

**IN THE UNITED STATES DISTRICT COURT
FOR THE 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,

Plaintiffs,

vs.

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

Defendant.

Case No. 2:12-cv-10038

Hon. David M. Lawson
Mag. Michael J. Hluchaniuk

**DECLARATION OF JOHN A. KNIGHT SUPPORTING REPLY IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION**

Pursuant to 28 U.S.C. § 1746, I, John A. Knight, declare:

1. I am an attorney with the American Civil Liberties Union Foundation, and I am one of the attorneys representing Plaintiffs Theresa Bassett, Carol Kennedy, Peter Ways, Joe Breakey, JoLinda Jach, Barbara Ramber, Doak Bloss, Gerardo Ascheri, Denise Miller, and Michelle Johnson in the above-captioned matter.
2. I make these statements in support of Plaintiffs' Reply in Support of Plaintiffs' Motion for Preliminary Injunction.
3. Attached as **Exhibit 1** is a true and correct copy of an email from Sally Durfee to Dick Posthumus and Michael Gadola, dated December 8, 2011.
4. Attached as **Exhibit 2** is a true and correct copy of an email from Daniel Levy to Sally Durfee and Darin Ackerman, dated December 21, 2011.

I declare, under penalty of perjury, that the foregoing is true and correct.

Executed on this 6th day of July, 2012.

By: s/ John A. Knight
John A. Knight

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**INDEX TO EXHIBITS TO REPLY IN SUPPORT OF PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

Exhibit	Description
1	Email from Sally Durfee to Dick Posthumus and Michael Gadola, dated December 8, 2011
2	Email from Daniel Levy to Sally Durfee and Darin Ackerman, dated December 21, 2011

Exhibit 1

Murley, David (GOV)

From: Durfee, Sally (GOV)
Sent: Thursday, December 08, 2011 1:11 PM
To: Posthumus, Dick (GOV); Gadola, Michael (GOV)
Subject: FW: HBs 4770, 71
Attachments: re HB 4770 - 4771.pdf

From: Levy, Daniel (MDCR)
Sent: Thursday, December 08, 2011 12:33 PM
To: Ackerman, Darin (GOV); Durfee, Sally (GOV)
Cc: Fritz, Leslee (MDCR); Krichbaum, Daniel (MDCR)
Subject: HBs 4770, 71

Darin, Sally,

Just a reminder of our position on the bills related to insurance benefits for unmarried partners that passed in Senate yesterday. We recognize (though don't agree) that there may be a need for the state not to take on this expense, particularly in the present economic conditions. The same would apply to local government units making up their own minds. We object, however, to the insistence both to do this by way of statute – and to the application of the statute to employees of governmental units other than the state.

Each unit of government should have the ability to make its own decisions on how best to serve their population. That the very advocates for local control want to make it illegal for local governments to even consider providing this benefit to their employees belies the claim that the legislation is only about money. It is about sending a message that Michigan would prefer LGBT persons (along with their businesses and skills) live elsewhere.

The Senate version now omits universities from the employers facing the ban, which is an improvement both because they were the bodies most likely to be negatively impacted, and because the decision not to challenge their educational autonomy likely makes the bill constitutional.

I don't know the extent to which your office may have been involved in removing the universities, but do not believe the Governor has indicated his intent to either sign or veto the bills should they now reach him without the unconstitutional provision attached. We would continue to urge that attempt to disguise the wolf (anti-gay social policy) by dressing it in sheep's clothing (fiscal frugality). Decisions involving state employees should be made by the executive branch within the context of employee/employer relations and contracts – not by blanket legislative prohibitions (what if employees offered to give up a more costly benefit in return for this one?). How best to attract, retain, and compensate their own employees should similarly be left to each unit of government that is an employer.

I would be happy to discuss this matter with you (or others) if you believe it would be helpful to do so. To the extent possible, we would also appreciate advance notice of the Governor's final decision and rationale when he reaches it, so that we may help to try and ensure others do not misrepresent them.

Dan

Daniel M. Levy
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Exhibit 2

Murley, David (GOV)

From: Levy, Daniel (MDCR)
Sent: Wednesday, December 21, 2011 12:02 PM
To: Durfee, Sally (GOV); Ackerman, Darin (GOV)
Cc: Fritz, Leslee (MDCR)
Subject: unmarried partner benefits

I am hearing what I expect are more rumor than information, but that people expect the Gov. to make an announcement tomorrow (Thursday) on whether he will sign or veto 4770 and 4771. Any last opportunity to influence that decision (beyond the legal question of whether current language includes universities) and/or any advance notice of what to expect, would be greatly appreciated.

Personal observation: The difference between fiscal conservatism and anti-gay social policy on this can be seen by asking: If during contract negotiations a union tells a unit of local government it will agree to a \$10 increase in all co-pays in return for coverage of unmarried couples, should be legal to consider which saves the taxpayers more money?

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