



# LET FREEDOM RING

## Frequently Asked Questions About the ACLU's Marriage Lawsuit, *Whitewood v. Wolf*

On July 9, 2013, the ACLU, the ACLU of Pennsylvania, and the law firm of Hangley Aronchick Segal Pudlin & Schiller filed a federal lawsuit challenging the constitutionality of Pennsylvania's Defense of Marriage Act (DOMA), which restricts marriage to one man and one woman.

### ***Who is bringing this lawsuit?***

The plaintiffs are 25 Pennsylvanians who are harmed by the commonwealth's prohibition of marriage for same-sex couples. They include six same-sex couples who want to be married, five same-sex couples who are already married in other states (but whose marriages are not recognized in Pennsylvania), a widow who lost her same-sex partner, and two teenage children of same-sex parents.

### ***Is this a class action?***

No, this is not a class action. However, if the Court of Appeals rules in favor of the plaintiffs on the claims we have made, that ruling would provide all same-sex couples in Pennsylvania with the freedom to marry.

### ***Who are you suing and why?***

The defendants are Pennsylvania government officials who are responsible for enforcing Pennsylvania's law that prohibits same-sex couples from marrying. They include the Secretary of the Department of Health; the Secretary of the Department of Revenue; and the Register of Wills and Clerk of Orphans Court of Bucks County (where some plaintiffs were denied a marriage license).

### ***Why is Pennsylvania's Defense of Marriage Act unconstitutional?***

We believe that DOMA violates the Fourteenth Amendment to the U.S. Constitution because it infringes on the fundamental right to marry (which is protected by the Due Process Clause) and because it discriminates against same-sex couples on the basis of their sexual orientation and gender (in violation of the Equal Protection Clause).

### ***What are plaintiffs asking for?***

We are asking the court to decide that the Pennsylvania law that restricts marriage to one man and one woman violates the U.S. Constitution and to order the state to allow same sex couples to marry and to recognize the marriages of same-sex couples who married out-of-state.

### ***In what court has this lawsuit been filed?***

Plaintiffs have filed this action in the federal court in Harrisburg, the U.S. District Court for the Middle District of Pennsylvania.

### ***How long will this lawsuit take?***

All legal briefs in the case will be filed by May 12, 2014. The judge could issue a decision any time after that. No matter who wins at the trial court, we anticipate an appeal to the U.S. Court of Appeals for the Third Circuit. If the decision is appealed, it is difficult to predict how long the Court of Appeals' decision would take. From there, the parties could petition the U.S. Supreme Court to hear the case, but the Supreme Court doesn't have to grant review and in fact, grants review in a very small percentage of cases.

### ***Why was Governor Corbett dismissed from the lawsuit?***

The governor is not necessary to maintain our challenge to Pennsylvania's DOMA. Replacing him with the Secretary of Revenue, who is responsible for taxes that every adult plaintiff pays, regardless of marital status, streamlines the litigation.

### ***Why file a lawsuit rather than asking the Pennsylvania legislature to repeal DOMA?***

Pennsylvania is a state in which the public is ready to embrace marriage for the lesbian and gay community but the legislature does not reflect the public's views. The federal courts play an important role in protecting minorities' constitutional rights when the legislature refuses to.

### ***Are you looking for more plaintiffs or volunteer attorneys?***

No. But if you would like to get involved in our public education campaign around the freedom to marry, please go to the Why Marriage Matters Pennsylvania website at: [www.whymarriagemattersPA.org](http://www.whymarriagemattersPA.org)

**More information about the lawsuit, including profiles of our plaintiffs, is available at:** [www.aclupa.org/whitewood](http://www.aclupa.org/whitewood)

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