



Media Release

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CONTACT:

Amy Cannata, ACLU of Montana Communications Director
(406) 459-1114 amyc@aclumontana.org

Robyn Shepherd, ACLU Media Relations Associate
(212) 519-7829 or 549-2666; media@aclu.org

Montana Supreme Court Allows Domestic Partnership Case for Same-Sex Couples To Move Forward

Justices reverse dismissal of case by the district court and allow litigation to proceed

HELENA, MT — The ACLU and plaintiffs, six loving, committed same-sex couples, will move forward with efforts to secure domestic partnership protections in light of a Montana Supreme Court decision, which in part granted their appeal in *Donaldson and Guggenheim v. State of Montana* from a dismissal of the case by the district court.

Though the court denied the plaintiffs' initial appeal as too broad, the justices said the ACLU could move forward with more narrowly tailored efforts to secure equal treatment for same-sex couples in the state.

"Three of the justices said they would have granted same-sex couples recognition as domestic partners now. The majority also made clear that the decision to remand the case for additional proceedings in the lower court was based on technical issues, not on the substance of our argument that the Montana Constitution mandates equal treatment of all people," said ACLU of Montana Legal Director Jon Ellingson. "They said that while we could not challenge the omission of same-sex couples from all of the statutes involving the rights of married couples in one case, we can challenge those statutes individually. We plan to do just that."

The opinion states: "It is this Court's opinion that Plaintiffs should be given the opportunity, if they choose to take it, to amend the complaint and to refine and specify the general constitutional challenges they have proffered."

"We're encouraged by the decision because the justices said that we could pursue the protections we are seeking," said Mary Leslie, who lives with her partner, Stacey Haugland in Bozeman. "Legal protection is essential, not just for our families, but for all same-sex couples. We won't stop until every loving couple is treated fairly." Leslie lost her home because she was ineligible for worker's compensation death benefits when her partner was killed in an accident. Another plaintiff, Denise Boettcher of Laurel, was denied bereavement leave when her partner Kellie Gibson's father died.

In his dissent from the majority, Justice James Nelson wrote that same-sex couples should be given full protection now, saying the case, "concerns the right of committed intimate same-sex couples to receive the same civil protections which the State makes available to committed intimate different-sex couples. Plaintiffs assert, and rightly so, that their government may not single out unpopular groups for disfavored treatment, as the State of Montana has done here... I have never disagreed more strongly with the Court as I do in this case. With due respect, I believe today's decision... wrongly deprives an abused minority their civil rights."

Nearly 1,500 Montanans and more than 100 Montana-owned businesses have signed on in support of domestic partnerships, and more are signing on each day. Sixty-six Montana religious leaders signed onto an amicus brief supporting the ACLU's appeal. Even more clergy signed a statement supporting the rights of same-sex couples.

"Montanans believe all their neighbors deserve dignity and respect," said Rev. Marc Stewart, a Montana/Northern Wyoming United Church of Christ Conference Minister. "We believe that loving, committed couples should be able to fully live their own lives and have the protection of the state."

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 and Denise Boettcher and Kellie Gibson of Laurel. All say they will continue working with the ACLU to pursue legal recognition of their lifelong commitments to each other.

In addition to Ellingson, the couples are represented by Elizabeth Gill, a staff attorney with the ACLU's Lesbian, Gay, Bisexual and Transgender Project; James Goetz and Ben Alke of Goetz, Gallik & Baldwin P.C.; Betsy Griffing; and Ruth Borenstein and Neil Perry 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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