

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION**

**Case No:**

UNIVERSAL LIFE CHURCH MONASTERY )  
STOREHOUSE, a Washington non-profit )  
corporation, )

**Plaintiff,** )

v. )

BETSY S. HARNAGE, in her official capacity as )  
Register of Deeds of Cleveland County, North )  
Carolina, )

**Defendant.**

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

**Introduction**

1. This is an action for declaratory and injunctive relief, pursuant to 42 U.S.C. § 1983, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the North Carolina Constitution, to enjoin the discriminatory enforcement of North Carolina General Statutes § 51-1, which violates the rights of Plaintiff Universal Life Church Monastery Storehouse (“ULC Monastery” or “the Church”) and its ministers under the First and Fourteenth Amendments to the U.S. Constitution and Article 1, section 13 of the North Carolina Constitution.

2. ULC Monastery is a non-denominational religious organization that champions religious freedom, social justice, and spiritual expression of all kinds. Its ecclesiastical belief system is derived from the fundamental belief that we are all children of the same universe. To further its mission, ULC Monastery ordains those who feel called to be a minister of the Church, and many who receive ordination choose to minister by officiating weddings.

3. North Carolina law authorizes “an ordained minister of any religious denomination” to solemnize marriages. But Defendant Betsy S. Harnage (“Defendant”), as Register of Deeds for Cleveland County, North Carolina, has impermissibly refused to issue marriage licenses to couples married by ULC Monastery ministers. Defendant’s apparent policy of discriminating against ULC Monastery and its ministers unconstitutionally prefers certain religions or religious denominations over others and burdens ULC Monastery’s and its ministers’ free exercise of religion.

### **Parties**

4. ULC Monastery is a non-denominational religious organization and a Washington non-profit corporation, with its headquarters in Seattle.

5. Betsy S. Harnage is the duly elected and serving Register of Deeds of Cleveland County, North Carolina and is sued in her official capacity.

### **Jurisdiction and Venue**

6. This action arises under the United States Constitution, particularly the First and Fourteenth Amendments, as well as the Civil Rights Act, 42 U.S.C. §§ 1983 and 1988.

7. This Court has original jurisdiction over these federal claims pursuant to 28 U.S.C. §§ 1331 and 1343.

8. The Court has supplemental jurisdiction over the state constitutional claims pursuant to 28 U.S.C. § 1367 because they form part of the same case or controversy.

9. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b), because events giving rise to the claims occurred within this District and the Defendant resides within this District.

### **Factual Allegations**

## **ULC Monastery's Ministry and Outreach**

10. ULC Monastery is a non-denominational church formed to advance religious faith and freedom with the following core tenets: (1) a person should always strive to do that which is right, and (2) all people are naturally endowed with the rights to practice their beliefs, regardless of what those beliefs are, as long as they do not infringe the rights of others and are within the law. ULC Monastery believes that spirituality, theology, and religion are parts of man's mythology from the beginning of time.

11. ULC Monastery registered as a Washington non-profit corporation in 2006 and is headquartered in Seattle.

12. ULC Monastery's ministry includes support of charitable organizations, advocacy for marriage equality, and other social justice causes. The Church publishes a blog, which includes sermons written by ULC Monastery ministers, and where many commenters participate in discussions of religion, spirituality, and social justice. ULC Monastery's ministers perform religious rites and ceremonies including baptisms, marriages, and funerals around the world.

13. ULC Monastery embraces the principle that those who feel so called can become ministers through the Church. ULC Monastery ordains ministers over the internet for free, and it sends credentials to ministers by mail. ULC Monastery expects its ministers to conduct themselves according to the Church's two core tenets, but ULC Monastery rejects the idea that a church's members should be made to obey the commands of any central leadership structure and embraces the equality of all individuals. The Church believes its ministers may keep their own God or share it with others.

14. Through its website, ULC Monastery offers its ministers resources such as training and assistance in how to officiate weddings, deliver sermons, or found a church. ULC

Monastery also maintains a private social network online where its ministers can connect. The Church invites ministers to contribute to its site as part of the Church's effort to build and maintain a global faith community by utilizing the collaborative power of cyberspace. ULC Monastery strives to fulfill the spiritual needs of its global network of members and ministers offering a wealth of information, a variety of services, and networking opportunities. The Church views this communion and fellowship of its many scattered ministers as just as valid a form of worship as the weekly services held in some of the world's more traditional religious institutions.

**Defendant's Unconstitutional Implementation of N.C. Gen. Stat. Ann. § 51-1**

15. North Carolina regulates by statute the persons who may perform a valid marriage ceremony. Specifically, N.C. Gen. Stat. Ann. § 51-1 provides:

A valid and sufficient marriage is created by the consent of a male and female person who may lawfully marry, presently to take each other as husband and wife, freely, seriously and plainly expressed by each in the presence of the other, either:

(1) a. In the presence of an ordained minister of any religious denomination, a minister authorized by a church, or a magistrate; and b. With the consequent declaration by the minister or magistrate that the persons are husband and wife; or

(2) In accordance with any mode of solemnization recognized by any religious denomination, or federally or State recognized Indian Nation or Tribe.

16. Under North Carolina law, the authority to issue a marriage license is vested with the register of deeds. "Every register of deeds shall, upon proper application, issue a license for the marriage of any two persons who are . . . authorized to be married in accordance with the laws of this State." N.C. Gen. Stat. Ann. § 51-8.

17. While North Carolina statute validates marriages performed by an ordained minister of “any religious denomination,” Defendant has implemented the statute in a discriminatory manner. Defendant has refused to issue marriage licenses to couples whose marriage ceremonies were performed by ULC Monastery ministers. On information and belief, Defendant has adopted a policy of refusing to recognize the validity of marriages solemnized by ULC Monastery ministers.

18. The result of Defendant’s policy is to prefer and grant a benefit to certain religions while withholding that same preference or benefit from ULC Monastery and its ministers.

19. Ministers of ULC Monastery wish to perform weddings in Cleveland County, North Carolina but face discrimination and the threat that marriages they solemnize will be invalidated.

## COUNT I

### **Violation of the Establishment Clause of the U.S. Constitution**

20. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs, as if fully set forth herein.

21. The First Amendment—as incorporated and applied to the states by through the Fourteenth Amendment—provides that “Congress shall make no law respecting an establishment of religion.” U.S. Const. amend. I.

22. The “clearest command of the Establishment Clause is that one religious denomination cannot be officially preferred over another.” *Larson v. Valente*, 456 U.S. 228, 244 (1982).

23. Defendant's apparent policy of refusing to recognize the validity of marriages performed by ULC Monastery ministers officially prefers certain religions or religious denominations over ULC Monastery by allowing other religious leaders to solemnize marriages but declining to extend that same benefit to ULC Monastery ministers.

24. No compelling governmental interest supports Defendant's discrimination against ULC Monastery ministers or the policy of recognizing ordinations from some religions but not others.

25. Defendant's implementation of Section 51-1 further contravenes the Establishment Clause because it serves no secular purpose, lacks a primary effect other than to advance or inhibit religion, and fosters an excessive government entanglement with religion. *See Lemon v. Kurtzman*, 403 U.S. 602, 612–13 (1971).

26. Defendant's actions in implementing Section 51-1 are taken under color of state law, and are in derogation of Plaintiff's privileges, immunities, and rights guaranteed under federal law, and therefore, violate 42 U.S.C. § 1983, entitling Plaintiff to declaratory and injunctive relief, as well as damages, costs, and attorneys' fees as provided by 42 U.S.C. § 1988.

## COUNT II

### **Violation of the Equal Protection Clause of the U.S. Constitution**

27. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs, as if fully set forth herein.

28. The Equal Protection Clause of the Fourteenth Amendment provides that states may not "deny any person within [their] jurisdiction equal protection of the laws." U.S. Const. amend. XIV, § 1. The Equal Protection Clause protects against invidious discrimination against similarly situated individuals or implicating fundamental rights, such as religion.

29. Defendant's implementation of Section 51-1 extends the right to officiate weddings to ministers ordained by various religious groups but denies that right to ULC Monastery and its ministers.

30. Defendant's discrimination against ULC Monastery is intentional and purposeful.

31. Defendant's actions in implementing Section 51-1 are taken under color of state law, and are in derogation of Plaintiff's privileges, immunities, and rights guaranteed under federal law, and therefore, violate 42 U.S.C. § 1983, entitling Plaintiff to declaratory and injunctive relief, as well as damages, costs, and attorneys' fees as provided by 42 U.S.C. § 1988.

### **COUNT III**

#### **Violation of the Free Exercise Clause of the U.S. Constitution**

32. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs, as if fully set forth herein.

33. The First Amendment—as incorporated and applied to the states by through the Fourteenth Amendment—provides that “Congress shall make no law . . . prohibiting the free exercise [of religion].” U.S. Const. amend. I.

34. Many of ULC Monastery's ministers choose to minister by solemnizing marriages, and Defendant's implementation of Section 51-1 burdens ULC Monastery's and its members' free exercise of religion by depriving them of the right to solemnize marriages. Defendant's restrictions on who may solemnize marriages are arbitrary and not supported by any rational basis.

35. Defendant's apparent policy of refusing to recognize the validity of marriages performed by ULC Monastery ministers is not neutral and not of general application because its purpose is to confer a benefit on certain religious groups and not others. As a result, the

challenged policy is subject to the most rigorous of scrutiny. This policy is not supported by any compelling governmental interest.

36. Defendant's actions in implementing Section 51-1 are taken under color of state law, and are in derogation of Plaintiff's privileges, immunities, and rights guaranteed under federal law, and therefore, violate 42 U.S.C. § 1983, entitling Plaintiff to declaratory and injunctive relief, as well as damages, costs, and attorneys' fees as provided by 42 U.S.C. § 1988.

#### **COUNT IV**

##### **Violation of Article 1, Section 13 of the North Carolina Constitution**

37. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs, as if fully set forth herein.

38. Article 1, Section 13 of the North Carolina Constitution states that "[a]ll persons have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority shall, in any case whatever, control or interfere with the rights of conscience."

39. Many of ULC Monastery's ministers choose to minister by solemnizing marriages, and Defendant's actions in implementing Section 51-1 burden ULC Monastery's and its ministers' free exercise of religion by depriving them of the right to solemnize marriages. Defendant's restrictions on who may solemnize marriages are arbitrary and not supported by any rational basis.

40. Defendant's actions in implementing Section 51-1 are not neutral and not of general application because their purpose is to confer a benefit on certain religious groups and not others. As a result, Defendant's actions are subject to the most rigorous of scrutiny, and is not supported by any compelling governmental interest.

## COUNT V

### Violation of Article VI of the U.S. Constitution

41. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs, as if fully set forth herein.

42. Article VI of the U.S. Constitution provides that “no religious Test shall ever be required as a Qualification to any Office or public Trust under the United States.” U.S. Cons. art. VI, cl. 3.

43. Section 51-1 creates a position of public trust in those who are authorized to solemnize marriages, but Defendant’s implementation of Section 51-1 requires that those who solemnize marriages adhere to certain religious traditions and not others. The result is to impose an unconstitutional religious test on ULC Monastery ministers.

44. Defendant’s actions in implementing Section 51-1 are taken under color of state law, and are in derogation of Plaintiff’s privileges, immunities, and rights guaranteed under federal law, and therefore, violate 42 U.S.C. § 1983, entitling Plaintiff to declaratory and injunctive relief, as well as damages, costs, and attorneys’ fees as provided by 42 U.S.C. § 1988.

## COUNT VI

### Violation of the Unconstitutional Conditions Doctrine

45. Plaintiff re-alleges and incorporates herein by reference all preceding paragraphs, as if fully set forth herein.

46. Under the unconstitutional conditions doctrine, “a state actor cannot constitutionally condition the receipt of a benefit . . . on an agreement to refrain from exercising one’s constitutional rights.” *G&V Lounge, Inc. v. Mich. Liquor Control Comm’n*, 23 F.3d 1071, 1077 (6th Cir. 1994).

47. Defendant's implementation of Section 51-1 grants the authority to solemnize marriages to a limited number of qualified individuals yet denies that authority to those who exercise their religion in a manner protected by the First Amendment but disapproved of by the Defendant. Ministers of ULC Monastery must refrain from exercising their constitutional rights in order to obtain the benefit of authorization to solemnize marriages.

48. Defendant's actions are taken under color of state law, and are in derogation of Plaintiff's privileges, immunities, and rights guaranteed under federal law, and therefore, violate 42 U.S.C. § 1983, entitling Plaintiff to declaratory and injunctive relief, as well as damages, costs, and attorneys' fees as provided by 42 U.S.C. § 1988.

#### **PRAYER FOR RELIEF**

ULC Monastery respectfully requests that the Court grant the following relief:

- a. A judgment declaring that Defendant's apparent policy of refusing to recognize the validity of marriages performed by ULC Monastery ministers is unconstitutional under the U.S. and North Carolina Constitutions;
- b. A permanent injunction prohibiting Defendant from refusing to issue marriage licenses to couples married by ULC Monastery ministers, from deterring or preventing any ULC Monastery minister from performing a marriage, and from otherwise applying Section 51-1 in a manner that discriminates against ULC Monastery;
- c. A judgment awarding ULC Monastery its costs and attorneys' fees; and
- d. Such other relief as the Court deems just and proper.

Respectfully submitted,

DUNGAN, KILBOURNE & STAHL, P.A.

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