

[Attorneys listed on signature page]

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION**

ANGELA ROLANDO and TONYA
ROLANDO; CHASE WEINHANDL
and BENJAMIN MILANO; SUSAN
HAWTHORNE and ADEL JOHNSON;
and SHAUNA GOUBEAUX and
NICOLE GOUBEAUX,

Plaintiffs,

v.

TIM FOX, in his official capacity as
Attorney General of the State of
Montana; MICHAEL KADAS, in his
official capacity as the Director of the
Montana Department of Revenue; and
FAYE MCWILLIAMS, in her official
capacity as Clerk of Court of Cascade
County.

Defendants.

CV-14-40-GF-BMM

**PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Plaintiffs Angela Rolando and Tonya Rolando, Chase Weinhandl and Benjamin Milano, Susan Hawthorne and Adel Johnson, and Shauna Goubeaux and Nicole Goubeaux move for summary judgment in their favor on Count II of their Complaint, that Article XIII, Section 7 of the Montana Constitution and related statutory provisions that bar marriage between two people of the same sex or preclude recognition of such marriages validly entered into in another jurisdiction violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, because those laws deny individuals who wish to marry persons of the same sex a right they afford to individuals who wish to marry persons of the opposite sex, and do not satisfy the heightened scrutiny standard that applies to classifications based on sexual orientation.

For the reasons stated in the accompanying brief, the Court should enter summary judgment to that effect. It should also enter an Order:

1. Declaring that Article XIII, Section 7 of the Montana Constitution and all provisions of Montana statutes that ban same-sex marriage or refer to marriage as a relationship between a “husband” and a “wife” or a “man” and “woman” and operate as a statutory ban on marriage for same-sex couples, violate the Equal Protection Clause of the United States Constitution (Amendment XIV, § 1) by preventing Plaintiffs and other same-sex couples from lawfully marrying in the

State of Montana and by preventing the recognition of the marriages of Plaintiffs and other same-sex couples lawfully entered into outside of the State;

2. Permanently enjoining all Defendants from enforcing Article XIII, Section 7 and any other sources of state law that operate to exclude same-sex couples from marriage or to deny recognition of the marriages of same-sex couples validly contracted in another jurisdiction; and

3. Awarding Plaintiffs the costs and expenses of this action together with reasonable attorneys' fees.

The undersigned has contacted counsel for the Defendants pursuant to Local Rule 7.1(c). Defendants' counsel stated that they oppose the motion.

Dated: October 15, 2014

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CERTIFICATE OF SERVICE

I certify that, on October 15, 2014, a copy of the foregoing document was served on the following persons by the following means:

- 1,2,3,4,5,6 CM/ECF
- _____ Hand Delivery
- _____ Mail
- _____ Overnight Delivery Service
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<p>1. Clerk, U.S. District Court</p>	<p>4. Ruth N. Borenstein Stuart C. Plunkett Emily F. Regier Morrison & Foerster LLP 425 Market Street San Francisco, CA 94105</p>
<p>2. Timothy C. Fox Mark G. Mattioli John W. Bennion Montana Department of Justice P. O. Box 201401 Helena, MT 59620-1401</p>	<p>5. Ariel F. Ruiz Morrison & Foerster LLP 250 West 55th Street New York, New York 10019</p>
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