

Suit challenges Arizona same-sex marriage ban

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PHOENIX - A national gay-rights organization announced Thursday the filing of a federal lawsuit on behalf of seven couples and two surviving spouses challenging Arizona's ban on same-sex marriage.

The lawsuit, filed by Lambda Legal, claims banning gay marriage violates the couples' rights to equal protection and due process under the U.S. Constitution.

"It's wrong that I can't marry the one person I cherish most in this world, even after 56 years of love and commitment," said Nelda Majors, who is a lead plaintiff with her partner, Karen Bailey.

Arizona Attorney General Tom Horne, state Department of Health Services director Will Humble and Maricopa County Superior Court clerk Michael Jeanes are named as defendants in the complaint.

"Our clients deserve to be treated equally by the government for which they pay taxes. They deserve the same basic freedoms that everyone in this state enjoys, including the freedom to marry," said Jennifer Pizer, senior counsel for Lambda Legal.

In a statement released by his office, Horne said "as Attorney General it is my duty to defend Arizona laws."

Lawmakers approved a state law barring same-sex marriages in 1996. Seven years later, an Arizona appeals court upheld the constitutionality of the law. Voters in 2008 amended the Arizona Constitution to include the ban.

The lawsuit, which court records show was filed Wednesday in Phoenix, is also requesting that Arizona legally recognize the marriages of couples who wed in other states, Pizer said.

"Without legal recognition of their marriages, they are left vulnerable -- scrambling to cobble together often at considerable expense a big pile of documents. And even with all those documents, it still doesn't give them the legal protection and security their families need, especially in times of crisis," Pizer said.

Barb Morrissey said she had to carry a packet of legal documents every time she visited her wife, Mish Teichner, in the hospital. Teichner underwent a kidney transplant in January. Morrissey said she has had hospital employees bar her from seeing Teichner. Morrissey said another employee told her, "I'll try to sneak you in."

"I felt disrespected and stressed that I was treated this way," Morrissey said.

Patrick Ralph, a plaintiff whose husband died in Phoenix in August, said he cannot get a state death certificate listing him as a spouse. He and Gary Hurst married in Palm Springs, Calif., in 2008, before Proposition 8 took effect. Besides wanting an official acknowledgement of his marriage on the death certificate, Ralph said the document could help in figuring out if he is entitled to any survivor's benefits. That desire led him to reach out to Lambda five months ago.

"Marriage is the one thing that can fix all those problems," Ralph said. "(Gary) would wish I didn't have to go through this to get what is rightfully ours in the first place."

The lawsuit is separate from a class-action lawsuit filed by four same-sex couples in January. Phoenix attorney Shawn Aiken, who filed the lawsuit, initially filed it against Horne and Gov. Jan Brewer as well as three Arizona county clerks. He has since dropped

Horne and Brewer at the request of Assistant Attorney General Kathleen Sweeney and to avoid a prolonged series of legal motions. He plans to file a motion next month, asking the judge in the case to make a decision about the lawsuit without waiting for a trial.

Aiken and his team have expressed support for Lambda Legal's suit, but both said there are no plans to join the two filings.

"My attitude is to the extent that if we both succeed, great. If they succeed where we fail, that's good too," Aiken said.

According to Pizer, the couples requested Lambda Legal's help several months ago. The lawsuit is part of an overall, coordinated effort to get the ban struck down, she added.

She anticipates the U.S. Supreme Court will be asked again in the next couple of years to recognize same-sex marriage.

"None of us can predict which case will be before the court," Pizer said.

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