. If you are currently enrolled, check the box that indicates the previous grade or highest degree received).

- 8th grade or less
- High school graduate or GED completed
- Associate degree (e.g. AA, AS)
- Master's degree (e.g. MA, MS, MEd, MSW, MBA)
- Doctorate (e.g. PhD, EdD) or Professional degree (e.g. MD, DDS, DVM, LLB, JD)
- 9th - 12th grade, no diploma
- Some college credit but no degree
- Bachelor's degree (e.g. BA, AB, BS)

22. MOTHER: What is your usual occupation or industry in which you work? Please fill in below. For example your occupation is Teacher, CPA, Waitress, Clerk, etc., and the industry in which you work is Department Store, Law Firm, Hospital, Factory, etc.

Usual Occupation: _____

Usual Industry: _____

- Unemployed
- Unknown

23. MOTHER: Are you Spanish/Hispanic/Latina? If not Spanish/Hispanic/Latina, check the "No" box. If Spanish/Hispanic/Latina, check the appropriate box.

- No, not Spanish/Hispanic/Latina
- Yes, Mexican, Mexican American, Chicana
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latina (e.g. Spaniard, Salvadoran, Dominican, Columbian)
(specify) _____

24. MOTHER: What is your race? (Please check all that apply).

- White
- American Indian or Alaska Native (name of enrolled or principal tribe(s)) _____
- Asian Indian
- Japanese
- Other Asian (specify) _____
- Native Hawaiian
- Other Pacific Islander (specify) _____
- Other (specify) _____
- Black or African American
- Chinese
- Korean
- Guamanian or Chamorro
- Filipino
- Vietnamese
- Samoan

MOTHER: Additional Information To Be Filled In If A PATERNITY AFFIDAVIT IS TO BE FILED FOR THIS BIRTH If Not Filing Paternity Affidavit skip to question 30.

25. What is Your Phone Number? Required _____

26. What is the name of your Employer (Company name)? Optional

27. What is your Employer's address? Optional

28. What is the name of your Medical Insurance Company? Optional

29. What is your Medical Insurance Policy number? Optional

30. MOTHER: Did you receive WIC (Women, Infants & Children) food for yourself because you were pregnant with this child?

- Yes No Unknown

31. MOTHER: What is your height? _____ feet _____ inches

32. MOTHER: What was your pre-pregnancy weight, that is, your weight immediately before you became pregnant with this child? _____ lbs.

33. Mother's weight at delivery _____ lbs.

34. CIGARETTE SMOKING BEFORE AND DURING PREGNANCY: How many cigarettes OR packs of cigarettes did you smoke on an average day during each of the following time periods?

If you NEVER smoked, enter zero for each time period.

	# of cigarettes		# of packs
Three months before pregnancy	_____	OR	_____
First three months of pregnancy	_____	OR	_____
Second three months of pregnancy	_____	OR	_____
Last three months of pregnancy	_____	OR	_____

35. CURRENT MARITAL STATUS

- Never Married
- Widowed
- Divorced
- Currently Married
- Married, but refusing Father's Information
- Unknown

36. Mother's name prior to her first marriage, (Maiden Name)

_____	_____	_____	_____
First	Middle	Last	Suffix

37. MOTHER'S Marital Status, ARE YOU MARRIED TO THE FATHER OF YOUR CHILD?

- Yes [Please go to question 39]
- No [Please go to question 38]

38. If not married, has a Paternity Affidavit been completed for this child?

- Yes, a paternity affidavit has been completed
If Yes Date Affidavit was signed: ____/____/____
- No, a paternity affidavit has not been completed
If No please go to question 53

39. FATHER'S CURRENT LEGAL NAME

First Middle Last Suffix(Jr., III, etc.)

40. FATHER: What is the father's date of birth? (Example: 03-04-1977)

___/___/___ M M D D Y Y Y Y AGE: _____

41. FATHER: In what State, U.S. territory, or foreign country was he born? Please specify one of the following:

State _____ County _____ City _____
OR U.S. territory, i.e., Puerto Rico, U.S. Virgin Islands, Guam, American Samoa or Northern Marianas
OR Foreign country _____

FATHER: If the father was born in the U.S. please answer the next two questions as well.
In What County was he born? _____

In What City was he born? _____

- UNKNOWN

42. What is the father's Social Security Number? If you are not married, or if a paternity acknowledgment has not been completed, leave this item blank.

____-____-____

43. What is the highest level of schooling that the FATHER will have completed at the time of delivery? (Check the box that best describes his education. If he is currently enrolled, check the box that indicates the previous grade or highest degree received).

- 8th grade or less
- High school graduate or GED completed
- Associate degree (e.g. AA, AS)
- Master's degree (e.g. MA, MS, MEng, MEd, MSW, MBA)
- Doctorate (e.g. PhD, EdD) or Professional degree (e.g. MD, DDS, DVM, LLB, JD)
- 9th - 12th grade, no diploma
- Some college credit but no degree
- Bachelor's degree (e.g. BA, AB, BS)

44. What is the father's usual occupation or industry. Please fill in below. For example his occupation is Photographer, Farmer, Nurse, etc., and the industry in which he works is Factory, Skating Rink, Army, etc.

Usual Occupation: _____

Usual Industry: _____

- Unemployed
- Unknown

45. Is the father Spanish/Hispanic/Latino? If not Spanish/Hispanic/Latino, check the "No" box. If Spanish/Hispanic/Latino, check all that apply.

- No, not Spanish/Hispanic/Latino
- Yes, Mexican, Mexican American, Chicano
- Yes, Puerto Rican
- Yes, Cuban
- Yes, other Spanish/Hispanic/Latino (e.g. Spaniard, Salvadoran, Dominican, Columbian)
(specify)_____

46. What is the father's race? Please check one or more races to indicate what he considers himself to be.

- White Black or African American
- American Indian or Alaska Native (name of enrolled or principal tribe)

- Asian Indian Chinese Filipino
- Japanese Korean Vietnamese
- Other Asian (specify)_____
- Native Hawaiian Guamanian or Chamorro Samoan
- Other Pacific Islander (specify)_____
- Other (specify)_____

FATHER Additional Information To Be Filled In if A PATERNITY AFFIDAVIT IS TO BE FILED FOR THIS BIRTH If Not Filing Paternity Affidavit skip to question 53

47. What is Your Phone Number? Information is required _____

48. What is Your Current Address Number, Street, City, State and Zip Information is required

49. What is the name of your Employer (Company name)? Information is optional

50. What is your Employer's address? Information is optional

51. What is the name of your Medical Insurance Company? Information is optional

52. FATHER What is your Medical Insurance Policy Number Information is optional

53. DID MOTHER RECEIVE PRENATAL CARE?
 YES NO UNKNOWN

54. Date of first prenatal care visit (prenatal care begins when a Physician or other health professional first examines and/or counsels the pregnant woman as part of an ongoing program of care for the pregnancy)____
_____ M M D D Y Y Y Y

55. Date of last prenatal care visit (Enter the date of the last visit recorded in the mother's prenatal records)
_____ M M D D Y Y Y Y

56. Source of pre-natal care?

- MD
- DO
- Clinic
- Other, Specify: _____

57. Total number of prenatal care visits for this pregnancy (Count only those visits recorded in the record. If none enter "0"): _____

58. Date last normal menses began: _____ M M D D Y Y Y Y

59. Number of previous live births now living (Do not include this child. For multiple deliveries, do not include the 1st born in the set if completing this worksheet for that child): Enter number or 0 for none.

60. Number of previous live births now dead (Do not include this child. For multiple deliveries, do not include the 1st born in the set if completing this worksheet for that child):
Enter number or 0 for none. _____

61. Date of last live birth _____/_____/_____ M M Y Y Y Y

62. Total number of other pregnancy outcomes (Include fetal losses of any gestational age-spontaneous losses, induced losses, and/or ectopic pregnancies. If this was a multiple delivery, include all fetal losses delivered before this infant in the pregnancy) .)
Enter number or 0 for none.: _____

63. Date of last other pregnancy outcome (Date when last pregnancy which did not result in a live birth ended):
_____/_____/_____ M M Y Y Y Y

64. Risk factors in this pregnancy (Check all that apply):

- None
- Diabetes - (Glucose intolerance requiring treatment)**
 - Prepregnancy - (Diagnosis prior to this pregnancy)
 - Gestational - (Diagnosis in this pregnancy)
- Hypertension - (Elevation of blood pressure above normal for age, gender, and physiological condition.)**
 - Prepregnancy - (Chronic) (Elevation of blood pressure above normal for age, gender, and physiological condition) (Diagnosed prior to the onset of this pregnancy)
 - Gestational - (PIH, preeclampsia,) (Elevation of blood pressure above normal for age, gender, and physiological condition) (Diagnosed during this pregnancy) May include proteinuria (protein in the urine) without seizures or coma and pathologic edema (generalized swelling, including swelling of the hands, legs and face)
 - Eclampsia (Pregnancy induced hypertension with proteinuria with generalized seizures or coma. May include pathologic edema)
- Previous preterm births – (History of pregnancy(ies) terminating in a live birth less than 37 completed weeks of gestation
- Other previous poor pregnancy outcome (Includes perinatal death, small for gestational age/intrauterine growth restricted birth) (History of pregnancies continuing into the 20th week of gestation and resulting in any of the listed outcomes. Perinatal death includes fetal and neonatal deaths)
- Pregnancy resulted from infertility treatment – Any assisted reproduction technique used to initiate the pregnancy. Includes fertility-enhancing drugs(e.g. Clomid, Pergonal) artificial insemination, or intrauterine insemination and assisted reproduction technology (ART) procedures(e.g. IVF, GIFT and ZIFT)
 - Fertility enhancing drugs, artificial insemination, intrauterine insemination (Any fertility-enhancing drugs(e.g. Clomid, Pergonal) artificial insemination, or intrauterine insemination used to initiate the pregnancy.

Assisted reproductive technology – Any assisted reproduction technology (ART) technical procedures(e.g. in vitro fertilization (IVF), gamete intrafallopian transfer (GIFT), ZIFT) used to initiate the pregnancy.

Mother had a previous cesarean delivery (Previous operative delivery by extraction of the fetus, placenta and membranes through an incision in the maternal abdominal and uterine walls)
If Yes, how many_____

Antiretrovirals administered during pregnancy or at delivery

Group B Strep

65. Infections present and/or treated during this pregnancy - (Present at start of pregnancy or confirmed diagnosis during pregnancy with or without documentation of treatment.) (Check all that apply):

- None
- Gonorrhea - (a diagnosis of or positive test for *Neisseria gonorrhoeae*)
- Syphilis - (also called lues - a diagnosis of or positive test for *Treponema pallidum*)
- Chlamydia - (a diagnosis of or positive test for *Chlamydia trachomatis*)
- Hepatitis B - (HBV, serum hepatitis - a diagnosis of or positive test for the hepatitis B virus)
- Hepatitis C - (non A, non B hepatitis, HCV - a diagnosis of or positive test for the hepatitis C virus)

66. Was a Standard Licensed Diagnostic test for HIV performed for the Mother?

YES If Yes give the date the specimen was taken: _____(MMDDYYYY)

If Yes when was the test performed? During pregnancy Time of Delivery

NO If No give reason (check one below)

Mother's Refusal HIV Status Known Insurance would not pay

Other (specify): _____

Unknown (Reason why there was no test is unknown)

Unknown (Unknown whether or not the test was performed.)

67. Obstetric procedures - (Medical treatment or invasive/manipulative procedure performed during this pregnancy specifically in the treatment of the pregnancy, management of labor and/or delivery.) (Check all that apply):

- None
- Cervical cerclage (Circumferential banding or structure of the cervix to prevent or treat passive dilatation. Includes MacDonald's suture, Shirodkar procedure, abdominal cerclage via laparotomy)
- Tocolysis – (Administration of any agent with the intent to inhibit preterm uterine contractions to extend length of pregnancy)
- External cephalic version – (Attempted conversion of a fetus from a non-vertex presentation by external manipulation)
 - Successful Failed

68. Were precautions taken against ophthalmia neonatorum? Yes No

If Yes, then specify the Medication Used: _____

69. Was a Serological test for Syphilis performed for the Mother?

YES If Yes give the date the specimen was taken: _____(MMDDYYYY)

If Yes when was the test performed? During pregnancy Time of Delivery

NO If No give reason (check one below)

Mother's Refusal Syphilis Status Known

Other (specify): _____

Unknown (Reason why there was no test is unknown)

Unknown (Unknown whether or not the test was performed)

70. Onset of Labor (Check all that apply):

- None
- Premature Rupture of the Membranes (prolonged ≥ 12 hours (Spontaneous tearing of the amniotic sac, (natural breaking of the bag of waters) 12 hours or more before labor begins)
- Precipitous labor (< 3 hours) (Labor that progresses rapidly and last less than 3 hours)
- Prolonged labor (≥ 20 hours) (Labor that progresses slowly and last for 20 hours or more)

71. Characteristics of labor and delivery (Check all that apply):

- None
- Induction of labor (Initiation of uterine contractions by medical and/or surgical means for the purpose of delivery before the spontaneous onset of labor)
- Augmentation of labor (Stimulation of uterine contractions by drug or manipulative technique with the intent to reduce the time to delivery)
- Non-vertex presentation (Includes any non-vertex fetal presentation, e.g. breech, shoulder, brow, face presentations, and transverse lie in the active phase of labor or at delivery other than vertex)
- Steroids (glucocorticoids) for fetal lung maturation received by the mother prior to delivery (Includes betamethasone, dexamethasone, or hydrocortisone specifically given to accerlate fetal lung maturation in anticipation of preterm delivery. Excludes steroid medication given to the mother as an anti-inflammatory treatment)
- Antibiotics received by the mother during labor (Includes antibacterial medications given systemically (intravenous or intramuscular) to the mother in the interval between the onset of labor and the actual delivery,
- Clinical chorioamnionitis diagnosed during labor or maternal temperature > 38.0 C (100.4o F) (Clinical diagnosis of chroniamninitis during labor made by the delivery attendant. Usually includes more than one of the following; fever, uterine tenderness and/or irritability, leukocytosis and fetal tachycardia. Any maternal temperature at or above 38 C (100.4 F)
- Moderate/heavy meconium staining of the amniotic fluid (staining of the amniotic fluid caused by passage of fetal bowel contents during labor and/or at delivery which is more than enough to cause a greenish color change of an otherwise clear fluid)
- Fetal intolerance of labor was such that one or more of the following actions was taken: in-utero resuscitative measures, further fetal assessment, or operative delivery (In Utero Resucative measures such as any of the following; maternal position change, oxygen administration to the mother, intravenous fluids administered to the mother, amnioinfusion, support of maternal blood pressure and administration of uterine relaxing agents. Further fetal assessment includes any of the following; scalp pH,scalp stimulation, acoustic stimulation, Operative delivery- operative delivery intervention to shorten time to delivery of the fetus such as forceps, vacuum, or cesarean delivery)
- Epidural or spinal anesthesia during labor (Administration to the mother of a regional anesthetic for control of the pain of labor i.e. delivery of the agent into a limited space with the distribution of the analgesic effect limited to the lower body)
- Abruptio Placenta

72. Method of delivery (The physical process by which the complete delivery of the infant was affected)

(Complete A, B, C, and D):

A. Was delivery with forceps attempted but unsuccessful? (Obstetric forceps was applied to the fetal head in an unsuccessful attempt at vaginal delivery) Yes No

B. Was delivery with vacuum extraction attempted but unsuccessful? (Ventouse or vacuum cup was applied to the fetal head in an unsuccessful attempt at vaginal delivery) Yes No

C. Fetal presentation at birth (Check one):

- Cephalic - (Presenting part of the fetus listed as vertex, occipital anterior (OA), occipital posterior (OP))
- Breech - (Presenting part of the fetus listed as breech, complete breech, frank breech, footling breech)
- Other - (Any other presentation not listed above)

D. Final route and method of delivery (Check one):

- Vaginal/Spontaneous (Delivery of the entire fetus through the vagina by the natural force of labor with or without manual assistance from the delivery attendant)
- Vaginal/Forceps (Delivery of the fetal head through the vagina by application of obstetrical forceps to the fetal head)
- Vaginal/Vacuum (Delivery of the fetal head through the vagina by application of a vacuum cup or ventouse to the fetal head)
- Cesarean (Extraction of the fetus, placenta and membranes through an incision in the maternal abdominal and uterine walls)
 If cesarean, was a trial of labor attempted? (Labor was allowed, augmented or induced with plans for a vaginal delivery)
 Yes No

73. Maternal morbidity (Serious complications experienced by the mother associated with labor and delivery)
 (Check all that apply):

- None
- Maternal transfusion (Includes infusion of whole blood or packed red blood cells associated with labor and delivery)
- Third or fourth degree perineal laceration (3 laceration extends completely through the perinatal skin, vaginal mucosa, perineal body and anal sphincter. 4 laceration is all of the above with extension through the rectal mucosa)
- Ruptured uterus - (Tearing of the uterine wall.) (
- Unplanned hysterectomy (Surgical removal of the uterus that was not planned prior to the admission. Includes anticipated but not definitively planned hysterectomy)
- Admission to intensive care unit (Any admission of the mother to a facility/unit designated as providing intensive care)
- Unplanned operating room procedure following delivery (Any transfer of the mother back to a surgical area for an operative procedure that was not planned prior to the admission for delivery. Excludes postpartum tubal ligations.)

74. Birthweight:

GRAMS: _____ **or** **POUNDS/OUNCES:** _____

75. Obstetric estimate of gestation at delivery (completed weeks): _____

(The birth attendant's final estimate of gestation based on all perinatal factors and assessments, but not the neonatal exam. Do not compute based on date of the last menstrual period and the date of birth)

76. Apgar score (A systematic measure for evaluating the infant's physical condition at specific intervals at birth)

- Score at 5 minutes _____ 0 through 10 Not Taken Unknown

If 5 minute score is less than 6:

- Score at 10 minutes _____ 0 through 10 Not Taken Unknown

77. Abnormal conditions of the newborn (Disorders or significant morbidity experienced by the newborn)
 (Check all that apply):

- None
- Assisted ventilation required immediately following delivery (Infant given manual breaths for any duration with bag and mask or bag and endotracheal tube within the first several minutes from birth. Excludes oxygen only and laryngoscopy for aspiration of meconium)
- Assisted ventilation required for more than six hours (Infant given mechanical ventilation (breathing assistance) by any method for > 6 hours. Includes conventional, high frequency, and \or continuous positive pressure (CPAP)
- NICU admission (Admission into a facility or unit staffed and equipped to provide continuous mechanical ventilatory support for a newborn)
- Newborn given surfactant replacement therapy (Endotracheal instillation of a surface active suspension for the treatment of surfactant deficiency due to preterm birth or pulmonary injury resulting in respiratory distress. Includes both artificial and extracted natural surfactant)
- Antibiotics received by the newborn for suspected neonatal sepsis (Any antibacterial drug (e.g. pencillin, ampicillin, gentamicin, cefotaxime etc) given systemically (intravenous or intramuscular)
- Seizure or serious neurological dysfunction (Seizure in any involuntary repetitive, convulsive movement of behavior. Serious neurologic dysfunction is severe alteration or alertness such as obtundation, stupor or coma , i.e. hypoxic-ischemic encephalopathy. Excludes lethargy or hypotonia in the bascence of other neurologic findings. Exclude systems associated with CNS congenital anomalies)
- Significant birth injury (skeletal fracture(s), peripheral nerve injury, and/or soft tissue/solid organ hemorrhage which requires intervention) (Defined as present immediately following delivery or manifesting soon after delivery. Includes any bony fracture or weakness or loss of sensation, but excludes fractured clavicles and transient facial neve palsy. Soft tissue hemorrhage requiring evaluation and\or treatment includes sub-galeal (progressive extravasation within the scalp) hemorrhage, giant cephalohematoma,

extensive truncal, facial and/or extremity echymosis accompanied by evidence of anemia and/or hypovolemia and/or hypotension. Solid organ hemorrhage includes subcapsular hematoma of the liver, fractures of the spleen, or adrenal hematoma)

78. Congenital anomalies of the newborn (Malformations of the newborn diagnosed prenatal or after delivery.) (Check all that apply):

- None of the anomalies listed
- Anencephaly - (Partial or complete absence of the brain and skull. Also called anencephalus, acrania, or absent brain. Also includes infants with craniorachischisis (anencephaly with a contiguous spine defect)
 - Meningomyelocele/Spina bifida (Spina Bifida is herniation of the meninges and/or spinal cord tissue through a bony defect of spine closure. Meningomyelocele is herniation of meninges and spinal cord tissue. Meningocele (herniation of meninges without spinal cord tissue) should also be included in this category. Both open and closed (covered with skin) lesions should be included. Do Not include spina bifida occulta (a midline bony spinal defect without protrusion of the spinal cord or meninges)
- Cyanotic congenital heart disease (Congenital heart defects which cause cyanosis. Includes but is limited to: transposition of the great arteries (vessels) tetralogy of Fallott , pulmonary or pulmonic valvular atresia, tricuspid atresia, truncus arteriosus, total/partial anomalous pulmonary venous return with or without obstruction)
- Congenital diaphragmatic hernia (Defect in the formation of the diaphragm allowing hernation of abdominal organs into the thoracic cavity)
 - Omphalocele (A defect in the anterior abdominal wall, accompanied by hernation of some abdominal organs through a widened umbilical stalk. The defect is covered by a membrane (different from gastroschisis, see below) although this sac may rupture. Also called exomphalos. Do Not include umbilical hernia (completely covered by skin) in this category)
- Gastroschisis (An abnormality of the anterior abdominal wall, lateral to the umbilicus, resulting in hernation of the abdominal contents directly into the amniotic cavity. Differentiated from omphalocele by the location of the defect and absence of a protective membrane)
- Limb reduction defect (excluding congenital amputation and dwarfing syndromes) (Complete or partial absence of a portion of an extremity associated with failure to develop)
- Cleft Lip with or without Cleft Palate (Incomplete closure of the lip. May be unilateral, bilateral or median)
- Cleft Palate alone (Incomplete fusion of the palatal shelves. May be limited to the soft palate or may extend into the hard palate. Cleft palate in the presence of the cleft lip should be included in the “cleft lip with or without Cleft Palate” category above)
- Down Syndrome - (Trisomy 21)
 - Karyotype Confirmed
 - Karyotype Pending
 - Unknown
- Suspected chromosomal disorder (Includes any constellation of congenital malformations resulting from or compatible with known syndromes caused by detectable defects in chromosome structure)
 - Karyotype Confirmed
 - Karyotype Pending
 - Unknown
- Hypospadias (Incomplete closure of the male urethra resulting in the urethral meatus opening on the ventral surface of the penis. Includes first degree- on the glans ventral to the tip, second degree- in the coronal sulcus, and thried degree- on the penile shaft)
- Microcephaly

79. Was infant transferred within 24 hours of delivery ? (Check “yes” if the infant was transferred from this facility to another within 24 hours of delivery. If transferred more than once, enter name of first facility to which the infant was transferred.)

- Yes No Unknown

If yes, name of facility infant transferred to: _____

80. Is infant living at time of report? (Infant is living at the time this birth certificate is being completed. Answer “Yes” if the infant has already been discharged to home care.)

- Yes No Infant transferred, status unknown

81. Is infant being breastfed at discharge?

- Yes No Unknown

82. Hepatitis B Immunization given?

- Yes No Unknown

If Yes, Date given: _____/_____/_____

83. Attendant's name, title, and N.P.I

Attendant's name

Attendant's title:

- M.D. D.O. CNM/CM - (Certified Nurse Midwife/Certified Midwife)
 Other Midwife - (Midwife other than CNM/CM)
 Other specify: _____

84. Is the Certifier the same as the Attendant

- Yes No Unknown

If NO answer Certifier question

85. Certifier's name and title: _____

(The individual who certifies to the fact that the birth occurred. May be, but need not be, the same as the attendant at birth.)

- M.D. D.O. Hospital administrator or designee
 CNM/CM (Certified Nurse Midwife / Certified Midwife)
 Other Midwife (Midwife other than CNM/CM)
 Other (Specify) _____

86. Date certified: _____ M M D D Y Y Y Y

87. Principal source of payment for this delivery (At time of delivery):

- Private Insurance
 Medicaid (Comparable State program)
 Self-pay (No third party identified)
 Other (Specify, e.g., Indian Health Service, CHAMPUS/TRICARE, Other Government (federal,state, local))

88. Infant's medical record number: _____

89. Newborn Screening Number: _____

If Unknown check reason why **Religious Waiver**

90. Was the mother transferred to this facility for maternal medical or fetal indications for delivery?

(Transfers include hospital to hospital, birth facility to hospital, etc.)

- Yes No

If Yes, enter the name of the facility mother transferred from:

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)	
couple and L.W.C.H., by his parent and next))
friend Ruby Henderson, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:15-cv-220-TWP-MJD
)	
DR. JEROME M. ADAMS, in his official capacity)	
as Indiana State Health Commissioner, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANT’S FIRST SET OF INTERROGATORIES
TO BANNICK PLAINTIFFS**

Defendant, Indiana State Health Commissioner Dr. Jerome M. Adams, by counsel, Attorney General Gregory F. Zoeller, Solicitor General Thomas M. Fisher, and Deputy Attorney General Lara Langeneckert, hereby requests Plaintiffs Lyndsey and Cathy Bannick and H.N.B. (Bannick Plaintiffs) to answer in writing and under oath the interrogatories set forth herein in accordance with Rule 33 of the Federal Rules of Civil Procedure. Defendant requests that Bannick Plaintiffs respond within 14 days of the date of service.

Definitions and Instructions

1. “Plaintiff,” “you,” and “your(s),” means the Bannick Plaintiffs and includes their past or present attorneys, agents, and all other persons acting, or purporting to act, on their behalf.
2. “Defendant” means the Indiana State Health Commissioner.
3. “Document(s)” shall be defined as that term is used in FRCP 34.

4. “Person(s)” means any natural person, group of natural persons, partnership, corporation, firm, association, joint venture, or any other business, governmental, public, social, or legal entity, and their respective divisions, subdivisions, control persons, attorneys, agents, officers, directors, partners, employees, affiliates, parent companies, subsidiaries, or other persons acting or purporting to act on behalf of any of them.

5. “Identify” and “state the identity of” mean, in the case of:

(a) an individual person means to state the person’s name, address, telephone number, occupation or profession, job title, and the name, address, and telephone number of that person’s employer;

(b) an organization means to state the organization’s name, the type of organization, the address and telephone number of the organization, the State in which it is organized, and the identity of its principal officers or directors;

(c) a document means to state the date, author, addressee, or recipient, the type of document, and the name, address, and telephone number of each person having possession, custody, or control of the document or any copies of the document; and

(d) a fact means to state the fact, the names of all persons with knowledge of the fact, and the documents which support or negate the existence of the fact.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural. “And” as well as “or” should be construed as

disjunctive or conjunctive as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside the scope of these interrogatories.

7. “Complaint” means the most recent Amended Complaint filed in this action by the Plaintiffs.

8. “Biological parent” means the man who supplied the sperm or the woman who supplied the egg which interacted for the child’s conception.

9. “Birth mother” means the woman who physically carried and gave birth to the child, whether or not she is genetically related to the child.

10. “Parental rights” means all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support of the child.

11. If you object or otherwise decline to respond to any interrogatory, provide all information requested by any portion of the interrogatory to which you do not object or with which you do not otherwise decline to comply.

12. If you object to an interrogatory on the ground that to provide the requested information would be unduly burdensome, provide all requested information that can be supplied without undertaking that which you claim to be an undue burden.

13. If you object or otherwise decline to respond to any interrogatory on a claim of privilege or attorney work product, explain the nature of the claim of privilege, state all facts relied upon in support of the claim of privilege, identify all documents related to the claim or privilege, stat the name of all

persons having knowledge of any facts related to the claim of privilege, and identify all events, transactions, or occurrences related to the claim of privilege.

Interrogatories

GENERAL OBJECTION TO ALL INTERROGATORIES: For each interrogatory contained herein, plaintiffs object to the extent that defendants are seeking information that is not duly calculated to lead to the discovery of admissible evidence because the information sought is irrelevant to the legal issues presented. Specifically, plaintiffs decline to produce the following information;

- Information regarding the men who donated sperm for the conception of the minor children who are parties to this action;
- Information regarding the processes by which the minor children were conceived; and,
- Information regarding the fertility status of the plaintiffs.

Not only is this information not calculated to lead to the discovery of admissible evidence but requests seeking such information are overly broad and unduly burdensome as the disclosure of such information removes from plaintiffs their right to determine when, how, and what information should be released to their children and families.

Plaintiffs further object to the extent that the information sought exceeds the Discovery Stipulation entered by all parties.

Without waiving their objections, plaintiffs state as follows:

INTERROGATORY NO. 1: Identify each person who provided information used in answering any of these interrogatories, and for each person identified, please indicate for which answers each person provided information.

ANSWER: Cathy Bannick and Lyndsey Bannick reviewed and answered all interrogatories in this document.

INTERROGATORY NO. 2: Identify each person who has, who claims to have, or who you believe may have any knowledge or information relevant to any allegation contained in your Complaint, and for each person identified, please describe the substance of each person's knowledge or information.

ANSWER: Cathy Bannick, Lyndsey Bannick; the employees at the Columbus Regional Hospital (the hospital is aware that we wanted to both be listed as parents on the birth certificate); and, the Bartholomew County Department of Health.

INTERROGATORY NO. 3: Describe in detail all final injunctive decrees you ultimately will seek in this matter.

ANSWER: We are seeking that Cathy Bannick, as the legal spouse of the birth mother of H.N.B. at the time of H.N.B.'s birth, be added to the birth certificate as a legal parent without going through the adoption process just as a husband would be in our situation.

INTERROGATORY NO. 4: Identify H.N.B.'s two biological parents and any document or record that states this information.

ANSWER: The birth certificate and the hospital records state the biological mother is Lyndsey Bannick. The biological father remains anonymous, per the sperm donor privacy agreements with the cryobank.

INTERROGATORY NO. 5: Identify H.N.B.'s birth mother and any document or record that states this information.

ANSWER: Birth certificate and hospital records state the biological mother is Lyndsey Bannick.

INTERROGATORY NO. 6: Identify all persons who: (a) have parental rights to H.N.B., including the source of those rights and any document or record that states this information; (b) are currently seeking parental rights to H.N.B., including the source of those rights and any document or record that states this information; (c) formerly had parental rights to H.N.B., including the source of those rights and any document or record that states this information.

ANSWER:

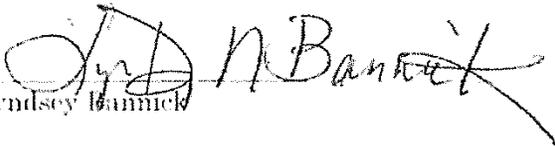
(a) Lyndsey Bannick, as H.N.B.'s birth mother, has parental rights per Indiana law;

- (b) Cathy Bannick is currently seeking parental rights to H.N.B., per the legal theories advanced in plaintiffs' complaint;
- (c) No one formerly had parental rights to H.N.B.

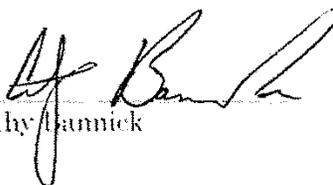
INTERROGATORY NO. 7: Describe the circumstances of H.N.B.'s conception and birth, including the identity of any medical professionals or facilities involved, including any sperm banks and their staff, and the document or record that states this information.

ANSWER: H.N.B. was conceived via artificial insemination. *See*, General Objections. Without waiving these objections, plaintiffs incorporate by reference the information contained in their responses to the State's requests for production.

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Lyndsey Bannick

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Cathy Bannick

Respectfully submitted,



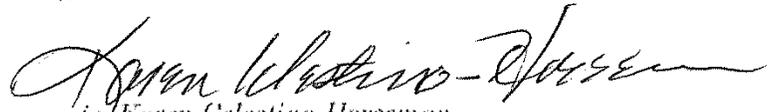
/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kehorseman.com

/s/ William R. Groth
William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdglaborlaw.com

/s/ Raymond L. Faust
Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann
Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

Michael J. Wright
Wright Shagley Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807
And as a courtesy via email to: mwright@wsfirm.com


/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)
couple and L.W.C.H., by his parent and next)
friend Ruby Henderson, *et al.*,)
)
Plaintiffs,)
)
vs.) No. 1:15-cv-220-TWP-MJD
)
DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)
)
Defendants.)

DEFENDANT'S FIRST SET OF INTERROGATORIES
TO BARRETT PLAINTIFFS

Defendant, Indiana State Health Commissioner Dr. Jerome M. Adams, by counsel, Attorney General Gregory F. Zoeller, Solicitor General Thomas M. Fisher, and Deputy Attorney General Lara Langeneckert, hereby requests Plaintiffs Nikkole McKinley-Barrett and Donnica Barrett and G.R.M.B. (Barrett Plaintiffs) to answer in writing and under oath the interrogatories set forth herein in accordance with Rule 33 of the Federal Rules of Civil Procedure. Defendant requests that Barrett Plaintiffs respond within 14 days of the date of service.

Definitions and Instructions

1. "Plaintiff," "you," and "your(s)," means the Barrett Plaintiffs and includes their past or present attorneys, agents, and all other persons acting, or purporting to act, on their behalf.
2. "Defendant" means the Indiana State Health Commissioner.

3. "Document(s)" shall be defined as that term is used in FRCP 34.

4. "Person(s)" means any natural person, group of natural persons, partnership, corporation, firm, association, joint venture, or any other business, governmental, public, social, or legal entity, and their respective divisions, subdivisions, control persons, attorneys, agents, officers, directors, partners, employees, affiliates, parent companies, subsidiaries, or other persons acting or purporting to act on behalf of any of them.

5. "Identify" and "state the identity of" mean, in the case of:

(a) an individual person means to state the person's name, address, telephone number, occupation or profession, job title, and the name, address, and telephone number of that person's employer;

(b) an organization means to state the organization's name, the type of organization, the address and telephone number of the organization, the State in which it is organized, and the identity of its principal officers or directors;

(c) a document means to state the date, author, addressee, or recipient, the type of document, and the name, address, and telephone number of each person having possession, custody, or control of the document or any copies of the document; and

(d) a fact means to state the fact, the names of all persons with knowledge of the fact, and the documents which support or negate the existence of the fact.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural. “And” as well as “or” should be construed as disjunctive or conjunctive as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside the scope of these interrogatories.

7. “Complaint” means the most recent Amended Complaint filed in this action by the Plaintiffs.

8. “Biological parent” means the man who supplied the sperm or the woman who supplied the egg which interacted for the child’s conception.

9. “Birth mother” means the woman who physically carried and gave birth to the child, whether or not she is genetically related to the child.

10. “Parental rights” means all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support of the child.

11. If you object or otherwise decline to respond to any interrogatory, provide all information requested by any portion of the interrogatory to which you do not object or with which you do not otherwise decline to comply.

12. If you object to an interrogatory on the ground that to provide the requested information would be unduly burdensome, provide all requested information that can be supplied without undertaking that which you claim to be an undue burden.

13. If you object or otherwise decline to respond to any interrogatory on a claim of privilege or attorney work product, explain the nature of the claim

of privilege, state all facts relied upon in support of the claim of privilege, identify all documents related to the claim or privilege, stat the name of all persons having knowledge of any facts related to the claim of privilege, and identify all events, transactions, or occurrences related to the claim of privilege.

Interrogatories

GENERAL OBJECTION TO ALL INTERROGATORIES: For each interrogatory contained herein, plaintiffs object to the extent that defendants are seeking information that is not duly calculated to lead to the discovery of admissible evidence because the information sought is irrelevant to the legal issues presented. Specifically, plaintiffs decline to produce the following information;

- Information regarding the men who donated sperm for the conception of the minor children who are parties to this action;
- Information regarding the processes by which the minor children were conceived; and,
- Information regarding the fertility status of the plaintiffs.

Not only is this information not calculated to lead to the discovery of admissible evidence but requests seeking such information are overly broad and unduly burdensome as the disclosure of such information removes from plaintiffs their right to determine when, how, and what information should be released to their children and families.

Plaintiffs further object to the extent that the information sought exceeds the Discovery Stipulation entered by all parties.

Without waiving their objections, plaintiffs state as follows:

INTERROGATORY NO. 1: Identify each person who provided information used in answering any of these interrogatories, and for each person identified, please indicate for which answers each person provided information.

ANSWER: Donnica Rae Barrett and Nikkole Shannon McKinley-Barrett for all questions.

INTERROGATORY NO. 2: Identify each person who has, who claims to have, or who you believe may have any knowledge or information relevant to any allegation contained in your Complaint, and for each person identified, please describe the substance of each person's knowledge or information.

ANSWER: Donnica Rae Barrett; Nikkole Shannon McKinley-Barrett; Union Hospital; the Vigo County Health Department; and the Indiana Department of Health.

INTERROGATORY NO. 3: Describe in detail all final injunctive decrees you ultimately will seek in this matter.

ANSWER: We want Nikki to be listed as the second parent on the birth certificate of G.R.M.B.

INTERROGATORY NO. 4: Identify G.R.M.B.'s two biological parents and any document or record that states this information.

ANSWER: Donnica Barrett and an anonymous sperm donor.

INTERROGATORY NO. 5: Identify G.R.M.B.'s birth mother and any document or record that states this information.

ANSWER: Donnica Barrett as shown on the birth certificate of G.R.M.B.

INTERROGATORY NO. 6: Identify all persons who: (a) have parental rights to G.R.M.B., including the source of those rights and any document or record that states this information; (b) are currently seeking parental rights to G.R.M.B., including the source of those rights and any document or record that states this information; (c) formerly had parental rights to G.R.M.B., including the source of those rights and any document or record that states this information.

ANSWER:

(a) Donnica Barret

(b) Nikkole S. McKinley-Barrett (we are married; see our complaint)

(c) none

INTERROGATORY NO. 7: Describe the circumstances of G.R.M.B.'s conception and birth, including the identity of any medical professionals or facilities involved, including any sperm banks and their staff, and the document or record that states this information.

ANSWER: G.R.M.B. was conceived via artificial insemination. See, General Objections. Without waiving these objections, plaintiffs incorporate by

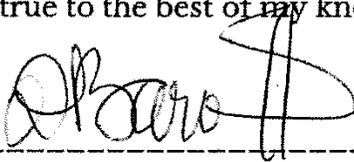
reference the information contained in their responses to the State's requests for production.

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.



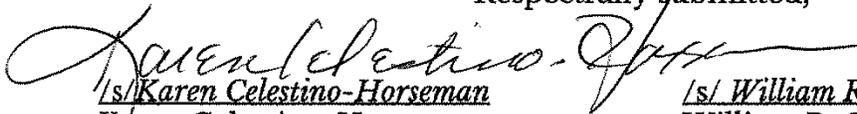
Nikkole McKinley-Barrett

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.



Donnica Barrett

Respectfully submitted,



/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth
William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust
Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499

/s/ Richard A. Mann
Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

Michael J. Wright
Wright Shagley Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807
And as a courtesy via email to:

mwright@wslfirm.com


Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)	
couple and L.W.C.H., by his parent and next)	
friend Ruby Henderson, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:15-cv-220-TWP-MJD
)	
DR. JEROME M. ADAMS, in his official capacity)	
as Indiana State Health Commissioner, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANT'S FIRST SET OF INTERROGATORIES
TO BUSH-SAWYER PLAINTIFFS**

Defendant, Indiana State Health Commissioner Dr. Jerome M. Adams, by counsel, Attorney General Gregory F. Zoeller, Solicitor General Thomas M. Fisher, and Deputy Attorney General Lara Langeneckert, hereby requests Plaintiffs Elizabeth "Nicki" and Tonya Bush-Sawyer and I.J.B. a/k/a I.J.B.-S. (Bush-Sawyer Plaintiffs) to answer in writing and under oath the interrogatories set forth herein in accordance with Rule 33 of the Federal Rules of Civil Procedure. Defendant requests that Bush-Sawyer Plaintiffs respond within 14 days of the date of service.

Definitions and Instructions

1. "Plaintiff," "you," and "your(s)," means the Bush-Sawyer Plaintiffs and includes their past or present attorneys, agents, and all other persons acting, or purporting to act, on their behalf.
2. "Defendant" means the Indiana State Health Commissioner.

3. “Document(s)” shall be defined as that term is used in FRCP 34.

4. “Person(s)” means any natural person, group of natural persons, partnership, corporation, firm, association, joint venture, or any other business, governmental, public, social, or legal entity, and their respective divisions, subdivisions, control persons, attorneys, agents, officers, directors, partners, employees, affiliates, parent companies, subsidiaries, or other persons acting or purporting to act on behalf of any of them.

5. “Identify” and “state the identity of” mean, in the case of:

(a) an individual person means to state the person’s name, address, telephone number, occupation or profession, job title, and the name, address, and telephone number of that person’s employer;

(b) an organization means to state the organization’s name, the type of organization, the address and telephone number of the organization, the State in which it is organized, and the identity of its principal officers or directors;

(c) a document means to state the date, author, addressee, or recipient, the type of document, and the name, address, and telephone number of each person having possession, custody, or control of the document or any copies of the document; and

(d) a fact means to state the fact, the names of all persons with knowledge of the fact, and the documents which support or negate the existence of the fact.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural. “And” as well as “or” should be construed as disjunctive or conjunctive as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside the scope of these interrogatories.

7. “Complaint” means the most recent Amended Complaint filed in this action by the Plaintiffs.

8. “Biological parent” means the man who supplied the sperm or the woman who supplied the egg which interacted for the child’s conception.

9. “Birth mother” means the woman who physically carried and gave birth to the child, whether or not she is genetically related to the child.

10. “Parental rights” means all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support of the child.

11. If you object or otherwise decline to respond to any interrogatory, provide all information requested by any portion of the interrogatory to which you do not object or with which you do not otherwise decline to comply.

12. If you object to an interrogatory on the ground that to provide the requested information would be unduly burdensome, provide all requested information that can be supplied without undertaking that which you claim to be an undue burden.

13. If you object or otherwise decline to respond to any interrogatory on a claim of privilege or attorney work product, explain the nature of the claim of privilege, state all facts relied upon in support of the claim of privilege, identify all documents related to the claim or privilege, state the name of all persons having knowledge of any facts related to the claim of privilege, and identify all events, transactions, or occurrences related to the claim of privilege.

Interrogatories

GENERAL OBJECTION TO ALL INTERROGATORIES: For each interrogatory contained herein, plaintiffs object to the extent that defendants are seeking information that is not duly calculated to lead to the discovery of admissible evidence because the information sought is irrelevant to the legal issues presented. Specifically, plaintiffs decline to produce the following information;

- Information regarding the men who donated sperm for the conception of the minor children who are parties to this action;
- Information regarding the processes by which the minor children were conceived; and,
- Information regarding the fertility status of the plaintiffs.

Not only is this information not calculated to lead to the discovery of admissible evidence but requests seeking such information are overly broad and unduly burdensome as the disclosure of such information removes from plaintiffs their right to determine when, how, and what information should be released to their children and families.

Without waiving their objections, plaintiffs state as follows:

INTERROGATORY NO. 1: Identify each person who provided information used in answering any of these interrogatories, and for each person identified, please indicate for which answers each person provided information.

ANSWER: Elizabeth (Nicki) Bush-Sawyer ("ENB-S"); Tonya Lea Bush-Sawyer ("TLB-S")

INTERROGATORY NO. 2: Identify each person who has, who claims to have, or who you believe may have any knowledge or information relevant to any allegation contained in your Complaint, and for each person identified, please describe the substance of each person's knowledge or information.

ANSWER: ENB-S and TLB-S are both parents (legal and non-legal, respectively) to the IJB-S; hospital employees; county health department employees and State of Indiana.

INTERROGATORY NO. 3: Describe in detail all final injunctive decrees you ultimately will seek in this matter.

ANSWER: Inclusion of TLB-S's information as parent on IJB-S's birth certificate.

INTERROGATORY NO. 4: Identify I.J.B.-S.'s two biological parents and the document or record that states this information.

ANSWER: Biological parent 1: ENB-S per the birth certificate of I.J.B.-S.; Biological "parent" 2: anonymous sperm donor.

INTERROGATORY NO. 5: Identify I.J.B.-S.'s birth mother and the document or record that states this information.

ANSWER: ENB-S (birth certificate)

INTERROGATORY NO. 6: Identify all persons who: (a) have parental rights to I.J.B.-S., including the source of those rights and any document or record that states this information; (b) are currently seeking parental rights to I.J.B.-S., including the source of those rights and any document or record that states this information; (c) formerly had parental rights to I.J.B.-S., including the source of those rights and the document or record that states this information.

ANSWER: ENB-S is biological parent and has all rights associated therein per the birth certificate; TLB-S is currently seeking second parent adoptive rights. No parent has given up any parental rights (sperm donor was never provided any rights).

INTERROGATORY NO. 7: Describe the circumstances of I.J.B.-S.'s conception and birth, including the identity of any medical professionals or facilities

involved, including any sperm banks and their staff, and the document or record that states this information.

ANSWER: I.J.B.-S. was conceived via artificial insemination. *See*, General Objections. TLB-S was part of the sperm selection process, payment, and was present for all appointments leading up to and including the insemination.

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Elizabeth (Nicki) Bush-Sawyer

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Tonya Lea Bush-Sawyer

Respectfully submitted,

/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth
William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust
Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann
Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing responses to Defendant's First Set of Interrogatories was duly served upon the counsel listed below on June 17, 2015 via first class mail, postage prepaid:

Thomas M. Fisher
Lara Langeneckert
Office of the Indiana Attorney General
302 West Washington Street
IGCS – 5th Floor
Indianapolis, IN 46204

And as a courtesy via email to: lara.langeneckert@atg.in.gov
tom.fisher@atg.in.gov

Douglas Joseph Masson
Hoffman Luhman & Masson PC
200 Ferry Street, Suite C
P.O. Box 99
Lafayette, IN 47902

And as a courtesy via email to: djm@hlblaw.com

Anthony Scott Chinn
Anna M. Konradi
Anne Kramer Ricchiuto
Faegre Baker Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204
(317) 237-0300
Fax: (317) 237-1000

And as a courtesy via email to: scott.chinn@faegrebd.com
anna.konradi@Faegrebd.com
anne.ricchiuto@FaegreBD.com

J. Grant Tucker
Jones Patterson & Tucker, P.C.
330 Franklin Street

And as a courtesy via email to: gtucker@jpt-law.com

Michael J. Wright
Wright Shagley Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807
And as a courtesy via email to: mwright@wslfirm.com

/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing responses to Defendant's First Set of Interrogatories was duly served upon the counsel listed below by electronic mail on _____, 2015:

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Defendant's First Set of Interrogatories to Bush-Sawyer Plaintiffs was duly served upon the counsel listed below by electronic mail on May 27, 2015:

Karen Celestino-Horseman
AUSTIN & JONES, P.C.
karen@kchorseman.com

Richard A. Mann
RICHARD A. MANN, P.C.
rmann@mannlaw.us

William R. Groth
FILLENWARTH DENNERLINE
GROTH & TOWE, LLP
wgroth@fdgtlaborlaw.com

Raymond L. Faust
HOUSE REYNOLDS & FAUST LLP
rfaust@housereynoldsfaust.com

/s/ Thomas M. Fisher _____

Thomas M. Fisher
Solicitor General

Office of the Attorney General
Indiana Government Center South, Fifth Floor
302 West Washington Street
Indianapolis, Indiana 46204-2770
Phone: (317) 232-6255
Fax: (317) 232-7979
Email: Tom.Fisher@atg.in.gov

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married couple and L.W.C.H., by his parent and next friend Ruby Henderson, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:15-cv-220-TWP-MJD
)	
DR. JEROME M. ADAMS, in his official capacity as Indiana State Health Commissioner, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANT'S FIRST SET OF INTERROGATORIES
TO HENDERSON PLAINTIFFS**

Defendant, Indiana State Health Commissioner Dr. Jerome M. Adams, by counsel, Attorney General Gregory F. Zoeller, Solicitor General Thomas M. Fisher, and Deputy Attorney General Lara Langeneckert, hereby requests Plaintiffs Ashlee and Ruby Henderson and L.W.C.H. (Henderson Plaintiffs) to answer in writing and under oath the interrogatories set forth herein in accordance with Rule 33 of the Federal Rules of Civil Procedure. Defendant requests that Henderson Plaintiffs respond within 14 days of the date of service.

Definitions and Instructions

1. "Plaintiff," "you," and "your(s)," means the Henderson Plaintiffs and includes their past or present attorneys, agents, and all other persons acting, or purporting to act, on their behalf.

2. "Defendant" means the Indiana State Health Commissioner.

3. "Document(s)" shall be defined as that term is used in FRCP 34.

4. "Person(s)" means any natural person, group of natural persons, partnership, corporation, firm, association, joint venture, or any other business, governmental, public, social, or legal entity, and their respective divisions, subdivisions, control persons, attorneys, agents, officers, directors, partners, employees, affiliates, parent companies, subsidiaries, or other persons acting or purporting to act on behalf of any of them.

5. "Identify" and "state the identity of" mean, in the case of:

(a) an individual person means to state the person's name, address, telephone number, occupation or profession, job title, and the name, address, and telephone number of that person's employer;

(b) an organization means to state the organization's name, the type of organization, the address and telephone number of the organization, the State in which it is organized, and the identity of its principal officers or directors;

(c) a document means to state the date, author, addressee, or recipient, the type of document, and the name, address, and telephone

number of each person having possession, custody, or control of the document or any copies of the document; and

(d) a fact means to state the fact, the names of all persons with knowledge of the fact, and the documents which support or negate the existence of the fact.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural. "And" as well as "or" should be construed as disjunctive or conjunctive as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside the scope of these interrogatories.

7. "Complaint" means the most recent Amended Complaint filed in this action by the Plaintiffs.

8. "Biological parent" means the man who supplied the sperm or the woman who supplied the egg which interacted for the child's conception.

9. "Birth mother" means the woman who physically carried and gave birth to the child, whether or not she is genetically related to the child.

10. "Parental rights" means all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support of the child.

11. If you object or otherwise decline to respond to any interrogatory, provide all information requested by any portion of the interrogatory to which you do not object or with which you do not otherwise decline to comply.

12. If you object to an interrogatory on the ground that to provide the requested information would be unduly burdensome, provide all requested information that can be supplied without undertaking that which you claim to be an undue burden.

13. If you object or otherwise decline to respond to any interrogatory on a claim of privilege or attorney work product, explain the nature of the claim of privilege, state all facts relied upon in support of the claim of privilege, identify all documents related to the claim or privilege, stat the name of all persons having knowledge of any facts related to the claim of privilege, and identify all events, transactions, or occurrences related to the claim of privilege.

Interrogatories

GENERAL OBJECTION TO ALL INTERROGATORIES: For each interrogatory contained herein, plaintiffs object to the extent that defendants are seeking information that is not duly calculated to lead to the discovery of admissible evidence because the information sought is irrelevant to the legal issues presented. Specifically, plaintiffs decline to produce the following information;

- Information regarding the men who donated sperm for the conception of the minor children who are parties to this action;
- Information regarding the processes by which the minor children were conceived; and,
- Information regarding the fertility status of the plaintiffs.

Not only is this information not calculated to lead to the discovery of admissible evidence but requests seeking such information are overly broad and unduly burdensome as the disclosure of such information removes from plaintiffs their right to determine when, how, and what information should be released to their children and families.

Without waiving their objections, plaintiffs state as follows:

INTERROGATORY NO. 1: Identify each person who provided information used in answering any of these interrogatories, and for each person identified, please indicate for which answers each person provided information.

ANSWER: Ruby and Ashlee Henderson provided answers to all interrogatories.

INTERROGATORY NO. 2: Identify each person who has, who claims to have, or who you believe may have any knowledge or information relevant to any allegation contained in your Complaint, and for each person identified, please describe the substance of each person's knowledge or information.

ANSWER: Ruby Henderson, birth mother; Ashlee Henderson, wife of Ruby, also seeking parental rights; Tippecanoe County Health Department; Glenda Robinette, Tippecanoe County Health Department; and, staff and nurses working on baby floor of IU Health Hospital, Lafayette, Indiana.

INTERROGATORY NO. 3: Describe in detail all final injunctive decrees you ultimately will seek in this matter.

ANSWER: To have Ashlee Henderson listed on L.W.C.H.'s birth certificate as L.W.C.H.'s legal parent without going through an adoption just as any male spouse would be in a similar circumstance.

INTERROGATORY NO. 4: Identify L.W.C.H.'s two biological parents and any document or record that states this information.

ANSWER: Ruby Henderson is the birth mother and a known man was the sperm donor. A sperm donor agreement and relinquishment of parental rights will be produced in response to the requests for production provided defendants agree that the documents will be reviewed only by the attorneys and their designated employees for the State defendants and the Tippecanoe County defendants.

INTERROGATORY NO. 5: Identify L.W.C.H.'s birth mother and any document or record that states this information.

ANSWER: Ruby Henderson is the birth mother and is identified as the birth mother in the hospital records and birth certificate.

INTERROGATORY NO. 6: Identify all persons who: (a) have parental right to L.W.C.H., including the source of those rights and any document or record that states this information; (b) are currently seeking parental rights to L.W.C.H., including the source of those rights and any document or record that states this information; (c) formerly had parental rights to L.W.C.H., including the source of those rights and any document or record that states this information.

ANSWER:

- A: Ruby Henderson - birth certificate
- B: Ashlee Henderson - see allegations within the complaint
- C: Per the sperm donor agreement executed prior to the birth of L.W.C.H. and the relinquishment of parental rights executed after the birth of L.W.C.H., the sperm donor relinquished any rights he might have been able to assert regarding the parentage of L.W.C.H.

INTERROGATORY NO. 7: Describe the circumstances of L.W.C.H.'s conception and birth, including the identity of any medical professionals and facilities involved, including any sperm banks and their staff, and any document or record that states this information.

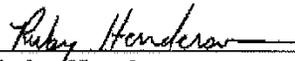
ANSWER:

Ruby Henderson was artificially inseminated. See, General Objections.

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Ashlee Henderson

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.


Ruby Henderson

 Respectfully submitted,

/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth
William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust
Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann
Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

Michael J. Wright
Wright Shagley Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807
And as a courtesy via email to:

mwright@wslfirm.com



/s/ Karen Celestino-Horseman

Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)
couple and L.W.C.H., by his parent and next)
friend Ruby Henderson, *et al.*,)

Plaintiffs,)

vs.)

No. 1:15-cv-220-TWP-MJD

DR. JEROME M. ADAMS, in his official capacity)
as Indiana State Health Commissioner, *et al.*,)

Defendants.)

DEFENDANT’S FIRST SET OF INTERROGATORIES
TO JANSON PLAINTIFFS

Defendant, Indiana State Health Commissioner Dr. Jerome M. Adams, by counsel, Attorney General Gregory F. Zoeller, Solicitor General Thomas M. Fisher, and Deputy Attorney General Lara Langeneckert, hereby requests Plaintiffs Calle and Sarah Janson and Unborn Baby Doe (Janson Plaintiffs) to answer in writing and under oath the interrogatories set forth herein in accordance with Rule 33 of the Federal Rules of Civil Procedure. Defendant requests that Janson Plaintiffs respond within 14 days of the date of service.

Definitions and Instructions

1. “Plaintiff,” “you,” and “your(s),” means the Janson Plaintiffs and includes their past or present attorneys, agents, and all other persons acting, or purporting to act, on their behalf.

2. “Defendant” means the Indiana State Health Commissioner.

3. "Document(s)" shall be defined as that term is used in FRCP 34.

4. "Person(s)" means any natural person, group of natural persons, partnership, corporation, firm, association, joint venture, or any other business, governmental, public, social, or legal entity, and their respective divisions, subdivisions, control persons, attorneys, agents, officers, directors, partners, employees, affiliates, parent companies, subsidiaries, or other persons acting or purporting to act on behalf of any of them.

5. "Identify" and "state the identity of" mean, in the case of:

(a) an individual person means to state the person's name, address, telephone number, occupation or profession, job title, and the name, address, and telephone number of that person's employer;

(b) an organization means to state the organization's name, the type of organization, the address and telephone number of the organization, the State in which it is organized, and the identity of its principal officers or directors;

(c) a document means to state the date, author, addressee, or recipient, the type of document, and the name, address, and telephone number of each person having possession, custody, or control of the document or any copies of the document; and

(d) a fact means to state the fact, the names of all persons with knowledge of the fact, and the documents which support or negate the existence of the fact.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural. “And” as well as “or” should be construed as disjunctive or conjunctive as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside the scope of these interrogatories.

7. “Complaint” means the most recent Amended Complaint filed in this action by the Plaintiffs.

8. “Biological parent” means the man who supplied the sperm or the woman who supplied the egg which interacted for the child’s conception.

9. “Birth mother” means the woman who physically carried and gave birth to the child, whether or not she is genetically related to the child.

10. “Parental rights” means all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support of the child.

11. If you object or otherwise decline to respond to any interrogatory, provide all information requested by any portion of the interrogatory to which you do not object or with which you do not otherwise decline to comply.

12. If you object to an interrogatory on the ground that to provide the requested information would be unduly burdensome, provide all requested information that can be supplied without undertaking that which you claim to be an undue burden.

13. If you object or otherwise decline to respond to any interrogatory on a claim of privilege or attorney work product, explain the nature of the claim

of privilege, state all facts relied upon in support of the claim of privilege, identify all documents related to the claim or privilege, stat the name of all persons having knowledge of any facts related to the claim of privilege, and identify all events, transactions, or occurrences related to the claim of privilege.

Interrogatories

GENERAL OBJECTION TO ALL INTERROGATORIES: For each interrogatory contained herein, plaintiffs object to the extent that defendants are seeking information that is not duly calculated to lead to the discovery of admissible evidence because the information sought is irrelevant to the legal issues presented. Specifically, plaintiffs decline to produce the following information;

- Information regarding the men who donated sperm for the conception of the minor children who are parties to this action;
- Information regarding the processes by which the minor children were conceived; and,
- Information regarding the fertility status of the plaintiffs.

Not only is this information not calculated to lead to the discovery of admissible evidence but requests seeking such information are overly broad and unduly burdensome as the disclosure of such information removes from plaintiffs their right to determine when, how, and what information should be released to their children and families.

Plaintiffs further object to the extent that the information sought exceeds the Discovery Stipulation entered by all parties.

Without waiving their objections, plaintiffs state as follows:

INTERROGATORY NO. 1: Identify each person who provided information used in answering any of these interrogatories, and for each person identified, please indicate for which answers each person provided information.

ANSWER: Sarah and Calle Janson both provided input on the answers provided for each interrogatory.

INTERROGATORY NO. 2: Identify each person who has, who claims to have, or who you believe may have any knowledge or information relevant to any allegation contained in your Complaint, and for each person identified, please describe the substance of each person's knowledge or information.

ANSWER: Sarah and Calle Janson; Marion County Health Department; Indiana Department of Health

INTERROGATORY NO. 3: Describe in detail all final injunctive decrees you ultimately will seek in this matter.

ANSWER: We will seek to have both parents, Calle and Sarah Janson, on the birth certificate, and both given equal parental rights as regards Unborn Baby Doe.

INTERROGATORY NO. 4: State whether Unborn Baby Doe has yet been born, and if so, provide Unborn Baby Doe's date and place of birth.

ANSWER:

As of this date, Unborn Baby Doe has yet to be born.

INTERROGATORY NO. 5: Identify Unborn Baby Doe's two biological parents and any document or record that states this information.

ANSWER:

Calle Janson is Unborn Baby Doe's biological parent and birth mother. The biological father is an unknown sperm donor.

INTERROGATORY NO. 6: Identify Unborn Baby Doe's birth mother and any document or record that states this information.

ANSWER:

Calle Janson will be Unborn Baby Doe's birth mother and biological parent. As the baby has not been born, there are no documents that state such.

INTERROGATORY NO. 7: Identify all persons who: (a) have parental rights to Unborn Baby Doe, including the source of those rights and any document or record that states this information; (b) are currently seeking parental rights to Unborn Baby Doe, including the source of those rights and any document or record that states this information; (c) formerly had parental

rights to Unborn Baby Doe, including the source of those rights and any document or record that states this information.

ANSWER:

(a) Calle Janson will have parental rights to Unborn Baby Doe as the birth mother;

(b) Sarah Janson is currently seeking parental rights to Unborn Baby Doe, as she is the lawful spouse of Calle Janson, the birth mother;

(c) N/A

INTERROGATORY NO. 8: Describe the circumstances of Unborn Baby Doe's conception and birth, including the identity of any medical professionals or facilities involved, including any sperm banks and their staff, and the document or record that states this information.

ANSWER:

Unborn Baby Doe was conceived via artificial insemination. *See*, General Objections. Without waiving these objections, plaintiffs incorporate by reference the information contained in their responses to the State's requests for production.

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.



Sarah Janson

I affirm under penalties of perjury that the foregoing representations are true to the best of my knowledge.



Calle Janson

Respectfully submitted,



/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth
William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust
Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann
Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing responses to Defendant's First Set of Interrogatories was duly served upon the counsel listed below on August 10, 2015 via first class mail, postage prepaid:

Thomas M. Fisher
Lara Langeneckert
Office of the Indiana Attorney General
302 West Washington Street
IGCS – 5th Floor
Indianapolis, IN 46204

And as a courtesy via email to: lara.langeneckert@atg.in.gov
tom.fisher@atg.in.gov

Douglas Joseph Masson
Hoffman Luhman & Masson PC
200 Ferry Street, Suite C
P.O. Box 99
Lafayette, IN 47902

And as a courtesy via email to: djm@hlblaw.com

Anthony Scott Chinn
Anna M. Konradi
Anne Kramer Ricchiuto
Faegre Baker Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204
(317) 237-0300
Fax: (317) 237-1000

And as a courtesy via email to: scott.chinn@faegrebd.com
anna.konradi@Faegrebd.com
anne.ricchiuto@FaegreBD.com

J. Grant Tucker
Jones Patterson & Tucker, P.C.
330 Franklin Street

And as a courtesy via email to: gtucker@jpt-law.com

Michael J. Wright
Wright Shagley Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807
And as a courtesy via email to:

mwright@wslfirm.com

Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married)	
couple and L.W.C.H., by his parent and next)	
friend Ruby Henderson, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
vs.)	No. 1:15-cv-220-TWP-MJD
)	
DR. JEROME M. ADAMS, in his official capacity)	
as Indiana State Health Commissioner, <i>et al.</i> ,)	
)	
Defendants.)	

**DEFENDANT’S FIRST SET OF INTERROGATORIES
TO SINGLEY PLAINTIFFS**

Defendant, Indiana State Health Commissioner Dr. Jerome M. Adams, by counsel, Attorney General Gregory F. Zoeller, Solicitor General Thomas M. Fisher, and Deputy Attorney General Lara Langeneckert, hereby request Plaintiffs Nicole and Jennifer Singley and H.S. (Singley Plaintiffs) to answer in writing and under oath the interrogatories set forth herein in accordance with Rule 33 of the Federal Rules of Civil Procedure. Defendant requests that Plaintiffs respond within 14 days of the date of service.

Definitions and Instructions

1. “Plaintiff,” “you,” and “your(s),” means the Singley Plaintiffs and includes their past or present attorneys, agents, and all other persons acting, or purporting to act, on their behalf.
2. “Defendant” means the Indiana State Health Commissioner.
3. “Document(s)” shall be defined as that term is used in FRCP 34.

3. “Document(s)” shall be defined as that term is used in FRCP 34.

4. “Person(s)” means any natural person, group of natural persons, partnership, corporation, firm, association, joint venture, or any other business, governmental, public, social, or legal entity, and their respective divisions, subdivisions, control persons, attorneys, agents, officers, directors, partners, employees, affiliates, parent companies, subsidiaries, or other persons acting or purporting to act on behalf of any of them.

5. “Identify” and “state the identity of” mean, in the case of:

(a) an individual person means to state the person’s name, address, telephone number, occupation or profession, job title, and the name, address, and telephone number of that person’s employer;

(b) an organization means to state the organization’s name, the type of organization, the address and telephone number of the organization, the State in which it is organized, and the identity of its principal officers or directors;

(c) a document means to state the date, author, addressee, or recipient, the type of document, and the name, address, and telephone number of each person having possession, custody, or control of the document or any copies of the document; and

(d) a fact means to state the fact, the names of all persons with knowledge of the fact, and the documents which support or negate the existence of the fact.

6. Whenever appropriate, the singular form of a word should be interpreted in the plural. “And” as well as “or” should be construed as disjunctive or conjunctive as necessary to bring within the scope of these interrogatories any information which might otherwise be construed to be outside the scope of these interrogatories.

7. “Complaint” means the most recent Amended Complaint filed in this action by the Plaintiffs.

8. “Biological parent” means the man who supplied the sperm or the woman who supplied the egg which interacted for the child’s conception.

9. “Birth mother” means the woman who physically carried and gave birth to the child, whether or not she is genetically related to the child.

10. “Parental rights” means all rights, powers, privileges, immunities, duties, and obligations, including any rights to custody, control, parenting time, or support of the child.

11. If you object or otherwise decline to respond to any interrogatory, provide all information requested by any portion of the interrogatory to which you do not object or with which you do not otherwise decline to comply.

12. If you object to an interrogatory on the ground that to provide the requested information would be unduly burdensome, provide all requested information that can be supplied without undertaking that which you claim to be an undue burden.

13. If you object or otherwise decline to respond to any interrogatory on a claim of privilege or attorney work product, explain the nature of the claim

of privilege, state all facts relied upon in support of the claim of privilege, identify all documents related to the claim or privilege, stat the name of all persons having knowledge of any facts related to the claim of privilege, and identify all events, transactions, or occurrences related to the claim of privilege.

Interrogatories

GENERAL OBJECTION TO ALL INTERROGATORIES: For each interrogatory contained herein, plaintiffs object to the extent that defendants are seeking information that is not duly calculated to lead to the discovery of admissible evidence because the information sought is irrelevant to the legal issues presented. Specifically, plaintiffs decline to produce the following information;

- Information regarding the men who donated sperm for the conception of the minor children who are parties to this action;
- Information regarding the processes by which the minor children were conceived; and,
- Information regarding the fertility status of the plaintiffs.

Not only is this information not calculated to lead to the discovery of admissible evidence but requests seeking such information are overly broad and unduly burdensome as the disclosure of such information removes from plaintiffs their right to determine when, how, and what information should be released to their children and families.

Plaintiffs further object to the extent that the information sought exceeds the Discovery Stipulation entered by all parties.

Without waiving their objections, plaintiffs state as follows:

INTERROGATORY NO. 1: Identify each person who provided information used in answering any of these interrogatories, and for each person identified, please indicate for which answers each person provided information.

ANSWER: Jennifer Singley (all interrogatories)

INTERROGATORY NO. 2: Identify each person who has, who claims to have, or who you believe may have any knowledge or information relevant to any allegation contained in your Complaint, and for each person identified, please describe the substance of each person's knowledge or information.

ANSWER: Jennifer Singley - birth/biological mother; Nicole Singley - Second Mother; Tricare Insurance customer service representative; Marion County Health Department; Hospital Employees; Indiana Department of Health.

INTERROGATORY NO. 3: Describe in detail all final injunctive decrees you ultimately will seek in this matter.

ANSWER: To order that all same sex spouses of a birth mother be listed as a parent on the birth certificate if the couple was married at the time of the child's birth, including Nicole Singley.

INTERROGATORY NO. 4: Identify H.S.'s two biological parents and any document or record that states this information.

ANSWER: Jennifer Singley (Mother) - H.S.'s birth certificate; unknown sperm donor.

INTERROGATORY NO. 5: Identify H.S.'s birth mother and any document or record that states this information.

ANSWER: Jennifer Singley; H.S.'s birth certificate

INTERROGATORY NO. 6: Identify all persons who: (a) have parental rights to H.S., including the source of those rights and any document or record that states this information; (b) are currently seeking parental rights to H.S., including the source of those rights and any document or record that states this information; (c) formerly had parental rights to H.S., including the source of those rights and any document or record that states this information.

ANSWER:

- (a) Jennifer Singley (biological/birth mother) - H.S.'s birth certificate;
- (b) Nicole Singley (Second Mother) - marriage certificate and complaint;
- (c) N/A

INTERROGATORY NO. 7: Describe the circumstances of H.S.'s conception and birth, including the identity of any medical professionals or

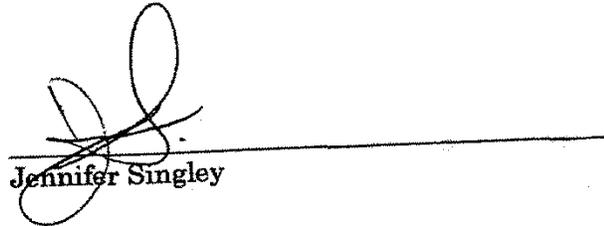
facilities involved, including any sperm banks and their staff, and the document or record that states this information.

ANSWER: H.S. was conceived via artificial insemination. See, General Objections. Without waiving these objections, plaintiffs incorporate by reference the information contained in their responses to the State's requests for production.

I affirm under penalties of perjury that the foregoing representations are true
to the best of my knowledge.


Nicole Singley

I affirm under penalties of perjury that the foregoing representations are true
to the best of my knowledge.


Jennifer Singley

Respectfully submitted,



/s/ Karen Celestino-Horseman
Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth
William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust
Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann
Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing responses to Defendant's First Set of Interrogatories was duly served upon the counsel listed below on August 10, 2015 via first class mail, postage prepaid:

Thomas M. Fisher
Lara Langeneckert
Office of the Indiana Attorney General
302 West Washington Street
IGCS – 5th Floor
Indianapolis, IN 46204

And as a courtesy via email to: lara.langeneckert@atg.in.gov
tom.fisher@atg.in.gov

Douglas Joseph Masson
Hoffman Luhman & Masson PC
200 Ferry Street, Suite C
P.O. Box 99
Lafayette, IN 47902

And as a courtesy via email to: djm@hlblaw.com

Anthony Scott Chinn
Anna M. Konradi
Anne Kramer Ricchiuto
Faegre Baker Daniels LLP
300 North Meridian Street
Suite 2700
Indianapolis, IN 46204
(317) 237-0300
Fax: (317) 237-1000

And as a courtesy via email to: scott.chinn@faegrebd.com
anna.konradi@Faegrebd.com
anne.ricchiuto@FaegreBD.com

J. Grant Tucker
Jones Patterson & Tucker, P.C.
330 Franklin Street

And as a courtesy via email to: gtucker@jpt-law.com

Michael J. Wright
Wright Shagley Lowery, P.C.
500 Ohio Street
Terre Haute, IN 47807
And as a courtesy via email to:

mwright@wslfirm.com


Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.

Donor Insemination Agreement

10. Each party acknowledges and agrees that, by law, the biological parenting of a child affords them both rights and obligations with respect to support of, visitation with and custody of the child. Each party further acknowledges that under current Indiana law the rights, duties and obligations of semen donors with respect to any resulting children are unclear. The parties

2

agree that Donor is not a “biological father” as that term is used in the Indiana Paternity Act. With full knowledge of the potential rights and obligations the parties may bear, and considering the best interest of any child so conceived and born, it is the parties’ intent to establish, by this Agreement, the terms of support, visitation, custody and any other parental rights and obligations, notwithstanding the fact that they are waiving certain rights and incurring certain obligations to achieve that goal.

11. Waiver and Release by Recipient. With regard to any child conceived by artificial insemination from Donor’s semen, Recipient hereby waives all rights to child support and financial assistance from Donor, including assistance with medical and hospital expenses incurred as a result of her pregnancy and deliver, and releases Donor from any and all claims of support for the child and covenants that she will not initiate or in any way aid or proceed upon any action for support of any child born pursuant to this Agreement.

14. Waiver and Release by Donor. Each party acknowledges and agrees that Donor is providing his semen for the purposes of said artificial inseminations, and does so with the clear understanding that he is waiving all parental rights with respect to any child born to Recipient pursuant to this Agreement. Accordingly, Donor hereby waives all rights to custody of or visitation with any such child and releases Recipient from any and all claims for visitation and custody and covenants that he will not demand, request or compel any guardianship, custody or visitation rights with any such child. The parties expressly agree that Recipient and Second Parent will act with sole discretion as to all legal, financial, child-rearing and medical needs of any child born pursuant to this Agreement without any involvement by or demands of

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authority from Donor, and Donor expressly agrees that Recipient and Second Parent shall have sole physical and legal custody of any such child and that Recipient and Second Parent's custody of such child is in the child's best interest.



Spokane, WA Missoula, MT, Pullman, WA

**THERAPEUTIC DONOR INSEMINATION (TDI)
DONOR CONSENT, TESTING, and COMPENSATION AGREEMENT**

1-Waiver of all parental rights & responsibilities and the use of specimens

I agree and understand that the semen specimens I donate to NW Cryobank may be used for the purpose of causing pregnancy through artificial insemination by clients of NW Cryobank, other testing, research, or product development. Embryos created using my specimens may at some time be donated to someone other than the initial client, or the embryos may be destroyed, or used in research upon request by the client. I agree not to attempt to seek the identity of the persons who may ultimately use my donations for any purpose. I agree that I am acting as an anonymous donor and will make these donations of my free will, and that I will have no responsibility for parental obligations, nor seek to have responsibility (parental rights) for any product of conception created through the use of my donations. I understand that my stated medical history information may be disclosed to potential recipients and their physicians. My name and address will be kept on file with NW Cryobank, and will be kept confidential and not released without consent by me unless required to release in accordance to federal and state law. If I decline anonymity by a signed written statement, I release NW Cryobank from any liability associated with the release of my identity to real or potential clients.

donor initials

2-Donor Obligation for Screening Tests

I agree that upon submitting to donor disease screening I accept full financial responsibility for those screening charges if I subsequently decide not to participate as a donor for any reason. I understand that those screening charges are not insignificant and may exceed two thousand dollars. I agree that if I fail to complete all required testing in a timely manner, any monies spent in testing, or given to me for my semen specimens will have been obtained in bad faith, and I agree to return such monies to NW Cryobank within a period of three months of my failure to meet my donor obligations of either donations made or testing schedules. Failure to follow the prescribed testing and donation schedule put forth by NW Cryobank will make any specimens donated unusable for their intended purposes. I will be released of this obligation to pay NW Cryobank for donor testing if I fail to pass the initial disease screening put forth by NW Cryobank for reasons that are not controllable or treatable, or once I have met my minimum of 50 acceptable donations to the program and completed the quarantine testing to clear said specimens for TDI use. If I develop a preventable communicable disease while enrolled in the TDI program, I realize I will still be responsible to receive follow-up laboratory testing at the expense of NW Cryobank, and that I will not receive any money held in reserve.

donor initials

3-Donor Compensation, Quarantine, and Participation

I have been advised to abstain from ejaculation for 48 hours prior to each donation and to collect the sample by masturbation. I agree to report any changes in the status of my health, especially in regards to sexually transmittable infections, or new sexual contacts I may have while participating as a TDI donor, and for a period of six months after termination of participation. I further agree that upon successful timely completion of any and all donor testing as requested by NW Cryobank I will be compensated per specimen accepted for TDI use as follows. Compensation for any specimen donated that meets the minimum standards for TDI use, as set by NW Cryobank, will be at the minimum rate of _____ dollars. If any donated specimen has a sperm count high enough to provide for more than the minimum specimen production, my compensation for that specimen will be increased in units of ten dollars (sperm count dependant), to a maximum of _____ dollars for any one specimen.

All but ten dollars of the compensation for each specimen will be paid to me at the end of each month by NW Cryobank. The monies withheld from my monthly remuneration will be paid to me upon completion of the required six-month quarantine testing for those respective specimens. If my semen specimens do not provide at least 20 million motile sperm upon test thaw, I will not be compensated at the normal TDI rate for that specimen as such specimens cannot be used for the TDI program. If such specimens are deemed acceptable for research use, the total compensation will be \$20.00 for the entire specimen. I further agree that while participating in the donor program, I will donate at an average rate of not less than once per week, and for a minimum of 50 acceptable TDI specimens unless I notify NW Cryobank as noted below under termination. NW Cryobank will make a reasonable attempt to accommodate my schedule should I need to leave the program for any period in excess of 2 weeks provided I notify NW Cryobank in advance of the absence.

donor initials

4-Future Contact

I agree to report any new information I may learn of my genetically linked health history to NW Cryobank which was not detected during the screening process, during participation as a donor and for six months following my last donation, even though these may not constitute a change in my health status. I consent to be contacted periodically after termination from the TDI program in order to provide updated information regarding my health and knowledge of genetic factors. I agree to keep the TDI program informed of my current address over a long-term period in order to facilitate such communication. I also agree to future contact by NW Cryobank as Cryobank may act as a third party to facilitate potential contact by legal aged donor children produced by my participation in this donor program, or by other parties as I have indicated in writing. I understand that NW Cryobank has no liability should I wish to reciprocate or communicate with third party contacts that I may choose to make or have agreed to make with NW Cryobank.

donor initials

5-Termination of Donor Participation

I understand that I may terminate my participation as a donor with a two-week notification in writing to NW Cryobank once I have met the minimum donation level of 50 specimens, and that the TDI program can stop my participation in the donor program by verbal notification at any time. In this scenario, I will not be obligated to repay NW Cryobank for any donor payments received or for any medical costs associated with production of sperm vials.

I understand that I may request termination of participation at any time during the donation process and that I may also withdraw my consent to donate up to such time that a specific recipient has begun an assisted reproduction cycle using my sperm. I understand that should I exercise this option, I will be responsible to repay NW Cryobank for all costs associated with production of said sperm to include donor fees paid and all medical costs.

donor initials

This agreement is entered into this _____ day of _____ 20____.

Cryobank printed

Donor name printed

Cryobank signature

Donor signature

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

NOELL and CRYSTAL ALLEN, a married couple;)
JACKIE and LISA PHILLIPS-STACKMAN,)
a married couple and L.J.P-S, by her mother)
and next friend, Lisa Phillips-Stackman)

Plaintiffs,)

-vs-)

DR. JEROME M. ADAMS, in his official capacity as)
Indiana State Health Commissioner;)
DR. VIRGINIA A. CAINE, in her official capacity)
as Director and Health Officer of the)
Marion County Health Department;)
DARREN KLINGLER, Administrator, Vital Records,)
Marion County Health Department;)
DR. JAMES MINER, GREGORY S. FEHRIBACH,)
LACY M. JOHNSON, CHARLES S. EBERHARDT II,)
DEBORAH J. DANIELS, DR. DAVID F. CANAL, and)
JOYCE Q. ROGERS, all in their official capacities)
as Trustees, Health 85 Hospital Corporation)
of Marion County)

Defendants.)

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs Noel and Crystal Allen, a married couple; and, Jackie and Lisa Phillips-Stackman, a married couple and L.J.P-S, by her mother and next friend, Lisa-Phillips-Stackman, by counsel ("Plaintiffs"), hereby allege as follows:

INTRODUCTION

1. Plaintiffs bring this action to challenge the constitutionality

under the United States Constitution of Indiana Code § 31-9-2-15 ("Child born in wedlock"), § 31-9-2-16 ("Child born out of wedlock") and § 31-14-7-1 ("Presumption of Paternity") ("Statutes"). These statutes r L.J.P-S and Unborn Baby Doe (a/k/a "Children") by refusing to recognize that the Children were or will be born in wedlock to two lawfully married same-sex spouses; deny to the Children the benefits and stability of presuming two parents obligated and responsible for the Children upon their birth; and deny a presumption of parenthood and all the rights and responsibilities which are attendant to such a presumption to Noell Allen and Jackie Phillips-Stackman ("Same-Sex Non-Birth Parent"), because they are female spouses respectively married to the Children's birth mothers. .

2. Indiana Code § 31-9-2-15 provides as follows:

"Child born in wedlock", for purposes of IC 31-19-9 [Consent to Adoption], means a child born to:

- (1) a woman; and
- (2) a man who is presumed to be the child's father under IC 31-14-7-1(1) or IC 31-14-7-1 unless the presumption is rebutted.

3. Indiana Code § 31-9-2-16 provides as follows:

"Child born out of wedlock", for purposes of IC 31-19-3, IC 31-9-4-4, and IC 31-19-9, means a child who is born to:

- (1) a woman; and
- (2) a man who is not presumed to be the child's father under IC 31-14-7-1(1) or IC 31-14-7-1(2).

4. Indiana Code § 31-14-7-1(1) provides as follows:

A man is presumed to be a child's biological father if:

(1) the:

(A) man and the child's biological mother are or have been married to each other; and

(B) child is born during the marriage or not later than three hundred (300) days after the marriage is terminated by death, annulment, or dissolution

5. Indiana Code §§ 31-9-2-15 and-16, which define a child born in and out of wedlock, render the Children illegitimate because by statute, they were not/will not be born to a woman married to a man but instead were/will be born to a woman married to another woman, despite the fact that Indiana now recognizes same-sex marriage.

6. The only means by which parenthood will be granted to the female spouse of the birth mother is through adoption of the baby that she planned for with her spouse.

7. By contrast, under I.C. § 31-14-7-1(1), a man is granted the presumption of parenthood by virtue of the fact that he is married to the biological mother of the child, regardless of whether the husband is biologically related to the child. For example, a third person can serve as sperm donor and the husband is still presumed to be the father of the child even though he is not biologically related to the child.

8. Defendants' refusal to recognize Same-Sex Non-Birth Parents on the respective birth certificates of the Children harms the Children

because a birth certificate is the official document that establishes a person's identity. A birth certificate also establishes a baby's family. As the Seventh Circuit Court of Appeals has stated: "The [S]tate [of Indiana] recognizes that family is about raising children and not just about producing them." *Baskin v. Bogan*, 766 F.3d 648, 663 (7th Cir. 2014), *cert. denied*. 135 S. Ct. 316, 190 L. Ed. 2d 142, (2014) (holding unconstitutional Indiana statute that prohibited and refused to recognize same-sex marriage).

JURISDICTION AND VENUE

9. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343 because this suit raises federal questions pursuant to 42 U.S.C. § 1983. Plaintiffs seek both injunctive relief and a declaratory judgment pursuant to 28 U.S.C. § 2201.

10. Venue is proper in the Indianapolis Division of the Southern District of Indiana under 28 U.S.C. § 1391(b) because more than one defendant has a principal office in this district.

Marion County

11. Dr. Virginia A. Caine is the director and health officer of the Marion County Health Department, a division of the Health and Hospital Corporation of Marion County. Darren Klingler is the Administrator of Vital Records for the Marion County Health Department. Dr. James D. Miner, Gregory S. Fehribach, Lacy M. Johnson, Charles S. Eberhardt, II, Deborah J. Daniels, Dr. David F. Canal and Joyce Q. Rogers are all

trustees of the Health and Hospital Corporation of Marion County.

12. Pursuant to I.C. § 16-20-1-17(b), "The local health officer shall be the registrar of births" and "[a]fter making a birth . . . record, the local health officer shall, by the fourth day of each month, forward the original record to the state department." Pursuant to I.C. § 16-20-1-19, "Local health officers shall enforce the health laws, ordinances, orders, rules, and regulations of the officer's own and superior boards of health."

13. Pursuant to I.C. § 16-20-2-3, the county Board of Health is charged with managing the County Health Department. Pursuant to I.C. § 16-22-8-34(a)(23), the board of the HHC and the HHC has the authority to "do all acts necessary or reasonably incident to carrying out the purposes of this chapter, including the following: . . . (23) To enforce Indiana laws, administrative rules, ordinances, and the code of the health and hospital corporation of the county."

14. All of the Defendants affiliated with the Health and Hospital Corporation of Marion County are persons within the meaning of 42 U.S.C. § 1983 who were acting under color of state law at all times relevant to this complaint.

State of Indiana

15. Dr. Jerome M. Adams is the commissioner of the Indiana State Department of Health ("ISDH"). ISDH maintains the Indiana Birth Registration System and authors the affiliated forms including, among other things, the Indiana Birth Worksheet used to capture information

for the birth registry, all pursuant to I.C. § 16-37-1, *et seq.* Dr. Adams is a person within the meaning of 42 U.S.C. § 1983 who was acting under color of state law at all times relevant to this complaint.

All Defendants

16. All Defendants named herein are sued in their official capacities. Each of the Defendants, and those subject to their supervision, direction, and control, intentionally performed, participated in, aided and/or abetted in some manner the acts alleged herein, proximately caused the harm alleged herein, and will continue to injure Plaintiffs irreparably if not enjoined from enforcing I. C. §§ 31-9-2-15 and -16 and 31-14-7-1 in a gender-exclusionary manner.

FACTUAL ALLEGATIONS

NOELL AND CRYSTAL ALLEN **MARION COUNTY**

17. Noell and Crystal Allen were lawfully married in New York City, New York on November 22, 2013. At the time of their marriage, they had already been together 14 years. Currently, they have a five year old daughter, E.A. who was conceived through artificial insemination and delivered by Noell. Crystal subsequently adopted E.A. and both Noelle and Crystal are legal parents of E.A.

18. Noell is an administrative law judge with the Indiana Civil Rights Commission and Crystal is a certified public accountant with the Department of Defense.

19. The couple decided together that they wanted to add to their family, as Crystal also wanted to share in the joy of giving birth. She eventually became pregnant with the aid of intra-uterine insemination.

20. Their twins, Ashton David Allen and Alivea Deon Allen, were born prematurely on November 21, 2015 and died the same day.

21. On November 22, 2015, the day of their wedding anniversary and in the midst of their grief, the hospital informed them that despite being a lawfully married couple, Noell would not be listed on the twins' birth certificates.

22. Noelle was later informed by the Indiana State Department of Health that the State was unwilling to add Noell to a birth certificate in the absence of a court order. The Allens have not yet received the death certificate for the twins.

JACKIE AND LISA PHILLIPS STACKMAN
MARION COUNTY

23. Jackie and Lisa Phillips-Stackman were married on October 5, 2015. Jackie is a homicide/robbery detective with the Indianapolis Metropolitan Police Department and Lisa is a hair stylist.

24. Together they decided to have a child with the assistance of in vitro fertilization. Jackie's egg was paired with the sperm of a donor and implanted in Lisa.

25. On October 21, 2015, L.J.P-S was born with hydrocephalus, a brain condition that is caused when cerebrospinal fluid pools in the

skull and cannot drain. She only recently was discharged from the hospital and now faces an unknown future that, at a minimum, will likely require much medical care in her early years.

26. The MCHD refused to list Jackie on the birth certificate of L.J.P-S. Lisa received notice from the MCHD that L.J.P-S is a child born out-of-wedlock.

27. Jackie's health insurance is paying for L.J.P-S, who is considered to be a stepchild. If anything should happen to Lisa, because Jackie is not legally recognized as the parent of L.J.P-S, not only does Jackie have no legal right to claim the child or make medical decisions for her, but L.J.P-S would no longer qualify for health care under Jackie's insurance.

INDIANA'S BIRTH REGISTRATION SYSTEM

28. The Indiana Birth Work Sheet was created by the State of Indiana as part of the Indiana Birth Registration System. The Indiana Birth Worksheet asks mothers if they are married and then asks, "Are you married to the father of your child?" <http://www.state.in.us/isdh/23575.htm> (Page 4) (Last visited Dec. 7, 2015) As the husband is presumed to be the father of the birth mother's child, the birth mother can affirmatively answer the question and the husband will be listed on the birth certificate as father of the child, even if he is not the actual biological father of the child.

COUNT I
Defendants' Refusal to Recognize The Children as born in Wedlock
Violates the Equal Protection Clause
of the Fourteenth Amendment to the United States Constitution

29. Plaintiffs incorporate by reference the allegations of paragraphs 1- 28.

30. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that "no State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

31. Indiana law expressly provides that a child born to a lawfully married man and woman is a child born in wedlock. I.C. § 31-9-2-15. A child born to a woman and a man who is not presumed to be the child's father is a child born out of wedlock. I.C. § 31-9-2-16. A man married to the birth mother is presumed to be the father of the child. I.C. § 31-14-7-1(1).

32. "'Bastard child' and 'child born out of wedlock' are synonymous." *Curry v. Maynard*, 227 Ind. 46, 83 N.E.2d 782, 783 (Ind. 1949).

33. "Bastard" is most commonly used as a slur. BLACK'S LAW DICTIONARY, 172 (9th ed. 2009).

An "adulterine bastard" is defined as follows:

A child born to a married woman whose husband is not the father of the child. The rebuttable presumption is generally that a child born of the marriage is the husband's child. A child born to a woman by means of artificial insemination may be termed an adulterine bastard, but most jurisdictions prohibit a husband who has consented to the artificial

insemination from denying paternity and responsibility for the child.

BLACK'S LAW DICTIONARY 172 (9th Ed. 2009).

34. Indiana law does not recognize that children born to a woman married to another woman are children born in wedlock.

Defendants' refusal to recognize that the Children were/will be born in wedlock following the same-sex marriages of the birth mothers infringes on protections offered by the Equal Protection Clause of the Fourteenth Amendment and treats the Children differently solely because both of their married parents are females and of the same-sex instead of the opposite-sex.

35. Indiana law provides different protections for children born in and out of wedlock. For example, if another party seeks to adopt a child born in wedlock, Indiana law protects the man who is presumed to be the father even if he is not biologically related to the child through notice and other requirements. *See, e.g.*, I.C. § 31-19-9-1(a)(1) (adoption petition can only be granted if written consent is given by the biological father, adoptive father or the "man who is presumed to be the child's biological father" pursuant to I.C. § 31-14-7-1(1)).

36. The Children's parental relationship with the Same-Sex Non-Birth Parents is not protected by the requirements of I.C. § 31-19-9-1, should something happen to the birth mothers.

37. By refusing to recognize the marriage of the plaintiff couples

for purposes of determining the children were born in-wedlock, Defendants, acting under color of Indiana law, deprive the Children of the rights secured by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

COUNT II
Indiana's Refusal to Grant The Presumption Of Parenthood to
Noell Allen and Jackie Phillips-Stackman
Violates the Equal Protection Clause
of the Fourteenth Amendment to the United States Constitution

38. Plaintiffs incorporate by reference the allegations of paragraphs 1-37

39. By refusing to recognize the Same-Sex Non-birth Parents as parents on the birth certificate, the defendants are refusing to legally recognize lawful families.

40. By refusing to grant the presumption of parenthood to the Same-Sex Non-Birth Parents, Defendants are depriving the Children of the numerous legal protections afforded by having a legally recognized second parent. These protections include but are not limited to:

- a. Having two people obligated to financially and emotionally provide and care for the Children, *See, e.g.,* I.C. §31-16-6-1, *Matter of S.T.*, 621 N.E.2d 371, 373 (Ind. Ct. App. 1993);
- b. Right of inheritance (I.C. § 29-1-2-1); and,
- c. L.J.P-S' right to have a parental relationship with Jackie Phillips-Stackman that is protected by law.

41. By refusing to grant the presumption of parenthood to Same-Sex Non-Birth Parents upon the birth of the Children, Defendants are depriving the Same-Sex Non-Birth Parents of the legal protections afforded a person presumed to be a parent of a child. These protections include the right to:

- a. Make decisions regarding the medical care of the Children, *see, e.g.*, I.C. § 31-17-2-17;
- b. Visitation by and custody of the Children in the event of divorce, *see, e.g.*, I.C. § 37-17-4-1; and,
- c. Make personal and private decisions regarding the raising of the Children, *see, e.g., Troxel v. Granville*, 530 U.S. 57, 65 (2000) ("The interest of parents in the care custody and control of their children [is] perhaps the oldest of the fundamental liberty interest recognized by the court").

42. Defendants' refusal to recognize the Plaintiffs' marriages for purposes of presuming that the Same-Sex Non-Birth Parents of the Children are the legally presumed parents of the Children infringes on protections offered by the Equal Protection Clause of the Fourteenth Amendment and treats the Children differently because their married parents are female and of the same-sex..

43. By refusing to presume parenthood for the Same-Sex Non-Birth Parents of the Children, Defendants, acting under color of Indiana law, deprive the Children of the rights secured by the Equal Protection

Clause of the Fourteenth Amendment to the United States Constitution.

44. The granting of a presumption of parenthood to male spouses who are not biologically related to the offspring of their wives who were artificially inseminated and refusing to grant the same presumption of parenthood to the female spouses of birth mothers who were also artificially inseminated is gender-based discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment.

COUNT III
Indiana's Refusal to Recognize that
L.J.P-S and Ashton and Alivea were Born in Wedlock and to
Grant the Presumption of Parenthood to
Noell Allen and Jackie Phillips-Stackman
Violates the Due Process Clause of the Fourteenth Amendment
to the United States Constitution

45. Plaintiffs incorporate by reference the allegations of paragraphs 1- 44.

46. Decision-making regarding child rearing is a central part of the liberty protected by the Due Process Clause.

47. As the spouses of the birth mothers, the Same-Sex Non-Birth Parents have the fundamental right to be recognized as parents and to have the care, custody and control of the Children born to their marriages, just like the same parental rights accorded to male spouses who are not biologically related to children born in the marriage but who are presumed to be the parent of the child.

48. The Same-Sex Non-Birth Parents have the right to determine how the remains of their children shall be treated and handled upon the

death of the child and have the right to address any issues which might arise regarding the child's estate.

49. The Children have the fundamental familial right to be raised and nurtured by both of their parents. See, e.g., *Berman v. Young*, 291 F.3d 976, 983 (7th Cir. 2002) (citation omitted).

50. All Plaintiffs have a protected property interest in maintaining their lawful familial status and the comprehensive protections and mutual obligations that are provided to families under Indiana law.

51. The failure of Indiana's laws to recognize the Children as children born in wedlock to a married couple stigmatizes the Children and denies the Children the same rights accorded to children born to a married man and woman.

52. The failure of Indiana's laws to presume parenthood for the Same-Sex Non-Birth Parents at the time of the Children's birth, denies the Plaintiffs their fundamental right to live as a legal familial unit and denies them due process and the myriad benefits, privileges and rights accorded to parents and children under Indiana law.

53. Defendants' refusal to recognize the marriages of the plaintiff couples for purposes of determining whether the Children were born in or out of wedlock and their refusal to presume parenthood for Same-Sex Non-Birth Parents while presuming parenthood for men who are not biologically related to the children born to their wives, violates the Due

Process Clause of the U.S. Constitution.

DECLARATORY AND INJUNCTIVE RELIEF
28 U.S.C. §§ 2201 and 2202;
Federal Rules of Civil Procedure, Rules 57 and 65

54. Plaintiffs incorporate by reference the allegations of paragraphs 1- 53.

55. This case presents an actual controversy because Defendants' present and ongoing denial of equal treatment to Plaintiffs; the infringement of Plaintiffs' fundamental rights; and the denial of due process to Plaintiffs, subjects them to serious and immediate harms, including the refusal to recognize them as parents and loving, lawfully married families, ongoing emotional distress and stigma, warranting the issuance of a judgment declaring that I. C. § 31-9-2-15, § 31-9-2-16 and § 31-14-7-1 violate the Equal Protection Clause and/or the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

56. A favorable decision enjoining Defendants from further constitutional violations, and mandating them to recognize the marriage and presumed parenthood of Noell and Crystal Allen and Jackie and Lisa Phillips-Stackman would redress and prevent the irreparable injuries to all Plaintiffs which they have identified, and for which they have no adequate remedy at law or in equity.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully request that this Court:

a. Enter a declaratory judgment that §§ I. C. § 31-9-2-15 and-16 and § 31-14-7-1, as applied to Plaintiffs, violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

b. Enter a declaratory judgment that I. C. §§ 31-9-2-15 and § -16 and § 31-14-7-1, as applied to Plaintiffs, violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

c. Enter a permanent injunction enjoining Defendants to recognize L.J.P-S and Ashton and Alivea Allen as children born in wedlock;

d. Enter a permanent injunction enjoining Defendants to identify Noell Allen as a parent of Ashton and Alivea Allen and Jackie Phillips-Stackman as a parent of L.J.P-S and to so reflect on the birth certificates;

e. Award Plaintiffs the costs of suit, including reasonable attorneys' fees under 42 U.S.C. § 1988; and,

f. Enter all further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

/s/ Karen Celestino-Horseman

Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth

William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust

Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann

Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON,)
a married couple and L.W.C.H.,)
by his parent and next friend)
Ruby Henderson,)

Plaintiffs,)

-vs-)

DR. JEROME M. ADAMS, in his official capacity as)
Indiana State Health Commissioner;)
DR. JEREMY P. ADLER, in his official capacity as)
Health Officer for the Tippecanoe County Health)
Department; CRAIG RICH, in his official capacity as)
Administrator of the Tippecanoe County Health)
Department; GLENDA ROBINETTE, Vital Records)
Registrar, Tippecanoe County Health Department)
PAM AALTONEN, RN, DR. THOMAS C. PADGETT,)
THOMETRA FOSTER, KAREN COMBS,)
KATE NAIL, RN, DR. JOHN THOMAS and)
DR. HSIN-YI WENG, all in their official capacities)
as members of the Tippecanoe County)
Board of Health,)

Cause No: 1:15-CV-220

Defendants.)

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Plaintiffs Ashlee and Ruby Henderson, a married couple and
L.W.C.H., by his parent and next friend Ruby Henderson, by counsel,
hereby allege as follows:

INTRODUCTION

1. Plaintiffs bring this action to challenge the constitutionality under the United States Constitution of Indiana Code provisions § 31-9-2-15 ("Child born in wedlock"), § 31-9-2-16 ("Child born out of wedlock") and § 31-14-7-1 ("Presumption of Paternity") ("Statutes"). These statutes bastardize L.W.C.H. by refusing to recognize that L.W.C.H. was born in wedlock to two lawfully married same-sex spouses; deny to L.W.C.H. the benefit and stability of presuming two parents obligated and responsible for L.W.C.H. upon his birth; and deny a presumption of parenthood and all the rights and responsibilities which are attendant to such a presumption to Ashlee Henderson because she is a woman married to L.W.C.H.'s biological mother. Said challenge to the Statutes is both facial and as applied to plaintiffs.

2. Indiana Code § 31-9-2-15 provides as follows:

"Child born in wedlock", for purposes of IC 31-19-9 [Consent to Adoption], means a child born to:

- (1) a woman; and
- (2) a man who is presumed to be the child's father under IC 31-14-7-1(1) [Presumption of Paternity] or IC 31-14-7-1(2) unless the presumption is rebutted.

3. Indiana Code § 31-9-2-16 provides as follows:

"Child born out of wedlock", for purposes of IC 31-19-3,

IC 31-19-4-4, and IC 31-19-9, means a child who is born to:

- (1) a woman; and
- (2) a man who is not presumed to be the child's father under IC 31-14-7-1(1) or IC 31-14-7-1(2).

4. Indiana Code § 31-14-7-1(1) provides as follows:

A man is presumed to be a child's biological father if:

- (1) the:
 - (A) man and the child's biological mother are or have been married to each other; and
 - (B) child is born during the marriage or not later than three hundred (300) days after the marriage is terminated by death, annulment, or dissolution

5. Indiana Code § 31-9-2-15 and § 31-9-2-16, which define a child born in and out of wedlock, bastardize L.W.C.H. because by statute, he was not born to a woman married to a man but instead was born to a woman married to another woman, despite the fact that Indiana now recognizes same-sex marriage.

6. To establish whether a baby born to two women who are married to each other is a baby born in wedlock, the couple must bear the additional cost and stigma of petitioning a court to determine whether the child was born in wedlock. *See*, I.C. § 31-13-2-1.

7. The only means by which parenthood will be granted to the female spouse of the birth mother is through adoption of the baby that she

planned for with her spouse.

8. In contrast, under I.C. § 31-14-7-1(1), a man is granted the presumption of parenthood by virtue of the fact that he is married to the biological mother of the child, regardless of whether the husband is biologically related to the child. For example, a third person can serve as sperm donor and the husband is still presumed to be the father of the child even though he is not biologically related to the child.

9. Opposite-sex couples to whom a baby is born during the course of the marriage do not have to bear the stigma and cost of having their baby declared to have been born in wedlock nor do they have to bear the stigma and cost of having the male spouse of a female declared the parent of the child as he is presumed to be the parent unless or until otherwise challenged.

10. Indiana's law restricting the presumption of parenthood to men and bastardizing children born to women in same-sex marriages publicly stigmatizes persons in a same-sex marriage and sends a hideous message to their children by implying that these children are somehow less deserving of the presumption of two parents and legitimacy.

11. Defendants' refusal to recognize Ashlee Henderson on the birth certificate of L.W.C.H. harms L.W.C.H. because a birth certificate is the official document that establishes a person's identity. A birth

certificate also establishes a baby's family. As the Seventh Circuit Court of Appeals has stated: "The [S]tate [of Indiana] recognizes that family is about raising children and not just about producing them." *Baskin v. Bogan*, 766 F.3d 648, 663 (7th Cir. 2014), *cert. den.* *Bogan v. Baskin*, 135 S. Ct. 316, 190 L. Ed. 2d 142, 2014 U.S. LEXIS 5797, 83 U.S.L.W. 3189 (U.S. 2014) (holding unconstitutional Indiana statute that prohibited and refused to recognize same-sex marriage).

JURISDICTION AND VENUE

12. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1343 because this suit raises federal questions pursuant to 42 U.S.C. § 1983. Plaintiffs seek both injunctive relief and a declaratory judgment pursuant to 42 U.S.C. § 2201.

13. Venue is proper in the Indianapolis Division of the Southern District of Indiana under 28 U.S.C. § 139 1(b) because a defendant has his principal office in this district.

PARTIES

14. Defendant Dr. Jeremy P. Adler is the Health Officer for the Tippecanoe County Health Department. Defendant Craig Rich is the Administrator of the Tippecanoe County Health Department. Defendant Glenda Robinette is the Vital Records Registrar for the Tippecanoe County Health Department. Defendants Pam Aaltonen, RN, Dr. Thomas C. Padgett, Thometra Foster, Karen Combs, Kate Nail, RN, Dr. John

Thomas and Dr. Hsin-Yi Weng are all members of the Board of Health of Tippecanoe County, Indiana. Pursuant to I.C. § 16-20-1-16(b), "The local health officer shall be the registrar of births" and "[a]fter making a birth . . . record, the local health officer shall, by the fourth day of each month, forward the original record to the state department." Pursuant to I.C. § 16-20-1-19, "Local health officers shall enforce the health laws, ordinances, orders, rules, and regulations of the officer's own and superior boards of health." Pursuant to I.C. § 16-20-2-3, the Tippecanoe Board of Health is charged with managing the Tippecanoe County Health Department. All of these defendants are persons within the meaning of 42 U.S.C. § 1983 who were acting under color of state law at all times relevant to this complaint.

15. Dr. Jerome M. Adams is the commissioner of the Indiana State Department of Health ("ISDH"). ISDH maintains the Indiana Birth Registration System and authors the affiliated forms including, among other things, the Indiana Birth Worksheet used to capture information for the birth registry, all pursuant to I.C. § 16-37-1, *et seq.*

16. All defendants named herein are sued in their official capacities. Each of the defendants, and those subject to their supervision, direction, and control, intentionally performed, participated in, aided and/or abetted in some manner the acts alleged herein, proximately caused the harm alleged herein, and will continue to injure

plaintiffs irreparably if not enjoined from enforcing I. C. §§ 31-9-2-15 and -16.

FACTUAL ALLEGATIONS

17. On November 11, 2014, plaintiffs Ashlee and Ruby Henderson were lawfully married in Tippecanoe County, Indiana. Prior to their marriage, the couple had been together for over eight years and decided they wanted a child in their family. Subsequent to the conception of L.W.C.H., the Indiana statute prohibiting same-sex marriage was declared unconstitutional and Ashlee and Ruby Henderson married, desiring that their child be born to a wedded couple.

18. During the week of November 2, 2014, the couple contacted IU Health Arnett Hospital where it was anticipated that L.W.C.H. will be born, to ask if both spouses would be listed on the birth certificate as parents of L.W.C.H., once they were married. The couple was informed that they would need to contact the Tippecanoe County Health Department.

19. On the same day, the couple contacted the Tippecanoe Department of Health and were told that Ashlee Henderson would not be listed on the birth certificate as a parent of L.W.C.H. without a court order.

20. On or about December 2, 2014, Glenda Robinette, Vital Records Registrar, Tippecanoe County Health Department, informed Ashlee Henderson that only Ruby Henderson would be listed on the birth certificate of L.W.C.H. Attached as Exhibit A is the explanation of why Ashlee

Henderson would not be presumed to be the parent of L.W.C.H. that was forwarded by Ms. Robinette.

21. L.W.C.H. was born at I.U. Health Arnett Hospital in Lafayette, Indiana. Subsequent to his birth, Ruby Henderson was asked to complete the Indiana Birth Worksheet, version 27, 05/25/12. See, Exhibit B, pertinent pages included. The couple marked through each question asking for information regarding the father and in lieu of the word "father" inserted the term "Mother #2". All information provided regarding "Mother #2" related to Ashlee Henderson, the legal spouse of the birth mother.

22. I.U. Health Arnett informed the couple that the software they were required by the State of Indiana to use regarding birth certificates would not allow the entry of information regarding Ashlee Henderson as a parent of L.W.C.H.

23. On January 22, 2015, the Tippecanoe County Health Department issued the certificate of birth, a redacted copy of which is attached hereto as Exhibit C. On the birth certificate, L.W.C.H. is listed as the child of Ruby L. Henderson.

24. "The goal of the Indiana Birth Registration System is to enable the participants of the birth registration process to electronically file birth records with local and state registrars." <http://www.state.in.us/isdh/23575.htm> (Last visited Jan. 26, 2015). The Indiana Birth Worksheet was created by the State of Indiana as part of the Indiana Birth Registration

System. *Id.* Mothers are asked if they are married and then asked, "Are you married to the father of your child?" (Ex. B, Indiana Birth Worksheet, questions 35 and 37). Under Indiana law, as the birth mother's husband is presumed to be the father of her child, even if he is not the actual biological father of the child by her own admission, the husband remains the presumed father of the child.

COUNT I

Defendants' Refusal to Recognize L.W.C.H. as born in Wedlock Violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution

25. Plaintiffs incorporate by reference the allegations of paragraphs 1- 24.

26. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides that "no State shall . . . deny to any person within its jurisdiction the equal protection of the laws."

27. By refusing to recognize that L.W.C.H. was born in wedlock, Defendants bastardize the children born to a married couple consisting of two women, including L.W.C.H. Such bastardization stigmatizes children born to two women who are married.

28. Defendants' refusal to recognize the marriage of Ashlee and Ruby Henderson for purposes of presuming that L.W.C.H. was born to a marriage infringes on protections offered by the Equal Protection Clause of the Fourteenth Amendment and treats L.W.C.H. differently solely because his married parents are of the same-sex instead of the opposite-

sex.

29. Defendants' refusal to recognize the lawful marriage of Ruby and Ashlee Henderson pursuant to I.C. § 31-9-2-15 and § 31-9-2-16, disadvantages, harms and stigmatizes L.W.C.H. solely because his family is headed by two women versus a family headed by a man and a woman.

30. I. C. § 31-9-2-15 and § 31-9-2-16 tells L.W.C.H. that his family is not valued in the same manner as families headed by two persons of the opposite-sex.

31. To ensure that L.W.C.H. is recognized as a child born in wedlock, Ashlee and Ruby Henderson will be required to spend additional dollars securing a court order formally recognizing that their child was born to a married couple.

32. A child born during the course of a marriage between a married man and woman is defined as being a child born in wedlock and the opposite-sex parents are not required to seek a court order declaring their child as having been born during the course of their marriage.

33. If another party seeks to adopt a child born in wedlock, Indiana law protects the man who is presumed to be the father even if he is not biologically related to the child through notice and other requirements. *See, e.g.*, I.C. § 31-19-9-1(a)(1) (adoption petition can only

be granted if written consent is given by the "man who is presumed to be the child's biological father"). If the child is born out of wedlock, then there are other requirements to be satisfied. *See, e.g.*, I.C. § 31-19-9-1(a)(2) (consent for adoption of child born out of wedlock must be given by man for whom paternity is established). Indiana laws do not address what is required if a child is born to two women married to each other. L.W.C.H.'s parental relationship with Ashlee Henderson is not protected by the requirements of I.C. § 31-19-9-1, should something happen to Ruby Henderson and someone other than Ashlee should seek to adopt L.W.C.H.. Children born to a married man and woman are afforded such protections should a third party seek to adopt the child under similar circumstances, even if the father is not biologically related to the child.

34. By refusing to recognize the marriage of Ashlee and Ruby Henderson, defendants, acting under color of I. C. § 31-9-2-15 and § 31-9-2-16, deprive L.W.C.H. of the rights secured by the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

COUNT II
Indiana's Refusal to Grant The Presumption Of Parenthood to
Ashlee Henderson Violates the Equal Protection Clause
of the Fourteenth Amendment to the United States Constitution

35. Plaintiffs incorporate by reference the allegations of paragraphs 1- 34.

36. By refusing to grant the presumption of parenthood to Ashlee Henderson upon the birth of L.W.C.H., Defendants are depriving L.W.C.H. of the numerous legal protections afforded by having a second parent. These protections include but are not limited to:

- a. Having two people obligated to financially and emotionally provide and care for L.W.C.H, *See, e.g.*, I.C. §31-16-6-1, *Matter of S.T.*, 621 N.E.2d 371, 373 (Ind. Ct. App. 1993);
- b. Right of inheritance (I.C. § 29-1-2-1); and,
- d. The right to have his parental relationship with Ashlee Henderson protected by law.

37. By refusing to grant the presumption of parenthood to Ashlee Henderson upon the birth of L.W.C.H., Defendants are depriving Ashlee Henderson of the legal protections afforded a person presumed to be a parent of a child. These protections include the right to:

- a. Make decisions regarding the medical care of L.W.C.H., *See, e.g.*, I.C. 31-17-2-17;
- b. Visitation by and custody of L.W.C.H. in the event of divorce, *See, e.g.*, I.C. 37-17-4-1; and,
- c. Make personal and private decisions regarding the raising of L.W.C.H., *See, e.g.*, *Troxel v. Granville*, 530 U.S. 57, 65 (2000) ("The interest of parents in the care

custody and control of their children [is] perhaps the oldest of the fundamental liberty interest recognized by the court").

38. Regarding children, the ultimate objective of Indiana's laws is to do what is in the best interest of the child. Maintaining a biological relationship over a familial relationship is not always in the best interest of the child. For example, the State will seek to terminate a biological parent's rights if it is in the best interests of the child. (*See e.g.*, I.C. 31-35-12, *et seq.*) If a man who was presumed to be the father of a child subsequently tests the child and discovers that he is not the biological father of the child, the State will not necessarily allow him to be released from his obligations and responsibilities as parent of the child. *In re Paternity of M.M.B. and A.W.T.*, 877 N.E.2d 1239 (Ind. Ct. App. 2007).

39. Defendants' refusal to recognize the marriage of Ashlee and Ruby Henderson for purposes of presuming that L.W.C.H. was born to a marriage infringes on protections offered by the Equal Protection Clause of the Fourteenth Amendment and treats L.W.C.H. differently because his married parents are of the same-sex instead of the opposite-sex.

40. By refusing to recognize the marriage of Ashlee and Ruby Henderson and grant the presumption of parenthood to Ashlee Henderson, defendants, acting under color of Indiana law, deprive L.W.C.H. of the rights secured by the Equal Protection Clause of the

Fourteenth Amendment to the United States Constitution.

41. The granting of a presumption of parenthood to male spouses who are not biologically related to the offspring of their wives who were artificially inseminated and refusing to grant the same presumption of parenthood to the female spouses of birth mothers who are not biologically related to the child, is also gender-based discrimination in violation of the Equal Protection Clause of the Fourteenth Amendment.

COUNT III

Indiana's Refusal to Recognize that L.W.C.H. was Born in Wedlock and to Grant the Presumption of Parenthood to Ashlee Henderson Violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution

42. Plaintiffs incorporate by reference the allegations of paragraphs 1- 41.

43. The Fourteenth Amendment to the United States Constitution guarantees to all citizens due process of law.

44. Decision-making regarding child rearing is a central part of the liberty protected by the Due Process Clause.

45. As the spouse of Ruby Henderson, Ashlee Henderson has the fundamental right to the care, custody and control of L.W.D.H., a child born to her marriage, just like the same parental rights accorded to male spouses who are not biologically related to children born in the marriage.

46. L.W.C.H. has the fundamental familial right to be raised and

nurtured by both of his parents. *See, e.g., Berman v. Young*, 291 F.3d 976, 983 (7th Cir. 2002) (citing *Troxel*, 530 U.S. at 65-66 (2008)).

47. Ashlee and Ruby Henderson and L.W.C.H. have a protected property interest in maintaining their lawful familial status and the comprehensive protections and mutual obligations that are provided to families under Indiana law.

48. The failure of Indiana's laws to recognize L.W.C.H. as a child born in wedlock to a married couple denies L.W.C.H. the same right accorded to children born to a married man and woman.

49. The failure of Indiana's laws to presume parenthood for Ashlee Henderson, the spouse of Ruby Henderson, at the time of L.W.C.H.'s birth, denies the plaintiffs their fundamental right to live as a legal familial unit and denies them due process and the myriad benefits, privileges and rights accorded to parents and children under Indiana law.

50. Defendants' refusal to recognize the marriage of Ashlee and Ruby Henderson for purposes of determining whether L.W.C.H. was born in or out of wedlock and their refusal to presume parenthood for Ashlee Henderson while presuming parenthood for men who are not biologically related to the children born to their wives, violates the Due Process Clause of the U.S. Constitution.

DECLARATORY AND INJUNCTIVE RELIEF
28 U.S.C. §§ 2201 and 2202;
Federal Rules of Civil Procedure, Rules 57 and 65

51. Plaintiffs incorporate by reference the allegations of paragraphs 1- 49.

52. This case presents an actual controversy because defendants' present and ongoing denial of equal treatment to plaintiffs; the infringement of plaintiffs' fundamental rights; and the denial of due process to plaintiffs, subjects them to serious and immediate harms, including ongoing emotional distress and stigma, warranting the issuance of a judgment declaring that I. C. § 31-9-2-15, § 31-9-2-16 and § 31-14-7-1 violate the Equal Protection Clause and/or the Due Process Clause of the Fourteenth Amendment to the United States Constitution.

53. A favorable decision enjoining defendants from further constitutional violations, and mandating them to recognize the marriage of Ashlee and Ruby Henderson, would redress and prevent the irreparable injuries to plaintiffs which they have identified, and for which they have no adequate remedy at law or in equity.

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully request that this Court:

a. Enter a declaratory judgment that § I. C. § 31-9-2-15, § 31-9-2-16 and § 31-14-7-1 on their face and as applied to plaintiffs violate

the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;

b. Enter a declaratory judgment that I. C. § 31-9-2-15, § 31-9-2-16 and § 31-14-7-1 on their face and as applied to plaintiffs violates the Due Process Clause of the Fourteenth Amendment to the United States Constitution;

c. Enter a permanent injunction directing defendants to recognize L.W.C.H. as a child born in wedlock within the State of Indiana and to administer all laws so as to provide the same benefit for all children born to two women who are married to each other;

d. Enter a permanent injunction directing defendants to presume that Ashlee Henderson is the parent of L.W.C.H. by identifying her as a parent on the birth certificate;

e. Award plaintiffs the costs of suit, including reasonable attorneys' fees under 42 U.S.C. § 1988; and,

f. Enter all further relief to which plaintiffs may be justly entitled.

Respectfully submitted,

/s/ Karen Celestino-Horseman

Karen Celestino-Horseman
Of Counsel, Austin & Jones, P.C.
One N. Pennsylvania St.
Suite 220
Indianapolis, IN 46204
Tel: (317) 632-5633
Fax: (317) 630-1040
E-mail: karen@kchorseman.com

/s/ William R. Groth

William R. Groth
Fillenwarth Dennerline Groth &
& Towe, LLP
429 E. Vermont St.
Suite 200
Indianapolis, IN 46202
Tel: (317) 353-9363
Fax: (317) 351-7232
E-mail: wgroth@fdgtlaborlaw.com

/s/ Raymond L. Faust

Raymond L. Faust
House Reynolds & Faust LLP
11711 North Pennsylvania St.
Suite 190
Carmel, IN 46032
Tel: (317) 564-8490
Fax: (317) 564-8499
Email: rfaust@housereynoldsfaust.com

/s/ Richard A. Mann

Richard A. Mann
Richard A. Mann, P.C.
3750 Kentucky Ave.
Indianapolis, IN 46221
Tel: (317) 388-5600
Fax: (317) 388-5630
E-mail: RMann@mannlaw.us