

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BRUCE T. MORGAN, an individual, and  
BRIAN P. MERUCCI, an individual,

Plaintiffs

Case No. 1:14-cv-00632

v.

Hon. Gordon J. Quist

RICK SNYDER, in his official capacity as  
the Governor of the State of Michigan, and  
MARY HOLLINRAKE, in her official  
capacity as the County Clerk and Register  
of Kent County, Michigan,

Defendants.

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**PLAINTIFFS' MOTION TO LIFT STAY AND TO ENTER JUDGMENT IN FAVOR OF  
PLAINTIFFS PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 56**

**ORAL ARGUMENT REQUESTED**

Plaintiffs Bruce T. Morgan (“**Bruce**”) and Brian P. Merucci (“**Brian**”), by and through their attorneys, Rhoades McKee PC, respectfully request that this Honorable Court lift the stay of their case and give legal recognition to their marriage immediately in accordance with Federal Rule of Civil Procedure 56. In support, Bruce and Brian state as follows:

1. On March 21, 2014, Judge Friedman of the Eastern District of Michigan held in *DeBoer v. Snyder* that the Michigan Constitution and implementing statutes that prohibited same-sex marriage (“**Marriage Ban**”) were unconstitutional under the Equal Protection Clause of the United States Constitution and enjoined Michigan from enforcing the Marriage Ban. *DeBoer*, 973 F. Supp. 2d 757 (E.D. Mich. 2014).

2. On March 22, 2014, the Sixth Circuit Court of Appeals stayed *DeBoer* pending appeal. (**Exhibit A**, Order to Stay.)

3. On January 15, 2015, in *Caspar v. Snyder*, Judge Goldsmith of the Eastern District ordered the State of Michigan to recognize the same-sex marriages solemnized in the window between the district court’s holding in *DeBoer* and the Sixth Circuit’s stay of that decision, finding that a final decision in *DeBoer* is irrelevant to the validity of those marriages. *Caspar*, \_\_\_ F. Supp. 3d \_\_\_, 2015 WL 224741, at \*1 (E.D. Mich. 2015).

4. Governor Snyder decided not to appeal *Caspar* and to recognize those same-sex marriages: “The judge has determined that same-sex couples were legally married on that day, and we will follow the law and extend state marriage benefits to those couples.” *Gov. Rick Snyder: State will not appeal court decision on 300 same-sex couples married in March*, [http://www.michigan.gov/snyder/0,4668,7-277-57577\\_57657-346819--,00.html](http://www.michigan.gov/snyder/0,4668,7-277-57577_57657-346819--,00.html) (Feb. 4, 2015) (last visited April 2, 2015). (**Exhibit B**.)

5. It is a well-settled principal of constitutional law that there is a fundamental right to the continued legal validity of one's marital status. *Roberts v. U.S. Jaycees*, 468 U.S. 609, 617–18; 104 S.Ct. 3244 (1984) (finding that “maintain[ing] [marital] relationships must be secured against undue intrusion by the State because of the role of such relationships in safeguarding the individual freedom that is central to our constitutional scheme”).

6. Federal Rule of Civil Procedure 56 provides that a movant is entitled to summary judgment if s/he shows that “there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law.”

7. There is no genuine dispute as to any material fact in this case.

8. Regardless of what the Supreme Court holds in *DeBoer*, Bruce and Brian are entitled to recognition of their marriage by the State as of March 21, 2014. This result is only strengthened by the *Caspar* ruling and Governor Snyder's decision not to appeal.

9. The precise moment that the Marriage Ban was overturned, Bruce and Brian's marriage rights were vested in them in Michigan pursuant to the Full Faith and Credit Clause, which provides that “full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.”

10. Even if the Supreme Court ultimately allows the State of Michigan to deny marriage to same-sex couples, such a ruling would have no impact on the recognition of Bruce and Brian's 2013 New York marriage by the State.

11. Bruce's cancer is progressing, and he cannot afford to wait until the Supreme Court issues its decision in *DeBoer* for this case to commence, especially given that the rationale for staying this case is no longer applicable post-*Caspar*.

12. Bruce and Brian need marital recognition for such purposes as filing joint income tax returns, visiting each other in the hospital, making medical decisions for each other or owning real property as tenants by the entirety.

13. On March 11, 2015, counsel for Bruce and Brian communicated in writing with opposing counsel, explaining the nature of the relief requested by this Motion and seeking concurrence in the relief. On March 13, 2015, opposing counsel denied concurrence. (**Exhibit C.**)

**Relief Requested**

For the foregoing reasons, Plaintiffs Bruce T. Morgan and Brian P. Merucci respectfully request that this Honorable Court give emergency consideration to their Motion to List Stay, end the stay of the case and recognize Bruce and Brian's marriage immediately.

Respectfully submitted,

RHOADES McKEE  
Attorneys for Plaintiffs

By: /s/ Stephanie D. Myott  
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