

**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 MARY TOWNLEY

I, Mary Townley, swear to the following facts under the penalty of perjury:

1. I am an adult woman living in Chesterfield County, Virginia. I am competent to testify to the following facts based on my personal knowledge.

2. I have lived in Virginia since 1983.

3. I have been in a committed relationship with Plaintiff Carol Schall since 1985.

4. Carol and I both work in special education. For several years, I worked with special needs children in the public school system in Winchester, Virginia, and in Frederick County, Virginia.

5. I currently serve as the Supervisor of Transition at Health Diagnostic Laboratory, Inc. (“HDL”). I help train individuals with significant disabilities so that they can work at HDL.

6. Because we could not get married in Virginia, I married Carol in California in 2008. As my wife, Carol provides me with love, support, companionship, and a sense of security. I love the time that we spend with one another and I look forward to a long life together.

7. In 1998, I gave birth to our daughter, E. S.-T. She is now 15 years old. Carol and I are both parents to E. S.-T. We provide a loving home for her and provide for her financially. We also provide her with structure, love, attention, encouragement, and support. Every decision that we make in our lives is with E. S.-T.’s best interests at heart.

8. While I was pregnant with her, I had severe complications that landed me in the emergency room. I could not even speak. Carol drove me to the hospital and parked the car in a tow zone. After I was safely in the hands of the medical staff, she went to move her car. When she returned, they would not let her visit me or give her any information about my condition because the law does not recognize her as my spouse. When I was finally able to speak, I informed the medical staff that she was my wife.

9. Carol has wanted to adopt E. S.-T. since she was born but she cannot under Virginia’s laws. As a result, we had to hire an estate planning attorney to petition the court so that Carol can have full joint legal and physical custody of E. S.-T.

10. The court granted our petition but Carol still cannot adopt E. S.-T. In addition, Carol and I cannot obtain a marriage license or a birth certificate for our daughter that lists us both as E. S.-T.’s parents because Virginia will not recognize my marriage to Carol.

11. Carol is equally a parent to E. S.-T., and I am frustrated that Virginia law does not recognize Carol as her parent or the three of us as a family. Each year, I have to tell E. S.-T.'s school that Carol can pick up her own daughter.

12. In 2012, Carol and I went to the post office to renew E. S.-T.'s passport. When we presented her documentation, the postal employee servicing us told Carol, "You're nobody, you don't matter." Then she crossed a line through her name on the renewal form.

13. These types of situations are difficult for all of us. In spite of them, E. S.-T. is a happy and confident teenager, even though she feels (as do I) that her family is being singled out, stigmatized, and discriminated against.

14. After E. S.-T. was born, I had to return to work largely because my health insurance coverage was expiring and I could not get coverage through Carol's employer. Since February 2003, I have been able to cover Carol through my employer's insurance plan, but I still have to pay state income taxes on that benefit. I do not believe that I would have to pay those taxes if Virginia recognized our marriage.

15. Carol and I have been denied additional benefits in Virginia that are available to other legally married couples. For example, 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. Also, though Carol is my designated beneficiary for my employee benefit and insurance plans, if I were to be seriously injured or die, she would owe state taxes on those benefits as well (and vice versa).

16. Because Virginia does not recognize our marriage, we have fewer legal and property rights than other legally married couples. Those rights include the right to make medical decisions for one another without an advance medical directive; the right to inherit one another's

estate without a will and without being subject to certain taxes; the right to jointly own a home as tenants in the entirety; or the right to have our mutual property acquired during the course of our marriage deemed marital property.

17. Carol and I do not qualify for favorable rates that are available to other legally married couples in Virginia for automobile, home, and life insurance plans. And we are not able to take advantage of many federal benefits that are only available to legally married couples, like the Family Medical Leave Act.

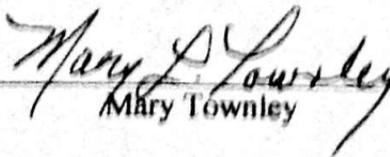
18. Carol and I are concerned about the arrangements that we have made for E. S.-T.'s future because Virginia will not recognize our marriage and courts in the Commonwealth could declare our agreements about her care and custody to be void and unenforceable.

19. I want the Commonwealth of Virginia to recognize my legal marriage to Carol. We are a loving, married couple and our greatest gift is being parents to E. S.-T. We want the same legal protections for our relationship and our family that Virginia provides to other legally married couples and we want to live proudly as married residents of Virginia.

20. I am saddened, hurt, angered, and humiliated that the Commonwealth will not recognize my marriage to Carol. I feel that our marriage is deemed "less than" and unequal to other marriages in Virginia. The Commonwealth's discrimination impacts me, Carol, and E. S.-T. because we all suffer from the stigma that we feel. We want to be treated equally to other couples and Virginia's refusal to recognize our marriage makes me feel hopeless and ashamed.

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 28, 2013


Mary Townley