

well as under the law of several states in the United States. See Certificate of Marriage, attached as **Exhibit “A.”**

3. Ms/Mr NAME now seeks an Order of this Court finding that the contractual relationship between the parties has ended, and entering an Order declaring the two parties to be legal strangers to one another.

4. This court has personal jurisdiction over the parties, as they have resided in Utah before, during and since entering into this contractual relationship. Venue is proper in this court.

5. This court has subject matter jurisdiction over declaratory judgment actions such as this one pursuant to Utah Code § 78B-6-401, over the dissolution of marriages pursuant to Utah Code § 30-3-1, over contract matters pursuant to Utah Code Title 15, and over annulments, pursuant to Utah Code § 30-1-17.1. Further, this court has the subject matter jurisdiction to dissolve the marriage pursuant to *Johnson v. Johnson*, 234 P. 3d 1100 (Utah 2010.)

FACTUAL BACKGROUND

6. The parties have never resided together. They own no assets together, nor do they share debts.

7. On xxxxx , 20xx, while both parties were residents of Salt Lake County, Utah, they travelled to British Columbia, Canada, and voluntarily entered into a contractual marriage relationship. Their relationship was and is governed by and consistent with the law of British Columbia, Canada, and is considered a valid marriage in Canada, as well as in several states in the United States.

8. After entering into their Canadian contractual relationship, the parties returned to Salt Lake County. However, the parties never resided together. Soon after returning to Utah, the

parties' relationship failed and their differences became irreconcilable. The parties therefore have grounds for divorce under Utah law and grounds for dissolution under Canadian law.

9. No other action between the parties is pending, in any court of competent jurisdiction, which seeks the same or similar relief as that which is sought herein.

10. The parties have no children and there are no children of this relationship.

11. There is no joint property or debt of this relationship.

12. Applicable Canadian law has no residency requirement to enter into a marriage or contract in Canada, as the parties did here. However, Canadian law does require that the parties have Canadian residency to obtain a divorce or otherwise dissolve a contractual relationship.

13. Utah law does not recognize a marriage between adults of the same gender, such as these parties, but has no specific law regarding divorce between such persons. See Utah Code § 30-1-2 and § 30-1-4.1 and Article I, Section 29 of the Utah Constitution. Utah law expressly provides for an annulment of a marriage when a marriage is between persons of the same sex. Utah Code § 30-1-2(5).

14. Utah law provides that, even if a marriage between same sex adults such as the parties here is valid in the jurisdiction where granted, the marriage shall be unenforceable in this state.

15. This Court has subject matter jurisdiction to grant the equitable relief sought. The fact that the parties never had a marriage considered valid in Utah does not divest the court of its authority to resolve the dispute between them. *Johnson v. Johnson*, 234 P. 3d 1100, ¶ 12 (Utah 2010.) “Just as a court adjudicating a contract dispute has the authority to determine that no contract exists without losing subject matter jurisdiction over the dispute, a court has the

authority to adjudicate a divorce claim even if the court later determines that no marriage ever existed.” *Id.*

16. This Court has the equitable power to grant the relief sought. It would be unduly harsh to require Petitioner, a Utah resident, to move away from her family, home and employment in Utah and relocate to Canada, solely to obtain dissolution of the relationship.

17. It would further be unduly harsh to prevent Petitioner from ever dissolving this contractual relationship. Without dissolving this contractual relationship,

a. Petitioner cannot establish another marriage while she remains a party to this marriage relationship;

b. Any property Petitioner acquires could be considered marital property subject to equitable distribution, and Petitioner may be liable for debts incurred by Respondent without Petitioner’s knowledge or consent, under the laws of Canada and many states in the United States.

c. As her spouse, Petitioner could be legally responsible for the support of Respondent, under the laws of Canada and many states in the United States.

d. As her spouse, Respondent would have priority to make emergency medical decisions about Petitioner, under the laws of Canada and many states in the United States.

e. As her spouse, Respondent would have rights to wrongful death benefits, workers’ compensation benefits, and many other government benefits under the laws of Canada and many states in the United States.

f. As spouses, the parties would have custody rights and child support

obligations should either have a child during the marriage, under the laws of Canada and many states in the United States.

18. Petitioner seeks dissolution of the contractual marriage relationship for many reasons, including the fact that it is the only way to terminate the benefits, protections, and responsibilities that go with a marriage.

19. If Petitioner remains in legal limbo as a party to the relationship, unable to obtain judicial dissolution of the relationship, creditors, medical providers and other unwitting third parties interacting with Petitioner and Respondent may be drawn into disputes as to the status of this relationship and the parties' respective accountability, rights, and benefits as spouses under the laws of Canada and many states in the United States.

20. Petitioner is not herein asking this Court to exercise its equitable power to extend the benefits arising from the recognition of a marriage, as available under Canadian law, in this proceeding in Utah.

21. This Court should exercise its general equity jurisdiction where the parties are in need of a judicial remedy to dissolve their legal relationship created by the laws of a sister country and party to the Hague Convention.

WHEREFORE, it is respectfully requested that this Court exercise its authority to render the administration of justice more complete by declaring the rights and legal relations of the parties and affording necessary relief where no other full and adequate remedy is provided, as follows:

1. That the Court issue a declaratory judgment, dissolution, decree of divorce or annulment, declaring that the contractual relationship of marriage which has heretofore existed

between the parties is dissolved and terminated as of the date of entry of judgment, such that the parties are legal strangers to one another with no further obligations, responsibilities, benefits, and/or protections exist, pursuant to the contractual relationship they entered;

2. That the Court issue an order that each party maintain the assets and debts in her name and issue a finding that there are no joint assets or property to be divided;

3. That in addition or in the alternative, the Court award Petitioner an annulment from Respondent and that she be restored to all of the rights and privileges of an unmarried person;

4. That the Court grant this request for oral argument; and

5. That the Court grant Petitioner such other and further relief as to the Court may seem just, proper, and equitable.

DATED this ____ day of _____, 201-.

LAUREN R. BARROS
Attorney for Petitioner

