

PAUL, WEISS, RIFKIND, WHARTON & GARRISON LLP

Windsor v. The United States Of America

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1285 AVENUE OF THE AMERICAS
NEW YORK, NEW YORK 10019-6064
TELEPHONE (212) 373-3000

LLOYD K. GARRISON (1946-1991)
RANDOLPH E. PAUL (1946-1956)
SIMON H. RIFKIND (1950-1995)
LOUIS S. WEISS (1927-1950)
JOHN F. WHARTON (1927-1977)

UNIT 3601, FORTUNE PLAZA OFFICE TOWER A
NO. 7 DONG SANHUAN ZHONGLU
CHAO YANG DISTRICT
BEIJING 100020
PEOPLE'S REPUBLIC OF CHINA
TELEPHONE (86-10) 5828-6300

12TH FLOOR, HONG KONG CLUB BUILDING
3A CHATER ROAD, CENTRAL
HONG KONG
TELEPHONE (852) 2846-0300

ALDER CASTLE
10 NOBLE STREET
LONDON EC2V 7JU, U.K.
TELEPHONE (44 20) 7367 1600

WRITER'S DIRECT DIAL NUMBER

FUKOKU SEIMEI BUILDING
2-2 UCHISAIWAICHO 2-CHOME
CHIYODA-KU, TOKYO 100-0011, JAPAN
TELEPHONE (81-3) 3597-8101

WRITER'S DIRECT FACSIMILE
(212) 373-3086

TORONTO-DOMINION CENTRE
77 KING STREET WEST, SUITE 3100
P.O. BOX 226
TORONTO, ONTARIO M5K 1J3
TELEPHONE (416) 504-0520

WRITER'S DIRECT E-MAIL ADDRESS
(212) 373-2818

rkaplan@paulweiss.com

2001 K STREET, NW
WASHINGTON, DC 20006-1047
TELEPHONE (202) 223-7300

500 DELAWARE AVENUE, SUITE 200
POST OFFICE BOX 32
WILMINGTON, DE 19899-0032
TELEPHONE (302) 655-4410

MATTHEW W. ABBOTT
ALLAN J. ARFFA
ROBERT A. ATKINS
DAVID J. BALL
JOHN F. BAUGHMAN
LYNN B. BAYARD
DANIEL J. BELLER
CRAIG A. BENSON
MITCHELL L. BERG
MARK S. BERGMAN
BRUCE BIRENBOIM
H. CHRISTOPHER BOEHNING
ANGELO BONVINO
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PATRICK S. CAMPBELL
JEANETTE K. CHAN
YVONNE Y. F. CHAN
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JAY COHEN
KELLEY A. CORNISH
CHRISTOPHER J. CUMMINGS
CHARLES E. DAVIDOW
DOUGLAS R. DAVIS
THOMAS V. DE LA BASTIDE III
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CLAUDIA HAMMERMAN
GERARD E. HARPER
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ROBERT M. HIRSH
MICHELE HIRSHMAN
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ROBERTA A. KAPLAN
BRAD S. KARP
JOHN C. KENNEDY

ALAN W. KORNBERG
DANIEL J. KRAMER
DAVID K. LAKHDHIR
STEPHEN P. LAMB
JOHN E. LANGE
DANIEL J. LEFFELL
XIAOYU GREGORY LIU
JEFFREY D. MARELL
MARC O. MASOTTI
EDWIN S. MAYNARD
DAVID M. MAYO
ELIZABETH R. MCCOLM
MARK F. MENDELSON
TOBY S. MYERSON
JOHN E. NATHAN
CATHERINE NYARADY
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ALEX YOUNG, K. OH
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KELLEY D. PARKER
ROBERT P. PARKER
MARC E. PERLMUTTER
MARK F. POMERANTZ
VALERIE E. RADWANER
CARL L. REISNER
WALTER G. RICCIARDI
WALTER RIEMAN
RICHARD A. ROSEN
ANDREW N. ROSENBERG
PETER J. ROTHENBERG
JACQUELINE P. RUBIN
RAPHAEL M. RUSSO
JEFFREY D. SAFERSTEIN
JEFFREY B. SAMUELS
DALE M. SARRO
TERRY E. SCHIMEK
KENNETH M. SCHNEIDER
ROBERT B. SCHUMER
JAMES H. SCHWAB
JOHN M. SCOTT
STEPHEN J. SHIMSHAK
DAVID R. SICULAR
MOSES SILVERMAN
STEVEN SIMKIN
JOSEPH J. SIMONS
MARILYN SOBEL
AUDRA J. SOLOWAY
TARUN M. STEWART
ERIC ALAN STONE
AIDAN SYNNOTT
ROBYN F. TARNOFSKY
MONICA K. THURMOND
DANIEL J. TOAL
MARK A. UNDERBERG
LIZA M. VELAZQUEZ
MARIA T. VULLO
LAWRENCE G. WEE
THEODORE V. WELLS, JR.
BETH A. WILKINSON
STEVEN J. WILLIAMS
LAWRENCE I. WITDORCHIC
MARK B. WLAZLO
JULIA T.M. WOOD
JORDAN E. YARETT
KAYE N. YOSHINO
TONG YU
TRACEY A. ZACCONE
T. ROBERT ZOCHOWSKI, JR.

*NOT ADMITTED TO THE NEW YORK BAR

August 11, 2011

BY HAND

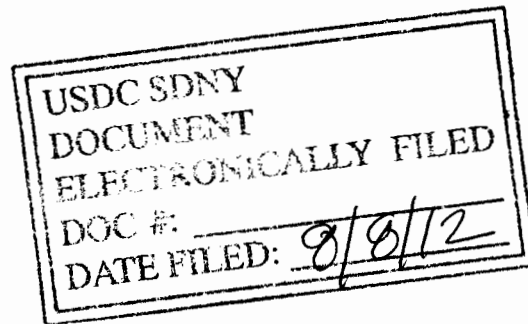
Judge Barbara S. Jones
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Magistrate Judge James C. Francis
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10007

Windsor v. United States, 10 Civ. 8435 (BSJ) (JCF)

Dear Judge Jones and Judge Francis:

We write this letter on behalf of plaintiff, Edith Schlain Windsor, in the above-captioned matter challenging the constitutionality of Section 3 of the Defense of Marriage Act, or "DOMA."



Judge Barbara S. Jones
Magistrate Judge James C. Francis

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As Your Honors may be aware, we filed with the Court yesterday a motion to strike certain documents referenced by defendant-intervenor, the Bipartisan Legal Advisory Group of the House of Representatives ("BLAG"), in opposition to plaintiff's motion for summary judgment (the "motion to strike"). The motion to strike seeks to strike a dozen books and articles cited by BLAG in its Rule 56.1 statement and accompanying papers in opposition to plaintiff's motion for summary judgment on the ground that they constitute inadmissible hearsay under the Federal Rules of Evidence and further violate the expert witness provisions of the Federal Rules of Civil Procedure. (A courtesy copy of plaintiff's brief in support of her motion to strike is enclosed.)

It is our understanding that under Local Rule 6.1(b), BLAG has until August 24 to respond to our motion to strike and that we will have until August 31 to reply. However, pursuant to the Court's Revised Scheduling Order dated May 11, 2011, our reply brief in support of plaintiff's motion for summary judgment is due on August 19, 2011. As a practical matter, that of course means that we will not have a decision on the motion to strike before we have to submit our reply brief in connection with plaintiff's motion for summary judgment.

Accordingly, in order to avoid undue delay and so that the briefing on the pending motions can proceed as efficiently as possible, we would propose that we submit our reply brief on August 19 without responding substantively to the twelve documents at issue on the motion to strike. In the event, however, that the Court denies our motion to strike in whole or in part, we would propose that we then submit supplemental materials to the Court to address any issues raised by the documents that have not been stricken.

Finally, because the Court's rules require that memoranda of law should be no longer than 25 pages, and given the length of the briefs submitted by BLAG on August 1 (totalling approximately 70 pages), we would respectfully request permission to file a reply brief of up to 30 pages in connection with our motion for summary judgment and an opposition brief of up to 35 pages with respect to BLAG's motion to dismiss; although again, we will make every effort to file briefs under those limits.

Respectfully submitted,



Roberta A. Kaplan

Encl.

cc: James D. Esseks, Esq.
H. Christopher Bartolomucci, Esq.
Jean Lin, Esq.