

**CLYMER & MUSSER, P.C.**

**By: Leonard G. Brown, III, Esquire  
Randall L. Wenger, Esquire**

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Attorneys for Plaintiffs

**IN THE COURT OF COMMON PLEAS OF BUCKS COUNTY, PENNSYLVANIA  
CIVIL DIVISION - EQUITY**

REP. ALLAN EGOLF, REP. GIBSON C. )  
ARMSTRONG, REP. MATTHEW E. )  
BAKER, REP. THOMAS C. CREIGHTON, )  
REP. GORDON DENLINGER, REP. )  
STEPHEN R. MAITLAND, REP. DARYL )  
METCALFE, REP. MERLE H. PHILLIPS, )  
REP. SAMUEL E. ROHRER, REP. JERRY )  
A. STERN, REP. KATIE TRUE, REP. )  
THOMAS F. YEWIC, and CREATIVE )  
PULTRUSIONS INC., )  
Plaintiffs, )

NO.

v.

ACTION FOR DECLARATORY  
JUDGMENT

ROBERT SENECA and STEPHEN STAHL, )  
Defendants. )

**NOTICE**

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Pleading and Notice are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed in the Pleading or for any other claim or relief requested by the Plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER

**LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCE FEE OR NO FEE.**

**Bucks County Bar Association  
135 East State Street  
P.O. Box 300  
Doylestown, PA 18901  
215 348 9413 or 1-800 273 2929**

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	)	
ROBERT SENECA and STEPHEN STAHL,	)	
Defendants.	)	

**ACTION FOR DECLARATORY JUDGMENT - COMPLAINT**

Plaintiffs, by counsel, bring this action against Defendants, and allege as follows:

**THE PARTIES**

1. Allan Egolf is a State Representative in Pennsylvania and the prime sponsor of Pennsylvania's Defense of Marriage Act and another portion of Pennsylvania's Marriage Law that clarify that marriage is a union between one man and one woman.
2. Gibson C. Armstrong, Matthew E. Baker, Thomas C. Creighton, Gordon Denlinger, Stephen R. Maitland, Daryl Metcalfe, Merle H. Phillips, Samuel E. Rohrer,

Jerry A. Stern, Katie True, and Thomas F. Yewcic are State Representatives in Pennsylvania who either voted for the above legislation or who have more recently joined the legislature and support the legislation.

3. Creative Pultrusions Inc. is a Pennsylvania corporation located at 214 Industrial Lane, Alum Bank, PA 15521.

4. Robert Seneca and Stephen Stahl are adult individuals residing at 11 N Main St., New Hope, PA 18938.

#### **JURISDICTION AND VENUE**

5. This court has jurisdiction to declare the rights of the parties pursuant to 42 Pa.C.S.A. § 7531 *et seq.*

6. An imminent justiciable controversy exists between the parties based on Defendants' stated purpose of challenging the denial of a same-sex marriage license by Bucks County Register of Wills, Barbara G. Reilly.

7. Controversy exists as to whether the definition of marriage in Pennsylvania's Marriage Law, 23 Pa.C.S.A. § 1102, and Pennsylvania's Defense of Marriage Act, 23 Pa.C.S.A. § 1704, are constitutional under the Pennsylvania and federal constitutions.

8. Venue is proper in Bucks County pursuant to Pa.R.Civ.P. 1006 since Defendants reside in Bucks County and since the denial of the marriage license occurred in Bucks County.

#### **STANDING**

9. Plaintiffs Egolf, Armstrong, Baker, Metcalfe, Phillips, Stern, True, and Yewcic

have standing to bring a declaratory judgment action since they were among the legislators who voted for §§ 1102 and 1704 or who currently support the legislation and have an interest in the will of the legislature being upheld.

10. Plaintiff Creative Pultrusions Inc. has standing to bring a declaratory judgment action since, as a business, its benefits package that cover spouses will be greatly expanded by allowing a new class of individuals to “marry” each other if §§ 1102 and 1704 are declared unconstitutional. In addition, as a taxpayer, it will be affected by additional state spending to give benefits to a new class of “married” individuals.

#### **EVENTS GIVING RISE TO THIS COMPLAINT**

11. Stahl and Seneca, are a gay couple wishing to have a legally recognized marriage.

12. On March 15, 2004, Stahl and Seneca, appeared before Bucks County Register of Wills, Barbara G. Reilly for a marriage-license application.

13. They were refused an application because they are two men rather than one man and one woman.

14. Pennsylvania’s Defense of Marriage Act, 23 Pa.C.S.A. § 1704, states: “It is hereby declared to be the strong and longstanding public policy of this Commonwealth that marriage shall be between one man and one woman. A marriage between persons of the same sex which was entered into in another state or foreign jurisdiction, even if valid where entered into, shall be void in this Commonwealth.”

15. Pennsylvania’s Marriage Law also defines marriage as, “A civil contract by which one man and one woman take each other for husband and wife.” 23 Pa.C.S.A. § 1102.

16. Pennsylvania’s Defense of Marriage Act and the rest of Pennsylvania’s Marriage

Law make it clear that Defendants are ineligible to receive a marriage license.

17. Defendants have stated they plan to challenge the denial of a marriage license in court.

18. Defendants intend to challenge §§ 1102 and 1704 as unconstitutional under both state and federal due process and equal protection.

### **LAW AND RATIONAL BASIS FOR TRADITIONAL MARRIAGE**

19. In *Baker v. Nelson*, 409 U.S. 810 (1972), the Supreme Court stated that no federal question was presented under its appeal jurisdiction when appellants raised the issues of the supposed fundamental right to same-sex “marriage” under the 9<sup>th</sup> and 14<sup>th</sup> Amendments and that prohibiting same-sex “marriages” violated equal protection.

20. Likewise, no fundamental right to same-sex “marriage” exists since, according to *Washington v. Glucksburg*, 521 U.S. 702, 720-21 (1997), the due process clause protects those “fundamental rights and liberties which are, objectively, deeply rooted in this Nation’s history and tradition, and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if [it] were sacrificed.” Same-sex “marriage” has not been part of our history or our ordered liberty.

21. No state has passed a law permitting a “marriage” between persons of the same-sex. Instead, most states explicitly prohibit such “marriages.” It is this kind of lack of tradition supporting a supposed fundamental right combined with a history of opposition that the court in *Glucksburg* looked to in order to reject the discovery of a new fundamental right.

22. In rejecting an alleged right to polygamous marriages, the United States Supreme

Court recognized that marriage consisting of one man and one woman was the “sure foundation of all that is stable and noble in our civilization; the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement.” *Murphy v. Ramsey*, 114 U.S. 15 (1885).

23. The Pennsylvania Constitution was never read to give a fundamental right to same-sex marriage, and Pennsylvania’s constitutional equal protection is coextensive with federal equal protection.

24. Heightened scrutiny is not involved in analyzing the constitutionality of these sections because no fundamental right or suspect class is involved.

25. There need only be a rational basis in allowing opposite sex couples to marry and not same sex couples.

26. No society throughout history has ever legally recognized same sex “marriages”. Universally throughout the world marriage means a union between one man and one woman. We as a society embark on a dangerous experiment by redefining such a fundamental building block of society that has stood the test of time and that is universal across cultures. This universality and durability to this institution throughout time suggests numerous reasons to the benefit of society. A limited number of such reasons are listed below.

27. Marriage should be restricted to opposite-sex couples in order to promote prosperity. Nearly every culture in history recognized that same-sex relationships were a departure from the norm. The only cultures that supposedly accepted same-sex relationships were primitive cultures or civilizations in decline. Societies that restricted sexual relationships to one man and one woman in marriage have prospered. Societies

that relax those restrictions have suffered decline within three generations. While we no longer criminalize sodomy, it is in the state's interest to promote relationships that promote prosperity.

28. Marriage should be restricted to opposite-sex couples in order to promote relationships where there is physical complementarity in order to reduce health problems and the spread of disease. Human physiology is designed for sex between males and females. Anal sex can cause tearing, bleeding, and other complications. Anal sex also promotes the spreading of disease. Even a woman who has sex with another woman is at substantial risk for sexually transmitted diseases.

29. Marriage should be restricted to opposite-sex couples in order to promote families that are most likely to promote the success of children. Children in families that have both a father and a mother in the household achieve better educationally, are less likely to use drugs, less likely to be involved in criminal activity, have better physical and emotional health, are better socially adjusted, and tend to earn more as adults.

30. Marriage should be restricted to opposite-sex couples in order to promote families that are stronger. Same-sex couples cannot produce children that are the biological children of both parents. Encouraging bringing third parties, such as surrogate mothers or sperm donors into the mix for purposes of procreation may weaken family ties through the interests that such biological parents may assert.

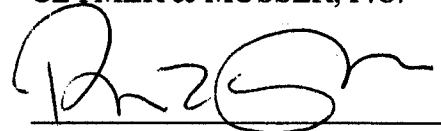
31. Marriage should be restricted to opposite-sex couples in to promote fidelity which in turn promotes stability for children and societal stability. Same-sex relationships do not incorporate the same concept of fidelity that there is in traditional marriage. Despite alarming statistics about divorce and sexual promiscuity, most first marriages last a

lifetime and most married couples are faithful. The vast majority of same-sex relationships are not for life and are not monogamous. If these mores are imported into marriage through an expansion of the definition of marriage, fidelity can only suffer. Infidelity is the cause of significant familial upheaval, causing instability in society, particularly for the children in such families.

WHEREFORE, Plaintiffs respectfully pray that this Court declare that Pennsylvania's Defense of Marriage Act, 23 Pa.C.S.A. § 1704, and the rest of Pennsylvania's Marriage Law, specifically 23 Pa.C.S.A. § 1102, are constitutional under both the Federal and state constitutions even though they do not allow same-sex couples to marry.

Respectfully Submitted  
CLYMER & MUSSER, P.C.

By:

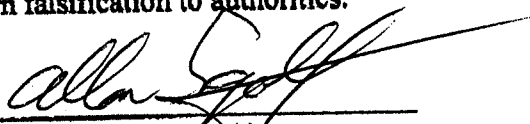


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Date: May 13, 2004

**VERIFICATION**

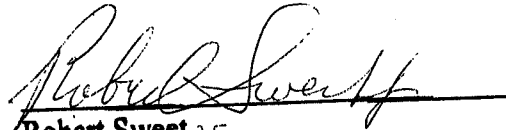
I, Representative Alan Egolf, verify that I am familiar with the facts contained in the above Complaint and that the said facts and statements made therein are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

  
\_\_\_\_\_  
Representative Alan Egolf  
*Alan*

Dated: May 12, 2004

**VERIFICATION**

I, Robert Sweet, an officer of Creative Pultrusions, Inc., verify that I am familiar with the facts contained in the above Complaint and that the said facts and statements made therein are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are subject to the penalties of 18 Pa.C.S.A. § 4904 relating to unsworn falsification to authorities.

  
Robert Sweet Jr.

Dated: May 12, 2004

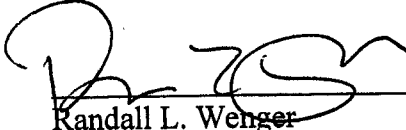
**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I am this day serving the foregoing document in the manner indicated below, which service satisfies the requirement of Pa.R.C.P. 235.

Service by registered mail, addressed as follows:

Jerry Pappert  
Attorney General  
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Dated: May 13, 2004

