

CLYMER & MUSSER, P.C.

**By: Leonard G. Brown, III, Esquire
Randall L. Wenger, Esquire**

I.D. No. 83207
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Lancaster, PA 17602
(717) 299-7101

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA
CIVIL DIVISION - EQUITY

REP. ALLAN EGOLF, REP. GIBSON C.
ARMSTRONG, REP. MATTHEW E.
BAKER, REP. DARYL METCALFE, REP.
MERLE H. PHILLIPS, REP. JERRY A.
STERN, REP. KATIE TRUE, REP.
THOMAS F. YEWIC, and CREATIVE
PULTRUSIONS INC.,
Plaintiffs,

NO. 2004-3160-38-5

v.

ACTION FOR DECLARATORY
JUDGMENT

ROBERT SENECA and STEPHEN STAHL,
Defendants.

RECEIVED
PROthonotary
BUCKS COUNTY
2004-10-24

ANSWER TO PRELIMINARY OBJECTIONS OF DEFENDANTS TO COMPLAINT

Plaintiffs, by counsel, answer as follows:

1. Admitted in part and denied in part. It is denied that Creative Pultrusions, Inc. alleged only that same-sex "marriage" would greatly expand their benefits package. While the Complaint speaks for itself, it was also alleged that Creative Pultrusions, Inc. would be affected as a taxpayer.
2. Admitted.
3. Admitted in part and denied in part. Defendants did not merely state they think the law should be changed. Defendants applied for a marriage license with the fanfare of news cameras. Defendants stated their intention to challenge the law. Defendants

followed up by talking to various attorneys for the purpose of challenging the law. One of the attorneys they met with suggested they wait until after May 17, 2004 in order to file such a challenge. Defendants still intend to challenge the law even after this suit was filed.

4. Denied as a conclusion of law to which no response is required. By way of further answer, the claim is ripe, justiciable, and presents an actual case or controversy based on Defendants' stated purpose of challenging the law. Defendants' do not deny Plaintiffs' allegations that they plan to challenge the law. Plaintiffs' have legislative and taxpayer standing and standing as a business that would be affected in terms of corporate benefits.

5. Denied as a conclusion of law to which no response is required. By way of further answer, the paragraphs in question simply provide reasons why only traditional marriage should be recognized.

FIRST PRELIMINARY OBJECTION
Failure to state a claim

6. No answer is required.

7. Denied as a conclusion of law to which no response is required.

8. Denied as a conclusion of law to which no response is required.

9. Denied as a conclusion of law to which no response is required. By way of further answer, Plaintiffs pled that Defendants applied for a marriage license, that Defendants plan to appeal the denial of their license, and the basis on which Defendants plan to challenge the marriage law. Plaintiffs also pled how their interests would be affected if Defendants' plan is successful.

10. Denied as a conclusion of law to which no response is required. By way of further response, the usual presumption of constitutionality is not a bar here because Defendants

have called into question the constitutionality of 23 Pa.C.S.A. §§ 1102 and 1704.

11. Denied as a conclusion of law to which no response is required. By way of further answer, a determination as to the constitutionality of sections 1102 and 1704 would have practical effect on the parties because it would determine whether Defendants can achieve their stated purpose of being married, would determine whether the unique power of the legislature to define marriage can be interfered with, would affect spousal benefits, and would affect taxpayers through affecting state spending.

12. Denied. Defendants have taken legal action by applying for the marriage license and by meeting with attorneys in order to challenge the marriage law. If Defendants are allowed to “marry”, it will affect the interest of the legislature, taxpayers, and businesses providing spousal benefits.

13. Admitted.

14. Admitted.

15. Denied as a conclusion of law to which no response is required.

16. Denied as a conclusion of law to which no response is required.

WHEREFORE, Plaintiffs respectfully pray that this Court deny Defendants' preliminary objections and declare that Pennsylvania's Defense of Marriage Act, 23 Pa.C.S.A. § 1704, and the rest of Pennsylvania's Marriage Law, specifically 23 Pa.C.S.A. § 1102, are constitutional under both the Federal and state constitutions even though they do not allow same-sex couples to marry.

SECOND PRELIMINARY OBJECTION

Standing

17. No answer is necessary.

18. Admitted.

19. Denied. Plaintiffs referred to in ¶ 19 have an interest in preventing the unique power of the legislature to define marriage from being interfered with.
20. Denied as a conclusion of law to which no response is required
21. Denied as a conclusion of law to which no response is required.
22. Denied as a conclusion of law to which no response is required.
23. Admitted.
24. Denied as a conclusion of law to which no response is required.
25. Admitted.
26. Denied as a conclusion of law to which no response is required.

WHEREFORE, Plaintiffs respectfully pray that this Court deny Defendants' preliminary objections and declare that Pennsylvania's Defense of Marriage Act, 23 Pa.C.S.A. § 1704, and the rest of Pennsylvania's Marriage Law, specifically 23 Pa.C.S.A. § 1102, are constitutional under both the Federal and state constitutions even though they do not allow same-sex couples to marry.

THIRD PRELIMINARY OBJECTION
Motion to Strike

27. No answer is required.
28. Admitted.
29. Denied as a conclusion of law to which no response is required.
30. Denied as a conclusion of law to which no response is required. By way of further response the allegations were not designed to cast a derogatory light on Defendants, but to explain to the court the basis for why tradition marriage should be upheld.

WHEREFORE, Plaintiffs respectfully pray that this Court deny Defendants' preliminary

objections and declare that Pennsylvania's Defense of Marriage Act, 23 Pa.C.S.A. § 1704, and the rest of Pennsylvania's Marriage Law, specifically 23 Pa.C.S.A. § 1102, are constitutional under both the Federal and state constitutions even though they do not allow same-sex couples to marry.

Respectfully Submitted
CLYMER & MUSSER, P.C.

By:

A handwritten signature in black ink, appearing to read 'R. Wenger', is written over a horizontal line.

Randall L. Wenger, Esquire
Attorney for Plaintiffs
23 North Lime Street
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(717) 299-7101
I.D. #86537

Date: July 1, 2004

VERIFICATION

I, Robert Sweet, an officer of Creative Pultrusions Inc., verify that I am familiar with the facts contained in the above Complaint and that the said facts and statements made therein are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.



Robert Sweet

Dated: July 5, 2004

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I am this day serving the foregoing document upon the persons and in the manner indicated below.

Service by first class mail, postage prepaid and addressed as follows:

Cynthia J. Schneider
Leonore F. Carpenter
Center for Lesbian and Gay Civil Rights
1211 Chestnut St.
Philadelphia, PA 19107

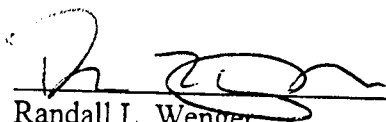
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Dated: July 6, 2004

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