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CALLISON TIGHE

October 9, 2014

VIA HAND-DELIVERY
The Honorable Daniel E. Shearouse
Clerk of the South Carolina Supreme Court
Supreme Court Building
1231 Gervais Street
Columbia, South Carolina 29201

RE: State of South Carolina ex rel Alan Wilson, Attorney General v. Irvin G. Condon, in his capacity as Judge of Probate Charleston County.
Our file no. 3781.001

Dear Mr. Shearouse:

Enclosed for filing, please find an original and seven (7) copies of Colleen Condon and Nichols Bleckley's Motion to Intervene, along with a Certificate of Service in the above-referenced matter, and cash to cover the filing fee. Please file the original and six copies, clock-in the seventh copy, and return it to me via the courier delivering same.

By copy of this letter, I am serving all counsel of record with a copy of the same.

If you have any questions or need anything further regarding this matter, please do not hesitate to contact me.

With warm regards, I remain

Very truly yours,

Nekki Shutt, Esquire

NS:cnc
cc: John S. Nichols, Esq. (Via email and U.S. mail)
Alan Wilson, Esq. (Via email and U.S. mail)
J. Emory Smith, Jr., Esq. (Via email and U.S. mail)
Robert D. Cook, Esq. (Via email and U.S. mail)
Ian P. Weschler, Esq. (Via email and U.S. mail)

M. Malissa Burnette, Esq. (Via email only)
Vickie Eslinger, Esq. (Via email only)
Thomas P. Gressette, Jr., Esq. (Via email only)

THE STATE OF SOUTH CAROLINA
In the Supreme Court

RECEIVED
OCT 09 2014
S.C. SUPREME COURT

IN THE COURT'S ORIGINAL JURISDICTION

Colleen Therese Condon and Anne Nichols Bleckley.....Movants

In the Matter of:

The State of South Carolina,
ex rel Alan Wilson, Attorney General.....Petitioner,

v.

Irvin G. Condon, in his capacity as
Judge of Probate Charleston County .....Respondent.

MOTION TO INTERVENE

Colleen Therese Condon and Anne Nichols Bleckley (Movants) respectfully request that the South Carolina Supreme Court permit them to intervene as respondents in this action in which Attorney General Alan Wilson (Attorney General) on behalf of the State of South Carolina (the State) petitions this Court to issue a temporary injunction and an administrative order in its original jurisdiction. For the reasons set forth below, Movants have standing to intervene in this action and permitting them to intervene as respondents in this action is just and proper.

INTRODUCTION

Movants are a same-sex couple residing in the State of South Carolina. (Condon Aff.; Bleckley Aff.) Both are South Carolina natives. (*Id.*) They are in a committed, loving relationship. (*Id.*) They want to be married in their home state. (*Id.*) On the morning of October 8, 2014, following the United States Supreme Court's October 6, 2014 decision not to grant certiorari in *Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014), Movants applied for a marriage license at the Charleston County Probate Court and paid the requisite filing fee. (Condon Aff.; Bleckley Aff.) At approximately 9:15 a.m. on October 8, 2014, the Honorable Irvin G. Condon,

Probate Judge for Charleston County (Judge Condon), accepted Movants' application and filing fee for a marriage license. (*Id.*)

Late in the afternoon on October 8, 2014, Attorney General filed a Petition for Original Jurisdiction and Motion for a Temporary Injunction and Administrative Order with this Court.[1] Upon information and belief, this Court directed Judge Condon to file a response to the State's Petition within an hour and, consequently, Judge Condon filed a Return to the State's Petition on October 8, 2014 as well. At no point did this Court ever request a response from Movants, a couple whose fundamental right to marry is at the forefront of this action. (Condon Aff.; Bleckley Aff.)

Given recent rulings by the Fourth Circuit Court of Appeals and the United States Supreme Court, Judge Condon has stated and acted on his belief that he is required to accept and issue marriage licenses to same-sex couples. In *Bostic v. Schaefer*, 760 F.3d 352 (4th Cir. 2014), the Fourth Circuit Court of Appeals struck down Virginia's marriage ban — a law it recognized as "similar" to the one at issue in South Carolina – as an unconstitutional violation of the due process and equal protection rights of same-sex couples. In an opinion issued by the Honorable Henry F. Floyd of South Carolina, the Fourth Circuit held that the fundamental right to marry encompasses the right of all individuals to marry the person of their choice, including the right to marry a same-sex spouse. *See Bostic*, 760 F.3d at 376 ("the fundamental right to marry encompasses the right to same-sex marriage"). The Fourth Circuit therefore held that strict scrutiny applied to bans excluding same-sex couples from marriage. *Id.* Applying strict scrutiny, the Fourth Circuit rejected any possible state interest that Virginia asserted to justify its marriage ban, including "(1) Virginia's federalism-based interest in maintaining control over the definition of marriage within its borders, (2) the history and tradition of opposite-sex marriage, (3) protecting the institution of marriage, (4) encouraging responsible procreation, and (5)

[1] The State's Petition is dated August 21, 2013; however, Judge Condon accepted Movants' application for a marriage license on October 8, 2014.

promoting the optimal childrearing environment." *Id.* at 378-84. Accordingly, the Fourth Circuit held that the ban violated the Fourteenth Amendment's due process and equal protection guarantees. *Id.* In so holding, the Fourth Circuit joined many other federal and state court decisions that have struck down state marriage bans as unconstitutional in past year.[2]

On October 6, 2014, the Supreme Court denied the petition for certiorari in *Bostic*. *See McQuigg v. Bostic,* No. 14-251, 2014 WL 4354536 (U.S. Oct. 6, 2014). That denial rendered

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[2] *See Baskin v. Bogan*, No. 14-23862014, 2014 WL 4359059 (7th Cir. Sept. 4, 2014) (unanimously finding that the exclusion by Indiana and Wisconsin of same-sex couples from marriage violates the Equal Protection Clause of the Fourteen Amendment); *Bostic v. Schaefer*, No. 14-1167, slip op. (4th Cir. July 28, 2014), affirming *Bostic v. Rainey*, 970 F. Supp. 2d 456 (E.D. Va. 2014); *Bishop v. Smith*, Nos. 14-5003, 14-5006, 2014 WL 3537847 (10th Cir. July 18, 2014), affirming *Bishop v. U.S ex rel. Holder*, 962 F. Supp. 2d 1252 (N.D. Okla. 2014); *Kitchen v. Herbert*, No. 13-4178, 2014 WL 2868044 (10th Cir. June 25, 2014), affirming *Kitchen v. Herbert*, 961 F. Supp. 2d 1181 (D. Utah 2013); *Brenner v. Scott*, No. 4:14cv107-RH/CAS, 2014 WL 4113100 (N.D. Fla. Aug. 21, 2014) (preliminary injunction for plaintiffs in constitutional challenge to marriage ban); *Burns v. Hickenlooper*, No. 14-cv-01817, 2014 WL 3634834 (D. Colo. July 23, 2014); *Love v. Beshear*, No. 3:13-cv-750, 2014 WL 2957671 (W.D. Ky. July 1, 2014); *Baskin v. Bogan*, No. 1:14-cv-00355, 2014 WL 2884868 (S.D. Ind. June 25, 2014); *Wolf v. Walker*, 986 F. Supp. 2d 982 (W.D. Wis. 2014); *Whitewood v. Wolf*, No. 1:13-cv-1861, 2014 WL 2058105 (M.D. Pa. May 20, 2014); *Geiger v. Kitzhaber*, Nos. 6: 13-cv-01834, 6: 13-cv-02256, 2014 WL 2054264 (D. Or. May 19, 2014); *Evans v. Utah*, No. 2:14-cv-00055, 2014 WL 2048343 (D. Utah, May 19, 2014); *Latta v. Otter*, No. 1: 13-cv-00482, 2014 WL 1909999 (D. Idaho May 13, 2014); *Henry v. Himes*, No. 1:14-cv-129, 2014 WL 1418395 (S.D. Ohio Apr. 14, 2014); *DeBoer v. Snyder*, 973 F. Supp. 2d 757 (E.D. Mich. 2014); *Tanco v. Haslam*, No. 3:13-cv-01159, 2014 WL 997525 (M.D. Tenn. Mar. 14, 2014) (preliminary injunction); *De Leon v. Perry*, 975 F. Supp. 2d 632 (W.D. Tex. 2014) (preliminary injunction); *Lee v. Orr*, 13-cv-8719, 2014 WL 683680 (N.D. Ill. Feb. 21, 2014); *Bourke v. Beshear*, 3:13-cv-750-H, 2014 WL 556729 (W.D. Ky. Feb 12, 2014); *Gray v. Orr*, 2013 U.S. Dist. LEXIS 171473 (N.D. Ill., Dec. 5, 2013) (preliminary injunction); *Obergefell v. Wymyslo*, 962 F. Supp. 2d 968 (S.D. Ohio 2013); *Barrier v. Vasterling*, No. 1416-CV03892 (Jackson Cnty. Cir. Ct., Mo., Oct. 3, 2014); *In re Costanza and Brewer*, No. 2103-0052 (Parish of Layfayette, Sept. 22, 2014) (finding Louisiana's marriage ban unconstitutional); *In Re: Estate of Bangor*, No. 502014CP001857XXXXMB (Palm Beach Cnty. Cir. Ct., Fla., Aug. 5, 2014) (finding Florida's ban unconstitutional); *Pareto v. Ruvin*, No. 14-1661 (Miami-Dade County Cir. Ct., July 25, 2014) (invalidating Florida's ban); *Huntsman v. Heavilin*, No. 2014-CA-305-K (Monroe County Cir. Ct., July 17, 2014) (same); *Brinkman v. Long*, No. 13-cv-32572, 2014 WL 3408024 (Adams County Dist. Ct., July 9, 2014) (invalidating Colorado's ban); *A.L.F.L. v. K.L.L.*, No. 2014-CI-02421 (Bexar Cnty. Dist. Ct., Tex., Apr. 22, 2014) (declaring Texas' ban unconstitutional on its face); *Griego v. Oliver*, 316 P.3d 865, 889 (N.M. 2013); *Wright v. Arkansas*, No. 60CV -13-2662, 2014 WL 1908815 (Pulaski County Cir. Ct., May 9, 2014) (invalidating Arkansas' ban); *Garden State Equal. v. Dow*, 82 A.3d 336 (N.J. Super. Ct. Law Div. 2013) (invalidating New Jersey's ban). *But see Robicheaux v. Caldwell,* Case 3:13-cv-24068, No. 13-5090 (E.D. La. Sept. 3, 2014) *appeal pending* (granting summary judgment in favor of defendants and upholding the State of Louisiana's marriage ban under a rational basis standard of review).

final the Fourth Circuit's decision that the state same-sex marriage bans violate the Due Process and Equal Protection Clauses of the Fourteenth Amendment to the United States Constitution. *See Bostic*, 760 F.3d at 384.

ARGUMENT

This Court should permit Movants to intervene in this action pursuant to Rule 245(c), SCACR, and Rule 24, SCRCP. Several of the South Carolina Rules of Civil Procedure apply in matters proceeding before this Court in its original jurisdiction. *See* Rule 245(c), SCACR (noting the pleading requirements set forth in Rule 8, SCRCP, apply to complaints seeking relief in this Court's original jurisdiction, and noting the service provisions set forth in Rule 4, SCRCP, apply to matters proceeding in this Court's original jurisdiction). Although South Carolina's Appellate Court Rules do not specifically provide for intervention in appellate matters, if this action were brought in the circuit court, the provisions set forth in Rule 24, SCRCP, would apply. Accordingly, because this action is before this Court on the State's Petition for Original Jurisdiction, Rule 24 is applicable to the proceedings before this Court.

I. THIS COURT SHOULD PERMIT MOVANTS TO INTERVENE

Movants are proper parties to this action. "Intervention is a procedural device whereby a third party who is not a named party in an existing lawsuit, but who has an interest in its outcome, may become a party to the action." *In re Horry Cnty. State Bank*, 361 S.C. 503, 507, 604 S.E.2d 723, 725 (Ct. App. 2004). Our courts have interpreted court rules "to permit liberal intervention particularly where . . . judicial economy will be promoted by the declaration of the rights of all parties who may be affected. *McCullough v. Hicks*, 63 S.C. 542, 41 S.E. 761 (1902). Accordingly, [our courts] must consider the pragmatic consequences of a decision to permit or deny intervention and avoid setting up rigid applications of Rule 24(a)(2). Each case will be examined in the context of its unique facts and circumstances." *Berkeley Elec. Co-op., Inc. v. Town of Mt. Pleasant*, 302 S.C. 186, 189, 394 S.E.2d 712, 714 (1990).

Rule 24 provides for intervention as a matter of right in situations like this:

> **(a) Intervention of Right.** Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Rule 24, SCRCP. Because Movants herein seek to intervene as a matter of right, pursuant to Rule 24(a)(2), they need only: (1) establish timely application; (2) assert an interest relating to the property or transaction which is the subject of the action; (3) demonstrate that it is in a position such that without intervention, disposition of the action may impair or impede its ability to protect that interest; and (4) demonstrate that its interest is inadequately represented by other parties. *See* Rule 24, SCRCP; *In re Horry County State Bank*, 361 S.C. 503, 604 S.E.2d 723 (Ct. App. 2004).

A. Movants' Motion to Intervene is timely

Movants' motion is unquestionably timely. Only yesterday did the State petition this Court to issue a temporary injunction and an administrative order in its original jurisdiction. On that very same day, Judge Condon filed his Return to the State's Petition. Less than twenty-four hours have passed since the parties to this action filed the Petition and Return. Accordingly, Movants' Motion to Intervene is timely.

B. Movants have a fundamental interest relating to the subject of this action

Movants assert an interest relating to the transaction which is the subject of the State's action. Chiefly, it is Movants' right to marry which the State seeks to squelch with its Petition. Movants have complied with requirements outlined in South Carolina Code section 20-1-230 necessary to be issued a marriage license by Judge Condon. Movants completed and filed the requisite application for a marriage license required by section 20-1-230(A)(1) and (4) on October 8, 2014. (Condon Aff.; Bleckley Aff.) They paid the $70.00 fee required by section 20-1-230(A)(3). (*Id.*) Once twenty-four hours have lapsed, Judge Condon is required to issue a

marriage license to Movants. S.C. Code Ann. § 20-1-230(A). The statute is couched in mandatory language and does not allow probate judges any discretion.

In this action, the executive branch of government now impermissibly seeks to interfere with the judicial branch's duty to issue marriage licenses to applicants like Movants who have complied with section 20-1-230. Judge Condon's acceptance of Movants' marriage application was the impetus of the State filing its Petition seeking to invoke this Court's original jurisdiction. The Fourth Circuit has held that the fundamental right to marry encompasses the right of all individuals to marry the person of their choice, including the right to marry a same-sex spouse. *See Bostic*, 760 F.3d at 376 ("the fundamental right to marry encompasses the right to same-sex marriage"). Thus, there can be no real question but that Movants have the clearest of interests in the transaction which is the subject of this matter.

C. Without intervention, the disposition of this action will impair or impede Movants' ability to protect their fundamental right to marry

If this Court does not allow intervention, disposition of the action will impair and impede Movants' ability to protect and exercise that fundamental right to marry. In establishing this third fact for intervention, "a party need not prove that it would be bound in a res judicata sense by the judgment, only that it would have difficulty adequately protecting its interests if not allowed to intervene." *Berkeley Electric Coop., Inc. v. Town of Mt. Pleasant,* 302 SC. 186, 190, 394 S.E.2d 712, 715 (1990) *citing Spring Construction Co., Inc. v. Harris,* 614 F.2d 374 (4th Cir.1980). That means Movants need only prove "difficulty adequately protecting" their interests if not allowed to intervene. Quite simply, justice delayed is justice denied. Because Movants now have the right to marry and want to marry immediately, they are suffering irreparable harm from the denial of the requested marriage license. (Condon Aff.; Bleckley Aff.) Movants' real, current, and ongoing injuries cannot be made whole by some later ruling that finally recognizes the rights that they currently possess at this very moment. (*Id.*) As such, not only are their interests not being protected, they are being damaged with each passing moment. (*Id.*)

D. Movants' fundamental right to marry will not be adequately represented by the existing parties to this action

Finally, in order to support their motion for intervention, Movants must demonstrate that their interest is inadequately represented by other parties. It is correct that the burden of demonstrating inadequacy of representation rests with the intervenor. *Berkeley Electric Coop., Inc. v. Town of Mt. Pleasant,* 302 SC. 186, 191, 394 S.E.2d 712, 715 (1990) *citing S.C. Tax Commission v. Union County Treasurer*, 295 S.C. 257, 368 S.E.2d 72 (Ct. App. 1988). However, "[t]his burden is minimal and the applicant need only show that the representation of his interests '***may be*** inadequate." *Id. citing Trbovich v. United Mine Workers of America,* 404 U.S. 528, 92 S.Ct. 630, 30 L.Ed.2d 686 (1972) (Double emphasis added.)

In *Berkeley Electric,* this Court adopted the following factors from *Sagebrush Rebellion, Inc. v. Watt,* 713 F.2d 525 (9th Cir.1983), for determining the adequacy of representation:

> (1) whether the existing parties will undoubtedly make all of the intervenor's arguments; (2) whether the existing parties are capable and willing to make such arguments; and (3) whether the intervenor offers different knowledge, experience, or perspective on the proceedings that would otherwise be absent.

Berkeley Electric at 191, 394 S.E.2d at 715. The unique and personal interest of Movants cannot be adequately made by any other party and certainly will not be presented to this Court by the State or by Judge Condon. (Condon Aff.; Bleckley Aff.) The current parties are not capable of making Movants' positions known and Movants' unique perspective will be lost if they are denied the opportunity to participate. (*Id.*) In the Petition and Return, both parties dwell on and invite this Court to engage in rigid analysis of the technicalities of what is or is not binding law.[3] Movants seek to focus the Court on the fact the Fourth Circuit has declared that the United States Constitution extends same-sex couples a fundamental right to marry. (*Id.*) In

[3] As to that technical question, the State asserts with very weak precedent that the South Carolina Supreme Court is not bound by the federal courts holdings. (*See* Petition at 5-6.) Quite simply, this is untenable as to questions of federal law. Federal courts have original jurisdiction over federal claims and state courts only concurrent jurisdiction. It is for that reason that parties can remove an action to federal court any time federal issues predominate. Thus, the federal courts are the final say on federal law, just as states are the final say on state law. This case only involves a federal question.

every state in the Fourth Circuit, couples now possess that right. There is no dispute as to the existence of this right and that it will remain a right now that the Supreme Court has rejected certiorari. *See McQuigg v. Bostic,* No. 14-251, 2014 WL 4354536 (U.S. Oct. 6, 2014). The Attorney General's obligation is to uphold both the United States and the South Carolina Constitution. The Fourth Circuit has now told the Attorney General that he lacks any basis to defend unconstitutional South Carolina law on this point. Surely Movants possess the most unique knowledge and experience on the subject. (*Id.*) As such, they are entitled as a matter of right to participate in this action.

II. MOVANTS HAVE STANDING TO INTERVENE

These Movants have standing to intervene. For a private individual to establish they have standing, they must show that, as a result of a legislative or executive action, a direct injury has been sustained, or that there is immediate danger a direct injury will be sustained. *Joytime Distribs. & Amusement Co., Inc. v. State,* 338 S.C. 634, 639, 528 S.E.2d 647, 649–650 (1999). However, "the rule [of standing] is not an inflexible one." *Thompson v. South Carolina Comm'n on Alcohol & Drug Abuse,* 267 S.C. 463, 467, 229 S.E.2d 718, 719 (1976). Standing may be conferred upon a party "when an issue is of such public importance as to require its resolution for future guidance." *Baird v. Charleston County,* 333 S.C. 519, 531, 511 S.E.2d 69, 75 (1999). Our appellate courts granted standing in cases of important public interest. *See Sloan v. Sanford,* 357 S.C. 431, 593 S.E.2d 470 (2004) (standing to challenge governor's commission as an officer in the Air Force reserve); *Sloan v. Greenville County,* 356 S.C. 531, 548, 590 S.E.2d 338, 347 (Ct.App.2003) (standing to bring declaratory judgment action alleging county failed to comply with ordinances governing procurement of construction services on design-build public works projects).

As Movants' fundamental right to marry immediately is being thwarted by the State with its Petition, they have a direct injury which gives them standing in this matter. (Condon Aff.; Bleckley Aff.) Some examples of the specific harm which Movants -- and others who are being

denied marriage licenses -- suffer or risk suffering include being denied access to their partner in the event of illness or death, being divested of intestate succession rights, being unable to access dependent benefits through Social Security and group employment benefits, or simply seeking to begin a family or have children. Those injuries cannot be made whole by some later ruling that finally recognizes the rights that the Movants posses at this very moment.

III. THE STATE'S PETITION APPEARS DEFECTIVE

The State has failed to comply with Rule 265, SCACR, in seeking to file with the Court in its original jurisdiction. Under Rule 265, SCACR, this Court can entertain matters in its original jurisdiction. To do so, though, the Rule requires that "the facts showing the reasons must be stated in the petition with supporting affidavits." Rule 265, SCACR. Here, it appears that the State has failed to file any supporting affidavits with its Petition.[4] Likewise, the State has apparently failed to file "a complaint setting forth the claim for relief in a manner specified by Rule 8, SCRCP" with its Petition, as required by Rule 265(c), SCACR. Thus, this matter is not properly before the Court at this time and should be dismissed sua sponte.

CONCLUSION

In closing, Movants shall concisely state their position. While the State is correct that the local federal district court has not yet ruled on South Carolina's same-sex marriage ban laws, the absence of a ruling does not render these laws constitutional. *Bostic* is the marriage issue's *Brown v. Board of Education*, albeit on a different issue, and *Bostic*'s clear ruling that same-sex couples' fundamental right to marry has no caveats. 347 U.S. 483 (1954). The fact the case arose in Virginia is also of no consequence. Persisting in a ban on gay marriage in South Carolina is the equivalent of reasoning that the holding in regard to segregated schools in Kansas in *Brown v. Board of Education* was inapplicable to Mississippi because schools in Mississippi are surrounded by cotton, whereas those in Kansas are surrounded by corn.

[4] As of this drafting, neither the State's petition, nor the Respondent's Return are publicly available on the appellate court's online case tracking system known as "C-Track."

Moreover, the Supreme Court made clear later in *Green v. New Kent* County, 391 U.S. 430 (1968), that every day that districts persisted in segregated schools after the decision in *Brown* was a day that the schools were violating the constitution and plaintiffs entitled to additional remedies, regardless of whether they had been hauled into court following *Brown* and told so. The continuing efforts of the Attorney General to infringe on this state's citizens' fundamental right to marry post-*Bostic* is as shameful as Alabama Governor George Wallace's rallying cry for "segregation now, segregation tomorrow, segregation forever" in his 1963 inaugural speech, after the *Brown* decision.

For the reasons set forth herein, Movants respectfully ask this Court to grant their Motion to Intervene and to grant the Movants adequate time in which to reply to the substance of the State's Petition.

[SIGNATURES ON THE FOLLOWING PAGE]

Respectfully submitted,

Susan K. Dunn
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ATTORNEYS FOR MOVANTS

October 9, 2014

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE COURT'S ORIGINAL JURISDICTION

Colleen Therese Condon and Anne Nichols Bleckley, ...Movants,

In the Matter of:

The State of South Carolina,
ex rel Alan Wilson, Attorney General.....Petitioner,

v.

Irvin G. Condon, in his capacity as
Judge of Probate Charleston County .....Respondent.

CERTIFICATE OF SERVICE

I do hereby certify that I have served a copy of the following as indicated herein below, by email AND by mailing a copy of same on the date below by First Class United States Mail, postage prepaid, addressed to the following:

DOCUMENT SERVED: **MOTION TO INTERVENE**

PARTIES SERVED THROUGH THEIR COUNSEL:

Robert D. Cook
J. Emory Smith, Jr.
Ian P. Weschler
OFFICE OF THE ATTORNEY GENERAL
P.O. Box 11549
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John S. Nichols
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Carli Cochran
Legal Secretary
Callison Tighe & Robinson, LLC

Columbia, South Carolina

October 9, 2014

The State of South Carolina
In the Supreme Court
In the Original Jurisdiction of the Supreme Court

The State of South Carolina, ex rel Alan Wilson, Attorney General Petitioner,	)	
	)	AFFIDAVIT IN SUPPORT OF MOTION TO INTERVENE
v.	)	
Irvin G. Condon, in his capacity as Judge of the Probate Charleston County, Respondent.	)	

The undersigned, Anne Nichols Bleckley, having been duly sworn, deposes and says:

ONE: She is a resident of the County of Charleston, State of South Carolina. She was born on February 17, 1971. She is a female. She is presently unmarried.

TWO: She is employed by Blackbaud.

THREE: She is a South Carolina native and she desires to be married under the laws of her native state.

FOUR: The person to whom she is engaged is Colleen Therese Condon. Condon is a woman who is also South Carolina native. Condon lives in

Charleston, South Carolina. She is a member in good standing of the South Carolina Bar. She maintains a private practice in Charleston. She is presently serving her third term as a member fo the Charleston County Council.

She was born on May 14, 1970.

FIVE: The undersigned is informed and believes that the denial of petition for certiorari by the United State Supreme Court on October 6, 2014 in the case of *Bostic v. Schaefer,* 780 F.3rd 352 (4th Cir. 2014) establishes that case as binding precedent for the 4th Circuit. South Carolina is one of the state in the 4th Circuit. That decision, written by South Carolinian Henry F. Floyd, holds without equivocation, that the freedom to marry is a fundamental right protected by the U.S. Constitution which cannot be denied to persons choosing to marry persons of the same sex. Many voices were heard in that decision. The first nineteen pages are filled with the names of individuals and groups that made an appearance in that case.

SIX: The undersigned chooses to exercise her fundamental right to marry the person she loves. On October 8, 2014, the undersigned and her fiancé, Colleen Condon, presented themselves to the Probate court in Charleston County , SC. They applied for a marriage license and paid the required fee. They meet all the legal requirement to apply for a marriage license. The only basis for denying the issuance of the license would be reliance upon the South Carolina state prohibitions of same sex marriage.

SEVEN: The undersigned believes that the petition filed in the Supreme

Court by The Attorney General of the South of South Carolina is intended to prevent the Probate Judge of Charleston County from issuing a marriage license to Condon and Bleckley. Any such ruling could substantially affect constitutionally protected rights of the undersigned that have been found fundamental by the 4th Circuit. While the undersigned believes that her fundamental rights should be honored immediately, she respectfully asks that this court allow her to intervene and to give her an opportunity to be heard before issuing any ruling on the pending petition by the Attorney General. If this Court grants the motion to intervene, Bleckley and her fiancé will refrain from requesting the issuance of their marriage license until this court has heard all arguments and issued a ruling.

Anne Nichols Bleckley

Sworn to before me

the 9 day of October, 2014

Notary Public For South Carolina

My commission expires: 12/4/22

The State of South Carolina
In the Supreme Court
In the Original Jurisdiction of the Supreme Court

The State of South Carolina, ex rel Alan Wilson, Attorney General Petitioner, v. Irvin G. Condon, in his capacity as Judge of the Probate Charleston County, Respondent.	AFFIDAVIT IN SUPPORT OF MOTION TO INTERVENE

The undersigned, Colleen Therese Condon, having been duly sworn deposes and says:

ONE: She is a resident of the County of Charleston, State of South Carolina. She was born on May 14, 1970. She is a female. She is presently unmarried. She was previously married. She is divorced.

TWO: She is a member in good standing of the South Carolina Bar. She maintains a private practice in Charleston. She is presently serving her third term as a member fo the Charleston County Council.

THREE: She is a South Carolina native and she desires to be married under the laws of her native state.

FOUR: The person to whom she is engaged is Anne Nichols Bleckley. Bleckely is a woman who is also South Carolina native. Bleckley lives in Charleston, South Carolina. She is employed by Blackbaud. She was born on February 17, 1971.

FIVE: The undersigned is informed and believes that the denial of petition for certiorari by the United State Supreme Court on October 6, 2014 in the case of *Bostic v. Schaefer,* 780 F.3rd 352 (4th Cir. 2014) establishes that case as binding precedent for the 4th Circuit. South Carolina is one of the state in the 4th Circuit. That decision, written by South Carolinian Henry F. Floyd, holds without equivocation, that the freedom to marry is a fundamental right protected by the U.S. Constitution which cannot be denied to persons choosing to marry persons of the same sex. Many voices were heard in that decision. The first nineteen pages are filled with the names of individuals and groups that made an appearance in that case.

SIX: The undersigned chooses to exercise her fundamental right to marry the person she loves. On October 8, 2014, the undersigned and her fiancé, Anne Nichols Bleckley, presented themselves to the Probate court in Charleston County , SC. They applied for a marriage license and paid the required fee. They meet all the legal requirement to apply for a marriage license. The only basis for denying the issuance of the license would be reliance upon the South Caroina state prohibitions of same sex marriage.

SEVEN: The undersigned believes that the petition filed in the Supreme

Court by The Attorney General of the South of South Carolina is intended to prevent the Probate Judge of Charleston County from issuing a marriage license to Condon and Bleckley. Any such ruling could substantially affect constitutionally protected rights of the undersigned that have been found fundamental by the 4th Circuit. While the undersigned believes that her fundamental rights should be honored immediately, she respectfully asks that this court allow her to intervene and to give her an opportunity to be heard before issuing any ruling on the pending petition by the Attorney General. If this Court grants the motion to intervene, Condon and her fiancé will refrain from requesting the issuance of their marriage license until this court has heard all arguments and issued a ruling.

Colleen Therese Condon

Sworn to before me

the 9th day of October, 2014

Notary Public For South Carolina

My commission expires: June 24, 2024