MAINE SUPREME JUDICIAL COURT
SITTING AS THE LAW COURT

DOCKET NO. CUM-16-421

IN RE CAROL BOARDMAN
Appellant

On Appeal from the Cumberland County Probate Court

BRIEF OF AMICI CURIAE GLBTQ LEGAL ADVOCATES & DEFENDERS, ACLU OF MAINE, EQUALITYMAINE, AND TRANS YOUTH EQUALITY FOUNDATION IN SUPPORT OF APPELLANT

January 3, 2017

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STATEMENT OF INTEREST OF AMICI

GLBTQ Legal Advocates & Defenders ("GLAD") is a New England-wide legal rights organization dedicated to ending discrimination based on sexual orientation, gender identity and expression, and HIV status. Many of GLAD's cases endeavor to promote legal respect for and recognition of LGBTQ families, both marital and nonmarital, and transgender people. GLAD has participated as counsel or amicus in a wide variety of cases in those areas, including *Partanen v. Gallagher*, 475 Mass. 632 (2016); *Doe v. Reg'l Sch. Unit 26*, 2014 ME 11, 86 A.3d 600; *In re A.M.B.*, 2010 ME 54, 997 A.2d 754; *In re M.A.*, 2007 ME 123, 930 A.2d 1088; and *C.E.W. v. D.E.W.*, 2004 ME 43, 845 A.2d 1146.

The American Civil Liberties Union of Maine Foundation ("ACLU of Maine") is a nonprofit nonpartisan organization dedicated to protecting the civil rights and civil liberties of the people of Maine and to extending those protections to individuals and groups that have traditionally been denied them. The ACLU of Maine was organized in 1968 as the Maine Civil Liberties Union, and it serves as the Maine affiliate of the American Civil Liberties Union. The ACLU of Maine has a long history of involvement, both as amicus curiae and as direct counsel, in litigation in support of the nondiscriminatory application of the law.

EqualityMaine works to secure full equality for lesbian, gay, bisexual, and transgender people in Maine through political action, community organizing, education, and collaboration. EqualityMaine envisions the day when lesbian, gay, bisexual, and transgender persons and their families have full equality in the hearts and minds of Maine people and in all areas of the law.

The Trans Youth Equality Foundation ("TYEF") is a national nonprofit foundation that provides education, advocacy, and support for transgender children, youth, and their families. TYEF seeks to create high-quality resources and support services through a variety of programs, including yearly youth retreats, an educational podcast program, trainings for educational and medical professionals, youth workshops, and social media presence. TYEF's mission is to share information about the unique needs of this community, partnering with families, educators, and service providers to help foster a healthy, caring, and safe environment for all transgender children.

STATEMENT OF FACTS AND PRIOR PROCEEDINGS

Amici adopt and incorporate in its entirety Appellant Boardman's Statement of Facts and Procedural History. Brief of Appellant at 1-3.

STATEMENT OF ISSUES

Whether a Probate Court may deny a petition to change the petitioner's surname to that of a "friend" because it may create the false impression that the petitioner and the friend are married.

SUMMARY OF ARGUMENT

A Probate Court may not deny a petition to change a name to that of a friend because of a belief that it may create a false impression that petitioner and the friend are married, and this Probate Court abused its discretion in doing so. The name change statute sets forth clear standards, and a trial court's discretion regarding name change is circumscribed. (PP. 5-9). The petitioner in this case, Ms. Boardman, met all of the statutory name change requirements, and there was no evidence in the record that she sought a name change for purposes that were fraudulent or contrary to the public interest. (PP. 10-13). Ms. Boardman's name change was consistent with Maine public policy which prohibits discrimination on the basis of marital status and demonstrates support for all families, marital and nonmarital alike. (PP. 13- 18). Consistent application of the name change statute is important to the LGBTQ community. (PP. 18-22). The denial of Ms. Boardman's name change was far outside the bounds of reasonableness and must be reversed.

ARGUMENT

I. THE PROBATE COURT IMPROPERLY DENIED THE APPELLANT'S PETITION.

The Probate Court abused its discretion denying Ms. Boardman's petition to change her surname where her petition met the statutory requirements and was consistent with the public interest. Amici write to address issues of statutory construction, Maine public policy, and to highlight the interests of the LGBTQ community in the consistent application of the name change statute.

A. Standard of Review.

In reviewing a denial of a name change petition, an appellate court assesses whether the Probate Court abused its discretion. *In re A.M.B.*, 2010 ME 54, ¶ 4, 997 A.2d 754. As this Court stated in *McLeod v. Macul*, "[r]eview for an abuse of discretion involves resolution of three questions: (1) are factual findings, if any, supported by the record according to the clear error standard; (2) did the court understand the law applicable to its exercise of discretion; and (3) given all the facts and applying the appropriate law, was the court's weighing of the applicable facts and choices within the bounds of reasonableness." 2016 ME 76, ¶ 6, 139 A.3d 920 (quoting *Pettinelli v. Yost*, 2007 ME 121, ¶ 11, 930 A.2d 1074). Here, the Probate Court abused its

discretion by denying a name change petition that met the statutory requirements.

B. The Name Change Statute Unambiguously Sets Forth Certain, Discernible Requirements that are Intended to Permit the Change of Name with a Definite Legal Record.

The Probate Code addresses name changes in 18-A M.R.S. § 1-701 (2015). The statute provides, in relevant part, as follows:

> If a person desires to have that person's name changed, the person may petition the judge of probate in the county where the person resides . . . . The judge, after due notice, may change the name of the person . . . . The judge shall make and preserve a record of the name change . . . . The judge may require the person seeking a name change to undergo one or more of the following background checks: a criminal history record check; a motor vehicle record check; or a credit check . . . . The judge may not change the name of the person if the judge has reason to believe that the person is seeking the name change for purposes of defrauding another person or entity or for purposes otherwise contrary to the public interest.

Id.

According to the plain language of the statute, a petitioner must petition in the county of their residence and provide due notice. *Id. See also A.M.B.*, 2010 ME 54, ¶ 2, 997 A.2d 754. "Due notice" is a requirement that ensures the proposed name change does not substantially interfere with the rights of others. *In re Reben*, 342 A.2d 688, 695 (Me. 1975). Furthermore, a judge may

not change the name if the judge believes the change is for the purpose of defrauding someone or for a purpose contrary to the public interest. 18-A M.R.S. § 1-701. To ensure that a petitioner is not seeking a name change for the purpose of defrauding another or for a purpose contrary to the public interest, a judge may require certain background checks. *See A.M.B.*, 2010 ME 54, ¶ 2, 997 A.2d 754. There are no other statutory requirements for a name change of an adult.

Section 1-701 (along with its predecessor statutes) is a codification of the common law which allowed for the free changing of names so long as there was no fraudulent purpose. *Reben*, 342 A.2d at 690-691, 693. Indeed, "the common law decisions frequently spoke of a 'person's' right to change 'his' name." *Id.* at 691. Maine kept the common law principles but superseded the common law so that all name changes are judicial. *Id.* at 694-695. *See also A.M.B.*, 2010 ME 54, ¶ 4, 997 A.2d 754. By doing so, Maine sought to permit individuals a liberal right to change their name but with a clear and definite record of that change and an advance determination that the name was not fraudulent or contrary to the public purpose. *Id*.

The common law history of name change is consistent with core, modern-day constitutional values. A name is a key component of a person's identity and an important means of self-expression. Under the Due Process

Clause of the Fourteenth Amendment to the U.S. Constitution,[1] "no State shall 'deprive any person of life, liberty, or property, without due process of law.' The fundamental liberties protected by this Clause include most of the rights enumerated in the Bill of Rights. In addition these liberties extend to certain personal choices central to individual dignity and autonomy, including intimate choices that define personal identity and beliefs." *Obergefell v. Hodges*, 576 U.S. __, 135 S. Ct. 2584, 2597-2598 (2015). Indeed, as articulated in *Lawrence v. Texas*: "Freedom extends beyond spatial bounds. Liberty presumes an autonomy of self that includes freedom of thought, belief, expression, and certain intimate conduct." 539 U.S. 558, 562 (2003). *See also Planned Parenthood v. Casey*, 505 U.S. 833, 851 (1992)("These matters, involving the most intimate and personal choices a person may make in a lifetime, choices central to personal dignity and autonomy, are central to the liberty protected by the Fourteenth Amendment. At the heart of liberty is the right to define one's own concept of existence, of meaning" as one lives his or her life). These core constitutional concepts –personal autonomy, freedom of

[1] This Court has articulated that the "substantive due process rights of the United States and Maine Constitutions are coextensive." *Doe v. Williams*, 2013 ME 24, ¶65, 61 A.3d 718.

expression, freedom to define one's identity and beliefs – are implicated in the name change process. A court's application of the name change statute should be consistent with these fundamental values, liberally allowing a person to change their name absent some significant public interest to the contrary.

C. A Judge's Discretion as to Granting a Name Change is Carefully Circumscribed.

Although the name change statute envisions a judge exercising discretion as to whether a name change petition should be granted, that discretion is not unfettered. *Reben*, 342 A.2d at 693 ("It would be unreasonable to assume that the 1873 Legislature intended to give the Judge a completely unbridled discretion to be exercised on whim or caprice."). *Reben* articulated the standards to be applied by the judge, as gleaned from the statute and common law, and those standards were generally codified in the most recent version of the statute. *A.M.B.*, 2010 ME 54, ¶ 4, 997 A.2d 754. In short, individuals are entitled to a "judicially-sanctioned name change, as long as the petition is not submitted with fraudulent intent and the change of name does not interfere with the rights of others."[2] *Id.*

[2] As further background, the name change statute resides in the Probate Code, which, according to the Legislature, "shall be liberally construed and applied to promote its underlying purposes and policies." 18-A M.R.S.

In considering the scope of the judge's discretion, it is also clear that courts cannot add requirements to the statute. It is a repeated maxim of Maine law that courts "do not read exceptions, limitations, or conditions into an otherwise clear and unambiguous statute." *Andrews v. Sheepscot Island Co.*, 2016 ME 68, ¶ 12, 138 A.3d 1197 (quoting *M.A.*, 2007 ME 123, ¶ 9, 930 A.2d 1088). *See also Freeman v. NewPage Corp.*, 2016 ME 45, ¶ 8, 135 A.3d 340. Therefore, not only must a court adhere to the plain language of a statute, but it cannot read into its language other requirements or prohibitions. *See M.A.*, 2007 ME 123, ¶ 14, 930 A.2d 1088.

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§ 1-102(a) (2015). One of the underlying purposes of the Probate Code is "to make uniform the law among the various jurisdictions." *Id*. § 1-102(B)(5). The Probate Code aims to promote "judicial efficiency and simplification of process." *In re M.A.*, 2007 ME 123, ¶ 25, 930 A.2d 1088 (quoting *Guardianship of Zachary Z.*, 677 A.2d 550, 553 (Me. 1996)). As such, the name change statute should be liberally construed and should further the general Probate Code goals of a simple and efficient name change process. *See A.M.B.*, 2010 ME 54, ¶ 4, 997 A.2d 754.

D. This Probate Court Abused its Discretion In Denying Ms. Boardman's Petition.

1. Ms. Boardman Met All the Statutory Requirements, and there was No Evidence In the Record that She Sought a Name Change for Purposes that were Fraudulent or Contrary to the Public Interest.

As outlined in her brief, Ms. Boardman met all of the requirements of 18-A M.R.S. § 1-701. *See* Brief of Appellant at 1-3, 16-17. She provided notice to all interested parties, and there were no objections to her petition. Appellant Appendix ("Appendix") at 4. Even more, her friend, whose name she sought to share, appeared in court for the hearing and raised no objection. Appendix at 6. Ms. Boardman attested to not being involved in any bankruptcy or creditor proceedings. Appendix at 4. The Probate Court had the opportunity to order background checks, which checks are in place to ensure that a petitioner has no purpose that is fraudulent or contrary to the public interest, but it appears the court declined to do so. Appendix at 2. *See also A.M.B.*, 2010 ME 54, ¶ 2, 997 A.2d 754. There was no evidence in the record that Ms. Boardman sought a name change for a fraudulent purpose or for a purpose contrary to the public good, and the trial court made no such factual findings. Appendix at 3-8. Where Ms. Boardman met all of the statutory requirements and there was no evidence that the name change was fraudulent or contrary to the public interest, it was an abuse of discretion to

deny her petition. *See Reben*, 342 A.2d at 695; Brief of Appellant at 1-3, 16-17; Appendix at 3-8.

2. Ms. Boardman's Name Change Petition was Not Fraudulent or Contrary to the Public Interest.

The Probate Court denied Ms. Boardman's petition based on its assessment that, by changing her surname to that of her friend, Ms. Boardman "will give the public impression they are a married couple and thus a false impression." Appendix at 2. The Probate Court, in so stating, appears to conclude that her petition intended to defraud the public and therefore that her petition was contrary to the public interest. Appendix at 2, 6-7. The trial court explicitly stated at the hearing that, in order for Ms. Boardman to change her surname, she would have to marry her friend. Appendix at 7. From the hearing record and the court's order, one must conclude that the trial court denied the petition because the court believed that two, unmarried individuals sharing the same name is contrary to the public interest. This ruling was clear error and an abuse of discretion because it was inconsistent with the statute's text and misconstrued the public interests at stake, leading to a patently unreasonably result.

As outlined above, the plain language of the statute permits this petition. The Legislature granted individuals broad prerogative to change

their names absent narrow exceptions for purposes that are fraudulent or contrary to the public interest. *Reben*, 342 A.2d at 694-695. Altering the rule to require marriage as the vehicle for name changes hollows out the broad right conferred by statute. *See* 18-A M.R.S. § 1-701.

Ms. Boardman's petition is in line with Maine's central name change precedent, *In re Reben*, which addressed the scope of judicial discretion and name change. 342 A.2d 688. *Reben* permitted a married woman to utilize her premarital name where it was not fraudulent, and where it was also consistent with the public interest for a married woman to have her own surname rather than conform to societal norms and share the surname of her husband. *Id.* at 692, 695. If a married woman must be allowed to have a nonmarital name, the corollary – that an unmarried woman can share a surname with another – must also be true. The *Reben* decision and Maine statutory law confirm that there is no public interest in ensuring that a person's name reflects their marital status. *See, e.g.* 19-A M.R.S. §§ 752, 1051 (2015) (formerly married person permitted, but not required, to change of surname on annulment or divorce).

Ms. Boardman's petition was consistent with the public interest, and not contrary to it, and the trial court erred in concluding otherwise. As detailed below, Maine public policy in many respects strongly supports couples and

families, both marital and nonmarital, who make their homes in every community in the State. As such, the name change statute must comport with that public policy rather than undermine it. *See M.A.*, 2007 ME 123, ¶ 31, 930 A.2d 1088 (noting that public policy favoring permanency for children must inform the trial court's exercise of judicial discretion in determining whether joint nonmarital adoptions are permitted and that courts must "choose the construction 'that avoids a result adverse to the public interest.'") (quoting *S. Portland Civil Serv. Comm'n v. City of S. Portland,* 667 A.2d 599, 601 (Me. 1995)). Where the trial court's denial contravenes the plain language of the statute and misconstrues the public interest at stake such that its order defies reason and logic, it cannot stand.

3. Allowing a Name Change for an Unmarried Adult is Consistent with and Supports Existing Public Policy.

i. The Maine Human Rights Act Protects Against Marital Status Discrimination, Underscoring Maine's Commitment to Equality on the Basis of Marital Status.

It is the public policy of Maine, clearly articulated in the Human Rights Act ("HRA"), to prevent discrimination on the basis of marital status. 5 M.R.S. § 4552 (2015). In place since the 1970s, the HRA prohibits discrimination in the provision of credit based on marital status. 5 M.R.S. §§ 4595-4596 (2015). Therefore, in the extension of credit, whether someone is married or not

should not be relevant. *See id.* In this case, the trial court used concerns about the extension of credit as a justification for its denial:

> If the two of you share the same last name, you would appear to be married by anybody who met you. That would be deceptive. So, if somebody were to extend credit to you, let you sign a lease, give you access to records, they would do say [sic] under the misapprehension that you were a married couple, but you're not.

Appendix at 6-7. The trial court's justification for denying Ms. Boardman's name change was directly contrary to Maine's established public policy prohibiting discrimination on the basis of marital status. *See* 5 M.R.S. §§ 4595-4596. As such, the denial was an abuse of discretion.

ii. Maine's Domestic Partner Registry, and the Many Rights Flowing Therefrom, Demonstrate a Public Policy Supporting Nonmarital Relationships.

Maine enacted a domestic partner registry in 2004. 22 M.R.S. § 2710 (2015). The statute defines domestic partners as "2 unmarried adults who are domiciled together under long-term arrangements that evidence a commitment to remain responsible indefinitely for each other's welfare." *Id*. § 2710(2). This definition can encompass friends and nonmarital partners as long they meet the statutory criteria. *Id*. Maine law confers important rights on and protections for domestic partners. For example, domestic partners inherit through intestacy. 18-A M.R.S. § 2-102 (2015). Domestic

partners receive custody of a deceased partner's remains and have the right to make funeral and burial arrangements. 22 M.R.S. § 2843-A (2015). Insurance policies sold in the state must include an option for domestic partner coverage across the health care spectrum. *See, e.g.,* 24-A M.R.S. § 2741-A (2015) (individual plans); 24-A M.R.S. § 2832-A (2015) (group plans); 24-A M.R.S. § 4249 (2015) (HMO); 24 M.R.S. § 2319-A (2015) (nonprofit hospital). Through this statutory scheme, the Legislature has articulated a clear public policy respecting nonmarital relationships for numerous purposes. Given this public policy, the name change statute should be read consistently to support those nonmarital relationships. *See M.A.*, 2007 ME 123, ¶ 31, 930 A.2d 1088. Indeed, it subverts the public good to prohibit friends or nonmarital partners from sharing a surname as it suggests that nonmarital relationships are fraudulent when Maine has chosen to recognize and respect such relationships through the domestic partnership registry.

iii. The Maine Parentage Act Further Highlights Maine's Commitment to Equal Treatment Regardless of Marital Status.

In 2015, the Legislature enacted the comprehensive Maine Parentage Act ("Act"), which modernized and clarified determinations of parentage in the state. *See* 19-A M.R.S. §§ 1831-1939 (2015). Among other things, the Act created a presumption of parentage for nonmarital partners:

> Nonmarital presumption established. A person is presumed to be a parent of a child if the person resided in the same household with the child and openly held out the child as that person's own from the time the child was born or adopted and for a period of at least 2 years thereafter and assumed personal, financial or custodial responsibilities for the child.

Id. § 1881. In the realm of assisted reproduction, parentage can be established through "consent" to assisted reproduction. *Id.* § 1851. Nonmarital partners can be parents through consent to assisted reproduction, meaning that parentage is not dependent on the marital status of the parents. *Id.* § 1923. The Act codifies "de facto parentage," requiring such persons to meet demanding requirements, but in no way conditioning their parental status on marriage or domestic partnership status. *Id.* § 1891.[3] The Maine Parentage Act is both gender neutral and marital status neutral, articulating multiple paths to parenthood and thereby recognizing and supporting many kinds of

[3] In *Pitts v. Moore*, this Court again called on the legislature to act "given the evolving compositions of families and the need for a careful approach" regarding de facto parents. 2014 ME 59, ¶ 18, 90 A.3d 1169. The Maine Parentage Act responded to that call.

Maine families.[4] With such clear and recent Legislative support for nonmarital families, it would be illogical to conclude that allowing nonmarital

[4] Even before the Maine Parentage Act, Maine law supported and protected many kinds of families. *M.A*. permitted the joint adoption of children by two unmarried petitioners. 2007 ME 123, 930 A.2d 1088. Although the adoption statute expressly permitted adoption by a married couple and by an unmarried individual, the statute was silent about the ability of two unmarried people to adopt. *Id.* ¶ 14. This Court interpreted the statute to permit the joint adoption by two unmarried individuals, reasoning that permitting two unmarried petitioners to adopt furthers the adoption code's purpose of protecting the welfare of children and that holding otherwise would undermine the public interest. *Id.* ¶¶ 26-31. In *Guardianship of I.H.*, this Court noted that the guardianship statute permits the appointment of coguardians. 2003 ME 130, ¶ 17, 834 A.2d 922. *See also* 18-A M.R.S. § 5-206. The guardianship statute contains no requirement that coguardians be married, and this Court noted that there are "several situations" where coguardianships may be appropriate. *I.H.*, 2003 ME 130, ¶ 18, 834 A.2d 922. *See also* 18-A M.R.S. § 5-206.

partners to share a common surname is deceptive as contrary to the public interest. *See Doe v. Reg'l Sch. Unit 26*, 2014 ME 11, ¶ 14, 86 A.3d 600 ("We give effect to the Legislature's intent, avoiding results that are inconsistent or illogical").

In light of the many protections that Maine provides for the variety of families individuals may form, both marital and nonmarital, the trial court abused its discretion by denying Ms. Boardman's access to a name change on the basis of her marital status.

II. THE CONSISTENT APPLICATION OF THE NAME CHANGE STATUTE IS IMPORTANT FOR THE LGBTQ COMMUNITY.

The consistent application of the name change statute serves to advance the rights and freedoms of all individuals in Maine, including those in the LGBTQ community.

A. Uniform and Consistent Name Change Practices Are of Particular Importance to the Transgender Community.

A transgender individual is someone whose gender identity, meaning their internalized sense of who they are as male or female, does not align with the person's assigned birth sex. See *Doe v. Reg'l*, 2014 ME 11, ¶ 3, 86 A.3d 600. Many transgender people undergo gender transition to live their lives consistent with their gender identity rather than with their assigned birth sex. For many transgender people, a key component of transition is adopting a

new gender role or presentation in everyday life. WPATH, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People, Seventh Version, at 9 (2011), http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1351&pk_association_webpage=3926.[5] Being able to legally change one's name is an essential component of gender transition for many transgender people.

A legal name change order is often required to update a name listed on official identity documents such as a driver's license, social security card or passport. *See, e.g.,* U.S. Passports & International Travel, Gender Designation Change, https://travel.state.gov/content/passports/en/passports/information/gender.html. Not only is a legal name change important for updating identity documents, but it can also be central to preserving the safety and well-being of a transgender person and avoiding harm. Having

[5] The World Professional Association for Transgender Health ("WPATH") has established internationally accepted Standards of Care for gender transition based on "the best available science and expert professional consensus." WPATH, Standards of Care at 1. These standards recommend an individualized approach to gender transition.

identification that does not match a person's gender presentation can be dangerous. The 2015 Transgender Survey found that, for people whose identification did not match their gender presentation, "25% … were verbally harassed, 16% were denied services or benefits, 9% were asked to leave a location or establishment, and 2% were assaulted or attacked." S. E. James et al., Report of the 2015 U.S. Transgender Survey, 82, 88-89 (National Center for Transgender Equality, 2016). Delaying a legal name change and updating identity documents "may have a deleterious impact on a patient's social integration and personal safety." WPATH, Position Statement on Medical Necessity of Treatment, Sex Reassignment, and Insurance Coverage in the U.S.A., at 3 (2016), http://www.wpath.org/site_page.cfm?pk_association_webpage_menu=1352&pk_association_webpage=3947. As such, access to the courts and to legal name changes is critical for many transgender individuals.[6]

Maine has a strong public policy supporting and protecting its transgender citizens. The Legislature, through the Maine Human Rights Act, has expressed a clear public policy protecting transgender people from

[6] This is particularly true in Maine where there is only judicial name change and no common law name change. *See Reben*, 342 A.2d at 695 (noting that the name change statute superseded the common law of name change in Maine).

discrimination in many realms, including education, public accommodations, housing and employment, 5 M.R.S. § 4592 (2015), rights which this Court has confirmed. *Doe v. Reg'l*, 2014 ME 11, ¶ 22, 86 A.3d 600. Even though transgender people experience profound bias and discrimination in almost all aspects of life, s*ee* S. E. James et al., Report of the 2015 U.S. Transgender Survey Executive Summary, 2 (National Center for Transgender Equality, 2016) (concluding that the survey revealed "disturbing patterns of mistreatment and discrimination and startling disparities between transgender people in the survey and the U.S. population when it comes to the most basic elements of life"), they, like others, rely on the Probate Courts to play their central role in ensuring that the name change statute is applied consistently and in accord with public policy.

B. For Many Nonmarital Families in the LGBTQ Community, it is Important to Consistently Apply Statutes Such as the Name Change Statute to Ensure Respect and Dignity for All.

Prior to ratification of an equal marriage ballot measure in 2012, same-sex couples could not marry and enjoy the rights and responsibilities of marriage. *See* Laws 2011, LB. 3 (deleting 19-A M.R.S. § 701(5) and adding 19-A M.R.S. §§ 650-A, 650-B). As nonmarital families, many members of the LGBTQ community came before the courts to seek security and recognition of their family relationships through statutes of general application like the

name change statute. For example, the unmarried, same-sex couple in *C.E.W. v. D.E.W.* changed their surnames to share a common surname between themselves and their child. 2004 ME 43, ¶ 2, 845 A.2d 1146. An unmarried, same-sex couple sought the joint adoption of their two foster children in *M.A.*, and this Court interpreted the adoption statutes to permit the adoptions which ensured permanent security for the children. 2007 ME 123, ¶ 31, 930 A.2d 1088. When another unmarried, same-sex couple sought coguardianship of a child, this Court remarked that the guardianship statute expressly permitted coguardianship. *I.H.*, 2003 ME 130, ¶ 17, 834 A.2d 922. The consistent and unbiased application of probate statutes has been, and will continue to be, of great importance to the LGBTQ community and to ensuring that all individuals and families, marital and nonmarital, come before their government as equals.

CONCLUSION

The denial of Ms. Boardman's petition to change her surname was a clear abuse of discretion. Ms. Boardman met the requirements of the name change statute. There was no evidence in the record indicating any fraudulent purpose, and her petition was consistent with the public interest. Maine public policy prohibits marital status discrimination and supports families in their many forms, marital and nonmarital. The Probate Court's conclusion

that two unmarried individuals cannot share a common surname directly contravenes and undermines that public policy. The public, including the LGBTQ community, depends on the consistent application of the name change statute in line with Maine public policy, which protects many, including transgender people, unmarried individuals, and nontraditional families. The Probate Court's denial of Ms. Boardman's name change was arbitrary and contrary to Maine law, and it must be reversed.

Respectfully Submitted,
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CERTIFICATE OF SERVICE

This is to certify that two copies of the foregoing Brief of Amici Curiae was mailed, postage prepaid, and e-mailed on this 3rd day of January, 2017 to: James S. Mundy, Whitney, Mundy & Mundy, P.O. Box 187, South Berwick, ME 03908, james@whitneymundy.com.

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