

IN THE UNITED STATES COURT OF THE NORTHERN DISTRICT  
OF THE STATE OF OKLAHOMA

**FILED**

NOV 0 8 2004  
Phil Lombardi, Clerk  
U.S. DISTRICT COURT

MARY BISHOP and SHARON )  
BALDWIN, individuals; SUSAN )  
G. BARTON and GAY E. PHILLIPS, )  
individuals, )

PLAINTIFFS,

v.

04C V 848K (J)

The STATE Of OKLAHOMA ex rel. )  
DREW EDMONDSON, in his official )  
capacity as Attorney General of the )  
State of Oklahoma and BRAD HENRY, )  
in his Official capacity as Governor of )  
the State of Oklahoma; The UNITED )  
STATES OF AMERICA, ex rel. )  
JOHN ASHCROFT, in his official )  
capacity as Attorney General of the )  
United States of America, GEORGE )  
W. BUSH, in his official capacity as )  
President of the United States of America, )

DEFENDANTS.

COMPLAINT

This action seeks declaratory and injunctive relief for violations of the privileges and immunities and equal protection of the laws guaranteed by both the Constitution of the United States and the Constitution of the State of Oklahoma against the Defendant, The State of Oklahoma through its duly elected officials Attorney General Drew Edmondson and Governor Brad Henry and against the Defendant, the United States of America through its duly appointed official Attorney General John Ashcroft, and President George W. Bush for the deprivation of said privileges, immunities, and equal protection guarantees to Plaintiffs,

*Seems  
duplicated  
C/S  
AAS/E*

Mary Bishop, Sharon Baldwin, Susan G. Barton, and Gay E. Phillips, as well as, others similarly situated.

#### **JURISDICTION AND VENUE**

1. This action arises under the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the Constitution of the United States, the Full Faith and Credit Clause, Art. 4 §1 of the United States Constitution, and Article 2, §§ 2, 7 of the Oklahoma Constitution.
2. Jurisdiction is properly founded pursuant to 28 U.S.C. § 1331, 1343, and 1367.
3. All of the Defendants' actions and omissions that are claimed herein occurred within the Northern District of Oklahoma, in the State of Oklahoma.
4. This action properly lies in the Northern District, pursuant to 28 U.S.C. § 1391 (b), because the claims arose in this judicial district.

#### **PARTIES**

5. Plaintiff Mary Bishop is an individual who resides in the City of Broken Arrow, County of Tulsa, State of Oklahoma.
6. Plaintiff Sharon Baldwin is an individual who resides in the City of Broken Arrow, County of Tulsa, State of Oklahoma.
7. Plaintiff Susan G. Barton is an individual who resides in the City of Tulsa, County of Osage, State of Oklahoma.
8. Plaintiff Gay E. Phillips is an individual who resides in the City of Tulsa, County of Osage, State of Oklahoma.

9. Defendant Drew Edmondson, is the duly elected Attorney General in and for the State of Oklahoma and is endowed with the powers and authority to enforce the laws of the State of Oklahoma.
10. Defendant Brad Henry is the duly elected Governor of the State of Oklahoma and is authorized in his position as the State's Chief Executive to enforce the laws of the State of Oklahoma.
11. Defendant John Ashcroft is the duly appointed Attorney General of the United States of America who has representatives within the state of Oklahoma and is endowed with the powers and authority to enforce the laws of the United States of America.
12. Defendant George W. Bush is the President of the United States of America and is authorized in his position as this nation's Chief Executive to enforce the laws of the United States of America.

### FACTS

13. Mary Bishop and Sharon Baldwin are and have been for many years living in a committed relationship, but because they are of the same sex, have been denied the rights and privileges of other citizens within the State of Oklahoma and the United States of America.
14. Susan G. Barton and Gay E. Phillips were joined in a civil union conducted in the State of Vermont on August 4, 2001, but because they are of the same sex, have been denied the rights and privileges of other citizens within the State of Oklahoma and the United States of America.
15. On November 2, 2004 the voters of the State of Oklahoma approved and adopted legislative referendum no. 334, State Question no. 711, implemented as Art. 2 § 35,

which amended the Constitution of the State of Oklahoma to prohibit state recognition of same-sex marriages conducted in other states, prohibited the issuance of marriage licenses to persons of the same-sex, and made such issuance a misdemeanor.

16. Defendants are charged with enforcing the Constitution and laws of the State of Oklahoma.

**FIRST CAUSE OF ACTION**  
**VIOLATION OF THE PRIVILEGES AND IMMUNITIES CLAUSE**

For their First Cause of Action, Plaintiffs re-allege the allegations contained in the foregoing paragraphs and incorporated them as if fully set forth, and further allege as follows against Defendants:

17. Art.2 § 35 of the Oklahoma Constitution violates the privileges and immunities guaranteed to the Plaintiffs by the Constitution of the United States.
18. 1 U.S.C.A. §7, commonly known as the Defense of Marriage Act ("DOMA") violates the privileges and immunities guaranteed to Plaintiffs by the Constitution of the United States.

**SECOND CAUSE OF ACTION**  
**VIOLATION OF SUBSTANTIVE DUE PROCESS**

For their Second Cause of Action, Plaintiffs re-allege the allegations contained in the foregoing paragraphs and incorporated them as if fully set forth, and further allege as follows against Defendants:

19. Plaintiffs are persons;

20. Plaintiffs seek to engage in a fundamental right: to wit, enter into a marriage contract and/or to have their civil union recognized by the State of Oklahoma;
21. Art.2 § 35 of the Oklahoma Constitution and the DOMA denies the Plaintiffs liberty and property rights without due process of law, as guaranteed under the Fourteenth Amendment to the Constitution of the United States and Article 2 § 7 of the Constitution of the State of Oklahoma.

**THIRD CAUSE OF ACTION**  
**VIOLATION OF EQUAL PROTECTION UNDER THE LAWS**

For their Third Cause of Action, Plaintiffs re-allege the allegations contained in the foregoing paragraphs and incorporated them as if fully set forth, and further allege as follows against Defendants:

22. Plaintiffs are members of a protected class, to wit: female;
23. Art. 2 § 35 of the Oklahoma Constitution and the DOMA deny Plaintiffs Mary Baldwin and Sharon Bishop Equal Protection of the laws: to wit, denial of a license to marry a person of the same-sex;
24. Art. 2 § 35 of the Oklahoma Constitution and the DOMA deny Plaintiffs Susan G. Barton and Gay E. Phillips Equal Protection of the laws: to wit, refusal to recognize their civil union as valid under the laws of the State of Oklahoma.

**FOURTH CAUSE OF ACTION**  
**VIOLATION OF THE FULL FAITH AND CREDIT CLAUSE**

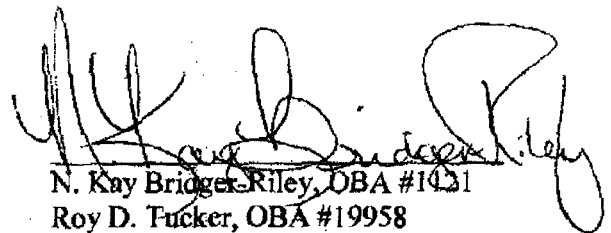
For their Fourth Cause of Action, Plaintiffs re-allege the allegations contained in the foregoing paragraphs and incorporated them as if fully set forth, and further allege as

follows against Defendants:

24. DOMA, 1 U.S.C.A. §7 *et seq.*, violates the Full Faith and Credit Clause of the United States Constitution by prohibiting the federal government from acknowledging and recognizing the rights, privileges, and immunities to which Plaintiffs Susan Barton and Gay Phillips are entitled as a result of their civil union.
25. Art. 2 § 35 of the Oklahoma Constitution violates the Full Faith and Credit Clause of the United States by prohibiting Oklahoma from recognizing same-sex marriages created in other states.

**WHEREFORE** premises considered, Plaintiffs pray this Court declare Art. 2 § 35 of the Oklahoma Constitution and DOMA unconstitutional under the protections afforded them by the Constitution of the United States

RESPECTFULLY SUBMITTED,



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