

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

IN THE MATTER OF AN APPLICATION UNDER  
THE BERMUDA CONSTITUTION ORDER 1968

AND IN THE MATTER OF THE DOMESTIC PARTNERSHIP ACT 2018

BETWEEN:

OUTBermuda

First Plaintiff

-and-

MARYELLEN CLAUDIA LOUISE JACKSON

Second Plaintiff

-v-

THE ATTORNEY GENERAL

Defendant

---

ORIGINATING SUMMONS

---

To the Attorney General of Global House, 43 Church Street, in the City of Hamilton in the Islands of Bermuda.

LET ALL PARTIES CONCERNED attend before one of Her Majesty's Judges in the Supreme Court of Bermuda, 21 Parliament Street, in the City of Hamilton, in the Islands of Bermuda on                    the                    day of                    , 2018 at                    o'clock in the                    noon or so soon thereafter on the hearing of an application by the Plaintiffs regarding the following matter.

1. On 5 May 2017, in the matter of *Godwin and DeRoche v Registrar General and Ors*, the Supreme Court ruled that same-sex marriage was lawful in Bermuda, under the

operation of the Human Rights Act 1981. The ruling was accepted as correct and not appealed by the Government.

2. Several same-sex couples were subsequently married in Bermuda and on Bermuda-registered vessels. Additionally, several Bermudians had same-sex marriages in overseas jurisdictions. All those marriages were recognized by the Government as lawful, as per the ruling in *Godwin and DeRoche*.
3. Subsequently MP Wayne Furbert announced intentions to re-table a Private Member's Bill, the Human Rights Amendment Bill 2016, which one year earlier had passed the House but failed in the Senate. That Bill (known hereafter as "the Furbert Bill") exempted specified marital provisions from the Human Rights Act 1981, with the purpose of ensuring all same-sex marriages become void. Were a re-tabled Furbert Bill to have passed and be signed by the Governor, then the ruling in *Godwin and DeRoche* would have no longer applied and same-sex marriages (both past and present) would have been void in Bermuda.
4. In response to the prospect of a re-tabled Furbert Bill, Minister of Home Affairs Walton Brown tabled the Domestic Partnership Bill 2017. That Bill, like the Furbert Bill, exempted certain marital provisions from the Human Rights Act 1981, once again making same-sex marriage void. However, unlike the Furbert Bill, the Domestic Partnership Bill ensured that existing same-sex marriages remained valid, and created a form of legally-recognized civil union known as "domestic partnerships."
5. The Domestic Partnership Bill was subsequently passed by Parliament and assented to by the Governor. It is currently scheduled to take effect as the Domestic Partnership Act 2018 on 1 June 2018. When that occurs, the right to same-sex marriage will be revoked.
6. OUTBermuda is a charitable organization formed by a group of gay and lesbian Bermudians and their partners, staffed on an entirely volunteer basis. The organization's purpose is to address issues facing the LGBTQ community in Bermuda, including but not limited to workplace inclusiveness, bullying in schools, discrimination, unequal treatment under the law, public ridicule, and physical violence. OUTBermuda is concerned about its interests in this matter, those of its members and the constituency it represents, as well as the general public of Bermuda. As Plaintiff in this action, OUTBermuda is seeking a declaration that the provisions of the Domestic Partnership Act revoking same-sex marriage are unconstitutional.
7. The Second Plaintiff, Ms Maryellen Claudia Louise Jackson, is a lesbian Bermudian. She too opposes the revocation of same-sex marriage. She is seeking a declaration that

the provisions of the Domestic Partnership Act that revoke same-sex marriage violate her constitutional rights.

8. The Plaintiffs are applying to the Court for the following Orders:

- (i) A declaration under s.15 of the Bermuda Constitution 1968 and/or the Rules of the Supreme Court 1985 O.15 r.16, and/or the inherent jurisdiction of the Court, that section 53 of the Domestic Partnership Act 2018, and all other provisions in the Act that deal with and give effect to that provision or have the effect of revoking same-sex marriage or making same-sex marriages void, including but not limited to sections 48(1)(c), (d), and (e), are:
  - a. void for inconsistency with the Constitution, in particular but not restricted to section 1 and section 8 of the Constitution, in that their purpose and/or effect is to infringe the Constitution and hinder the enjoyment of freedom of conscience; and
  - b. contravene section 12 of the Constitution, in that their effect is to discriminate against the Second Plaintiff and others; and
  - c. contravene the European Convention of Human Rights, in particular but not restricted to Article 14 (Prohibition of discrimination) and/or Article 8 (Right to respect for private and family life).
- (ii) An Order making provision for the costs of this application.
- (iii) Such further and other relief as this Court considers appropriate.

Dated the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

---

Registrar

Note—This Summons may not be served more than twelve calendar months after the above date unless renewed by order of this Honorable Court.

This Summons was taken out by ASW Law Limited, Crawford House, 50 Cedar Avenue, Hamilton, HM11, Bermuda, attorney for the Plaintiffs, whose addresses are

- OUTBermuda, c/o Liberty Law Chambers, 37 Reid Street, 2nd Floor, Hamilton HM12, Bermuda;
- Maryellen Claudia Louise Jackson, Sandys, MA05, Bermuda

and whose address for service is care of the said ASW Law Limited.

Note—If the defendant does not attend personally or by his attorney at the time and place above mentioned such order will be made as the Court may think just and expedient.

SUPREME  
2018 MAR 29 11:14:16

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

IN THE MATTER OF AN APPLICATION  
UNDER THE BERMUDA CONSTITUTION  
ORDER 1968

AND IN THE MATTER OF THE  
DOMESTIC PARTNERSHIP ACT 2018

BETWEEN:

OUTBERMUDA

First Plaintiff

-and-

MARYELLEN CLAUDIA LOUISE JACKSON

Second Plaintiff

-and-

THE ATTORNEY GENERAL

Defendant

---

ORIGINATING SUMMONS

---



**asw|law**

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

Attorneys to the Plaintiffs  
RSAS/1760-001