

Defendants State of Utah, Governor Gary Herbert and Attorney General Sean Reyes (“collectively “State Defendants”) answer the Complaint ([doc. 1](#)) filed by Plaintiffs and assert their defenses as follows.

NATURE OF THE CLAIMS

1. Defendants are without sufficient information as to form a belief as to the truth of the allegations in the first sentence of Paragraph 1, and therefore deny the same. The remainder of the paragraph contains legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 1.

2. Defendants admit that, based upon, among other things, the Supreme Court’s stay of the order in *Kitchen v. Herbert*, Utah agencies were instructed to place recognition of same-sex marriages “on hold.” The remainder of the paragraph contains legal conclusions, to which no response is required. To the extent a response is required, Defendants deny the allegations in Paragraph 2.

3. As to the allegations in Paragraph 3, Defendants admit that Plaintiffs allege a cause of action pursuant to the United States Constitution, and that they seek declaratory and injunctive relief. Defendants deny that Plaintiffs are entitled to any relief, deny that they have cognizable causes of action, and deny any remaining allegations in Paragraph 3.

BACKGROUND FACTS

4. Defendants admit the allegations in Paragraph 4.

5. Defendants state that the text of Utah Code § 30-1-1.4 is apparent from its face and no response is necessary to Paragraph 5. To the extent a response is necessary, Defendants deny that the statute violates any of Plaintiffs' constitutional rights.

6. Defendants admit the allegations in Paragraph 6.

7. Defendants admit the allegations in Paragraph 7.

8. Defendants admit that, on or about March 25, 2013, *Kitchen v. Herbert*, 2:13-cv-217-RJS was filed in the Federal District Court for the District of Utah against Governor Gary Herbert, then-Utah Attorney General John Swallow, and Salt Lake County Clerk Sherrie Swensen, all acting in their official capacities. Defendants lack information sufficient to form a belief regarding any remaining allegations in Paragraph 8, and therefore deny the same.

9. Regarding the allegations in Paragraph 9 Defendants state that the allegations made in *Kitchen* are apparent from the face of the Complaint filed therein. Defendants admit that the parties in *Kitchen* filed cross-motions for summary judgment.

10. Defendants admit the allegations in Paragraph 10.

11. Defendants admit that the words quoted by Plaintiffs are from the District Court's order granting the plaintiffs' cross-motions for summary judgment in *Kitchen*, attached to Plaintiffs' Complaint as Exhibit A.

12. Defendants admit that marriage licenses were issued to same-sex couples in Salt Lake and Washington Counties on December 20, 2013. Defendants lack information sufficient to form a belief as to the truth of the remainder of the allegations in Paragraph 12, and therefore deny the same.

13. As to the allegations of Paragraph 13, Defendants admit that officials acting on behalf of the State of Utah repeatedly requested a stay of the ruling, including orally and in writing, to the District Court and the Court of Appeals, on December 20, 2013. *See, e.g., [Emergency Mot. for Temporary Stay](#), Kitchen v. Herbert*, No. 13-4178 (10th Cir. filed Dec. 20, 2013).

14. As to the allegations of Paragraph 14, Defendants admit that the December 20, 2013 request for a stay was denied because the rules “contemplate only a motion for stay pending appeal” and admit that the denial was without prejudice. *See Ord., Kitchen v. Herbert*, No. 13-4178 (10th Cir. Dec. 22, 2013).

15. Defendants admit the allegations in Paragraph 15.

16. Defendants admit the allegations in Paragraph 16.

17. Defendants admit that, on December 23, 2013, following the U.S. District Court’s denial of a stay, Governor Herbert and the acting Utah Attorney General filed another motion with the U.S. Court of Appeals for the Tenth Circuit requesting a stay.

18. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 18, and therefore deny the same.

19. Defendants admit that the directive attached as Exhibit B was issued by the office of the Governor on or about December 24, 2013, and the text is apparent from its face.

20. Defendants admit the allegations in Paragraph 20.

21. Defendants admit that on December 24, 2013, the Court of Appeals for the Tenth Circuit denied the request for a stay filed on December 23, 2013.

22. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 22, and therefore deny the same.

23. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 23, and therefore deny the same.

24. Defendants admit that Governor Herbert and newly appointed Attorney General Sean Reyes filed a request for a stay with the United States Supreme Court on December 31, 2013. Defendants deny all remaining allegations in Paragraph 24.

25. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 25, and therefore deny the same. Defendants admit that a number of same-sex couples received marriage licenses between December 20, 2013 and January 6, 2014.

26. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 26, and therefore deny the same. Defendants admit that a number of same-sex couples received marriage licenses between December 20, 2013 and January 6, 2014.

27. Defendants admit the allegations in Paragraph 27.

28. As to the allegations in Paragraph 28, Defendants state that the Order is ascertainable from its text, which was quoted in its entirety in Paragraph 27. Defendants deny any further allegation in Paragraph 28.

29. As to the allegations in Paragraph 29, Defendants admit that Exhibit C was issued by the Office of the Attorney General, and the quotation accurately reflects language in Exhibit C. Defendants deny any further allegations contained in Paragraph 29.

30. As to the allegations in Paragraph 30, Defendants admit that Exhibit D was issued by the Office of the Governor, and its purpose is ascertainable from its text. Defendants deny any further allegations contained in Paragraph 30.

31. As to the allegations in Paragraph 31, Defendants admit that the quotation exists in Exhibit D. Defendants deny any further allegations contained in Paragraph 31.

32. As to the allegations in Paragraph 32, Defendants admit that the quotation exists in Exhibit D. Defendants deny any further allegations contained in Paragraph 32.

33. As to the allegations in Paragraph 33, Defendants admit that the quotation exists in Exhibit D. Defendants deny any further allegations contained in Paragraph 33.

34. As to the allegations in Paragraph 34, Defendants admit that the quotation exists in Exhibit D. Defendants deny any further allegations contained in Paragraph 34.

35. As to the allegations in Paragraph 35, Defendants admit that Exhibit E was issued by the Office of the Attorney General, and that the quotation exists in Exhibit E. Defendants deny any further allegations contained in Paragraph 35.

36. As to the allegations in Paragraph 36, Defendants admit that the quotation exists in Exhibit E, though without the emphasis added by Plaintiffs. Defendants deny any further allegations contained in Paragraph 36.

37. As to the allegations in Paragraph 37, Defendants admit that the quotation exists in Exhibit E. Defendants deny any further allegations contained in Paragraph 37.

38. As to the allegations in Paragraph 38, Defendants admit that the quotation exists in Exhibit E. Defendants deny any further allegations contained in Paragraph 38.

39. As to the allegations in Paragraph 39, Defendants admit that Exhibit F is a notice issued by the Utah State Tax Commission on or about January 15, 2014. Defendants deny any further allegations contained in Paragraph 39, including any implication that the quotations proffered by Plaintiffs summarize the entirety of Exhibit F or the Tax Commission or the State of Utah's position regarding the tax status of couples who received a marriage license in Utah between December 20, 2013 and January 6, 2014.

40. As to the allegations in Paragraph 40, Defendants admit that the quotation exists in Exhibit F. Defendants deny any further allegations contained in Paragraph 40.

PLAINTIFFS

41. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 41, and therefore deny the same.

42. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 42, and therefore deny the same.

43. Defendants admit that Elenor Heyborne is a State employee. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 43, and therefore deny the same.

44. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 44, and therefore deny the same.

45. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 45, and therefore deny the same.

46. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 46, and therefore deny the same.

47. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 47, and therefore deny the same.

48. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 48, and therefore deny the same.

49. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 49, and therefore deny the same.

50. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 50, and therefore deny the same.

51. Defendants admit that Matthew Barraza is an attorney licensed to practice law in Utah. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 51, and therefore deny the same.

52. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 52, and therefore deny the same.

53. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 53, and therefore deny the same.

54. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 54, and therefore deny the same.

55. Defendants admit that, under Utah law, same-sex couples may not adopt a child together. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 55, and therefore deny the same.

56. Defendants admit that Utah law prohibits the State from recognizing or giving the same or substantially equivalent effect to a marriage or other domestic union between anyone except a man and a woman. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 56, and therefore deny the same.

57. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 57, and therefore deny the same.

58. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 58, and therefore deny the same.

59. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 59, and therefore deny the same.

60. Defendants admit that Mr. Barraza and Mr. Milner initiated court proceedings for Mr. Milner to adopt their son. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 60, and therefore deny the same.

61. Defendants admit that, in the pending adoption case involving Mr. Milner's adoption, notice of the petition was provided to the Attorney General, and the Attorney General was given the opportunity to intervene. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 61, and therefore deny the same.

62. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 62, and therefore deny the same.

63. Defendants are without sufficient information to form a belief as to the truth of the remaining allegations in Paragraph 63, and therefore deny the same.

64. Defendants deny the allegations in Paragraph 64.

65. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 65, and therefore deny the same.

66. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 66, and therefore deny the same.

67. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 67, and therefore deny the same.

68. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 68, and therefore deny the same.

69. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 69, and therefore deny the same.

70. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 70, and therefore deny the same.

71. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 71, and therefore deny the same.

72. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 72, and therefore deny the same.

73. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 73, and therefore deny the same.

74. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 74, and therefore deny the same.

75. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 75 and therefore deny the same.

76. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 76, and therefore deny the same.

77. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 77, and therefore deny the same.

78. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 78, and therefore deny the same.

79. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 79, and therefore deny the same.

80. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 80, and therefore deny the same.

81. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 81, and therefore deny the same.

82. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 82, and therefore deny the same.

83. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 83, and therefore deny the same.

84. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 84, and therefore deny the same.

85. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 85, and therefore deny the same.

86. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 86, and therefore deny the same.

FIRST CAUSE OF ACTION

87. Defendants incorporate by reference all their responses to the allegations set forth above, and the affirmative defenses set forth below.

88. Defendants admit that, between December 20, 2013 and January 6, 2014, in accordance with the injunction in place at that time from the District Court in *Kitchen*, same-sex couples were issued marriage licenses by county clerks in the State of Utah. Defendants deny any additional allegations alleged in Paragraph 88.

89. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 89, and therefore deny the same.

90. Defendants admit that Exhibit B is a directive from the Office of the Governor, and the instructions are clear from its text. Defendants further admit that the Utah Attorney General's Office issued a statement instructing that county clerks were to comply with the

injunction issued in *Kitchen*. Defendants deny any remaining allegations set forth in Paragraph 90.

91. Defendants admit that Exhibit D is a directive from the Office of the Governor, and the instructions are clear from its text, and the quotation accurately quotes a portion of the text of Exhibit D. Defendants deny any remaining allegations set forth in Paragraph 91.

92. Defendants admit that the Utah Attorney General's Office issued a statement instructing that county clerks were to comply with the injunction issued in *Kitchen*. Defendants deny any remaining allegations set forth in Paragraph 92.

93. Defendants admit that the Utah State Tax Commission issued a notice indicating that same-sex couples married as of December 31, 2013 could *initially* file as married for the 2013 tax year. Defendants deny any remaining allegations set forth in Paragraph 93, including the implicit allegation that the tax status of same sex-couples could not be later modified.

94. Defendants deny the allegations contained in Paragraph 94.

95. Defendants admit that the United States Supreme Court has discussed the liberty interest protected by the United States Constitution, but denies that Plaintiffs have established a protectable liberty interest in marriage licenses issued pursuant to a nonfinal court order that has been stayed and is currently on appeal. Defendants deny any remaining allegations in Paragraph 95.

96. Defendants deny the allegations in Paragraph 96.

97. Defendants have moved to dismiss Plaintiffs' First Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary,

Defendants admit that Article I, Section 7 of the Utah Constitution includes the language: “No personal shall be deprived of life, liberty, or property without due process of law.” Defendants deny the remaining allegations in Paragraph 97.

98. Defendants admit that on January 8, 2014 the Office of the Governor sent notice to the Governor’s cabinet, instructing them to place any requests for benefits flowing from same-sex marriages “on hold.” Defendants deny the remaining allegations in Paragraph 98.

99. Defendants have moved to dismiss Plaintiffs’ First Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the remaining allegations in Paragraph 99.

100. Defendants have moved to dismiss Plaintiffs’ First Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the remaining allegations in Paragraph 100.

101. Defendants have moved to dismiss Plaintiffs’ First Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the remaining allegations in Paragraph 101.

102. Defendants have moved to dismiss Plaintiffs’ First Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny that the quoted passage of *United States v. Windsor* is applicable, and denies any further allegations contained in Paragraph 102.

103. Defendants have moved to dismiss Plaintiffs’ First Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary,

Defendants deny that Defendants have violated Article I, Section 7 of the Utah Constitution, that Plaintiffs have stated a claim, or that they are entitled to any relief.

SECOND CAUSE OF ACTION

104. Defendants incorporate by reference all their responses to the allegations set forth above, and the affirmative defenses set forth below.

105. Defendants admit that, between December 20, 2013 and January 6, 2014, in accordance with the injunction in place at that time from the District Court in *Kitchen*, same-sex couples were issued marriage licenses by county clerks in the State of Utah. Defendants deny any additional allegations alleged in Paragraph 105.

106. Defendants are without sufficient information to form a belief as to the truth of the allegations in Paragraph 106, and therefore deny the same.

107. Defendants admit that Exhibit B is a directive from the Office of the Governor, and the instructions are clear from its text. Defendants further admit that the Utah Attorney General's Office issued a statement instructing that county clerks were to comply with the injunction issued in *Kitchen*. Defendants deny any remaining allegations set forth in Paragraph 107.

108. Defendants admit that Exhibit D is a directive from the Office of the Governor, and the instructions are clear from its text, and the quotation accurately quotes a portion of the text of Exhibit D. Defendants deny any remaining allegations set forth in Paragraph 108.

109. Defendants admit that the Utah Attorney General's Office issued a statement instructing that county clerks were to comply with the injunction issued in *Kitchen*. Defendants deny any remaining allegations set forth in Paragraph 109.

110. Defendants admit that the Utah State Tax Commission issued a notice indicating that same-sex couples married as of December 31, 2013 could *initially* file as married for the 2013 tax year. Defendants deny any remaining allegations set forth in Paragraph 110, including the implicit allegation that the tax status of same sex-couples could not be later modified.

111. Defendants deny the allegations in Paragraph 111.

112. Defendants admit that the United States Supreme Court has discussed the liberty interest protected by the United States Constitution, but denies that Plaintiffs have established a protectable liberty interest in marriage licenses issued pursuant to a nonfinal court order that has been stayed and is currently on appeal. Defendants deny any remaining allegations in Paragraph 112.

113. Defendants deny the allegations in Paragraph 113.

114. Defendants admit that the Section 1, Clause 3 of the Fourteenth Amendment to the United States Constitution states: "nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." Defendants deny that Plaintiffs have stated a claim for violation of the Fourteenth Amendment, and deny all remaining allegations in Paragraph 114.

115. Defendants admit that on January 8, 2014 the Office of the Governor sent notice to the Governor's cabinet, instructing them to place any requests for benefits flowing from same-sex marriages "on hold." Defendants deny the remaining allegations in Paragraph 115.

116. Defendants deny the allegations in Paragraph 116.

117. Defendants deny the allegations in Paragraph 117.

118. Defendants deny the allegations in Paragraph 118.

119. Defendants deny that the quoted passage of *United States v. Windsor* is applicable, and deny the remaining allegations in Paragraph 119.

120. Defendants admit that at all times relevant, Defendants were acting under color of law, and further admit that the Governor is the final policy making authority for the State of Utah. Defendants deny the remaining allegations in Paragraph 120.

121. Defendants deny the allegations in Paragraph 121, and deny that Plaintiffs are entitled to any relief or attorney's fees.

THIRD CAUSE OF ACTION

122. Defendants incorporate by reference all their responses to the allegations set forth above, and the affirmative defenses set forth below.

123. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary Defendants admit that Rule 65B of the Utah Rules of Civil Procedure allows a person to seek extraordinary relief under certain conditions where no other plain, speedy and adequate relief is

available. Defendants deny that Plaintiffs are entitled to seek such relief, and deny any further allegations in Paragraph 123.

124. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary Defendants admit that Rule 65B of the Utah Rules of Civil Procedure permits relief where a person "unlawfully ... exercises a public office." Defendants deny that such a provision applies to Plaintiffs' claims, that any Defendants unlawfully exercised any public office, or any further allegations in Paragraph 124.

125. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary Defendants admit that Rule 65B of the Utah Rules of Civil Procedure permits relief, on specified conditions, where a person "has failed to perform an act required by law as a duty of office." Defendants deny that any Defendant has failed to perform an act as required by law, that Plaintiffs are clearly entitled to relief, and deny any further allegations in Paragraph 125.

126. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants lack information sufficient to form a belief as to the truth of the allegations in Paragraph 126, and therefore deny the same.

127. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraph 127.

128. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants admit that Exhibit D is a directive from the Office of the Governor, the instructions are clear from its text, and the quotation accurately quotes a portion of the text of Exhibit D. Defendants further admit that the Utah Attorney General's Office issued a statement instructing that county clerks were to comply with the injunction issued in *Kitchen*. Defendants further admit that the Utah State Tax Commission issued a notice indicating that same-sex couples married as of December 31, 2013 could *initially* file as married for the 2013 tax year. Defendants deny any remaining allegations set forth in Paragraph 128, including whether Plaintiffs' marriages are presently valid.

129. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants admit that, based on Utah law, the State of Utah cannot provide Plaintiffs with any protections and responsibilities attendant upon marriage which were not completed prior to January 6, 2014. Defendants deny the remaining allegations stated in Paragraph 129.

130. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraph 130.

131. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraph 131.

132. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no response is necessary to Plaintiffs' request for relief pursuant to the Utah Constitution. To the extent a response is necessary, Defendants deny that Defendants have violated Article I, Section 7 of the Utah Constitution, that Plaintiffs have stated a claim, or that they are entitled to any relief. Defendants deny the remaining allegations in Paragraph 132.

133. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary Defendants deny the allegations in Paragraph 133, and deny that Plaintiffs are entitled to any relief.

134. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary Defendants deny the allegations in Paragraph 134.

135. Defendants have moved to dismiss Plaintiffs' Third Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Rule 65B(d)(3) is not applicable in federal court, and the Court has previously set expedited briefing and hearing schedules on Plaintiffs' Motion for Preliminary Injunction, thus no additional response to the allegations in Paragraph 136 is necessary. To the extent a response is necessary, Defendants deny any allegations and deny that Plaintiffs are entitled to any relief.

FOURTH CAUSE OF ACTION

136. Defendants incorporate by reference all their responses to the allegations set forth above, and the affirmative defenses set forth below.

137. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, as to the allegations in Paragraph 137, Defendants admit that, pursuant to the Declaratory Judgment Act, this Court has the authority to issue declaratory judgments. Defendants deny that Plaintiffs are entitled to the declaratory judgment requested.

138. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, as to the allegations in Paragraph 138, Defendants admit that, pursuant to the Declaratory Judgment Act, this Court has the authority to issue declaratory judgments. Defendants deny that Plaintiffs are entitled to the declaratory judgment requested.

139. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, as to the allegations in Paragraph 139, Defendants admit that, pursuant to the Declaratory Judgment Act, this Court has the authority to issue declaratory judgments. Defendants deny that Plaintiffs are entitled to the declaratory judgment requested.

140. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants lack sufficient information to form a belief as to the truth of the allegations in Paragraph 140, and therefore denies the same.

141. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary,

as to the allegations of Paragraph 141, Defendants admit that, based on Utah law, the State of Utah cannot provide Plaintiffs with any protections and responsibilities attendant upon marriage which were not completed prior to January 6, 2014. Defendants deny the remaining allegations stated in Paragraph 141.

142. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraph 142.

143. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraph 143.

144. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no response is necessary to Plaintiffs' request for relief pursuant to the Utah Constitution. To the extent a response is necessary, Defendants deny that Defendants have violated Article I, Section 7 of the Utah Constitution, that Plaintiffs have stated a claim, or that they are entitled to any relief. Defendants deny the remaining allegations in Paragraph 144.

145. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny the allegations in Paragraph 145, and deny that Plaintiffs are entitled to the declaratory relief requested in subparagraphs (a) through (c) of the paragraph.

146. Defendants have moved to dismiss Plaintiffs' Fourth Cause of Action for failing to state a claim, and thus no further response is necessary. To the extent a response is necessary, Defendants deny that Plaintiffs are entitled to any relief, or that they are entitled to costs.

PRAYER FOR RELIEF

Defendants deny that Plaintiffs are entitled to the relief requested in Paragraphs (A) through (F), or any relief as a result of their allegations in the Complaint.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Plaintiffs fail to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs' claims are barred by sovereign and/or governmental immunity.

THIRD DEFENSE

To the extent Plaintiffs seek monetary damages, Plaintiffs' claims are barred by qualified immunity.

FOURTH DEFENSE

Plaintiffs' claims are barred because they are not ripe.

FIFTH DEFENSE

Plaintiffs' claims are barred by Utah Constitution, Article I, Section 29.

SIXTH DEFENSE

Plaintiffs' claims are barred because Defendants did not violate any of Plaintiff's constitutional, statutory, or common law rights or privileges.

SEVENTH DEFENSE

Plaintiffs' claims for extraordinary relief are barred because Plaintiffs have failed to provide notice to the Attorney General that a public official has unlawfully exercised a public office, and because Plaintiffs have failed to file an undertaking as required by Utah Rule of Civil Procedure 65B(c)(1).

EIGHTH DEFENSE

Plaintiffs' claims for extraordinary relief are barred because Plaintiffs cannot show they are clearly entitled to relief because an officer has failed to perform an act required by law.

NINTH DEFENSE

Defendants reserve the right to assert other affirmative defenses as they become known.

DEFENDANTS' PRAYER FOR RELIEF

WHEREFORE, having answered the allegations made in the Complaint as to the Second Cause of Action, and in part as to the Third and Fourth Causes of Action, Defendants pray that the Complaint be dismissed with prejudice, that Plaintiffs take nothing thereby, and that Defendants be awarded the costs and fees reasonably incurred in defending this action and such other relief as the Court deems just.

DATED this 26th day of February, 2014.

OFFICE OF THE UTAH ATTORNEY GENERAL

/s/ Kyle J. Kaiser

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