

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF INGHAM

NATIONAL PRIDE AT WORK, INC., a non-profit organization on behalf of its Michigan Members; BECKY ALLEN; DOROTHEA AGNOSTOPOULOS; ADNAN AYOUB; MEGHAN BELLANGER; JUDITH BLOCK; MARY M. BRISBOIS; WADE CARLSON; COURTNEY D. CHAPIN; MICHAEL CHAPMAN; MICHELLE CORWIN; LORI CURRY; JOSEPH DARBY; SCOTT DENNIS; JIM ETZKORN; JILL FULLER; SUSAN HALSEY-CERAGH; PETER HAMMER; DEBRA HARRAH; TY HIITHER; JOLINDA JACH; TERRY KORRECK; CRAIG KUKUK; GARY LINDSAY; KEVIN McMANN; A. T. MILLER; KITTY O'NEIL; DENNIS PATRICK; TOM PATRICK; GREGG PIZZI; KATHLEEN POELKER; JEROME POST; BARBARA RAMBER; PAUL RENWICK; DAHLIA SCHWARTZ; ALEXANDRA STERN; GWEN STOKES; KEN CYBERSKI, JOANNE BEEMON, CAROL BORGESON and MICHAEL FALK AND MATT SCOTT, and each of them,

Case No. \_\_\_\_\_

Hon. \_\_\_\_\_

**COMPLAINT FOR  
DECLARATORY RELIEF**

Plaintiffs,

v

JENNIFER GRANHOLM, in her official capacity, as  
Governor of the STATE OF MICHIGAN,

Defendant.

\_\_\_\_\_ /

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There is no other pending or resolved civil action arising out of the transaction or occurrence alleged in the complaint.

### **COMPLAINT FOR DECLARATORY RELIEF**

NOW COME Plaintiffs, by and through their counsel, and for their complaint for declaratory relief, state as follows:

#### **INTRODUCTION**

1. Plaintiffs are individuals, who are employed in a wide range of jobs by the State of Michigan or its subdivisions, and their same sex domestic partners. They include such individuals as teachers, professors, secretaries, forensic psychologists, social workers and foster care workers, mental health therapists, nurses, systems analysts and a city treasurer.

2. Plaintiffs seek a declaration from this Court that the 2004 amendment to the Michigan Constitution addressing marriage (the “Marriage Amendment”) does not bar government employers from providing health insurance and other benefits to their employees’ same sex partners and their children.

3. The plain language of the Marriage Amendment states that “the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or similar union.” Const., Art. I, § 25 (emphasis added). The courts of this country have consistently held that providing health insurance to same-sex domestic partners does not constitute recognition of a marriage or a similar union. A marriage creates over one thousand legal rights and responsibilities ranging from social security benefits, veterans benefits, power to make medical decisions, and child custody and support. In contrast, when a government employer provides health insurance to its employees’ domestic partners and children, it is simply

providing a benefit that is essential to attract and retain good employees. Such government employer is neither creating the rights or responsibilities of a marriage, nor is it recognizing a marriage or similar union.

4. If there is any ambiguity about the reach of the Marriage Amendment, this court must look to the intent of the voters. The voters of Michigan, in approving the Marriage Amendment, were not motivated by any malevolent desire to strip families of health insurance or job benefits. The ballot committee that sponsored Proposal 2 consistently and repeatedly assured voters that the “Proposal 2 is *Only* about marriage” and “not about rights or benefits or how people choose to live their lives.” Exhibit 1, Citizens for Protection of Marriage Statements (*emphasis in original*).

5. Finally, the canons of constitutional construction require courts, whenever possible, to construe constitutional provisions in harmony with other provisions of the Michigan Constitution. If the Marriage Amendment was interpreted to bar government employers from providing same sex domestic partnership benefits, it would abrogate the equal protection and contract protections of the Michigan Constitution.

#### **PARTIES**

6. National Pride at Work is a constituency group of the AFL-CIO (American Federation of Labor and Congress of Industrial Organizations). Located in Washington D.C., Pride at Work has chapters throughout the United States, including Michigan. The purpose of Pride at Work is to mobilize mutual support between the organized labor movement and the lesbian, gay, bi-sexual and transgender (“LGBT”) community relating to organizing for social and economic justice. Pride at Work operates within the labor movement to

foster a better understanding of the needs of LGBT union members. Pride at Work supports domestic partnership benefits for LGBT employees, seeks full equality for LGBT Workers in their workplace and unions, and publicly opposed the State of Michigan's removal of domestic partner benefits from the current state employees' contract.

7. Jerome Post has worked for the City of Kalamazoo as a labor relations specialist for four years. Jerome Post and Paul Renwick have been domestic partners for 14 years. Jerome accepted the job with the City because it offered domestic partner benefits, including health insurance coverage for Paul. Paul has recently been diagnosed with a chronic health condition that will require ongoing medical treatment. If the Marriage Amendment is interpreted to bar domestic partner benefits, he will be without access to medical treatment for his condition. These Plaintiffs reside in Allegan County.

8. Jolinda Jach has worked as a senior systems analyst for the City of Kalamazoo for 17 years. She and Barbara Ramber have been domestic partners for nine years and have two children. Barbara receives domestic partner benefits, which include health care coverage, through Jolinda's employer. If the Marriage Amendment is interpreted to bar domestic partner benefits, Jolinda will have to obtain full-time employment to obtain health insurance on her own, which means that she will not be able to be at home for the children during the day. These Plaintiffs reside in Kalamazoo County.

9. Wade Carlson is the City Treasurer for the City of Kalamazoo. He and his partner Kevin McMann have been domestic partners for twenty-four years. Kevin is covered by Wade's domestic partner benefits which include medical care and family medical and

bereavement leave. Kevin would be without health care coverage if the Marriage Amendment is interpreted to bar domestic partner benefits. These Plaintiffs reside in Kalamazoo County.

10. Tom Patrick has worked for Eastern Michigan University in the Department of Communication and Theatre Arts for over eight years. Tom and Dennis Patrick have been domestic partners for seven and one half years. They have three adopted children and two foster children. One of their adopted children has a developmental disability. Dennis receives domestic partner benefits, including health insurance coverage, through Tom's employer. This enables Dennis to work part-time and spend time at home with their children. Should the Marriage Amendment be interpreted to bar domestic partner benefits, Dennis will have to return to work full-time in order to qualify for health insurance from his employer, taking him away from their children. These Plaintiffs reside in Washtenaw County.

11. Kathleen Moltz has worked for the Wayne State University School of Medicine Department of Pediatrics and University Pediatrics for a year. Kathleen and Dahlia Schwartz have been domestic partners for fifteen years and have two children. Kathleen, Dahlia and their family relocated to Michigan after Kathleen was offered a job with Wayne State. Kathleen accepted the job with Wayne because it offered domestic partner benefits, including health care coverage for Dahlia. Dahlia is a stay-at-home mom, who is home-schooling their children. Dahlia will be without health care coverage if the Marriage Amendment is interpreted to bar domestic partner benefits. These Plaintiffs reside in Oakland County.

12. Joseph Darby has worked for the Clinton/Eaton/Ingham County Department of Mental Health for over six years. He is a member of National Pride at Work and is Co-President of the Michigan Chapter of Pride at Work. Joseph Darby and Ken Cyberski have

been domestic partners for fifteen years. Joseph's employer provides domestic partner benefits including health care coverage for which Ken is eligible. These Plaintiffs reside in Eaton County.

13. Judith Block is a clinical psychologist who has been employed by the State of Michigan for over ten years and is a member of UAW-Local 6000 which bargained with the State of Michigan to provide domestic partner benefits, including health care coverage. Judith Block and Kathleen Poelker have been domestic partners for eight years and have one child. Kathleen Poelker is self-employed as an attorney and has to purchase her own health care insurance. Judith and Kathleen were relying upon this contract to provide health care coverage for Kathleen. These Plaintiffs reside in Washtenaw County.

14. Debra Harrah has worked for the State of Michigan Department of Human Services and Ottawa County Childrens' Protective Services for ten years and is a member of UAW-Local 6000 which bargained with the State of Michigan to provide domestic partner benefits, including health care coverage. Debra and Michelle Corwin have been domestic partners for six years. Debra and Michelle were relying upon this contract to provide health care coverage for Michelle. These Plaintiffs reside in Kent County.

15. Lori Curry has worked for the Family Independence Agency as a foster care/protective services worker in Ingham County and is a member of UAW-Local 6000 which bargained with the State of Michigan to provide domestic partner benefits, including health care coverage. Lori Curry and Gwen Stokes have been domestic partners for three years. Lori and Gwen were relying upon this contract to provide health care coverage for Gwen because Gwen's

existing health insurance is less comprehensive than the coverage in the union contract. These Plaintiffs reside in Ingham County.

16. Joanne Beemon is a state employee and has worked at the Forensic Center in Ann Arbor for twenty-one years and is a member of UAW – Local 6000 which bargained with the State of Michigan to provide domestic partner benefits, including health care coverage. Joanne Beemon and Carol Borgeson have been domestic partners for nineteen years and they have two children. Joanne and Carol were relying upon this contract to provide health care coverage for Carol. Carol has health insurance from her private employer, but it is not as comprehensive and she pays a much higher deductible than Joanne. Furthermore, Carol's employer, a dental practitioner, is planning to retire soon and as a result Carol will be without health insurance coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Washtenaw County.

17. Gregg Pizzi has worked for the Department of Community Health for approximately two years and is a member of UAW – Local 6000 which bargained with the State of Michigan to provide domestic partner benefits, including health care coverage. Gregg Pizzi and Adnan Ayoub have been domestic partners for eleven years and are raising Adnan's children. They were relying upon this contract to provide health care coverage for Adnan. These Plaintiffs reside in Wayne County.

18. Peter Hammer is a law professor at Wayne State University. The availability of domestic partner benefits was a significant reason for Peter to accept a job with Wayne State University. Peter is able to provide his partner with access to health and medical

benefits, in addition to receiving family medical and bereavement leave. Peter will no longer be able to provide his partner with domestic partner benefits, including health care coverage, if the Marriage Amendment is interpreted to bar government employers from providing domestic partnership benefits. This Plaintiff resides in Washtenaw County.

19. Courtney Chapin has worked for Michigan State University as a field career consultant for two years and is a member of the Administrative Professional Association Union, which negotiated domestic partner benefits for its members. Courtney Chapin and Mary Brisbois have been domestic partners for four years. Mary receives domestic partner benefits, including health insurance coverage, through Courtney's employer. Courtney decided to work for Michigan State University because Mary could receive such health care coverage. Mary will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Ingham County.

20. Scott Dennis has worked for the University of Michigan for eight years as the Humanities Librarian and Coordinator of Core Electronic Resources at the Harlan Hatcher Graduate Library. Scott Dennis and Jim Etzkorn have been domestic partners for three years. Jim receives domestic partner benefits, including health care coverage, through the University. Scott moved from Wisconsin to take a position with the University of Michigan in part because the University offered domestic partner benefits. Jim will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Washtenaw County.

21. Ty Hiither has worked for the University of Michigan as a computer systems specialist for four and one half years. Ty Hiither and Meghan Belanger have been

domestic partners for six years. Meghan receives health care coverage and family medical and bereavement leave under Ty's domestic partner benefit package. Meghan will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Livingston County.

22. Alexandra Stern has worked as an Assistant Professor in obstetrics and gynecology for the University of Michigan for three years. Alexandra Stern and Terri Koreck have been domestic partners for ten years. Alexandra accepted employment with the University in 2002 and the couple relocated from California because the University offered domestic partner benefits. Terri receives health care coverage and family medical and bereavement leave under Alexandra's domestic partner benefit package. Terri will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Washtenaw County.

23. A.T. Miller has worked for the University of Michigan for five years. A.T. Miller and Craig Kukuk have been domestic partners for four years. Craig receives health care coverage and family medical and bereavement leave under A.T.'s domestic partner benefit package. Craig's work as a part-time mental health therapist providing low cost private group therapy is possible because he is covered under A.T.'s benefits. Craig will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Washtenaw County.

24. Michael Falk and Matt Scott have been domestic partners for over five years. Michael is an assistant professor for the College of Engineering at the University of Michigan. His domestic partner benefits provide health insurance coverage for Matt, who works

for a small private business. Michael took the job with the University of Michigan four and one-half years ago in part because of the domestic partner benefits offered. Matt will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Washtenaw County.

25. Dorothea Agnostopoulos has been an assistant professor at Michigan State University for four years. Dorothea Agnostopoulos and Jill Fuller have been domestic partners for sixteen years and have one child. Jill receives health care coverage under Dorothea's domestic partner benefit package. Jill will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Ingham County.

26. Gary Lindsay has worked at Michigan State University for five years. Gary Lindsay and Michael Chapman are Lansing residents and have been domestic partners for fifteen years. Michael receives health care coverage and family medical and bereavement leave under Gary's domestic partner benefit package. Michael will be without health care coverage if the Marriage Amendment is interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Ingham County.

27. Kitty O'Neil and Becky Allen work at Michigan State University. Kitty O'Neil and Becky Allen have been domestic partners for eleven years. Both Kitty and Becky are entitled to health coverage under each others domestic partner benefits, if one of them should become unemployed. Last year Becky was unemployed for several months and would not have had health insurance but for Kitty's domestic partner benefits coverage. Kitty or Becky could be without health care coverage if one of them lost their job and the Marriage Amendment is

interpreted to bar government employers from providing domestic partner benefits. These Plaintiffs reside in Shiawassee County.

28. Defendant Jennifer Granholm is the Governor of the State of Michigan vested with executive power pursuant to Article V, Section 1 of the Michigan Constitution and is sued in her official capacity. Defendant Granholm resides in Ingham County and the capitol of the State of Michigan is in Ingham County.

### **JURISDICTION AND VENUE**

29. This Court has jurisdiction over this action under MCL 600.601, MCL 600.605, and MCR 2.605.

30. Venue is properly laid in this Court under MCL 600.1621(a) because Defendant Granholm's principal place of business is located in the County of Ingham.

31. Venue is also properly laid in this Court under MCL 600.1621(b) because Plaintiffs Dorothea Agnostopoulos, Mary Brisbois Courtney Chapin, Michael Chapman, Lori Curry, Jill Fuller, Gary Lindsay and Gwen Stokes reside in the County of Ingham.

### **GENERAL ALLEGATIONS**

32. On July 5, 2004, Citizens for the Protection of Marriage, a ballot campaign committee registered under the Michigan Campaign Finance Act, MCL 169.201, et seq., ("CFPM Committee") filed a petition with the Bureau of Elections, a division of the Secretary of State's Office, to amend the State Constitution. The petition proposed to amend Article I of the Michigan State Constitution to add the following language as Section 25:

To secure and preserve the benefits of marriage for our society and for future generations of children, the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or a similar union for any purpose.

33. The Michigan Constitution of 1963, Article 12 §2, MCL 168.174, 168.485, provides that a statement of purpose shall appear on the ballot and “shall consist of a true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.” The statement of purpose proposed by the CFPM Committee, adopted by the Director of Elections and forwarded for approval to the Board of State Canvassers, read:

A PROPOSAL TO AMEND THE STATE CONSTITUTION TO SPECIFY WHAT CAN BE RECOGNIZED AS A “MARRIAGE OR SIMILAR UNION” FOR ANY PURPOSE.

The proposal would amend the state constitution to provide that “the union of one man and one woman in marriage shall be the only agreement recognized as a marriage or similar union for any purpose.”

Should this proposal be adopted?

Yes

No

34. The Board of State Canvassers split on whether to approve the proposed ballot language, as proposed by the CFPM Committee and Director of Elections, as sufficient to meet the requirements of Article 12, §2 of the Constitution to provide a “true and impartial statement of the purpose of the amendment in such language as shall create no prejudice for or against the proposed amendment.”

35. The disagreement within the Board of Canvassers was based on concerns regarding the lack of clarity of the Marriage Amendment, its reach, and its constitutionality.

36. Following a complaint filed by the CFPM Committee, the Michigan Court of Appeals issued an order approving the language of the ballot petition as proposed, reasoning

that the Board of Canvassers duties were “limited to determining whether the form of the petition substantially complies with the statutory requirements and whether there are sufficient signatures to warrant certification of the proposal.” *Citizens for the Protection of Marriage v Board of State Canvassers*, 263 Mich App 487 (2004).

37. The Court of Appeals further found that the Board of Canvassers should not have considered the merits or lawfulness of the ballot proposal as “a substantive challenge to the subject matter of a petition is not ripe for review until after the law is enacted.” *Id.*

38. As the organizer of the ballot proposal, CFPM Committee widely distributed a brochure that explained the limits of the reach of the proposed constitutional amendment, Proposal 2, as follows:

Proposal 2 is *Only* about marriage. Marriage is a union between husband and wife. Proposal 2 will keep it that way. This is not about rights or benefits or how people choose to live their lives. This has to do with family, children and the way people are. It merely settles the question once and for all what marriage is—for families today and future generations.

Exhibit 1, CFPM Statements (emphasis in original).

39. Marlene Elwell, the chairwoman and campaign director for CFPM Committee, also repeatedly stated throughout the campaign on behalf of the committee, that the proposed amendment was solely concerned with marriage and did not address questions of domestic partnerships or benefits provided to domestic partners, stating: “[T]his has nothing to do with taking benefits away. This is about marriage between a man and woman.” Exhibit 1, CFPM Statements.

40. Throughout the campaign, CFPM Committee and other proponents of the Marriage Amendment, consistently advised the voting public, through media and campaign

literature, that the intent and purpose of the proposed amendment was to limit marriage to a man and a woman and that the amendment would not affect domestic partnership or same sex partnership benefits.

41. On November 2, 2004, the Marriage Amendment appeared on the ballot in the summary form proposed by the CFPM Committee ballot committee. The first clause of the actual Marriage Amendment -- which describes the amendment's purpose to be "to secure and preserve the benefits of marriage for our society and future generations of children" -- did not appear on the ballot. Thus, this language was not presented to, or voted upon, by Michigan voters.

42. In the fall of 2004, Plaintiffs employed by state and local governmental agencies and represented by the Michigan Corrections Organization, Michigan State Employees Association, Service Employees International Union, AFSCME and UAW, successfully bargained for a 2005 employment benefits package that included health care coverage and family medical leave for their families, including domestic partners and their children.

43. On or about December 1, 2004, Defendant Granholm removed domestic partner benefits from this negotiated benefits package. Defendant Granholm cited the need for a judicial ruling on whether the Marriage Amendment bars public employees from providing such benefits to same sex partners. If this Court finds that the Marriage Amendment does not bar public employers from providing domestic partner benefits, then Plaintiffs who are part of these bargaining units will receive health care coverage for their partners and their children.

44. On March 16, 2005, the Michigan Attorney General issued a written opinion that any new contractual obligations to provide domestic partnership benefits by the City of Kalamazoo would violate the Marriage Amendment.

45. Plaintiff state employees are members of the five unions that recently bargained for a compensation package permitting them to pay additional insurance premiums to extend the health care coverage to their dependents, including same sex domestic partners and their children. These Plaintiffs are currently being denied this privilege of employment as a direct result of Defendant's withholding of these benefits pending a judicial resolution of the initial interpretation of the Marriage Amendment.

46. Plaintiffs employed by the City of Kalamazoo are currently provided health care coverage that includes coverage for their domestic partners and children as part of their employment compensation package. Plaintiffs, together with their families, are now in imminent danger of losing or being denied health care coverage that is provided to their co-workers and their families, absent a ruling of this Court.

47. Plaintiffs who receive domestic partnership benefits from Ingham and Eaton Counties, Eastern Michigan University, Michigan State University, Wayne State University and the University of Michigan fear that their benefits will not be renewed absent a ruling that the Marriage Amendment does not bar public employers from providing health care coverage and other benefits to the same sex domestic partners and families of their employees.

48. Plaintiffs' opportunity to participate in a benefit plan, whether contract or policy, is a privilege of employment. Plaintiffs employed by the universities, cities and

departments of the State of Michigan are entitled to participate in the privileges of employment, including benefit plans in which domestic partnership benefits are provided.

49. Plaintiff employees who elect to participate in such benefit packages must pay premiums to maintain health care coverage to extend the coverage of such benefit contracts or plans to their dependents, including domestic partners and their children. The provision of such benefits influences Plaintiff employees' decisions to accept employment offers and/or retain employment at the various universities, agencies and governmental units providing such benefits.

50. The ability of gay and lesbian employees, with domestic partners and families, to participate in benefit contracts or medical plans which include their families, constitutes significant employment compensation.

51. Any interpretation of the Marriage Amendment which would deny Plaintiffs the opportunity to participate in employment compensation packages, would intentionally deprive Plaintiffs and other lesbian and gay employees and their families of access to privileges of employment and equal compensation for work equal to that of similarly situated heterosexual employees.

52. Lesbians and gay men, including Plaintiffs, have faced and continue to face a history of intentional, unequal treatment, systematic discrimination and legal disabilities based on sexual preference or orientation. Interpretation of the Marriage Amendment to preclude benefits for domestic partners and their families deprives Plaintiffs of an equal opportunity to negotiate, petition and/or obtain access to the benefits in the State's administration and political processes on a basis equal to the opportunities afforded to similarly situated heterosexual employees.

53. Gay and lesbian employees are not permitted to marry their domestic partners and Plaintiffs hereby do not contest that the Marriage Amendment precludes gay and lesbian couples from marriage recognized by the State of Michigan. The provision of employment compensation benefits to domestic partners and families, however, does not constitute recognition of a marriage or similar union, but rather provides equal employment opportunities and benefits to lesbians and gay men.

54. Hospitalization, medical and health benefits, as well as other such employment benefits extended to a family, are basic necessities of modern life, essential to the safety, health and happiness of the Plaintiffs.

55. Interpreting the Marriage Amendment to bar the provision of benefits to same sex domestic partners presents an insurmountable barrier for Plaintiffs to advocate, petition or obtain equal opportunity for a wide range of benefits under the law.

56. Interpreting the Marriage Amendment to prohibit the provision of any benefits for same sex domestic partners would prohibit Plaintiffs from seeking protection for their own personal interests and their committed relationships through the ordinary political process and from government employers while allowing others to seek and enjoy such protection without constraint.

57. An interpretation of the Marriage Amendment to prohibit government employers from providing benefits to committed relationships of two persons of the same sex singles out a group of people for unequal treatment and denies them opportunities without sufficient justification for the sole purpose of making them unequal.

## COUNT I

### DECLARATORY JUDGMENT THAT THE MARRIAGE AMENDMENT DOES NOT BAR EMPLOYERS FROM PROVIDING DOMESTIC PARTNERSHIP BENEFITS

58. Plaintiffs incorporate their allegations in paragraph 1 through 57.

59. Michigan Court Rule 2.605 provides that the Court may declare the rights and other legal relations of parties in a case of actual controversy within its jurisdiction.

60. The plain language of the Marriage Amendment does not bar government employers from providing domestic partner benefits. Providing such benefits does not constitute recognition of a marriage or similar union.

61. As set forth in the plain language of the Marriage Amendment, and as clearly intended by its proponents, the amendment “is only about marriage.”

62. Marriage gives rise to over 1,000 responsibilities, obligations and rights, while providing health care coverage and other benefits to domestic partners is simply a benefit of employment. Office of the General Counsel, General Accounting Office, *Report to the Honorable Henry J. Hyde, Chairman, Representatives (GAO/OCG 97-16 (1997))* at [www.gao.gov/archive/1997/og97016.pdf](http://www.gao.gov/archive/1997/og97016.pdf).

63. In approving the Marriage Amendment, the voters did not intend to deprive health care coverage and other employment related benefits to domestic partners of government employees and their children.

64. There is an actual controversy in this case where the Plaintiffs have contractually bargained for benefits that have been withheld. The Attorney General has issued an advisory opinion calling into question such benefits and absent a ruling of this court places in

jeopardy the continued and future provision of Plaintiffs' domestic partnership benefits and thereby effects the conditions of Plaintiffs' employment.

65. This Court has the authority to declare the meaning of the Marriage Amendment to the Constitution based upon rules of construction as developed through Constitutional jurisprudence -- which rules require a limitation of the Marriage Amendment to its plain meaning.

66. The Marriage Amendment must be construed to harmonize with, and not abrogate, other provisions and protections of the Michigan Constitution.

67. Construction of the Marriage Amendment to preclude public employers from providing domestic partner benefits would conflict with and abrogate the Michigan Constitution's guarantee of equal protection and protection against the impairment of contracts. *Const. 1963, Art. 1, §§ 2 and 10.*

68. Interpreting the Marriage Amendment to prohibit lesbians and gay men from contracting for employment benefits packages denies an entire class of persons the opportunities provided to similarly situated heterosexual persons, thereby conflicting with the Equal Protection Clause of the Michigan Constitution without any rational basis. *Const. 1962, Art. 1, §2.*

69. Prohibiting benefits to domestic partners of same sex relationships would result in a female employee with a female partner being treated less favorably than a male employee with a female partner. Similarly, a male employee with a male partner is treated less favorably than a female employee with a male partner.

70. The less favorable treatment of certain employees on the basis of their sex and/or the sex of their partner would deprive Plaintiffs of the right to equal protection on the basis of sex, in conflict with the Equal Protection Clause of the Michigan Constitution. *Id.*

71. Construction of the Marriage Amendment to deny domestic partners benefits would require Plaintiffs to pay the same taxes and provide the same work for the State in exchange for unequal compensation in conflict with the Equal Protection Clause of the Michigan Constitution without any rational basis. *Id.*

72. Construction of the Marriage Amendment to preclude an employer from providing benefit packages to all its employees would be an improper interference with contractual relationships and interfere with public employers' ability to recruit and retain qualified employees from an entire class of persons without a rational basis. As such, the amendment would conflict with and abrogate the Michigan Constitution's protections against the impairment of contract. *Const. 1963, Art. 1, §10.*

73. Construction of the Marriage Amendment to deny public employers the ability to provide domestic partnership benefits to their employees and families based upon their marital status without any rational basis would conflict with and abrogate the Michigan Constitution's prohibition against bills of attainder. *Id.*

**RELIEF REQUESTED**

WHEREFORE, Plaintiffs respectfully request that this Court enter a judgment declaring that the Marriage Amendment does not bar public employers from providing benefits to their employees' domestic partners and children.

Respectfully submitted,

DATED: March 21, 2005

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Attorneys for Plaintiffs

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