

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA BASSETT and CAROL
KENNEDY, PETER WAYS and JOE
BREAKEY, JOLINDA JACH and BARBARA
RAMBER, DOAK BLOSS and GERARDO
ASCHERI DENISE MILLER and
MICHELLE JOHNSON,

No. 2:12-cv-10038

HON. DAVID M. LAWSON

Plaintiffs,

MAG. MICHAEL J. HLUCHANIUK

v

RICHARD SNYDER, in his official capacity
as Governor of the State of Michigan,

Defendant.

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**DEFENDANT GOVERNOR RICHARD SNYDER'S
ANSWER TO FIRST AMENDED COMPLAINT**

1. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

2. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

3. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

4. Admitted.

5. Admitted.

6. Defendant denies the allegations for the reasons they are based on incorrect statements of fact and law and, therefore, are not true.

7. Defendant denies the allegations for the reason they are based on incorrect statements of fact and law and, therefore, are not true.

8. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

9. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

10. Defendant denies the allegations for the reason they are based on incorrect statements of fact and or law and, therefore, are not true.

11. Defendant denies the allegations for the reason they are based on incorrect statements of fact and law and, therefore, are not true.

12. Defendant denies the allegations for the reason they are based on incorrect statements of fact and law and, therefore, are not true.

PARTIES

A. Plaintiffs

14. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

15. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

16. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

17. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

18. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

19. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

20. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

21. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

22. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

23. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

24. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

25. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

26. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

27. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

28. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

29. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

30. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

31. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

32. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

33. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

34. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

35. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

36. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

37. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

38. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

39. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

40. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

50. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

51. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

52. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

B. DEFENDANT

53. Admitted on information and belief.

54. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

JURISDICTION AND VENUE

55. Admitted on information and belief the allegation this action is brought under 42 U.S.C 1983 and 1988. Defendant denies any deprivation under color of state of rights secured by the United State Constitution for the reason it is not true.

56. Admitted on information and belief.

57. Defendant denies the allegations for the reason they are based on incorrect statements of fact and law and, therefore, are not true.

58. Admitted on information and belief.

59. Admitted on information and belief.

FACTUAL BACKGROUND

60. Admitted on information and belief.

61. Defendant admits on information and belief that prior to 2004 some public employers voluntarily provided family health benefits to same-sex domestic partners. Defendant neither admits nor denies the remaining allegations being without sufficient information to formulate a response.

62. Admitted.

63. Admitted on information and belief.

64. Admitted on information and belief.

65. Admitted on information and belief.

66. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

67. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

68. Admitted on information and belief.

69. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

70. Admitted.

71. Admitted.

72. Admitted.

73. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

74. Defendant denies the allegations for the reason they are untrue.

75. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

76. Defendant denies the allegations for the reason they are not true.

77. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

78. Defendant admits the statement attributed to the legislative analysis by the House Fiscal Agency, dated September 6, 2011, is accurately represented.

Defendant neither admits nor denies the remaining allegations being without sufficient information to formulate a response.

79. Defendants admit the statements attributed to the legislative analysis are accurately represented. Defendant denies the remaining allegations for the reason they are not true.

80. Defendant admits lesbian and gay public employees cannot marry their committed partners in Michigan and cannot inherit from their same-sex partners under state intestacy laws. Defendant denies the remaining allegation for the reason it is not true.

81. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

82. Defendant admits the Act took immediate effect when signed; and coverage is terminated when collective bargaining agreements or contracts that were effective at the time the Act took effect expire. Defendant neither admits nor denies the remaining allegations being without sufficient information to formulate a response.

83. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

84. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response..

85. Defendant denies the allegations for the reason they are not true.

86. Defendant denies the allegations the Act is disconnected from any valid goals of the State and was motivated by prejudice against lesbians and gay men purely because of their sexual orientation and/or the sex of their partners. Defendant neither admits nor denies the remaining allegations being without sufficient information to formulate a response.

87. Defendant denies the allegations for the reason they are not true.

88. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

89. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

90. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

91. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

92. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

93. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

94. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

95. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

96. Defendant denies the allegation the Act is not rationally related to any legitimate interest in cost containment for the reason it is not true. Defendant neither admits nor denies the remaining allegations being without sufficient information to formulate a response.

97. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

98. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

99. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

100. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

101. Admitted.

102. Defendant denies the allegations for the reason they are not true.

103. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

104. Defendant denies the allegations for the reason they are not true.

FIRST CLAIM FOR RELIEF

Equal Protection on the Basis of Sexual Orientation and Sex

105. Defendant incorporates paragraphs 1 through 104 of this Answer.

106. Admitted.

107. Admitted.

108. Defendant denies the allegations for the reason they are not true.

109. Defendant denies the allegations for the reason they are not true.

110. Defendant denies the allegations for the reason they are not true.

111. Defendant denies the allegations for the reason they are not true.

112. Defendant denies the allegations for the reason they are not true.

113. Defendant denies the allegations for the reason they are not true.

114. Defendant denies the allegations for the reason they are not true.

115. Defendant denies the allegations for the reason they are not true.

116. Defendant denies the allegations for the reason they are not true.

117. Defendant denies the allegations for the reason they are not true.

SECOND CLAIM FOR RELIEF

Substantive Due Process

118. Defendant incorporates paragraphs 1 through 117 of this Answer.

119. Defendant denies the allegations for the reason they are not true.

120. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

121. Defendant denies the allegations for the reason they are not true.

122. Defendant denies the allegations for the reason they are not true.

123. Defendant denies the allegations for the reason they are not true.

THIRD CLAIM FOR RELIEF

Declaratory and Injunctive Relief

124. Defendant incorporates paragraphs 1 through 123 of this Answer.

125. Defendant denies the allegations for the reason they are not true.

126. Defendant denies the allegations for the reason they are not true.

127. Defendant denies the allegations for the reason they are not true.

128. Defendant admits the Act took effect December 22, 2011. Defendant denies the allegations for the reason they are not true.

129. Defendant neither admits nor denies the allegations being without sufficient information to formulate a response.

130. Defendant denies the allegations for the reason they are not true.

131. Defendant denies the allegations for the reason they are not true.

132. Defendant denies the allegations for the reason they are not true.

Defendant, therefore, prays the Court enter its Judgment of no cause of action and dismisses this First Amended Complaint with prejudice.

**DEFENDANT GOVERNOR RICHARD SNYDER'S
AFFIRMATIVE DEFENSES**

Defendant Governor Richard Snyder asserts the following Affirmative Defenses:

1. Certain of Plaintiffs' claims may not be ripe for review.
2. Certain of Plaintiffs may lack standing to bring these claims.
3. The Court should abstain from exercising jurisdiction over the federal constitutional claims under the *Burford* and *Colorado River* abstention doctrines.
4. The Court should, in its discretion, decline to exercise jurisdiction over Plaintiffs' declaratory judgment action. *Grand Trunk R.R. Co. v Consolidated Rail Corp.*, 746 F.2d 323, 326 (6th Cir. 1984).

Respectfully submitted,

BILL SCHUETTE
Attorney General

s/ Margaret A. Nelson
Margaret A. Nelson (P30342)
Mark E. Donnelly (P39281)
Attorney for Defendant
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Public Employment, Elections & Tort Div
P.O. Box 30736
Lansing, MI 48909
(517) 373-6434

Dated: March 22, 2012

CERTIFICATE OF SERVICE

I hereby certify that on March 22, 2012, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such.

s/Margaret A. Nelson _____

Margaret A. Nelson (P30342)

Mark E. Donnelly (P39281)

Attorney for Defendant

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(P30342)

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