**RNo: 16-111**
**IN THE UNITED STATES COURT SUPREME COURT**

***MASTERPIECE CAKESHOP, LTD. ET AL.,***
**(Petitioners)**

***v.***
***COLORADO CIVIL RIGHTS COMMISSION, ET AL***
**(Respondents)**

***CHRIS SEVIER, JOHN GUNTER JR, JOAN GRACE HARLEY, WHITNEY KOHL***

**(Intervening Respondents)**

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**On Appeal From The Colorado Court Supreme Court**

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# MOTION TO INTERVENE AS A PARTY RESPONDENT, AND MOTION TO STAY THE CASE UNTIL IT IS DETERMINED WHETHER CADA VIOLATES THE FIRST AMENDMENT ESTABLISHMENT CLAUSE IN *SEVIER ET. AL. V. HICKENLOOPER ET. AL.* , 17-cv-1750 (C.O.D 2017) AND WHETHER MEMBERS OF THE TRUE MINORITY OF SEXUAL ORIENTATION SUSPECT CLASS HAVE STANDING TO ENFORCE CADA IN *HARLEY ET. AL. V. MASTERPIECE CAKESHOP LTD,* 17-cv-1666 (C.O.D. 2017)

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## I. INTRODUCTION

NOW COMES, Chris Sevier, former Judge Advocate General and Assistant United States Attorney and self-identified objectofile[1] "i.e. machinists" and Whitney Kohl, a self-identified polygamists, under Rule 21, F.R.C.P. 24(a), and 24(b) to intervene as Respondents and for the Supreme Court to stay these proceedings until the District Court in Colorado resolves (1) *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017). Self-identified polygamists and lobbyists John Gunter Jr. and Joan Grace Harley join in this motion, incorporating it by reference, while filing their own separate motions arguing different points of law. Only Intervening Respondent Sevier requests for oral argument on this motion - if helpful - and to participate in any oral argument before this Court. It is not fully clear whether either the Respondents or the Petitioners oppose this motion. The Intervening Respondent's requests should be granted because it should be preliminarily determined, if the making of Colo. Rev. Stat. § 24-34-601 et. seq. "CADA" violated the First Amendment Establishment Clause as applied to the states through the Fourteenth Amendment and if the enforcement of CADA by the Colorado State courts and Federal Courts violates the First Amendment Establishment Clause as applied to the state courts under the Fourteenth Amendment and as applied to the Federal Courts under the Fifth Amendment. This Court must be advised that the Intervening Respondents filed two causes of action in Colorado District Court at the same time that are pending now that have direct impact on this action. *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017) involves similar law and similar parties, with only a minor twist, the Intervening-Respondents-Plaintiffs self-identified as a the true minority

[1] Object sexuality or objectophilia is a form of sexuality focused on particular inanimate objects. Those individuals with this expressed preference may feel strong feelings of attraction, love, and commitment to certain items or structures of their fixation.

members of the sexual orientation suspect class and have received the same injury by the same Petitioners under the same statute that the Respondents seek to enforce because the Petitioners refused to bake cakes in the furtherance of certain types of non-secular parody weddings. Simultaneously, the Intervening Respondents filed a lawsuit against the Colorado Governor, Attorney General, Colorado Civil Rights Commission, and Denver County Clerk in which they ask the Colorado District Court to overrule CADA and enjoin the state from legally recognizing gay marriage for violating "lemon" or, alternatively, that the Colorado District Court require the State of Colorado to issue marriage licenses to self-identified polygamists and machinists, like the Intervening-Respondent-Plaintiffs, and to permit self-identified polygamists and machinists to enforce CADA in light of similar injuries imposed by the Petitioners in this action in the refusal to bake cakes in support a different kinds of non-secular parody weddings.

## II. FACTS AND PROCEDURAL HISTORY OF HARLEY V. MASTERPIECE CAKESHOP AND SEVIER V. HICKENLOOPER

The Intervening Respondents' self-identify as polygamists and machinists. Intervening Respondent Grace Harley is a former self-identified transgender and Whitney Kohl is a former self-identified lesbian. (DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-12). Both were legally married to members of the same-sex before completely leaving the identity narrative behind and converting to a new self-asserted sex-based identity narrative that are as equally part of the religion of secular humanism as homosexuality. Id. In May 2017, the Intervening-Respondents-Plaintiffs contacted the Petitioners and demanded that they bake several wedding cakes to support the Intervening-Respondents-Plaintiffs' beliefs about sex, marriage, faith, and morality in celebration of the Intervening-Respondents-Plaintiffs' polygamy and objectofile wedding ceremonies. The Petitioners Phillips and Masterpiece Cakeshop refused

to provide the Intervening-Respondents-Plaintiffs with the wedding cakes exclusively on the basis of their self-identified sex-based identity narrative, also referred to as "sexual orientation." That is, the Petitioners would not publically accommodate the Intervening-Respondents-Plaintiffs because they desired to celebrate parody weddings that are as equally part of the religion of Secular Humanism as the homosexual wedding ceremonies are. The Intervening-Respondents-Plaintiffs sustained the same injury under CADA as inflicted onto the self-identified homosexual Respondents in this action, with only one minor distinction, their self-asserted sex-based identity narrative is less politically popular.

Moreover, in response to the Petitioner Phillips and Masterpiece Cakeshop discrimination against the Intervening-Respondents-Plaintiffs, the Intervening-Respondents-Plaintiffs asked the Colorado Civil Rights Commission and the Colorado Attorney General's office to allow them to proceed in an administrate cause of action against the Respondents for their violation of "CADA." For reasons that are completely arbitrary, the Colorado Civil Rights commission and the Colorado Attorney General's office refused to give the Intervening-Respondents-Plaintiffs the same Equal Protection and Substantive Due Process Rights under CADA, as they have provide to self-identified homosexuals, like the Respondents, for political, moral, and procedural reasons that are invalidated under *Obergefell v. Hodge*, 192 L.Ed.2d 609, 1-28 (2015). Furthermore, the Intervening Respondents approached the County Clerk's office in Colorado and demanded that it provide the Intervening Respondents with marriage licenses that reflected their beliefs and preferences about marriage, sex, and morality, as self-identified polygamists and machinists. For procedural, political, and moral reasons, the Denver County Clerk refused to issue the Intervening Respondents marriage licenses in a manner that completely violates the

holding in *Obergefell*. 192 L.Ed.2d at 1-28. Meanwhile, the evidence shows that the Intervening-Respondents-Plaintiffs warrant the same Equal Protection and Substantive Due Process Right to marry as self-identified homosexuals, if *Obergefell* is good law and not a sham. Id.

In response to these sweeping acts of injustice, the Intervening-Respondents-Plaintiffs filed two separate lawsuits at the same time in Colorado District Court that have direct impact on this discrimination action: one against the Petitioners, *Harley v. Masterpiece Cakeshop*, 17-cv-1666 (C.O.D. 2017), and another against the State of Colorado. *Sevier v. Hickenlooper*, 17-cv-1750 (C.O.D 2017). (See Exhibits). The Intervening Respondents are now asking this Court that (1) they be permitted to intervene and that (2) these matters be stayed until these actions are resolve in the Colorado District Court. Petitioners Phillips and Masterpiece Cakeshop have no precedent on their side, only offering a series of irrelevant emotional appeals under their freedom of expression defense that are as invalid as the emotional-appeal-qualifiers backing *Obergefell*. Id. 1-28. It takes more than "charm" to ultimately prevail before an Article III Court and the intervening respondents have filed lawsuits that raise the question as to whether the Constitution even allows CADA to exist and whether it allows it to be enforced, while also resolving who gets to enforce it, if anyone. The Respondents are more likely than not seeking to enforce a statute that insurmountably violates all three prongs of the lemon test both in its making and in its enforcement. By granting the Intervention Respondents' request, the Supreme Court will have a better chance of making a decision that accords with the Constitution and protects the right set of Constitutional rights. By permitting the intervention this Court will be less likely to reach a Constitutionally absurd result that will be subsequently overruled.

## III. ARGUMENT

### *(1) Summarizing Sevier v. Hickenlooper And Its Significance*

In *Sevier v. Hickenlooper*, 17-cv-1750 (C.O.D 2017), the Intervening-Respondents-Plaintiffs exercised their rights to file a lawsuit with alternative Constitutional claims under the First and Fourteenth Amendments under Fed. R. Civ. P 8(e)(2).[2] These alternatives claims do not have to be consistent and they can compete. *Blazer v. Black*, 196 F.2d 139, 144 (10th Cir. 1952).[3] First, the Intervening-Respondents-Plaintiffs brought a cause of action in which they have standing under *Flast v. Cohen*, 392 U.S. 83 (1968) where they contend that legally recognized gay marriage, transgender policies, and sexual orientation discrimination statutes, like CADA, are (1) "not secular" and (2) have the effect of enshrining the religion Secular Humanism as prohibited by the Establishment Clause under *Torcaso v. Watkins*, 367 U.S. 488 (1961), while managing to fail every prong of the Lemon and Coercion tests by a landslide.[4] The

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[2] Rule 8(e) (2), Fed. R. Civ. P., specifically provides that a party may plead in the alternative, even where the alternative claims are inconsistent: "A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses." When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal, equitable, or maritime grounds.

[3] *Blazer v. Black*, 196 F.2d 139, 144 (10th Cir. 1952) (explaining that a party is "at liberty to state as many separate claims as he wishe[s], regardless of consistency, whether based upon legal or equitable grounds or both"); *Clark v. Associates Commercial Corp*., 149 F.R.D. 629, 634 (D.Kan.1993) (recognizing a party's right under Rule8(e)(2) to plead alternative and inconsistent claims); *Lader v . Dahlberg*, 2 F.R.D. 49,50 (S.D.N.Y.1941) (noting that the Federal Rules of Civil Procedure "contemplate a disposition of all issues between litigants in a single lawsuit," whether alleged in the alternative or hypothetically and whether or not consistent with one another). So, for example, "[c]ourts have permitted plaintiffs to sue on a contract and at the same time alternatively repudiate the agreement and seek recovery on a quantum meruit claim or allege fraud or some other tort theory." 5 Wright & Miller, § 1283 at pp. 535-37. And in *Lann v. Hill*, 436 F. Supp. 463, 465 (W.D.Okla. 1977), the court noted that when a party pleads alternative and inconsistent claims, "the Court will determine if it has subject matter jurisdiction over either of the possible actions under which Plaintiff might proceed."

[4] For purposes of standing, the Intervening-Respondents-Plaintiffs have standing under their Establishment Clause claims as taxpayers under *Flast v. Cohen*, 392 U.S. 83 (1968) despite the plausibility of their self-asserted sex-based identity narrative. The general rules regarding standing to challenge governmental actions are designed to ensure that courts are addressing actual cases that can be resolved by the judicial system. However, in some circumstances,

Intervening-Respondents-Plaintiffs do not even have to show actual coercion to enforce the Establishment Clause to have CADA and gay marriage overruled which would nullify this action completely.[5] Second, the Intervening-Respondents-Plaintiffs plead an alternative cause of action under the Equal Protection and Substantive Due Process Clause of the Fourteenth Amendment arguing that the Intervening-Respondents-Plaintiffs warrant the same "existing," "fundamental," and "individual" right to marry based on their "personal choice" and "personal autonomy" in step with their self-asserted sex-based identity narrative and to enforce statutes like CADA to the same extent that self-identified homosexuals are afforded in the wake of *Obergefell*.[6] If Stare Decisis legitimately applies under *Obergefell* to all individuals who seek to

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individuals may seek to challenge governmental actions for which neither those individuals nor any other individuals could meet standing requirements. Indeed, the Supreme Court has noted that in some instances "it can be argued that if [someone with a generalized grievance] is not permitted to litigate this issue, no one can do so." *United States v. Richardson,* 418 U.S. 166 (1974). Generally, the Court has noted, "lack of standing within the narrow confines of Art. III jurisdiction does not impair the right to assert [one's] views in the political forum or at the polls." However, the ability of individuals to effect change through political and democratic means does not eliminate all cases where a large group of individuals would be affected by the challenged governmental action. In particular, the Court has specifically allowed taxpayer standing for claims arising under the Establishment Clause. Under the Flast exception to the general prohibition on taxpayer standing, taxpayers may raise challenges of actions exceeding specific constitutional limitations (such as the Establishment Clause) taken by Congress under Article I's Taxing and Spending Clause which is applicable to the states under the Fourteenth Amendment. *Flast v. Cohen,* 392 U.S. 83 (1968). The Court has maintained its interpretation of this exception, refusing to extend it to permit taxpayer lawsuits challenging executive actions or taxpayer lawsuits challenging actions taken under powers other than taxing and spending. *Valley Forge Coll. v. Americans United*, 454 U.S. 464 (1982)(refusing to allow a taxpayer challenge of government transfer of property to a sectarian institution without charge because the action was taken by an executive agency exercising power under the Property Clause); *Hein v. Freedom from Religion Foundation*, 551 U.S. 587 (2007) (refusing to allow a taxpayer challenge of activities of the White House Office of Faith-Based and Community Initiatives because the funding was made through discretionary executive spending). These exceptions, the Court has explained, result because the Establishment Clause is a constitutional limit on the government's ability to act. According to the Court, the framers of the Constitution feared abuse of governmental power that might result in favoring "one religion over another." *Flast,* 392 U.S. at 103-04. It is difficult to imagine circumstances in which potential abuses of the Establishment Clause could be enforced without this exception.

[5] *Engel v. Vitale*, 370 12 U.S. 421, 430-431 (1962); *Holloman v. Harland,* 370 F.3 1252, 1286 (11th Cir. 2004); *Newdow v. Congress*, 292 F.3d 597, 607, n. 5 (9th Cir. 2002).

[6] *Obergefell*, at 1-28. *Zablocki v. Redhail*, 434 U.S. 374, 384 (1978) (fundamental right); *Cleveland Bd. of Educ. v. LaFleur*, 414 U.S. 632, 63940 (1974) (personal choice); *Loving v. Virginia*, 388 U.S. 1, 12 (1967) (existing right/individual right); *Lawrence v. Texas,* 539 U.S. 558 (2003) (intimate choice)

enter into a parody marriage based on their sexual orientation, then very obviously the Intervening-Respondents- Plaintiffs are entitled to legally marry in accordance with their self-asserted sex-based identity narrative and to enforce discrimination statutes like CADA, just as self-identified homosexuals are allowed.[7] Id.

If legally recognized gay marriage is Constitutionally valid under *Obergefell,* then so is legally recognized polygamy and machinism marriage. Id. at 1-28. If self-identified homosexuals can enforce CADA, then so can self-identified polygamists and machinists. To eliminate any ambiguity, here is the holding in *Obergefell*:

"These considerations lead to the conclusion that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. The Court now holds that [self-identified homosexuals] may exercise the fundamental right to [legally] marry. No longer may this liberty be denied to them. *Baker* v. *Nelson* must be and now is overruled, and the State laws challenged by Petitioners in these cases are now held invalid to the extent they exclude [self-identified homosexuals] from civil marriage on the same terms and conditions as opposite- sex couples [in a secular marriage]." *Obergefell* at 22-23.

If precedent controls, then "the conclusion" that the court in *Sevier v. Hickenlooper* must reach is that "the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment [self-identified machinists and polygamists] may not be deprived of that right and that liberty." Id. Intervening-Respondent-Plaintiff Sevier is a "person" and so are the three polygamist Intervening-Respondents-Plaintiffs with the same "liberty," "dignity," "autonomy" interests as

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[7] *Sevier v. Hickenlooper*, 17-cv-1750 (C.O.D 2017) is an "if not this, then that" lawsuit. If the Establishment Clause does not enjoin the state from legally recognizing non-secular parody marriages and from enforcing CADA, then the Intervening Respondents warrant the same rights to marry and enforce CADA under the Equal Protection and Due Process Clause of the Fourteenth Amendment and visa versa. Either way, the current definition of marriage and the State's decision to only legally recognize one form of non-secular parody marriage is wildly unconstitutional from every angle. Self-identified polygamists and machinists warranted the same treatment under the law as self-identified homosexuals.

self-identified homosexuals. Id. The Intervening-Respondents-Plaintiffs cannot "be deprived of" the right to legally marry in step with their self-asserted sex-based identity narrative as a matter of "liberty" any more or less that self-identified homosexuals can. Id. Nor can the Intervening-Respondents-Plaintiffs be denied their right to enforce CADA any more or less that the Respondents can against the same Petitioners.

But "Houston, we have a problem!" While the Secular Humanist on the bench in *Obergefell* can perhaps collude and scheme with other Secular Humanist litigants and atheist on the lower courts to overturn *Baker v. Nelson*, 409 U. S. 810 (1972) through a series of emotionally charged dishonest imperialistic power plays without any exposure, the secular humanist on the Supreme Court cannot overturn the Establishment Clause nor sneak around it by camouflaging unproven truth claims stemming from the religion of Secular Humanism, as if they were actually "secular" and "non-religious," when they are not. (DE _ Pastor Cuozzo ¶¶ 1-21). The series of irrelevant and emotionally exploitative appeals floated by the Majority in *Obergefell* to justify the imposition of parody marriage on all 50 states is invalidated by the Establishment Clause under the analysis in *Holloman v. Harland*, 370 F.3 1252 (11th Cir. 2004). [8] Because self-asserted sex-based identity narratives that are questionably moral, legal, and real

[8] In *Holloman,* a public school teacher defended a daily moment of silent prayer by arguing that she intended to teach students compassion, pursuant to character education plan mandated by the state. Id. at 1285. The court concluded that this emotional explanation did not constitute a valid secular purpose because the teacher's most basic intent unquestionably was to offer her students an opportunity to pray. "While [the teacher] may also have had a higher-order ultimate goal of promoting compassion, we look not only to the ultimate goal or objective of the behavior, but also to the more immediate, tangible, or lower-order consequences a government actor intends to bring about." Id. The unmistakable message of the Supreme Court's teaching in *Holloman* is that the state cannot employ a religious means to serve an otherwise legitimate secular interests." Id. at 1286. The *Holloman* court further concluded that "a person attempting to further an ostensibly secular purpose through avowedly religious means is considered to have a Constitutionally impermissible purpose." Id., citing *Jagar v. Douglas County School*, 862 F.2d 824, 830 (11th Cir. 1989). ("An intrinsically religious practice cannot meet the secular purpose prong of the Lemon test.")

have nothing to do with the Equal Protection and Due Process Clauses, the all Article III Courts lacked subject matter jurisdiction over gay marriage in both *Obergefell* and *Kitchen*, which means that Stare Decisis does not apply nor does it save *Obergefell* and *Kitchen*.[9] Likewise, the legal reasoning in *Obergefell* does not save CADA from being invalid under the Establishment Clause in its making and in its enforcement. Id. The whole problem with *Obergefell* was that it was poisoned at the root: the wrong Constitutional narrative was being litigated at all times. This was insurmountably proven by Judge Hinkle in reaction to Intervening-Respondent-Plaintiff Sevier's motion to intervene in *Brenner v. Scott,* 2014 WL 1652418 (2014), when Judge Hinkle implicitly found that parody marriages were "removed from reality," which is another way of saying that all parody marriages are equally a matter of "non-secular religious faith" that a huge amount of faith to believe that they are even real and moral (See Exhibits). Through the force of intellect and the testimonials provided by ex-gays, the Intervening-Respondents-Plaintiffs continue to drag the question of how the Constitution permits the States to define marriage out of the Fourteenth Amendment box - kicking and screaming perhaps - and place it into the First Amendment box, where it always belonged.[10] The evidence unequivocally shows that the First Amendment Establishment Clause has exclusive jurisdiction over all forms of parody marriage and over the religious orthodoxy of "sexual orientation." The Lemon test is the death nail to legally recognized gay marriage and CADA, and other courts and Legislatures in other circuits are waking up to the fact that the sexually exploitative and dishonest judicial charade is doomed. Given the fact that gay marriage manages to violate all three prongs of lemon by a landslide, gay

[9] *Obergefell* at 1-28 and *Kitchen v. Herbert,* 755 F. 3d 1193, 1223 (CA10 2014)

[10] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-1.

marriage is perhaps the greatest manipulative non-secular sham ever imposed by atheistic Secular Humanist Judges, who are aligned with the Democratic Party, through their routine misuse of Substantive Due Process Clause in unchecked judicial policy making racket that is consistently based purely on emotion and not on sound legal reasoning, since the inception of American Jurisprudence. So it goes with CADA, which is, of course, based on the same invalid legal premise as *Obergefell*. Id. at 1-28. In *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017), the Intervening-Respondents-Plaintiffs have metaphorically placed two loaded guns by way of competing Constitutional Amendments to either side of the of the judiciary head in asking the Colorado District Court to finally tell the truth and apply the Constitution as it is written and not as to what the Court thinks it "ought" to say. *Obergefell* at 4 (Scalia Dissenting). There is no question that Justice Scalia was understated when he wrote "I write separately to call attention to this Court's threat to American Democracy." *Id.* at 1. (Scalia dissenting). But the question presented in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) that is directly relevant to this case is that "if self-identified homosexuals can legally marry and enforce CADA, then so can self-identified Polygamists and Machinists," and "if Polygamists and Machinists cannot legally marry and enforce CADA, then neither can self-identified homosexuals" on the same Constitutional legal basis. This is why it is vital that the Supreme Court permit the Intervening Respondents the right to (1) intervene and that (2) this Court stay this case until at least the Colorado District Court resolves whether CADA and gay marriage are unconstitutional under the Establishment Clause. Currently, the Intervening Respondents have filed three motions for summary judgment in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and motions for

summary judgment pending in *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017). (See Exhibits).

*(2) Summarizing Harley v. Masterpiece Cakeshop*

In *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017), the Intervening-Respondents-Plaintiffs are making all of the same arguments that the Respondents in this action floated before the administrative law courts. In fact, the Intervening-Respondents-Plaintiffs have, for the most part, copied the pleadings of the Respondents verbatim in their motions for summary judgment. The Intervening-Respondents-Plaintiffs have pled the same cause of action that the Respondents have with one minor distinction, the Intervening Respondents are three self-identified polygamists and one self-identified machinists. Pending now are motions for summary judgment filed by the Intervening Respondents where the Intervening Respondents have made the same arguments that the Respondents have against the same Petitioners on under the same statute. (See Exhibit). The Intervening Respondents have standing to intervene regardless if their request makes this action even more controversial.

Under Colorado state law, "[i]f a party fails to exhaust administrative remedies, the [higher] court lacks jurisdiction to hear the action." *Brown v. Jefferson Cty*. Sch. Dist. No. R-1, 297 P.3d 976, 979 (Colo. Ct. App. 2012). Because Colo. Rev. Stat. § 24–34–306(14) requires that all administrative remedies be exhausted before CADA can be enforced, it follows that the Supreme Court should stay these proceedings until the Colorado District Court resolves whether (1) CADA is overruled by the Establishment Clause for violating Lemon in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and whether (2) the Petitioners are guilty of violating CADA for refusing to bake cakes as to the Intervening-Respondents-Plaintiffs in *Harley v.*

*Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017). In light of the totality of the circumstances, until these questions are resolved, the evidence suggests that the Supreme Court lacks jurisdiction to allow the matter to proceed because the Constitutionality of the Statute itself is being litigated in a lower Federal Court at present in the state from which this controversy arose. Id. See *Jackson v. City & Cty. of Denver,* No. 11-cv- 02293-PAB-KLM, 2012 WL 4355556, at *2 (D. Colo. Sept. 24, 2012). Since this is a matter of Constitutional interpretation, the parties will not be prejudiced by the delay.

## A. INTERVENING LEGAL STANDARD

Because this action is on appeal from the Colorado Court of Appeals and because the Intervening Respondents are litigants in a similar Federal Action, it is not clear which legal standard applies. However, because the Intervening Respondents have a Federal lawsuit against the same Petitioners in Federal District Court involving similar facts and laws, the Intervening Respondents will rely on intervention legal standard set forward by the 10th Circuit Court of Appeals, since Colorado is part of the 10th Circuit. Intervention is appropriate here, particularly in light of the Tenth Circuit's generally permissive standard for intervention. *Utah Ass'n of Cntys. v. Clinton,* 255 F.3d 1246, 1249 (10th Cir. 2001) (the Tenth "circuit follows a somewhat liberal line in allowing intervention."). See *Antilles Cement Corp. v. Acevedo Vila*, 408 F.3d 41, 45 (1st Cir. 2005) ("A federal court of appeals has broad discretion to grant or deny intervention at the appellate level."). When assessing whether intervention at the appellate level is proper, the courts appropriately look to Fed. R. Civ. P. 24. See *Elliott Indus. Ltd. P'ship v. BP Am. Prod. Co.*, 407 F.3d 1091, 1102 (10th Cir. 2005). Under the permissive intervention standard of Fed. R. Civ. P. 24(b)(1)(B), a "court may permit anyone to intervene who . . . has a claim or defense

that shares with the main action a common question of law or fact." Here, the "common question of law" is obvious—namely, Colorado is CADA enforceable and if so can self-identified machinists and polygamists enforce it to collect damages from the Petitioners for being loyal "Christ Followers." When deciding a motion for permissive intervention under Fed. R. Civ. P. 24(b), courts also consider the following factors: "(1) whether the intervention will unduly delay or prejudice the adjudication of the original parties' rights;; (2) whether the would-be intervenor's input adds value to the existing litigation;; (3) whether the intervenor's interests are adequately represented by the existing parties;; and (4) the availability of an adequate remedy in another action." *Lower Ark. Valley Water Conservancy Dist. v. United States,* 252 F.R.D. 687, 690-91 (D. Colo. 2008). As discussed below, each of these factors weighs heavily in favor of intervention.

Delay/Prejudice: First, there can be no dispute that the intervention will cause any undue delay that would in any way impair the rights of the parties to this appeal. While the Petitioners may have to address additional arguments if the instant motion is granted, that is not considered to be prejudicial. *Kobach* v. *U.S. Election Assistance Comm'n*, 13-CV-4095-EFM-DJW, 2013WL 6511874 (D. Kan. Dec. 12, 2013). Both the Petitioners and the State of Colorado have been served and have been litigating in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017). Indeed, giving protection to all other classes of sexual orientation, and could not possibly prejudice any party. In fact, the Respondents should welcome the Intervening Respondents in light of how they have framed their entire case. The Respondents and CADA have suggest that "sexual orientation" as a suspect class is like "race." For the Respondents to turn around and oppose the Intervening Respondents

intervention request would cause the Respondents to completely "explain away" the "explanation" for their case in chief. More than that it would be direct evidence that CADA is a sham for purposes of the Establishment Clause under prong one of Lemon from a Constitutional perspective. Just imagine if in *Brown v. Board of Education of Topeka*, 347 U.S. 483 (1954), a group of Red American Indian students moved to intervene because they too were being discriminated against on the basis of their race by the public school, and the African American plaintiffs opposed the intervention because the Red American Indian's were a smaller racial class. That would be Constitutionally absurd and that reaction would have impeached the African American's otherwise valid civil rights cause of action under the Fourteenth Amendment. After all, it takes no amount of intellectual squinting to see that "race" is based on immutability, whereas the same cannot be said of sexual orientation.[11] Permitting intervention will help this Court and the public "see" the truth, as to whether sexual orientation is a matter of "civil rights" or a matter of "religion."

Input: In addition, out of an excess of caution, the Intervening Respondents seek to intervene because, under existing Tenth Circuit law, the raising of new issues is discouraged in briefs *amicus curiae*. *See Wyo. Farm Bureau Fed'n* v. *Babbitt*, 199 F.3d 1224, 1230 n.2 (10th Cir. 2000);; *Harris* v. *Owens*, 264 F.3d 1282, 1288 n.3 (10th Cir. 2001)("[A]bsent 'exceptional circumstances,' we do not ordinarily consider issues raised *Tyler* v. *City of Manhattan*, 118 F.3d 1400, 1403–04 (10th Cir. 1997). To some extent the Intervening Respondents do not believe that this principle applies to the arguments they are presenting, they file this motion to ensure that these arguments are heard and considered by this Court. The Intervening Respondents are not

[11] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-12.

criticizing the strategy of counsel for the Respondents nor Petitioners, but the Intervening Respondents offer unique perspectives and Constitutional arguments, which has implications for other classes of sexual orientation who are not represented and for the integrity of the Rule of law. *See Lower Ark. Valley*, 252 F.R.D. at 692 ("divergence of opinion" between plaintiff and intervenor in contract interpretation justified permissive intervention);; *see also United States* v. *City of Los Angeles, Cal.*, 288 F.3d 391, 398 (9th Cir. 2002). While the Petitioners argue that the Court lacks subject matter jurisdiction to enforce CADA because it violates the Petitioners' free exercise rights, the Intervening Respondents offer a range of arguments, such as (1) more likely than not CADA violates the Establishment Clause in its "making" and in its "enforcement" by any court; (2) that the state courts lacked subject matter jurisdiction to enforce CADA under the Establishment Clause as applied to the state court under the Fourteenth Amendment in the action by the Respondents against the Petitioners; that (3) the Federal Courts lack subject matter jurisdiction to enforce CADA under the Establishment Clause as applied to the Federal Government through the Fifth Amendment in the action brought by the Intervening Respondents against the Petitioners; that (4) Colorado State legislature violated the Establishment Clause in enshrining CADA into law as applied to the state under the Fourteenth Amendment; (5) that all self-asserted sex-based identity narratives that are questionably real, questionably legal, and questionably moral are not secular in nature and are all equally part of the religion of Secular Humanism; and that (6) if self-identified homosexuals are permitted to enforce CADA as a matter of "civil rights" against the Petitioners then very obviously self-identified polygamists and machinists must be permitted to do the same against the Petitioners. After all, "[I]f the constitutional conception of 'equal protection of the laws' means anything, it must at the very

least mean that a bare. . . desire to harm a politically unpopular group cannot constitute a legitimate governmental interest." *Romer v. Evans*, 517 U.S. 620, 635 (1996).

The Intervening Respondents meet all the requirements to permissively intervene, all discretionary factors weigh heavily in favor of intervention, and there is no doubt that the Intervening Respondents, above all others prospective intervenors, can provide the Supreme Court with a valuable and unique perspective and argument on behalf of the true minority classes of sexual orientation. Further, in accordance with Supreme Court precedent, "when the nonparty has an interest that is affected by the trial court's judgment . . . the better practice is for such a nonparty to seek intervention for purposes of appeal." *Marino* v. *Ortiz*, 484 U.S. 301, 304 (1988). In addition, in a case of this significance and importance, which has the potential to shape the trajectory of the quest of all persons of non-obvious sexual orientations, not just "self-identified gay people," for full civil equality, having greater participation by affected parties and greater airing of the issues can only benefit this Court by providing the widest range of arguments and perspectives available.

There is no question that all parties and the members of the Court can agree with the fact that "times can blind." *Obergefell* at 22 (Roberts Dissenting). By allowing the Intervening Respondents to intervene, the Court can better "see" the law instead of "making it up as it goes along." Once permitted to intervene, the Intervening Respondents will perhaps simply move to join the Respondents' pleadings. Only intervening Respondent Sevier, a former Judge Advocate General and Assistant United States Attorney, who has argued before multiple Appellate Courts, is interested in participating in oral argument. Yet, the Intervening Respondents are different than the Respondents and the Petitioners in their motivations. If necessary, the Intervening

Respondents are willing to put the interest of the Constitution over their own personal interest by simply telling the truth at all costs. The loyalty of the Intervening Respondents does not rest just with themselves but with the Constitution. That factor - alone - should compel the Court to permit intervention in a controversy that might very well be built on an unconstitutional statute and a fake civil rights movement that is really about putting the religion of Secular Humanism over non-religion.

## B. "IF THIS, THEN THAT": BEFORE THIS ACTION IS ALLOWED TO PROCEED, IT SHOULD BE RESOLVED BY THE DISTRICT COURTS HOW THE APPLICATION OF THE "LIBERAL LOGIC" IN *OBERGEFELL* PLAYS-OUT FROM A CONSTITUTIONAL PERSPECTIVE AS IT IS APPLIED TO OTHER NON-OBVIOUS NON-SECULAR FORMS OF PARODY MARRIAGE

By applying the logic in *Obergefell* to *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017), the Supreme Court can better see why the Intervening-Respondents-Plaintiffs request should be granted in full. While relying on the holding in *Obergefell,* the Intervening-Respondents-Plaintiffs offer an "if this, then that," argument in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and in *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017). In sum, if gay marriage is legally recognizable and self-identified homosexuals can legally enforce CADA, then very obviously self-identified polygamists and machinists must be permitted to legally marry and to enforce statutes like CADA against people who hold a worldview like the Petitioners. Justice Roberts could not have made that any clearer in his dissent in *Obergefell*, when he admitted:

> "One immediate question invited by the majority's position is whether States may retain the definition of marriage as a union of two people. Cf. *Brown* v. *Buhman*, 947 F. Supp. 2d 1170 (Utah 2013), appeal pending, No. 14- 4117 (CA10). Although the majority randomly inserts the adjective "two" in various places, it offers no reason at all why the two-person element of the core definition of marriage may be preserved while the man-woman element may not. Indeed, from the standpoint of history and tradition, a leap from opposite-sex marriage to same-sex marriage is much greater than one from a two-person union to plural unions, which have deep

roots in some cultures around the world. If the majority is willing to take the big leap, it is hard to see how it can say no to the shorter one. It is striking how much of the majority's reasoning would apply with equal force to the claim of a fundamental right to plural marriage. If "[t]here is dignity in the bond between two men or two women who seek to marry and in their autonomy to make such profound choices," *ante*, at 13, why would there be any less dignity in the bond between three people who, in exercising their autonomy, seek to make the profound choice to marry? If a same-sex couple has the constitutional right to marry because their children would otherwise "suffer the stigma of knowing their families are somehow lesser," *ante*, at 15, why wouldn't the same reasoning apply to a family of three or more persons raising children? If not having the opportunity to marry "serves to disrespect and subordinate" gay and lesbian couples, why wouldn't the same "imposition of this disability," *ante*, at 22, serve to disrespect and subordinate people who find fulfillment in polyamorous relationships? See Bennett, Polyamory: The Next Sexual Revolution? Newsweek, July 28, 2009 (estimating 500,000 polyamorous families in the United States); Li, Married Lesbian "Throuple" Expecting First Child, N. Y. Post, Apr. 23, 2014; Otter, Three May Not Be a Crowd: The Case for a Constitutional Right to Plural Marriage, 64 Emory L. J. 1977 (2015). I do not mean to equate marriage between same-sex couples with plural marriages in all respects. There may well be relevant differences that compel different legal analysis. But if there are, petitioners have not pointed to any. When asked about a plural marital union at oral argument, petitioners asserted that a State "doesn't have such an institution." Tr. of Oral Arg. on Question 2, p. 6. But that is exactly the point: the States at issue here do not have an institution of same-sex marriage, either."

For better or worse, the Intervening-Respondents-Plaintiffs simply ask here, in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017), and in *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017) that they be afforded the same benefits and treatment under the law based on their self-asserted sex-based identity narratives that self-identified homosexuals are permitted to enjoy or, otherwise, the Colorado District Court, and ultimately the Supreme Court, must hold that legally recognized gay marriage and CADA are a sham and that all courts lack subject matter jurisdiction over the enforcement of both. In deciding whether to stay this action, the Supreme Court should consider the following applications of the liberal logic floated in Obergefell as applied to other forms of parody marriage in its quest to uphold the Constitution:

(1) The Majority in *Obergefell* stated: "For the history of marriage is one of both continuity and change. As new dimensions of freedom have become apparent to new generations, the institution

of marriage has been strengthened by evolution over time." *Obergefell* at 6. In applying liberal logic, if marriage "has been strengthened by evol[ving] over time," legally recognizing person-object, person-animal, and more than two people marriages will make marriage much stronger. Id. at 6. If it is unlawful to force that which is in the hearts of self-identified homosexuals "to remain unspoken," it is unlawful for that which is in the that which is in the hearts of zoophiles, machinists, and polygamists to "remain unspoken as well." *Obergefell* at 7.

(2) The Majority in *Obergefell* stated: "The Constitution promises liberty to all within its reach, a liberty that includes certain specific rights that allow persons, within a lawful realm, to define and express their identity." *Obergefell* at 2. In light of that liberal logic, the Intervening-Respondents-Plaintiffs must be permitted to "express their identity" as machinists and polygamists through marriage, just as self-identified homosexuals are permitted. *Obergefell* at 1.

(3) If "marriage is essential to our most profound hopes and aspirations" for self-identified homosexuals, the same is true for self-identified polygamists and machinists. Id. at 3.

(4) The Secular Humanist Majority in *Obergefell* stated, "[Self-identified Homosexuals] ask for equal dignity in the eyes of the law and the Constitution grants them that right." *Obergefell* at 28. If that that is true, then the "Constitution grants" the the Intervening-Respondents-Plaintiffs "that right" as well, as self-identified polygamists and machanists based on their "asking."

**Fundamental Right For Polygamists And Machinists Too Or It's A Sham**

(5) If parody marriage is a "fundamental right" for self-identified homosexuals, it is clearly a fundamental right for self-identified polygamists and machinists on identical legal bases.[12]

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[12] *Loving* v. *Virginia*, 388 U. S. 1, 12 (1967) *Zablocki* v. *Redhail*, 434 U. S. 374, 384 (1978), *Turner* v. *Safley*, 482 U. S. 78, 95 (1987)*., M. L. B.* v. *S. L. J.*, 519 U. S. 102, 116 (1996); *Cleveland Bd. of Ed.* v. *LaFleur*, 414 U. S. 632, 639–640 (1974);; *Skinner* v. *Oklahoma ex rel. Williamson*, 316 U. S. 535, 541 (1942); *Meyer* v. *Nebraska*, 262 U. S. 390, 399 (1923). *Obergefell* at 11.

(6) *Obergefell* Majority stated, "The limitation of marriage to opposite-sex couples may long have seemed natural and just, but its inconsistency with the central meaning of the fundamental right to marry is now manifest." Id. at 4. That stream of logic reasoning not only permits self-identified homosexuals to marry, but self-identified polygamists and machinists as well.

(7) The Secular humanist Majority stated: "The marriage laws at issue are in essence unequal: [self-identified homosexuals] are denied benefits afforded [to individuals in man-woman marriage] and are barred from exercising a fundamental right. Especially against a long history of disapproval of their relationships, this denial works a grave and continuing harm, serving to disrespect and subordinate [self-identified] gays and lesbians." Id. at 4. If that logic permits self-identified homosexuals to marry to normalize their ideological beliefs, it permits self-identified polygamists and machinists to marry as well, who have also faced a "long history of disapproval."

**Individual Right For Polygamists And Machinists Too Or It's A Sham**

(8) The Majority in *Obergefell* stated, "The Due Process Clause of the Fourteenth Amendment long has been interpreted to protect certain fundamental rights central to individual dignity and autonomy." Id. at 12. While relying on *Loving*, the Majority also stated, " The first premise of the Court's cases is that the right to personal choice regarding marriage is inherent in the concept of individual autonomy." Id. In applying that liberal logic here, the Intervening-Respondent-Plaintiff Sevier is an "individual" who has the "autonomous right" to marry an object as a matter of "dignity" and "personal choice." Id. Same goes with the self-identified polygamists litigants as to plural marriage, which simply involves three individuals. The Petitioners' violation of CADA against the Intervening-Respondents-Plaintiffs

harms their individuals rights to self-identify as polygamists and machinists to the same extent that it harms the Respondents ability to self-identify as homosexuals.

**Existing Right For Polygamists And Machinists Too Or It's A Sham**

(9) The *Obergefell* Majority floated: "The dynamic of our constitutional system is that individuals need not await legislative action before asserting a fundamental right. The Nation's courts are open to injured individuals who come to them to vindicate their own direct, personal stake in our basic charter. An individual can invoke a right to constitutional protection when he or she is harmed, even if the broader public disagrees and even if the legislature refuses to act." *Obergefell* at 25. Just as self-identified homosexuals did not have to wait to assert the individual and fundamental right to marry and to enforce CADA, neither do self-identified polygamists and machinists. Id. at 5. Since self-identified homosexuals, didn't have to wait, that means that self-identified polygamists and machinists do not have to wait either. The Majority in *Obergefell* stated that "the past alone does not rule the present," which means that the the Intervening-Respondents-Plaintiffs must enjoy the same right to marry and enforce CADA as self-identified homosexuals "[at] present." *Obergefell* at 11.

**Intimate Choice For Polygamists And Machinists Too Or It's A Sham**

(10) The Majority in *Obergefell* stated "Like other choices protected by the Due Process Clause, decisions concerning marriage are among the most intimate that an individual can make." *Obergefell* at 3. Just as marriage is "intimate" for self-identified homosexuals, it follows that marriage is is an "intimate" choice for self-identified machinists, zoophiles, and polygamists too. *Lawrence,* 539 U. S., at 567;; *Obergefell* at 14. Using "intimacy" as a basis to justify legally recognized gay marriage is another emotional appeal to shoehorn the edits of the religion of

secular humanism into a legal reality in a manner that violates the Establishment Clause under *Holloman*, 370 F.3 1252 at 1285-1286.

(11) The *Obergefell* Majority stated, "In *Lawrence v. Texas*, the Court held that private intimacy of same-sex couples cannot be declared a crime, yet it does not follow that freedom stops there." *Obergefell* at 14. Additionally, it "does not follow that freedom stops there either" for self-identified polygamists, zoophiles, and machinists as well. Either all individuals in the non-obvious class of sexual orientation are to be provided civil rights to marry or the Secular Humanist Majority in *Obergefell* was just monkeying with the Fourteenth Amendment like the Secular Humanists in the Majority in *Roe v. Wade*, 410 U.S. 113 (1973) were in a calculated effort to sidestep the fact that the Establishment Clause of the has exclusive jurisdiction over Secular Humanism and all of its doctrinal dogma. The Majority in *Obergefell* stated, "outlaw to outcast may be a step forward, but it does not achieve the full promise of liberty." In applying that liberal logic, polygamists and machinists should be allowed to progress forward from "outlaw to outcast to the full promise of liberty as well" by permitting them to legally marry and to enforce CADA against the Petitioners.

**Sexual Orientation Is A Protected Class For All Individuals Or It's A Sham**

(12) The Majority in *Obergefell* stated, "Indeed, as the Supreme Judicial Court of Massachusetts has explained the decision whether and whom to marry is among life's momentous acts of self-definition, and this is true for all persons, whatever their sexual orientation." *Goodridge v. Department of Public Health*, 440 Mass. 309, 798 N. E. 2d 941 (2003); *Goodridge,* 440 Mass., at 322, 798 N. E. 2d, at 955. *Obergefell* at 13. In applying that liberal logic "all persons, whatever their sexual orientation" includes the Intervening-Respondents-Plaintiffs whose "sexual orientation" is that of self-identified "machinists" and "polygamists." For the Intervening

Respondents to have the right to legally marry an object or multiple people is "among life's momentous acts of self-definition" for them too. What the Secular Humanist Majority in *Obergefell* and the Massechusetts Supreme Court fail to understand is that neither can use government to enshrine the edicts of expressive individualism and secular humanism under the Establishment Clause under *Torcaso,* 367 U. S. 495 and *Edwards v. Aguillard,* 482 U.S. 578, 583 (1987).

**Irrelevant Emotion Appeals To Impose Gay Marriage And CADA Undone By *Holloman***

(13) The third reason why Supreme Court expanded the marriage to parody forms was because because "the right to marry safeguards children." *Obergefell* at 15. Yet, "many [self-identified homosexuals, polygamists, and machinists] provide loving and nurturing homes to their children, whether biological or adopted" too. Just as in the case with homosexuals, there are a lot of children being raised by machinists and polygamists as well. "Excluding [polygamists and machinists] from marriage thus conflicts with the central premise of the right to marry, inflicting stigma, uncertainty, and humiliation on the children of [polygamists and machinists] through no fault of their own." This kind of "compassionate emotional appeal," which is being used to enshrine the religious edits of Secular Humanism, is invalidated under the Establishment Clause by the reasoning in *Holloman,* at 1285-1286. Likewise, the emotional reasons for anyone to be permitted to enforce CADA is invalid on the same Constitutional legal basis under the Establishment Clause.

(14) The *Obergefell* Majority stated "No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice and family." If that is true for self-identified homosexuals, it is true for self-identified polygamists, zoophiles, and machinists too. But that position is more of the same compassionate emotionalism that fails to get gay

marriage and CADA around the Establishment Clause under the reasoning in *Holloman,* at 1285-1286.

On balance, after applying the liberal logic floated by the *Obergefell* Majority who align with the Democratic Party that all self-asserted sex-based identity narratives that are questionably moral, legal, and real are not covered by the Equal Protection and Due Process Clauses, the Article III Courts more likely than not lacked subject matter jurisdiction over legally recognizing gay marriage, which means that Stare Decisis does not save *Obergefell* nor CADA from being overruled by the Intervening-Respondents-Plaintiffs in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and in similar pending actions.[13] The *Obergefell* decision was based on emotion and not sound legal reasoning.[14] These are reasons for the Supreme Court to stay this case. Justice Holmes said that "a page of history is worth a volume of logic." *New York Trust Co. v. Eisner*, 256 U.S. 345, 349 (1921). But he was dead wrong. If the courts are "incapable of logic reasoning, they are incapable of respect." "The legitimacy of the courts ultimately rests upon the respect accorded to its judgments." *Obergefell* at 19 (Roberts Dissenting) quoting *Republican Party of Minn. v. White*, 536 U. S. 765, 793 (2002) (KENNEDY, J., concurring).

"Stare Decisis" (i.e. precedent) is an important part of our legal system. "Stare Decisis" is effectively latin for "water under the dam." Garbage in; garbage out. The Courts cannot be expected to reinvent the wheel in "normal cases," but this case and *Obergefell* are completely

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[13] *Obergefell* at 1-28 and *Kitchen v. Herbert,* 755 F. 3d 1193, 1223 (CA10 2014).

[14] A decision about whether the Establishment Clause is violated cannot entail a decision about the ultimate usefulness of the of religion of moral relativism flowing from the LGBTQ church; the sole question must be whether the State's aid and endorsements can be squared with the dictates of the Constitution. *Americans United for Separation of Church &. State v. Prison Fellowship Ministries,.*432 F. Supp. 2d 862 (S.D. Iowa 2006). They cannot. Doctrinal entanglement involves government in religion's very spirit, in its core decisions on matters of belief cannot be justified. *Duffy v. State Personnel Board,* 232 Cal. App. 3d. 1, 17 (Cal. App. 1991).

"abnormal." By granting the Intervening Respondents requests, the courts, to include this one, can turn back to the Constitution and "get it right," while better understanding that the trajectory of the First Amendment covers all parody marriages and self-asserted sex-based identity narratives. The Supreme Court in *Marbury v. Madison*, 5 U.S. 137 (1803) assumed that the courts were "at law," not "at philosophy" nor "at sociology." The Petitioners are not necessarily trying to impose their religion onto the Respondents, but the Respondents and the Intervening Respondents-Plainitffs are unquestionably trying to impose their religious worldview onto the Petitioners through the enforcement of CADA, and that is permissible if and only if CADA is not overruled by the Establishment Clause in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017). In light of an analysis of the plausibility of "liberal logic" applied to other parody forms of marriage that are part of the church of Secular Humanism, this Court would be shooting itself in the foot by not staying these matters.

## C. BEFORE THIS ACTION CONTINUES IT SHOULD BE DETERMINED BY THE DISTRICT COURTS WHETHER GAY MARRIAGE AND CADA VIOLATE THE LEMON TEST

The Supreme Court should stay the instant case until it is determined by the District Courts if CADA and gay marriage violates the Establishment Clause. The First Amendment to the United States Constitution, as applied to the States through the Fourteenth Amendment, provides that "Congress shall make no law respecting an establishment of religion." U.S. CONST. amend. I. This provision applies to the Secular Humanist on the bench as well in both the Federal and State Court systems, which are also government actors. Further, this provision, among other things, "prohibits government from appearing to take a position on questions of religious belief or from 'making adherence to a religion relevant in any way to a person's standing in the political

community.'" *County of Allegheny v. ACLU*, 492 U.S. 573, 594 (1989) (quoting *Lynch v. Donnelly*, 465 U.S. 668, 687 (1984)(O'Connor, J., concurring)). The government must "remain secular" and must "'not favor religious belief over disbelief.'" Id. at 610. *Cnty. of Allegheny*, 492 U.S. 573 at 593-94. To pass muster under the Establishment Clause, a practice must satisfy the Lemon test, pursuant to which it must:

(1) have a valid secular purpose; (2) not have the effect of advancing, endorsing, or inhibiting religion; and (3) not foster excessive entanglement with religion. Id. at 592(citing *Lemon v. Kurtzman,* 403 U.S. 602 (1971)). *Edwards,* 482 U. S. 583, *Agostini v. Felton,* 521 U.S. 203, 218 (1997).

Government action "violates the Establishment Clause if it fails to satisfy any of these prongs." Because gay marriage and CADA violate all three prongs, the lemon test is the death nail to both, if and only if "gay rights" are not really "civil rights" under the Fourteenth and Fifth Amendment.[15]

**(1) THIS CASE SHOULD BE STAYED UNTIL THE DISTRICT COURTS IN PENDING ACTIONS DETERMINE IF CADA AND GAY MARRIAGE VIOLATE PRONG ONE OF LEMON FOR BEING NON-SECULAR SHAMS DESIGNED TO PROMOTE THE RELIGION OF SECULAR HUMANISM**

This Court should permit the intervention and stay these proceedings until *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017) are resolved because the evidence shows that CADA and gay marriage policies violates prong one of Lemon. If the Supreme Court wants some "new insights" and "societal understandings" here they are: homosexuality, polygamy, zoophilia, and machinism marriage are

[15] The final approach to Establishment Clause jurisprudence is the "coercion test" derived from the Court's decisions in *Santa Fe Independent School District v. Doe*, 530 U.S. 290 (2000), and *Lee v. Weissman,* 505 U.S. 577, 627, 112 S.Ct. 2649, 120 L.Ed.2d 467 (1992). Although it is not clear where this test "belongs in relation to the Lemon test," the test itself "seeks to determine whether the state has applied coercive pressure on an individual to support or participate in religion." *Doe v. Elmbrook Sch. Dist.,* 687 F.3d 840 (7th Cir. 2012).

equally "not secular" and for the State of Colorado to legally recognize any form of these parody marriages has the effect of enshrining the religion of Secular Humanism, Evangelical Atheism, Western Postmodern Moral Relativism, and Expressive Individualism in violation of the Establishment Clause under *Torcaso*.[16] (DE_ Pastor Cuozzo 1-21). At the core of the "Establishment Clause is the requirement that a government justify in secular terms its purpose for engaging in activities which may appear to endorse the beliefs of a particular religion." *ACLU v. Rabun Cnty. Chamber of Commerce, Inc.,* 698 F.2d 1098, 1111 (11th Cir. 1983). This secular purpose must be the "pre-eminent" and "primary" force driving the government's action, and "has to be genuine, not a sham, and not merely secondary to a religious objective." *McCreary Cnty, Ky. v. ACLU of Ky*., 545 U.S. 844, 860 (2005).

It should be preliminary determined what is "secular" for purposes of Establishment Clause. After all, "secularism" is having a full blown crisis because any reasonable person can see that there is nothing "secular" about most of "secularism," since most of secularism is predicated on a series of unproven faith-based assumptions and naked assertions that are at the very least implicitly religious and can only be taken on faith. (DE _ Pastor Cuozzo ¶¶ 1-21). The Supreme Court itself has "taken notice of the fact that recognized religions' exist that 'do not teach what would generally be considered a belief in the existence of God, to include [Atheism], Buddhism, Taoism, Ethical Culture, Secular Humanism and 'others.'" *Torcaso,* 367 U. S. 495.(See also *Washington Ethical Society v. District of Columbia*, 101 U.S.App.D.C. 371, 249 F.2d 127 (1957); 2 Encyclopaedia of the Social Sciences, 293; J. Archer, Faiths Men Live By 120—138, 254—313 (2d ed. revised by Purinton 1958); Stokes & Pfeffer, supra, n. 3, at 560.

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[16] *Torcaso,* 367 U. S. 495; *Obergefell* at 5;; *Kirchberg v. Feenstra*, 450 U. S. 455, 460–461 (1981), See, e.g., *M. L. B. v. S. L. J.*, 519 U. S. 102, 120–121. (1996)

*Welsh v. U.S*, 1970398 U.S. 333 (U.S. Cal. June 15); *Edwards,* 482 U. S. 592.) The laws and policies of the state and federal government must be exclusively based on neutral, non-controversial, natural, and self-evident truth and not the faith-based "private moral code" of Secular Humanists and Moral Relativists. All "religion" amounts to is a set of unproven answers to the greater questions, like "why are we here" and "what should be doing as humans. (DE _ Pastor Cuozzo ¶¶ 1-21). The Establishment Clause was never designed to only single out institutionalized religions from legal recognition, but it also prevents the unproven truth claims of non-institutionalized religions from being enshrined as well, if not more so.

In *Real Alternatives,* the court stated:

> *"*we detect a difference in the "philosophical views" espoused by [the plaintiffs], and the "secular moral system[s]...equivalent to religion except for non-belief in God" that Judge Easterbrook describes in *Center for Inquiry,* 758 F.3d at 873. There, the Seventh Circuit references organized groups of people who subscribe to belief systems such as Atheism, Shintoism, Janism, Buddhism, and secular humanism, all of which "are situated similarly to religions in everything except belief in a deity." *Id*. at 872. These systems are organized, full, and provide a comprehensive code by which individuals may guide their daily activities.[17]

The LGBTQ community is "organized, full, and provide[s] a comprehensive code by which individuals may guide their daily activities." Id. Instead of having a cross, ten commandments, or the star and crescent, the LGBTQ church has the gay pride rainbow colored flag and their own private moral code, such as "if you disagree with LGBTQ ideology you are a bigot worth marginalizing through any means." The unproven naked truth claims evangelized by the LGBTQ church such as (1) "there is a gay gene," that (2) "people can be born in the wrong body," that (3) "same-sex sexual activity checks out with the human design," that (4) "same-sex buggery is not immoral," (5) "homosexuality does not hurt anyone or erode community standards of decency,"

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[17] *Real Alternatives, Inc. v. Burwell,* 150 F. Supp. 3d 419, 440–41 (M.D. Pa. 2015), *aff'd sub nom. Real Alternatives, Inc. v. Sec'y Dep't of Health & Human Servs.*, No. 16-1275, 2017 WL 3324690 (3d Cir. Aug. 4, 2017)

and that (6) "people come out of the closest baptized gay" consists of a series of unproven faith based assumptions that are hyper religious and take a huge amount of faith to believe that they are even real and moral, since these truth claims buck common sense and are more likely than not shallow qualifiers hoping to justify immoral sexual conduct that is objectively indecent and questionably legal.[18] The Intervening Respondents in this action and in countless others have supplied the courts in virtually every circuit with sworn statements from former homosexuals who sincerely bought into the gospel narratives evangelized by the LGBTQ church only to completely convert to a brand new self-asserted sex-based identity narrative.[19] After living the lifestyle for decades, these ex-gays have attested with convincing clarity that "homosexuality is a religion" that has nothing to do with "immutability." Id. The Intervening Respondents also provided sworn statements from medical professionals that align with countless medical studies that demonstrate without any political or religious agenda that there is no evidence of a gay gene. [20] The Intervening Respondents are not necessarily out to "prove" nor "disprove" whether a "gay gene" exist or whether the LGBTQ gosepel narratives are wise or plausible. That is not their place, nor is it any courts' to include the Supreme Court. Yet, the Intervening Respondents have shown and are showing here in conjunction with the public record that the idea that "sexual orientation is immutable" is at the very least unsettled, if not completely disproven, for purposes of the Establishment Clause to assume exclusive jurisdiction over all self-asserted sex-based

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[18] *Lawrence v. Texas*, 539 U.S. at 579 overturned *Bowers v. Hardwick*, 478 U. S. 186 (1986);; *Miller v. California,* 413 U.S. 15, 3034 (1973). Just because self-identified homosexuals are sincere in their belief that they are born in the wrong body or born with gay genes, does not make it true anymore than it is true that a sincere Islamic suicide bomber is advancing human flourishing by blowing himself up to kill infidels.

[19] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-1.

[20] DE _ Dr. King ¶¶ 1-20; DE _ Dr. Cretella ¶¶ 1-20.

identity narratives that are questionably real and moral. The evidence shows that (1) homosexuality, polygamy, zoophilia, and machinism are all part of the religion of secular humanism, postmodern western moral relativism, and expressive individualism and that (2) the Establishment Clause has exclusive jurisdiction over all self-asserted sex-based identity narratives that are questionably moral, questionably legal, and questionably part of reality, since they lack a secular purpose. (DE_ ¶¶ Pastor Cuozzo 1-21). As self-identified polygamists and machinists, the Intervening Respondents-Plaintiffs freely admit that man-man, woman-woman, person-object, person-animal, and more than two person marriages are all equally part of the religion of Secular Humanism. Additionally, the Intervening Respondents-Plaintiffs admit that all parody marriages are all equally questionably moral, questionable legal, and questionably obscene and are by definition non-secular and not recognizable for purposes of the Establishment Clause. The *Obergefell* Majority said that "marriage offers unique fulfillment to those who find meaning in the secular realm." Id. at 1. But what the Secular Humanist in the Majority *Obergefell* really did was to completely dissolved the "secular realm" by enshrining parody forms of marriage that establish the United States as a nation under the oppressive thumb of the religion of Secular Humanism and Expressive Individualistic Moral Relativism. Id. at 4.

**(i) Until It Is Determined By The District Courts Whether THe Misuse Of "Substantive Due Process" Renders Gay Marriage And CADA A Non-Secular Sham, This Action Should Be Stayed**

This case should be stayed until it is determined in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) whether Substantive Due Process can save CADA and gay marriage. In untwisting distorted truth, because "Substantive Due Process" was one of two legal basis under the Fourteenth Amendment to impose gay marriage on all 50 states and to justify the creation of fake

civil rights statutes like CADA, it should be preliminarily defined in simple terms so that even the public can understand what it is. "Substantive Due Process" is the lack of "procedural substance" insofar as it is a fire that melts away any and all procedural that keeps an individual from exercising a "fundamental right." [21] The Honorable Justice Roberts defined Substantive Due Process in *Obergefell* when he stated:

The Supreme Court has interpreted the Due Process Clause to include a "substantive" component that protects certain liberty interests against state deprivation "no matter what process is provided." *Reno* v. *Flores*, 507 U. S. 292, 302 (1993). The theory is that some liberties are "so rooted in the traditions and conscience of our people as to be ranked as fundamental," and therefore cannot be deprived without compelling justification. *Snyder* v. *Massachusetts*, 291 U. S. 97, 105 (1934). Our precedents have accordingly insisted that judges "exercise the utmost care" in identifying implied fundamental rights, "lest the liberty protected by the Due Process Clause be subtly transformed into the policy preferences of the Members of this Court." *Washington* v. *Glucksberg*, 521 U. S. 702, 720 (1997). *Obergefell* at 11 (Roberts dissenting)

Yet, in applying Substantive Due Process to the facts, man-man, woman-woman, person-animal, person-object, and man-multiperson marriage are all equally <u>not</u> "objectively, deeply rooted in this Nation's history and tradition," and are not "implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if they were sacrificed." *Glucksberg*, 521 U. S., at

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[21] Basically, "Substantive Due Process" means that some rights are so obviously fundamental that no amount of procedure can stop the individual from obtaining those rights. In short, Substantive Due Process is the lack of procedural substance. Substantive due process is an unquenchable fire that melts away any and all procedure so that all individuals can enjoy an a right that a hand full of lawyers say is fundamental often times for ulterior political and religious purposes. "Substantive due process" is dangerously used as a wellspring for jaded secular humanist justices to draw new Constitutional rights out of under the veneer of Constitutional legitimacy in an effort to impose their oppressive religious worldview on the whole of society. It is of no surprise that the first time substantive due process was used as a conduit to concocted fake outcomes was by White Supremacists secular humanist Judges who aligned with the the Democratic party in *Dred Scott v. Sandford,* 60 U.S. 393 (1857)(a case where the Supreme Court found that Black people could were not human enough to be citizens). Unsurprisingly, Secular Humanist Judges who align with the Democratic Party again used substantive due process to read the fake right of abortion into the Constitution in *Roe v. Wade*, 410 U.S. 113 (1973). As expected dishonest Secular Humanist Judges who align with the Democratic Party misused Substantive Due Process in *Obergefell* in pretending that sexual orientation was a matter of immutability and that homosexuality was legitimate part of American Heritage to read parody marriage into the Constitution as a fundamental right. What *Dred Scott, Roe*, and *Obergefell* all have in common is the fact that (1) they do not have a single sentence of sound legal reasoning, (2) they are decisions made purely on emotion, and (3) they are a cover for secular humanist to legislate their moronic and downright evil worldview into a legal reality that is a catalyst for widespread corruption, suffering, and the erosion of freedom.

720–721 (internal quotation marks omitted) *Obergefell* at 14 (Roberts Dissenting).[22] Instead all parody marriages involve lifestyles and faith-based beliefs that are questionably moral, legal, and "removed from reality." See *Brenner v. Scott*, 2014 WL 1652418 (2014). Gay marriage and Substantive Due Process have nothing to do with each other. Substantive Due Process does not justify the Constitutionality of CADA whatsoever as its underlying legal basis, but instead, its misapplication in prior marriage matters shows that CADA is sham created by Secular Humanist on the bench through their reckless judicial policy scheme.

The real American History of homosexuality, polygamy, machinism, and zoophilia is that they are self-asserted sex-based identity narratives that are either currently illegal or they were illegal until recently and just about all of them involve conduct that materially threatens to erode community standards of decency and hurt the public's health. *Lawrence,* 539 U.S. 578 overturned *Bowers v. Hardwick,* 478 U. S. 186 (1986). Yet, the Supreme Court prior to *Obergefell* has found repeatedly "to simply adjusts the definition of obscenity to social realities has always failed to be persuasive before the Courts of the United States."[23] Yet, the *Obergefell*

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[22] See, *e.g., District Attorney's Office for Third Judicial Dist.* v. *Osborne*, 557 U. S. 52, 72 (2009); *United States* v. *Salerno*, 481 U. S. 739, 751 (1987); *Moore* v. *East Cleveland*, 431 U. S. 494, 503 (1977) (plurality opinion); see also *id.,* at 544 (White, J., dissenting) ("The Judiciary, including this Court, is the most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or even the design of the Constitution."); *Troxel* v. *Granville*, 530 U.S. 57, 96–101 (2000) (KENNEDY, J., dissenting) (consulting "'[o]ur Nation's history, legal traditions, and practices'" and concluding that "[w]e owe it to the Nation's domestic relations legal structure . . . to proceed with caution" (quoting *Glucksberg*, 521 U. S., at 721)

[23] *Ginsberg v. New York*, 390 U.S. 629, 639–40, 88 S.Ct. 1274, 20 L.Ed.2d 195 (1968), *Mishkin v. State of New York*, 383 U.S. 502, 509, 86 S. Ct. 958, 16 L. Ed. 2d 56 (1966), and *Bookcase, Inc. v. Broderick*, 18 N.Y.2d 71, 271 N.Y.S.2d 947, 951, 218 N.E.2d 668, 671 (1966). Only in regards to secular marriage between one man and one woman, the *Obergefell* Majority is correct in explaining that marriage is "'the foundation of the family and of society, without which there would be neither civilization nor progress'" and that marriage has long been "'a great public institution, giving character to our whole civil polity.'" *Obergefell* at 16 quoting *Maynard* v. *Hill*, 125 U. S. 190, 211 (1888). It is more reason to enjoin the state from legally recognizing parody marriage because all forms of parody marriage are a material threat to community standards of decency and violate the obscenity codes by promoting obscenity. All forms of legally recognized marriage normalize false permission giving beliefs about sex, erode consent, promote vulgarity, encourage sexual exploitation, and are objectively depersonalizing and dehumanizing, eroding liberty interest. DE _ Clay Olsen, CEO of Fight The New Drug ¶¶ 1-4; DE _ Glendene

Majority did not even attempt to hide the fact that they believed that imposing gay marriage on the Nation would create more "dignity" and "respect" for the religion of secular humanism that they themselves adhere to in order to make up for the fact that the belief system is so irrational that parts of it were illegal until recently. *Obergefell* at 7. "The starkly religious message" of the Secular Humanist in *Obergefell* does not escape the notice of "reasonable observers," as the Democrats on the Court attempted to normalize their personal beliefs on marriage, sex, faith, and morality. *Trunk v. City of San Diego*, 629 F.3d 1099 (9th Cir. 2011);; *Am. Atheists, Inc. v. City of Starke*, 2007 U.S. Dist. LEXIS 19512 (M.D. Fla. 2007). Imposing legally recognized parody marriages of any kind on the states does not "dignify" homosexuals, polygamists, zoophiles, and machinists religious ideology. *Obergefell* at 14. What this imposition attempts to accomplish is to dignification of the religion of Secular Humanism, but what it actually accomplishes is the total violation of the Establishment Clause and it has cultivated more division and more distrust of secular humanists. *Obergefell* at 14. Because the"stated purpose [of gay marriage has] not [been] actually furthered...then that purpose [must be] disregarded as being insincere or a sham." *Church of Scientology v. City of Clearwater*,. 2 F.3d 1514, 1527 (11th Cir. 1993).[24] The

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Grant, Founder of MATH (Mothers Against Trafficking Humans) ¶¶ 1-26; DE _ Ralph Yarro, CEO Of Think Atomic ¶¶ 1-71; DE _ Lauren Taylor Dixon, Female Pornography Addict ¶¶ 1-16; DE _ Sula Skiles Survivor Of Sex Trafficking ¶¶ 1-10.

[24] The history of parody marriages cut deeply against legally recognizing them under the Establishment Clause. The *Obergefell* Majority admits "Until recent decades few persons had even thought about or considered the concept of same-sex marriage. In part, that is because homosexuality was condemned and criminalized by many states through the mid-20th Century. It was deemed an illness by most experts." Id. at 7. The Secular Humanist on the bench do not even hide the fact that they are misused their power to enshrine the doctrine of the LGBTQ church to make it seem more plausible and respectable in view of its tarnished past. The question is not whether homosexuality, transgenderism, zoophilia, polygamy, and machinism marriage are "unthinkable" or evidence of an "illness." Id. The question is whether such marriages are "secular" for purposes of the Establishment Clause. They are not. The second question is whether forcing the states to recognize parody marriages that are questionably moral and legal causes the state itself to promote obscenity and erode community standards of decency. They do. It violates the fundamental First Amendment Right of the State themselves for five Secular Humanist lawyers on the USSC to tell the State that it cannot uphold community standards of decency by forcing the states to promote a worldview that the Supreme Court admits is questionably legal and moral. Doing so violates the USSC's holding in *Paris Adult Theatre I v.*

evidence shows that CADA itself is a complete and total sham that masquerades as a valid civil rights statute. It never was. On balance, until these issues are resolved in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017), these proceedings should be stayed for the sake of all parties and the rule of law.

### (ii) Until It Is Determined By The District Courts Whether The Misuse Of Equal Protection Renders Gay Marriage And CADA A Non-Secular Sham, This Action Should Be Stayed

This case should be stayed until it can be determined whether gay marriage and CADA are really spared by the Equal Protection Clause in *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017). Since the Equal Protection Clause served as the second legal basis to impose gay marriage on all 50 states and to pass statutes like CADA, the Intervening Respondents preliminarily pause to identify what it is and when it can be used so that even a layman can understand the argument. Basically, if the matter at hand involves "immutability" and "genetics," then the Equal Protection Clause has jurisdiction. For example, it is self-evident that "race" is "immutable;" so race is

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*Slaton*, 413 US 49, at 63,69 (1973) that states have a compelling interest to uphold community standards of decency and to offset the secondary harmful effects of indecency. We might indeed "live in a vulgar age," but "American is [not a savage] Nation."*Church of the Holy Trinity v. United States,* 143 U.S.457 (1892). The Majority in *Obergefell* admits that "same-sex [buggery] long had been condemned as immoral by the state itself in most Western nations, a belief often embodied in the criminal law." *Obergefell* at 7. On balance, the history of homosexuality cuts against gay marriage, and exposes it is as a non-secular sham designed to normalize religious beliefs on sex and morality flowing from the church of moral relativism. In regards to Substantive Due Process, the *Obergefell* Court was never just "interpreting the Constitution" it was using the power of its office to enshrine dogma coming from the church of secular humanism in violation of the Establishment Clause in light of *Torcaso* at 495. *Obergefell* at 10. The *Obergefell* Court states: "The identification and protection of fundamental rights is an enduring part of the judicial duty to interpret the Constitution. That responsibility, however, "has not been reduced to any formula." *Poe v. Ullman*, 367 U. S. 497, 542 (1961) (Harlan, J., dissenting) *Obergefell* at 10. But that is another lie. Here is the "formula," if a proposed fundamental right, like abortion or the the right to have parody marriage legally recognized, is implicitly religious for being based on a series of naked assertions and unproven faith based assumptions, then the proposed fundamental right is nothing more than a proposed non-secular sham designed to establish secular humanism as the National religion in violation of the Establishment Clause in a pathetic attempt to justify some kind of atrocious activity that is more likely than not objectively immoral, dehumanizing, asinine, and removed from reality. The fact that the *Obergefell* Court clearly abused substantive Due Process in reading the right of gay marriage into the Constitution proves that the State's implementation of that unconstitutional policy is a sham under prong one of lemon.

legitimately a suspect class for purposes of the Equal protection Clause. No state actor can discriminate on the basis of race - no matter what color the person is to include members of "non-obvious" race classes. *McDonald v. Santa Fe Trail Transp. Co*., 427 U.S. 273, 27879, 96 S. Ct. 2574, 2578, 49 L. Ed. 2d 493 (1976). Before countless courts to include this one, the Intervening Respondents have provided sworn statements from ex-gay activists who converted to a totally different identity narrative, which casts doubt the fake "immutability" narrative, showing that the Majority in *Obergefell* was "playing pretend."[25] In step with recent studies, like the one from John Hopkins, the Intervening Respondents provided sworn statements from medical professionals who testify that just as there is no evidence that a "rape gene," there is no evidence that a "gay gene" exists either.[26] Although the Majority in *Obergefell* said that there is "synergy" between the Due Process Clause and the Equal Protection Clause, it "fail[ed] to provide even a single sentence in explaining how" the Equal Protection Clause applies.[27] More

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[25] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-1. The *Obergefell* Majority was outright lying when it said that "due to the immutable nature of homosexuality," self-identified homosexuals warrant the "benefits and privileges of marriage." *Obergefell* at 4.

[26] DE_ Dr. King ¶¶ 1-20; DE _ Dr. Cretella ¶¶ 1-20. The *Obergefell* Majority mischaracterized when they stated, "Only in more recent years have psychiatrists and others recognized that sexual orientation is both a normal expression of human sexuality and immutable." At best, psychiatrists have found no evidence that a gay gene exists or that homosexuality is immutable, if anything it is borderline to suggest that homosexuality is immutable when there are tens of thousands of self-identified homosexuals who have completely converted to a different identity narrative.

[27] The Majority in *Obergefell* suggests that there is a "synergy" between the Equal Protection and Due Process Clauses of the Fourteenth Amendment. The *Obergefell* Majority alleged that Due Process and the Equal Protection Clause are connected in a profound way but failed to say how that is true. *Obergefell* at 19. Judge Robert's description in his dissent is accurate as he stated: The majority goes on to assert in conclusory fashion that the Equal Protection Clause provides an alternative basis for its holding. *Ante*, at 22. Yet the majority fails to provide even a single sentence explaining how the Equal Protection Clause supplies independent weight for its position, nor does it attempt to justify its gratuitous violation of the canon against unnecessarily resolving constitutional questions. See *Northwest Austin Municipal Util. Dist. No. One v. Holder*, 557 U. S. 193, 197 (2009). In any event, the marriage laws at issue here do not violate the Equal Protection Clause, because distinguishing between opposite-sex and same-sex couples is rationally related to the States' "legitimate state interest" in "preserving the traditional institution of marriage." *Lawrence*, 539 U. S., at 585 (O'Connor, J., concurring in judgment.

likely than not, the Equal Protection Clause cannot save CADA's and *Obergefell*'s stark unconstitutionality under the Establishment Clause.

The Majority in *Obergefell* relied heavily on *Loving* in trying to make the case that gay marriage bans violate the Equal Protection and Due Process Clause like interracial marriage bans did. Id. at 12. *Loving* was an action where a white man wanted to legally marry a black woman but there was an arbitrary interracial marriage ban that wrongfully prevented that. The inter-racial marriage ban was rightfully struck down on under the Due Process and Equal Protection Clauses. However, when the Supreme Court rightfully invalidated the state's ban on interracial marriage in *Loving*, 388 U. S. 1, 12, it did not do so on the fake basis of "sexual orientation" but on the discrimination of the basis of race through a legitimate application of the Equal Protection and Due Process Clauses of the Fourteenth Amendment. There is an insurmountable distinction with a difference between *Loving* and *Obergefell*. In *Loving* (1) the "man-woman" marriage at issue was "secular" for purposes of the Establishment Clause and (2) since race is "immutable," the matter was rightfully decided upon the Fourteenth Amendment, whereas in *Obergefell* (1) the gay marriages at issue were "not secular," failing the Establishment Clause by a landslide and (2) since testimony of ex-gays proves that "homosexuality is not immutable," the *Obergefell* was wrongfully decided upon the Fourteenth Amendment.[28] Accordingly, the holding in *Loving* is valid, whereas, the holding in *Obergefell* was a complete sham that serves as a real danger to the integrity of the valid race-based civil rights movement.[29] For any Government official - judge or otherwise - to pretend that "gay

[28] *Loving*, 388 U. S. 1, 12;; *Obergefell* at 12.

[29] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-12. *Obergefell* at 3.

rights" are "civil rights" is outright lying. For the *Obergefell* majority to pretend that "gay-rights" are like "race-based civil rights," which are actually based on immutability, only to not really mean it, is per se racial animus in kind that manages to be both racially and sexually exploitative. It is judicial malpractice. In order to prevent this Court from committing Constitutional malpractice, these matters should be stayed until *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) is resolved.

**(2). UNTIL IT IS DETERMINED BY THE DISTRICT COURTS WHETHER GAY MARRIAGE AND CADA HAVE THE EFFECT OF ESTABLISHING SECULAR HUMANISM IN VIOLATION OF PRONG TWO OF LEMON FOR CREATING AN INDEFENSIBLE LEGAL WEAPON, THESE MATTERS SHOULD BE STAYED**

This case should be stayed until it is determined in the Colorado District Court whether CADA and gay marriage policy violate prong two of *Lemon*. Under this second prong of the Lemon test, courts ask, "irrespective of the . . . stated purpose, whether [the state action] . . has the primary effect of conveying a message that the [government] is advancing or inhibiting religion." *Indiana Civil Liberties Union v. O'Bannon,* 259 F.3d 766, 771 (7th Cir. 2001). The "effect prong asks whether, irrespective of government's actual purpose," *Wallace v. Jaffree,* 472 U.S. 38, 56 (1985), the "symbolic union of church and state...is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices." *School Dist. v. Ball*, 473 U.S. 373, 390 (1985); *see Larkin v. Grendel's Den*, 459 U.S. 116, 126-27 (1982)(even the "mere appearance" of religious endorsement is prohibited). When Chief Justice Roberts stated in his Dissent in *Obergefell* "the truth is that today's decision rests on nothing more than the majority's own conviction that same-sex couples should be allowed to marry because they want to, and that "'it would disparage their choices and diminish their personhood to deny them this right,"" what the

Chief Justice was really saying was that the Majority was - once again - wrongfully enshrining their "own [religious] conviction" flowing from the church of Secular Humanism in a continuing malicious effort to haul the United States under the caliphate of moral relativism in violation of the Establishment Clause under *Torcaso,* 367 U. S. 495 in a manner that "diminishes" the Constitutional rule of law and "disparages" the integrity of the Fourteenth Amendment.[30] Sincerity of belief in the plausibility of parody marriages does not permit courts from legally recognizing them because it has the effect of establishment religion and entangling government with religion.[31] While there has not been the promised land rush on gay marriage in the wake of *Obergefell*, there has been a landrush on the persecution of Christ Followers like the Petitioners. The *Obergefell* court straight up lied when it stated:

"Indeed, with respect to this asserted basis for excluding same-sex couples from the right to marry, it is appropriate to observe these cases involve only the rights of two consenting adults whose marriages would pose no risk of harm to themselves or third parties." *Obergefell* at 27.

Gay marriage licenses, with the state's imprimatur, are a license for disciples of Secular Humanism to harangue, harass, marginalize, and violently oppress non-observers through any means available. As if copied from Orwell's book 1984, legally recognized gay marriage and CADA are both nothing more than indefensible "legal weapon that no [non-observer] can obtain" that are designed to control thought and speech of Chris Followers. *City of Boerne v.*

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[30] *Obergefell* at 19;; *Torcaso* at 495; DE _ Pastor Cuozzo ¶¶ 1-21.

[31] In his dissent Chief Justice Roberts stated: "The majority's driving themes are that marriage is desirable and petitioners desire it. The opinion describes the "transcendent importance" of marriage and repeatedly insists that petitioners do not seek to "demean," "devalue," "denigrate," or "disrespect" the institution. *Ante*, at 3, 4, 6, 28. Nobody disputes those points. Indeed, the compelling personal accounts of petitioners and others like them are likely a primary reason why many Americans have changed their minds about whether same-sex couples should be allowed to marry." As a matter of constitutional law, however, the sincerity of petitioners' wishes is not relevant under *Holloman*, 370 F.3 1252 at 1285-1286.

*Flores,* 521 U.S. 507 (1997). CADA is nothing more than an indefensible weapon that is being used by the Respondents and the Intervening Respondents to coerce and harangue the Petitioners for refusing to convert to the modern view of moral relativism. The fact that "Alliance Defending Freedom" (ADF) has not even attempted to raise that argument in their repeatedly failed defense of the Petitioners proves that they should amend their name to "Alliance Defending Donations" (ADD). After all, persecution of Christians under fake statutes like CADA is extremely good for their business model, but it is bad for the Constitution and the integrity of the courts in general. In order to bring Constitutional integrity to these proceedings on all sides, the Supreme Court should grant the Intervening Respondents request for the sake of the Constitution if nothing else.

In the wake of *Obergefell* there have been tens of thousands of documented and undocumented controversies where Secular Humanist are persecuting Christians with no end in sight.[32] The idea that "love is love" simply means that it is ok for government assets to be mobilized to crush anyone who dares to not support gay marriage for being immoral, obscene, and subversive to human flourishing. At some point, our society is going to have to admit that "people who are intolerant of intolerant people are intolerant; people who are judgment of judgmental people are judgmental; people who are dogmatic about not being dogmatic are dogmatic." There are millions of Americans who will never support parody marriages no matter who much coercion Secular Humanist attempt to impose on them through government action

[32] *Moore v. Judicial Inquiry Commission of the State of Alabama*, 200 F.Supp.3d 1328 (M.D.Ala. 2016);; *Patterson v. Indiana Newspapers*, Inc., 589 F.3d 357 (C.A.7 (Ind.) 2009);; *Gadling-Cole v. West Chester University,* 868 F.Supp.2d 390, (E.D.Pa. 2012);; *Miller v. Davis,* 123 F. Supp. 3d 924 (E.D. Ky. 2015), appeal dismissed, Nos. 15-5880, 15-5978, 2016 WL 3755870 (6th Cir. July 13, 2016);; *Elane Photography, LLC v. Willock*, 2013 N.M. Lexis 284 at (N.M. Aug. 22, 2013);; *Cervelli v. Aloha Bed & Breakfast*, No. 11–1–3103–12 ECN (Haw. Cir. Ct. Dec. 19, 2011).

because these non-observers believe, like Dietrich Bonhoeffer and Dr. Martin Luther King, that to encourage immorality is itself an act of incredible immorality. Petitioner Phillips believes that "silence in the face of evil is to cooperate with it." Taxpayers, like the Petitioners, do not want their funds going to support the enforcement of CADA nor legally recognized parody marriages. It is irrelevant whether other religious groups "condone" parody marriages and CADA, what matters is that parody marriages and statutes like CADA are religious and to legally recognize them is unlawful under the Establishment Clause. *Obergefell* at 27. The Secular Humanist Majority in *Obergefell* stated, "of course, those who oppose same-sex marriage, whether on religious or secular grounds, they continue to advocate that belief with the utmost conviction." *Obergefell* at 27. In *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017), the Intervening-Respondents-Plaintiffs do not "oppose" legally parody marriage and CADA on either "religious" or "secular grounds." The Intervening-Respondents-Plaintiffs "oppose" legally recognized gay marriage and CADA because they are non-secular shams for purposes of the Establishment Clause, managing to fail all three prongs of the lemon test by a landslide. It is the Secular Humanist in office who lack the "utmost conviction" to honor their oath to uphold the Constitution. *Obergefell* at 27. But by allowing the Intervening Respondents leave to intervene, this Court can restore its integrity and change the course of law by the force of intellect in a manner that produces Constitutional liberation by either (1) allowing all individuals to enforce CADA based on their self-asserted sex-based identity narrative or by (2) allowing no one to enforce CADA because sexual orientation is a matter of religion regulated under the jurisdiction of the Establishment Clause.

**(3). <u>UNTIL IT IS DETERMINED BY THE DISTRICT COURTS WHETHER GAY MARRIAGE AND CADA PROMOTE EXCESSIVE ENTANGLEMENT IN VIOLATION OF PRONG THREE LEMON THIS ACTION SHOULD BE STAYED</u>**

The Intervening Respondents should be allowed to intervene and this action should be stayed until the District Court in Colorado resolves whether gay marriage and CADA violate prong three of the Lemon. Under Prong three, the government cannot foster excessive entanglement with religion and establish one religion as the supreme national religion. *In re Young*, 141 F.3d 854 (8th Cir 1998); *Westchester Day School v. Village of Mamaroneck*, 504 F.3d 338, 349 (2d Cir. 2007). It is not just that the imposition of gay marriage on all 50 states and the creation of statutes like CADA have cultivated in excess entanglement of government and the religion of secular humanism somewhat, the entire Democratic Party's platform is relentless fixated on identity politics that amount to critiques on self-evident truth and Christianity. Critiques on self-evident truth and Christianity are almost always a "new religion." Besides promoting identity politics, the Democratic party offers little in the way of substantive solutions. For example, the Intervening Respondents in this action naturally sued four Democratic Congressmen for displaying the Gay Pride Rainbow Colored Flag in the public hallways of the legislative buildings across the street in Cannon and Longworth. *Sevier v. Lowenthal* 17-cv-570 (D.C. Cir 2017). The Intervening Respondents assert that the manner in which the rainbow colored flags are displayed are as unconstitutional as Judge Moore's (soon to be Senator Moore) display of the Ten Commandments in his Courtroom.[33] *Glassroth v. Moore*, 335 F.3d 1282 (11th Cir. 2003). In response to the Intervening Respondents lawsuit against the four Democratic Congressmen, several of Democratic leaders took to the media to stirred up hatred towards the Intervening Respondents by falsely calling them "bigots" for the Intervening-Respondent-Plaintiffs' request that the Congressional members follow the

[33] (Soon to be Senator Moore). The Intervening-Respondents-Plaintiffs do not object to the Congressmen displaying the rainbow colored flags in their offices, just not in the public hallways of the people's legislative buildings.

Constitution and to honor their Constitutional oath of office to not excessively entangle the government with the religion of Secular Humanism. Naturally, the Intervening-Respondent-Plaintiffs, then turned around and sued the members for libel per se *Sevier v. Brown*, 17-cv-5046 (N.D. Cal. 2017) for their malicious publications. Go figure. What that evolving controversy shows is just how completely entangled Secular Humanism is with the Democrat's party platform at large and government. The Democrats are not even trying to hide the fact that they consider LGBTQ ideology a religion and the rainbow colored flag is their foundational religious symbol.[34] CADA was created by Democrats in Colorado out of their refusal to see or admit that Secular Humanism, which homosexual ideology is part of, is religion for purposes of the Establishment Clause.[35] This refusal to think has gone on for far too long and has fundamentally eroded freedom.

Furthermore, while there has been no landrush on gay marriage, there has been a land rush by Secular Humanist to infiltrate public schools with the intent to indoctrinate minors to a sexualized worldview that does not check out with the human design and that was basically illegal until recently. While legally imposed gay marriage policy is not cultivating unity and tolerance, it is traumatizing children and opening to the door to sexual exploitation by the normalization of false permission giving beliefs that erode consent and decency. It was at all times foreseeable by the Secular Humanist on the Supreme Court in *Obergefell* that this would happen. Id. at 1-28. The Supreme Court has emphasized that there are "heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools," *Lee*, 505 U.S. at 592, and the federal courts have thus "been

[34] https://www.jerseyconservative.org/blog/2017/9/3/democrats-rally-with-wiccan-symbol-on-flag

[35] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-12.

particularly vigilant in monitoring compliance with the Establishment Clause" in the public-school context, see *Edwards*,482 U.S. 578- 583. There are millions of taxpayers who are fed up with the Federal court's pretending that LGBTQ community is secular. These taxpayers do not want the LGBTQ community proselytizing their gospel message that promotes obscenity and the erosion of community standards of decency inside of public schools. CADA is not just a license to harangue Petitioner Phillips, it is a signal that indoctrination of minors in public schools is Constitutionally permissible. Before these proceedings continue that legal question should first be resolved in Federal District Courts in the actions that the Intervening-Respondent-Plaintiffs are currently engaged in.

In looking at motives of the heart, the reason why Secular Humanist try desperately to entangle our government with their religion is because they are trying to avoid feelings of shame, guilt, and inadequacy that naturally flow from the worldview of moral relativism. Unlike Petitioner Phillips, the Secular Humanist have no place to lay down their shame and guilty so they ceaselessly seek to turn government into their own personal church to justify the plausibility of their ideology that is objectively questionably real, moral, rational, and legal. But the Government of the United States is not a redeemer. Our government is not a Church. The State and Federal Government is secular and can only based its laws and policies on neutral and self-evident truth that accords with natural law.

Secular Humanist need not worry: "American is [not] a Christian Nation" insofar as making Christianity mandatory would cultivate the very legalism that Christ Himself was so adamantly opposed to. *Church of the Holy Trinity v. United States*, 143 U.S.457 (1892).[36]

[36] After all, Christians repent not only of their sins but of their righteousness. In Europe the state was in the church and that crushed the church there.

"American is [certainly not] a [Secular Humanist] Nation," as Justice Kennedy floated when he attempted to enshrine the modern view when he stated ""at the heart of liberty is the right to define one's own concept of existence, of meaning, of the universe." *Planned Parenthood of Southeastern Pa. v. Casey,* 505 U.S. 833, 84748 (1992). Justice Kennedy's worldview amounts to the German Proverb, "Jedem das Seine," which means "to each his own," which was of course what the sign over Buchenwald concentration camp read. Secular Humanism is responsible for most of the greatest atrocities in human history. Yet, it could be suggested that "America is [more likely than not unofficially] a Christian Nation" insofar as laws and policies that coincidently parallel the restrictions advocated by the personalized centralized figure of the radically transformative New Testament Gospel Narrative are not rendered unconstitutional automatically because they also happen to parallel neutral self-evident universal transcultural truth, like the kind deployed at the Nuremberg Nazi war trials. *Kiobel v. Royal Dutch Petroleum Co*., 621 F.3d 111, 154 (2d Cir. 2010).[37] The courts in the United States must apply the Constitution but they do not have to completely disregard transcultural universal natural law that is woven into the fabric of the universe and that the Constitution is based on. There is no doubt that the master narrative of the bill of rights and the Constitution, themselves, is the radically transformative personalized truth of the New Testament Gospel. The same cannot be said of the doctrines of Secular Humanism, which are more often times than not nothing short of attempts to justify activity that is objectively depersonalizing, dehumanizing, self-disparaging, and self-demeaning through distorted narratives that seek to twist reality. While the Government has

[37] In his letters from a Birmingham jail, Dr. Martin Luther King wrote that the way that he knew that a law was unjust was if it offended a "higher law" or a "divine law." Divine law is transcultural. The United States cannot afford to have Judges who are punch drunk on the unexamined assumption of the superiority of our cultural moment.

to avoid entanglement with the edits of Secular Humanism, it certainly cannot impose policies like gay marriage and CADA that openly promote the religion.

**The Unbalanced Distribution Of the "Constellation of Benefits" - Which Includes The Enforcement Of CADA - To Self-Identified Homosexuals And Not To Self-identified Polygamists and Machinists Discriminates Against "Religion And Religion" And Entangles Government with the Religion of Secular Humanism In Violation Of Prong III Of Lemon**

This case should be stayed until it is determined by the District Courts whether CADA and gay marriage violate the Prong III of lemon for discrimination against "religion and religion." The final reason that gay marriage was imposed was because the Majority in *Obergefell* found that the self-identified homosexuals deserved a "constellation of benefits" to pay respect to the religion of Secular Humanism that they adhere to.[38] The enforcement of statutes like CADA is part of the "constellation of benefits" afforded to self-identified homosexuals, like the Respondents. Yet, because self-identified homosexuals are afforded benefits based on their self-asserted sex-based identity narrative which is predicated on a series of unproven faith based assumptions, the Intervening-Respondents-Plaintiffs, as self-identified polygamists and machinists, have standing under another basis under the Establishment Clause to enjoin the State of Colorado for discriminating against "religion and religion," since the Intervening-Respondent-Plaintiffs are arbitrarily denied that same "constellation of benefits" based on their implicitly religious self-asserted sex-based identity narrative for reasons that can only be described as arbitrary.[39] The evidence shows that homosexuality, polygamy, zoophilia,

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[38] The Secular Humanist Majority in *Obergefell* stated:"marriage is a keystone of our social order, thus just as a couple vows to support each other, so does society pledges to support the couple, offering symbolic recognition and material benefits, including tax benefits, hospital visitation rights, child custody and support rules and adoption rights. Yet, by virtue of the challenged law same-sex couples are denied the constellation of benefits states have linked to marriage." *Obergefell* at 4 and 17 and See *Maynard v. Hill*, 125 U. S. 190, 211.

[39] *Obergefell* at 4 and 17;; *McCreary Cnty*, 545 U.S. at 844 - 864; *Engel,* 370 12 U.S. 431 - 436.

and machinism are all merely different denominational sects within the overall church of secular humanism, western postmodern moral relativism, and expressive individualism.[40] The Intervening-Respondent-Plaintiffs are entitled to the same "constellation of benefits" that self-identified homosexuals are to include the enforcement of CADA but a Constitutional problem remains. The evidence shows that to legally recognize polygamy and machinism marriage in order to save legally recognized gay marriage and the Respondents desire to enforce CADA would only further violate the Establishment Clause by continuing to put "religion over non-religion." Just as government officials may not favor or endorse one religion over others, so too officials "may not favor or endorse religion generally over non-religion." *Lee*, 505 U.S. at 592(Souter, Justice, concurring)(citing *County of Allegheny v. ACLU*, 492 U.S. 573, 589-94, 109 S.Ct. 3086, 106 L.Ed.2d 472 (1989). In *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017), as members of the true minority of the church of secular humanism, the Intervening Respondents have standing to move - and have moved - to enjoin the state from legally recognizing gay marriage and from enforcing CADA in the restoration of the Constitution, to untangle the government's attachment to the religion of Secular Humanism. The Court should grant all of the relief sought by the Intervening Respondents to avoid an absurd Constitutional result. This action should be stayed until the district Court determines whether gay marriage and CADA violate the Establishment Clause for discriminating against "religion and religion."

## IV. "MAN-WOMAN" MARRIAGE IS SECULAR AND THEREFORE NOT CHALLENGED UNDER THE ESTABLISHMENT CLAUSE BY THE INTERVENING RESPONDENTS IN THE DISTRICT COURT ACTIONS

[40] DE _ Quinlan ¶¶ 1-37; DE _ Pastor Cothran ¶¶ 1-50; DE _ Dr. King ¶¶ 1-20; DE _Dr. Cretella ¶¶ 1-20; DE _ Goodspeed ¶¶ 1-20; DE _ Grace Harley ¶¶ 1-25; DE 9 Kohl ¶¶ 1-12. DE _ Pastor Cuozzo ¶¶ 1-21.

For the record as a housekeeping matter, the Intervening Respondents want to make one issue clear that comes up a lot in the media concerning their litigation. In their lawsuits, the Intervening-Respondent-Plaintiffs have not move any of the courts to enjoin the States from legally recognizing "man-woman" marriage for the reasons the attached South Carolina resolution that declares that "man-woman" marriage is "secular" as a matter of law. While the states are prohibited from legally recognizing parody forms of marriage, the states can legally recognize "man-woman" marriage if they want to. They do not have to. While the Intervening-Respondent-Plaintiffs have moved to enjoin the state of Colorado from legally recognizing gay marriage and from enforcing CADA under the Establishment Clause, the Intervening Respondents have not moved to enjoin any state from legally recognizing "man-woman" marriage because it is the only secular form of marriage that exists that is not undone by the Establishment Clause. "Man-woman" marriage is neutral, natural, non-controversial and predicated on the same self-evident truth that the Constitution of the United States itself is based on. As the Majority in *Obergefell* put it:

"'[Secular marriage] has existed for millennia and across civilizations between one man and one woman. Marriage between one man and one woman is the foundation of the family and of society, without which there would be neither civilization nor progress,'" *Maynard v. Hill*, 125 U. S. 190, 211 (1888) We later described marriage between one man and one woman is fundamental to our very existence and survival." *Obergefell* at 16.

The Majority in *Obergefell* stated that "this Court has held the right to marry as fundamental. In course in doing so it resumed an opposite sex union, one man, one woman," but that is too simplistic to be true. The right to marry at best could be considered to be "fundamental" for those who wish to enter into a secular marriage, not a faith-based parody marriage, since the Establishment Clause prohibits that. Nowhere in the Constitution does it say that marriage is a

fundamental right. But the Constitution allows the States to legally permit a man and woman to marry because such a marriage is categorically secular. The Constitution does say that the United States will not Establish a Nation religion, which includes the religion of secular humanism/moral relativism/expressive individualism.

## V. THE IMPLICATION OF THE BRIGHT LINE RULE IN *HOLM*

There is another housekeeping matter that the Intervening Respondents wish to address. In their pending lawsuits, the Intervening-Respondent-Plaintiffs do not critique gay marriage policy and statutes like CADA without providing the courts with a viable alternative solution that actually accords with the Constitution in every respect. The *Obergefell* majority generalizes that "the Constitution, however, does not permit the State to bar same-sex couples from marriage on the same terms as accorded to couples of the opposite sex." *Obergefell* at 27. But that is false. All fifty States have a Constitutional obligation to bar all parody marriages of any kind under the Establishment Clause. The Establishment Clause is the "National parody Marriage ban" that applies to even California, Oregon, and Massachusetts that are steeped in Secular Humanism and intellectual blindness that is dangerous. So what is the ultimate Constitutional Solution to this unsettled controversy? The Intervening-Respondent-Plaintiffs suggest to the lower Courts' that the solution is found in the bright line rule asserted in *State v. Holm*, 137 P.3d 726, 734 (Utah 2006). Under the "bright line rule," Self-identified "homosexuals," "polygamists," "zoophiles," "transgenders,", bi-sexuals," "machinists," "pixies," "warlocks," and "wizards" are permitted to have wedding ceremonies and perform other marriage rituals (as long as they are legal) to celebrate their beliefs about sex, marriage, and morality. It is simply the case that neither the state nor federal government can legally recognize these parody forms of marriage because they

are not secular for purposes of the First Amendment Establishment Clause. *Obergefell* at 17 (Roberts Dissenting). "Same-sex couples remain free to live together, to engage in intimate conduct, and to raise their families as they see fit. No one is 'condemned to live in loneliness' by the laws challenged in these cases—no one." *Obergefell* at 17 (Roberts Dissenting). The Intervening-Respondent-Plaintiffs have no opinions as to whether homosexuality is wise. They only have opinions on what the Constitution and the law allows. The trajectory of the First Amendment Establishment Clause is that legally gay marriage must be done away with in a single instance in all 50 states just as slavery was done away in a single instance with the passing of the Thirteenth Amendment. Likewise, prospective phony sexual orientation civil rights statutes like CADA at this very instance Constitutionally invalidated under the Establishment Clause because sexual orientation is a "non-secular" "religious-mythology." Until it is determined by the District Courts whether the Bright line rule is the Constitutional prescription as to how the state and federal government must address all self-asserted sex-based identity narratives, this action must be stayed.

## VI. DIRECT NOTICE THAT THE EGOTISTIC JUDICIAL PUTSCH IS DOOMED

There is a third housekeeping matter that the Intervening Respondents would like to raise. By moving to intervene, the Intervening Respondents are hereby putting the members of the Supreme Court on direct notice, that regardless as to whether they are devout Secular Humanist like Justice Kennedy or a Christ Follower like Justice Thomas, the "egotistic...judicial putsch" that constitutes a "threat to American Democracy" is coming to an end. The Intervening-Respondent-Plaintiffs are not foolish enough to just leave it to the Colorado District Court to decide if gay marriage is still Constitutionally viable, especially since Colorado is by

and large a cheerleader for gay rights over sound Constitutional interpretation. Pending now are seven lawsuits filed by the Intervening Respondents *Kohl v. Hutchinson*, 4:17-cv-598-KGV (E.D. A.R. 2017;; *Sevier v. Ivey,* 17-cv-1473 (N.D. A.L 2017);; *Gunter v. Bryant.* 17-cv-____(N.D. M.S. 2017);; *Sevier v. Brown*, 17-cv-5046 RS (N.D. C.A. 2017);; *Sevier v. Herbert,* 16-cv-659 (U.T. C.D. 2016);; *Sevier v. Davis*, 17-5654 (6th Cir. 2016). In these actions, the Intervening-Respondent-Plaintiffs have asked the Attorney Generals of Alabama, Mississippi, and Arkansas to do as Attorney General Holder did in *United States v. Windsor*, 133 S. Ct. 2675, 186 L. Ed. 2d 808 (2013). In *Windsor,* Attorney General and his boss, President Obama, alleged that DOMA § 3 violated the Equal Protection Clause as applied to the Federal Government under the Fifth Amendment. Id. Therefore, in the face of the lawsuit challenging the federal statute, they refused to defend the statute, which of course, paved the way for *Obergefell v. Hodge*, 192 L.Ed.2d 609 (2015) to be steam rolled into reality. In the multi-state Federal litigation brought by the Intervening-Respondent-Plaintiffs, they have asked the Attorney Generals in the Southern states to not defend gay marriage or statutes like CADA and to agree to be enjoined under their Establishment Clause causes of action. The evidence suggests that the Attorney Generals in the Southern States will agree to the Intervening-Respondents-Plaintiffs settlement offer, thereby ending legally recognized gay marriage and fake "sexual orientation" discrimination lawsuits like the one at bar for reasons that are based on the Constitution and not on emotion. What will the Secular Humanist, like Justice Ginsburg, on the bench do in the face of that inevitable scenario? Take off the Black Robes and try to defend gay marriage as counsel of record? The difference between the Intervening-Respondent-Plaintiffs' causes of action and *United States v. Windsor*, 133 S. Ct.

2675, 186 L. Ed. 2d 808 (2013) is that that statutes like CADA and gay marriage really do violate the Establishment Clause, whereas DOMA § 3 has nothing to do with Equal Protection and Substantive Due Process and Attorney General Holder was playing pretend like the Majority in *Obergefell*. If there is any political fallout from the undoing of *Obergefell* in the restoration of the Constitution, the blame will rest squarely with the five Secular Humanist on this Court. The members of this Court can help themselves by being truthful. The first step is to stay this action pending resolution in the District Courts whether gay marriage and sexual orientation are a matter of civil rights or religion. Of course, the Intervening-Respondents-Plaintiffs would not dare file a lawsuit without at the same time working with the State and Federal legislature to write the very law that they are asking the courts to find. The Courts are far too untrustworthy to proceed in any other form. So the this Court can expect *Obergefell* to be attacked from every angle and from every branch of government with success, if and only if sexual orientation is a matter of religion and not Equal Protection and Due Process.

## VIII. CONCLUSION

The Intervening Respondents should be allowed to intervene. For the institutional integrity of the Supreme Court itself, this case should be stayed until at least *Sevier v. Hickenlooper,* 17-cv-1750 (C.O.D. 2017) and *Harley v. Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017) are resolved. The evidence shows that (1) legally recognized gay marriage and CADA are non-secular; that (2) they are part of the religion of Secular Humanism; that (3) their recognition violates the three prongs of lemon from every angle; that (4) man-woman marriage is secular;[41] that (5) the bright

[41] As the Majority in *Obergefell* put it "'[Secular marriage] has existed for millennia and across civilizations between one man and one woman. Marriage between one man and one woman is the foundation of the family and of society, without which there would be neither civilization nor progress,'" *Maynard v. Hill*, 125 U. S. 190, 211 (1888) We later described marriage between one man and one woman is fundamental to our very existence and survival." *Obergefell* at 16.

line rule in *State v. Holm*, 137 P.3d 726, 734 (Utah 2006) should apply to all parody marriages;[42] that (6) the trajectory of the First Amendment is that the Establishment Clause is the ultimate National parody marriage ban and the ultimate DOMA § 3; that (7) the United States is a Constitutional Republic, not a pure Democracy, so all 50 states must drop gay marriage and statutes like CADA; that (8) if If this Court needs a scapegoat for looking absurd, blame the Hawaii state court in *Baehr* v. *Lewin*, 74 Haw. 530, 852 P. 2d 44 (1993) and the state legislatures who opened the door to gay marriage in the first place; and that (9) while, "times can blind" the Intervening Respondents will help this Court see the light. The Honorable Chief Justice Roberts said it best in his dissent:

"I agree with the majority that the 'nature of injustice is that we may not always see it in our own times.' As petitioners put it, 'times can blind.' But to blind yourself to history is both prideful and unwise." *Obergefell* at 22 (Roberts Dissenting).

In the instant case, it is not just "unwise" and "prideful" that the Intervening Respondents and Respondents are asking the courts to enforce sexual orientation statutes like CADA, their decision to do so violates the Establishment Clause of the United States Constitution by a landslide. Id. But if this Court and others wants to continue to pretend that CADA and legally imposed gay marriage are "good law," then very obviously the Intervening Respondents warrant the same right to marry and to enforce CADA under the Equal Protection and Substantive Due Process Clauses of the Fourteenth and Fifth Amendments as they arguing in *Harley v.*

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[42] The solution is found in the bright line rule asserted in *State v. Holm*, 137 P.3d 726, 734 (Utah 2006). Self-identified homosexuals, polygamists, zoophiles, machinists, pixies, warlocks, and wizards are permitted to have wedding ceremonies and perform other rituals to celebrate their beliefs about sex, marriage, and morality. It is simply the case that neither the state nor federal government can legally recognize these parody forms of marriage because they are not secular for purposes of the Establishment Clause. *Obergefell* at 17. "Same-sex couples remain free to live together, to engage in intimate conduct, and to raise their families as they see fit. No one is 'condemned to live in loneliness' by the laws challenged in these cases—no one." *Obergefell* at 17 (Roberts Dissenting)

*Masterpiece Cakeshop,* 17-cv-1666 (C.O.D 2017). It is one way or the other. By allowing the intervention, the Court can be in a better position to do its duty to uphold the Constitution and produce Constitutionally results in answering these unresolved questions of law.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this document and attached exhibits were mailed with adequate postage to the Petitioners and Respondents in this actions on September 11, 2017. KRISTEN K. WAGGONER Counsel of Record JEREMY D. TEDESCO JAMES A. CAMPBELL JONATHAN A. SCRUGGS ALLIANCE DEFENDING FREEDOM 15100 N. 90th Street Scottsdale, AZ 85260 (480) 444-0020 kwaggoner@ADFlegal.org; Ria Tabacco Mar Counsel of Record ACLU 125 Broad Street, 18th Floor New York, NY 10004-2400 rmar@aclu.org 212-549-2627 Party name: Charlie Craig and David Mullins Frederick R. Yarger Counsel of Record Solicitor General Colorado Judicial Center 1300 Broadway, 10th Floor Denver, CO 80203 fred.yarger@coag.gov (720) 508-6168 Party name: Colorado Civil Rights Commission Leslie Cooper 125 Broad Street 18th floor New York, NY 10004 lcooper@aclu.org

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