No. 14-124

In the Supreme Court of the United States

GARY R. HERBERT, IN HIS OFFICIAL CAPACITY AS GOVERNOR OF UTAH, AND SEAN D. REYES, IN HIS OFFICIAL CAPACITY AS ATTORNEY GENERAL OF UTAH,

Petitioners,

v.

DEREK KITCHEN, MOUDI SBEITY, KAREN ARCHER, KATE CALL, LAURIE WOOD, AND KODY PARTRIDGE, INDIVIDUALLY,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Tenth Circuit

BRIEF OF THE STATES OF COLORADO, ALABAMA, ALASKA, ARIZONA, GEORGIA, IDAHO, LOUISIANA, MONTANA, MISSISSIPPI, MISSOURI, NEBRASKA, NORTH DAKOTA, OKLAHOMA, SOUTH CAROLINA, SOUTH DAKOTA, WEST VIRGINIA, AND WISCONSIN AS *AMICI CURIAE* SUPPORTING PETITIONERS

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Question Presented

Does the United States Constitution include a right to same-sex marriage?

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Interest of the Amici States[1]

The amici States are among the 31 States that retain traditional marriage laws defining marriage as the legal union of a man and a woman. The States' interest in this petition[2] is far from hypothetical as they each face active litigation by same-sex couples asserting the same constitutional theory for redefining marriage as presented in this case. *See* Appendix (collecting 89 pending and 4 recently final cases). This Court's resolution of the issue presented, or lack of resolution, will thereby have an immediate impact on the States.

Summary of the Argument

Rarely will a case present a more compelling need for this Court's review. Just last summer this Court decided *Hollingsworth v. Perry*, but on account of procedural defects was unable to reach the merits of the constitutional claim for same-sex marriage. Since that time, the importance of the legal issue has only increased by pick-your-metaphor proportions. Every single State with traditional marriage laws has been hauled to court, often with multiple cases, sometimes in both state and federal courts. So compelling is the

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[1] Pursuant to Supreme Court Rule 37.2(a), counsel of record for all parties have received notice of the amici States' intention to file this brief more than 10 days prior to the due date of this brief. Consent of the parties is not required for the States to file an amicus brief. Sup. Ct. R. 37.4.

[2] The amici States have filed this identical brief in both *Herbert v. Kitchen*, No. 14-124, and *Smith v. Bishop*, No. 14-136. Only the caption differs.

need for this Court's review that both Petitioners and Respondents "agree that the Court should grant Utah's petition and settle this important question." Br. for Resp. at 2, *Herbert v. Kitchen* (No. 14-124).

An astounding 89 cases challenging traditional marriage laws are pending in the 31 States with such laws. *See* Appendix. There are scores of cases requiring thousands of hours to litigate the same legal question presented in this petition. These cases are divisive and costly, not only in terms of money and manpower, but in terms of respect for the democratic process and deliberation undertaken by millions of voters where the nature of marriage has recently been debated.

In the past year alone lower courts have repeatedly ruled against traditional marriage laws by uniformly looking to this Court's decision in *United States v. Windsor*, 133 S. Ct. 2675 (2013) as marking a sea change in the law and requiring state constitutional provisions and statues to be struck down.[3] The public institution of marriage, as recently debated and delineated through the legislatures and popular votes of millions, state-by-state, face legal challenges that can only be finally resolved by this Court.

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[3] Just yesterday, however, the Eastern District of Louisiana ruled in favor of that State's traditional marriage laws, disagreeing with the string of other federal district courts that have interpreted *Windsor* as leading to a ruling against traditional marriage. *See Robicheaux v. Caldwell*, Order and Reasons at 11, 12 (E.D. La. Sept. 3, 2014) (Nos 13-cv-5090, 14-97, 14-327) (noting that "[a]lthough both sides seek the safe haven of *Windsor* to their side of this national struggle" and concluding "*Windsor* leaves unchanged 'the concerns for state diversity and sovereignty.'" citing *Windsor*, 133 S. Ct. at 2697 (Roberts, C.J., dissenting)).

Is there a federal constitutional right to same-sex marriage? The answer to that question, as raised by this case, will directly impact the States' historical prerogative to define marriage. Without an answer from this Court the often repetitive litigation across the nation will continue unabated. This Court has the prerogative and ability to provide a unified answer to the legal controversy and resolve the near weekly increase in same-sex marriage litigation against the States. An immediate review of the issue is warranted.

Argument

I. The Important Question Raised by the Petition Should Now be Answered.

The question presented by this petition is plainly important to citizens and sovereigns alike. Only this Court's unifying voice can restore order in this public conflict over the nature of constitutional rights and state marriage laws.

A. This Petition, like *Hollingsworth v. Perry*, presents an important question.

This Court recognized the importance of the question presented in this petition by granting certiorari in *Hollingsworth v. Perry*, 133 S. Ct. 2652 (2013) on the same legal issue; namely, does the Fourteenth Amendment to the U.S. Constitution prohibit a State from defining marriage as the union of a man and a woman? *Compare* Pet. for Cert., *Hollingsworth v. Perry*, 133 S. Ct. 2652 (2013) (No. 12-144); *with* Pet. for Cert. *Herbert v. Kitchen* (No. 14-124). The question was undoubtedly important when this Court took up *Hollingsworth* and has only become more so now. By any measure, the legal conflict

surrounding same-sex marriage has grown exponentially since last summer when this court took up, but was unable to fully resolve, the issue.

When *Hollingsworth* brought the constitutional question to the forefront, only six States extended marriage to same-sex couples. That number had grown, exclusively through democratic means, to 12 States by the following summer when *United States v. Windsor* was decided. Since then, the number has increased to 19 States – almost entirely through judicial intervention, not democratic means. Of the seven States added to the same-sex marriage column since last summer, six involved judicial intervention.[4] The remaining 31 States with traditional marriage laws have all been embroiled in litigation during the past year, making the situation more acute than when *Hollingsworth* petitioned for certiorari.

Likewise, when *Hollingsworth* was deemed to raise a question warranting this Court's review, the Ninth Circuit was alone in declaring State marriage laws unconstitutional. *Perry v. Brown*, 671 F.3d 1052 (9th Cir. 2012), *vacated Hollingsworth v. Perry*, 133 S. Ct. 2652; *see also Citizens for Equal Protection v. Bruning,* 455 F.3d 859, 867 (8th Cir. 2006) (upholding Nebraska's traditional marriage law). Now, the Tenth Circuit has ruled twice, the Fourth Circuit has ruled, (both over dissent) and cases have been argued in the

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[4] *See* http://www.ncsl.org/research/human-services/same-sex-marriage-laws (reviewing states); *and* Appendix (citing pending cases challenging state laws)

Sixth[5] and Seventh[6] Circuits, with arguments scheduled for later this fall in the Ninth Circuit,[7] and still another case is pending in the Fifth Circuit.[8] In total, there are active same-sex marriage cases pending within *every* federal circuit which includes a State with traditional marriage laws. The breadth of same-sex marriage litigation against the States is unprecedented.

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[5] **Sixth Circuit**: Oral argument was heard on August 6, 2014 in six cases from four States (cases within the same State were consolidated): *DeBoer v. Snyder*, 973 F. Supp. 2d 757 (E.D. Mich.), appeal docketed, No. 14-1341; *Obergefell v. Wymyslo*, 962 F. Supp. 2d 968 (S.D. Ohio), appeal docketed, *Obergefell v. Himes*, No. 14-3057; *Henry v. Himes*, No. 14-cv-129 (S.D. Ohio Apr. 14, 2014), appeal docketed, No. 14-3464; *Bourke v. Beshear*, No. 13-CV-750, 2014 WL 556729 (W.D. Ky. Feb. 12, 2014), appeal docketed, No. 14-5291; *Love v. Beshear*, 989 F. Supp. 2d 536 (W.D. Ky. 2014), appeal docketed, No. 14-5818; *Tanco v. Haslam*, No. 13-cv-1159, 2014 WL 997525 (M.D. Tenn. Mar. 14, 2014), appeal docketed, No. 14-5297.

[6] **Seventh Circuit:** Oral argument was heard on August 26, 2014 in two cases: *Baskin v. Bogan*, Nos. 14-cv-355, 14-cv-404, 14-cv-406, 2014 WL 2884868 (S.D. Ind. June 25, 2014), appeal docketed, Nos. 14-2386, 14-2387, 14-2388; *Wolf v. Walker*, 986 F. Supp. 2d 982 (W.D. Wis. 2014), appeal docketed, No. 14-2526.

[7] **Ninth Circuit**: Oral argument scheduled for September 8, 2014 in three cases: *Jackson v. Abercrombie*, 884 F. Supp. 2d 1065 (D. Haw. 2012), appeal docketed, Nos. 12-16995, 12-16998; *Sevcik v. Sandoval*, 911 F. Supp. 2d 996 (D. Nev. 2012), appeal docketed, No. 12-17688; *Latta v. Otter*, No. 13-cv-482, 2014 WL 1909999 (D. Idaho May 13, 2014), appeal docketed, Nos. 14-35420, 14-35421.

[8] **Fifth Circuit**: briefing is ongoing in *DeLeon v. Perry*, 975 F. Supp. 2d 632 (5th Cir. 2014), appeal docketed, No. 14-50196.

The question presented in this petition goes to the heart of the States' traditional role in regulating marriage. *See Windsor*, 133 S. Ct. 2675, 2689–90. Laws relating to same-sex marriage are hardly the only State regulation of marriage – as hundreds of laws in each State depend upon the legal institution of marriage. The paramount role States have in regulating marriage is uncontroversial. Even proponents of extending marriage to same-sex couples agree on the far reaching importance of marriage as a legal institution. One would be hard pressed to find other State laws with as far-reaching an impact on how a State governs the affairs of its citizens.

In this context, the prospect of federal constitutional dictates regarding how States regulate marriage, as embraced by the court below, is an issue of utmost importance. This litigation raises the prospect of a new federal constitutional limit on State marriage laws – requiring States to extend marriage to same-sex couples.

The issue here presented is also important for how it interacts with the democratic process. To wit, States have democratically deliberated the meaning of marriage with an increasing frequency during the past decade. While a few States have recently opted to so extend marriage, or been compelled to do so by court order, *see Windsor* at 2690 (citing 12 states); n.2 *supra*, far more States have opted, through a democratic process, to retain the traditional definition of marriage. This debate, however, grinds to a halt when courts are called on to settle the debate through a constitutional judgment. *See Schuette v. BAMN,* 134 S. Ct. 1623, 1637 (2014) (plurality) ("[i]t is demeaning to the democratic

process to presume that the voters are not capable of deciding [sensitive issues] on decent and rational grounds," and, therefore, "[t]he process of public disclosure and political debate should not be foreclosed[.]"). Perhaps for this reason, the increase in same-sex marriage States post-*Windsor* has come through judicial resolution everywhere outside Hawaii. *See* Haw. Res. Stat. § 572-A *et seq.* (2013).

When States face active litigation on an issue, the democratic process has little room to work. *See Schuette*, 134 S. Ct. at 1637 (noting that the democratic process is "impeded, not advanced by court decrees based on the proposition that the public cannot have the requisite repose to discuss certain issues."). Many of the pending same-sex marriage cases call into question the States' democratic process. Regardless of the ultimate outcome, it will benefit the democratic process to have this Court provide a swift resolution to the uncertain legal claims currently winding their way through the courts. Finality alone will allow the engine of deliberation to operate among the citizens.

B. The important question presented by the petition would stave off the increasing burden of same-sex marriage litigation against States.

Seemingly without end, the legal challenges to state marriage laws have deteriorated into a morass. So many cases have been filed in the past year that even ascertaining a mere count of the cases can prove difficult. *See* Appendix (identifying 93 cases); *and* Br. for Resp. at 15, *Herbert v. Kitchen* (No. 14-124) ("over 70 suits") (citing http://www.freedomtomarry.org/litigation/). As explained in more detail below, the cases

reveal a troublesome situation whereby States and courts alike struggle to even proceed orderly.

In the year since this court decided *United States v. Windsor* every State with traditional marriage laws has come to exist under a legal cloud that is fast becoming a storm. *See* Appendix (identifying 93 cases). At breakneck pace, a score of federal district courts have found the laws of Colorado, Florida, Idaho, Indiana, Kentucky, Michigan, Ohio, Oklahoma, Tennessee, Texas, Utah, Virginia and Wisconsin to violate the Fourteenth Amendment. *Id.* Louisiana alone has prevailed in federal district court. *See* n.3 *supra*.

At the highest level, cases from Utah, Oklahoma and Virginia are seeking certiorari review and cases from Idaho, Indiana, Kentucky, Michigan Nevada, Ohio, Tennessee, Texas, and Wisconsin are awaiting decisions from federal courts in the Fifth, Sixth, Seventh, and Ninth Circuits. *See* Appendix (collecting cases). At the lower level, nearly a hundred cases in an array of contexts are being litigated with the core claim that the federal constitution precludes States from recognizing marriage as it has been for centuries. *Id.* To understand the enormity of pending litigation, the same-sex marriage cases can be broken down into four main categories.

First, same-sex couples have sought State-issued marriage licenses, or sought to have marriage licenses obtained from outside the State recognized. The petition here involves just such a direct challenge. Related, some same-sex couples have obtained same-sex marriage licenses in several States while the merits of litigation are still pending. The legal validity of these

marriage licenses is questionable and has already precipitated declaratory judgment actions in both Utah and Colorado. *See Evans v. Herbert*, No. 14-4060 (10th Cir.); and *Colorado v. Hall*, Intervening Counterclaim (Colo. Boulder Dist. Ct. filed July 7, 2014) (stayed pending appeal).

Second, and related, the authority of State officers to issue same-sex marriage licenses in traditional marriage jurisdictions has led to legal conflicts in Pennsylvania, Colorado, and Missouri, as well as public disputes in Indiana and elsewhere.[9] *E.g. Missouri v. Carpenter*, (Mo. St. Louis Cir. Ct.) (No. 1422-CC09027) (challenge to St. Louis officials issuing same-sex marriage licenses). Clerks in Pennsylvania and Colorado started issuing same-sex marriage licenses before even a trial court had opined on the constitutionality of those states' traditional marriage laws.

The public soon witnessed conflicting positions between state clerks and other state officers regarding the authority to issue marriage licenses contrary to existing state law. *See, e.g.*, *Dep't of Health v. Hanes,* 78 A.3d 676, 692 (Pa. Commw. Ct. 2013) (mandamus

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[9] *See, e.g.*, *Same-Sex Marriage in Indiana: Is Your County Allowing It?*, TheIndyChannel, June 27, 2014, http://www.theindychannel.com/news/local-news/how-are-indiana-clerks-handling-same-sex-marriage (describing split of counties issuing same-sex marriage licenses before Seventh Circuit stay was issued). Indiana has indicated it will not recognize the same-sex marriage licenses issued in the interim. *See* Barb Berggoetz, *Indiana Won't Recognize Same-Sex Marriages Performed Last Month*, IndyStar, July 9, 2014, http://www.indystar.com/story/news/politics/2014/07/09/state-recognize-june-marriages-sex-couples/12410207/.

action against clerk issuing same-sex marriage licenses). In Colorado, for example, no less than three clerks began issuing same-sex marriage licenses in the face of the still-valid state constitutional definition of marriage. This conflict between the Attorney General of Colorado and the clerks required not one but two emergency actions to the Colorado Supreme Court to resolve. *Brinkman v. Long*, Order (Colo. July 18, 2014) (No. 13CV32572); *Colorado v. Hall*, Order (Colo. July 29, 2014) (No. 2014SC582).

Third, when trial or appellate courts issue orders or opinions that find state marriage laws to be incompatible with the federal constitution, the effect of these decisions pending appeals has created numerous conflicts. This Court alone has issued three orders granting a stay pending appeal or certiorari. *Herbert v. Kitchen*, Order (U.S. Jan. 6, 2014) (No. 13A687); *Herbert v. Evans*, Order (U.S. July 18, 2014) (No. 14A65); *McQuigg v. Bostic*, Order (U.S. Aug. 20, 2014 (No. 14A196). Litigation about the litigation has become a highly divisive and a time-sensitive matter in many States. The same-sex marriage cases have created a virtual cottage industry of procedural litigation regarding stays pending appeal.

Fourth, due to the far-reaching public impact of state marriage laws, the constitutionality of same-sex marriage continues to present itself in miscellaneous contexts. Examples of ancillary cases:

- Same-sex divorce cases have been brought in numerous States. *E.g. In the Matter of J.B and H.B*, No. 11-0024 (Tex.) (No. 11-0024).

- In Kentucky the spousal privilege has been challenged in the context of a same-sex couple where the State does not otherwise recognize same-sex marriages. *Commwealth of Ky. v. Clary*, (Ky. Jefferson Cnty. Cir. Ct.) (No. 11CR3329).

- In Kansas same-sex couples have sued to challenge State law regarding tax returns. *Nelson v. Kan. Dep't of Revenue*, (Kan. Shawnee Cnty. Dist. Ct.) (No. 13-c-1465); *see also Messer v. Nixon*, (Mo. Cole Cnty Ct. Ct.) (No. 14AC-CC00009)(third party challenging acceptance of joint tax returns from same-sex couples).

- In Alabama a wrongful death case presents a same-sex survivor where the case challenges the state law relating to same-sex marriage. *Hard v. Bentley*, (M.D. Al.) (No. 13-cv-922).

Absent this Court taking up the issue, these types of conflict will likely continue to play out in the pending same-sex marriage cases. Far better than allowing this discord to be aired from court-to-court across the country, this Court can swiftly resolve the legal dispute and thereby take control of the conflict.

The States are deeply burdened by the storm of pending marriage litigation. To be sure, States defending their traditional marriage laws have a profound interest in protecting their constitutions and related laws governing marriage. In addition, however, States face the prospect of costly attorney fee awards under 42 U.S.C. § 1988 should courts ultimately reject the State defense of marriage laws. Prompt review of this case would go a long way to minimizing State

exposure to the concrete burdens of continued, but redundant, litigation of the constitutional issue here presented.

C. Only the Supreme Court can provide a final answer to the important question presented.

The States value clarity and finality of the constitutional question now before this Court. All sides of the marriage debate can agree, without getting to the merits of the claims, courts are all looking to the Supreme Court's *Windsor* precedent as the rule of decision for challenges to state marriage laws. Indeed, all the post-*Windsor* cases where state marriage laws have been found unconstitutional have looked to *Windsor* as the precedent above all others.

Does the Fourteenth Amendment as interpreted by the *Windsor* majority permit States to maintain traditional marriage laws? The perceived answer to this question has been the animating justification for every court decision that has called into question existing state marriage laws. Only this Court can directly answer such an important question.

Absent this Court's review there is a real prospect that a legal patchwork will arise. The federal and state courts will continue to see appeals as the traditional marriage laws in 31 States face legal challenge. Even now, the Eighth Circuit has arguably come to the opposite conclusion from the Tenth and Fourth Circuits on the question of traditional marriage laws surviving Fourteenth Amendment scrutiny. *See Bruning,* 455 F.3d at 867. Lower court challenges in the Eighth Circuit have not yet tested the vitality of this 2006

federal Court of Appeals opinion. (Federal district court cases are pending in Arkansas, Missouri, North Dakota and South Dakota). *Bruning* now stands as the Eighth Circuit's answer to the question presented and conflicts with the answers given by the divided opinions of the Tenth and Fourth Circuits.

The country needs final judicial resolution. Unlike some legal issues that develop slowly across the country, this legal issue has presented itself rapidly following *Windsor*. States that continue to defend traditional marriage laws will undoubtedly present a strong defense of these laws once they are before this Court on the merits. For now, however, having this Court take up the legal issue is of utmost importance to the States.

The amici States strongly urge this Court to provide a perspicuous answer to the question presented – sooner rather than later. The lack of a final resolution to the legal claims pending across the country means that society continues to seek legal direction on the issue not only in the cases directly challenging state laws, but in derivative litigation. Only this Court can provide the definitive legal answer that will end the growing litigation faced by nearly two thirds of the States of this union.

II. The Petition Presents a Good Vehicle for Answering the Important Constitutional Question.

The amici States seek a final and full resolution of the claimed constitutional right to compel the States to recognize same-sex marriage. The primary legal issue facing States with traditional marriage laws is simply

whether the U.S. Constitution requires States to adopt and recognize same-sex marriage. From the claims in the Utah and Oklahoma cases this Court will have the opportunity to answer the legal question at the center of the controversy boiling across the country.

To that end, the petitions from the Utah and Oklahoma cases provide a means to address the core legal claims that have become the foundation of the 93 cases identified in the Appendix. The petitioners are undoubtedly the proper defendants of state law. This contrasts with the situation in *Hollingsworth* where the Attorney General of California declined to defend that state's constitution and, ultimately, this Court was unable to resolve the case on the merits for lack of a proper defendant with standing. No such malady will derail these petitions.

The conflict between the petitioners and respondents has been amply framed by the divided opinion of the Tenth Circuit below. There are no apparent jurisdictional, standing, or procedural pitfalls to the Utah and Oklahoma cases. As reflected in the Tenth Circuit opinions below, the legal arguments for and against state marriage laws have been vigorously presented and provide an ample constitutional controversy for this Court to resolve. In addition, the Tenth Circuit opinions do not rely on any particular idiosyncratic facts or features of Utah or Oklahoma law to reach its conclusions. The legal issues are thus cleanly presented in a context that will likely provide meaningful guidance to the many other States with traditional marriage laws.

As the breadth of litigation shows, *see* Appendix, States face legal challenges from same-sex couples

without any apparent regard to finer differences between State marriage laws. So long as the ultimate resolution from this Court addresses the legal claims without idiosyncratic facts or features of any particular State's marriage law controlling, then the result can provide adequate guidance for the many pending cases.

Once resolved, the legal issues presented in the Utah and Oklahoma petitions are well positioned to provide the necessary guidance to the other States with traditional marriage laws. With such a press of litigation about same-sex marriage on the docket, the States see the value in having a clear resolution of the legal claims that can provide guidance needed for the long list of courts handling similar claims.

Conclusion

The Court should grant the petition for certiorari.

Respectfully submitted,

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SEPTEMBER 2014

APPENDIX

APPENDIX

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Pending Same-Sex Marriage Cases

State	Case
Ala.	*Hard v. Bentley*, No. 13-cv-922 (M.D. Al.)
Ala.	*Searcy v. Bentley*, No. 14-cv-00208 (S.D. Al.)
Ala.	*Aaron-Brush v. Bentley*, No. 14-cv-01091 (N.D. Al.)
Ala.	*Richmond v. Richmond*, No. DR. 2014-000080 (Ala. Madison Cnty Circuit Court)
Alaska	*Harris v. Millennium Hotel*, No. S15230 (Alaska July 25, 2014) (final)
Alaska	*Hamby v. Parnell*, No. 14-cv-00083 (D. Alaska)
Ariz.	*Connolly v. Roche*, No. 14-cv-00024 (D. Ariz.)
Ariz.	*Majors v. Horne*, No. 14-cv-00518 (D. Ariz.)
Ark.	*Jernigan v. Crane*, No. 13-cv-0410 (E.D. Ark.)
Ark.	*Wright v. Arkansas*, No. CV-14-427 (Ark.)
Colo.	*Brinkman v. Long*, No. 2014SA212 (Colo.)
Colo.	*McDaniel-Miccio v. Hickenlooper*, No.14CV30731 (Colo.) (consolidated)
Colo.	*Colorado v. Hall*, No. 2104SC582 (Colo.)
Colo.	*Colorado v. Hall*, Intervening Def. Counterclaim, *Holley v. Colorado*, No. 2014-cv-30833 (Colo. Boulder Dist. Ct.)
Colo.	*Burns v. Suthers*, No. 14-1283 (10th Cir.)
Fla.	*Dousset v. Florida Atlantic Univ.*, No. 4D14-480 (Fla. Dist. Ct.)
Fla.	*Huntsman v. Heavilin*, No. 2014-CA-205-K (Fla. Cir. Ct.)
Fla.	*Shaw v. Shaw*, No. 14-DR-000666 (Fla. Cir. Ct.)

Fla.	*Pareto v. Ruvin*, No.14-1661 CA24 (Fla. Cir. Ct.)
Fla.	*In re Bangor Estate*, No. 502014CP001857 (Fla. Cir. Ct.)
Fla.	*Brassner v. Lade*, No. 13-012058(37) Fla. Cir. Ct.)
Fla.	*Brenner v. Scott*, No. 14-cv-00107 (N.D. Fla.)
Fla.	*Grimsley v. Scott*, No. 14-cv-00138 (N.D. Fla.)
Ga.	*Inniss v. Aderhold*, No. 14-cv-01180 (N.D. Ga.)
Idaho	*Latta v. Otter*, Nos. 14-35420, 14-35421 (9th Cir.)
Idaho	*Taylor v. Brasuell*, No. 14-cv-00273 (D. Idaho)
Ind.	*Brennon v. Milby*, No. 43A02-1401-ct-00020 (Ind. Ct. App.)
Ind.	*Wetli v. Shaffer*, No. 02C01-1403-DR-300 (Ind. Allen Cir. Ct.)
Ind.	*Love. v. Pence*, No. 14-cv-00015 (S.D. Ind.)
Ind.	*Baskin v. Zoeller*, No. 14-2037 (7th Cir.)
Ind.	*Fuji v. Gov.*, No. 14-00404 (7th Cir.)
Ind.	*Bowling v. Pence*, No. 14-cv-00405 (S.D. Ind.)
Ind.	*Lee v. Pence*, No. 14-cv-00406 (7th Cir.)
Kan.	*Nelson v. Kan. Dep't of Revenue*, No. 13-c-1465 (Kan. Shawnee Cnty. Dist. Ct.)
Ky.	*Bourke v. Beshear*, No. 14-5291 (6th Cir.)
Ky.	*Love v. Beshear*, No. 14-5818 (6th Cir.) (consolidated)
Ky.	*Franklin v. Beshear*, No. 5291 (6th Cir.)

Ky.	*Commwealth of Ky. v. Clary,* 11CR3329 (Ky. Jefferson Cnty. Cir. Ct. Sept. 23, 2013) (final)
Ky.	*Romero v. Romero*, 13Cl-503351 (Ky. Jefferson Fam. Ct.)
Ky.	*Kentucky Equality Fed' v. Beshear*, No. 13-CI-1074 (Ky. Franklin Cty. Cir. Ct.)
Ky.	*Hardee v. Beshear*, No. 14-CI-322 (KY. Tr. Ct.) (consolidated)
La.	*Robicheaux v. Caldwell*, No. 14-cv-5090 (E.D. La. Sept. 3, 2014) (Order and Reasons)
La.	*Robicheaux v. George*, 14-cv-97 (E.D. La.) (consolidated)
La.	*Forum for Equality v. Barfield*, No. 14-cv-327 (E.D. La.) (consolidated)
La.	*In re Angela Costanza*, No. 2103-33539 (La. Lafayete Dist. Ct.)
La.	*In re Nicholas Ashton*, No. JAC14-314 (La. Ct. App.)
Mich.	*DeBoer v. Snyder*, No. 14-1341 (6th Cir.)
Mich.	*Blankenship v. Snyder*, No. 2014-cv-12221 (E.D. Mich.)
Mich.	*Caspar v. Snyder*, No. 14-cv-11499 (E.D. Mich.)
Mich.	*Bassett v. Snyder*, No. 12-cv-10038 (E.D. Mich.)
Mich.	*Morgan v. Snyder*, No. 14-cv-632 (W.D. Mich.)
Miss.	*Czekala-Chatham v. Melancon*, No. 2014-00008 (Miss.)
Mo.	*Barrier v. Vasterling*, No. 1416-cv-03892 (Mo. Jackson Cnty. Ct.)
Mo.	*Lawson v. Kelly*, No. 14-cv-622 (W.D. Mo.)

Mo.	*Glossip v. Mo. Dep't of Transp. & Hwy Patrol Emp's Ret. Sys.*, 411 S.W.3d 796 (Mo. Oct. 29, 2013) (final)
Mo.	*Missouri v. Carpenter*, No. 1422-CC09027 (Mo. St. Louis Cir. Ct.)
Mo.	*Messer v. Nixon*, No. 14AC-CC00009 (Mo. Cole Cnty Ct. Ct.)
Mont.	*Donaldson v. Montana*, No. BDV-2010-702 (Mont. Lewis & Clerk Cnty Ct.)
Mont.	Rolando v. Fox, No. 14-cv-40 (D. Mont.)
Neb.	*Nichols v. Nichols*, 288 Neb. 399 (Neb. June 13, 2014) (final)
Nev.	*Sevcik v. Sandoval*, No. 12-17688 (9th Cir.)
N.C.	*Fisher-Borne v. Smith*, No. 12-00589 (M.D. N.C.)
N.C.	*Gerber v. Cooper*, No. 14-cv-299 (M.D. N.C.)
N.C.	*McCrory v. North Carolina*, 14-cv-65 (W.D. N.C.)
N.C.	*General Synod of the United Church of Christ v. Cooper*, No. 14-cv-213 (W.D. N.C.)
N.D.	*Ramsey v. Dalrymple*, No. 14-cv-57 (D. N.D.)
N.D.	*Jorgensen v. Montplaisir*, No. 14-cv-58 (D. N.D.)
Ohio	*Obergefell v. Himes*, No. 14-3057 (6th Cir.)
Ohio	*Henry v. Himes*, No. 14-3464 (6th Cir.)
Ohio	*Gibson v. Himes*, No. 14-cv-347 (S.D. Ohio)
Okla.	*Smith v. Bishop*, No. No. 14-136 (U.S.) (certiorari filed)
S.C.	*Bradacs v. Haley*, No. 13-cv-2351 (D. S.C.)

S.C.	*Swicegood v. Thompson*, No. 2014-1109 (S.C. Ct. App.)
S.D.	*Rosenbrahn v. Daugaard*, No. 14-cv-4081 (D. S.D.)
Tenn.	*Tanco v. Haslam*, No. 14-5297 (6th Cir.)
Tenn.	*Borman v. Pyles-Borman*, No. 14-cv-36 (Tenn. Roane Cty. Ct. Aug. 5, 2014) (Mem. of Opp. Issued)
Tex.	*In the Matter of J.B and H.B*, No. 11-0024 (Tex.)
Tex.	*Texas v. Naylor*, No. 11-0114 (Tex.)
Tex.	*DeLeon v. Perry*, No. 14-50196 (5th Cir.)
Tex.	*Pidgeon v. Parker*, No. 13-cv-3768 (S.D. Tex.)
Tex.	*Freeman v. Parker*, No. 13-cv-3755 (S.D. Tex.)
Tex.	*Zahrn v. Perry*, No. 13-cv-955 (W.D. Tex.)
Tex.	*McNosky v. Perry*, No. 13-cv-631 (W.D. Tex.)
Tex.	*In the Matter of Marriage of A.L.F.L. and K.L.L.*, No. 2014-CI-2421 (Tex. Ct. App)
Tex.	*Nuckols v. Perry*, No. 13-cv-245 (S.D. Tex.)
Utah	*Herbert v. Kitchen*, No.14-124 (U.S.) (certiorari filed)
Utah	*Evans v. Utah*, No. 14-4060 (10th Cir.)
Va.	*Rainey v. Bostic*, No. 14-152 (U.S.) (certiorari filed)
Va.	*Harris v. Rainey*, No. 13-cv-77 (W.D. Va.)
Va.	*Tucker v. State Farm Mutual Auto Ins. Co.*, No. 13-cv-24 (W.D. Va.)
W. Va.	*McGee v. Cole*, No. 13-cv-24068 (S.D. W. Va.)
Wis.	*Wolf v. Walker*, No. 14-2526 (7th Cir.)

Wyo.	*Courage v. Wyoming*, No. 182-262 (Wyo. Laramie Cnty. Ct.)

89 pending cases, 93 total cases.