

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
CASE NO. 1:12-CV-589**

<b>MARCIE FISHER-BORNE, et al,</b> <b>Plaintiffs,</b>	)	
	)	
<b>v.</b>	)	<b>ANSWER</b>
	)	
<b>JOHN W. SMITH, et al,</b> <b>Defendants.</b>	)	
	)	

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NOW COMES Defendant, Jeff Thigpen, in his official capacity as the Register of Deeds for Guilford County, (hereinafter “Defendant Thigpen”) without waiving any motions or defenses, in answer to Plaintiffs’ Amended Complaint.

**INTRODUCTION**

*Plaintiffs’ Amended Complaint consists largely of analysis, conclusions and opinions of various laws, cases and other legal authority and relates that legal authority to how those laws impact the Plaintiffs. As such, most of the allegations set out in the Amended Complaint consist of conclusions of law or facts related to the Plaintiffs to which Defendant Jeff Thigpen has no personal knowledge. In fact, only paragraphs 345, 346, 347, 348, 352 and 354 of the total of 440 paragraphs are directed to Defendant Thigpen in any meaningful way. Therefore, the only appropriate answer Defendant Thigpen can provide for all, but a very small handful of paragraphs is that conclusions of law are neither admitted nor denied and as to facts related to the Plaintiffs’ relationships to other Plaintiffs or family members is outside the scope of Defendant Thigpen’s knowledge and, thus can neither be admitted nor denied. Pursuant to Rule 8 of the North Carolina Rules of Civil Procedure, where one is without sufficient knowledge to form a belief as to the truth of an averment, he is mandated to so state and his response is deemed a denial; further, no response is required to conclusions of law, analysis of law*

*or statements of law and authority. Where no response is required, any averment is deemed denied.*

1. Defendant Thigpen is without knowledge or information sufficient to form a belief as to any facts set out herein. To the extent that the allegations in Paragraph 1 constitute conclusions of law, said conclusions are neither admitted nor denied; any other allegations are denied for the reasons set out in this answer.

2-6. To the extent that the allegations in Paragraphs 2-6 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

### **ADOPTION**

7-9. To the extent that the allegations in Paragraphs 7-9 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

### **MARRIAGE**

10-11. To the extent that the allegations in Paragraphs 10-11 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without

sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

12. Defendant Thigpen is without sufficient knowledge or information to admit or deny Plaintiffs' allegations in Paragraph 12.

13-14. To the extent that the allegations in Paragraphs 13-14 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

### **CONSTITUTIONAL VIOLATIONS**

15-17. To the extent that the allegations in Paragraphs 15-17 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge of information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

### **NATURE OF THE ACTION**

18. It is admitted that Plaintiffs are asserting a cause of action under 42 U.S.C § 1982.

## **JURISDICTION AND VENUE**

19. It is admitted that Plaintiffs are asserting a cause of action under 42 U.S.C § 1982.

20. To the extent that the allegations in Paragraph 20 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph, they are admitted.

21. Admitted as to Defendant Thigpen; admitted as to the remaining Defendants, admitted upon information and belief.

22. To the extent that the allegations in Paragraph 22 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

## **THE NORTH CAROLINA ADOPTION STATUTES**

23-34. To the extent that the allegations in Paragraphs 23-34 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**OTHER STATES GRANT SECOND PARENT ADOPTION,  
RECOGNIZING THAT SUCH ADOPTIONS ARE IN THE BEST  
INTERESTS OF CHILDREN**

35-40. To the extent that the allegations in Paragraphs 35-40 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**WHILE NORTH CAROLINA PROHIBITS ADOPTIONS BY  
SECOND PARENTS, NORTH CAROLINA LAWS AND POLICIES  
OTHERWISE RECOGNIZE THE VALUE THAT GAY AND LESBIAN  
COUPLES PROVIDE AS PARENTS**

**Minimum Standards for Family Foster Homes**

41-48. To the extent that the allegations in Paragraphs 41-48 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**De Facto Parent Doctrine**

49-55. To the extent that the allegations in Paragraphs 49-55 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**FORBIDDING APPLICATIONS FOR SECOND PARENT  
ADOPTION ADVANCES NO COMPELLING OR EVEN  
LEGITIMATE STATE PURPOSE**

56-63. To the extent that the allegations in Paragraphs 56-63 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**THE NORTH CAROLINA MARRIAGE LAWS**

**North Carolina Marriage Statutes**

64-65. To the extent that the allegations in Paragraphs 64-65 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**The North Carolina Anti-Marriage Amendment (“Amendment One”)**

66-70. To the extent that the allegations in Paragraphs 66-70 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**OTHER BARRIERS TO MARRIAGE  
HAVE BEEN STRUCK DOWN**

71-88. To the extent that the allegations in Paragraphs 71-88 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**ANY ALLEGED STATE INTEREST IN PREVENTING  
ADOPTIONS OR FORBIDDING MARRIAGE IS SUBJECT TO  
HEIGHTENED SCRUTINY**

89-104. To the extent that the allegations in Paragraphs 89-104 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**PARTIES**

**PLAINTIFFS**

**Marcie and Chantelle Fisher-Borne, and M.F.-B. and E.F.-B**

105-131. To the extent that the allegations in Paragraphs 105-131 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**Terri Beck, Leslie Zanaglio, T.B.Z. and D.B.Z.**

132-169. To the extent that the allegations in Paragraphs 132-169 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**Shana Carignan, Megan Parker and J.C.**

170-198. To the extent that the allegations in Paragraphs 170-198 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**Leigh Smith, Crystal Hendrix and J.H.-S.**

199-219. To the extent that the allegations in Paragraphs 199-219 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**Dana Draa, Lee Knight Caffery, M.M.C.-D and M.L.C.-D.**

220-242. To the extent that the allegations in Paragraphs 220-242 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without



sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**Shawn Long, Craig Johnson, and I.J.-L**

243-282. To the extent that the allegations in Paragraphs 243-282 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**HARMS SUFFERED BY PLAINTIFFS AS A RESULT OF  
NORTH CAROLINA'S CATEGORICAL PROHIBITION  
AGAINST SECOND PARENT ADOPTION**

283-318. To the extent that the allegations in Paragraphs 283-318 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

**HARMS SUFFERED BY PLAINTIFFS AS RESULT OF BEING  
DENIED THE FREEDOM TO MARRY**

319-329. To the extent that the allegations in Paragraphs 319-329 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

## DEFENDANTS

330. Admitted, upon information and belief.

331. To the extent that the allegations in Paragraph 331 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

332. Admitted.

333. Admitted upon information and belief.

334. To the extent that the allegations in Paragraph 334 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph, admitted upon information and belief.

335. Admitted.

336. Admitted upon information and belief.

337. To the extent that the allegations in Paragraph 337 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph, admitted upon information and belief.

338. Admitted.

339. Admitted.

340. To the extent that the allegations in Paragraph 340 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any

remaining allegations set forth in this paragraph, admitted upon information and belief.

341. To the extent that the allegations in Paragraph 341 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph, admitted upon information and belief.

342. Admitted

343. Admitted.

344. Admitted.

345. Admitted.

346. It is admitted that among the responsibility of the Defendant Thigpen in his official capacity as Guilford County Register of Deeds, is the issuance of marriage licenses where such application is in accord with State legal requirements.

347. Admitted.

348. Admitted.

### **FUTILITY**

349. To the extent that the allegations in Paragraph 349 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

350. To the extent that the allegations in Paragraph 350 constitute conclusions of law, said conclusions are neither admitted nor denied.

351. To the extent that the allegations in Paragraph 351 constitute conclusions of law, said conclusions are neither admitted nor denied.

352. Admitted.

353. To the extent that the allegations in Paragraph 353 constitute conclusions of law, said conclusions are neither admitted nor denied.

354. To the extent that the allegations in Paragraph 354 constitute conclusions of law, said conclusions are neither admitted nor denied.

355. To the extent that the allegations in Paragraph 355 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

356. To the extent that the allegations in Paragraph 356 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

357. To the extent that the allegations in Paragraph 357 constitute conclusions of law, said conclusions are neither admitted nor denied.

358. To the extent that the allegations in Paragraph 358 constitute conclusions of law, said conclusions are neither admitted nor denied.

359. To the extent that the allegations in Paragraph 359 constitute conclusions of law, said conclusions are neither admitted nor denied, otherwise, any allegations are admitted upon information and belief.

**CLAIMS FOR RELIEF**

**FIRST CLAIM FOR RELIEF**

**(By The Child Plaintiffs)  
(Children's Rights Under The Equal Protection Clause of the United  
State Constitution, 42 U.S.C. § 1983)**

360. Defendant Thigpen re-states and incorporates his responses to allegations 1-359 of Plaintiffs' Amended Complaint.

361-370. To the extent that the allegations in Paragraphs 361-370 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

371. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction against Defendant Thigpen could afford the relief sought in this Claim; therefore, this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied.

**SECOND CLAIM FOR RELIEF**  
**(By The Legal And Second Parent Plaintiffs)**  
**(Parents' Rights Under The Equal Protection Clause of the United**  
**State Constitution, 42 U.S.C. § 1983)**

372. Defendant Thigpen re-states and incorporates his responses to allegations 1-371 of Plaintiffs' Amended Complaint.

373-380. To the extent that the allegations in Paragraphs 373-380 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

381. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction against Defendant Thigpen could afford the relief sought in this Claim; therefore, this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied.

**THIRD CLAIM FOR RELIEF**  
**(By The Legal Parent Plaintiffs)**  
**(Parents' Rights Under The Equal Protection Clause of the United**  
**State Constitution, 42 U.S.C. § 1983)**

382. Defendant Thigpen re-states and incorporates his responses to allegations 1-381 of Plaintiffs' Amended Complaint.

383-387. To the extent that the allegations in Paragraphs 383-387 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any

remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

388. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction against Defendant Thigpen could afford the relief sought in this Claim; therefore, this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied.

**FOURTH CLAIM FOR RELIEF**  
**(BY ALL PLAINTIFFS)**  
**(Due Process Clause Under the United States**  
**Constitution, 42 U.S.C. § 1983)**

389. Defendant Thigpen re-states and incorporates his responses to allegations 1-388 of Plaintiffs' Amended Complaint.

390-394. To the extent that the allegations in Paragraphs 390-394 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

395. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction against Defendant Thigpen could afford the relief sought in this Claim; therefore,

this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied

**FIFTH CLAIM FOR RELIEF  
(By The Legal And Second Parent Plaintiff  
Who Are Not Married Plaintiffs)  
(Equal Protection Clause of the United States  
Constitution, 42 U.S.C. § 1983)**

396. Defendant Thigpen re-states and incorporates his responses to allegations 1-395 of Plaintiffs' Amended Complaint.

397-403. To the extent that the allegations in Paragraphs 397-403 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

404. Plaintiffs assert a claim related to the legal framework in North Carolina regarding same sex marriage and asserts that Defendant Thigpen must act, and has, in fact, acted to date within the established legal framework. Plaintiffs argue that the current framework is not consistent with the legal and Constitutional requirements and, thus must be changed. Any allegation that Defendant Thigpen will act in any law inconsistent with established law is denied. Defendant Thigpen will implement the law of North Carolina regarding marriage and if there are any changes to the lawful requirements for issuance of a marriage license, Defendant Thigpen will fully comply with those requirements. It is specifically denied that injunctive relief is required to carry out any lawful



mandate regarding the duties and responsibilities of Defendant Thigpen in his official duties.

**SIXTH CLAIM FOR RELIEF**  
**(By The Married Plaintiffs)**  
**(Equal Protection Clause Under the United States**  
**Constitution, 42 U.S.C. § 1983)**

405. Defendant Thigpen re-states and incorporates his responses to allegations 1-404 of Plaintiffs' Amended Complaint.

406-412. To the extent that the allegations in Paragraphs 406-412 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

413. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction against Defendant Thigpen could afford the relief sought in this Claim; therefore, this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied.

**SEVENTH CLAIM FOR RELIEF**  
**(By The Child Plaintiffs)**  
**(Equal Protection Clause Under the United States**  
**Constitution, 42 U.S.C. § 1983)**

414. Defendant Thigpen re-states and incorporates his responses to allegations 1-413 of Plaintiffs' Amended Complaint.

415-417. To the extent that the allegations in Paragraphs 415-417 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

418. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction against Defendant Thigpen could afford the relief sought in this Claim; therefore, this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied.

419-424. To the extent that the allegations in Paragraphs 419-424 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

425. Plaintiffs are asserting a Claim for Relief upon which no relief could be granted as to Defendant Thigpen. This Claim for Relief, to the extent any claim could be asserted, is directed against other Defendants. No injunction

against Defendant Thigpen could afford the relief sought in this Claim; therefore, this matter should be dismissed as to Defendant Thigpen as to this Claim. The allegations in this paragraph are, therefore, denied.

**EIGHTH CLAIM FOR RELIEF**  
**(By The Married and Unmarried Plaintiffs)**  
**(Due Process Clause of the United States**  
**Constitution, 42 U.S.C. § 1983)**

426. Defendant Thigpen re-states and incorporates his responses to allegations 1-425 of Plaintiffs' Complaint.

427-431. To the extent that the allegations in Paragraphs 427-431 constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in these paragraphs Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in these paragraphs are denied.

432. Plaintiffs assert a claim related to the legal framework in North Carolina regarding same sex marriage and asserts that Defendant Thigpen must act, and has, in fact, acted to date within the established legal framework. Plaintiffs argue that the current framework is not consistent with the legal and Constitutional requirements and, thus must be changed. Any allegation that Defendant Thigpen will act in any law inconsistent with established law is denied. Defendant Thigpen will implement the law of North Carolina regarding marriage and if there are any changes to the lawful requirements for issuance of a marriage license, Defendant Thigpen will fully comply with those requirements. It is specifically denied that injunctive relief is required to carry out any lawful

mandate regarding the duties and responsibilities of Defendant Thigpen in his official duties.

**PRAYER FOR RELIEF**

WHEREFORE, Defendant Thigpen respectfully prays:

433. In that Paragraphs 433 through 440 constitute Plaintiffs' Prayer for Relief, Defendant Thigpen answers and respectfully prays this Court to dismiss this action against Defendant Thigpen as to Plaintiffs' claims for relief 1, 2, 3, 4, 6, and 8. With respect to all claims Defendant Thigpen prays this Court issue no injunctive relief. To the extent Paragraph 433 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

434. In that Paragraphs 433 through 440 constitute Plaintiffs' Prayer for Relief, Defendant Thigpen answers and respectfully prays this Court to dismiss this action against Defendant Thigpen as to Plaintiffs' claims for relief 1, 2, 3, 4, 6, and 8. With respect to all claims Defendant Thigpen prays this Court issue no injunctive relief. To the extent Paragraph 434 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

435. In that Paragraphs 433 through 440 constitute Plaintiffs' Prayer for Relief, Defendant Thigpen answers and respectfully prays this Court to dismiss this action against Defendant Thigpen as to Plaintiffs' claims for relief 1, 2, 3, 4, 6, and 8. With respect to all claims Defendant Thigpen prays this Court issue no injunctive relief. To the extent Paragraph 435 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

436. In that Paragraphs 433 through 440 constitute Plaintiffs' Prayer for Relief, Defendant Thigpen answers and respectfully prays this Court to dismiss this action against Defendant Thigpen as to Plaintiffs' claims for relief 1, 2, 3, 4, 6, and 8. With respect to all claims Defendant Thigpen prays this Court issue no injunctive relief. To the extent Paragraph 436 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

437. In that Paragraphs 433 through 440 constitute Plaintiffs' Prayer for Relief, Defendant Thigpen answers and respectfully prays this Court to dismiss this action against Defendant Thigpen as to Plaintiffs' claims for relief 1, 2, 3, 4, 6, and 8. With respect to all claims Defendant Thigpen prays this Court issue no injunctive relief. To the extent Paragraph 437 contains allegations that constitute

conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

438. In that Paragraphs 433 through 440 constitute Plaintiffs' Prayer for Relief, Defendant Thigpen answers and respectfully prays this Court to dismiss this action against Defendant Thigpen as to Plaintiffs' claims for relief 1, 2, 3, 4, 6, and 8. With respect to all claims Defendant Thigpen prays this Court issue no injunctive relief. To the extent Paragraph 438 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied

439. As to Defendant Thigpen, it is denied that any assessment of Plaintiff's attorney fees against Defendant Thigpen or Guilford County is authorized by 42 U.S.C. § 1988 or any other authority. To the extent Paragraph 439 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied.

440. To the extent Paragraph 440 contains allegations that constitute conclusions of law, said conclusions are neither admitted nor denied. As to any remaining allegations set forth in this paragraph Defendant Thigpen is without sufficient knowledge or information to admit or deny; thus, for the reasons set forth above, the remaining allegations in this paragraph are denied

This the 11<sup>th</sup> day of September, 2013.

/s/J. Mark Payne  
J. Mark Payne (N.C.S.B. No. 11046)  
Attorney for Defendant  
Guilford County, North Carolina  
[mpayne@co.guilford.nc.us](mailto:mpayne@co.guilford.nc.us)

OFFICE OF GUILFORD COUNTY ATTORNEY  
301 W. Market Street  
PO Box 3427 (27402)  
Greensboro, N.C. 27401  
336-641-3852 (phone)  
336-641-3642 (facsimile)

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **Answer** was served upon all parties in accordance with the provisions of Rule 5 of the Federal Rules of Civil Procedure by:

\_\_\_\_\_ Hand delivering a copy hereof to the attorney for each said party addressed as follows:

  x   Depositing a copy hereof, postage prepaid, in the United States Mail, addressed as follows on September 12, 2013:

Jonathan D. Sasser  
Jeremy M. Falcone  
Ellis & Winters, LLP  
PO Box 33550  
Raleigh, N.C. 27636

Rose A. Saxe  
James D. Esseks  
American Civil Liberties  
Union Foundation  
125 Broad Street  
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Christopher Brook  
ACLU of N.C.  
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David A. Castleman  
Catherine M. Bradley  
William R.A. Kleysteuber  
Daniel W. Meyler  
Sullivan & Cromwell, LLP  
125 Broad Street  
New York, NY 10004-2498

\_\_\_\_\_ Telecopying a copy thereof to the attorney for each said party and to each party as follows:

  x   Use of the Court's ECF facilities.

This the 11<sup>th</sup> day of September, 2013.

/s/ J. Mark Payne  
J. Mark Payne