

**IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
2018: No. 99**

**IN THE MATTER OF AN APPLICATION UNDER
SECTION 15 OF THE BERMUDA CONSTITUTION 1968**

AND IN THE MATTER OF THE DOMESTIC PARTNERSHIP ACT 2018

BETWEEN:

OUTBERMUDA

First Plaintiff

-and-

MARTYELLEN CLAUDIA LOUISE JACKSON

Second Plaintiff

-v-

THE ATTORNEY GENERAL

Defendant

SECOND AFFIDAVIT OF ADRIAN HARTNETT-BEASLEY

I, Adrian Hartnett-Beasley, of 27 Clarendon Road, Hamilton Parish, in the Islands of Bermuda, MAKE OATH and SAY as follows:

1. I am Deputy Chairperson of OUTBermuda, a company limited by guaranty and registered as a charitable organization in Bermuda. I make this affidavit on behalf of both Plaintiffs in this matter, and have been authorized by them to do so. This affidavit is sworn in support of the application to consolidate and the application to adduce expert evidence.
2. The facts set out herein are true. Where information was provided to me by others, the facts are true to the best of my information and belief.

3. I refer to the Originating Summons in the above-mentioned matter, dated 4 April 2018, and to my first affidavit, dated 6 April 2018, which set out the background of this matter.

Consolidation Application

4. The Plaintiffs seek an Order, pursuant to RSC 1981 O.4 r.10, that:
 - (i) The matter of OUTBermuda and Maryellen Louise Jackson v AG (2018: No. 99), and the matter of Roderick Ferguson v AG (2018: No. 34):
 - (a) Be consolidated on such terms as the court thinks just; or
 - (b) Be tried at the same time; or
 - (c) Be tried one immediately after the other.
 - (ii) Costs;
 - (iii) Further and/or other relief.
5. The Plaintiffs make this request on the following grounds:
 - (i) The issues arising in both matters are similar and involve the same Defendant.
 - (ii) There will be common questions of law and fact bearing importance in proportion to the of the subject matter of the actions, to render it desirable that the whole should be disposed of at the same time.
 - (iii) That although both sets of Plaintiffs seek a declaration that Domestic Partnerships Act (or parts thereof) are unconstitutional, that a review of each of the Originating Summonses will reveal that different arguments are made by the parties. Nevertheless, it will save costs and time for both actions to be heard at once.
 - (iv) That formal consolidation, or alternatively, the hearing of the two actions at the same time, will be consistent with the Overriding Objective set out at RSC 1985 O. 1A.

Expert Evidence

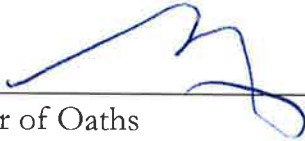
6. I refer to the factual background set out in my First Affidavit. This explains why expert evidence of US law is needed in our case. We believe that this evidence is not controversial and hoped the introduction of this at the trial of the action could be done by consent of the parties, which I am advised would avoid the need for leave of court to be given. Out of an abundance of caution, and given the tight timeline we are on, we have now filed an application seeking leave to adduce the expert evidence in question.
7. The expert affidavit of Prof NeJaime simply explains that in the USA, whilst foreign weddings are recognized in all US states, foreign civil unions or domestic partnerships do not have the same recognition. This therefore highlights one of the significant

differences between marriage and civil unions. This is something the court will want to take into account as part of the factual background and to show a difference in treatment and discrimination. Further this goes to the question of whether a person's rights to same-sex marriage, as they presently exist, and their freedom of conscience, is hindered by those provisions in the DPA, which make same-sex marriage unlawful, as described in my earlier affidavit.

SWORN by the said
Adrian Hartnett-Beasley
In the City of Hamilton
In Bermuda
On the 10th day of April 2018

)
)
)
)
)
)


Before me:



Commissioner of Oaths

Megan Denos
Commissioner for Oaths
Canon's Court
22 Victoria Street
P.O. Box HM 1179
Hamilton HM EX
Bermuda
Date: 10 April 2018

IN THE SUPREME COURT OF BERMUDA
CIVIL JURISDICTION
2018: No. 99

IN THE MATTER OF AN APPLICATION
UNDER SECTION 15 OF
THE BERMUDA CONSTITUTION 1968

AND IN THE MATTER OF THE DOMESTIC
PARTNERSHIP ACT 2018

BETWEEN:

OUTBERMUDA

First Plaintiff

-and-

MARTYELLEN CLAUDIA LOUISE JACKSON

Second Plaintiff

-v-

THE ATTORNEY GENERAL

Defendant

SECOND AFFIDAVIT OF
ADRIAN HARTNETT-BEASLEY



aswlaw

ASW Law Limited | Crawford House
50 Cedar Avenue | Hamilton, HM11
BERMUDA

Attorneys for the Plaintiffs
RSAS/1760-001