

**UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA—NORFOLK DIVISION**

TIMOTHY B. BOSTIC,

TONY C. LONDON,

CAROL SCHALL, and

MARY TOWNLEY,

Plaintiffs,

v.

CASE NO. 2:13-cv-395

JANET M. RAINEY, in her official  
capacity as State Registrar of Vital Records, and

GEORGE E. SCHAEFER, III, in his official  
capacity as the Clerk of Court  
for Norfolk Circuit Court,

Defendants.

**DECLARATION OF CAROL SCHALL**

I, Carol Schall, swear to the following facts under the penalty of perjury:

1. I am an adult female resident of Chesterfield County, Virginia. I am competent to testify to the following facts based on my personal knowledge.
2. I have lived in Virginia since 1982, when I moved here after college.
3. I have worked in special education for many years. Currently, I am an Assistant Professor in the School of Education at Virginia Commonwealth University (“VCU”) in Richmond, Virginia. In addition to teaching, I conduct research that focuses on the best practices for teaching autistic children.

4. Before I joined the faculty at VCU, I worked for the Grafton School. The Grafton School is based in Winchester, Virginia, but I worked at the Richmond branch. I was the Director for the Virginia Autism Resources Center.

5. Since 1985, I have been in a committed relationship with my wife, Mary Townley.

6. Mary and I got married in California in 2008. Though we have lived in Virginia throughout our 30-year relationship, we traveled to California to get married because we could not legally get married in our own State. At the time of our wedding, we were both over the age of 18 and unrelated, but Virginia would not allow us to marry because we are a same-sex couple.

7. Mary and I have been happily married for the last five years. We share every aspect of our lives and look forward to spending the rest of our lives together. Even though we were legally married in California, the Commonwealth still does not recognize our marriage.

8. In 1998, Mary gave birth to our daughter, E. S.-T. I supported Mary every day throughout pregnancy and delivery.

9. During Mary's pregnancy, she experienced complications. On one occasion, Mary had severe abdominal cramping and was in so much pain that she could not talk. I rushed her to the emergency room at VCU's Medical Center. I left my car parked in a no-parking zone while I ran inside the hospital to get help for Mary. Once she was receiving medical care, the hospital staff asked me to move the car. I did so but when I returned to the hospital, the staff refused to let me see Mary and refused to even give me any information about her condition for several hours, until she could speak to inform them that I was her spouse.

10. I have loved and raised E. S.-T. since the day that she was born. I am her mother, and she is my child.

11. Mary and I are both parents to E. S.-T. She is the most important thing in both of our lives and we are a family. Mary and I both provide for E. S.-T. financially. We both participate in the details of her life: we pack her lunches, make sure she does her homework, and drive her to activities, among many other things. We are both committed to making sure that E. S.-T. has a safe and loving home in which to grow.

12. I have always wanted to adopt E. S.-T. but I cannot under Virginia law.

13. Since I cannot adopt E. S.-T., Mary and I hired a lawyer to petition a court to give me full joint legal and physical custody of E. S.-T. We spent a significant amount of time and money to conduct those court proceedings.

14. The court granted our petition but I am still unable to adopt my own daughter. As a result, we are legally unrelated to one another.

15. In addition, because Virginia does not recognize our legal marriage, Mary and I cannot obtain a birth certificate for E. S.-T. that lists us both as her parents.

16. In fact, Mary still has to inform E. S.-T.'s school each year that I have permission to pick up my own child.

17. Last year, Mary and I went to the post office to renew E. S.-T.'s passport. When we got to the counter and presented her documents, the postal employee that was processing the paperwork saw that I was listed as one of E. S.-T.'s parents. The employee then said to me, "You're nobody, you don't matter." Then she crossed a line through my name on the renewal form.

18. E. S.-T. has also suffered through embarrassing situations, including being teased at school. I believe that she would not be mistreated by her classmates on account of her family if the Commonwealth recognized our marriage so that there was less stigma for us and for her.

19. Despite these challenges, E. S.-T. has grown into a well-adjusted 15-year-old girl. Mary and I are both very proud of our daughter.

20. Mary and I have experienced legal, financial, social and emotional consequences from Virginia's refusal to recognize our legal marriage.

21. For example, until February of this year, neither Mary nor I could include each other on the health insurance coverage we received from our employers. In fact, after E. S.-T. was born, Mary had to go back to work because her health insurance was ending and I could not add her to my health insurance plan. Since February, Mary's employer has allowed her to include me in her coverage but Mary has to pay state income taxes on the benefit. If Virginia would recognize our marriage, we believe that we would not be subject to this tax.

22. When E. S.-T. was born, and when my mother passed away, Mary and I could not take protected leave time from work under the Family Medical Leave Act because Virginia does not recognize our marriage.

23. Even though we are legally married, we cannot file income tax returns as a married couple in Virginia. As a result, we pay more in state income taxes than we would otherwise have to pay.

24. I have named both Mary and E. S.-T. as beneficiaries to my insurance and employee benefits plans but both of them would have to pay taxes on any benefits they receive.

25. The favorable rates that insurance companies offer to married couples for home, life, and car insurance in Virginia are not available to us because Virginia does not recognize our marriage.

26. Mary and I wish we had the property protections available for married couples under Virginia law. For example, if Virginia recognized our marriage, the possessions we have

acquired during our nearly 30 years together would be considered marital property; we would inherit each other's estate if one of us died; and we could own our home together as tenants in the entirety. None of these legal property protections is available to us even though we are married.

27. Even though Mary is my spouse, in Virginia, without an advance medical directive, I could not make medical decisions for her, nor could she for me.

28. More importantly, E. S.-T. has fewer legal rights and protections than other children because Virginia will not recognize our marriage. If both Mary and I were to die without a will, E. S.-T. would not inherit my estate. Even with a will, she will probably have to pay taxes on anything she receives from my estate.

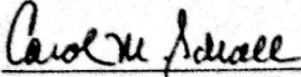
29. In addition, Mary and I worry that the agreements, contracts, and arrangements that we have made for E. S.-T.—for her long-term care and financial support—could be ignored or invalidated by a Virginia court.

30. We, as a family, wish that we had the protections of Virginia's laws. And Mary and I wish for our benefit and E. S.-T.'s that the Commonwealth would recognize our marriage.

31. I am embarrassed and humiliated that the Commonwealth will not recognize our marriage. I feel angry, hurt, and ashamed every time I cannot legally or socially claim Mary as my wife. It is very painful to know that our marriage is treated unequally to others under Virginia's laws because it makes me feel that the Commonwealth has singled us out and decided that we are not "good enough" for its approval. The Commonwealth rejects the decision that Mary and I have made to marry and that rejection makes me feel like a second-class citizen in the Commonwealth.

I declare under penalty of perjury, under the laws of the Commonwealth of Virginia and under the laws of the United States of America, that the foregoing facts are true.

Dated: September 26, 2013

  
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Carol Schall