

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

SOPHIE ROGERS, *et al.*,)
)
 Plaintiffs,)
)
 v.) Civil Action No. 1:19-cv-01149 (RDA/IDD)
)
 VIRGINIA STATE REGISTRAR, *et al.*,)
)
 Defendants.)

Consent Order

This matter comes before the Court on Plaintiffs’ Motion to Enforce and Correct Order. Dkt. 54. Upon receipt of the Motion, the Court requested that Defendants submit responses by October 25, 2019. Upon consideration of Plaintiffs’ Motion, Defendants’ responses, as well as Plaintiffs’ reply, the Court enters the following Consent Order for the reasons stated below. Dkt. Nos. 55 and 58-60.

Plaintiffs argue in their Motion that the Defendants are noncompliant with the terms of the Court’s October 11, 2019, order by maintaining “a marriage license application form that requests—although it no longer requires—applicants to label themselves by race.” Dkt. 49, p. 1. Plaintiffs contend that Defendants’ conduct, as based on the Defendants’ interpretation of the Court’s order, “flies in the face of both the letter and spirit of the [C]ourt’s memorandum order.” Dkt. 49, p. 2. Plaintiffs seek a “final order making clear what may and may not be done in light of its [October] 11, 2019, ruling.” Dkt. 49, p. 4. In response, Defendant Virginia State Registrar expressed her “inten[t] . . . to fully comply with this Court’s order of October 11, 2019.” Dkt. 58, p. 1. In evaluating the Court’s October 11, 2019, order, Defendant Virginia State Registrar maintains that she “does not understand the Court’s ruling as holding that any inquiry about race

on a marriage license application. . . imposes such a burden [on an individual's right to marry]." Dkt. 58, p. 2. Defendant Virginia State Registrar emphasized that her conduct is driven by "two objectives: (1) ensuring no one is required to disclose their race as a condition of getting married; and (2) complying with her obligations under the federal Constitution and Virginia law." Dkt. 58, p.3. According to Defendant Virginia State Registrar, if her interpretation of the Court's October 11, 2019, order was incorrect, she advised that she "will promptly revise the marriage form accordingly" by "omit[ting] any inquiry into race." Dkt. 58, p. 4. Defendant Virginia State Registrar concluded with a request for the Court to either "expressly stat[e] that continued use of the September 13 revised form complies with the Constitution or entering the order proposed by [P]laintiffs." Dkt. 58, p. 5. Defendants Arlington Circuit Court Clerk and Rockbridge Circuit Court Clerk join in requesting resolution of this matter. Dkt. 59. Plaintiffs replied that Defendants' response was not "an 'opposition'" to Plaintiffs' Motion. Dkt. 60, p. 1. Moreover, Plaintiffs request that the Court enter its "proposed order, or an alternative order of the [C]ourt's own devising expressly directing that no racial inquiry appear on Virginia's marriage license application." Dkt. 60, p. 8.


The question before the Court does not appear to be a matter of interpretation but rather a matter of effectuation. The Court considers the parties' alignment, the parties' almost identical requests for relief, and Defendant Virginia State Registrar's proposal to omit the optional racial inquiry in its entirety from applications for marriage licenses. In the Court's view, the parties are not at issue.

Acting in accordance with the Court's October 11, 2019, order, the Court enters this consent order, APPROVING Defendant Virginia State Registrar's proposed revision and

DIRECTING that she excise the optional racial inquiry from the application for marriage licenses.

It is SO ORDERED.

Alexandria, Virginia
October 28th, 2019



/s/
Rossie D. Alston, Jr.
United States District Judge