

# Gay South Florida AUGUST 13, 2015

## Married same-sex couples sue Florida for moms to be listed on babies' birth certificates



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The first same-sex couple to legally marry in Florida went back to court Thursday, one week after they had twins and the state refused to list the non-birth mother on the babies' birth certificates.

Catherina Pareto and Karla P. Arguello of Coconut Grove, along with two other married same-sex couples who recently had children, sued Florida Surgeon General John Armstrong and state health department registrar Kenneth Jones in U.S. District Court in Tallahassee.

"Here we go again. It's ridiculous," said Pareto, who with Arguello, five other same-sex couples and Equality Florida Institute, successfully sued in 2014 in for the right to marry in Miami-Dade Circuit Court.

"Our twins were born last Thursday at Baptist Hospital," Pareto said. "When it came time for Vital Records to prepare the birth certificates, when Karla requested that I be added as the second parent, I was denied."

The suit, with Equality Florida Institute, was filed Thursday. The judge assigned to the case: U.S. District Judge Robert L. Hinkle — who in 2014 declared Florida's gay marriage ban unconstitutional, in a separate federal lawsuit filed by eight same-sex Florida couples who wed out of state, LGBT-rights group SAVE and the ACLU of Florida.

"We filed it in the Northern District. That's where the Department of Health is located," said Miami Beach attorney Elizabeth Schwartz, who with lawyers Mary Meeks of Orlando and Shannon Minter of the National Center for Lesbian Rights in San Francisco, is representing the six mothers. "It's just a coincidence that we drew Judge Hinkle."

Late Thursday afternoon, the Florida Department of Health asked Hinkle to clarify whether his 2014 ruling also pertains to birth certificates. Whitney Ray, a spokesman for Pam Bondi, said the attorney general's office "is not a party to this lawsuit" and has not discussed it with the health department.

The other couples in the birth-certificate case are Kari and Deborah Chin of St. Petersburg, whose son Amzi was born in February; and Alma A. Vezquez and Yadira Arenas of Winter Haven, whose daughter Analiyah was born in March.

On Jan. 5, Pareto and Arguello became the state's first same-sex couple to marry. Arguello delivered the babies on Aug. 6: Matteo, born at just under 6 pounds, and Lucia, 4½ pounds.

When the twins were born, Baptist staff contacted Florida's bureau of Vital Records and were told Pareto's name could not be listed on the birth certificates, she said.

"They were given a response, no, they can't do it because of Florida statutes — for the same reason we couldn't marry, the one that referenced 'the man and a woman' for marriage," Pareto said.

Pareto said she "anticipated something like this would happen so I brought our marriage certificate, our proof of marriage."

Then she called the couple's lawyer, Schwartz, "in an uproar."

"She said, 'OK, are you willing to fight for it?' I said, 'Hell, yes! This girl's got some fight in her still.'"

The couple also have an adopted son, Enzo, 2½. Both Pareto and Arguello are listed as Enzo's parents on his birth certificate, which was issued before the women legally married.

Now, the state has told Pareto that if she wants her name on the twins' birth certificates, she must adopt them "as a step-parent."

"I'm just as much a parent, a right by birth, as Karla. We've both been through the process together. A joint decision," Pareto said. "Just because she wanted to birth them doesn't mean I shouldn't be a parent. What I find ludicrous: If you think about a straight couple, if they use a sperm donor — in this example, the husband is not biologically tied to the child — he gets to be listed on the birth certificate. Why can't I? I'm just as married as that hypothetical example."

A straight couple "would have benefited from the 'marital presumption' that says that a child born into a marriage is the legal child of both spouses" and so should same-sex couples, Schwartz said.

Schwartz said LGBT-rights lawyers "have been working with Vital Statistics nearly a year to get them to do the right thing, to comply with the law."

"They have no excuse continuing to delay issuing accurate and lawful birth certificates. They haven't even explained. Apparently there is some confusion on their part as to what the law is in the state of Florida. To me that is unfathomable," Schwartz said. "We worked way too hard to win marriage equality in the state of Florida to now have our marriages treated as second-class."

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