

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF INDIANA  
INDIANAPOLIS DIVISION

ASHLEE and RUBY HENDERSON, a married )  
couple and L.W.C.H., by his parent and next )  
friend Ruby Henderson, *et al.*, )

Plaintiffs, )

vs. )

No. 1:15-cv-220-TWP-MJD

DR. JEROME M. ADAMS, in his official capacity )  
as Indiana State Health Commissioner, *et al.*, )

Defendants. )

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**PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

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Comes now Plaintiffs, Ashlee and Ruby Henderson, a married couple, and L.W.C.H., by his parent and next friend Ruby Henderson; Nicole and Jennifer Singley, a married couple, and H.S. by his parent and next friend, Jennifer Singley; Elizabeth and Tonya Bush-Sawyer, a married couple, and I.J.B-S by his mother and next friend Elizabeth Bush-Sawyer; Lyndsey and Cathy Bannick, a married couple, and H.B. by his parent and next friend, Lyndsey Bannick; Calle and Sarah Janson, a married couple, and Unborn Baby Doe by his/her next friend and mother-to-be Calle Janson; Nikkole McKinley-Barrett and Donnica Barrett, a married couple, and G.R.M.B., by his mother and next friend, Nikkole McKinley-Barrett, by counsel and pursuant to Rule 56 of the Federal Rules of Civil Procedure and Local Rules 7.1 and 56.1, respectfully

request that this Court enter summary judgment in favor of Plaintiffs. There are no genuine issues of material fact and Plaintiffs are entitled to judgment as a matter of law. In support of this Motion, Plaintiffs state as follows:

1. Plaintiffs seek summary judgment in their favor on all claims asserted in Plaintiffs' Complaint against all Defendants.

2. Plaintiffs' summary judgment motion is based on Defendants' violation of Plaintiffs' constitutional rights, as guaranteed by the United States Constitution. Defendants' enforcement of I.C. § 31-14-7-1, I.C. § 31-9-2-15 and -16 violates the rights guaranteed to Plaintiffs under the Equal Protection Clause and Due Process Clause of the Fourteenth Amendment of the United States Constitution.

3. In support of this Motion, the Plaintiffs have set forth more fully in the accompanying Brief in Support of Motion for Summary Judgment and Appendix and Designation of Evidence, the reasons Plaintiffs are entitled to summary judgment.

WHEREFORE, and for all of the foregoing reasons, Plaintiffs respectfully request that this Court:

- A. Enter a declaratory judgment that I. C. § 31-9-2-15, § 31-9-2-16 and § 31-14-7-1 on their face and as applied to Plaintiffs violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution;
- B. Enter a declaratory judgment that I. C. § 31-9-2-15, § 31-9-2-16 and § 31-14-7-1 on their face and as applied to Plaintiffs violates the Due Process Clause of the Fourteenth Amendment to the United States

Constitution;

- C. Enter a permanent injunction directing Defendants to recognize L.W.C.H., H.S., I.J.B. a/k/a I.J.B-S, H.N.B. Unborn Baby Doe and G.R.M.B. as children born in wedlock within the State of Indiana;
- D. Enter a permanent injunction directing Defendants to presume that Ashlee Henderson, Captain Nicole Singley, Tonya Bush-Sawyer, Cathy Bannick, Sarah Janson and Nikkole McKinley-Barrett are the presumed parents of L.W.C.H., H.S., I.J.B. a/k/a I.J.B-S, H.N.B., Unborn Baby Doe and G.R.M.B., respectively, by identifying them as parents on the birth certificate;
- E. Enter a permanent injunction directing Defendants to presume that all same-sex spouses married to the birth mother at the time of birth are presumed to be the parent of the child born to the marriage;
- F. Enter a permanent injunction directing Defendants to recognize all children born to a birth mother married to a same-sex spouse is a child born in wedlock within the State of Indiana;
- G. Award Plaintiffs the costs of suit, including reasonable attorneys' fees under 42 U.S.C. § 1988; and,
- H. Enter all further relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing *Plaintiffs' Brief in Support of Their Motion for Summary Judgment* was filed electronically on December 4, 2015. Notice of this filing will be sent to the following counsel by operation of the Court's electronic filing system.

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