



For immediate release
November 17, 2009

Contact: Carisa Cunningham
(617) 426-1350

GLAD Forcefully Responds to U.S. Motion to Dismiss DOMA Lawsuit; Seeks Final Ruling in Favor of Plaintiff Couples

Stepping up its litigation challenging Section 3 of the Defense of Marriage Act, Gay & Lesbian Advocates & Defenders (GLAD) today filed in the U.S. District Court for the District of Massachusetts both an opposition to the federal government's motion to dismiss *Gill v. Office of Personnel Management*, and a motion for summary judgment seeking a final ruling on the law in favor of the plaintiffs.

"Both sides agree that our plaintiffs have taken on the commitments of marriage, played by the rules, paid into the system, and been denied benefits because of DOMA," says GLAD Legal Director Gary Buseck. "Now we're asking the court to say once and for all that the federal government must end its blatant double standard of providing rights and protections to all married couples except gay and lesbian married couples."

"While the government has rightly abandoned the reasons Congress relied on in passing DOMA in 1996, it now seeks to dismiss our case by arguing that DOMA 'maintains the status quo,'" says Mary L. Bonauto, GLAD Civil Rights Project Director. "The reality is that DOMA itself radically changed the status quo by which the federal government recognized and accepted state determinations of who is married. There is no valid excuse for the federal discrimination imposed by DOMA and this can be resolved now and without a trial."

GLAD will host a telephone press conference to discuss the motion for summary judgment today at 1:00 PM EST. Gary Buseck and Mary Bonauto will be available to answer questions. Reporters can join the call beginning 12:50 PM EST at **888-390-3983**. **RSVP to Carisa Cunningham at ccunningham@glad.org.**

GLAD argues that under Equal Protection guarantees, there is no justification for splitting married people into two classes: those who are "married" under federal law and those whose marriages do not exist for any federal purposes. "We believe that DOMA should receive 'heightened scrutiny' from the District Court for many reasons, including because it deliberately targets gay men and lesbians," said Bonauto.

More specifically, GLAD argues that

- DOMA represents an unprecedented intrusion of the federal government into the states' traditional roles in determining the marital status of its citizens.
- By prohibiting married same-sex couples from accessing the safety net, the federal government provides for all other married couples, DOMA Section 3 unfairly burdens their ability to protect and care for their families.
- By targeting gay men and lesbians, DOMA discriminates explicitly on the basis of sexual orientation. GLAD argues that any discrimination based upon a person's sexual orientation should be viewed with suspicion by the court.

These legal arguments are supported by affidavits from each plaintiff confirming the facts previously established in the case and showing the intangible, often painful, burdens of federal discrimination. In addition, expert affidavits establish why discrimination based on sexual orientation discrimination should be closely reviewed by courts. Supporting expert affidavits include those by:

George Chauncey, Ph.D., professor of history at Yale University. Dr. Chauncey demonstrates that gay, lesbian and bisexual people historically have been subject to widespread and significant discrimination and hostility;

Gregory M. Herek, Ph.D., professor of psychology at the University of California at Davis. Dr. Herek explains that sexual orientation is immutable and that it bears no inherent relation to a person's ability to perform, contribute to, or participate in society;

Gary M. Segura, Ph.D., professor of American politics at Stanford University. Dr. Segura demonstrates that gays and lesbians do not possess a meaningful degree of political power and are therefore politically vulnerable; and

Michael Lamb, Ph.D., professor of psychology at Cambridge University. Dr. Lamb establishes that the children of same-sex parents are equally well-adjusted as those with different-sex parents.

GLAD also takes on all the claimed government interests invoked by the Congress when passing DOMA in 1996. As the brief points out, "The reasons offered by Congress at the time, which the government sensibly does not even try to defend, are either nonsensical or just another way of saying that Congress wanted to denounce and impose harm on those gay men and lesbians who form long-term relationships and seek to have those relationships recognized and respected. For example, it is absurd to suggest that barring federal recognition of marriages of same-sex couples will somehow promote responsible procreation. And the government itself has determined that DOMA, while excluding Plaintiffs and others like them from important federal programs designed to support couples and families, does not even produce net savings to the U.S. Treasury."

Gill v. Office of Personnel Management was filed on March 3, 2009 on behalf of 8 married same-sex couples and three widowers, all of whom had been harmed by DOMA.

GLAD's legal team is led by Mary Bonauto and GLAD Legal Director Gary Buseck, and Staff Attorneys Nima Eshghi, Janson Wu and Legal Fellow Samuel Bickett. Co-operating counsel on the case include Foley Hoag LLP (Boston), Sullivan & Worcester LLP (Boston), Jenner & Block LLP (Washington, DC), and Kator, Parks & Weiser, PLLC (Washington, DC).

Full information about GLAD's response and *Gill v. Office of Personnel Management* is available at <http://www.glad.org/doma/response> .

Gay & Lesbian Advocates & Defenders is New England's leading legal organization devoted to ending discrimination based on sexual orientation, HIV status, and gender identity and expression.

###