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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

EMMETT ROCCO PARMAN, a Minor Child;
JEANA MARIE FRAZZINI; and KRISTAN
DENE PARMAN,

Plaintiffs,

v.

STATE OF OREGON; THEODORE
KULONGOSKI, in his official capacity as
Governor of the State of Oregon; BRUCE
GOLDBERG, M.D., in his official capacity as
Director of the Department of Human
Services of the State of Oregon; and
JENNIFER WOODWARD, in her official
capacity as State Registrar of the State of
Oregon,

Defendants.

No.

COMPLAINT FOR
DECLARATORY RELIEF

Plaintiffs allege as follows:

IDENTITY AND RELATIONS OF THE PARTIES

1. Plaintiff Emmett Rocco Parman (Emmett) is a male child born on March 9, 2004, at Providence Portland Medical Center, Portland, Oregon.
2. Plaintiff Kristan Dene Parman (Parman) is Emmett's legal and biological mother.
3. Plaintiff Jeana Marie Frazzini (Frazzini) is Parman's domestic and life partner.
4. Frazzini and Parman planned Parman's pregnancy with the intent to raise a family together. Each of them functions as a parent to Emmett.

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1 Health Statistics at a later time has Frazzini's information crossed out over her
2 signature.

3 14. The Center for Health Statistics recorded Emmett's birth and issued
4 his birth certificate without listing a second parent.

5 15. On December 3, 2004, Frazzini and Parman obtained a stipulated
6 judgment of this court (case no. 0411-72364) declaring that both of them were
7 Emmett's legal parents. The State of Oregon was not a party to that case, and the
8 Center for Health Statistics has treated the judgment as void.

9 FIRST CLAIM FOR RELIEF

10 (Constitutionality of ORS 109.070)

11 16. Paragraphs 1–16 of this complaint are incorporated by reference.

12 17. At the time of Emmett's conception and birth, ORS 109.070 (2001)
13 provided in relevant part:

14 (a) The child of a wife cohabiting with her husband who was not
15 impotent or sterile at the time of the conception of the child shall be
16 conclusively presumed to be the child of her husband, whether or not the
marriage of the husband and wife may be void.

17 (b) A child born in wedlock, there being no judgment of separation
18 from bed or board, shall be presumed to be the child of the mother's
19 husband, whether or not the marriage of the husband and wife may be void.
This shall be a disputable presumption.

20 18. Oregon law does not permit a marriage between two people of the
21 same sex.

22 19. If Frazzini were male and married to Parman, ORS 109.070 (2001)
23 would create legal parentage in her by operation of law and without regard to
24 whether or not she was Emmett's biological parent.

25 20. ORS 109.070 discriminates against Emmett based upon the sex and
26 sexual orientation of his parents, in violation of the Constitution of Oregon.

26 //

1 ____ Or ____, ____ P3d ____ (March 23, 2006); *Armatta v. Kitzhaber*, 327 Or 250,
2 959 P2d 49 (1998); and *Deras v. Myers*, 272 Or 47, 535 P2d 541 (1975).

3 WHEREFORE, plaintiffs pray for a judgment as follows:

- 4 1. Declaring ORS 109.070 and ORS 109.243 to be unconstitutional as
- 5 applied to plaintiffs,
- 6 2. Declaring plaintiffs Frazzini and Parman to be Emmett’s legal parents,
- 7 3. Ordering defendants to make a record of Emmett’s birth reflecting his
- 8 correct legal parentage,
- 9 4. Awarding plaintiffs their costs and attorney fees, and
- 10 5. Awarding such other relief as the court may deem just and proper.

11 DATED this ____ day of _____, 2006.

12 GEVURTZ MENASHE PC

13
14 _____
15 Robin Wright, OSB #86106
16 rwright@gevurtzmenashe.com
of Attorneys for Plaintiff
Emmett Rocco Parman, a Minor Child

17 DATED this ____ day of _____, 2006.

18 JOHNSON RENSHAW & LECHMAN-SU PC

19
20 _____
21 Mark Johnson, OSB #87264
22 markj@jrl-s.com
of Attorneys for Plaintiffs
23 Jeana Marie Frazzini and Kristan Dene Parman
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CERTIFICATE OF SERVICE

I hereby certify that I served the on:

by the following indicated method or methods:

- by **mailing** a copy thereof in a sealed, first-class postage-paid envelope, addressed to the attorney(s) listed above, and deposited with the United States Postal Service at Portland, Oregon, on the date set forth below.
- by **hand delivering** a copy thereof to the attorney(s) listed above, on the date set forth below.
- by **sending via overnight courier** a copy thereof in a sealed, postage-paid envelope, addressed to the attorney(s) listed above, on the date set forth below.
- by **faxing** a copy thereof to the attorney(s) at the fax number(s) shown above, on the date set forth below.

DATED this _____ day of _____, 2006.

JOHNSON RENSHAW & LECHMAN-SU PC

Mark Johnson, OSB# 87264
of Attorneys for

CERTIFICATE OF SERVICE