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22 Attorneys for Plaintiffs
23 Tracy Collins, Keith B. Humphrey, Joseph R.
24 Diaz, Judith McDaniel, Beverly Seckinger,
25 Stephen Russell, Deanna Pflieger, Corey
26 Seemiller, Carrie Sperling and Leslie Kemp

27 UNITED STATES DISTRICT COURT
28 DISTRICT OF ARIZONA

Tracy Collins, Keith B. Humphrey, Joseph R.
Diaz, Judith McDaniel, Beverly Seckinger,
Stephen Russell, Deanna Pflieger, Corey
Seemiller, Carrie Sperling and Leslie Kemp,

Plaintiffs,

v.

Janice K. Brewer, personally and in her official
capacity as Governor of the State of Arizona;
David Raber, personally and in his official

No.

**COMPLAINT FOR DAMAGES,
INJUNCTIVE RELIEF AND
DECLARATORY RELIEF**

1 capacity as Interim Director of the Arizona
2 Department of Administration and Personnel
3 Board; Kathy Peckardt, personally and in her
4 official capacity as Director of Human
5 Resources for the Arizona Department of
6 Administration and Personnel Board; Phillip
7 Hamilton, personally and in his official
8 capacity as Assistant Director of the Benefits
9 Services Division of the Arizona Department
10 of Administration and Personnel Board; and
11 Does 1 through 100,

Defendants.

12 Plaintiffs Tracy Collins, Keith B. Humphrey, Joseph R. Diaz, Judith McDaniel,
13 Beverly Seckinger, Stephen Russell, Deanna Pflieger, Corey Seemiller, Carrie Sperling
14 and Leslie Kemp (collectively “Plaintiffs”) file this Complaint against Defendants Janice
15 K. Brewer, David Raber, Kathy Peckardt, Phillip Hamilton, and Does 1 through 100
16 (collectively “Defendants”), and allege as follows:

17 **I. INTRODUCTION**

18 1. Plaintiffs seek declaratory and injunctive relief from the discriminatory
19 elimination of domestic partner health insurance benefits for lesbian and gay employees of
20 the State of Arizona (the “State”) who have a committed same-sex life partner. The
21 elimination of these employee benefits, which are a form of family insurance coverage,
22 from the compensation provided to the State’s lesbian and gay employees violates the
23 Fourteenth Amendment to the United States Constitution pursuant to 42 U.S.C. § 1983.

24 2. The State offers valuable employment compensation in the form of family
25 insurance coverage to its heterosexual employees who choose to marry, which includes
26 subsidized participation of State employees’ spouses and spouses’ qualifying children in
27 the State’s group health plans.

28 3. In 2008 the State adopted a regulation that provided similar compensation
for lesbian and gay employees in the form of similar family coverage for State employees
with a committed same-sex life partner.

1 4. On September 4, 2009 Defendant Arizona Governor Janice K. Brewer
2 reviewed, approved and signed House Bill 2013 (“H.B. 2013”), a budget enactment that
3 includes a statutory provision (“Section O”) eliminating family coverage for lesbian and
4 gay State employees by limiting such family coverage to “spouses,” a status that Arizona
5 has restricted to different-sex life partners only.

6 5. Plaintiffs are lesbian or gay State employees who currently receive family
7 coverage for a committed same-sex life partner. The selective withdrawal of family
8 coverage from lesbian and gay State employees—while leaving family coverage intact for
9 heterosexual State employees with a legally recognized spouse—denies each Plaintiff
10 equal compensation for equal work and discriminatorily inflicts upon each Plaintiff and
11 his or her family members anxiety, stress, risk of untreated or inadequately treated health
12 problems, and potentially ruinous financial burdens.

13 6. Plaintiffs will lose health insurance coverage for their committed life
14 partners who need ongoing care for diabetes, high blood pressure and glaucoma, among
15 other chronic conditions. Certain Plaintiffs will lose family coverage for committed life
16 partners who presently are healthy but have had serious illnesses in the past and fear such
17 illness in the future. Other Plaintiffs will lose health coverage for life partners who
18 presently are healthy but who fear future illness and lack the means to purchase individual
19 insurance coverage. One Plaintiff will lose coverage for the child she co-parents with her
20 committed life partner, who is the child’s biological mother.

21 7. Plaintiffs will suffer these harms based on their sexual orientation and their
22 sex in relation to the sex of their committed life partner because the State has limited
23 family health insurance to those employees who commit to a heterosexual relationship
24 through marriage. Plaintiffs’ heterosexual co-workers receive privileged treatment—
25 including protection against health-related anxiety, stress, medical risk and financial
26 hardship—based on their sexual orientation and their sex in relation to that of their
27 committed life partners because they are offered a heterosexuals-only way to qualify
28 immediate family members for health insurance.

1 14. Plaintiff Joseph R. Diaz is employed by the State as an Associate Librarian
2 at U of A. Diaz is a resident of Tucson, Arizona.

3 15. Plaintiff Judith McDaniel is employed by the State as an Adjunct Instructor
4 in the Political Science and Women's Studies Departments at U of A. McDaniel is a
5 resident of Tucson, Arizona.

6 16. Plaintiff Beverly Seckinger is employed by the State as a Professor of Media
7 Arts and Interim Director of the School of Media Arts at U of A. Seckinger is a resident
8 of Tucson, Arizona.

9 17. Plaintiff Stephen Russell is employed by the State as a professor, Fitch
10 Nesbitt Endowed Chair in Family and Consumer Sciences in the John & Doris Norton
11 School of Family and Consumer Sciences, and Director of the Frances McClelland
12 Institute for Children, Youth, & Families at U of A. Russell is a resident of Tucson,
13 Arizona.

14 18. Plaintiff Deanna Pflieger is employed by the State as a peace officer and
15 presently serves as a Wildlife Manager III for the Arizona Game and Fish Department.
16 Pflieger is a resident of Lake Havasu City, Arizona.

17 19. Plaintiff Corey Seemiller is employed by the State as the Program Director
18 for Curricular Leadership in the Center for Student Involvement & Leadership at U of A.
19 Seemiller is a resident of Tucson, Arizona.

20 20. Plaintiff Carrie Sperling is a Visiting Clinical Associate Professor of Law at
21 Arizona State University. Sperling is a resident of Phoenix, Arizona.

22 21. Plaintiff Leslie Kemp is a Marketing Coordinator at Northern Arizona
23 University. Kemp is a resident of Sedona, Arizona.

24 **B. Defendants**

25 22. Defendant Janice K. Brewer is sued in her personal capacity and in her
26 official capacity as Governor of the State. Governor Brewer is a person within the
27 meaning of 42 U.S.C. § 1983 and was acting under color of state law at all times relevant
28 to this complaint. The Governor has the duty and authority to transact all executive

1 business with the officers of the government and the duty to ensure that the laws are
2 faithfully executed. The Governor is charged to supervise the official conduct of all
3 executive and ministerial officers, and to ensure that all offices are filled and all duties
4 performed. Defendant Brewer reviewed and approved Section O. She was and is directly
5 responsible for the implementation and enforcement of Section O.

6 23. Defendant David Raber is sued in his personal capacity and in his official
7 capacity as Interim Director of the Arizona Department of Administration (“the
8 Department”). Defendant Raber is a person within the meaning of 42 U.S.C. § 1983 and
9 was acting under color of state law at all times relevant to this complaint. As Director of
10 the Department, Defendant Raber is responsible for the direction, operation and control of
11 the Department and is responsible to the Governor for the direction, control and operation
12 of the Department. Defendant Raber formulates policies and programs to assess, plan and
13 effectuate the missions and purposes of the Department. He also makes contracts and
14 incurs obligations to carry out the Department’s activities and operations, which will
15 include direct responsibility to implement and enforce Section O’s termination of domes-
16 tic partner benefits for lesbian and gay State employees with a same-sex life partner.

17 24. Defendant Kathy Peckardt is sued in her personal capacity and in her
18 official capacity as the Director of Human Resources for the Department. Defendant
19 Peckardt is a person within the meaning of 42 U.S.C. § 1983 and was acting under color
20 of state law at all times relevant to this complaint. Upon information and belief,
21 Defendant Peckardt plays a direct, personal and leading role in determining the structure
22 of, and eligibility for, the State’s health benefits plans. Defendant Peckardt led the
23 Department’s transition from fully insured to self-insured health benefits plans;
24 established the State’s employee portal providing access to human resources information;
25 and oversees the State’s Human Resources Information Solution, an integrated benefits,
26 payroll and human resources system. Upon information and belief, these and Defendant
27 Peckardt’s other responsibilities require her direct and personal involvement in the
28 implementation of Section O.

- 1 a. Shares the employee's permanent residence;
- 2 b. Has resided with the employee continuously for at least 12 months and is
- 3 expected to continue to reside with the employee indefinitely;
- 4 c. Does not have any other domestic partner or spouse, has not signed a
- 5 declaration of domestic partnership with any other person, and has not
- 6 had another domestic partner within the prior 12 months;
- 7 d. Is not a blood relative any closer than would prohibit marriage in
- 8 Arizona;
- 9 e. Was mentally competent and of legal age to consent to contract when the
- 10 domestic partnership began, is not acting under fraud or duress in
- 11 accepting benefits; and
- 12 f. Is financially interdependent with the employee as demonstrated, for
- 13 example, through joint ownership of real property or significant personal
- 14 property; joint credit or bank accounts; shared debt; beneficiary
- 15 designations on life insurance or retirement annuities; and written
- 16 agreements to assume financial responsibility for each other.

17 38. Each Plaintiff enrolled his or her domestic partner, or partner's qualifying
18 children, for family coverage during the open enrollment period for the 2009 benefits plan
19 year. Each Plaintiff and his or her domestic partner, or partner's qualifying children, met
20 the eligibility requirements for family coverage at the time of enrollment and continues to
21 meet those requirements.

22 39. On August 20, 2009, the Arizona House of Representatives transmitted H.B.
23 2013 to Defendant Brewer for review, consideration and approval or rejection in her
24 capacity as the Governor of Arizona. [House Bill 2013 is attached as Exhibit A.] H.B.
25 2013, amends, *inter alia*, A.R.S. § 38-651, the statute that authorizes the Department to
26 procure health and accident coverage for State employees and their qualifying dependents.
27 H.B. 2013 adds to A.R.S. § 38-651 a section "O", which provides that, "For the purposes
28 of this section, beginning October 1, 2009, 'dependent' means a spouse under the laws of

1 this state, a child who is under nineteen years of age or a child who is under twenty-three
2 years of age and who is a full-time student.” Defendant Brewer reviewed, approved and
3 then signed H.B. 2013 on September 4, 2009.

4 40. The purpose and effect of Section O’s restriction of family coverage to a
5 “spouse” is to eliminate family coverage for lesbian and gay State employees with a
6 committed same-sex life partner and qualifying children of that partner. Unlike their
7 heterosexual co-workers who are in different-sex partnerships but could marry, lesbian
8 and gay State employees with a same-sex partner are precluded from obtaining the status
9 of “spouse” under current Arizona law because same-sex couples may not marry in the
10 State and, if validly married in another state or country, state law requires that they be
11 treated as unmarried.

12 41. Section O reverses the State’s policy of offering equal compensation in the
13 form of family coverage to lesbian and gay State employees with a committed same-sex
14 life partner.

15 42. The State’s exclusion of its lesbian and gay employees from access to
16 family coverage denies those employees, including Plaintiffs, valuable and equal
17 compensation because of each Plaintiff’s sexual orientation and sex in relation to his or
18 her committed life partner.

19 43. The public policies underlying the State’s employment benefits — such as
20 fair compensation and reducing the stress employees undergo during family health
21 emergencies and other family crises — are equally applicable to lesbian and gay State
22 employees who have made a life commitment to a same-sex life partner, including
23 Plaintiffs.

24 44. Section O specified an intended effective date of October 1, 2009. On
25 September 25, 2009 the Department announced on its website that “[b]ased on advice
26 from the Office of the Attorney General” the Department would recognize November 24,
27 2009 as the effective date for the statute. The Department’s announcement also provided
28 that, “[a]ny benefit that has been earned and vested through November 24, 2009, is not

1 subject to being taken away retroactively to October 1, 2009.” The announcement stated
2 that, “[o]ther questions raised by H.B. 2013, such as the definition of dependent and its
3 applicability after November 24, 2009, are still under review,” and that further
4 information would be posted on the Department’s website after the review was complete.
5 [The Department’s statement is attached as Exhibit B.]

6 45. On October 9, 2009 the Department posted another announcement stating
7 that, “[b]ased upon legal advice from the Office of the Attorney General, the definition of
8 ‘dependent’ for the State insurance plan year beginning October 1, 2009 is not affected by
9 H.B. 2013 because any interpretation to the contrary would impair the lawful contract
10 expectations of state employees in violation of the Arizona Constitution. The definition of
11 ‘dependent’ currently in place will remain effective through September 30, 2010. **Please
12 note the definition of dependent defined in H.B. 2013 will apply as of October 1,
13 2010.**” (emphasis in original). [The Department’s statement is attached as Exhibit C.]

14 46. The Department’s October 9, 2009 announcement confirms that the State’s
15 lesbian and gay employees, including Plaintiffs, will be stripped of their family coverage
16 as of October 1, 2010. Plaintiffs face uncertainty about Section O’s implementation date
17 because, in the absence of an injunction prohibiting enforcement of Section O, the
18 Department may decide at any time to revisit its decision to not enforce Section O before
19 October 1, 2010.

20 **B. Plaintiffs Are Similarly Situated To Married Heterosexual State**
21 **Employees In All Material Respects And Are Injured By The**
22 **Discriminatory Elimination Of Their Family Health Insurance Benefits.**

23 47. Plaintiffs are highly skilled and valuable State employees whose job duties
24 are neither different from their heterosexual co-workers nor reduced due to their sexual
25 orientation or marital status.

26 48. Each Plaintiff seeks to maintain the family coverage for his or her
27 immediate family members that he or she currently receives and relies upon as an
28 important part of employment compensation. Each Plaintiff established eligibility for
such family coverage at the time of enrollment, and remains eligible at the present time.

1 Each Plaintiff authorized continued pay check deductions for his or her portion of the
2 health plan premiums, with the intent and desire to continue contributing to and receiving
3 family coverage.

4 ***1. Plaintiff Tracy Collins.***

5 49. Plaintiff Tracy Collins (“Tracy”) has been a loyal and dedicated State
6 employee for 14 years. Tracy began her law enforcement career with the Arizona
7 Department of Corrections and now works as a senior highway patrol officer for the
8 Arizona Department of Public Safety (“DPS”). Tracy enlisted in the United States Air
9 Force Reserve and served from 1990 until her honorable discharge as a Staff Sergeant in
10 1998.

11 50. Tracy’s current station in Quartzsite, Arizona is classified as a “remote duty
12 station” because it lacks city amenities such as easy access to grocery stores and medical
13 facilities, as well as the level of police backup that is available to police officers in cities.
14 Working there, Tracy often must wait much longer for support to arrive from other
15 locations, which can involve greater safety risk and other job challenges.

16 51. Tracy’s responsibilities include enforcement of Arizona’s criminal and
17 traffic codes, drug and weapons interdiction, and monitoring for terrorist activity. Tracy
18 also is a Field Training Instructor responsible for training and evaluating junior officers.
19 She has special expertise in drug recognition enforcement and trains other officers on that
20 subject.

21 52. Tracy and Diana Forrest (“Diana”) will celebrate their 11-year anniversary
22 as a loving, committed couple in March 2010. They held a commitment ceremony in May
23 2000, which was a transformative event for them marking not only their profound
24 commitment to each other but also the integration of their families. Tracy and Diana
25 would marry each other if the State permitted them to do so.

26 53. Tracy and Diana are completely financially interdependent. They maintain
27 a joint checking account and credit card, and co-own their car. Diana is the primary
28 beneficiary of Tracy’s retirement account, life insurance policy, and the “line of duty”

1 death benefit offered to Arizona law enforcement officers. Diana has not similarly named
2 Tracy as the beneficiary of her accounts only because she has no such accounts. Tracy
3 and Diana have durable health care powers of attorney naming each other to make
4 medical decisions in the event either is unable to do so.

5 54. Diana brought two daughters to the couple's relationship, and Tracy has
6 helped support them, emotionally and financially, as well as Diana's nephew after he was
7 left homeless at age 15. The couple became his joint legal guardians and cared for him
8 until he became an adult.

9 55. Tracy and Diana have made a mutual commitment to assume responsibility
10 for each other's expenses, including health expenses and already have supported each
11 other through a financially and emotionally devastating experience with illness. In 1999
12 Diana developed debilitating pain that caused constant nausea and rendered her unable to
13 work. She was bedridden for five years, forcing their family to live on Tracy's salary
14 alone. Numerous medical specialists tried but could not diagnose Diana's illness. Diana
15 remained ill for seven years.

16 56. Because Diana did not have health insurance coverage for the first two years
17 of her illness, her medical expenses and the cost of supporting their teenage children
18 quickly overwhelmed the couple's finances. Tracy was forced to file bankruptcy.

19 57. Diana began receiving coverage through the Arizona Health Care Cost
20 Containment System ("AHCCCS") Medicaid program two years into her illness, and
21 finally recovered her health in December of 2007. This experience left Tracy and Diana
22 painfully aware of and anxious about their vulnerability if Diana were to experience
23 another serious illness.

24 58. Diana also needs medications to manage her high blood pressure. While
25 each medication is available for a \$10.00 co-pay fee through the family coverage Tracy
26 currently receives for Diana, the couple will have to pay far more out-of-pocket for those
27 medications when Tracy's family coverage is eliminated.
28

1 59. Diana currently works for La Paz County in a position funded by a grant
2 without employment benefits, but her income disqualifies her from coverage through
3 AHCCCS.

4 60. Tracy and Diana are extremely distressed that Tracy's family coverage will
5 be eliminated because of a selective targeting of lesbian and gay State employees for
6 disfavored treatment. This is not the first time that Tracy has been treated unequally as a
7 State employee. In May of 2007 Tracy's car was struck by another car while she was on
8 duty, and she was flown to Phoenix for medical treatment. Although the State typically
9 uses its helicopters to fly the spouse of an injured officer to the treating facility, Diana was
10 not allowed that service and had to drive several hours to be by Tracy's side. Tracy and
11 Diana know that, should Tracy die in the line of duty, Diana will not be eligible for the
12 pension a spouse would receive. Losing health coverage for Diana, however, is a form of
13 inferior treatment that makes Tracy and Diana feel especially vulnerable, given Diana's
14 medical history and needs, and the financial impact on their family.

15 61. Tracy takes great pride in her work and has never before thought about
16 leaving her career in law enforcement with the State. Tracy now worries that she may
17 have no choice, however, other than to seek work elsewhere to ensure that Diana has the
18 health insurance their family needs.

19 **2. Plaintiff Keith B. Humphrey.**

20 62. Plaintiff Keith B. Humphrey ("Keith") is the Assistant Vice President for
21 Student Affairs and Adjunct Assistant Professor of Higher Education at the U of A.

22 63. Keith's life partner is Robert "Brett" Klay ("Brett"). Keith and Brett
23 celebrated their seven-year anniversary in June 2009. They registered as domestic
24 partners with the City of Tucson in 2005, and signed documents for their protection,
25 including a trust for each other's benefit, wills designating each other as the primary
26 beneficiary, and durable health care powers of attorney and mental health care powers of
27 attorney authorizing the other to make health decisions in the event of either's incapacity.
28

1 The couple's bank accounts are jointly held and they would enter a civil marriage if
2 Arizona law permitted it.

3 64. Brett worked as a factory foreman for over 10 years. In 2006 he left his job
4 to become a stay-at-home father to the couple's children. Keith and Brett are raising
5 Brett's 15-year-old biological son and two additional foster children with significant
6 medical needs that require Brett to stay home to care for them.

7 65. When Brett and Keith first became foster parents and Brett left his factory
8 job, family coverage was not available to lesbian and gay State employees. Brett obtained
9 rudimentary coverage for two years through AHCCCS, and Keith enrolled him for family
10 coverage through U of A when it became available in 2008. Keith provided the extensive
11 documentation to demonstrate the couple's financial interdependence as required for
12 enrollment.

13 66. In August of 2009, Brett was diagnosed with a torn carotid artery, a life-
14 threatening condition. He was hospitalized for six days. A tear in the carotid artery
15 cannot be repaired surgically, and instead must heal on its own over a period many
16 months. Brett's daily regimen of medications and frequent tests must continue until the
17 artery heals. If he does not take the medication, he will be at risk for a potentially fatal
18 blood clot.

19 67. Brett's medication would cost approximately \$400.00 a month out-of-
20 pocket, and the tests he needs to monitor his carotid artery would cost approximately
21 \$770.00 out-of-pocket.

22 68. Brett has other serious medical conditions that have required hospitalization
23 and require daily medications and constant medical supervision.

24 69. Because Keith and Brett have placed the home Keith bought in their trust,
25 for which Brett is a beneficiary, Brett is unlikely to qualify for coverage through
26 AHCCCS. Without coverage through Keith's employment at U of A, Brett probably will
27 be unable to get insurance or to afford treatment he will need for his pre-existing
28 conditions.

1 3. ***Plaintiff Joseph R. Diaz.***

2 70. Plaintiff Joseph R. Diaz (“Joseph”) is an Associate Librarian at U of A,
3 where he has worked since June 1992.

4 71. Joseph’s life partner is Ruben E. Jiménez (“Ruben”). They have spent more
5 than 17 years together as a committed, loving couple and would marry if permitted by
6 Arizona law.

7 72. Joseph and Ruben have intertwined all of their finances and taken steps to
8 protect each other in the event of a crisis. They hold their checking and savings accounts
9 jointly, and own their house as joint tenants with a right of survivorship. They have
10 named each other as the primary beneficiary in their wills and on their retirement
11 accounts, and as the agent in their durable health care powers of attorney. Joseph and
12 Ruben have supported each other emotionally and financially throughout life’s challenges
13 and have exchanged promises to continue to do so throughout the rest of their lives
14 together.

15 73. When U of A began offering family coverage to lesbian and gay employees
16 in 2008, Joseph enrolled Ruben for family coverage. Ruben then was able to leave his
17 low-wage job with health benefits for a better-paying position without such benefits. It is
18 essential that Joseph and Ruben have insurance coverage for Ruben because he has high
19 cholesterol and Type 2 diabetes, a chronic, lifelong disease. Ruben requires daily
20 medication and testing strips which would cost approximately \$300.00 a month out-of-
21 pocket, far more than Ruben’s current co-pay through Joseph’s family coverage.

22 74. Joseph and Ruben have investigated whether Ruben will be eligible to
23 receive health coverage through AHCCCS when Joseph’s family coverage is eliminated.
24 They discovered that he earns approximately \$100.00 too much per month.

25 75. Joseph and Ruben have consulted with a private insurance agent to ascertain
26 whether they will be able to purchase a private insurance plan for Ruben. The agent has
27 informed them that she could not locate any individual insurance plans in Arizona that
28 would cover a person like Ruben with diabetes and high cholesterol.

1 76. The threat of losing coverage for Ruben through Joseph’s State employment
2 places this couple under tremendous pressure and stress. They would be spared this
3 anxiety and the risk of severe financial hardship if Joseph could remain eligible for the
4 same compensation as his heterosexual colleagues, including continued family coverage.

5 **4. Plaintiff Judith McDaniel.**

6 77. Plaintiff Judith McDaniel (“Judith”) is an Adjunct Instructor in the Political
7 Science and Women’s Studies Departments at U of A. She has a Ph.D. in English
8 Literature from Tufts University and a Juris Doctor degree from Rutger’s School of Law,
9 with a teaching specialty in women and the law. Judith is 66 years old.

10 78. Judith’s devoted life partner is Janet Schwartz (“Jan”), who is 62 years old.

11 79. Judith and Jan have known each other since 1983 and have been in a
12 committed, loving relationship for nearly twenty years. They held a commitment
13 ceremony in the tradition of Judith’s Quaker faith, have registered as domestic partners
14 with the City of Tucson, and married in Massachusetts on May 17, 2004, the first day that
15 same-sex couples were permitted to marry in that state. Jan has two grandsons who live
16 in Florida, and the couple shares grandparenting responsibilities.

17 80. Judith and Jan have completely commingled their finances over their years
18 together. They share responsibility for their household expenses and maintain joint
19 checking and savings accounts. They hold all credit cards in both names, and own their
20 real property as joint tenants with a right of survivorship. Each has named the other as the
21 primary beneficiary in their wills. They have durable health care powers of attorney
22 naming each other. Judith and Jan are keenly aware of the need to take these legal steps
23 as their ages advance, and Judith’s family health insurance coverage for Jan has been a
24 key part of building their domestic security.

25 81. Judith and Jan have supported each other financially at different points in
26 their respective careers. Jan paid for Judith’s tuition and supported Judith during law
27 school. After Judith graduated, Jan began pursuing a graduate degree at Prescott College,
28 and Judith now is supporting the couple financially during Jan’s studies. Jan previously

1 purchased health coverage as a student through Prescott College, but enrolled for the
2 better family coverage available through Judith's employment instead when it became
3 available. Jan will no longer qualify for student coverage after she graduates in December
4 of 2009.

5 82. Judith and Jan recently started an education consulting business together,
6 but make only a modest income through that work at this point.

7 83. Jan has been diagnosed twice with breast cancer, in 1978 and in 1990.
8 Judith and Jan are grateful that Jan has not had recurrences since then, but Jan's cancer
9 history means she must have regular check-ups both to check for a recurrence of the
10 breast cancer and because her history means she may be more susceptible to other types of
11 cancer. Jan's appointments with her obstetrician/gynecologist would cost approximately
12 \$170.00 out-of-pocket, not including the costs of tests. Jan's current co-pay for those
13 appointments through Judith's family coverage is \$20.00.

14 84. Jan also has low-tension glaucoma, a chronic condition that can lead to
15 irreversible vision loss. Yearly eye exams cost approximately \$100.00, in comparison to
16 Jan's current \$20.00 co-pay. The eye pressure exam Jan requires every three months
17 would cost her \$65.00, compared to her current \$20.00 co-pay. Jan requires eye drops for
18 her condition, which would cost approximately \$180.00 every two months if paid out-of-
19 pocket rather than Jan's \$20.00 co-pay fee through Judith's family coverage. Jan may
20 require surgery as her condition deteriorates and she needs exams to monitor her eyes
21 every three months. The appointments require only a \$20.00 co-pay fee now, but would
22 be far more expensive without the family health insurance. Judith and Jan worry that Jan
23 may require expensive eye surgery before she becomes eligible for Medicare coverage in
24 mid-2012. Delaying the surgery would not be a viable option, as time will be of the
25 essence to preserve her sight if she deteriorates enough to need surgery.

26 85. Judith and Jan have explored alternative sources of health insurance for Jan
27 without success. Their insurance broker informed them that private insurers may insure
28 Jan for care that may include cancer, but that Jan's glaucoma is an uninsurable pre-

1 existing condition regardless of price. Among Jan's options for an individual plan to
2 cover her other needs, excluding the glaucoma, the lowest deductible Jan can get is
3 \$2,600.00 for a monthly payment of \$335.00. Judith and Jan have no deductible through
4 the group plan coverage Judith receives through her employment, and their monthly
5 contribution to the premium of \$97.00 covers both of them. Jan's modest income from
6 the couple's business makes her ineligible for coverage through AHCCCS.

7 86. Judith's income as an instructor also is modest, which makes the family
8 coverage offered by U of A extremely important to them. The stripping of family
9 coverage from lesbian and gay State employees like Judith comes at a financially
10 precarious time for this couple, as they approach their retirement in an economic
11 downturn that has significantly reduced their retirement savings.

12 **5. Plaintiff Beverly Seckinger.**

13 87. Plaintiff Beverly Seckinger ("Beverly") is a Professor and Interim Director
14 of the School of Media Arts at U of A, where she has worked since 1991. Beverly is 49
15 years old.

16 88. Beverly's beloved life partner is Susan Taunton ("Susan"), who is 55 years
17 old.

18 89. Beverly and Susan have been in an exclusive, committed relationship for 22
19 years. They own their home together as joint tenants with rights of survivorship. Beverly
20 has named Susan as the beneficiary of Beverly's retirement and life insurance accounts;
21 Susan has not named Beverly as the beneficiary of such accounts only because she has
22 none. The couple shares joint responsibility for their utility and car insurance bills.

23 90. Beverly and Susan registered as domestic partners with the City of Tucson
24 in October 2005. If the State restricted family coverage to married employees and
25 allowed same-sex couples to marry, Beverly and Susan promptly would do so.

26 91. When family coverage for lesbian and gay State employees became
27 available in 2008, Beverly immediately enrolled Susan. The ability to obtain health
28 insurance for Susan was an enormous relief for the couple because Susan suffers from

1 acute asthma. She did not have health coverage when the couple moved to Arizona, and
2 had a life-threatening asthma attack during that time. Susan needs medical coverage to
3 manage the risk of similar attacks and regular doctor's appointments to maintain her
4 prescriptions. The cost of this medical care is less expensive through Beverly's family
5 coverage than if the couple had to pay out-of-pocket.

6 92. Susan also had a breast cancer scare in 2002. The health insurance she had
7 as a graduate student covered much of the cost of the biopsy and related care. Susan had a
8 similar episode in 2005 when she was uninsured. Although the condition again was
9 benign, that experience reinforced to Beverly and Susan how vulnerable they would be
10 without insurance coverage if Susan were to become seriously ill.

11 93. Susan is the primary caregiver for her 88-year-old mother, who has
12 dementia. The care of her mother precludes Susan from obtaining full-time employment.
13 Susan is instead self-employed as a freelance website designer, which allows her flex-
14 ibility to care for her mother, but does not provide access to health insurance coverage.

15 94. Beverly has researched private insurance options for Susan multiple times.
16 The private insurers Beverly contacted consistently have refused to insure Susan. A
17 private insurer recently informed Beverly that even if the insurer would cover Susan,
18 which it would not guarantee, the cost would range from \$700.00 a month for a \$250.00
19 deductible, to \$318.00 a month for a \$3,000.00 deductible. Beverly's current plan has no
20 deductible.

21 95. Susan previously qualified for medical coverage through AHCCCS but it is
22 not clear that she would qualify now. Beverly and Susan strongly prefer to maintain
23 family coverage through Beverly's employment at U of A because the quality of coverage
24 and care are better, and because they take pride in contributing to the cost of their care as
25 Beverly currently does by paying a portion of the premium each month. Beverly is
26 insulted and frustrated that she must explore coverage for her life partner through the
27 State's AHCCCS program when her heterosexual co-workers have a secure option for
28 protecting their immediate family members.

1 96. Beverly feels deeply rooted in Arizona, having lived in the state for 22
2 years. Prior to the change required by Section O, Beverly had not considered uprooting
3 her life and disrupting her commitment to U of A. But she now worries that she will have
4 no choice but to seek employment elsewhere if she cannot maintain her family coverage
5 for Susan.

6 **6. Plaintiff Stephen Russell.**

7 97. Plaintiff Stephen Russell (“Stephen”) is a professor, Fitch Nesbitt Endowed
8 Chair in Family and Consumer Sciences in the John & Doris Norton School of Family and
9 Consumer Sciences, and Director of the Frances McClelland Institute for Children, Youth,
10 & Families at U of A. Stephen was actively recruited by U of A, and has been a dedicated
11 and valuable employee since he joined the institution’s faculty in 2004. By June 2010,
12 Stephen will have secured more than \$2 million in federal contracts, research grants, and
13 private gifts for U of A. Stephen’s fundraising not only supports his own research, but
14 also helps to support the work of graduate students and postdoctoral scholars. Stephen is
15 43 years old.

16 98. Stephen has formed a committed relationship with his beloved partner,
17 William Scott Neeley (“Scott”), who is a self-employed architect and does not have health
18 insurance coverage through his employment. Scott is 54 years old.

19 99. Stephen and Scott met in 1993 and within a year were sharing a home as
20 loving, committed partners. After Stephen began teaching at the University of California,
21 Davis in 1999, the couple registered as domestic partners with the State of California as
22 soon as that status became available in 2000. The couple has assumed, through their state
23 domestic partnership registration, the same rights and responsibilities as spouses under
24 California law, including duties of financial support for each other.

25 100. Stephen and Scott celebrated their tenth anniversary on April 2, 2003 with
26 their friends and family from across the country, and have considered the event to have
27 been a public recognition of their life commitment. Each partner feels fortunate to have
28

1 been warmly embraced by the other's family, and when both of Scott's parents recently
2 passed away, Stephen was included as a full participant in the family grieving process.

3 101. Stephen and Scott have been completely financially intertwined since they
4 began living together in 1994. As the income from Scott's self-owned architecture
5 business fluctuated over the years, Stephen supported the couple with his academic salary
6 when Scott earned less. Every home the couple has owned during their relationship has
7 been jointly titled. They have joint bank accounts, and each has named the other as the
8 beneficiary of his retirement account. When the couple moved to Arizona, they retained
9 an attorney to prepare agreements to protect their relationship. Stephen and Scott have
10 named each other as the primary beneficiary in their will and appointed each other to
11 make medical decisions in case of incapacity.

12 102. Stephen and Scott are raising a teenage boy who joined their family in
13 January of 2009 after suffering years of abuse and neglect.

14 103. In July of 2009 Scott discovered blood in his urine and has needed urology
15 care and tests to assess the possibility of prostate cancer. Scott has undergone a number
16 of tests, but still needs more. Stephen and Scott hope that Scott's symptoms have a
17 benign cause, but the episode has reminded them of how vulnerable they would be if Scott
18 were to contract a serious illness without health insurance coverage.

19 104. Stephen and Scott previously purchased an individual insurance policy for
20 Scott, but as of fall 2008, the couple paid approximately \$500.00 a month for a plan that
21 offered only catastrophic coverage. Stephen accepted the position with U of A in
22 significant part because, when he was being recruited, the university actively was
23 pursuing family coverage for employees with a committed same-sex partner.

24 **7. Plaintiff Deanna Pflieger.**

25 105. Plaintiff Deanna Pflieger ("Deanna"), who is 43 years old, has been a
26 dedicated employee of Arizona's Game and Fish Department for 17 years.

27 106. Deanna is a State peace officer who currently serves as a Wildlife Manager
28 III. She has a Bachelor of Science degree in Wildlife Biology, has had police officer

1 training and certification, and has received additional training and is commissioned as a
2 Game Ranger. Deanna's certification authorizes her to enforce all Arizona laws,
3 including the criminal code, but her primary responsibility is to enforce Arizona's game
4 and fish laws. Deanna also works as a wildlife biologist for the State. Her responsibilities
5 include, for example, patrolling waterways, ensuring that people hunt only within legal
6 limits, helping to execute search warrants, and monitoring species' populations for
7 permitting recommendations.

8 107. Deanna's job often requires her to work in isolation with her nearest
9 neighboring wardens at least an hour-and-a-half away. Both Deanna and her life partner
10 are aware that if Deanna were to be injured during her work, she would not have
11 immediate assistance and would need back-up from another agency. Deanna faces
12 particular risks when working at night to prevent poaching and illegal hunting, and when
13 doing wildlife survey work by helicopter at low altitude and low speeds.

14 108. Deanna is in a committed, loving relationship with Mia LaBarbara ("Mia"),
15 and the couple will celebrate their twentieth anniversary on Valentine's Day in 2010. Mia
16 is 42 years old.

17 109. Deanna and Mia have two children, aged 10 and 7, that they planned for and
18 are raising together as equal co-parents.

19 110. Mia had worked for over 12 years as a Regional Interpretive Planner with
20 the Interpretive Education Department of the Arizona State Parks, until she was laid off in
21 October of 2009.

22 111. Deanna and Mia would marry each other if Arizona law permitted and hope
23 that they will be able to fulfill that dream within their lifetime. Over their nearly 20 years
24 together, the couple has become completely interdependent emotionally and financially.
25 They have each nursed each other through illnesses, including surgery, and Deanna's
26 hospitalization after a car accident.

27 112. Deanna and Mia contribute jointly to their household expenses, and they
28 have supported each other financially. Deanna and Mia are both named on the title and

1 the mortgage for their home. They maintain a joint car insurance policy, and joint check-
2 ing and savings accounts. Each has named the other as the beneficiary of her retirement
3 account. Recognizing the risk inherent in her work, Deanna has purchased additional life
4 insurance to help provide for the family, and Mia is named as the primary beneficiary.
5 Deanna and Mia have prepared agreements and other legal documents to protect their
6 family, and they have each named the other as the primary beneficiary in their wills, and
7 as each other's representative for health care decisions. Deanna, the biological mother of
8 the couple's two children, has named Mia as the guardian of both children in her will.

9 113. Deanna enrolled Mia for family coverage through her employment in 2008,
10 and again during open enrollment in 2009, after the couple realized that covering Mia
11 under a "family plan" through Deanna's employment did not cost any additional money
12 for their family or the State, while insuring Mia as an individual through her own
13 employment cost the State approximately \$500.00 per month. Deanna and Mia will now
14 lose both forms of health insurance coverage for Mia because Mia has lost her job, and the
15 couple is being stripped of Deanna's family coverage.

16 114. Mia may not qualify for coverage under the Consolidated Omnibus Budget
17 Reconciliation Act ("COBRA") through her employment because she had declined
18 individual health coverage while she was employed, in reliance on the family coverage
19 available through Deanna's job. Mia must apply for COBRA coverage to determine
20 whether she is eligible to receive it. Any such coverage would last only 18 months and
21 would come at an additional cost of several hundred dollars a month beyond what the
22 couple now pays for family coverage.

23 115. Mia is likely to have difficulty qualifying for coverage through AHCCCS
24 because it appears that her unemployment benefits exceed the income eligibility
25 requirements. Deanna has researched the cost of insuring Mia through a private health
26 insurance plan but has been informed that the least expensive plan, for a \$64.00 monthly
27 premium, would come with a \$14,000.00 deductible. The plan with the lowest deductible,
28 of \$3,000.00, would cost the couple \$171.00 per month, an amount this family of four can

1 ill afford now that Mia is unemployed. The family coverage Deanna receives through her
2 employment carries no deductible. Far more frightening for the couple, Deanna has
3 learned that if Mia were to be diagnosed with high blood pressure—a condition for which
4 Mia has previously required medication—her application for private insurance would not
5 even be considered, at least by some insurers.

6 116. The loss of family coverage for Mia comes at a particularly stressful time
7 for the couple. Mia began experiencing significant abdominal pain in spring of 2009, and
8 despite undergoing numerous tests, Mia has not received any diagnosis. The pain's
9 intensity is unpredictable, and in July of 2009 Mia had an episode so acute that she
10 required treatment from an emergency room.

11 117. During the course of her tests, Mia's doctor discovered that she may have
12 ovarian cancer. Mia will undergo surgery this month to remove the ovary and then will
13 require regular monitoring to ensure that her other ovary remains healthy. Deanna and
14 Mia are particularly worried about this development because Mia previously was
15 diagnosed as being at heightened risk for colon cancer. Mia requires a colonoscopy to
16 monitor her condition every three to five years, which would cost approximately
17 \$3,500.00 out-of-pocket, far more than the \$50.00 co-pay under Deanna's family
18 coverage.

19 118. Mia continues to have regular abdominal pain, and Deanna and Mia find the
20 prospect of coping with that condition in addition to the need for periodic cancer
21 screening and the possibility of a cancer diagnosis, all without family coverage, to be
22 extremely stressful and threatening medically, emotionally and financially.

23 119. Deanna has shouldered employment compensation inequity for years. She
24 is aware that the spousal benefits provided after an officer's death in the line of duty are
25 not provided to a committed same-sex life partner, and that if she dies as a retiree of the
26 State, Mia will receive pension payments only so long as the couple's children are minors
27 or full-time students under age 23, instead of the lifetime pension provided for a spouse.
28 The elimination of family coverage, however, upon which Deanna and Mia rely as an

1 essential part of Deanna’s compensation, is an especially problematic denial of equal
2 treatment, given this couple’s worries about Mia’s ongoing health issues and needs.

3 120. Allowing Deanna to continue receiving family coverage through the family
4 plan would not cost the State one additional cent in insurance premiums. Deanna already
5 purchases a “family plan” that covers Deanna and her two biological children. There is no
6 additional cost, for either the employee or the State, to include an additional family
7 member to that plan.

8 **8. Plaintiff Corey Seemiller.**

9 121. Plaintiff Corey Seemiller (“Corey”) is the Program Director for Curricular
10 Leadership in the Center for Student Involvement & Leadership (“Center”) at the U of A,
11 and she has worked full-time for the university since July of 2002. Corey oversees U of
12 A’s classes in student leadership and the Arizona Blue Chip Program, a leadership
13 program at the Center that serves 450 students. Corey has a unique and specialized
14 knowledge of U of A’s leadership programming because she designed eleven of U of A’s
15 leadership courses for the Department of Educational Leadership while she completed her
16 doctoral degree at U of A, and the department is now relying on her specialized expertise
17 to help design a Minor in Leadership Studies. Corey is 36 years old.

18 122. Corey’s committed life partner is Karrie Mitchell (“Karrie”). Karrie is a
19 counselor at Pima Community College, and is 33 years old.

20 123. Corey and Karrie have been a loving, committed couple since June of 2002,
21 and have made a life-long pledge to care for and support each other. They registered as
22 domestic partners with the County of Pima on April 16, 2004, followed by a commitment
23 ceremony to celebrate with family and friends.

24 124. Corey and Karrie have blended their financial assets and responsibilities and
25 are completely interdependent financially. The couple has jointly owned their home since
26 2003. They maintain joint checking and savings accounts. They treat all of their
27 household expenses as mutual. They have each purchased life insurance and named the
28

1 other as the beneficiary. The couple has executed power of attorney forms authorizing
2 each other to make medical and financial decisions in the event of the other's incapacity.

3 125. Corey and Karrie have a seven-month-old baby girl, K.S.M. The couple
4 planned every aspect of Karrie's pregnancy together and has equally parented K.S.M.
5 since she was born.

6 126. Karrie is the biological mother of K.S.M.. Because Arizona's statutes
7 currently do not permit a lesbian or gay co-parent to adopt a child without terminating the
8 existing legal parent's rights, Corey is unable to secure her relationship to K.S.M. through
9 adoption. Corey and Karrie accordingly have taken additional life planning steps to
10 provide as much security as possible to their child, including executing a co-parenting
11 agreement and a power of attorney document that allows Corey to make decisions about
12 K.S.M.'s medical care and education, and creating a trust so that K.S.M. is financially
13 provided for in the event that either Corey or Karrie passes away.

14 127. When K.S.M. was born, the couple initially enrolled her to receive health
15 coverage through Karrie's employment, but quickly realized that the \$330.00 monthly
16 premium was unaffordable for them. Because Corey was allowed to provide family
17 coverage to the child of her qualifying domestic partner, Corey was able to enroll K.S.M.
18 for family coverage through U of A for a premium of \$30.00 per month, which relieved
19 the couple of an enormous financial burden. To secure the coverage for K.S.M., Corey
20 had to submit an affidavit of domestic partnership and supporting documentation on the
21 same terms as other State employees seeking family coverage for a committed life partner.
22 Because Corey and Karrie continue to meet the eligibility criteria for family coverage,
23 K.S.M. remains eligible for family coverage as a child of Corey's domestic partner.

24 128. Corey and Karrie were extremely worried after H.B. 2013 was approved and
25 signed by Defendant Brewer that the designated October 1, 2009 effective date for Section
26 O would leave K.S.M. without health coverage unless they acted quickly to secure
27 alternative insurance. Before the Department announced that it would recognize
28 November 24, 2009 as the effective date for H.B. 2013, the couple arranged coverage for

1 K.S.M. through Karrie's employment based on the qualifying life event of K.S.M.'s
2 expected loss of insurance, and accordingly they did not re-enroll K.S.M. for family
3 coverage during Corey's open enrollment period. Karrie was able to secure a reduced
4 premium rate of approximately \$230.00 per month when she enrolled K.S.M. as her child,
5 but this is still significantly more than the \$40.00 the couple would pay through the plan
6 Corey selected during the 2009 open enrollment period.

7 129. Absent another qualifying life event, Corey has lost the opportunity to re-
8 enroll K.S.M. for family coverage because she relied upon Section O's stated effective
9 date of October 1, 2009, and took responsible steps to secure alternative coverage for
10 K.S.M..

11 130. These circumstances have placed Corey and her family under significant
12 stress that her heterosexual colleagues do not face because they can insure the qualifying
13 child of a spouse. While Corey previously has supplemented the couple's income with
14 consulting work and adjunct teaching in the evenings, she felt pressed to take on much
15 more evening teaching duties this semester to help pay for K.S.M.'s health insurance.
16 Given Corey's full-time job at U of A, this schedule is exhausting and deprives Corey of
17 time she otherwise would spend at home with her family.

18 **9. Plaintiff Carrie Sperling.**

19 131. Plaintiff Carrie Sperling ("Carrie") is a Visiting Clinical Associate Professor
20 of Law at Arizona State University ("ASU"), where she has taught since 2007. Carrie is
21 43 years old.

22 132. Carrie's life partner is Sue Shapcott ("Sue"), who is 40 years old. Sue is
23 self-employed as a golf instructor and does not have health insurance through her
24 employment. During the 2009 open enrollment period, Carrie enrolled Sue for family
25 coverage.

26 133. Carrie and Sue have been in a committed, loving relationship since 2006. In
27 May of 2008 they traveled to Great Britain, where Sue was born, and entered into a civil
28 partnership that grants them the same rights and responsibilities accorded to spouses under

1 British law. Carrie and Sue solemnized their partnership before over two dozen of their
2 family and friends. Carrie and Sue would marry each other if Arizona law permitted.

3 134. Carrie and Sue have made mutual pledges to support each other emotionally
4 and financially. They own their Phoenix home as joint tenants with rights of survivorship,
5 have a joint mortgage, and both contribute to their household expenses. They have joint
6 bank accounts, and each has designated the other as the beneficiary of their life insurance.
7 Carrie and Sue have named each other as the primary beneficiary in their wills, and as
8 each other's representative in their durable health care powers of attorney.

9 135. Carrie and Sue lived in Dallas, Texas before Carrie accepted her current
10 position with ASU. At the time Carrie accepted her current position, she knew the State
11 was pursuing family coverage for domestic partners. This was a significant factor in
12 Carrie's decision to accept, and to continue in the job, and the couple's decision to move
13 away from the thriving business Sue had built in Dallas.

14 136. Sue has researched private insurance plan options and has confirmed that
15 the individual plans available on the market are more expensive. While Carrie pays
16 approximately \$80.00 per month to insure both Carrie and Sue with a \$1,200.00
17 deductible through Carrie's employment, the couple would have to pay at least an
18 additional \$122.00 per month for an individual plan for Sue with a \$3,000.00 deductible.
19 This would be a frustrating burden for the couple after they sacrificed significant income
20 by leaving Sue's business in Dallas so Carrie could accept her current position at ASU.

21 **10. Plaintiff Leslie Kemp.**

22 137. Plaintiff Leslie Kemp ("Leslie") is a Marketing Coordinator at Northern
23 Arizona University ("NAU"). Leslie has worked for NAU since 2005. She is 39 years
24 old.

25 138. Leslie's life partner is Jennifer Morris ("Jennifer"), who is 37 years old.

26 139. During the 2009 open enrollment period, Leslie enrolled Jennifer for family
27 coverage.

28

1 140. Leslie and Jennifer have been a committed couple since 2004. They held a
2 commitment ceremony in 2005, attended by many friends and both of their families.
3 Leslie and Jennifer would marry each other if Arizona law permitted.

4 141. Leslie and Jennifer have combined their finances and exchanged promises to
5 provide for each other's financial needs. They have named each other as the primary
6 beneficiary in their respective wills, and have designated each other to make medical
7 decisions in their durable health care powers of attorney. They own a home as joint
8 tenants with rights of survivorship and a joint mortgage, which they now rent to a tenant
9 having relocated closer to the NAU campus for Leslie's job. The couple now jointly
10 leases an apartment. Leslie and Jennifer have joint bank accounts, own their car together,
11 and have joint home and car insurance policies. Leslie has named Jennifer as the
12 beneficiary of her life insurance policy.

13 142. Jennifer is a senior tour guide with a small jeep tour company in Sedona,
14 Arizona. Although Jennifer is eligible for health insurance through her employment, the
15 coverage is more expensive and inferior to what is available for her through Leslie's
16 employment. Leslie currently contributes approximately \$100.00 a month for family
17 insurance covering Leslie, Jennifer and their two-and-a-half-year-old son. Purchasing
18 insurance for Jennifer through Jennifer's job would cost approximately \$175.00 per month
19 with a \$1,500.00 deductible, and the plan would not cover most doctor's office visits.

20 143. With a young son, and Leslie expecting to give birth to a second son in early
21 2010, Leslie and Jennifer do not have the means to purchase the more expensive plan
22 available through Jennifer's job. Without Leslie's family coverage, they would have to
23 forego health insurance for Jennifer in order to save for the arrival of their second child.

24
25 **C. No Adequate Governmental Interests Exist To Justify The State's
Discriminatory Employment Compensation System.**

26 144. Public and private employers who offer family coverage on
27 nondiscriminatory grounds to all employees achieve a number of economic and business
28

1 advantages, including the ability to attract more talented and highly skilled employees,
2 decrease turnover, and improve employee morale and productivity.

3 145. In addition to the positive effects on recruitment and retention of excellent
4 employees, many employers offer nondiscriminatory family benefits as a core part of their
5 commitment to a diverse workforce. That the State has shared this interest in its role as an
6 employer is evidenced by former Governor Napolitano's Executive Order No. 2003-22
7 prohibiting discrimination in State employment based on sexual orientation.

8 146. Providing equal family coverage to lesbian and gay State employees not
9 only fosters the important goal of diversity but allows major State employers to compete
10 for and retain talented, trained employees.

11 147. The costs of domestic partner benefits to employers generally are limited
12 because, among other reasons, the pool of lesbian and gay employees usually is very
13 small, and not all employees in same-sex relationships enroll for domestic partner
14 benefits.

15 148. Alan Ecker, a spokesperson for the Department has reported that the
16 elimination of family coverage for State employees' unmarried partners will affect
17 approximately 800 employees and will save \$3.3 million of the State's annual employee
18 health care budget of \$650 million. Upon information and belief, State employees with a
19 committed same-sex life partner comprise a small fraction of that 800 employees figure,
20 meaning that family coverage for lesbian and gay State employees with a same-sex life
21 partner costs far less than the less-than-one-percent figure attributable to unmarried
22 domestic partners generally. In other words, offering this important benefit to the small
23 pool of lesbian and gay State employees who otherwise are categorically barred from
24 family coverage because they cannot marry causes only negligible costs for the State.

25 149. Upon information and belief, the minimal costs of providing family
26 coverage to lesbian and gay State employees is offset by the resulting reduced use of
27 AHCCCS, which is more costly on average to the State than allowing employees to share
28 the cost of their health insurance by paying a portion of the premium for family coverage.

1 Additionally, employees receiving family coverage for a same-sex life partner are taxed
2 by the State on the value of those benefits, unlike their married counterparts, providing the
3 State with additional income tax revenue.

4 150. Public employers in Arizona have confirmed the lack of disproportionate
5 costs of domestic partner health coverage, the related cost-savings, and the positive effects
6 on employee retention and positive morale. Municipal employers in Arizona now
7 offering family coverage to their lesbian and gay employees include Pima County and the
8 Cities of Phoenix, Tempe, Scottsdale, and Tucson. Nationally, this equal compensation
9 practice has been adopted by increasing numbers of public and private employers. At
10 least 18 states and the District of Columbia now offer family coverage to lesbian and gay
11 state employees. More than eighty percent of the Fortune 100 companies offer family
12 coverage to lesbian and gay employees, as do a majority of the Fortune 500 companies.

13 151. Many major private employers who compete with the State for talented,
14 skilled employees now offer family coverage to lesbian and gay employees. A
15 representative sampling of such companies includes American Express, Bank One, Bank
16 of America, Banner Health Systems, Costco Wholesale, Cox Communications, Gannett,
17 Hilton Hotels, Home Depot, Honeywell, IBM, Intel, Intuit, Marriott International,
18 Medtronic, Morgan Stanley, Motorola, Qwest, Raytheon, Sears, Target, Texas
19 Instruments, UPS, Walgreen's and Wells Fargo. In addition to those national companies,
20 dozens of private employers headquartered in Arizona that compete directly with the State
21 for the most qualified employees offer family coverage to lesbian and gay employees.

22 152. Section O was adopted to withdraw equal treatment from lesbian and gay
23 State employees, including Plaintiffs, and to exclude such employees and to deem them
24 and their families unworthy of concern and protection based on their sexual orientation
25 and sex in relation to their respective life partner's sex.

26 153. Although government may have a valid interest in cost containment, it may
27 not pursue that interest by making invidiously discriminatory distinctions between classes
28 of its citizens and offering valuable benefits to some, while selectively withholding those

1 benefits from others, such as Plaintiffs here, without adequate justification for that
2 differential treatment.

3 154. Although government may have a valid interest in preventing fraud in its
4 benefits programs, the State's domestic partner benefits program has had rigorous
5 eligibility criteria that limit family coverage to employees in financially interdependent,
6 committed relationships. No disproportionate fraud exists to justify the State's
7 discriminatory withdrawal of valuable family coverage from lesbian and gay employees
8 with a same-sex life partner while continuing such coverage for married heterosexual
9 employees.

10 155. The State's explicit policy of discrimination inflicts significant harm upon
11 Plaintiffs, including depriving them of their constitutional right to equally respectful
12 treatment and protection, imposing financial deprivations and emotional distress, and
13 sending a strong message of stigma and devaluation of Plaintiffs, the State's other lesbian
14 and gay employees and their families, all because of their sexual orientation and their sex
15 in relation to the sex of their committed life partner.

16 156. Employment benefits provided to employees routinely are valued at
17 between one-fifth and one-third of total compensation. Thus, family coverage for a
18 spouse or same-sex life partner is valuable financially as well as emotionally for most
19 employees. The State's deliberate elimination of domestic partner benefits, while
20 maintaining spousal benefits and denying its lesbian and gay employees any way to
21 qualify for family benefits other than heterosexual marriage, accordingly requires those
22 lesbian and gay employees to perform equal work for less compensation.

23 157. There is no legitimate, let alone compelling, governmental interest served by
24 denying lesbian and gay State employees, including Plaintiffs, equal compensation in the
25 form of family coverage.

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28

FIRST CLAIM FOR RELIEF

Equal Protection on the Basis of Sexual Orientation and Sex

U.S. Const. Amend. XIV, 42 U.S.C. § 1983

158. Plaintiffs incorporate by reference and reallege paragraphs 1 to 158 of this complaint.

159. Plaintiffs state this cause of action against Defendants in their official capacities for purposes of seeking declaratory and injunctive relief.

160. Plaintiffs state this cause of action against Defendants in their personal capacities for purposes of seeking damages that they have incurred and will incur if Defendants are not enjoined from enforcing Section O to strip family coverage from Plaintiffs, in violation of Plaintiffs' rights to equal protection under the Fourteenth Amendment to the United States Constitution.

161. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall deny to any person the equal protection of the laws. Defendants' conduct violates Plaintiffs' right to equal protection of the laws, and specifically Plaintiffs' right not to be denied equal protection on the basis of sexual orientation or sex.

162. Defendants deny equal compensation to lesbian and gay State employees by their withdrawal of domestic partner coverage, and by their categorical refusal to offer any other way for employees to qualify a same-sex life partner within the State's family health insurance plans, with no constitutionally adequate reasons for this knowing and intentional withdrawal and refusal. Defendants' conduct and omissions, and policies and practices in their establishment and administration of the health benefits plans for State employees, including in particular Defendants' implementation of Section O, subjects Plaintiffs to intentionally differential, adverse and inferior treatment because of Plaintiffs' sexual orientation as lesbians and gay men and because of each Plaintiff's sex in relation to the sex of his or her committed life partner.

1 163. By conditioning the receipt of family coverage on the legal relationship
2 status of “spouse,” from which lesbian and gay State employees, including Plaintiffs,
3 categorically are excluded because of their sexual orientation and each one’s sex in
4 relation to the sex of his or her life partner, Section O and Defendants’ actions to
5 implement Section O discriminate against lesbian and gay employees, including the
6 Plaintiffs, both facially and as applied, based on Plaintiffs’ sexual orientation and sex.

7 164. All of Defendants’ acts or omissions and policies and practices alleged
8 herein were, and if not enjoined, will continue to be committed intentionally and
9 purposefully because of Plaintiffs’ sexual orientation and sex in relation to the sex of each
10 one’s committed life partner.

11 165. Plaintiffs are similarly situated in every relevant respect to the heterosexual
12 State employees who Defendants invite to qualify their different-sex life partners and
13 partners’ children for family coverage through marriage.

14 166. Defendants’ denial of equal compensation to lesbian and gay State
15 employees as a class by Defendants’ elimination of domestic partner benefits, and by
16 Defendants’ categorical refusal to allow State employees any means to qualify a same-sex
17 life partner or partner’s children for family coverage, reflects moral disapproval and
18 antipathy toward lesbians and gay men, including Plaintiffs, serves no legitimate
19 government interest and is, therefore, invalid under any form of constitutional scrutiny.

20 167. Defendants’ intentional stripping of family coverage from lesbian and gay
21 State employees, including Plaintiffs, and denial to that class of employees of any way to
22 qualify for family coverage for a same-sex life partner or partner’s children, purposefully
23 singles out a minority group that historically has suffered unjust and discriminatory
24 treatment in law and society based on group members’ sexual orientation and sex in
25 relation to the sex of each one’s committed life partner.

26 168. Defendants’ categorical denial of equal compensation to Plaintiffs based on
27 their sexual orientation and sex in relation to the sex of each one’s committed life partner
28 subjects Defendants’ conduct to strict or at least heightened scrutiny, which Defendants’

1 conduct cannot withstand because Defendants' conduct does not even serve any legitimate
2 governmental interests, let alone any important or compelling such interests, nor does it
3 serve any such interests in an adequately tailored manner.

4 169. All of Defendants' acts or omissions and policies and practices alleged
5 herein were, and if not enjoined, will continue to be committed intentionally and
6 purposefully because of Plaintiffs' sexual orientation and sex in relation to the sex of each
7 one's committed life partner.

8 170. Defendant Brewer, through her own individual actions, has acted personally,
9 purposefully and intentionally to violate Plaintiffs' rights to equal protection under the
10 Fourteenth Amendment to the United States Constitution. Defendant Brewer acted with
11 discriminatory purpose in approving Section O and did so because of Section O's adverse
12 effects on lesbian and gay State employees, including the Plaintiffs, based on their sexual
13 orientation and sex in relation to the sex of each one's committed life partner.

14 171. Defendant Brewer acted personally, purposefully and intentionally when she
15 reviewed and approved Section O by signing H.B. 2013, thereby knowingly and
16 deliberately effectuating that section's purpose of limiting family coverage to heterosexual
17 employees with a different-sex spouse, and stripping lesbian and gay State employees of
18 family coverage.

19 172. Upon information and belief, Defendant Brewer has the duty and authority
20 to ensure that the Department implements Section O, and through her own individual
21 actions, has acted and, if not enjoined, will continue to act personally to violate Plaintiffs'
22 right to equal protection by implementing Section O to strip Plaintiffs of access to family
23 coverage for a committed same-sex life partner, thereby proximately causing Plaintiffs'
24 injury.

25 173. Defendant Brewer, having acted personally, purposefully and intentionally
26 to review and approve Section O by signing H.B. 2013, directly caused actions by others
27 to enforce and implement Section O which Defendant Brewer knew, or reasonably should
28 have known, would cause others to inflict these constitutional injuries upon Plaintiffs.

1 Upon information and belief, Defendant Brewer has knowingly refused to terminate
2 anticipated action by others who are charged to implement State law and policies,
3 including Section O's elimination of family coverage for Plaintiffs, is culpable for her
4 actions and inactions in her supervision and control of subordinates who will
5 unconstitutionally deprive Plaintiffs of family coverage, has caused and acquiesced in this
6 constitutional deprivation to be effectuated by her subordinates, and has engaged in
7 conduct demonstrating a reckless and callous indifference to the constitutional rights of
8 Plaintiffs.

9 174. If not enjoined, Defendant Raber, through his own individual actions, will
10 act personally to violate Plaintiffs' rights to equal protection under the Fourteenth
11 Amendment to the United States Constitution by implementing and directing subordinates
12 to implement Section O to strip Plaintiffs of access to family coverage, thereby
13 proximately causing them injury. Defendant Raber will act personally and with
14 discriminatory purpose and intent in enforcing Section O because of Section O's adverse
15 effects on lesbian and gay State employees, including Plaintiffs, based on each Plaintiff's
16 sexual orientation and sex in relation to the sex of his or her committed life partner.

17 175. Defendant Raber has direct and personal responsibility for the direction,
18 operation and control of the Department, and is responsible to the Governor for the
19 direction, control and operation of the Department, which includes formulating plans and
20 programs, and making contracts, to implement employment policies required by statute,
21 such as and specifically including Section O. In this capacity, unless enjoined, Defendant
22 Raber will be personally involved in decisions and actions that will violate Plaintiffs' right
23 to equal protection by implementing Section O and stripping Plaintiffs of family coverage,
24 thereby proximately causing them injury.

25 176. Defendant Raber, upon acting personally, purposefully and intentionally to
26 enforce Section O, has or will set in motion acts by others to enforce and implement
27 Section O which Defendant Raber knows, or reasonably should know, will cause others to
28 inflict these constitutional injuries upon the Plaintiffs. Upon information and belief,

1 Defendant Raber has knowingly refused to terminate anticipated action by others to
2 implement Section O, is culpable for his actions and inactions in his supervision and
3 control of subordinates who are charged to implement Section O, has acquiesced in this
4 constitutional deprivation to be effectuated by his purposeful actions and those of his
5 subordinates, and has engaged in conduct demonstrating a reckless and callous
6 indifference to the constitutional rights of Plaintiffs to be treated equally in their
7 compensation, including an equal opportunity to qualify immediate family members for
8 health coverage.

9 177. If not enjoined, Defendant Peckardt, through her own individual actions,
10 will act personally to violate Plaintiffs' rights to equal protection under the Fourteenth
11 Amendment to the United States Constitution by implementing and directing subordinates
12 to implement Section O to strip Plaintiffs of access to family coverage, thereby
13 proximately causing them injury. Defendant Peckardt will act personally and with
14 discriminatory purpose and intent in enforcing Section O because of Section O's adverse
15 effects on lesbian and gay State employees, including Plaintiffs, based on each Plaintiff's
16 sexual orientation and sex in relation to the sex of his or her committed life partner.

17 178. Defendant Peckardt plays a direct, personal and leading role in determining
18 the structure of, and eligibility for, the State's health benefits plans. Defendant Peckardt
19 led the Department's transition from fully insured to self-insured health benefits plans;
20 established the State's employee portal providing access to human resources information;
21 and oversees the State's Human Resources Information Solution, an integrated benefits,
22 payroll and human resources system. Upon information and belief, these and Defendant
23 Peckardt's other responsibilities require that, unless enjoined, Defendant Peckardt
24 necessarily will be involved personally in decisions and actions that will violate Plaintiffs'
25 right to equal protection by implementing Section O and stripping Plaintiffs of family
26 coverage, thereby proximately causing them injury.

27 179. Defendant Peckardt, upon acting personally, purposefully and intentionally
28 to enforce Section O, has or will set in motion acts by others to enforce and implement

1 Section O which Defendant Peckardt knows, or reasonably should know, will cause others
2 to inflict these constitutional injuries upon Plaintiffs. Upon information and belief,
3 Defendant Peckardt has knowingly refused to terminate anticipated action by others to
4 implement Section O, is culpable for her actions and inactions in her supervision and
5 control of subordinates who are charged to implement Section O, has acquiesced in this
6 constitutional deprivation to be effectuated by her purposeful actions and those of her
7 subordinates, and has engaged in conduct demonstrating a reckless and callous
8 indifference to Plaintiffs' constitutional rights to be treated equally in their compensation,
9 which must include an equal opportunity to qualify immediate family members for health
10 coverage.

11 180. If not enjoined, Defendant Hamilton, through his own individual actions,
12 will act personally to violate Plaintiffs' rights to equal protection under the Fourteenth
13 Amendment to the United States Constitution by implementing and directing subordinates
14 to implement Section O to strip Plaintiffs of access to family coverage, thereby
15 proximately causing them injury. Defendant Hamilton will act personally and with
16 discriminatory purpose and intent in enforcing Section O because of Section O's adverse
17 effects on lesbian and gay State employees, including Plaintiffs, based on each Plaintiff's
18 sexual orientation and sex in relation to the sex of his or her committed life partner.

19 181. As Assistant Director, Defendant Hamilton is the Plan Administrator for the
20 State, which requires that he manage the group plans through which \$750 million in
21 health, dental, life, disability and vision insurance benefits are provided to approximately
22 140,000 State employees, retirees, and their dependents. Upon information and belief,
23 these and Defendant Hamilton's other responsibilities require that, unless enjoined,
24 Defendant Hamilton necessarily will be involved personally in decisions and actions that
25 will violate Plaintiffs' right to equal protection by implementing Section O and stripping
26 Plaintiffs of family coverage, thereby proximately causing them injury.

27 182. Defendant Hamilton, upon acting personally, purposefully and intentionally
28 to enforce Section O, has or will set in motion acts by others to enforce and implement

1 Section O which Defendant Hamilton knows, or reasonably should know, will cause
2 others to inflict these constitutional injuries upon Plaintiffs. Upon information and belief,
3 Defendant Hamilton has knowingly refused to terminate anticipated action by others to
4 implement Section O, is culpable for his actions and inactions in his supervision and
5 control of subordinates who are charged to implement Section O, has acquiesced in this
6 constitutional deprivation to be effectuated by his purposeful actions and those of his
7 subordinates, and has engaged in conduct demonstrating a reckless and callous
8 indifference to Plaintiffs' constitutional rights to be treated equally in their compensation,
9 which must include an equal opportunity to qualify immediate family members for health
10 coverage.

11 183. Upon information and belief, Does 1 through 100 are in some manner
12 responsible and culpable for Plaintiffs' injuries, and if not enjoined will act personally to
13 violate Plaintiffs' rights to equal protection under the Fourteenth Amendment to the
14 United States Constitution.

15 184. Section O's categorical denial of equal compensation in the form of family
16 coverage for lesbian and gay State employees with a committed same-sex life partner, and
17 Defendants' conduct and omissions and policies and practices to effectuate Section O's
18 withdrawal of this coverage from this class of State employees, impairs Plaintiffs'
19 protected liberty interest in having an intimate relationship with another consenting adult
20 as part of each Plaintiff's private life on the discriminatory basis of Plaintiffs' sexual
21 orientation and sex with respect to the sex of each one's life partner. Defendants have
22 previously and are now discriminating against lesbian and gay State employees, including
23 Plaintiffs, based on sexual orientation with respect to the exercise of Plaintiffs'
24 fundamental rights. Discriminatory treatment based on Plaintiffs' sexual orientation and
25 sex, and with respect to Plaintiffs' exercise of fundamental rights, subjects Defendants'
26 conduct to strict or at least heightened scrutiny, which Defendants' conduct cannot
27 withstand.
28

1 185. The categorical denial of equal compensation in the form of family coverage
2 to the class of lesbian and gay State employees with a committed same-sex life partner
3 violates the Equal Protection Clause of the Fourteenth Amendment to the United States
4 Constitution. Defendants have been and are acting under color of state law at all relevant
5 times in their implementation of Section O and their resulting and purposeful violation of
6 Plaintiffs' constitutional rights. Defendants' actions and omissions, and practices and
7 policies, both facially and as applied to Plaintiffs, violate Plaintiffs' clearly established
8 constitutional rights, of which a reasonable person would have known, to equal treatment
9 without regard to sexual orientation or sex, under the Fourteenth Amendment to the
10 United States Constitution.

11 **SECOND CLAIM FOR RELIEF**

12 **Substantive Due Process**

13 **U.S. Const. Amend. XIV, 42 U.S.C. § 1983**

14 186. Plaintiffs incorporate by reference and reallege paragraphs 1 to 185 of this
15 complaint.

16 187. Plaintiffs state this cause of action against Defendants in their official
17 capacities for purposes of seeking declaratory and injunctive relief.

18 188. Plaintiffs state this cause of action against Defendants in their personal
19 capacities for purposes of seeking damages that they have incurred or will incur, if
20 Defendants are not enjoined from enforcing Section O to strip family coverage from
21 Plaintiffs, in violation of Plaintiffs' rights to substantive due process under the Fourteenth
22 Amendment to the United States Constitution.

23 189. The Fourteenth Amendment to the United States Constitution, enforceable
24 pursuant to 42 U.S.C. § 1983, provides that no state shall deprive any person of life,
25 liberty, or property without due process of law. The above-described conduct by
26 Defendants infringes upon Plaintiffs' fundamental rights and protected liberty interests,
27 and in so doing violates Plaintiffs' right not to be deprived of substantive due process.
28

1 190. The Fourteenth Amendment's Due Process Clause has a substantive
2 component that protects against government interference with fundamental rights and
3 protected liberty interests. Each Plaintiff has a protected, fundamental right and liberty
4 interest in his or her private intimate conduct and family relationship with his or her
5 committed same-sex life partner.

6 191. The categorical denial of equal compensation in the form of family coverage
7 to the class of lesbian and gay State employees with a committed same-sex life partner,
8 and Defendants' conduct and omissions, and policies and practices in connection
9 therewith, impermissibly infringe upon, intrude upon, and subject Plaintiffs to punishment
10 and penalty based upon Plaintiffs' exercise of their fundamental right and protected liberty
11 interest without compelling, substantial or otherwise sufficient reason, or adequate
12 tailoring, in violation of Plaintiffs' rights under the Due Process Clause of the Fourteenth
13 Amendment.

14 192. The categorical denial of equal compensation in the form of family coverage
15 for lesbian and gay State employees with a committed same-sex life partner, and
16 Defendants' conduct and omissions, and policies and practices in connection therewith,
17 select for disfavored treatment lesbian and gay State employees who exercise this
18 fundamental right and liberty interest with a same-sex life partner, and provide favored
19 treatment to married heterosexual employees who exercise this right and interest with a
20 different-sex life partner, impermissibly burdening and infringing upon Plaintiffs' exercise
21 of their protected rights. There is no compelling, important, legitimate or otherwise
22 adequate state interest to justify this intrusion by Defendants into the personal and private
23 lives of Plaintiffs, and this burdening of their exercise of fundamental rights and
24 enjoyment of protected liberty interests therein, and Defendants' actions and omissions
25 and policies and practices in this regard are arbitrary, irrational and indefensible.

26 193. The categorical denial of equal compensation in the form of family coverage
27 for lesbian and gay State employees with a committed same-sex life partner, and
28 Defendants' conduct and omissions, and policies and practices in connection therewith, do

1 not satisfy applicable standards for the infringement of Plaintiffs' fundamental rights and
2 liberty interests protected by the Due Process Clause of the Fourteenth Amendment
3 because they are not supported by, do not significantly further, and are not necessary to,
4 any legitimate or important, let alone compelling, governmental interests. As described
5 above, the legitimate goal of government cost-savings may not be pursued by selectively
6 and invidiously subjecting one group of public employees to unequal treatment based on
7 an unjustifiable classification, and there are no disproportionate costs or administrative
8 burdens involved in providing equal family coverage which explain or justify elimination
9 of this portion of Plaintiffs' employment compensation and that of other lesbian and gay
10 State employees.

11 194. As alleged above, Defendants' conduct and omissions and policies and
12 practices of selecting for disfavored treatment lesbian and gay State employees who
13 exercise their protected right to form and maintain an intimate family relationship with a
14 same-sex partner were intentional and purposeful, and undertaken to effectuate Section
15 O's purpose of encouraging heterosexual relationships and discouraging same-sex
16 relationships.

17 195. The categorical denial of equal compensation in the form of family coverage
18 for lesbian and gay State employees with a committed same-sex life partner violates the
19 Due Process Clause of the Fourteenth Amendment to the United States Constitution.
20 Defendants have been and are acting under color of state law at all relevant times in their
21 implementation of Section O and their resulting and purposeful violation of Plaintiffs'
22 constitutional rights. Defendants' intentional and purposeful actions and omissions and
23 practices and policies both facially and as applied to Plaintiffs, violate Plaintiffs' clearly
24 established constitutional rights, of which a reasonable person would have known, to due
25 process under the Fourteenth Amendment to the United States Constitution.

DECLARATORY AND INJUNCTIVE RELIEF

28 U.S.C. § 2201, Federal Rules of Civil Procedure, Rules 57 and 65

196. Plaintiffs incorporate by reference and reallege paragraphs 1 to 195 of this complaint.

197. This case presents an actual case or controversy because there is an existing, ongoing, real and substantial controversy between Plaintiffs and Defendants, who have adverse interests. This controversy is sufficiently immediate, substantial and real to warrant the issuance of a declaratory judgment because Plaintiffs will be stripped of family coverage when the law is enforced by Defendants.

198. This case is ripe for consideration because it presents issues suitable for an immediate and definitive determination of the legal rights of the parties in this adversarial proceeding, and Plaintiffs will each be subjected to irreparable injury and significant hardship if this dispute is not heard.

199. Plaintiffs' claims are not speculative or hypothetical, but rather involve the validity of a statute that was approved and put into force by Defendant Brewer; will be implemented and enforced by Defendants Brewer, Raber, Peckardt, Hamilton and Does 1 through 100; will apply to all lesbian and gay State employees with a committed same-sex partner and each Plaintiff; will control each Plaintiff's ability to continue receiving family coverage for his or her committed same-sex life partner; and will deprive Plaintiffs of the constitutional rights pleaded herein.

200. The injury Plaintiffs will suffer if Section O were enforced is real, immediate, actual, concrete and particularized and is not just threatened but certain. No further events need take place to determine that H.B. 2013 will take effect on October 1, 2010. Defendants Brewer's, Raber's, Peckardt's, and Hamilton's and Does 1 through 100's direct and personal involvement in enforcing Section O have and will proximately cause Plaintiffs' irreparable injuries.

1 B. Permanently enjoining enforcement by Defendants of the portion of A.R.S.
2 § 38-651(O) that limits eligibility for family coverage to State employees that have a
3 “dependent” who is a “spouse,” and by extension, a spouse’s child, to the exclusion of
4 lesbian and gay State employees with a same-sex life partner, including Plaintiffs;

5 C. Requiring Defendants in their official capacities to maintain family
6 coverage, on terms equal to the family coverage offered to State employees with a
7 heterosexual spouse, for Plaintiffs and other qualifying lesbian and gay State employees
8 with a committed same-sex life partner who satisfy the relevant eligibility criteria
9 specified in Ariz. Admin. Code § R2-5-101;

10 D. Awarding economic and non-economic damages in an amount to be
11 determined according to proof by Plaintiffs against Defendants in their personal
12 capacities;

13 E. Awarding Plaintiffs their costs, expenses, and reasonable attorneys’ fees
14 pursuant to, *inter alia*, 42 U.S.C. § 1988 and other applicable laws; and

15 F. Granting such other and further relief as the Court deems just and proper.
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1 Dated: November 16, 2009

**LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.**

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