

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

EDITH SCHLAIN WINDSOR, in her
capacity as Executor of the estate of THEA
CLARA SPYER,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

10 Civ. 8435 (BSJ) (JCF)
ECF Case

**AFFIDAVIT OF
ANDREW J. EHRLICH**

Andrew J. Ehrlich declares under penalty of perjury, pursuant to 28 U.S.C.

§ 1746, as follows:

1. I am a member of the firm of Paul, Weiss, Rifkind, Wharton & Garrison LLP, 1285 Avenue of the Americas, New York, New York 10019-6064, counsel for Plaintiff Edith Schlain Windsor. I submit this Affidavit in support of Plaintiff's motion pursuant to Federal Rule of Civil Procedure 56 for summary judgment.

2. Attached to this Affidavit as exhibits 1 through 7 are various documents from the legislative history of Defense of Marriage Act, 1 U.S.C. § 7 (2006).

3. Attached as Exhibit 1 is a true and correct copy of an excerpt from Defense of Marriage Act: Hearing on H.R. 3396 Before the Subcomm. on the Constitution of the H. Comm. on the Judiciary, 104th Cong. (1996).

4. Attached as Exhibit 2 is a true and correct copy of an excerpt from The Defense of Marriage Act: Hearing on S. 1740 Before the Comm. on the Judiciary, 104th Cong., 2d Sess. 16 (1996).

5. Attached as Exhibit 3 is a true and correct copy of 142 Cong. Rec. H7741 (daily ed. July 11, 1996) (House floor proceedings).

6. Attached as Exhibit 4 is a true and correct copy of 142 Cong. Rec. H7270 (daily ed. July 11, 1996) (House floor proceedings).

7. Attached as Exhibit 5 is a true and correct copy of an excerpt from 142 Cong. Rec. H7480 (daily ed. July 12, 1996) (House floor proceedings).

8. Attached as Exhibit 6 is a true and correct copy of 142 Cong. Rec. S10067 (daily ed. September 9, 1996) (Senate floor proceedings, statement of Sen. Helms).

9. Attached as Exhibit 7 is a true and correct copy of 142 Cong. Rec. S101100 (daily ed. Sept. 10, 1996) (Senate floor proceedings, statement of Sen. Lott).

10. New York state recognizes as valid marriages of same-sex couples performed in other jurisdictions. This recognition has been acknowledged both by the Courts, see *In re Estate of Ranfile*, 917 N.Y.S.2d 195, 196–97 (1st Dep’t 2011); *Martinez v. County of Monroe*, 50 N.Y.S.2d 740, 743 (4th Dep’t 2008); see also *In re May’s Estate*, 114 N.E.2d 4, 7 (N.Y. 1953); and the executive branch, see, e.g., Memorandum from David Nocenti to Agency Counsel (May 14, 2008), a true and correct copy of which is attached as Exhibit 8.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Executed at New York, New York on this 24th day of June 2011:


Andrew J. Ehrlich, Esq.