

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION**

CASIE JO MCGEE and SARAH
ELIZABETH ADKINS; JUSTIN MURDOCK
and WILLIAM GLAVARIS; and NANCY
ELIZABETH MICHAEL and JANE LOUISE
FENTON, individually and as next friends of
A.S.M., a minor child,

Plaintiffs,

vs.

KAREN S. COLE, in her official capacity as
CABEL COUNTY CLERK; and VERA J.
MCCORMICK, in her official capacity as
KANAWHA COUNTY CLERK,

Defendants,

and

STATE OF WEST VIRGINIA,

Defendant-Intervenor.

Hon. Robert C. Chambers

Case No. 3:13-24068

**MOTION FOR LEAVE TO FILE BRIEF OF AMICUS CURIAE THE FAMILY POLICY
COUNCIL OF WEST VIRGINIA IN SUPPORT OF DEFENDANT-INTERVENOR'S
MOTION FOR SUMMARY JUDGMENT**

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Proposed Amicus Curiae The Family Policy Council of West Virginia, by and through its attorney, respectfully moves this Court for leave to file its concurrently submitted Amicus Brief in Support of Defendant-Intervenor's Cross Motion for Summary Judgment (ECF No. 66). Counsel for the State of West Virginia, Intervenor-Defendant, has consented to the filing of this brief.¹

INTEREST OF AMICUS

Amicus Curiae The Family Policy Council of West Virginia is a non-partisan, non-profit organization that exists to strengthen families in West Virginia through citizen advocacy and education. Amicus Curiae focuses its efforts on public-policy issues involving the family, children, marriage, and constitutional government. Specifically, as part of its advocacy, Amicus supports policies that promote the ability of every child to be raised in the optimal setting of a home with a married biological mother and father. Amicus supports West Virginia's currently-challenged statutes, and also advocates for a constitutional amendment to the West Virginia Constitution to define marriage as the union of one man and one woman.

This case questions the validity of West Virginia's marriage laws and jeopardizes the advocacy of Amicus and the interests of its members. As a citizen advocacy organization, Amicus Curiae's interests in this case derive directly from the interest of the People in maintaining the state's marriage laws, and from the important public-policy issues implicated.

ARGUMENT

The proposed brief will assist the Court by providing the unique perspective of the Family Policy Council of West Virginia and expounding on compelling and rational bases that

¹ A request for consent was sent to all parties at approximately 1:15pm, Feb. 13, 2014. The State replied with its consent, but the other parties had not responded at the time of this filing.

affirm the states' interest in the unique man-woman marital relationship—bases that are not duplicative of arguments in the current filings.

Specifically, the proposed brief briefly addresses the appropriate standards of review under the Equal Protection and Due Process clauses, and expounds on the historical regulation of marriage and how the bases for that regulation have remained unchanged. It highlights the differences in society's interests implicated by the classes at issue—same sex couples and opposite sex couples—and demonstrates the compelling interest of the state in recognizing the biological and social uniqueness of the gendered institution of marriage.

CONCLUSION

Proposed Amicus Curiae respectfully requests that this Court issue an order granting leave to file the concurrently filed brief in support of Intervenor-Defendant's motion for summary judgment.

Respectfully submitted this the 14th day of February, 2014.

By: /s/ Jeremiah G. Dys, Esq. _____

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CERTIFICATE OF SERVICE

I hereby certify that on February 14, 2014, I electronically filed the foregoing paper with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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