

TIMOTHY C. FOX
Montana Attorney General
MARK W. MATTIOLI
Chief Deputy Attorney General
DALE SCHOWENGERDT
Solicitor
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401
Phone: 406-444-2026
Fax: 406-444-3549
mmattioli@mt.gov
dales@mt.gov

COUNSEL FOR DEFENDANTS-APPELLANTS

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT
CAUSE NO. 14-35987

ANGELA ROLANDO and TONYA ROLANDO; CHASE WEINHANDL and
BENJAMIN MILANO; SUSAN HAWTHORNE and ADEL JOHNSON; and
SHAUNA GOUBEAUX and NICOLE GOUBEAUX,

Plaintiffs-Appellees,

v.

TIM FOX, in his official capacity as Attorney General of the State of Montana;
MICHAEL KADAS, in his official capacity as the Director of the Montana
Department of Revenue; and FAYE McWILLIAMS, in her official capacity as
Clerk of Court of Cascade County,

Defendants-Appellants.

On Appeal from United States District Court For The District Of Montana
Case No. 4:14 CV 00040, The Honorable Brian Morris, Presiding

**UNOPPOSED MOTION TO STAY NINTH CIRCUIT PROCEEDINGS PENDING
RESOLUTION OF THE SAME ISSUES BY THE SUPREME COURT**

Appellants file this unopposed motion to stay proceedings in this matter
pending the Supreme Court's resolution of four cases from the Sixth Circuit

addressing whether a state may define and recognize marriage as an opposite-sex union, which is the same question at issue in this case.

On October 7, 2014, this Court decided that Idaho and Nevada's constitutional and statutory provisions limiting marriage to opposite-sex couples and prohibiting recognition of same-sex couples' marriage licenses from other states was unconstitutional. *Latta v. Otter*, 771 F.3d 496 (9th Cir. 2014). Basing its decision on *Latta*, the district court below ruled that Montana's similar constitutional provisions were likewise unconstitutional. *Rolando v. Fox*, 23 F. Supp. 3d 1227 (D. Mont. 2014). The state filed a timely notice of appeal.

Subsequently, the Supreme Court granted certiorari in four consolidated cases from the Sixth Circuit, addressing the same issues. *DeBoer v. Snyder*, 772 F.3d 388 (6th Cir. 2014), *cert. granted*, ___ S. Ct. ___, Nos. 14-556, 14-562, 14-571, 14-574 (Jan. 16, 2015) (Ex. 1). Specifically, the Court granted certiorari on the following questions: "1) Does the Fourteenth Amendment require a state to license a marriage between two people of the same sex. 2) Does the Fourteenth Amendment require a state to recognize a marriage between two people of the same sex when their marriage was lawfully licensed and performed out-of-state?" *Id.*

The Supreme Court's resolution of *DeBoer v. Snyder* will likely resolve this case in its entirety. Thus, Appellants move to stay this case pending the Supreme Court's decision in *DeBoer*. Appellees do not oppose this motion. Appellants further suggest that the Court direct the parties to notify this Court within 30 days

of the Supreme Court's decision in *DeBoer* as to what issues, if any, remain in this case.

Respectfully submitted this 6th day of February, 2015.

TIMOTHY C. FOX
Montana Attorney General
215 North Sanders
P.O. Box 201401
Helena, MT 59620-1401

By: /s/ Dale Schowengerdt
DALE SCHOWENGERDT
Solicitor
Counsel for Defendants-Appellants

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the clerk of the court for the United States District Court for the District of Montana, using cm/ecf system. Participants in the case who are registered cm/ecf users will be served by the cm/ecf system.

Dated: February 6, 2015

 /s/ Dale Schowengerdt
DALE SCHOWENGERDT
Solicitor
Counsel for Defendants-Appellants