

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JAMES N. STRAWSER and)	
JOHN E. HUMPHREY,)	
)	
Plaintiffs,)	
)	
v.)	
)	
LUTHER STRANGE, in his official capacity as)	
Attorney General of the State of Alabama,)	
)	
Defendant.)	

Case No.
1:14-cv-00424-CG-C

**DEFENDANT ATTORNEY GENERAL STRANGE’S
ANSWER TO PLAINTIFFS’ FIRST AMENDED COMPLAINT (DOC. 47)**

Defendant Luther Strange, in his official capacity as Attorney General of the State of Alabama, for his answer to the Plaintiffs’ First Amended Complaint, states as follows:

Answer to Numbered Paragraphs

1. The Defendant admits that Alabama law does not recognize same-sex relationships as a “marriage.” Defendant denies that Alabama law violates the Plaintiffs’ rights.
2. Defendant admits that Plaintiffs are same-sex couples who live in Alabama, but denies that they are denied any Constitutional rights related to “marriage.”
3. Defendant admits that Alabama regulates marriage because of social goods related to marriage, primarily, linking children to their biological family.
4. Denied.
5. Admitted on information and belief.
6. Defendant lacks sufficient information to admit or deny allegations concerning Plaintiffs’ intentions. Defendant denies that affection and commitment are alone sufficient to constitute a marriage under Alabama law.

7. Denied.

8. Denied.

9. Denied.

10. Denied.

11. Defendant admits that Plaintiffs seek injunctive and declaratory relief, but deny that they are entitled to such relief.

12. Defendant admits that Plaintiffs seek injunctive and declaratory relief, but deny that they are entitled to such relief.

13. Defendant admits that Plaintiffs seek attorney fees, but deny that they are entitled to such relief.

14. Defendant admits that Plaintiffs seek injunctive and declaratory relief, but deny that they are entitled to such relief.

15. Defendant admits that Plaintiffs seek injunctive and declaratory relief, but deny that they are entitled to such relief.

16. Defendant does not contest subject-matter jurisdiction, except to the extent that Plaintiffs lack standing to assert their claims against the Attorney General.

17. Defendant does not contest venue.

18. Admitted on information and belief. Defendant denies that a hospital's failure to recognize a valid medical power of attorney is related to Plaintiffs' marital status.

19. Admitted on information and belief.

20. Admitted on information and belief.

21. Admitted on information and belief.

22. Defendant admits that he is the Attorney General of Alabama and is sued in his official capacity, but denies that he is “responsible for enforcing and ensuring compliance with the state constitution and statutes prescribed by the legislature.” Defendant denies any remaining allegation in paragraph 22.

23. Defendant admits that Don Davis is Probate Judge of Mobile County, Alabama, and is sued in his official capacity.

24. Defendant denies that the Attorney General is responsible for enforcing Alabama’s marriage laws or that he caused Plaintiffs’ alleged harm.

25. Admitted.

26. Denied.

27. Denied.

28. Denied.

29. Admitted on information and belief.

30. Denied.

First Claim for Relief

31. Defendant adopts and incorporates the foregoing paragraphs.

32. The Amendment cited speaks for itself.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

Plaintiffs' Request for Relief

42. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

43. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

44. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

45. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

46. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

47. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

48. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

49. Defendant admits that Plaintiffs seek the relief outlined in the First Amended Complaint, but deny that they are entitled to such relief.

Additional Defenses

1. Defendant denies any allegation in Plaintiffs' First Amended Complaint that is not expressly admitted above.

2. Plaintiffs' claims against the Attorney General are moot, or otherwise non-justiciable.

3. Plaintiffs' claims are non-justiciable, and/or this Court lacks jurisdiction, because the Attorney General is subject to an injunction pursuant to a final judgment in a separate case, which judgment is on appeal.

4. Plaintiffs' First Amended Complaint fails to state a claim upon which relief can be granted.

5. Plaintiffs' Complaint raises a non-justiciable political question.

6. Plaintiffs' claims are barred by the Tenth Amendment.

7. Sexual orientation is not a protected or suspect class to which heightened scrutiny applies.

8. Alabama's marriage laws are rationally related to legitimate state interests.

9. Alabama's marriage laws are closely related to important governmental interests.

10. Alabama's marriage laws are narrowly tailored and further compelling governmental interests.

11. There is no fundamental due-process right to marry someone of the same sex.

12. It is the public policy of the State of Alabama to recognize marriage as the legal union of one man and one woman.

13. Alabama's recognition of marriage as the legal union of one man and one woman does not violate the United States Constitution.

14. Plaintiffs have not stated a valid § 1983 claim against the Defendants, who are sued in their official capacities, and Plaintiffs may not recover damages, costs or attorney's fees against the Defendants.

15. Plaintiffs' claims are barred by sovereign immunity.
16. Plaintiffs lack standing to assert claims against the Attorney General.

Respectfully submitted,

LUTHER STRANGE (ASB-0036-G42L)
Attorney General

s/ James W. Davis

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CERTIFICATE OF SERVICE

I certify that on February 24, 2015, I electronically filed the foregoing document using the Court's CM/ECF system which will send notification of such filing to the following persons:

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