United States Court of Appeals

FOR THE SIXTH CIRCUIT

APRIL DEBOER; JANE ROWSE, individually and as parents and next friend of N.D.-R, R.D.-R and J.D.-R, minors,

Plaintiffs-Appellees,

—v.—

RICHARD SNYDER, in his official capacity as Governor of the State of Michigan; BILL SCHUETTE, in his official capacity as Michigan Attorney General,

Defendants-Appellants.

APPEALED FROM A DECISION OF THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF MICHIGAN (SOUTHERN DIVISION)
CIVIL CASE NO. 1:12-CV-10285-BAF

(*Caption continued on inside cover*)

BRIEF FOR *AMICI CURIAE* BISHOPS OF THE EPISCOPAL CHURCH IN KENTUCKY, MICHIGAN, OHIO, AND TENNESSEE; GENERAL SYNOD OF THE UNITED CHURCH OF CHRIST; MORMONS FOR EQUALITY; RECONSTRUCTIONIST RABBINICAL ASSOCIATION; RECONSTRUCTIONIST RABBINICAL COLLEGE AND JEWISH RECONSTRUCTIONIST COMMUNITIES; UNION FOR REFORM JUDAISM; UNITARIAN UNIVERSALIST ASSOCIATION; AFFIRMATION; COVENANT NETWORK OF PRESBYTERIANS; METHODIST FEDERATION FOR SOCIAL ACTION; MORE LIGHT PRESBYTERIANS; PRESBYTERIAN WELCOME; RECONCILING MINISTRIES NETWORK; RECONCILINGWORKS: LUTHERANS FOR FULL PARTICIPATION; RELIGIOUS INSTITUTE, INC.; CHURCH OF OUR SAVIOUR/LA IGLESIA DE NUESTRO SALVADOR OF CINCINNATI; AND 43 INDIVIDUAL FAITH LEADERS IN KENTUCKY, MICHIGAN, OHIO, AND TENNESSEE IN SUPPORT OF PLAINTIFFS-APPELLEES

JEFFREY S. TRACHTMAN
Counsel of Record
NORMAN C. SIMON
JASON M. MOFF
KURT M. DENK
JESSICA N. WITTE

KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
(212) 715-9100
jtrachtman@kramerlevin.com

Counsel for Amici Curiae

GREGORY BOURKE; MICHAEL DELEON; LUTHER BARLOWE; M.J.-C., minor child through their parents and next friends, Randell Johnson and Paul Campion; RANDELL JOHNSON; JIMMY MEADE; PAUL CAMPION; TAMERA BOYD; KIMBERLY FRANKLIN; T.J.-C, minor child through their parents and next friends, Randell Johnson and Paul Campion; I.D., minor child by and through his parents and next friends, Gregory Bourke and Michael Deleon,

Plaintiffs-Appellees,

—v.—

STEVE BESHEAR, in his official capacity as Governor of Kentucky,

Defendant-Appellant,

—and—

JACK CONWAY, in his official capacity as Attorney General of Kentucky,

Defendant.

APPEALED FROM A DECISION OF THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF KENTUCKY
CIVIL CASE NO. 3:13-CV-750-JGH

VALERIA TANCO and SOPHIE JESTY; IJPE DEKOE and THOMAS KOSTURA; JOHNO ESPEJO and MATTHEW MANSELL,

Plaintiffs-Appellees,

—v.—

WILLIAM EDWARD "BILL" HASLAM, as Governor of the State of Tennessee, in his official capacity; LARRY MARTIN, as Commissioner of the Department of Finance and Administration, in his official capacity; ROBERT COOPER, as Attorney General & Reporter of the State of Tennessee, in his official capacity,

Defendants-Appellants.

APPEALED FROM A DECISION OF THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
CIVIL CASE NO. 3:13-CV-01159-AAT

CORPORATE DISCLOSURE STATEMENT

Pursuant to Rule 26.1 of the Federal Rules of Appellate Procedure, the undersigned states that none of the organizations that join this brief issues stock or has a parent corporation that issues stock.

/S/ JEFFREY S. TRACHTMAN
JEFFREY S. TRACHTMAN
Counsel of Record
NORMAN C. SIMON
JASON M. MOFF
KURT M. DENK
JESSICA N. WITTE
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
212-715-9100
jtrachtman@kramerlevin.com
Counsel for Amici Curiae

June 16, 2014

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INTERESTS OF *AMICI CURIAE*

Amici curiae ("*Amici*") represent a broad range of religious stakeholders who support equal treatment for same-sex couples with respect to civil marriage. While *Amici* come from faiths that have approached issues affecting lesbian and gay people and their families in different ways over the years, they are united in the belief that, in our diverse and pluralistic society, particular religious views or definitions of marriage should not be permitted to influence which couples' marriages the state recognizes or permits. Such rights must be determined by religiously neutral principles of equal protection under the law.

The individual interests of each of the *Amici* are listed in Addendum A to this brief.

INTRODUCTION AND SUMMARY OF ARGUMENT

Over a century and a half ago, Alexis de Tocqueville reflected on the central role of religion in the birth of the English colonies in America and its "peculiar power" in the cultural life of the United States, while simultaneously observing the necessary corollary that lies at the heart of religious freedom: "In America religion has, if one may put it so, defined its own limits. There the structure of religious life

has remained entirely distinct from the political organization. It has therefore been easy to change ancient laws without shaking the foundations of ancient beliefs."[1]

Tocqueville's reflection bears directly on the cases before this Court. By historical and legal tradition, American pluralism extends to religion and its expression. *Amici* here embrace and embody that pluralism and bear witness to the diversity of religious viewpoints on marriage across various faiths and denominations. The *DeBoer*, *Bourke*, and *Tanco* Appellants' *amici* would justify, respectively, Michigan's refusal to permit marriages, or Kentucky's and Tennessee's refusal to recognize valid out-of-state marriages, of same-sex couples in part based on certain religion-premised beliefs with respect to marriage,[2] or on amorphous concerns about "religious liberty."[3] In contrast, *Amici* here submit that

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[1] Alexis de Tocqueville, *Democracy in America*, Vol. II, Part 1, Ch. 1, at 432 (J.P. Mayer ed. (1969), George Lawrence trans. (1966), First Harper Perennial Modern Classics (2006)) (paragraph break omitted).

[2] *See*, *e.g.*, Br. of Black Pastors at 1 (urging reversal in *DeBoer* so as to "support the vote of 2.7 million citizens of Michigan who cast their vote and enacted the Michigan Marriage Amendment to secure the sanctity of the traditional family, as it is defined by God in the Bible."); *see also* Br of. Public Advocate of the United States at 30-32 (citing biblical definitions of marriage); Br. of Michigan Catholic Conference at 5 (same).

[3] *See*, *e.g.*, Br. of Beckett Foundation at 4 (arguing that "according legal recognition to same-sex marriage without robust protections for religious liberty will trigger wide-ranging church-state conflict"); Br. of North Carolina Values Association at 24-28 (arguing that affirmance threatens religious freedom). Both *amici* filed nearly identical briefs in all three cases consolidated for this appeal.

the judgments below should be affirmed as consistent with fundamental principles of equal protection and religious freedom.

The American religious panorama embraces a multitude of theological perspectives on lesbian and gay people and same-sex relationships. A vast range of religious perspectives affirms the inherent dignity of lesbian and gay people, their relationships, and their families. This affirmation reflects the deeply rooted belief, common to many faiths, in the essential worth of all individuals and, more particularly, the growing respect accorded within theological traditions to same-sex couples. Thus, some faiths celebrate same-sex couples' marriages identically to those of different-sex couples. Others solemnize same-sex relationships in ways other than marriage.

Faiths embracing same-sex couples – both theologically and with respect to the distinct issue of equality under civil law – participate in the mainstream of American religious observance. They include Mainline Protestant denominations such as the United Church of Christ and the Episcopal Church; the Unitarian Universalists; portions of the Religious Society of Friends (Quakers); and Judaism's Reform, Reconstructionist, and Conservative movements. Millions of religious individuals from other faiths also embrace and celebrate same-sex couples, including members of many other Mainline and Evangelical Protestant denominations, Roman Catholics, Mormons, Orthodox Jews, and Muslims. This

grand mosaic includes millions of Kentucky, Michigan, and Tennessee citizens of diverse faith backgrounds, many of whom today celebrate and embrace equal rights for same-sex couples and their families. *Amici* who are faith leaders in these states are also a testament to the growing embrace of equality within mainstream American religion.

Eliminating discrimination in civil marriage will not impinge upon religious doctrine or practice. All religions would remain free – as they are today with nineteen states and the District of Columbia permitting same-sex couples to marry – to define *religious* marriage any way they choose. Nor would affirmance interfere with religious institutions' or individuals' constitutionally protected speech or activities.[4] The types of conflicts forecast by certain *amici* favoring reversal already can and sometimes do arise under public accommodation laws whenever religiously affiliated organizations operate in commercial or governmental spheres. Courts know how to respond if civil rights law enforcement infringes First Amendment rights. Other *amici* supporting reversal have argued that permitting civil marriages of same-sex couples would gut longstanding definitions

[4] *See*, *e.g.*, Br. of Beckett Foundation, *supra*, at 20-21 (arguing that legally recognizing same-sex couples' marriages poses risk that religious people and institutions will be penalized by state and local governments); Br. of North Carolina Values Association, *supra*, at 26 (asserting risk exists that courts will order religious entities to marry same-sex couples).

of marriage informed by "religious doctrines."[5] But crediting such arguments would both enshrine a particular religious belief in the law – which the Establishment Clause prohibits – and implicitly privilege religious viewpoints that oppose marriage equality over those that favor it.

For these and other reasons, civil recognition of same-sex relationships, including through lawful marriage, is fundamentally consistent with the religious pluralism woven into the fabric of American law, culture, and society. Affirmance in these cases would not "take sides" with one religious view against another or constitute an attack on religion. Nor would it signal a judicial imprimatur on changing social mores. Rather, affirmance would recognize the creative tension inherent in religions' interface with our pluralistic, changing society while confirming that all, regardless of faith, are entitled to equal protection under the law.

ARGUMENT

The American religious landscape is vast and diverse.[6] Religious adherents differ on contentious issues, and religious bodies have themselves evolved and

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[5] *See, e.g.*, Br. of Catholic Bishops at 1, 3 (ascribing *amici*'s endorsement of reversal to "theological perspectives" and "religious doctrines" in support of traditional marriage).

[6] According to one national survey, more than 90% of Americans believe in God or a universal spirit and more than 80% have some formal religious affiliation. U.S. Religious Landscape Survey, Pew Forum on Religion & Public Life, *Religious Beliefs and Practices: Diverse and Politically Relevant* (June 2008), at 5, 8,

disagreed over time – on marriage as well as other civil rights and social issues.[7] In view of that history and the wide range of modern religious thought on same-sex

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available at http://religions.pewforum.org/pdf/report2-religious-landscape-study-full.pdf (last visited Apr. 29, 2014). Religious affiliations and viewpoints also are diverse:

i. While over 75% of religiously affiliated Americans are Christian, this group is comprised of: Protestants, including Evangelical (26.3%), Mainline (18.1%), and Historically Black (6.9%) churches; Roman Catholics (23.9%); Mormons (1.7%); Jehovah's Witnesses (0.7%); Orthodox (0.6%); and Others (0.3%).

ii. Other religiously affiliated Americans are diverse as well, comprised of Jews (1.7%), Buddhists (0.7%), Muslims (0.6%), Hindus (0.4%), and other faiths (approximately 1.5%).

iii. Yet other sizeable blocks of the American public are unaffiliated, whether agnostic (2.4%), atheist (1.6%), or nothing in particular (12.1%).

Id. at 217. In Kentucky, 49% of the population has identified as Evangelical Protestant, 17% as Mainline Protestant, 14% as Catholic, 12% as Unaffiliated, and 5% as Historically Black Protestant. U.S. Religious Landscape Survey, Pew Forum on Religion & Public Life, *Religious Affiliation: Diverse and Dynamic* (February 2008), at 98 *available at* http://religious.pewforum.org/pdf/report-religious-landscape-study-full.pdf (last visited Apr. 29, 2014). In Michigan, 26% of the population has identified as Evangelical Protestant, 23% as Catholic, 19% as Mainline Protestant, 17% as Unaffiliated, and 8% as Historically Black Protestant. *Id.* at 97. In Tennessee, 51% of the population has identified as Evangelical Protestant, 18% as Mainline Protestant, 12% as Unaffiliated, 8% as Historically Black Protestant, and 7% as Catholic. *Id.* at 98.

[7] *See* Michael Perry, *Religion in Politics*, 29 U.C. Davis L. Rev. 729, 772 n.94 (1996) (chronicling shifts in religions' views on usury, the dissolubility of marriages, and slavery, and noting that "[i]n each case one can see the displacement of a principle or principles that had been taken as dispositive"). As one example, the American Baptist Church once believed that churches and other institutions should be segregated on the basis of race, but later revised that view. *See* Pamela Smoot, *Race Relations: How Do Baptists Treat Their Brothers and Sisters?*, *in* History Speaks To Hard Questions Baptists Ask (2009), *available at* http://www.baptisthistory.org/smootracerelations.pdf (last visited Apr. 29, 2014).

unions, it would be a mistake to elevate any one view on marriage above all others as the "Christian" or "religious" view. Indeed, it would be constitutionally inappropriate, because civil marriage is a secular institution, *see Maynard v. Hill*, 125 U.S. 190, 210 (1888), and the Constitution bars the government from favoring certain religious views over others, *see Larson v. Valente*, 456 U.S. 228, 244 (1982). Religious freedom means that all voices may contribute to our national conversation, but particular religious perspectives on marriage cannot be permitted to control the civil definition of marriage for all.

I. A Wide Cross-Section Of American Religious Traditions Recognizes The Dignity Of Lesbian And Gay People And Their Relationships

With time, and across traditions, religious Americans have affirmed that the dignity of lesbian and gay people logically and theologically follows from the premise that all persons have inherent dignity. In some traditions, this affirmation has affected religious practice – *e.g.*, in clergy ordination. In others, it has led to various forms of religious affirmation of same-sex unions. All of this confirms that no one "religious" view of even the rite of marriage predominates in America, putting aside the separate question of whether there is a common religious viewpoint on access to civil marriage.

A. The Inherent Dignity Of Lesbian And Gay Individuals Informs The Theology Of Numerous Religious Believers And Bodies

Nearly three decades ago, the United Church of Christ, with 1.1 million members today, adopted a policy of membership nondiscrimination with regard to sexual orientation.[8] In 1989, the 45th General Assembly for the Union of Reform Judaism, which represents 1.3 million Reform Jews, resolved to "[u]rge [its] member congregations to welcome gay and lesbian Jews to membership, as singles, couples, and families" and to "[e]mbark upon a movement-wide program of heightened awareness and education to achieve the fuller acceptance of gay and lesbian Jews in our midst."[9] Many other faiths similarly embrace the foundational theological belief in the dignity of lesbian and gay Americans *as persons*. The

[8] Resolution, General Synod of the United Church of Christ, *Opening and Affirming Resolution* (July 2, 1985), *available at* http://www.ucccoalition.org/about/history/ucc-actions/ (last visited Apr. 29, 2014) (citing Romans 12:4 for proposition that "Christians . . . are many members, but . . . one body in Christ" and encouraging congregations to adopt "a Covenant of Openness and Affirmation" with lesbian and gay members of the faith).

[9] Resolution, Union of Reform Judaism, 60th General Assembly, *Gay And Lesbian Jews* (Nov. 1989), *available at* http://urj.org//about/union/governance/reso/?syspage=article&item_id=2065. *Cf.* Central Conference of American Rabbis, *Report of the Ad Hoc Committee on Homosexuality and the Rabbinate of the Central Conference of American Rabbis Annual Convention*, at 262 (1990), *available at* http://borngay.procon.org/sourcefiles/CCAR_Homosexuality.pdf (last visited Apr. 29, 2014) ("all Jews are religiously equal regardless of their sexual orientation").

Episcopal Church,[10] the United Methodist Church,[11] the Evangelical Lutheran Church in America,[12] the Presbyterian Church (U.S.A.),[13] the Unitarian Universalists,[14] Reconstructionist Judaism,[15] and myriad others in Kentucky, Michigan, Tennessee, and nationwide adhere to this basic tenet.

Indeed, religious individuals have demonstrated an increasingly positive view of lesbian and gay Americans. According to a Public Religion Research Institute study, *the majority of Americans from most major religious groups* have positive moral and theological views of gay and lesbian people, including 62% of

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[10] Resolution 2006-A167, the 75th General Convention of The Episcopal Church (2006), *available at* http://www.episcopalarchives.org/cgi-bin/acts/acts_resolution-complete.pl?resolution=2006-A167 (last visited Apr. 29, 2014).

[11] United Methodist Church, *Social Principles & Creed*, *available at* http://www.umc.org/what-we-believe/the-social-community (last visited Apr. 29, 2014).

[12] Evangelical Lutheran Church in America, *Human Sexuality*, *available at* http://www.elca.org/Faith/Faith-and-Society/Social-Statements/Human-Sexuality (last visited Apr. 29, 2014).

[13] Final Report as approved by the 217th General Assembly, Theological Task Force on Peace, Unity and Purity of the Church, *A Season of Discernment*, at 20 (2006), *available at* http://apps.pcusa.org/peaceunitypurity/finalreport/final-report-revised-english.pdf (last visited Apr. 29, 2014).

[14] Business Resolution, General Assembly of the Unitarian Universalist Association, *Confronting Sexual Orientation and Gender Identity Discrimination* (2010), *available at* http://www.uua.org/statements/statements/169267.shtml (last visited Apr. 29, 2014).

[15] Rabbi Shawn I. Zevit, *JRF Homosexuality Report and Inclusion of GLBTQ Persons*, *available at* http://archive.is/3a6x (last visited Apr. 29, 2014) (citing Reconstructionist Commission on Homosexuality, *Homosexuality and Judaism: The Reconstructionist Position* (1993)).

Roman Catholics, 63% of white Mainline Protestants, and 69% of non-Christian, religiously affiliated Americans.[16]

Meanwhile, 57% of white Mainline Protestants and 50% of American Roman Catholics support the ordination of gay and lesbian clergy.[17] Unsurprisingly, therefore, some denominations – both Christian and Jewish – long have permitted openly lesbian and gay clergy.[18] Others more recently have amended their practices to admit openly lesbian and gay people to various forms of ministry.[19] Whether it be the ordination of lesbian and gay clergy, the express

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[16] Public Religion Research Institute, *Generations at Odds: The Millennial Generation and the Future of Gay and Lesbian Rights*, at 18-20 (Aug. 29, 2011), *available at* http://publicreligion.org/site/wp-content/uploads/2011/09/PRRI-Report-on-Millennials-Religion-Gay-and-Lesbian-Issues-Survey.pdf (last visited Apr. 29, 2014).

[17] Public Religion Research Institute, *supra* note 16, at 20.

[18] The Unitarian Universalist Church called its first openly gay minister to serve as leader for a congregation in 1979. *See* Unitarian Universalist LGBT History Timeline, Unitarian Universalist Association of Congregations, *available at* http://www.uua.org/lgbtq/history/20962.shtml (last visited June 13, 2014). The seminary for Reconstructionist Jews began accepting gay and lesbian applicants in 1984. *See* Zevit, *supra* note 15. The Central Conference of American Rabbis endorsed the view in 1990 that "all rabbis, regardless of sexual orientation, be accorded the opportunity to fulfill the sacred vocation that they have chosen." Central Conference of American Rabbis, *supra* note 7, at 261. The Episcopal Church ordained its first openly gay priest in 1977. *See* Mireya Navarro, *Openly Gay Priest Ordained in Jersey*, N.Y. Times, Dec. 17, 1989.

[19] *See, e.g.*, Presbyterian Church (U.S.A.), *Presbyterian Church (U.S.A.) Approves Change In Ordination Standard* (May 10, 2011), *available at* http://www.pcusa.org/news/2011/5/10/presbyterian-church-us-approves-change-ordination/ (last visited Apr. 29, 2014) (reporting that new language in church's Book of Orders effectively would open ordained ministry to persons in same-

welcome to lesbian and gay congregants and their families, or the affirmation that lesbian and gay individuals possess the same inherent dignity as any other person, the American religious landscape includes same-sex couples and their families, and affirms their role in both faith communities and civil society at large.

B. A Vast Spectrum Of American Faith Groups And Religious Observers Affirms Same-Sex Couples' Relationships In A Multitude Of Ways, Including By Celebrating And Solemnizing Their Marriages

Many faiths also more specifically accord doctrinal and theological affirmation to the loving, committed *relationships* that same-sex couples have elected to enter – unsurprisingly, in ways as diverse as America's religious families. For example, nearly thirty years ago the Detroit Friends Meeting in Michigan affirmed – as approximately 250 other Quaker meetings around the country similarly have – that both homosexual and heterosexual couples seeking to

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gender relationships); Amy Stone, *Out and Ordained, New York's Jewish Theological Seminary Graduates its First Openly Lesbian Rabbi*, Lilith (2011), *available at* http://lilith.org/articles/out-and-ordained/ (last visited Apr. 29, 2014) (indicating that Conservative Jewish movement welcomed gay and lesbian rabbinical and cantorial students to Jewish Theological Seminary in 2007); Bishop Mark S. Hanson, *Message to Rostered Leaders* (Aug. 22, 2009), *available at* http://www.salemsycamore.org/committees/task-forces/civil-unions/Bishop's&20August%202009.pdf (last visited Apr. 29, 2014) (citing Resolution 2 of 2009 Evangelical Lutheran Church in America Churchwide Assembly as resolving to find "a way for people in such publicly accountable, lifelong, monogamous, same-gender relationships to serve as rostered leaders of the church"); Sarah Pulliam Bailey, *ELCA Lutherans Elect First Openly Gay Bishop* (June 3, 2013), *available at* http://www.religionnews.com/2013/06/03/elca-lutherans-elect-first-openly-gay-bishop/ (last visited Apr. 29, 2014).

unite their love would be celebrated and supported by the community.[20] The Nashville, Tennessee Friends Meeting adopted a similar stance eighteen years ago.[21] The Evangelical Lutheran Church in America has described the manner in which same-sex unions are, and are expected to be, like different-sex unions in several constitutive dimensions: "[T]he neighbor and community are best served when same-gender relationships are lived out with lifelong and monogamous commitments that are held to the same rigorous standards, sexual ethics, and status as heterosexual marriage. [We] surround such couples and their lifelong commitments with prayer to live in ways that glorify God . . . ."[22]

Support for same-sex relationships in religious doctrine and practice likewise has informed a diverse array of formal marriage rituals. The United Church of Christ promulgated a new Order for Marriage – a template for marriage

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[20] *See* Detroit Monthly Meeting, *Minute* (Jan. 12, 1986), *available at* Friends for Lesbian, Gay, Bisexual, Transgender, and Queer Concerns, *Collected Marriage Minutes*, http://flgbtqc.quaker.org/minutes.html. (last visited Apr. 22, 2014). Other Friends Meetings in Michigan have followed suit, in Ann Arbor, Kalamazoo, and Red Cedar. *See id.*

[21] *See id*., Nashville Friends Meeting (TN), *Minute* (June 9, 1996).

[22] *See, e.g.*, 11th Churchwide Assembly, Evangelical Lutheran Church in America, *A Social Statement on Human Sexuality: Gift and Trust* at 20 (Aug. 19, 2009), *available at* http://download.elca.org/ELCA%20Resource%20Repository/SexualitySS.pdf.

ceremonies – that could be used in any marriage ceremony regardless of gender.[23] Unitarian Universalist congregations began celebrating the unions of same-sex couples as it would any other consenting adult couple's union in 1979 and formally affirmed this practice in 1984.[24] The Conservative, Reform, and Reconstructionist Jewish movements allow their rabbis to perform religious wedding ceremonies for same-sex couples.[25] The Episcopal Church acknowledged in 2000 that its

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[23] United Church of Christ, *Order for Marriage, An Inclusive Version*, *available at* http://www.ucc.org/worship/pdfs/323_346i_order-for-marriage-inclusive.pdf (last visited Apr. 29, 2014).

[24] *See* LGBTQ Ministries Multicultural Growth and Witness, *LGBT History & Facts for Unitarian Universalists* (2012), *available at* https://www.uua.org/documents/lgbtq/history.pdf; Resolution of Immediate Witness, General Assembly of the Unitarian Universalist Association, *Support of the Right to Marry for Same-Sex Couples* (1996), *available at* https://www.uua.org/statements/statements/14251.shtml; Unitarian Universalist Association, *Unitarian Universalist LGBTQ: History & Facts*, *available at* http://www.uua.org/lgbtq/history/185789.shtml (last visited Apr. 30, 2014).

[25] *See, e.g.*, E. Dorff, D. Nevins, & A. Reisner, *Rituals and Documents of Marriage and Divorce for Same-Sex Couples*, Rabbinical Assembly (Spring 2012), *available at* http://www.rabbinicalassembly.org/sites/default/files/public/halakhah/teshuvot/2011-2020/same-sex-marriage-and-divorce-appendix.pdf (endorsing Conservative rabbis' right to solemnize marriages of same-sex couples and memorializing 13-0 vote by Rabbinical Assembly's Committee on Jewish Law and Standards to approve endorsement); *id*. at 6 ("The Rabbinical Assembly maintains standards of rabbinic practice regarding marriage, and we shall apply the same standards to same-sex couples."); Resolution, 111th Convention of the Central Conference for American Rabbis, *Resolution On Same Gender Officiation* (Mar. 2000), *available at* http://ccarnet.org/rabbis-speak/resolutions/2000/same-gender-officiation/ (Reform movement); *Reconstructionist Movement Endorses Civil Marriage for Same-Sex Couples*, Reconstructionist Rabbinical College, *et al.*, *available at* http://www.rrc.edu/news-media/news/reconstructionist-movement-endorses-civil-marriage-same-sex-couples?print=1 (last visited April 30, 2014)

membership includes same-sex couples living in "lifelong committed relationships . . . characterized by fidelity, monogamy, mutual affection and respect, careful, honest communication and the holy love which enables those in such relationships to see in each other the image of God," and in 2012 approved a provisional liturgy for the blessing of same-sex unions that may be used with the permission of the local bishop.[26] And some faiths that do not celebrate or solemnize marriages of same-sex couples per se accord recognition to them in various other ways.[27]

(noting that in series of resolutions beginning in 1993 Reconstructionist movement affirmed holiness of commitments made by same-sex couples).

[26] *See* Resolution 2000-D039, the 73rd General Convention of the Episcopal Church (2000), *available at* http://www.episcopalarchives.org/cgi-bin/acts/acts_resolution-complete.pl?resolution=2000-D039; Resolution 2012-A049, the 77th General Convention of the Episcopal Church (2012), *available at* http://www.generalconvention.org/old/gc/resolutions.

[27] For example, although the Presbyterian Church (U.S.A.) does not formally solemnize same-sex couples' marriages, the church through its General Assembly overwhelmingly voted in 2012 (by a vote of 489-152) to "move the whole Presbyterian Church (U.S.A.) into a season of serious study and discernment concerning its meaning of Christian marriage." 2012 Assembly In Brief, Presbyterian Church (U.S.A.), *Same-Gender Marriage*, at 3 (2012), *available at* http://www.pcusa.org/media/uploads/oga/publications/assemblyinbrief.pdf. The Evangelical Lutheran Church in America's 2009 Churchwide Assembly, meanwhile, resolved by a vote of 619 to 402 to "commit itself to finding ways to allow congregations that choose to do so to recognize, support and hold publicly accountable lifelong, monogamous, same-gender relationships." Hanson, *supra* note 19. Following that action, more than 300 Evangelical Lutheran Church in America congregations have performed blessings over same-sex couples' unions, while many more have adopted other policies and practices affirming same-sex couples' relationships. *See* ReconcilingWorks, *RIC Congregations List*, *available at* http://www.reconcilingworks.org/ric/ric-congregations-list#results (last visited

In short, even limited to the sphere of *religious* marriage, organized religion in the United States exhibits a tremendous diversity of views and practices regarding same-sex unions.

II. Recognizing The Necessary Distinction Between Civil And Religious Marriage, A Growing Number Of Faiths Support Civil Marriage Equality

More than a century ago, the Supreme Court held that "marriage is often termed . . . a civil contract . . . and does not require any religious ceremony for its solemnization." *Maynard*, 125 U.S. at 210. *Amici* are therefore mindful that their own theological perspectives on marriage are distinct from the civil law on marriage. Recognizing that civil and religious marriage necessarily are two different things, and further undercutting any claim that religion speaks with one voice on marriage, many religions – including those represented by *Amici* here – have distinct positions supporting equal *civil* marriage rights for same-sex couples.

Two Christian denominations that trace their history directly to the Puritans of New England support civil marriage for gay and lesbian couples.[28] Almost seventeen years ago, in 1996, the Unitarian Universalist Association formally

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April 30, 2014).

[28] *See generally* Mark W. Harris, *Unitarian Universalist Origins: Our Historic Faith* (Oct. 2002), *available at* http://www.uua.org/beliefs/history/151249.shtml (last visited Apr. 30, 2014); United Church of Christ, *Short Course in the History of the United Church of Christ*, *available at* http://www.ucc.org/about-us/short-course/shortcourse.pdf (last visited Apr. 30, 2014).

resolved to support equal civil marriage rights.[29] In 2004, the Association further affirmed that "Civil Marriage is a Civil Right" and opposed any amendment of the United States Constitution to bar same-sex couples from marrying.[30] The following year, in 2005, the United Church of Christ "affirm[ed] equal marriage rights for couples regardless of gender and declar[ed] that the government should not interfere with couples regardless of gender who choose to marry and share fully and equally in the rights, responsibilities and commitment of legally recognized marriage."[31]

In addition, the Reform,[32] Reconstructionist,[33] and Conservative[34] movements of Judaism all support equal civil marriage rights for same-sex

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[29] Resolution of Immediate Witness, General Assembly of the Unitarian Universalist Association, *Support of the Right to Marry for Same-Sex Couples* (1996), *available at* https://www.uua.org/statements/statements/14251.shtml.

[30] Action of Immediate Witness, General Assembly of the Unitarian Universalist Association, *Oppose Federal Marriage Amendment* (2004), *available at* http://www.uua.org/statements/statements/13433.shtml.

[31] Resolution, General Synod of the United Church of Christ, *In Support of Equal Marriage Rights for All* (July 4, 2005), *available at* http://www.ucc.org/assets/pdfs/in-support-of-equal-marriage-rights-for-all-with-background.pdf.

[32] In 1996, the Central Conference of American Rabbis ("CCAR") resolved to "support the right of gay and lesbian couples to share fully and equally in the rights of civil marriage." Resolution, 107th Convention of the Central Conference of American Rabbis, *On Gay and Lesbian Marriage* (Mar. 1996), *available at* http://ccarnet.org/rabbis-speak/resolutions/1996/on-gay-and-lesbian-marriage-1996/.

[33] The Jewish Reconstructionist movement adopted a resolution in favor of full civil marriage equality for same-sex couples. *See* Reconstructionist Rabbinical Association, *et al.*, *Reconstructionist Movement Endorses Civil Marriage for Same-Sex Couples* (Apr. 2004), *available at* http://www.rrc.edu/news-media/news/reconstructionist-movement-endorses-civil-marriage-same-sex-couples.

couples, as does the American Friends Service Committee of the Religious Society of Friends (Quakers).[35] Nearly 4,000 clergy from numerous faiths have endorsed an open letter by the Religious Institute, Inc. calling for marriage equality.[36] *Amici* also note that the very church founded by the Pilgrims who sailed on the Mayflower in 1620 – First Parish in Plymouth, now a Unitarian Universalist congregation – has issued a proclamation invoking its historical pursuit of religious freedom, recounting its long history of openness to lesbian and gay congregants, and calling for full civil marriage equality for same-sex couples.[37] Given its

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[34] The Rabbinical Assembly – representing Conservative Judaism – resolved in 2011 to "support the extension of civil rights and privileges granted to married persons to same sex couples," and as early as 1990, had resolved to "work for full and equal civil rights for gays and lesbians in our national life." Resolution, Rabbinical Assembly, *Resolution In Support Of Equal Rights And Inclusion For Gay, Lesbian, Bisexual, And Transgender (GLBT) Persons* (2011), *available at* http://www.rabbinicalassembly.org/story/resolution-support-equal-rights-and-inclusion-gay-lesbian-bisexual-and-transgender-glbt-person.

[35] In 2004, the Executive Committee of the American Friends Service Committee Board of Directors, acting at the direction of the full board, approved a "minute" setting forth its "support for equal civil marriage rights for lesbian, gay, bisexual, and transgender people." *See* American Friends Service Committee, *AFSC Board Statement on Equal Marriage* (2004), *available at* http://afsc.org/sites/afsc.civicactions.net/files/documents/AFSC%20Board%20Minute.pdf.

[36] Religious Institute, *Religious Declaration on Sexual Morality, Justice, and Healing* (Jan. 2010), *available at* http://religiousinstitute.org/wp-content/uploads/2013/08/OL-Marriage-Equality.pdf; Religious Institute, *List of Endorsers* (Jan. 10, 2012), *available at* http://religiousinstitute.org/list-of-endorsers (last visited Apr. 22, 2014).

[37] *See* Resolution, First Parish Church in Plymouth, *Resolution Demanding That All Persons, Regardless Of Sexual Orientation Or Gender Identification, Receive Equal Treatment Under The United States Constitution And The Laws Of The Land*

historical pedigree, the First Parish proclamation underscores the resonance of today's marriage equality debate with the nation's founding ideal of liberty.

In 2006, the Episcopal Church likewise called on federal, state, and local governments to provide same-sex couples protections equivalent to those "enjoyed by non-gay married couples" and "oppose[d] any state or federal constitutional amendment that prohibits same-sex civil marriage or civil unions," a stance growing out of its "historical support of gay and lesbian persons as children of God and entitled to full civil rights."[38] A decade ago, the United Methodist Church called for the "equal protection before the law" of couples and families who have "shared material resources, pensions, guardian relationships, mutual powers of attorney, and other such lawful claims."[39] In line with the advocacy of these faith groups, 62% of *all* white mainline Protestants today favor allowing same-sex couple to marry civilly.[40]

(Feb. 2013), *available at* http://www.firstparishplymouth.org/SiteAssets/Social%20Action/Equal-treatment-lgbti-brief.pdf (last visited Apr. 30, 2014).

[38] Resolution 2006-A095, the 75th General Convention of The Episcopal Church, *available at* http://www.episcopalarchives.org/cgi-bin/acts/acts_resolution-complete.pl?resolution=2006-A095.

[39] *Equal Rights Regardless of Sexual Orientation*, from The Book of Discipline of The United Methodist Church (2004), *available at* http://master.umc.org/interior.asp?mid=1753 (last visited April 30, 2014).

[40] Public Religion Research Institute, *A Shifting Landscape: A Decade of Change in American Attitudes about Same-sex Marriage and LGBT Issues* (Feb. 26, 2014), at 10, *available at* http://publicreligion.org/site/wp-content/uploads/2014/02/2014.LGBT_REPORT.pdf.

Even within faiths officially opposed to civil marriage equality – a position their leaders remain free to express – many adherents (in some cases, a majority) nonetheless have come to support same-sex couples' right to civil marriages. The Roman Catholic Church hierarchy is strongly opposed to both civil and religious marriage for same-sex couples,[41] yet Catholic teaching joins other mainstream religions in affirming the fundamental human dignity of lesbian and gay individuals and calling for an end to "any forms of injustice, oppression, or violence against them."[42] Consistent with the latter teachings, many individual American Catholics have come to favor marriage equality: polling conducted by the Public Religion Research Institute in 2013 showed that 57% of Catholics support marriage for same-sex couples,[43] whereas just three years before, only 46%

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[41] United States Conference of Catholic Bishops, *Between Man And Woman: Questions And Answers About Marriage And Same-Sex Unions* (2003), *available at* http://www.usccb.org/issues-and-action/marriage-and-family/marriage/promotion-and-defense-of-marriage/questions-and-answers-about-marriage-and-same-sex-unions.cfm.

[42] *See, e.g.*, Statement, Bishops' Committee on Marriage and Family, *Always Our Children: A Pastoral Message To Parents Of Homosexual Children And Suggestions For Pastoral Ministers* (1997), *available at* http://www.usccb.org/issues-and-action/human-life-and-dignity/homosexuality/always-our-children.cfm (observing that "respect for the God-given dignity of all persons means the recognition of human rights and responsibilities," such that "the fundamental human rights of homosexual persons must be defended and . . . all of us must strive to eliminate any forms of injustice, oppression, or violence against them.").

[43] Public Religion Research Institute, *supra* note 40, at 10.

of Catholics had favored equal marriage rights while 42% were opposed.[44] There are American Muslims, too, who believe that their religious faith is not contravened when the government affords marriage rights to same-sex couples.[45] In fact, in a March 2014 survey, 59% of *all* adults nationwide, including 62% of White non-evangelical Protestants, 70% of White Catholics, and 81% of people who claim no religion, voiced support for marriage equality.[46] While individual liberties should not be subject to public opinion polls, such surveys make clear that American religious thought and practice embrace a rich diversity. No one view speaks for "religion" – even if, contrary to the Establishment Clause, it were appropriate to give weight to religious views in the application of the Constitution's secular promise of equal protection.

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[44] The Pew Forum on Religion and Public Life, *Religion and Attitudes Toward Same-Sex Marriage* (Feb. 7, 2012), *available at* http://www.pewforum.org/Gay-Marriage-and-Homosexuality/Religion-and-Attitudes-Toward-Same-Sex-Marriage (citing comparative data from Aug.-Sept. 2010 and Oct. 2011).

[45] *See, e.g.*, Press Release, Muslims for Progressive Values, *Muslims for Progressive Values Applauds President Obama's Support of Marriage Equality* (May 9, 2012), *available at* http://mpvusa.org/mpv-on-Supreme-Court-decisions/ (applauding *Windsor* and *Perry* decisions for marriage equality).

[46] *Gay issues find increasing acceptance*, Wash. Post, Mar. 6, 2014, *available at* http://www.washingtonpost.com/page/2010-2019/WashingtonPost/2014/03/05/National-Politics/Polling/release_301.xml.

III. Permitting Same-Sex Couples To Marry Civilly (Or Recognizing Such Marriages Lawfully Performed) Will Not Impinge Upon Religious Beliefs, Practices, Or Operations, But Rather Will Prevent One Set Of Religious Beliefs From Being Imposed Through Civil Law

Affirming civil marriage rights for same-sex couples will not threaten the First Amendment freedom of all religious communities to decide which unions are and are not consistent with their religious beliefs. Nor will affirmance here unduly burden religious persons and institutions in the pursuit of their public and business activities. To the contrary, reversal predicated on religious grounds, including the notion that states may (under any standard of review) deny equal protection to one sub-group in order to preserve the "religious liberty" of those who wished to discriminate against them, would improperly favor one set of religious views (*e.g.*, rejecting civil marriage equality) against other religious views (*e.g.*, like those of *Amici* here, favoring equal treatment under law for same-sex couples).

A. Affirmance Would Not Interfere With The Exercise Of Religious Freedoms, Including The Freedom To Set Parameters For Religiously Sanctioned Marriage That May Differ From Those Established Under Civil Law

Any purported concern on the part of appellants that marriage equality for same-sex couples would interfere with religious practice is wholly illusory. However civil authorities define marriage, existing constitutional principles protect the autonomy of various religious entities to define *religious* marriages to comport

with their respective tenets. *See Hosanna-Tabor Evangelical Lutheran Church & Sch. v. EEOC*, 132 S. Ct. 694, 709 (2012) (affirming principle that certain "matter[s are] 'strictly ecclesiastical,'" meaning they are "the church's alone" (citation omitted)). In this manner, religion and the state each respect the other's own proper realm. *See generally McCollum v. Bd. of Educ.*, 333 U.S. 203, 212 (1948) ("[T]he First Amendment rests upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere.").

This tradition of respect for religious autonomy has, indeed, permitted various religions to define religious marriage in ways that would be unenforceable under civil law – declining to sanctify or even recognize, for example, marriages between persons of different faiths and races, or successive marriage following divorce. Conservative Judaism, for example, prohibits interfaith marriages,[47] as did the Roman Catholic Church's Code of Canon Law for much of the twentieth century.[48] The Mormon Church discouraged interracial marriage well after the Supreme Court's ruling in *Loving v. Virginia*, 388 U.S. 1 (1967), that the

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[47] Leadership Council on Conservative Judaism, *Conservative View on Intermarriage* (Mar. 7, 1995), *available at* http://www.mazorguide.com/living/Denominations/conservative-intermarriage.htm.

[48] Michael G. Lawler, *Interchurch Marriages: Theological and Pastoral Reflections, in Marriage in the Catholic Tradition: Scripture, Tradition, and Experience*, Ch. 22, at 222 (Todd A. Salzman, *et al.*, eds., 2004).

Constitution requires states to allow interracial civil marriages.[49] And the Roman Catholic Church teaches that "[t]he remarriage of persons divorced from a living, lawful spouse is not permitted by God's law as taught by Christ,"[50] and Roman Catholic priests "cannot recognize the union of people who are civilly divorced and remarried,"[51] even though states do.

The existence and persistence of such differences demonstrate that affirmances here would not burden religious liberty. Were Michigan to permit, and Kentucky and Tennessee to recognize, the civil marriages of same-sex couples – as they do for interfaith couples, interracial couples, and couples re-marrying after divorce – religions that disapprove of such unions would remain free to define *religious* marriage however they wish. *Amici* urging reversal, and all faith groups for that matter, could continue to withhold spiritual blessing from any marriages and indeed bar those entering into them from being congregants at all, just as they are now free to do so on grounds of faith, race, prior marital status, or any other characteristic deemed religiously significant.

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[49] *See Interracial Marriage Discouraged*, The Deseret News, June 17, 1978, at 4 ("Now, the brethren feel that it is not the wisest thing to cross racial lines in dating and marrying." (quoting President Spencer W. Kimball in a 1965 address to students at Brigham Young University)).

[50] United States Conference Of Catholic Bishops, *United States Catholic Catechism For Adults* 290 (2006).

[51] United States Conference Of Catholic Bishops, *Compendium – Catechism Of The Catholic Church* ¶ 349 (2006).

Amici urging reversal fail to explain how their *religious* practice would be burdened by according other people equal civil marriage rights. Leaving aside the public accommodation law issues addressed *infra* in Point III(B), certain of these *amici* express a generalized concern that opponents of equal marriage rights will somehow be prevented from expressing their religious conscience on such matters. *See*, *e.g.*, Br. of North Carolina Values Coalition at 26 (arguing that "redefining marriage" would constitute "judicial intrusion on thought and speech" that "encroaches on freedom of religion – a right that, unlike even traditional marriage, is explicitly guaranteed by the Constitution"); Br. of Catholic Bishops *et al.* at 30 ("[A] judicial decision declaring traditional marriage unconstitutional would render those who believe in traditional marriage social and political outcasts.").

But the Free Exercise Clause does not protect religious actors from reactions to their expressed views. There is no protected constitutional right not to be considered – correctly or incorrectly – a "discriminator." It is no accident that the Free Exercise Clause shares an amendment with the Free Speech Clause, because robust enforcement of *all* constitutional guarantees best ensures equal access for all voices to discourse in the public square. *See* William P. Marshall, *Solving the Free Exercise Dilemma: Free Exercise as Expression*, 67 Minn. L. Rev. 545, 546-47 (1983) (arguing free exercise of religion bears directly on free speech, both having

their proper public dimension, with Religion Clauses, together, offering "unitary protection for individual liberty").

Eliminating Kentucky's, Michigan's, and Tennessee's unconstitutional and unequal treatment of same-sex couples under civil law would not change, mandate, control, or interfere with any parties' religious practices. The religious freedoms embodied in the Constitution guarantee that diverse religious traditions and beliefs, including the sole right to define who can marry *religiously*, will flourish regardless of changes in civil marriage laws.

B. Civil Marriage Of Same-Sex Couples Does Not Unconstitutionally Burden Religious Organizations' Ability To Operate And Govern Their Own Religious Affairs

Some *amici* supporting reversal suggest that the civil marriage of same-sex couples will curtail religious organizations' ability to operate their own affairs and serve their communities. For example, The Beckett Fund argues that affirmance would trigger a wave of private civil litigation under anti-discrimination laws, as well as penalization of religious people and institutions by state and local governments. Br. of The Beckett Fund, *supra*, at 12, 20-21.

But the types of disputes anticipated by these *amici* have more to do with existing civil rights laws barring discrimination based on sexual orientation, where such laws exist, than with any conflicts likely to arise based on marital status. The extent to which any religious institution or business is regulated as an employer or

a public accommodation is determined by existing statutes and relevant, binding case law. Indeed, just two years ago the Supreme Court unanimously ruled that an employment discrimination claim by the former employee of a religious institution had to yield to the First Amendment right of the employer to determine who qualifies as a minister under its *religious* understanding of that term. *Hosanna-Tabor Evangelical Lutheran Church & Sch.*, 132 S. Ct. at 707, 709. When religious institutions act in a more secular sphere, the balance between civil rights enforcement and First Amendment liberties may vary in particular cases. But such issues have nothing to do with the constitutional right to marry and, in any event, are not presented for decision here.

C. While *Amici* Respect All Fellow Faiths, Including Those That Embrace Different Religious Views On Marriage, It Is Constitutionally Impermissible To Impose Religious Views Through Civil Law To Curtail Civil Marriage Rights Of Same-Sex Couples

Since this nation's founding, the concept of religious liberty has included the equal treatment of all faiths without discrimination or preference. *See Larson*, 456 U.S. at 244 ("The clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another."). Government action defining marriage rights on religious or quasi-religious grounds violates this principle by putting the force of law behind one set of religious views.

Several *amici* in these cases urge reversal on avowedly religious grounds that would wreak havoc with the Establishment Clause. For example, *amici* Coalition of Black Pastors "believe[s] that the Bible defines what constitutes sound doctrine, not the culture, gender, or personality," and describes their support for reversal as "support [for] the vote of 2.7 million citizens of Michigan who cast their vote and enacted the Michigan Marriage Amendment to secure the sanctity of the traditional family, as it is defined by God in the Bible." *See* Br. for Coalition of Black Pastors, at 1. But it would be plainly improper to enshrine such religious views in civil law. "Courts are not arbiters of scriptural interpretation" and "should not undertake to dissect religious beliefs." *Thomas v. Review Bd. of Indiana Employment Sec. Div.*, 450 U.S. 707, 715-16 (1981).

Other *amici* favoring reversal insist that their doctrinal opposition to marriage for same-sex couples is fueled not by animus towards gay people but rather "[f]idelity to [r]eligious [b]eliefs" regarding "the personal, familial, and social virtues of traditional marriage." *See* Br. of Catholic Bishops, et al. at 7-8. But it is not the dimension of animus that renders these justifications irrelevant and inadmissible to determine the permissible scope of civil marriage rights – it is that these views are frankly *religious* and, moreover, represent a *particular* religious view among others that may differ. Any attempt to have the Court embrace specifically religious views or definitions of marriage must be rejected – among

other reasons because that result would disfavor and disadvantage *other religious believers*, like *Amici* here, who do not embrace the arguments or conclusions of *amici* seeking reversal.

By affirming the judgments of the courts below without reference to religiously based arguments, and affirming the constitutional promise of equal treatment for different- and same-sex couples, this Court will ensure that civil law neither favors nor disfavors any particular religious viewpoint, and it will leave individual faith communities free to determine for themselves whether or not to add religious sanction to particular unions.

CONCLUSION

For the foregoing reasons, *Amici* respectfully submit that the Court should affirm the judgments of the courts below that Michigan's ban on marriages of same-sex couples, and Kentucky's and Tennessee's failure to recognize the valid out-of-state marriages of same-sex couples, are unconstitutional.

Respectfully submitted,

/S/ JEFFREY S. TRACHTMAN
JEFFREY S. TRACHTMAN
Counsel of Record
NORMAN C. SIMON
JASON M. MOFF
KURT M. DENK
JESSICA N. WITTE
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
212-715-9100
jtrachtman@kramerlevin.com
Counsel for Amici Curiae

June 16, 2014

CERTIFICATE OF COMPLIANCE WITH FED. R. APP. P. 29(b) & 32(a)

(1) This brief complies with the type-volume limitation of Fed. R. App. P. 32(a)(7)(B) & 29(b) because this brief contains 6,742 words, excluding the parts of the brief exempted by Fed. R. App. P. 32(a)(7)(B)(iii).

(2) This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because this brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14-point Times New Roman font.

/s/ JEFFREY S. TRACHTMAN
JEFFREY S. TRACHTMAN
Counsel of Record
NORMAN C. SIMON
JASON M. MOFF
KURT M. DENK
JESSICA N. WITTE
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
212-715-9100
jtrachtman@kramerlevin.com
Counsel for Amici Curiae

June 16, 2014

CERTIFICATE OF DIGITAL SUBMISSION

I hereby certify that with respect to the foregoing:

(1) All required privacy redactions have been made pursuant to Sixth Circuit Local Rule 25.5.

(2) The CM/ECF submission is an exact copy of the hard copies of this brief as filed with the Clerk of Court.

(3) The digital submissions was scanned for viruses on June 13, 2014 with Version 8.8.0.975 of McAfee VirusScan + AntiSpyware Enterprise (built on August 15, 2012), and according to the program is free of viruses.

/s/ JEFFREY S. TRACHTMAN
JEFFREY S. TRACHTMAN
Counsel of Record
NORMAN C. SIMON
JASON M. MOFF
KURT M. DENK
JESSICA N. WITTE
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
212-715-9100
jtrachtman@kramerlevin.com
Counsel for Amici Curiae

June 16, 2014

CERTIFICATE OF SERVICE

I hereby certify that on June 16, 2014 I electronically filed the foregoing with the court's CM/ECF system, which will send notification of such filing to the counsel for all parties in these cases.

/s/ JEFFREY S. TRACHTMAN
JEFFREY S. TRACHTMAN
Counsel of Record
NORMAN C. SIMON
JASON M. MOFF
KURT M. DENK
JESSICA N. WITTE
KRAMER LEVIN NAFTALIS & FRANKEL LLP
1177 Avenue of the Americas
New York, New York 10036
212-715-9100
jtrachtman@kramerlevin.com
Counsel for Amici Curiae

June 16, 2014

ADDENDUM A: STATEMENTS OF INTEREST OF *AMICI CURIAE*

Amici curiae Bishops of The Episcopal Church in Kentucky, Michigan, Ohio, and Tennessee include The Rt. Rev. Terry Allen White, Eighth Bishop of Kentucky; The Rt. Rev. Douglas Hahn, Seventh Bishop of Lexington (Ky.); The Rt. Rev. Wendell N. Gibbs Jr., Tenth Bishop of Michigan; The Rt. Rev. Whayne M. Hougland Jr., Ninth Bishop of Western Michigan; The Rt. Rev. Rayford J. Ray, Eleventh Bishop of Northern Michigan; The Rt. Rev. Todd Ousley, Second Bishop of Eastern Michigan; The Rt. Rev. Mark Hollingsworth Jr., Eleventh Bishop of Ohio, and The Rt. Rev. David C. Bowman, The Rt. Rev. William D. Persell, and The Rt. Rev. Arthur B. Williams Jr., Assisting Bishops in the Diocese of Ohio; The Rt. Rev. Thomas E. Breidenthal, Ninth Bishop of Southern Ohio; The Rt. Rev. Don E. Johnson, Third Bishop of West Tennessee; and The Rt. Rev. George D. Young III, Fourth Bishop of East Tennessee. These bishops lead ten of the eleven dioceses of The Episcopal Church located within the territory of the Sixth Circuit. They have authorized the blessing of same-sex couples in Episcopal churches in their jurisdictions, including for couples who have already entered into civil marriages in other jurisdictions.

Amicus curiae General Synod of the United Church of Christ is the representative body of the this Protestant denomination of approximately 1.1

million members worshipping in approximately 5,100 local churches throughout the United States.

Amicus curiae Mormons for Equality is composed of countless individuals associated with the Mormon faith and tradition who work to further the cause of full legal equality for lesbian, gay, bisexual, and transgender individuals, including recognition of civil marriage rights for same-sex couples.

Amicus curiae Reconstructionist Rabbinical Association ("RRA"), established in 1974, is the professional association of Reconstructionist rabbis. Comprised of over 300 rabbis, the RRA represents the rabbinic voice within the Reconstructionist movement.

Amicus curiae Reconstructionist Rabbinical College and Jewish Reconstructionist Communities educates leaders, advances scholarship, and develops resources for contemporary Jewish life.

Amicus curiae Union for Reform Judaism, whose 900 congregations across North America include 1.3 million Reform Jews, is committed to ensuring equality for all of God's children, regardless of sexual orientation.

Amicus curiae Unitarian Universalist Association was founded in 1961 and has nurtured a heritage of providing a strong voice for social justice and liberal religion. Unitarian Universalism is a caring, open-minded faith community that traces its roots in North America back to the Pilgrims and the Puritans.

Amicus curiae Affirmation represents lesbian, gay, bisexual, transgender, and queer concerns and their supporters in the United Methodist Community.

Amicus curiae Covenant Network of Presbyterians, a broad-based, national group of clergy and lay leaders, seeks to support the mission and unity of the Presbyterian Church (U.S.A.), articulate and act on the church's historic, progressive vision, work for a fully inclusive church, and find ways to live out the graciously hospitable gospel by living together with all our fellow members in the Presbyterian Church (U.S.A.).

Amicus curiae Methodist Federation for Social Action mobilizes clergy and laity within The United Methodist Church to take action on issues of peace, poverty, and people's rights within the church, the nation, and the world.

Amicus curiae More Light Presbyterians represents lesbian, gay, bisexual, and transgender people in the life, ministry, and witness of the Presbyterian Church (U.S.A.) and in society.

Amicus curiae Presbyterian Welcome is a diverse community of countless individuals representing lesbian, gay, bisexual, and transgender people in the Presbyterian Church (U.S.A.), through education, advocacy, and relationship building.

Amicus curiae Reconciling Ministries Network serves lesbian, gay, bisexual, and transgender United Methodists and their allies to transform their world into the

full expression of Christ's inclusive love. Reconciling Ministries Network envisions a vibrant Wesleyan movement that is biblically and theologically centered in the full inclusion of God's children.

Amicus curiae ReconcilingWorks: Lutherans For Full Participation embodies, inspires, advocates and organizes for the acceptance and full participation of people of all sexual orientations and gender identities within the Lutheran communion, its ecumenical and global partners, and society at large.

Amicus curiae Religious Institute, Inc. is a multi-faith organization whose thousands of supporters include clergy and other religious leaders from more than 50 faith traditions. The Religious Institute partners with the leading mainstream and progressive religious institutions in the United States.

Amicus curiae Church of Our Saviour/La Iglesia de Nuestro Salvador of Cincinnati is a diverse, integrated, and growing urban parish, embracing both the catholic and the protestant traditions of the Church.

Amicus curiae leaders of Kentucky, Michigan, Ohio, and Tennessee religious communities include: Rev. Dr. Greg Bain, Pastor, Grace Immanuel United Church of Christ, Louisville; Randy Block, Director, Michigan Unitarian Universalist Social Justice Network, Royal Oak; Rev. Sara Cogsil, University Lutheran Church, East Lansing; Rev. Dawn Cooley, First Unitarian Church, Louisville; Bob Coons, D. Min., Owensboro Baptist Church, Philport; Reverend

Jason Crosby, Pastor, Crescent Hill Baptist Church, Louisville; Reverend Tricia Dykers Koenig, Forest Hill Church, Cleveland Heights; Rev. Gail R. Geisenhainer, Minister, First Unitarian Universalist Congregation, Ann Arbor; Reverend Kent H. Gilbert, Pastor, Union Church, Berea; The Very Rev. Gail Greenwell, Christ Church Cathedral (Episcopal), Cincinnati; Julia C. Herring, Cincinnati; Rev. Clare Hickman, St. Luke's Episcopal Church, Ferndale; Fr. Al Hirt, St. Monica-St. George Catholic Church, Cincinnati; Rabbi Abie Ingber, Loveland; Rev. Paula M. Jackson, Church of Our Saviour/La Iglesia de Nuestro Salvador (Episcopal), Cincinnati; Reverend Lauren Jones Mayfield, Lynnhurst United Church of Christ, Louisville; Don Kreiss, Bishop, Southeast Michigan Synod, ELCA; Jane Larsen-Wigger, Pastor, Crescent Hill Presbyterian Church, Louisville; The Rev. Paul LeClair, St. Patricks Episcopal, Madison Heights; Rev. Dwain W. Lee, Worthington Presbyterian Church, Worthington; Rev. Joanna Leiserson, Episcopal Church, Diocese of Southern Ohio, Cincinnati; Rev. Jeff Liebmann, Minister, Unitarian Universalist Fellowship, Midland; Sister Monica McGloin, Cincinnati; Rev. Sarah Midzalkowski, University Lutheran Church, East Lansing; The Reverend Dr. Timothy J. Mitchell, Episcopalian, Louisville; Rev. Roger Mohr, Minister, First Unitarian Universalist Church, Detroit; Rev. Marsha J. Moors-Charles, Pastor, Bluegrass United Church of Christ, Lexington; Rev. Debra Meyers, Inclusive Catholic Church, Cincinnati; Rev. Michael Myer, St. Philip

Lutheran, Trenton; Rev. Dr. Claudene Oliva, Minister, Unitarian Universalist Church, Flint; Derek L. Penwell, Senior Minister, Douglas Blvd. Christian Church, Louisville; Joe Phelps, Pastor, Highland Baptist Church, Louisville; Rev. Kimi Riegel, Minister, Northwest Unitarian Universalist Church, Southfield; Scott Rollins, Pastor, Highland Christian Church, Frankfort; The Rev. Nicolette L. Siragusa, First Congregational United Church of Christ, Grand Ledge; Rabbi Arnold Slutleberg, Congregation Shir Tikvah, Jewish-Reform, Troy; Rev. Colleen Squires, Minister, All Souls Community Church of West Michigan, Grand Rapids; Rabbi Elena Stein, Cincinnati; Reverend Rachel Small Stokes, Associate Pastor, Union Church, Berea; Rev. Roland Stringfellow, Metropolitan Community Church, Detroit; Rev. Jenn Tafel, Minister, Lansing Spiritual Center; Rev. Kristin Tannas, Immanuel Lutheran Church, Riverview Peace, Southgate; Rev. Ann Webber, Holy Cross Episcopal Church, Novi; and Pastor Richard Yeager-Stiver, United Church of Christ, Grosse Pointe Woods.