

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF PENNSYLVANIA**

DEB WHITEWOOD and SUSAN WHITEWOOD,
FREDIA HURDLE and LYNN HURDLE, EDWIN
HILL and DAVID PALMER, HEATHER
POEHLER and KATH POEHLER, FERNANDO
CHANG-MUY and LEN RIESER, DAWN
PLUMMER and DIANA POLSON, ANGELA
GILLEM and GAIL LLOYD, HELENA MILLER
and DARA RASPBERRY, RON
GEBHARDTSBAUER and GREG WRIGHT,
MARLA CATTERMOLE and JULIA LOBUR,
MAUREEN HENNESSEY, and A.W. AND K.W.,
minor children, by and through their parents and
next friends, DEB WHITEWOOD and SUSAN
WHITEWOOD,

Plaintiffs,

v.

THOMAS W. CORBETT, in his official capacity
as Governor of Pennsylvania; MICHAEL WOLF,
in his official capacity as Secretary of the
Pennsylvania Department of Health; KATHLEEN
KANE, in her official capacity as Attorney
General of Pennsylvania; and DONALD
PETRILLE, JR., in his official capacity as
Register of Wills and Clerk of Orphans' Court of
Bucks County,

Defendants.

Civil Action

No. 13-1861-JEJ

STIPULATION AND NOTICE OF DISMISSAL

Plaintiffs and Defendants, acting through their undersigned counsel, hereby stipulate as follows:

1. Plaintiffs hereby voluntarily dismiss Defendant Corbett, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A).

2. Defendants consent to Plaintiffs amending their complaint in the manner described herein.

3. In their amended complaint, Plaintiffs plan to add as a defendant and state claims against the Secretary of Revenue of the Commonwealth of Pennsylvania, in his official capacity.

4. Specifically, Plaintiffs plan to make claims (as might be appropriate to their individual situations) against the Secretary of Revenue relating to his responsibilities to enforce the Marriage Law through the administration of Pennsylvania's income tax laws pertaining to the filing status, or eligibility or lack thereof for certain filing statuses, of married same-sex couples.

5. In their amended complaint, Plaintiffs intend to add to their claims (as might be appropriate to their individual situations) against Defendant Wolf, in his capacity as the Secretary of Health, allegations relating to his responsibilities to enforce the Marriage Law through the drafting of forms regarding, and the

issuance, maintenance and amendments to, certificates of death under Pennsylvania's Vital Statistics Law of 1953.

6. In their amended complaint, Plaintiffs intend (a) to name additional Plaintiffs whose claims are the same or substantially similar to the claims made by other Plaintiffs; and (b) to revise the allegations made respecting individual Plaintiffs to conform to changes in their circumstances occurring since the time that the original complaint was filed.

7. In their amended complaint, Plaintiffs will: (a) in accordance with the dismissal of the Governor as described in ¶ 1 of this Stipulation, omit the Governor as Defendant and strike the references to him currently in paragraphs 94 and 105 of the Complaint; and (b) conform the caption of the case to be consistent with this Stipulation and any other voluntary dismissals that Plaintiffs have filed.

8. Counsel of record for the Governor represents that, in accordance with Pennsylvania's Commonwealth Attorneys Act, he also serves as counsel for the Secretary of Revenue in connection with this matter and will accept service of the First Amended Complaint on behalf of the Secretary of Revenue.

9. Through his counsel, the Secretary of Revenue states that, upon being named as a defendant, he (a) will join the motion to dismiss under Fed. R. Civ. P. 12(b) filed by Defendant Wolf that is currently pending before the Court (Dkt.

Nos. 27 & 42); and (b) will not make any separate or additional motion to dismiss under Fed. R. Civ. P. 12. However, the Secretary of Revenue (like all Defendants) reserves the right as a Defendant to make any other motion authorized by law and the rules of court.

10. Consistent with the terms of this Stipulation, Plaintiffs will file and serve an amended complaint no later than November 8, 2013.

11. So long as Plaintiffs amend their complaint in the manner described in this Stipulation, (a) the pending motions to dismiss shall be deemed to apply to the amended complaint (except to the extent that the amended complaint clearly renders moot all or part of a Defendant's motion to dismiss), including the claims of any new plaintiffs added pursuant to ¶ 6 of this Stipulation; and (b) no Defendant (including the Secretary of Revenue) will file a new or additional motion under Rule 12.

12. Nothing herein shall be deemed a waiver of Plaintiffs' right to amend the operative complaint upon "the opposing party's written consent or the court's leave" pursuant to Rule 15 of the Federal Rules of Civil Procedure.

Dated: November 1, 2013

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APPROVED.

Dated: _____

The Honorable John E. Jones III
United States District Judge