

admit that on April 5, 2017, a birth certificate was registered listing Allison as M.Z.-B.'s "mother" and Stefania as M.Z.-B.'s "parent," that Plaintiffs informed the Department of State that Allison is the gestational and genetic mother of L.Z.-B, and that Stefania and Allison were married at that time of L.Z.-B.'s birth. Defendants otherwise lack knowledge or information sufficient to form a belief as to the truth of the allegations in this paragraph.

3. The first sentence in this paragraph consists of legal conclusions, to which no response is required, but to the extent a response may be required, deny. The second sentence characterizes 8 U.S.C. § 1401(g), to which the court is referred for a full and complete statement of its contents. The third sentence also consists of a legal conclusion, to which no response is required, but to the extent a response is required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in this sentence, except to admit that Allison Blixt is a U.S. citizen. The fourth sentence in this paragraph consists of legal conclusions, to which no response is required, but to the extent a response may be required, deny.
4. Admit that the State Department applied Section 309 of the Immigration and Nationality Act ("INA") with respect to the applications for Consular Reports of Birth Abroad ("CRBA") submitted on behalf of L.Z.-B. and M.Z.-B. The remainder of this paragraph consists of legal conclusions, to which no response is required, but to the extent a response is required, deny that the State Department's actions were unlawful.
5. The first clause of the first sentence consists of a legal conclusion, to which no response is required, but to the extent a response may be required, deny that the Department acted improperly. As to the second clause of the first sentence, admit that the Department

recognized Massi's citizenship only. The second sentence consists of a legal conclusion, to which no response is required, but to the extent a response may be required, deny. The third sentence does not set forth a claim for relief or aver facts in support of a claim, to which an answer is required, or constitutes argument, but to the extent a response may be required, deny.

6. Paragraph six consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response is required, deny.
7. The first two sentences of this paragraph consist of legal conclusions to which no response is required, but to the extent that a response is required, admitted. The third sentence is denied. The fourth sentence consists of a legal conclusion, to which no response is required, but to the extent a response may be required, deny. The fifth sentence does not set forth a claim for relief or aver facts in support of a claim to which an answer is required, or constitutes argument. Alternatively, the fifth sentence is a legal conclusion to which no response is required, but to the extent a response may be required, deny.
8. The first four sentences of paragraph eight consist of legal conclusions, to which no response is required, but to the extent a response may be required, deny. The fifth sentence consists of a legal conclusion, to which no response is required, but to the extent a response is required, Defendants deny any violations of law and lack knowledge or information sufficient to form a belief as to the truth of the allegations in the rest of the sentence. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the sixth sentence. To the extent the last clause of the sixth

sentence states a legal conclusion, no response is required, but to the extent a response is required, deny.

9. Paragraph nine consists of a legal conclusion, to which no response is required, but to the extent a response is required, denied.

THE PARTIES

10. Admit that Plaintiffs provided information to the Department of State indicating the first sentence of paragraph 10 as true on the date the complaint was filed. Admit that Plaintiffs provided information to the Department of State indicating as true the first clause of the second sentence, but lack knowledge or information sufficient to form a belief as to the truth of the allegations of the second clause of that sentence.
11. Admit the first sentence of paragraph 11 as true on the date the complaint was filed. In the second sentence, admit that L.Z.-B. was born in London, England and otherwise aver that Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations of the sentence.
12. Paragraph 12 consists of Plaintiffs' characterization of their lawsuit, to which no response is required, but to the extent a response may be required, admit.
13. Admit the first sentence of paragraph 13. Defendants further admit that the State Department oversees all U.S. embassies and sets policy, formed consistent with the law, that U.S. embassy employees follow in determining the citizenship status of persons applying to be documented as U.S. citizens.
14. Denied insofar as the Honorable Michael R. Pompeo is currently serving as the Secretary of State. Defendants admit the rest of this paragraph.

JURISDICTION AND VENUE

15. Paragraph 15 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, admit.
16. Paragraph 16 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, admit.
17. Paragraph 17 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, admit.
18. Paragraph 18 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, admit.

STATUTORY AND REGULATORY BACKGROUND

A. United States Citizenship at Birth

19. Paragraph 19 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, admit as generally true and refer this Court to the U.S. Constitution's Fourteenth Amendment and the INA for a full and accurate statement of its contents.
20. Paragraph 20 consists of Plaintiffs' legal conclusions regarding a statute, to which no response is required, but to the extent a response may be required, Defendants refer this Court to Sections 301 to 309 of the INA for a full and accurate statement of their contents.
21. Paragraph 21 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, Defendants refer this Court to Section 309 of the INA for a full and accurate statement of their contents.

22. Paragraph 22 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, admit and refer this court to INA Sections 301 and 309 for a full and accurate statement of their contents.
23. Paragraph 23 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, Defendants refer this Court to the INA for a full and accurate statement of its contents.
24. Paragraph 24 consists of Plaintiffs' legal conclusions, to which no response is required. Alternatively, Defendants lack knowledge sufficient to form a belief as to the truth of the allegations in the first three sentences of this paragraph. To the extent a response may be required, deny the third sentence.

B. The History of Sex-Based Discrimination as to Citizenship Rights

25. Paragraph 25 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.
26. Paragraph 26 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of this paragraph.
27. Paragraph 27 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, Defendants refer this Court to the INA for a full and accurate statement of its contents.
28. Paragraph 28 consists of Plaintiffs' legal conclusions, to which no response is required. Further, Plaintiffs' reference to statements made by the Supreme Court is vague and unspecified and therefore Defendants lack sufficient information to admit or deny them.

29. Paragraph 29 consists of Plaintiffs' legal conclusions, to which no response is required.

Further, Plaintiffs' reference to statements made by the Supreme Court is vague and unspecified and therefore Defendants lack sufficient information to admit or deny them.

30. Paragraph 30 consists of Plaintiffs' legal conclusions, to which no response is required.

Defendants refer this Court to H.R. Rep. 85-1199, at 2020 (1957), for a full and accurate statement of its contents. To the extent a response is required, admit that Congress has made the statements quoted in this paragraph.

31. Paragraph 31 consists of Plaintiffs' legal conclusions, to which no response is required.

Further, Plaintiffs' reference to statements made by the Congress are vague and unspecified and therefore Defendants lack sufficient information to admit or deny them.

C. The Constitutional Rights of Same-Sex Couples

32. Paragraph 32 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, admit as generally true and refer this Court to *United States v. Windsor*, 133 S. Ct. 2675 (2013) for a full and accurate statement of its contents.

33. Admit.

34. Paragraph 34 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, Defendants refer this Court to *Obergefell v. Hodges*, 135 S. Ct. 2584 (2015), for a full and accurate statement of its contents.

35. Paragraph 35 consists of Plaintiffs' legal conclusions, to which no response is required. Alternatively, Paragraph 35 consists of Plaintiffs' characterization of a Supreme Court case, and Defendants refer this Court to *Obergefell v. Hodges*, 135 S.Ct. 2584 (2015), for a full and accurate statement of its contents. To the extent a response may be required, admit that the Court stated the language quoted in this paragraph, but deny that it did so.

in the pages cited by Plaintiffs and instead aver that the quoted language appears here:
135 S. Ct at 2600–01.

36. Paragraph 36 consists of Plaintiffs’ legal conclusions, to which no response is required. Alternatively, Paragraph 35 consists of Plaintiffs’ characterization of a Supreme Court case, and Defendants refer this Court to *Pavan v. Smith*, 137 S.Ct. 2075 (2017), for a full and accurate statement of its contents. To the extent a response may be required, admit that the Court stated the language quoted in this paragraph.

D. The State Department’s Restrictive Classification of Eligible Children

37. The first sentence of paragraph 37 consists of Plaintiffs’ legal conclusions, to which no response is required, but to the extent a response is required, deny. Defendants deny the second sentence of the paragraph.
38. Defendants deny Plaintiffs’ characterization in the first sentence of paragraph 38 that Defendants have imposed the policy described in the second sentence of paragraph 37. Defendants admit the second sentence, and respectfully refer the Court to Exhibit A for a complete and accurate statement of the contents of the cited section of the Foreign Affairs Manual (FAM) and further aver that it does not constitute the entirety of Department guidance on this issue.
39. Admit the first sentence of paragraph 39. The second sentence of the paragraph consists of Plaintiffs’ legal conclusions, to which no response is required, but to the extent a response may be required, deny.
40. Paragraph 40 consists of Plaintiffs’ legal conclusions, to which no response is required, but to the extent a response may be required, admit that the Foreign Affairs Manual states that “at least one biological parent must have been a U.S. citizen when the child was born” for a foreign-born child to acquire U.S. citizenship at birth. Defendants refer this

Court to the Foreign Affairs Manual and the cases cited by Plaintiffs for the full and accurate contents of the referenced documents.

FACTUAL ALLEGATIONS

A. The Zaccari-Blixt Family

41. Admit that Allison Blixt is a U.S. citizen. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 41.
42. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 42.
43. On information and belief, admit that Stefania Zaccari is an Italian citizen. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in paragraph 43.
44. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 44.
45. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 45. The first sentence of this paragraph also consists of a legal conclusion, to which no response is required, but to the extent a response may be required, the Court is referred to 1 U.S.C. § 7 for a full and complete statement of its contents.
46. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 46. The first sentence of paragraph 46 consists of a legal conclusion, to which no response is required, but to the extent a response is required, Defendants also lack knowledge or information sufficient to form a belief as to the truth of the allegations in that sentence.

47. Admit that Plaintiffs have accurately quoted a portion of Exhibit B referenced in paragraph 47 and further refer the Court to Exhibit B for a complete and accurate statement of its contents.
48. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence. Admit that Plaintiffs provided the Department of State with information sufficient to believe that L.Z.-B. and M.Z.-B. were conceived through the use of assisted reproductive technology.
49. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in paragraph 49 and further refer the Court to Exhibit C for a complete and accurate statement of its contents.
50. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the first sentence. Defendants admit the second sentence based on information that Plaintiffs provided to the Department of State. Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations in the third sentence. The fourth sentence consists of a legal conclusion, to which no response is required, but to the extent a response may be required, Defendants lack knowledge or information sufficient to form a belief as to the truth of the allegations of this sentence.
51. Defendants lack knowledge or information sufficient to form a belief as to the truth of the first, second, and fourth sentences in paragraph 51. Defendants lack knowledge or information sufficient to form a belief as to the truth of the third sentence, except to admit that on February 25, 2017, a birth certificate was registered for M.Z.-B. listing Allison as “mother” and Stefania as “parent.” Defendants admit the fifth sentence. Defendants lack

knowledge or information sufficient to form a belief as to the truth the sixth sentence in paragraph 51, except to admit that Allison and Stefania are listed as Massi's parents on his birth certificate.

52. In the first sentence, admit that based on information that Plaintiffs provided to the Department of State, L.Z.-B. and M.Z.-B. share the same legal parents. With respect to the second sentence, Defendants admit that Plaintiffs informed the Department of State that M.Z.-B. has a genetic relationship with Allison Blixt, and L.Z.-B. does not have a same genetic relationship. Defendants lack knowledge or information sufficient to form a belief as to the truth of the remaining allegations in the second sentence. The third and fourth sentences consist of legal conclusions, to which no response is required or do not set forth a claim for relief or aver facts in support of a claim or constitute argument, to which no response is required, but to the extent a response may be required, deny.

B. The Application of the State Department's Policy to the Zaccari-Blixt Family

53. Admit that Allison Blixt and Stefania Zaccari appeared at the U.S. consulate in London on March 11, 2015 and applied for a U.S. Passport and Consular Reports of Birth Abroad for L.Z.-B. and submitted his birth certificate, their marriage certificate, and payment for the application fees.
54. Admit that a consular interview took place and, on information and belief, that the interviewing officer attempted to learn whether L.Z.-B. had a biological relationship with Allison. Defendants otherwise lack knowledge or information sufficient to form a belief as to the allegations in paragraph 54.
55. Admit that a consular interview took place but Defendants otherwise lack knowledge or information sufficient to form a belief as to the allegations in the first sentence of paragraph 55. Admit that the applications were subsequently withdrawn.

56. Admit that Allison Blixt and Stefania Zaccari appeared at the U.S. consulate in London on May 23, 2017 and applied for Consular Reports of Birth Abroad for L.Z.-B. and his brother M.Z.-B. and submitted their birth certificates, their marriage certificate, and payment for the application fees. Admit that Allison and Stefania also applied for a U.S. passport for M.Z.-B. that same day, but deny that they applied for a U.S. passport for L.Z.-B. on that day. On information and belief, admit that the interviewing officer attempted to learn whether L.Z.-B. and M.Z.-B. had biological connections with Allison. Defendants lack knowledge or information sufficient to form a belief as to the remainder of the allegations in paragraph 56.
57. Admit that Plaintiffs have accurately quoted a portion of Exhibit D referenced in paragraph 57 and further refer the Court to Exhibit D for a complete and accurate statement of its contents.
58. Paragraph 58 consists of Plaintiffs' characterization of a letter attached as Exhibit D, to which Defendants refer this Court for a complete and accurate statement of its contents.
59. Admit that L.Z.-B. was not granted a U.S. passport, but deny that he was not granted a U.S. passport because he was not granted a Consular Report of Birth Abroad. Defendants otherwise lack knowledge or information sufficient to form a belief as to the allegations in paragraph 59.
60. Defendants lack knowledge or information sufficient to form a belief as to the allegations in the first clause of the first sentence of paragraph 60. With respect to the remainder of the paragraph, Defendants admit that the U.S. Embassy in London received a request for reconsideration in this matter dated September 5, 2017.

61. Defendants admit that in response to Plaintiffs' counsel's inquiry, Ronald S. Packowitz, Chief, American Citizen Services at the U.S. Embassy, London sent a letter to Plaintiffs' counsel, Theodore Edelman, dated November 7, 2017 (Exhibit E). Defendants refer the Court to Exhibit E for a complete and accurate statement of the letter's contents.

C. The State Department Erroneously Deemed Lucas to Have Been Born "Out of Wedlock"

62. Paragraph 62 consists of Plaintiffs' legal conclusions, to which no response is required. Alternatively, the second sentence of this paragraph consists of Plaintiffs' characterization of a statute, to which no response is required. Defendants refer this Court to Section 301(g) of the INA for a full and accurate statement of its contents. To the extent a response may be required, Defendants deny the first sentence of Paragraph 64 and admit the rest.

63. Paragraph 63 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

64. Paragraph 64 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

D. The State Department's Policy Unconstitutionally Discriminates on the Basis of Sex and Sexual Orientation.

65. The first sentence of this paragraph consists of a statement that does not set forth a claim for relief or aver facts in support of a claim. The remainder of paragraph 65 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny that Defendants challenged actions violate constitutional protections.

66. Paragraph 66 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

67. Paragraph 67 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

68. Paragraph 68 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

69. Paragraph 69 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

70. Paragraph 70 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

71. Paragraph 71 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

72. Paragraph 72 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

**COUNT I – DECLARATORY JUDGMENT
THE STATE DEPARTMENT'S POLICY VIOLATES THE DUE PROCESS
GUARANTEE OF THE FIFTH AMENDMENT.**

73. Defendants incorporate by reference the answers to paragraphs 1 through 72 of the Complaint.

74. Paragraph 74 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, admit.

75. Paragraph 75 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, admit.

76. Paragraph 76 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, deny the first sentence insofar as it suggests that Section 301 of the INA unqualifiedly entitles U.S. citizens to confer citizenship at birth on their children born abroad in wedlock. Admit the second sentence. Defendants

admit the third sentence inasmuch as the text of Section 301 contains no such express reference but aver that Defendants' interpretations of applicable provisions of the INA are reasonable as a matter of law. The fourth sentence is vague and therefore Defendants lack sufficient information to admit or deny it.

77. Paragraph 77 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, deny.

78. Paragraph 78 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, deny.

79. Paragraph 79 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, deny.

80. Paragraph 80 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, deny.

**COUNT II – DECLARATORY JUDGMENT
THE STATE DEPARTMENT'S POLICY VIOLATES THE CONSTITUTIONAL
GUARANTEE OF EQUAL PROTECTION UNDER THE LAW.**

81. Defendants re-incorporate by reference their answers to paragraphs 1 through 72 of the Complaint.

82. Paragraph 82 consists of Plaintiffs' legal conclusion, to which no response is required. To the extent a response may be required, admit.

83. Paragraph 83 consists of Plaintiffs' legal conclusion, to which no response is required, but to the extent a response may be required, deny.

84. Paragraph 84 consists of Plaintiffs' legal conclusion, to which no response is required. To the extent a response may be required, deny.

85. Paragraph 85 consists of Plaintiffs' legal conclusion, to which no response is required. To the extent a response may be required, deny.

86. Paragraph 86 consists of Plaintiffs' legal conclusion, to which no response is required.

To the extent a response may be required, deny.

87. Paragraph 87 consists of Plaintiffs' legal conclusion, to which no response is required.

To the extent a response may be required, deny.

88. Paragraph 88 consists of Plaintiffs' legal conclusion, to which no response is required.

To the extent a response may be required, deny.

89. Paragraph 89 consists of Plaintiffs' legal conclusion, to which no response is required,

but to the extent a response may be required, deny.

COUNT III – ADMINISTRATIVE PROCEDURE ACT

90. Defendants re-incorporate by reference their answers to paragraphs 1 through 72 of the Complaint.

91. Paragraph 91 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

92. Paragraph 92 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response is required, admit that the Administrative Procedure allows plaintiffs to bring actions to set aside final agency actions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

93. Paragraph 93 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

94. Paragraph 94 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

95. Paragraph 95 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

96. Paragraph 96 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

97. Paragraph 97 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

98. Paragraph 98 consists of Plaintiffs' legal conclusions, to which no response is required, but to the extent a response may be required, deny.

PRAYER FOR RELIEF

The remaining paragraphs of the Complaint contain Plaintiffs' requested relief, to which no response is required, but to the extent a response is required, Defendants deny the allegations contained in the remaining paragraphs of the Complaint and further aver that Plaintiffs are not entitled to any relief.

Defendants hereby deny all allegations in the Complaint not expressly admitted or denied. WHEREFORE, having fully answered the Complaint, Defendants assert that Plaintiffs are not entitled to the relief requested and respectfully request that the Court enter judgment dismissing this action with prejudice and awarding Defendants costs and, such other relief as the Court may deem appropriate.

Dated: June 14, 2019

Respectfully submitted,

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