

IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA

HUNTINGTON DIVISION

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

Plaintiffs,

v.

Civil Action No. 3:13-24068

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

**JOINT MOTION FOR SUMMARY JUDGMENT OF  
DEFENDANTS KAREN S. COLE AND VERA J. MCCORMICK**

Defendants Karen S. Cole (“Ms. Cole”), by counsel, Lee Murray Hall, Sarah A. Walling, and Jenkins Fenstermaker, PLLC, and Vera McCormick (“Ms. McCormick”), by counsel, Charles R. Bailey, Michael W. Taylor, and Bailey & Wyant, PLLC, jointly move this Court pursuant to Rule 56 of the Federal Rules of Civil Procedure for an Order denying Plaintiffs’ Motion for Summary Judgment and granting summary judgment in their favor. As set forth more fully in the *Memorandum of Law and Attached Exhibit*, filed contemporaneously herewith, Plaintiffs have not demonstrated that a genuine issue of material fact exists as to their right to the relief requested in their Complaint.

Rather, Defendants Cole and McCormick are entitled to summary judgment because:

- Current, validly enacted West Virginia law mandated Defendants' refusal to issue Plaintiffs' marriage licenses;
- The Oath of Office taken by Defendants Cole and McCormick, as well as the duties of their respective offices and threat of legal sanctions and incarceration, requires them to follow current West Virginia law without any ability to exercise discretion;
- Plaintiffs' failure to join necessary parties deprives this Court of its ability to afford Plaintiffs complete relief; and
- Neither W. Va. Code §48-2-104 nor §48-2-401 violates Plaintiffs' constitutional rights, as both statutes are rationally related to a legitimate governmental interest.

Accordingly, Ms. Cole and Ms. McCormick respectfully move this Court to enter an Order granting summary judgment in their favor.

**KAREN S. COLE and  
VERA J. MCCORMICK**

**By counsel**

**/s/ Lee Murray Hall**  
Lee Murray Hall, Esquire  
Sarah A. Walling, Esquire  
JENKINS FENSTERMAKER, PLLC  
Post Office Box 2688  
Huntington, West Virginia 25726  
[lmh@jenkinsfenstermaker.com](mailto:lmh@jenkinsfenstermaker.com)  
[nak@jenkinsfenstermaker.com](mailto:nak@jenkinsfenstermaker.com)  
[saw@jenkinsfenstermaker.com](mailto:saw@jenkinsfenstermaker.com)  
*Counsel for Defendant Karen S. Cole*

/s/ Charles R. Bailey

Charles R. Bailey, Esq.  
Michael W. Taylor, Esq.  
Bailey & Wyant, PLLC  
500 Virginia Street, East, Suite 600  
P.O. Box 3710  
Charleston, WV 25337-3710  
*Counsel for Defendant Vera J. McCormick*