

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division

TIMOTHY B. BOSTIC, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 2:13-cv-00395
)	
JANET M. RAINEY and)	
GEORGE E. SCHAEFER, III,)	
in their official capacities,)	
)	
Defendants.)	

AMENDED ANSWER OF JANET M. RAINEY

Defendant Janet M. Rainey, by counsel, in her official capacity, and in accordance with Fed. R. Civ. P. 8(b) and Fed. R. Civ. P. 15(a)(2), having obtained written consent from counsel for Plaintiffs to file this Amended Answer, answers the allegations in the Amended Complaint in the numbered paragraphs below, corresponding to the numbers in the Amended Complaint.

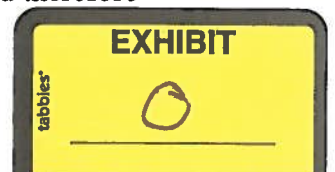
INTRODUCTION

1. Defendant admits that entry into the civil institution of marriage is a fundamental right protected by the federal Constitution, including the Fourteenth Amendment.

2. Defendant admits that current Virginia law, specifically Article I, § 15-A of the Virginia Constitution, Virginia Code § 20-45.2 and Virginia Code § 20-45.3, does not permit persons of the same sex to marry or enter into other recognized civil unions.

3. Defendant admits that current Virginia law does not recognize out-of-state, same-sex civil marriages.

4. Defendant admits that the Plaintiffs seek the specified relief requested and that current Virginia law, constitutional and statutory, improperly denies same-sex couples access to the institution of civil marriage, a fundamental right, without legal justification, and therefore



constitutional provision unless and until declared unconstitutional by the judicial branch.

Defendant also admits that such a declaration would require a revision of Virginia law, but lacks knowledge or information sufficient to form a belief about the truth of allegations personal to Plaintiffs.

CLAIMS FOR RELIEF
COUNT I:
DUE PROCESS

36. Defendant restates her responses to paragraphs 1 through 35.

37. Defendant admits that Virginia's denial of marital rights to same-sex couples violates the Fourteenth Amendment's guarantee of due process of law. Defendant Rainey lacks knowledge or information sufficient to form a belief about the truth of allegations personal to Plaintiffs.

38. Defendant admits that Virginia's laws denying marital rights to same-sex couples, including Virginia Code §§ 20-45.2 and 20-45.3 and Article I, § 15-A of the Virginia Constitution, impinge upon fundamental liberties. Defendant lacks knowledge or information sufficient to form a belief about the truth of allegations personal to Plaintiffs.

39. Admitted.

COUNT II:
EQUAL PROTECTION

40. Defendant restates her responses to paragraphs 1 through 39.

41. Defendant admits that Virginia's denial of marital rights to same-sex couples violates the Fourteenth Amendment's guarantee of equal protection of the laws. Defendant lacks knowledge or information sufficient to form a belief about the truth of allegations personal to Plaintiffs.

42. Admitted.

43. Admitted.

44. Defendant admits that a history exists of invidious discrimination against gay men and lesbians. Defendant further admits that by denying same-sex couples the right to civil marriage enjoyed by opposite-sex couples, current Virginia law denies same-sex couples access to civil marriage and prevents them from enjoying equal rights under the law. The Supreme Court's decision in *Windsor* speaks for itself.

45. Admitted.

46. Admitted.

47. Admitted.

**COUNT III:
VIOLATION OF 42 U.S.C. § 1983**

48. Defendant restates her responses to paragraphs 1 through 47.

49. Defendant admits that she and her agents, acting in their official capacities as Virginia officers, will continue faithfully to enforce the challenged state laws and constitutional provision unless and until they are declared unconstitutional by the judicial branch. Defendant lacks knowledge or information sufficient to form a belief about the truth of allegations personal to Plaintiffs.

IRREPARABLE INJURY

50. Defendant restates her responses to paragraphs 1 through 49.

51. Defendant admits that current Virginia law denies marital status to same-sex couples, a status that secures various state and federal benefits, and that she and her agents will continue faithfully to enforce the challenged state laws and constitutional provision unless and until it is declared unconstitutional by the judicial branch. Defendant lacks knowledge or information sufficient to form a belief about the truth of allegations personal to Plaintiffs, but

