

political similarities to Arizona, it appeared to Lambda that the tide might be turning.

But the group remained patient, waiting to see what would happen in a Nevada case pending in the Ninth Circuit while starting preparations to file a case in Arizona when the timing finally was right. Pizer and Lambda began talking to families to see who might be interested in participating in a lawsuit challenging Arizona's policies.

"So we were a little surprised, but not completely shocked, when the *Connolly* case was filed at the beginning of the year," Pizer said.

Unbeknown to Lambda attorneys,

Phoenix attorney Shawn Aiken had been preparing a suit on behalf of several Arizona couples and filed it on January 6. Aiken's work as an attorney did not revolve around LGBT rights. For him, the issue was personal.

Aiken had attended church with a man named Joe Connolly for more than 15 years. Connolly married his partner, Terry Pochert, in California in 2008.

"We didn't want to become the poster boys of gay marriage," Connolly said. "We just wanted to be a couple who are people of faith who are married. The social-justice issue came out of our church. We decided to do something about this because it was not just about us."

Connolly was concerned about same-

sex couples at his church who struggled with adopting children and ensuring that their parental rights were protected. "This is about family," he said.

So, late last year, Connolly approached Aiken, inspired by the litigation filed in other states, and asked Aiken whether he knew attorneys who might be willing to file a similar lawsuit here.

Aiken, enlisting the help of lawyers from his office, decided to handle the suit himself.

Pochert believed that faith was important in the case. He and Connolly initially wanted to sue on behalf of their freedom to exercise their religion. Their church would recognize their marriage, but their state would not. But it soon became clear that

the stronger issue — and one that might win — was that of equal protection, a notion the couple also supported.

Aiken and his legal team set about finding other couples that could be plaintiffs in the suit, both locally and across the state. As with Joe Connolly, many of the couples came from the lawyers' personal connections.

By early January, the team had seven couples. Some already had married in other states and were seeking legal recognition in Arizona. Others were unmarried and seeking the right to marry here. Two of the couples were from Flagstaff, three were from the Phoenix area, one was from Tucson, and one was from Pinal County. Some had children, some did not. They represented a variety of professions and ages.

"They were really this cross-section of the population," said Heather Macre, a member of the *Connolly* team.

Aiken, Macre, and the rest of the team expected the Attorney General's Office to file a motion to dismiss their case, but, to their surprise, he filed an answer. "We thought, 'Okay, we are off to the races,'" Macre said.

Meanwhile, Lambda and Pizer were concerned about the *Connolly* team's lack of expertise in LGBT civil rights issues. They had seen other cases handled by unfamiliar teams lead to devastating legal consequences, and though same-sex marriage already was banned in Arizona, a failed lawsuit on the books with strong legal reasoning behind a judge's decision would make the battle harder.

But where things could have become contentious, they instead became collaborative. The Lambda attorneys partnered with a local firm, Perkins Coie LLP, and began gathering stories from their own plaintiffs — in their case, seven couples and three widows — and filed a similar suit, *Majors v. Horne*, in March.

"We wanted to bring to bear the range of powerful stories, with two different efforts, and to connect the cases and community groups so that it would be as unified an effort as possible," Pizer said.

Jessica and Kathy Young have been together for almost 10 years and married in New York City last year. They became plaintiffs on the *Majors* suit, inspired by the possibility that a win might remedy the legal limbo their marital status created for their young son. Jessica gave birth to the boy using a sperm donor, but under Arizona law, this left Kathy with no legal rights.

"Something we've always tried to do is live open and honest. We feel that is a big part of moving the bar forward," Kathy said. "Where our lives were different [from those of married heterosexual couples] is, if something happens to [Jessica], there's a question of what happens to him."

"You should have rights to your kid," she said. "[A marriage license] is a government piece of paper, one that gets you rights."

Jeff Ferst and Peter Bramley had talked about filing a suit themselves but had trouble finding a legal team. They read about the *Connolly* case in a newspaper >> p 25

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