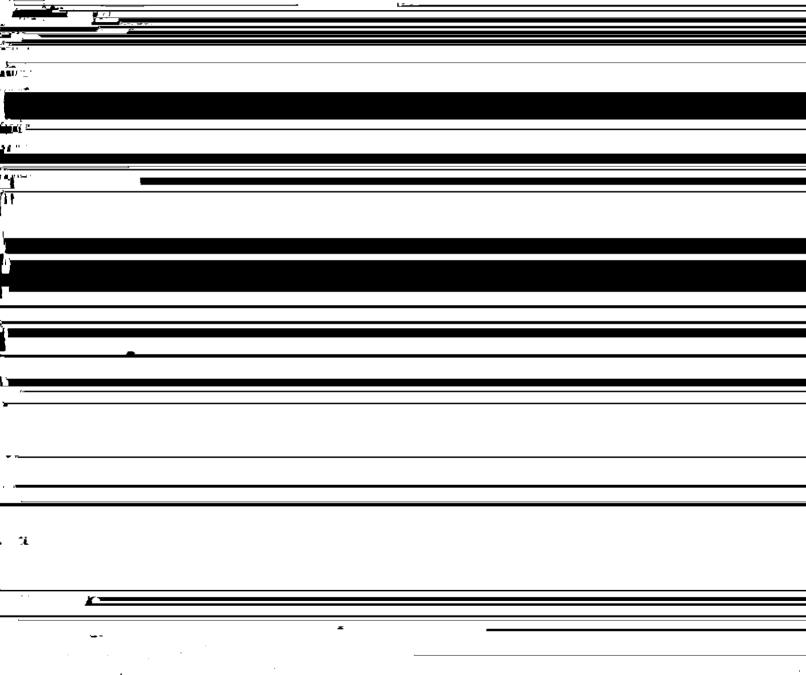
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provide for their two young children who are United States citizens. It is important to their religious faiths that the couple marry.

4. Both couples desire to express their love for and commitment to one another by getting married and obtaining the economic, emotional, and psychological benefits of marriage,



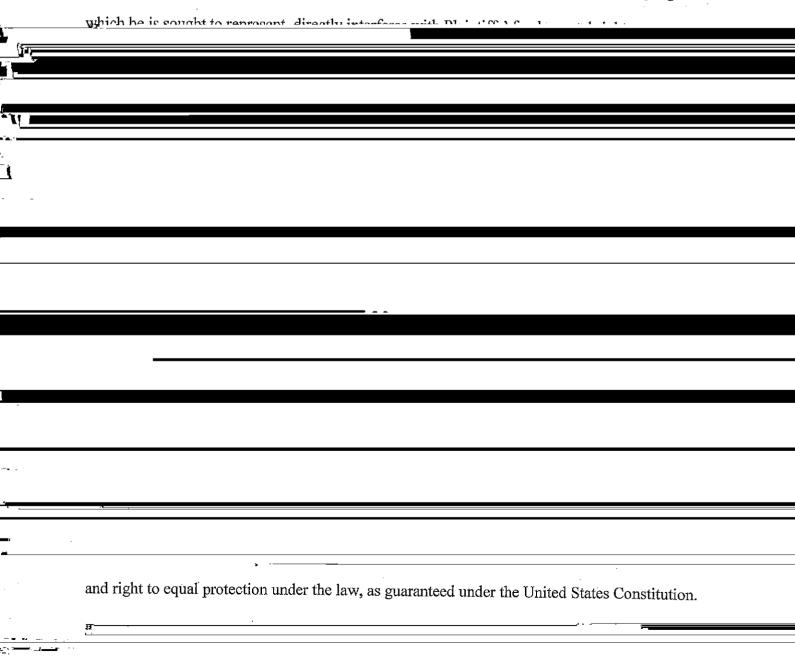
marriage.

5. The right to marry is a fundamental right guaranteed under the United States

Constitution to *all* persons regardless of immigration status. The Plaintiffs in this case, along with the class they represent, cannot exercise their fundamental right to marry solely because

7	7.	Defendant's policy is not required by any federal or state law, including the
recently	passed	l law known as "HB 56", and indeed, conflicts with guidance issued by Alabama's
Attorney	y Gene	ral.

	8.	Defendant McKinney, Jr.'s policy is indicative of the policies and practices of 40
other	probate	judges in Alabama that purposefully or effectively prohibit undocumented
immi	grants o	persons whose intended spouse is undocumented from obtaining a marriage
licens	se. Defe	ndant McKinney, Jr.'s policy, and similar policies of the class of probate judges in
which	h ha is so	wight to rangement directly interfered will DI. 1 100 20 1 1 1 1 1 1



presence in this country. He is ineligible to receive a marriage license in Montgomery County because he does not have proof of his legal presence in the United States and does not have a Social Security card due to his immigration status.

- 11. Jack Doe does have several forms of identification, including a Haitian birth certificate, an Alabama Resident Identification Card, and other identification issued by the Haitian government. He meets all the lawful requirements under Alabama law to be issued a marriage license. Plaintiff Jack Doe sues on his own behalf and on behalf of those similarly situated.
- 12. Plaintiff Jane Doe is a Mexican national who currently lives in Alabama. She is 27 years old, not currently married, and wholly unrelated to her fiancé, James Doe, by blood. Jane Doe has lived in Alabama with her fiancé, James Doe, since 2001. Jane Doe does not have a Social Security number and cannot show proof of her legal presence in this country. She is ineligible to receive a marriage license in Montgomery County because she does not have proof of her legal presence in the United States and does not have a Social Security card due to her immigration status.
- 13. Jane Doe does have several forms of identification, including a Mexican passport, birth certificate, a Mexican Consulate Identification Card, an Alabama Resident Identification Card, and other identification issued by the Mexican government. Plaintiff Jane Doe meets all

	in this country. He is ineligible to receive a marriage license in Montgomery County because he
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	Security card due to his immigration status.

#### JURISDICTION AND VENUE

,	19.	This Court has subject matter jurisdiction over this action pursuant to 28	U.S.C. §
1331 t	ecause	this action arises under the ITS Constitution and laws of the IT-it-1 Green	•

pursuant to 28 U.S.C. § 1343 because this action seeks to redress the deprivation, under color of state law, of Plaintiffs' civil rights and to secure equitable or other relief for the violation of those rights.

- 20. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202, and Federal Rule of Civil Procedure Rule 57.
- 21. This Court has personal jurisdiction over the Defendant who is located in the Middle District of Alabama.
- 22. Venue is proper in the Middle District of Alabama pursuant to 28 U.S.C. §
  1391(b) in that Defendant McKinney, Jr. resides within the Middle District of Alabama, and "a substantial part of the events or omissions giving rise to the claim[s] occurred" within this District and Division, including the enforcement of the unlawful policy and practice that are the

·	joinder of all members is impracticable. Alabama is home to an estimated 100,000 – 200,000
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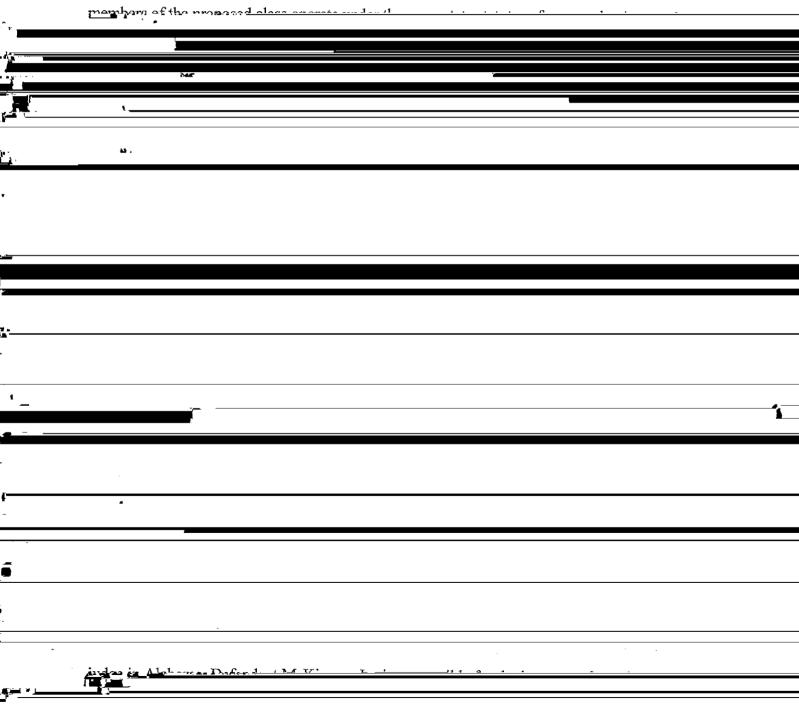
	28. This case may be maintained as a class action under Rule 23(b)(2) because in	
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members is undocumented violates the plaintiff class members' fundamental right to marry as guaranteed by the Due Process Clause of the Fourteenth Amendment to the United States

Constitution, and whether such a policy or practice violates the plaintiff class members' rights to

Equal Protection as guaranteed by the Fourteenth Amendment to the United States Constitution.

32. <u>Typicality</u>: The defenses of Defendant McKinney, Jr. will be typical of the defenses of the proposed defendant class. Defendant McKinney, Jr., and all of the other



#### **FACTS**

### Issuance of Marriage Licenses in Alabama

- 34. In Alabama, no person may marry without a license. Ala. Code § 30-1-9.
- 35. The requirements for marriage licenses are set forth in chapter 1 of title 30 in the

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- 40. No provision of the Code of Alabama or the Alabama Constitution requires marriage license applicants to provide proof of their legal presence in the United States in order to secure a marriage license.
- 41. Alabama Code § 30-3-194(c) states that "the Social Security number of both parties to the marriage shall be collected by those parties issuing a marriage license and shall appear on the license and certificate sent to the Office of Witel Statistics."

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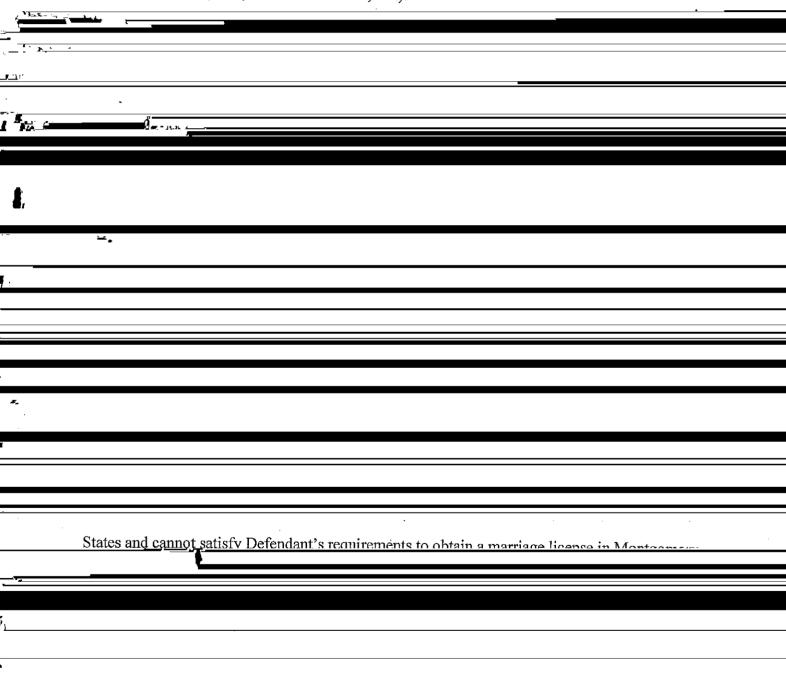
194(c).

42. In 2008, the Alabama Attorney General issued an opinion that addressed whether a Social Security number is a required element for a person to receive a marriage license. The Office of the Attorney General concluded that a "social security number is not a required element for a person to receive a marriage license." Opinion of the Attorney General to the Honorable Luke Cooley, Houston County Judge of Probate, dated June 25, 2008, No. 2008-100,

eLicenses.aspx (last accessed November 17, 2011). The website continues,

Each applicant must provide one of the following:

- 1. An official Picture ID (passport, military ID, State issued ID, Driver's License).
- 2. An original certified copy of the state issued birth certificate (hospital copy not acceptable) and original social security card.
- 3. U. S. Government issued Immigration Services Picture ID Card (green card, visa, alien resident card, etc.).



restaurant industry. Together, they are raising their two young children. But for Defendant's unlawful policy and practice, Plaintiffs Jane Doe and James Doe would obtain a marriage license from Montgomery County and get married.

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The Named Plaintiffs are also anxious to marry to solemnize their relationship and to obtain the economic, emotional, and psychological benefits for their family that inure from marriage.

51. Any attempt by the Named Plaintiffs to obtain a marriage license in Montgomery County, and in the vast majority of counties in Alabama, would be futile.

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prevent non-U.S. citizens, such as Jack Doe, Jane Doe, James Doe, and other plaintiff class		
		prevent non-U.S. citizens, such as Jack Doe, Jane Doe, James Doe, and other plaintiff class

Defendant McKinney, Jr.'s policy and defendant class members' similar policies

absolutely prevent persons such as Charelle Loder and other plaintiff class members from

members who are undocumented, from getting married.

56.

though set forth at length herein. 62. The policies adopted, implemented, and enforced by Defendant McKinney, Jr. and defendant class members require a non-U.S. citizen who applies for a marriage license to produce proof of his/her legal presence in the United States and/or Social Security card as a

These policies deny undocumented persons like Jack Doe, Jane Doe, and James

Defendant's policy, and the similar policies of the defendant class members,

Doe and other plaintiff class members, of the equal protection of laws in that it deprives them of

denies persons like Charelle Loder, and other plaintiff class members, their right to equal

protection of laws in that it deprives them of the fundamental right to marry solely because of the

condition of obtaining a marriage license.

the fundamental right to marry solely because of their alienage.

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64.

PRAYER FOR RELIEF  WHEREFORE, in light of the foregoing, Plaintiffs respectfully request that the Court:  (a) Assume jurisdiction over this matter;  (b) Certify this case as a bilateral class action pursuant to Fed. R. Civ. P. 23;		
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	legal presence in the United	d States;	
	(e) Grant Plaintiffs' costs of su	uit, and reasonable attorneys' fees and expenses	
	pursuant to 42 U.S.C. § 19		
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	(f) Grant such other relief as the	he Court deems just and proper.	

Respectfully submitted,

Dated: November 17, 2011

T: (205) 443-7858 F: (205) 443-7853 frubio@rubiofirm.com

## ATTORNEYS FOR PLAINTIFFS

# EXHIBIT A

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	ABOUT THE JUDGE	PROBATE DIVISIONS PROBATE RESOURCES CONTACT US	. `
	ABOUT THE JUDGE		SEARCH
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