

Ropes & Gray Welcomes Supreme Court Decisions in Proposition 8 and Defense of Marriage Act Cases

On June 26 the Supreme Court issued two important rulings in favor of equal human dignity, and Ropes & Gray is proud to have joined with many other organizations to help bring about these landmark decisions. Through its decisions overturning Section 3 of the federal Defense of Marriage Act (“DOMA”) and dismissing a challenge to the district court order striking down California’s Proposition 8, the Court has brought the United States closer to its ideal of liberty and justice for all.

In *United States v. Windsor*, the Court overturned Section 3 of the Defense of Marriage Act (“DOMA”) as unconstitutional under the Equal Protection guarantees of the Fifth Amendment. In *Hollingsworth v. Perry*, the case challenging California’s Proposition 8, the Court held that supporters of Proposition 8 (which ended California’s recognition of same-sex marriages) had no standing to appeal, thus reinstating the district court opinion ruling that Proposition 8 was unconstitutional. Effectively, the two decisions together mean that California same-sex couples will now be able to marry, and that marriages of same-sex couples recognized under any State’s law will also be honored by the Federal Government. These couples will now enjoy the benefits of some 1,000 protections afforded by federal law.

Ropes & Gray welcomes these decisions, which echo the firm’s own commitment to being an open and welcoming workplace for all. We are proud of the policies and programs we’ve implemented to support the advancement of talented people regardless of sexual orientation, race, color, gender, age, national origin, religion, disability or other legally protected category. These policies have earned Ropes & Gray recognition as being among the nation’s leading firms in terms of diversity, including a 100 percent score on the Human Rights Campaign’s Corporate Equality Index and designation as a “Best Place to Work for LGBT Equality.” Our workplace is immeasurably strengthened by the differing backgrounds, experiences, and perspectives of our lawyers and staff, supported by our strong culture of mutual respect.

We are proud to have joined with many other organizations in working to bring about yesterday’s path-breaking decisions. In *Windsor*, Ropes & Gray joined an amicus brief filed by a number of businesses explaining many of the hidden costs to same-sex married couples, their families, and their employers as a result of DOMA’s discriminatory policy. In addition, Ropes & Gray filed four briefs – in the Supreme Court and earlier in the First, Second, and Ninth Circuit DOMA cases – on behalf of the Anti-Defamation League and a number of religious organizations arguing that DOMA impermissibly favored one religious view of marriage over the views of other religious groups, many of which support marriage equality.

Ropes & Gray stands ready to assist its clients in planning and making the changes required by the decisions in both *Windsor* and *Hollingsworth*. The *Windsor* decision has implications for the administration of employee benefit plans – those offering retirement, health and welfare, and fringe benefits to employees and their spouses—employment policies such as FMLA, and payroll practices. President Obama has directed the Attorney General to promptly review federal benefit obligations and to ensure that the decision is implemented swiftly. The administration is also considering what changes it can make through administrative and executive orders, all of which could be implemented without Congressional approval. Pending further guidance, employers should be reviewing their plan documents and benefit forms, including those requiring a beneficiary designation, to determine what amendments and changes will be required. In addition, employers should be assessing and, certainly in those states that permit same-sex marriage, ceasing their practice of (a) imputing income on the value of group health plan coverage provided to an employee’s same-sex spouse, (b) not providing the rights afforded under FMLA to employees with a same-sex spouse, and (c) not providing a

same sex-spouse the right to elect COBRA coverage when eligible to do so. We will keep you apprised of any further developments. In the meantime, please contact any member of our [employee benefits](#) practice or [labor and employment](#) practice, or your usual Ropes & Gray advisor, to discuss any benefits and employment questions you have.