

Contact: Julia Eidelman
Director of Operations
Office: (215) 732-3378, ext. 116
Cell: (267) 908-2980
Julia@equalityforum.com



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Lawsuit Seeks Recognition of Out-of-State Same-Sex Marriages

A Pennsylvania couple's challenge to the Pennsylvania statute that purports to declare “void” out of state same-sex marriages reached a pivotal stage in U.S. District Court in Philadelphia today when the couple filed a motion for summary judgment, asking the court to strike down the statute as unconstitutional.

The motion was filed by the plaintiffs Cara Palladino and Isabelle Barker, who were lawfully married in Massachusetts, while living there. In August 2005, they moved to Pennsylvania for new jobs and in January 2009, Isabelle gave birth to their son.

"We took on the commitment of marriage in 2005 and have supported each other through life's ups and downs," said Cara Palladino. "We think it is wrong for Pennsylvania to void our marriage and treat us as though we are unmarried when we are very much a loving family," she added.

The case is known as *Cara Palladino and Isabelle Barker v. Governor Thomas Corbett and Attorney General Kathleen Kane*. If the motion for summary judgment is granted, the federal court order could result in the recognition within Pennsylvania of marriages performed in states that issue marriage certificates to same-sex couples. The lawsuit does not seek to require Pennsylvania to marry same-sex couples. Same-sex couples may legally marry in 17 states and the District of Columbia, including the neighboring states of New York, New Jersey, Delaware and Maryland.

Pennsylvania has a long history of recognizing out-of-state marriages and marriages that took place in other countries. The statute represents a departure from that tradition and makes an exception of same-sex marriages.

The motion asserts constitutional violations of the due process, equal protection, and full faith and credit clauses and the right to travel.

The marriage recognition lawsuit was initiated and is overseen by Equality Forum, a national and international LGBT civil rights organization with an educational focus.

Cara Palladino, 48, is Director of Donor Relations and Stewardship at Bryn Mawr College. Isabelle Barker, 42, also works at Bryn Mawr as Assistant Dean and Director of Student Funding. They have been together since 1998 and are the parents of a five-year-old son.

Lead counsel is Morgan, Lewis & Bockius, a law firm headquartered in Philadelphia with 24 offices worldwide and over 1,600 law professionals. Litigation partners Eric Kraeutler, Michael Banks, and Joseph Fay represent the plaintiffs.

Ben Jerner and Tiffany Palmer, of Jerner & Palmer, P.C., are co-counsel. Jerner & Palmer, P.C. is a leading LGBT focused family law firm, with offices in Pennsylvania and New Jersey. The firm has the largest LGBT clientele in Pennsylvania and the Philadelphia region.

Mary Bonauto and Gay and Lesbian Advocates and Defenders (GLAD) are consulting counsel. In 2003, GLAD, New England's leading LGBT legal organization, won the Massachusetts marriage case, the first lawsuit in the nation in which the highest state court declared unconstitutional the prohibition of same-sex marriage. Ms. Bonauto, GLAD's civil rights project director lead a team at GLAD in the first federal district court and appellate court cases that ruled that the Defense of Marriage Act (DOMA) was unconstitutional.

"If granted, the Court's order treats Cara Palladino and Isabelle Barker's marriage with the legal respect Pennsylvania accords to all other marriages. Like all married couples, their family would be entitled to over 600 Pennsylvania marital benefits as well as qualify for federal marital benefits based on marital status in one's home state," stated Malcolm Lazin, Executive Director of Equality Forum.

"On behalf of Cara and Isabelle and other legally married same-sex families, we will take this injustice as far as is needed to affirm the nation's 226-year-old history of recognizing marriages from sister states," Lazin stated.