



Media Release

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ACLU and Seven Same-Sex Couples Continue Case to Secure Domestic Partnership Protections in Montana

Amended complaint challenges discriminatory statutes governing police benefits, worker's compensation, end-of-life decisions and more

HELENA, MT — The ACLU and plaintiffs, seven loving, committed same-sex couples moved forward today with efforts to secure domestic partnership protections by filing an amended complaint in *Donaldson and Guggenheim v. State of Montana*, challenging individual Montana statutes covering financial protections for police officers, worker's compensation benefits, end-of-life decisions, financial protections during illness and more.

In December 2012, the Montana Supreme Court denied the ACLU's appeal challenging every state statute excluding committed same-sex couples from protections granted to opposite-sex, married couples, but the Justices said the ACLU could move forward with statute-specific efforts to secure equal treatment for same-sex couples in the state. The amended complaint does just that.

"We're challenging statutes that offer some of the most egregious examples of how state laws do not give equal protection to same-sex couples and violate the Montana Constitution," says ACLU of Montana Legal Director Jon Ellingson. "Two of our plaintiffs, Peggy Ash and Kelly Hurston of Belgrade, are prime examples of how statutory discrimination in Montana can cost same-sex couples financially and in terms of peace of mind."

Peggy has served for 19 years as a Bozeman Police officer. She contributes the same amount of money to her retirement pension account as other officers. But should Peggy retire and die before Kelly, Kelly stands to lose hundreds of thousands of dollars in pension benefits other officers' spouses would be eligible to collect because she is not, and cannot be, Peggy's spouse. If an officer dies before his or her spouse, that spouse can continue to receive the officer's monthly pension benefit until death. Officers without spouses, like Peggy, may designate a beneficiary, but that beneficiary may only collect the amount the officer contributed to the retirement account. For a 20-year officer, with a \$1,500 per month pension benefit, the amount the officer contributed would be exhausted in two years. This means that while the spouse of an officer who dies two years after retirement would receive \$1,500 per month for the rest of his or her life, Kelly would receive nothing.

"Every other married officer that's in this position and has worked for this time and paid into the system doesn't have to worry about money evaporating if they retire and something happens to them," says Peggy. "I go out and risk my health and my life every day. I'm not asking for anything special or different. I'm just asking for the same thing – to be able to take care of Kelly."

Other plaintiffs in the case have similarly been hurt by statutes that treat committed same-sex couples differently than married couples. Mary Leslie of Bozeman lost her home in part because she was ineligible for worker's compensation death benefits when her former partner was killed in a workplace accident. Another plaintiff, Denise Boettcher of Laurel, was denied bereavement leave when her partner Kellie Gibson's father died.

Plaintiffs in the case are Mary Anne Guggenheim and Jan Donaldson of Helena, Stacey Haugland and Mary Leslie of Bozeman, Mike Long and Rich Parker of Bozeman, MJ Williams and Nancy Owens of Basin, Rick Wagner and Gary Stallings of Butte, Denise Boettcher and Kellie Gibson of Laurel and Peggy Ash and Kelly Hurston of Belgrade.

In addition to Ellingson, the couples are represented by Elizabeth Gill, a staff attorney with the ACLU's Lesbian, Gay, Bisexual and Transgender Project; Ben Alke and James Goetz of Goetz, Gallik & Baldwin P.C.; and Ruth Borenstein, Stuart Plunkett, Ariel Ruiz and Emily Regier of the law firm Morrison & Foerster LLP.

Additional information about the case can be found at www.aclumontana.org and www.aclu.org/mtpartnerships.

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