



Ashley Cusick

Gay Marriage from p 14

and then by a 2008 voter referendum that added a constitutional amendment prohibiting the practice and its recognition.

But the pendulum has swung a bit. Before passing the 2008 amendment, Arizona voters rejected a proposition that would have banned same-sex marriage and its recognition in 2006.

Just last year, marriage-equality groups considered presenting voters with the option of effectively repealing the 2008 constitutional ban, but they ultimately decided that the timing wasn't right, looking to 2016 — a presidential election year, when votes tend to lean toward more socially liberal initiatives — as affording a better chance.

But Arizona's same-sex couples looking

“WE PROCEED AND MAKE DO AND BUILD OUR LIVES,” BUT LEGAL RECOGNITION “FILLS AN EMPTINESS OR SOOTHES A HURT THAT PEOPLE FREQUENTLY DON'T ACKNOWLEDGE TO THEMSELVES.”

— JENNY PIZER, OF LAMBDA LEGAL, WHOSE TEAM REPRESENTED PLAINTIFFS IN ONE OF TWO SUCCESSFUL LAWSUITS.

to marry no longer have to wait. October 17's end to the state's same-sex marriage ban came through two similar and fairly recent federal lawsuits. *Connolly v. Roche*, filed in January, and *Majors v. Horne*, filed in March, both sought to have Arizona's constitutional ban and legislative statute ruled unconstitutional on grounds that they violate the U.S. Constitution's Equal Protection Clause.

The state did not plan to let plaintiffs in these lawsuits win. Arizona Attorney General Tom Horne said it was his job description to defend Arizona statutes, particularly those enacted by voter referendum (though he had no problem battling Arizona's voter-approved medical-marijuana statute — unsuccessfully, and at great cost — in court. Horne enlisted the Alliance Defending Freedom, a conservative Christian nonprofit, as his co-counsel in defending Arizona's ban.

U.S. District Court Judge John Sedwick

Jubilant couples celebrate their legal weddings on October 17. Reverend Susan Frederick-Gray of the Unitarian Universalist Congregation of Phoenix, left, performed 13 weddings that day.

oversaw both lawsuits.

In the first major blow to Horne's defense, Sedwick responded in mid-September to an emergency petition filed in one of the suits with a ruling in favor of the plaintiff, a widowed Green Valley man. Fred McQuire and George Martinez had been together for more than 40 years but had married in California only this summer. They were added as plaintiffs to the *Majors* suit over the summer, before Martinez's death. When he passed away, attorneys asked Sedwick to allow McQuire's name to

appear on Martinez's death certificate. He did, and for the first time in the state's history, a same-sex marriage performed out of state was recognized in Arizona.

A second blow came in early October, when higher courts sent two strong messages during the

course of a single week. First, the U.S. Supreme Court declined to hear appeals on marriage cases coming out of several federal circuits. Then, the next day, the Ninth U.S. Circuit Court of Appeals — the San Francisco-based court with jurisdiction over Arizona — ruled that gay-marriage bans in Nevada and Idaho were unconstitutional.

Attorneys for the local plaintiffs filed motions asking Sedwick to decide quickly whether the Ninth Circuit's decision applied in Arizona. The judge gave both sides seven days to make their cases.

Same-sex marriage supporters called on Horne to give up the fight. Why Marriage Matters Arizona, an equality group, delivered more than 5,100 signed petitions to his office asking him to step aside and stop defending Arizona's laws, a move attorneys general in several other states already had made. But Horne was not willing to quit, saying in a statement he would >> p 21

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