

IN THE CIRCUIT COURT OF THE CITY OF ST. LOUIS  
STATE OF MISSOURI

STATE OF MISSOURI,	)	
	)	
Plaintiff and	)	
Counterclaim Defendant,	)	
	)	
vs.	)	Cause No. 1422-CC09027
	)	
JENNIFER FLORIDA,	)	Division No. 10
Recorder of Deeds and Vital Records	)	
Registrar, City of St. Louis,	)	
	)	
Defendant and	)	
Counterclaim Plaintiff.	)	

**DEFENDANT/COUNTERCLAIM PLAINTIFF JENNIFER FLORIDA'S  
MOTION FOR JUDGMENT ON THE PLEADINGS**

COMES NOW defendant and counterclaim plaintiff Jennifer Florida, the Recorder of Deeds and Vital Records Registrar of the City of St. Louis, and, pursuant to Rule 55.27(b) and Missouri law, moves the Court for judgment on the pleadings. In support of her motion, Florida states:

1. Defendant has answered plaintiff's petition, and plaintiff has answered defendant's counterclaim.
2. A motion for judgment on the pleadings should be granted where there are no disputed issues of material fact on the face of the pleadings. Rule 55.27(b); *McGuire v. Dir. of Revenue*, 174 S.W.3d 87, 89 (Mo. App. 2005). By moving for judgment on the pleadings, a party does not admit legal conclusions or the opposing party's construction of the subject matter. *Mitchell v. Nixon*, 351 S.W.3d 676, 680 (Mo. App. 2011). Where "the question before the court is strictly one of law," the Court should enter judgment on the pleadings. *Eaton v. Mallinckrodt, Inc.*, 224 S.W.3d 596, 599-600 (Mo. banc 2007).

3. The material facts regarding defendant's counterclaim are not in dispute. Jennifer Florida is the Recorder of Deeds in the City of St. Louis. (Counterclaim, at ¶ 1; Answer to Counterclaim, at ¶ 1). Missouri statutes, §§ 451.080.1 and 451.130.1, RSMo., require Florida to issue a marriage license to any couple that is "legally entitled to a marriage license." (Counterclaim, at ¶ 2; Answer to Counterclaim, at ¶ 2). A Missouri constitutional provision (Mo. Const. art. I, § 33) and statute (§ 451.022, RSMo.) prohibit the issuance of a marriage license to a same-sex couple. (Counterclaim, at ¶ 2; Answer to Counterclaim, at ¶ 2).

4. As set forth in the accompanying memorandum, Florida is entitled to judgment as a matter of law. Article I, § 33 of the Missouri Constitution and § 451.022, RSMo. bar same-sex couples from exercising the fundamental right to marry and subject same-sex couples to unequal treatment, in violation of the Due Process and Equal Protection Clauses of the United States Constitution. Article I, § 33 of the Missouri Constitution and § 451.022, RSMo. are unconstitutional.

5. Florida hereby incorporates by reference the memorandum filed in support of this motion.

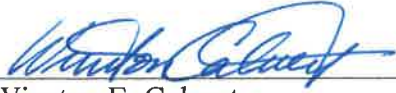
WHEREFORE, defendant and counterclaim plaintiff Jennifer Florida, as Recorder of Deeds and Vital Records Registrar of the City of St. Louis, respectfully requests that the Court grant her judgment on the pleadings and declare that:

- 1) Article I, § 33, of the Missouri Constitution and § 451.022, RSMo., are unconstitutional under the Due Process and Equal Protection Clauses of the Constitution of the United States;
- 2) Same-sex couples who are otherwise qualified to marry are "legally entitled" to marry in the State of Missouri pursuant to § 451.130.1, RSMo.; and

3) defendant is entitled to judgment on Counts I and II of the Petition.

Respectfully submitted,

WINSTON E. CALVERT, CITY COUNSELOR

BY:   
Winston E. Calvert #57421  
calvertw@stlouis-mo.gov  
Nancy Kistler #36136  
kistlern@stlouis-mo.gov  
Michael Garvin #39817  
garvinm@stlouis-mo.gov  
Alexis Silsbe #64637  
silsbea@stlouis-mo.gov  
1200 Market Street  
City Hall, Room 314  
St. Louis, Missouri 63103  
(314) 622-3361 (telephone)  
(314) 622-4956 (facsimile)

ATTORNEYS FOR DEFENDANT  
JENNIFER FLORIDA, RECORDER OF  
DEEDS AND VITAL RECORDS REGISTRAR,  
CITY OF ST. LOUIS

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on this 9th day of September, 2014, a true and correct copy of the foregoing document was served via electronic mail upon the following:

Jeremiah Morgan  
Deputy Solicitor General  
Attorney General Office of Missouri  
Supreme Court Building  
PO Box 899  
Jefferson City, MO 65102



---