

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK**

EDITH SCHLAIN WINDSOR, in her)
capacity as Executor of the Estate of THEA)
CLARA SPYER,)
Plaintiff,)
vs.) Case No. 1:10-cv-8435 (BSJ) (JCF)
THE UNITED STATES OF AMERICA,) ECF Case
Defendant.)

)

NOTICE OF INTENT TO FILE REPLY

On April 18, 2011, the Bipartisan Legal Advisory Group of the U.S. House of Representatives (“House”) moved for leave to intervene as a party defendant in this matter for the limited purpose of defending the constitutionality of Section III of the Defense of Marriage Act, Pub. L. No. 104-199, 110 Stat. 2419 (1996), codified at 1 U.S.C. § 7 (“DOMA”), from attack on the ground that it violates the equal protection component of the Fifth Amendment’s Due Process Clause. *See* Unopposed Motion of the Bipartisan Legal Advisory Group of the U.S. House of Representatives to Intervene for a Limited Purpose (Apr. 18, 2011) (Doc. 12) (“Motion”). The Motion was triggered by the Attorney General’s February 23, 2011 announcement that the Department of Justice itself would no longer defend the constitutionality of Section III of DOMA.

Earlier today, the Department responded to the Motion, questioning the House’s constitutional standing to intervene, and essentially taking the position that the House be treated

in this matter in all but name as *amicus curiae*. *See* Defendant's Response to the Motion to Intervene at 2 (May 5, 2011) (Doc. 20) ("Response").

Consistent with Local Rule 6.1(b)(3), the House intends to file a reply to the Response, and will do so on or before Thursday, May 12, 2011. Accordingly, the House respectfully requests the Court refrain from ruling on the Motion until the House has filed its reply.

Respectfully submitted,

/s/ Paul D. Clement
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¹ Bancroft PLLC has been "specially retained by the Office of General Counsel" of the House to litigate the constitutionality of Section III of DOMA on behalf of the House. Its attorneys are, therefore, "entitled, for the purpose of performing [that] function[], to enter an appearance in any proceeding before any court of the United States . . . without compliance with any requirement for admission to practice before such court . . ." 2 U.S.C. § 130f(a).

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May 5, 2011

CERTIFICATE OF SERVICE

I certify that on May 5, 2011, I served one copy of the foregoing Notice of Intent to File Reply by CM/ECF, by electronic mail (.pdf format), and by first-class mail, postage prepaid, on the following:

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