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# Judiciary Committee News

United States Senate  
*Senator Patrick Leahy, Chairman*

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*Submissions for the Record by Chairman Patrick Leahy (D-Vt.)  
Senate Judiciary Committee Hearing On:  
"S. 598, The Respect for Marriage Act:  
Assessing the Impact of DOMA on American Families"  
July 20, 2011*

## **Personal Testimony From:**

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Statement of Marvin Burrows

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S.598, The Respect for Marriage Act: Assessing the  
Impact of DOMA on American Families”

July 20, 2011

I respectfully address the United States Senate Judiciary Committee:

My name is Marvin Burrows, and I am 75 years old. I live in Hayward, California. I was born and spent my childhood in Michigan. I served in the United States Air Force.

My parents knew I was homosexual by the time I was 15 years old. They decided to put me in a “mental home” to be “cured” of this dreaded “disease”. I tried to hang myself so my family wouldn’t have to be embarrassed that I was a queer. After the suicide attempt, instead of being committed, I was given the choice to do outpatient therapy. The psychiatrist told my mom and me that my treatment would be different than we expected. He helped me learn how to live in society and how to protect myself. Considering the times, the early 1950’s, that doctor was a true exception! I believe that without his help I would not be alive today.

I met the love of my life, William Duane Swenor, in 1953. He was 15 and I was 17. My father found out and told me to leave home if I continued to see Bill. After my dad kicked me out I had no place to go, and I was still in high school. I stayed with my grandmother until Bill could ask his mother if I could move in with them. She gave her permission, I moved in, and from that time on we lived as a committed couple.

I had limited contact with my family, with the exception of my mother and grandmother. Finally, after a very long time, the rest of my family accepted Bill as my life partner.

Bill and I moved from Michigan to California in the mid 60's because we thought we would be more accepted in San Francisco.

We bought things jointly, we opened joint bank accounts. We shared all of our income and expenses. We rented apartments together, but often had to lie about our relationship, even to the point of telling potential landlords that we were related.

We did the best we could at the time to protect our relationship, drawing up legal papers in case of illness, injury or death. We had wills, powers of attorney, and advance directives. We spent a good deal of money and time trying to protect what we had built together.

When the California State Domestic Partners Registry became available in 2000, Bill and I registered. We were told that our registration would take the place of the Powers of Attorney, and to our knowledge our relationship was then legally protected.

On February 15, 2004 Bill and I married when Mayor Gavin Newsom of San Francisco gave us the opportunity. At that time we had been together for 50 years. We were very surprised at how emotional we became while saying our vows. To be able to speak those words, out loud, in front of others, brought tears to our eyes. It was the best time in our lives and we had high hopes for our future as a married couple. I have attached a photograph of our wedding to this statement. I am on the left in the photo, and Bill is on the right.

Without a doubt, that ceremony changed and revitalized our relationship. It gave us an important measure of pride and acceptance. It felt great to be able to do something so personal, and yet so historic, all at the same time.

However, our marriage and over 4,000 others were declared null and void by the California Supreme Court 6 months later, in August of 2004.

When the California Supreme Court declared, in May of 2008, that we California same-sex couples could get legally married at long last, it was too late for Bill and me.

Had we had the chance to marry legally under California law, we would have done so. But Bill died of a heart attack on March 7, 2005. I was completely devastated.

While Bill was alive he had signed me up for his union insurance through the International Longshore and Warehouse Union (ILWU). Bill had to pay income taxes on that insurance, even though straight married couples do not have pay such taxes.

Bill had also signed me up for his pension benefits through the ILWU. When he died, however, I was told that due to DOMA I was denied Bill's pension. I was told this twice to my face and several other times in letters sent to people who were trying to help me. Three years later, after years of fighting with the help of the National Center for Lesbian Rights, the union finally changed its position and gave me Bill's pension, saying it was "the

right thing to do for a fellow member.”

I also could not collect Social Security benefits based on Bill's earnings, even though, had Bill married 5 different women in the 51 years we were together, each one of them could have claimed his Social Security. We both paid into the Social Security system. We shared everything and loved only each other for our entire adult lives. It is unfair, and it is un-American that I should be left this way by our country.

I had to move from our home of 35 years because I could no longer afford the payments without his social security benefits. I could not live on my own as I was almost financially destitute, so a friend invited me to move into his home. I lost my cat and had to give away our pet parrots. I didn't even have room to keep our bedroom set, so I gave that to my nephew. I lost my lifelong partner, my home, our animals, income, my health insurance, and even my bed and furniture all in one fell swoop.

All of this would have happened to me, even if Bill had lived long enough for us to marry.

The reason is the Defense of Marriage Act. Bill still would have been taxed on health benefits for me, I still would not have received Bill's Social Security, I would have had to fight for years for Bill's pension, and I would have lost my house.

This is what DOMA does to people. It shatters their lives at a time when they need stability and comfort the most. It makes people, including

me, feel like less of a person – like an outcast not worthy of full equality.

I still believe that this country can change for the better, and I do my best to contribute to my community on a volunteer basis. For example, I have volunteered to deliver Meals on Wheels for 22 years, and I am a founder of Lavender Seniors of the East Bay. I do believe that we will be allowed to marry some day in every state, and I believe these marriages will be recognized by our federal government.

It may not happen in my lifetime, but it gives me great hope to believe that someday no one will have to go through what I did when I lost the love of my life. I hope my story will open the minds of the Committee members and other members of Congress to repealing DOMA and treating gay couples equally.

Submitted with respect and sincerity,

Marvin Burrows





## TESTIMONY

COURAGECAMPAIGN.ORG/TESTIMONY

Senate Committee on the Judiciary  
"S.598, *The Respect for Marriage Act: Assessing the Impact  
of DOMA on American Families*"

Wednesday, July 20, 2011 at 9:45 a.m.  
Room 216 of the Hart Senate Office Building

### **COURAGE CAMPAIGN MEMBERS DON CHABOT and JIM NIMMO**

*Together 34 Years*

**M**y partner, Don Chabot, and I, Jim Nimmo, live in Oklahoma where we've been caring for one another, emotionally and financially, for 34 years. In other words we've been together though thick and thin, sickness and health, richer and poorer. During these 34 years both of us have been gainfully employed, paid our taxes on time, and contributed to making our neighborhood and Oklahoma a better place to live for everyone. I was even a candidate for the Oklahoma City School Board years ago.

We have also been co-plaintiffs in a 2004 lawsuit that challenged the Oklahoma version of DOMA, called State Question 711. The passage of this ballot question made the benefits and privileges of state-recognized marriage off-limits to committed couples of the same gender. Even though Don and I have a long history together, the passage of this DOMA imitator gave us a second-class citizenship, even though we both pay first-class taxes. Both the state of Oklahoma and the Federal government have abandoned us even though we have broken no laws. DOMA and Oklahoma denigrate same-gender couples, cheating us of the full enjoyment of our lives and efforts as model citizens.

As the older half of our relationship, Don, 69, has been receiving Social Security for six years. Due to health issues, he signed into it early. Should he die first his lifelong payments to Social Security will be unavailable to me because DOMA will not recognize our right to marriage.

The rescinding of DOMA will not make our devotion to one another any stronger, but it will recognize that we deserve the same benefits and privileges that opposite-gender couples receive. This includes but is not limited to survivor benefits from Social Security and employer pensions, property inheritance, hospital visitation and health care directives.

Our system of American fair play needs to rescind DOMA for the better health of all Americans.

#### **CONTACT:**

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312-927-4845 (cell)

*Courage Campaign is a multi-issue online organizing network that empowers more than 700,000 grassroots and netroots supporters to work for progressive change and full equality in California and across the country. Through a one-of-a-kind online tool called Testimony: Take A Stand, the Courage Campaign is chronicling the sights, sounds and stories of LGBT families and all who wage a daily struggle against discrimination across America. For more information about Testimony, please visit, <http://www.couragecampaign.org/Testimony>.*

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## TESTIMONY

COURAGECAMPAIGN.ORG/TESTIMONY

Senate Committee on the Judiciary  
"S.598, *The Respect for Marriage Act: Assessing the Impact  
of DOMA on American Families*"

Wednesday, July 20, 2011 at 10:00 a.m.  
Room 216 of the Hart Senate Office Building

### COURAGE CAMPAIGN MEMBERS JONATHAN STRICKLAND COLEMAN and RICK KERBY *Married May 22, 2010*

**M**y name is Jonathan Coleman. I'm a gay American. My claim to all the rights, privileges and obligations that ordinarily come with U.S. citizenship is as valid as anybody else's. My family ancestry has been traced through at least two branches to pre-Revolutionary America, including an initial 1648 landing in Newport, Rhode Island.

I have been a licensed lawyer for over 22 years, and a taxpayer for longer than that. I have been a member of the Bar of the State of Florida since 1989, and a member of the Bar of the U.S. Supreme Court since 1998. Neither my home state of Florida, nor the U.S. Government, will recognize the validity of my marriage which took place in Washington D.C. in 2010. Why? Because I fell in love with another man and I've committed to spending my life with him.

It was a strange and depressing feeling leaving D.C., knowing that while our relationship was celebrated and recognized in D.C., as soon as we left the District's air space we were legal strangers to each other. It is also bizarre to think that as we drive up the coast, Rick and I are married in D.C., New York, Connecticut, Massachusetts, and Vermont, but not Florida, Georgia, the Carolinas, Georgia, Virginia, Maryland, Delaware, or Maine. I cannot think of a more bizarre and harmful policy than one that gives and takes away respect for one's relationship based on the whims of a prejudicial government or citizenry. I didn't get to vote on the fairness of anybody else's marriage, and fundamental rights to fairness and equality should not be up to a popular vote for anybody. It is legally, as well as morally, unfair that two heterosexuals who marry automatically have entitlement to a full array of significant federal benefits – Social Security, immigration, Medicare – that are so thoughtlessly denied to me and Rick.

Since my marriage, I have followed the anti-marriage equality forces and their arguments with great interest. Those organizations are often front groups for fundamentalist religious people, who don't seem to understand – or deliberately *misunderstand* – that the institution of marriage would actually be strengthened by allowing committed couples to obtain civil recognition, and that this country's promise of fairness and equality rings, at present, hollow for gay men and lesbians.

Marriage licenses are given by City Hall, not churches. America's promises are for all citizens, not just religious ones. It is long past time to "evolve" to full equality. Not tomorrow, not next week, but NOW.

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Statement of Tracey L. Cooper-Harris

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S.598, The Respect for Marriage Act: Assessing the Impact of  
DOMA on American Families”

July 20, 2011

My name is Tracey Cooper-Harris. I am a U.S. Army Veteran of Operation Enduring Freedom & Operation Iraqi Freedom. I served with honor for a total of 12 yrs as an Animal Care Specialist in all 3 components of the Army: Active, South Carolina National Guard, & Army Reserves. While in my Reserve unit in California, I deployed to the Middle East for 11 months in 2002. I was stop-lossed during my deployment, and I did not reenlist after I came home. Although I loved my job and the Army wanted me to stay because of my hard work and exemplary service, I was tired of having to live a lie under Don't Ask, Don't Tell as a gay soldier.

When I returned home in 2003, it took me a bit of time to readjust back to civilian life. I struggled with the invisible wounds of war, the 5-year relationship I had prior to deployment, the subsequent breakup of that relationship, steady employment, & housing. I couch-surfed for weeks while I was trying to get myself back on track with housing, work, & eventually school. The person who helped me through all that was my then teammate, Maggie. Maggie & I played rugby together. She was known for her compassion, warm & gregarious nature, and dominance in moving people on the rugby pitch.

As our friendship grew romantic & into a committed relationship, I knew that this is the woman I wanted to marry. After 3 years together, that opportunity came. We married on November 1, 2008, days before Prop 8 passed. Even though we were able to marry, it was bittersweet to have fellow citizens in our state vote to stop other same-sex couples from making the ultimate commitment to each other in marriage as we had done. We knew that there would continue to be uncertainty if something happened to either one of us outside of California, or within the scope of the federal government's jurisdiction because of the Defense of Marriage Act (DOMA).

The one thing on our side was time, and since the tide started to change favorably in the acceptance of gays and same-sex marriage throughout the country, we figured that laws would change before we became old or sick.

Well, I've had a reality check that is part of me now. A disease that I saw devastate the life of one of the most important people in my life is now affecting me. I have Multiple Sclerosis (MS), which is a chronic, often disabling disease that attacks the central nervous system (CNS). Myelin, a fatty substance that protects/insulates the nerve fibers and conducts electric impulse to get signals between the brain and CNS to make them move faster, is damaged/destroyed. When this happens, nerve impulses traveling to and from the brain and spinal cord are distorted or interrupted, producing the variety of symptoms that can occur. Symptoms may be mild, such as numbness in the limbs, or severe, such as paralysis or loss of vision. The progress, severity, and specific symptoms of MS are unpredictable and vary from one person to another.

I saw this disease ravage my Mom for 20 years, and the news that I had it was pretty hard to bear. There's no cure for MS, only medication to slow down the progression of the disease. Although I am on weekly medication that I take through injection, the future continues to be uncertain.

I can't help but remember how fast my Mom's health declined with this disease, causing her to be bedridden within three years after I joined the Army in 1991. I remember how she was no longer able to perform simple activities of daily living like feeding herself, bathing, or using the bathroom on her own. She needed a nurse to help her with all these tasks. I remember how much pain she

was in, and I remember my Pop staying by her side through it all, because of his love & commitment to his wife.

Like my Mom, I am blessed to have a spouse by my side to help me through this difficult time.

All this emotion and coming to grips with having this disease has made me focus on making sure that my wife, Maggie, has every benefit that any spouse of an honorably discharged veteran should have. Unfortunately, because we are a same sex couple, she would not be afforded the benefits and protections the federal government automatically bestows on other legally married couples.

To break it down, although the State of California recognizes our marriage (as do the states of New York, Rhode Island, Maryland, Connecticut, Vermont, Massachusetts, New Hampshire, Iowa, and Washington, DC), the federal government:

- does not allow us to file our taxes jointly (we lost out on thousands the 1st year we were married alone);
- can have us testify against each other in federal court, even though straight spouses enjoy the protection of a “spousal privilege”;
- will tax the surviving spouse on any joint property we owned together;
- will not allow the surviving spouse to access social security survivors’ benefits;
- will not allow my spouse to be buried with me at any veterans cemetery which has received federal funding;

- will not consider my wife as my dependent for any of my veterans benefits I earned through 12 years of honorable service in the U.S. Army; and
- taxes us on my portion of health insurance benefits provided by Maggie's employer that they don't charge to heterosexual married couples.

The only way that we can get the things I mentioned above (plus more than 1,100 other protections at the federal level) is through the repeal of the Defense of Marriage Act.

Right now, same-sex couples who are married and have followed the marriage laws of their states are left out in the cold by the federal government. No attorney, no legal documents can ensure that federal benefits go to the surviving spouse should the other spouse die or become incapacitated.

Many of these federal benefits come up for the surviving spouse when their spouse dies or becomes incapacitated. I've seen this first hand with my Pop after my Mom died in 2001, as he is able to use her social security benefits, was not subject to any inheritance tax on the home they bought together in 1989, and was not taxed on health insurance provided by her employer. This is in stark contrast to what my wife or I will experience should something happen to either one of us.

My family will be left out in the cold at one of the most difficult times in life in the very real event that I start to become more affected by MS or should I die.

Even my final wishes after I die are affected by DOMA, since I want my wife to be buried with me at a state/federal veterans' cemetery. As long as that

cemetery has taken federal monies, my final wishes can't be fulfilled. Yet a straight veteran, even one who is in a common-law marriage, is allowed to have their spouse buried with them in a cemetery that has received federal monies.

Marriage equality isn't a gay thing. It's a family thing. There are thousands of families out there that are affected by DOMA and are forced to experience the turmoil that comes with not being able to protect their loved ones.

I am married to an amazing woman. We married for the same reason as many others have and continue to do: to show our commitment and love to each other in the presence of our Creator, our families, our friends, and our community. We married to ensure that our future children would grow in a home that has stability, love, and helps them become productive, contributing members of society.

We married to ensure that if one of us becomes incapacitated, we could visit our better half and make medical decisions based on the wishes of our spouse. And, we married to make sure if one of us dies, the surviving spouse would have the benefits earned at the state and federal level by the deceased. That's it. We're in this for better or worse, in sickness & in health, until parted by death. We want our marriage to be treated like any other marriage-nothing less.

After all the trials and tribulations this country has been through with discrimination & unequal treatment of its citizens based on religion, race/skin color, nationality, gender, veteran status, disability, or social status, we should have learned from our past.

Marriage equality should be a non-issue, but the fear of the unknown is creating challenges for families like mine. It is time to correct this inequity and grant all people who have taken the commitment to marriage the protections offered by the federal government. I can't stand the thought of burdening my wife with the frustrations of DOMA when I start to get sicker.

My wife should not have to worry about all of these DOMA-related issues when my MS starts to get worse. It's just not right.

I served this country honorably for 12 years. It is time for Congress to behave honorably and repeal DOMA.

Thank you.



## TESTIMONY

COURAGECAMPAIGN.ORG/TESTIMONY

Senate Committee on the Judiciary  
"S.598, *The Respect for Marriage Act: Assessing the Impact  
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Wednesday, July 20, 2011 at 10:00 a.m.  
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### **COURAGE CAMPAIGN MEMBERS KATHLEEN CUMISKEY and ROBIN GARBER**

*Married April 18, 2006, Together Nine Years*

**M**y wife Robin Garber and I live in Staten Island, New York. We are on the brink of witnessing full marriage equality in our home state thanks to the passage of the Marriage Equality Bill in New York on June 24, 2011. Those seeking marriage in New York can no longer be discriminated against based on sexual orientation. This has been such a welcomed victory for us, even though we had traveled out of country to be legally wed in Toronto, Canada.

In 2008, our marriage was recognized as legal by Governor Paterson, so we have been legally married in New York State ever since. I have to say, that while on some level I knew that this privileged our relationship over other same-sex relationships in New York and elsewhere, it wasn't until June 24 of this year that we truly felt equal amongst our neighbors.

The air has changed in NYC. LGBT people feel more entitled and respected. But I want to feel that way no matter where I travel in my country.

Equality now stops at the border of our state. When we travel beyond New York, we will still have to carry around our very expensive box of documents. As long as the Defense of Marriage Act (DOMA) allows for any State, territory or possession of the United States to disrespect my marriage, we will have to carry this box everywhere. It includes our Last Will and Testament, our Power of Attorney, our Living Wills and Health Care Proxy. The box works to alleviate any anxiety that we may have because we may be denied the rights that any heterosexual married couple would be afforded simply by verbally identifying themselves as a "wife" or "husband."

Being legally married in my state did not prevent my insurance company from adding \$7,000 to my annual salary because my wife's benefits were counted as added income – something that NEVER happens to heterosexual couples. We cannot file our taxes jointly because of DOMA. We can file jointly in our state, however. We are essentially second-class citizens. DOMA flies in the face of everything that we hold dear as Americans. The Respect for Marriage Act will distance us from this dark mark in U.S. history. Let us not delay justice any further.

#### **CONTACT:**

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Statement of Ted Hallowell

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S.598, The Respect for Marriage Act: Assessing the  
Impact of DOMA on American Families”

July 20, 2011

Dear Senators and Committee Members:

Thank you all for your time and for hearing all the many, many stories of love and courage by my fellow LGBT brothers and sisters. I know deep in your hearts you all desire to do what is right.

My uncle Lyman Hallowell and John Dapper met the day World War II ended (VJ Day), August 14, 1945. My uncle Lyman had served in the war, enlisting in the Army Air Corps in 1942 and serving through 1944, when he was honorably discharged. They met while employed at 20<sup>th</sup> Century Fox Studios in Los Angeles, and they've been together ever since. That's right – two men, together and inseparable for almost 66 years!

As an art director and film editor, Johnny and Lyman worked in Hollywood on film and television, and in New York on Broadway. During their life together, they traveled to over 150 countries. On August 14, 2008, they were married in San Diego, California, during the all-too-short period of time when it was legal and available to same-sex couples. I have attached a photograph of them to this statement.

Sadly, on Monday, July 11, 2011, my dear Uncle Lyman passed away at the age of 96. I and my partner of 30 years, Raul Fernandez, are so blessed to have had Lyman and Johnny in our lives for the past 25 years. They have been an enduring example of love and commitment, caring for each other through so many of life's ups and downs. Lyman had an enlarged heart and a leaky valve, as well as prostate cancer for many years. Even so, about five years ago when Johnny had quadruple bypass

surgery, Lyman—at the age of 92—was his primary caregiver for weeks after Johnny returned from the hospital.

They have been amazing role models, and my Uncle Lyman was my sage and mentor. He was the kindest, wittiest, most loving, and most intelligent man I've ever known. He even worked *The New York Times* crossword puzzle every week for the past 50 years! In so many ways, he was much more a "father" to me than my real father ever was. I loved him beyond measure and will miss him eternally.

The past few days have been extremely difficult, and I'm now faced with helping Johnny (who is now 88) adjust to life without Lyman. I have to help make sure he is safe and taken care of, because he has advanced stages of dementia and has a great deal of trouble remembering anything. Tragically, at times he even has forgotten that his husband has passed away. He really cannot survive on his own, living at home, and his sister (who is in her 70s, herself) is living with Johnny until we can find an appropriate place for him to be properly taken care of.

Numerous federal laws and programs are supposed to provide stability and protection to people in such difficult times. Yet Johnny is disqualified from receiving the protections a surviving spouse ordinarily would get, because of DOMA. DOMA is discriminatory, hateful, and hurtful. After 66 years of being with his spouse and partner, Johnny should be treated like every other surviving spouse in this country.

Respectfully, I ask this Committee, the Congress, and President Obama to remove this “stain” on our humanity once and for all from the law of the land, and toss it in the dustbin of history.

I ask this on behalf of Johnny, and in eternal loving memory of my dear Uncle Lyman, who are in the photograph below (Johnny is on the left, and Lyman is on the right).



STATEMENT OF  
A. LANE IGOUDIN AND JONATHAN D. CLARK  
BEFORE THE  
COMMITTEE ON THE JUDICIARY OF  
THE UNITED STATES SENATE  
AT A HEARING ENTITLED  
“RESPECT FOR MARRIAGE ACT”  
PRESENTED  
JULY 20, 2011

Chairman Patrick Leahy, Ranking Member Chuck Grassley, and members of the Committee, thank you for the opportunity to submit this testimony. We hope that it will help illustrate the discrimination that legally married same-sex couples experience under the current Defense of Marriage Act (DOMA).

We have been together in a committed relationship for 14 years and were legally married in a civil ceremony on July 3, 2008. Several years prior to our marriage, we adopted two infants from the California foster care system. It was a very conscious choice. We had known of the difficulties of going through the state foster/adoption process and could have adopted internationally or gone through surrogacy, but decided that with so many kids needing a home right here in California (around 120,000 at that time), we should help right where we were.

Raising our children has been the most wonderful, transformative experience we have ever had. We have been doing it by ourselves without anyone's help, while juggling challenging careers, like all working parents do. One of us is a corporate executive; the other a college professor. Difficulties aside, our kids have brought sunshine into our lives and completed our family. Our older daughter is now in the 2nd grade, and the younger one is starting kindergarten. We enjoy watching them grow now into creative, academically accomplished students at their schools, and share in their fun as they learn ballet and gymnastics after school.

Although we are pleased to see our union recognized appropriately by the State of California, our marriage, and, by extension, our family remains stuck in its second-class status due to the DOMA-imposed lack of recognition from the federal government. Let us share with you some of the

examples.

First, the taxes. Our federal taxes are a mess. For years, the IRS taxed us as single individuals, while the state taxed us as a married couple. Reconciling the differences between the two contradictory tax statuses cost us and our tax preparer (H&R Block) extra time and expenses. Last year things got worse as the IRS issued new regulations concerning the reporting of federal taxes for legally married same-sex couples like ours. In essence, even though our marriage is not recognized by the federal government, our income and property are considered joint ('community') and taxed as if we were married. This is grossly unfair. We do not have access to the federal benefits of married heterosexual couples, yet by and large, we are taxed in the same way.

Moreover, this year we got audited by the IRS, which may have been triggered by our strange tax returns sent in by H&R Block. Our tax preparer, her supervisors, and we spent at least 10 more hours on the 2010 tax preparation and the audit, coming in for extra meetings, communicating via email and mail. Our tax preparer had to create her own spreadsheets, hand-write our tax returns, and accompany them with a textual explanation. During the audit, the IRS asked for supporting legal information regarding the adoption of our children, which triggers various credits offered by the federal government. We, of course, provided this information. In the end, the IRS recalculated our tax returns and concluded that we overall followed correctly its tax procedures, the unfair tax procedures. The IRS even issued us a larger refund.

Secondly, without federal recognition, our legal marriage is null and void when we cross state lines into any state bordering California. There

we are again two single individuals, somehow legally considered to be parents of our own children. To make sure our legal rights and wishes are preserved no matter where we are, we had to come up with a complex system of a living trust, wills, powers of attorneys, healthcare directives, and guardianship instructions – and pay for all of it of our own expense.

Another related issue which concerns our ambiguous marriage status is estate planning after our death(s). As it stands, in the eyes of the federal law we are two single individuals. Upon the passing of one of us, the surviving partner will be taxed the federal estate tax, for which we have enough property/assets to qualify. In contrast, if our marriage were federally recognized, the estate would automatically go to the surviving spouse. Avoiding the estate tax and probate and protecting our children in case of our death(s) was the other reason we had to establish a living trust. Our estate planner immediately ran into serious difficulties interpreting our marriage status and had to consult other attorneys.

In 2009, we completed the living trust and the accompanying documents to ensure the passing of our properties and assets to the surviving partner and our children. We also described the mechanism that will allow for the guardianship of our children and the disposal of the assets should both of us pass before our kids reach the age of maturity. It ensures our children have a home and income until they become adults, as well as helps pay for their college education. However, because of DOMA, the legality of our marriage as it applies to federal estate laws remains uncertain, and as such, our trust and the related documents are open to legal challenges. This possibility may have devastating effects on our children's and our financial well-being – at the most vulnerable times.

Next, various federal agencies have discriminatory policies stemming from the assumption that marriage equals a husband and a wife, and thus a mother and a father. For example, after the finalization of our adoptions which named us the official legal parents of our children, Social Security Administration refused to allow both of us to be listed on the SSN application (Form SS-5) for our kids as two fathers or simply two parents. The managers of three local SSA offices explained to us that in order for our children to have a Social Security card issued, we had to choose between one of two lies: (1) stating that only one parent (father) exists, or (2) listing one of us as a father and the other as a mother (!). Thanks to DOMA, this policy continues to this day.

Overall, the lack of fairness, equality, security, and, above all, dignity are the ways in which the absence of legal recognition of our marriage by the federal government affects our family. The Respect for Marriage Act, proposed by Senator Dianne Feinstein who represents our state, will repeal the discriminatory Defense of Marriage Act and will finally provide our family, and other families like ours, with the same recognition that all American families deserve. Please support this important legislation.

Thank you again for the opportunity to testify.

Statement of Jill Johnson-Young

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S. 598, The Respect for Marriage Act: Assessing the Impact of  
DOMA on American Families”

July 20, 2011

Dear Chairman Leahy and Judiciary Committee Members:

My name is Jill Johnson-Young and my family, which includes my three daughters and I are from Riverside, California. I want to share with you what the Defense of Marriage Act or DOMA has done to my family and my marriage, and why it needs to be repealed.

I am the widow of Linda Diann Johnson-Young, LVN, RN, US Navy, Ret. We shared our lives for 23 years. We adopted our daughters Kerry Marie, now age 19 and Chloe, now age 16, from foster care when they were seven and five. I adopted Charity, who is now 17, this past September.

Linda and I first recited our vows to one another in 1987, even though there was no legal recognition of our relationship at that time. We had a ceremony because it mattered to us that our families, our community, and our church knew us as a committed couple and a family.

We got legally married in 2004 in San Francisco. We traveled to the city with four couples, seven children, and our minister. As we said our vows in San Francisco, our nephew Trevor burst into tears -- he was so relieved that we had made it before it was not an option - because he wanted his aunts and his parents to be married, just like his friends' families were. Not having that recognition *matters* to our children and it was important for all of us to legally wed.

After the next California Supreme Court decision, we were married again on September 6, 2008, at First Congregational Church of Riverside. That was one of the best days of our lives. We shared the day with our best friends, our children and a standing-room only crowd. It was a joyful moment when our minister announced that she could legally pronounce us married.

Linda and I knew that day that we would not be sharing a long marriage -- we had been told just four days before our wedding that she was terminally ill with pulmonary fibrosis and heart failure and that she had less than three years left to live. That night as we danced at our wedding reception, she needed emergency oxygen for the first time. On April 2<sup>nd</sup>, 2010, at noon, she took her last breath. She fought a valiant battle, trying to survive long enough to see our kids all graduate and to adopt our third child.

She died in my arms with our children, our niece and nephew, and our dog and cat on her hospital bed, surrounded by those who loved her dearly. There were over 250 people at her memorial service, all wearing *California Angels* t-shirts, at Linda's request.

Linda's illness was difficult beyond words—and it was constantly made more difficult by the fact that I was not recognized as her spouse despite our long-term relationship. In 1998, when Linda was first diagnosed with breast cancer, we lived in Florida, a state that does not recognize families like ours. I was denied Family Medical Leave to be off work for her mastectomy and was not eligible for any leave to care for her. Without Family Medical Leave, I was unable to take her to chemotherapy, stay with her, or go home when she was sick. My parents had to travel to Florida to live with us for three months to help with the responsibilities that I was unable as her partner to undertake without Family and Medical Leave, and it was not easy on them, especially because my Dad was confined to a wheelchair himself.

In addition, without recognition as a family, I could not cover Linda on my health insurance. That meant she had to work throughout her treatment or risk losing the insurance that paid for the chemotherapy.

The day she had her first of three mastectomies, we carried every possible legal document to the hospital that we might need to protect ourselves. Those documents were useless. I was not informed when she came out of surgery. I was not told she was on her way to her room. And then one of Linda's nurses pushed an empty bed in front of the door to block my access to her hospital room, while she pulled Linda's arms over her head to pray for her soul because she knew Linda was asking for me and that we were a couple. Linda was yelling in pain, vomiting, and crying. With a mastectomy, it is not appropriate to pull the affected arm up for weeks -- that can cause lymphodema; can pull the staples out; and can loosen the drains from the site. Can you imagine listening to your wife yelling in pain; coming out of anesthesia, with drains and dressings; and not being able to get through the door to protect her? Another nurse and I pushed our way into the room. The nurse who tormented Linda was not disciplined, and continued to work on the same floor the next day.

To maintain her health insurance, Linda returned to work just three days after her first mastectomy, with the drains still attached to her chest wall. There were days my parents had to drive her to work because she was so sick she could not drive. During the first three months of chemotherapy, there were many days where Linda collapsed trying to get ready for work. I would pick her

up from the bathtub, carry her to bed, prop her up with pillows, provide her with water, a basin, and a phone, and then go to work, or risk losing my job. The irony of it is that we were both employed by a large hospital corporation, where she was an ER nurse and I was a social worker. I was unable to take time off to help her because legally, we were not considered a family.

We returned to California in 1999 after Linda finished chemotherapy because we needed to be able to provide health insurance for one another, as well as some form of legal protection as domestic partners. Florida simply did not provide any hope for those type of protections. We were thrilled when we got legally married in California but it was quickly clear that DOMA continued to block the protections we needed. Despite our marriage in California, DOMA gave the federal government the right to discriminate against gay and lesbian couples.

When I was struggling to work, care for our children, care for Linda, keep our household running, and pay the bills, Linda's disability paperwork was delayed intentionally for two weeks by the Nurse Practitioner at Linda's doctor's office. When I finally got them back, she had crossed off *Spouse* as my relationship in every instance, and filled in, in quotes "*significant other*." I had kids to feed and a mortgage to pay, and Linda's retirement check was delayed because an employee felt empowered to discriminate against me. I had a legal California marriage license but DOMA gave her that power. I am asking you to take that power away and stop the discrimination

Even after Linda's death and despite our marriage certificate, the discrimination and "separate but unequal treatment" continued. The owner of the funeral home insisted on having our marriage license before he would enter "married" on the death certificate or allow me to sign for Linda's cremation. Then, although she was a veteran, I could not bury Linda in Riverside National Cemetery. My children would have had to sign for their mother's interment, which was unacceptable to me. Our fathers both served in WWII. Her brother did two tours in Viet Nam. Linda signed up as soon as she could, to make up for how our Viet Nam vets were being treated. And despite her service, our country made her unwelcome in our national cemetery.

She was also denied military honors at her funeral. We were told that our children would be allowed to receive her honors, but I would have to stand apart, because I was not considered married *by our nation*, only *our state*. I finally received a flag last month, and only from a local chamber of commerce who sympathized with our story.

The list goes on-- we were forced to pay extra taxes on our health insurance because of DOMA. I was denied access to Linda's tax returns by the IRS because of DOMA. And then I had to pay extra to have my taxes prepared because we had to file an entirely different federal return than state return because of DOMA.

I was also denied the Social Security \$255 death benefit because of DOMA. When I retire, my years with Linda will not figure into my Social Security, even though she paid those taxes for forty years and died before she ever received a single check. This all impacts me financially, and impacts our child, who is disabled enough that she will always depend upon me for financial support.

Linda and I were born and raised to serve and respect our country. We paid our taxes. We paid off our mortgage. We attended church weekly.

Our children have gone to vote with us in every election; they are good kids who have been taught to respect their country. What are you teaching our children—that American only protects some families, and not others? Is that really the United States of America you want?

**Mark W. Kalend**  
Alameda County, California

**Addressing Inequalities as a result of Defense of Marriage Act (DOMA)**

Testimony Submitted to the United States Senate Committee on the Judiciary

Hearing: "S.598, The Respect for Marriage Act: Assessing the Impact of DOMA on American Families"

July 20, 2011

Statement of Mark W. Kalend, surviving spouse of Philip A. Harley, deceased.

I am a 50 year old gay American, born in San Francisco, California. After graduating from high school, I enlisted in the US Air Force in 1980. I was honorably discharged at the end of my enlistment in 1984. I was trained and assigned as an Intelligence Operations Specialist responsible for preparing and providing weekly classified briefings to the Fighter Pilots of the 37th Tactical Fighter Wing based at George AFB, California. I was investigated and cleared for a US Secret Clearance to work on classified information in the US Armed Forces Intelligence Division. I love my country and have always been proud to have served in the Air Force. Back then, the Cold War with the USSR was at its peak, and I felt I was serving an important purpose.

In 1994, I met and fell in love with Philip Harley. We built a life together that lasted 15 years until his very sudden death from cancer in July of 2009. By any measure, Philip was an exceptional man of very high academic, professional and personal achievements. He was also a happy and fun person to be around. He had many friends from all walks of life. There were more than 400 people gathered at our church for his memorial. Judges, previously opposing defense lawyers, as well as friends and family were all as one that day.

There are too many poignant tributes and achievements to mention all here. However, I would like to point out a few. Philip was born in 1947 to a highly decorated US Army Colonel, who served in Europe during World War Two. From the age of eleven, Philip knew that he wanted to become a lawyer. He worked to pay his way through law school as a counselor in the Adolescent Treatment Program at the Menninger's International Clinic in Topeka, Kansas. He loved the children there and they loved him.

Philip lived his life to be of service to others. This was his motivation to later become a trial lawyer and actively participate in national politics. Philip also strongly believed in paying his fair share of taxes and never sought out loop holes. Yet, neither Philip nor I believe that we should pay more or less because we are a same gender couple.

After five years of being in a committed relationship, we decided we wanted to start a family. As a same sex couple, we were not taken very seriously by any adoption agencies we approached, but we eventually discovered a company that provides surrogacy services for same sex couples. It took five years of attempting in-vitro pregnancy with the help of our devoted surrogate before our prayers were answered. Our daughters, Sara and True, were born on May 1, 2005. They were created with pure love and complete intention. Philip and I felt the greatest joy and purpose

Mark W. Kalend  
Alameda County, California

in life that is universal among loving and devoted parents. Our life together was meaningful, committed, and happy as any couple would hope for. Life felt complete. We were particularly grateful to live in a town that accepted us as a married couple and a loving family.

We were officially married in the state of California on October 13, 2008. By then, we had already purchased two homes together, traveled to many parts of the world and had our most beloved daughters starting play school. In May 2009, Philip developed a rare, aggressive form of skin cancer. He was at home surrounded by family and friends when he died eight weeks later. Our daughters are recovering from his loss as well as could be hoped for, as only small children can. They are happy and thriving with the continued support of many in our home town. As a single father, it is difficult to express the gratitude I feel for all those who reach out regularly to help anyway they can. It is true what they say: "it takes a village."

In the two years since my husband's death, some progress has been made to bring some civil equality to gay Americans. However, much more work remains to be done by our federal government to achieve total equality for all gay Americans and their families. In my view, the first step should be the end of DOMA. We pay our taxes and obey laws. We are productive and contribute to society on every level, yet we are still denied federal recognition of marriages which are valid under state law. I believe this inequality is immoral and that the right to marry the person we love is as fundamental as the right to vote or pray to God. I find it both ironic and hypocritical that those who most resist government regulation in areas of business, environment, health care and gun ownership are often the same individuals who most adamantly demand that the government regulate the most personal aspect of life, which is to choose whom we may marry. We are all created equal in the eyes of God, yet not by the US federal government.

Laws are needed now to protect gay couples and families, so that in the future, others will not have to endure the indignities and unfairness that I and many others are having with taxation and Social Security. For example, I have had to pay gift taxes for years of birthday and Christmas gifts given to me by my husband, even after his death! I have had to explain to the Social Security office that Sara and True are both equally and legally entitled to Philip's Social Security benefits. It took some time to explain and prove that in fact Philip and I had taken all legal steps to protect their full custody. In addition, my family attorney advised me to apply for spousal benefits. We did this expecting my claim to be denied, but wanted to protect any rights I might have in the future. After making an appointment at Social Security office, I explained my situation and requested to apply for spousal benefits. This was met with confusion and apprehension. I was told that I was not entitled to spousal benefits because the federal government did not recognize our marriage. I explained that I understood, but still wanted to file a claim nonetheless. Just getting Social Security to process my claim took a couple of phone calls to my lawyers' office and the Social Security supervisor. This is not what other gay widows or widowers should have to go through. This does not coincide with liberty and justice for all.

My life has been filled with many blessings, but I am also faced with many obstacles. I choose my battles very carefully and I try to avoid them in general. The issue of marriage equality for gay Americans is not going to go away easily. I am prepared to spend the rest of my life fighting

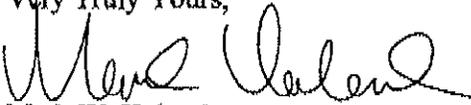
Mark W. Kalend  
Alameda County, California

for this right. Philip was my husband in the eyes of God and the State of California, and it is about time that the United States Government recognizes that truth.

I believe I am on the right side of history. Future generations will look back at this issue, much as we do now at the civil rights movement for African Americans, and wonder how this was ever a reality in our country.

Thank you for your time and consideration of this important civil rights issue.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'Mark W. Kalend', written in a cursive style.

Mark W. Kalend



**Kazan, McClain, Lyons,  
Greenwood & Harley, PLC** <sup>SM</sup>

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## Addressing Inequalities as a result of Defense of Marriage Act (DOMA)

Testimony Submitted to the United States Senate Committee on the Judiciary

Hearing: "S.598, The Respect for Marriage Act: Assessing the Impact of DOMA on American Families"

July 20, 2011

Statement of Steven Kazan, Executor and Trustee for Philip A. Harley, deceased, and founding and managing partner of Kazan, McClain, Lyons, Greenwood & Harley, PLC.

I appreciate Senator Leahy's leadership in holding this hearing on the Respect for Marriage Act and thank him and the other members of Congress who have co-sponsored this Bill for demonstrating genuine concern about the issues faced by gay and lesbian couples and their families. I urge Congress to act without delay to pass this legislation.

Lack of equal civil rights for gay and lesbian Americans is damaging to all Americans and to America's founding values. I address one particular area of inequality that is particularly harmful to families, denies rights and protections to families when one member passes, and creates financial damage and other uncertainties that are critical to families within our society.

In May 2009, my law partner and good friend, Philip A. Harley, was diagnosed with late stage aggressive cancer and passed away less than two months later. Nine months before, he had married his longtime partner in California. At that time, Philip and his spouse Mark were already fathers to two lovely four year old daughters, Sara and True Harley.

Four days before he died, Philip asked me to serve as Trustee of the family's Trust and Personal Representative of his Estate. I readily agreed and since then, in both my official capacity as Trustee and Personal Representative, and that of an employer and as a friend, I have witnessed how dramatically differently lesbian and gay families are treated under the law. Who would have expected that because Philip was married to Mark and not Marsha, for example, his family would not be afforded the equal rights and protections that this great country offers. Philip's relationship with his spouse and children is no different than my relationship with my wife and children, and there is no reason his family should be treated worse than mine would be if the situation were reversed.

After Philip passed, Mark, his legally wedded spouse, could not qualify under the Consolidated Omnibus Budget Reconciliation Act (COBRA), a federal program which gives

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workers and their families who lose their health benefits the right to choose to continue group health benefits provided by their group health plan when the working spouse dies. As the managing partner of our law firm I was fortunately in a position to advocate to get coverage for Mark, a right and a privilege that had never been questioned before in all the years we have had the firm; I had to threaten to sue and take my firm's business away from our health insurance provider because they did not want to provide coverage for Mark even though California state law requires it. The immediate knowledge that Philip's surviving spouse no longer had any health care coverage was a stressful and expensive issue for us all.

Another quick realization was that most of Philip's retirement account was to be doubly taxed, with only the net proceeds left to provide for his surviving spouse and children. Philip was both fortunate and unfortunate in that he had amassed enough hard earned wealth to have a taxable estate. Philip knew that his estate would be subject to immediate estate tax and that his spouse had no access to the host of federal tax privileges afforded opposite gender married couples. As such, once Philip realized he was terminally ill, he requested immediate distribution of his 401(k) to Mark to minimize having to pay the estate taxes on the deferred income within the account. Philip died on July 2, 2009, just prior to the 4th of July weekend and before the distribution could be completed. In fact, we were left in a situation where we had to come up with funds to pay not only estate taxes on the whole value of the 401(k) – including estate taxes on the deferred income – but also enough liquid funds to pay the immediate income tax due on the required distribution. This left only a portion of what he had saved over his lifetime for his surviving spouse and children. Had his marriage been recognized by the federal government, he never would have asked for such a distribution, but instead, deferred the distribution of the 401(k) until a time that Mark chose to take distribution. In addition, there were other retirement accounts that Mark inherited, but he was not able to roll the accounts over to his own retirement account and was forced to take distributions as a result of DOMA. These tax efficiencies allowed to opposite gender married persons presumably helps ensure the stability and security of the remaining family members; it was denied to Mark, Sara, and True.

My next task as Trustee and Personal Representative was determining both the value of Philip's estate and the associated tax liability. In order to simply file an estate tax return, I was required to complete a forensic accounting of every paycheck Philip earned after marriage and every payment made with those earnings; this analysis cost time, money, and an expertise which most estate tax professionals and estate administration attorneys lack.

Moreover, federal tax law allows spouses to transfer unlimited assets to one another during life and at death.<sup>1</sup> This is known as the unlimited marital deduction. However, DOMA precludes the IRS from recognizing Mark and Philip as spouses for federal tax purposes and therefore they were denied the right to the unlimited marital deduction. As such, transfers made

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<sup>1</sup>See Internal Revenue Code Sections 2523 and 2056, respectively.

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Page 3

between Mark and Philip prior to and during marriage constituted gifts, and transfers after death were subject to estate tax. As a direct result then, the estate paid approximately \$300,000 in gift taxes and approximately \$1,800,000 in estate taxes for transfers that would otherwise have qualified for the unlimited marital deduction. These tax payments would not have been required if Philip's spouse were female. Not only would Mark and Philip have married earlier had they been allowed to, their estate plan would also have been different and they could have avoided paying estate taxes on the first death, had DOMA not precluded marital tax rights from being conferred.

There were many other times during the administration of Philip's estate where the existence of DOMA was central to my decision making and governed my choices. DOMA precludes the federal government from recognizing their marriage, yet they had rights under state law. There was little or no legal precedent or guidance to follow and the conflict between state law and federal law permeated many of the issues that we encountered.

The law should protect all the citizens of this great country and no citizens should suffer discrimination. Philip's death was hard enough for his family to bear; they should not be forced to suffer more than other married couples because Philip and Mark were gay. Until DOMA is overturned, the uncertainty that gay and lesbian families face, the extra financial hardships that are inflicted on these families simply because of this discrimination, and the disparate treatment that results, will continue. I urge Senator Leahy, his colleagues on the Judiciary Committee, and the Congress to pass this legislation. It is past time to treat all citizens with the same dignity and respect that each of us deserves.

Thank you for your time and attention.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven Kazan", written over a horizontal line.

Steven Kazan

SK:troy



## TESTIMONY

COURAGECAMPAIGN.ORG/TESTIMONY

Senate Committee on the Judiciary  
"S.598, *The Respect for Marriage Act: Assessing the Impact  
of DOMA on American Families*"

Wednesday, July 20, 2011 at 10:00 a.m.  
Room 216 of the Hart Senate Office Building

### COURAGE CAMPAIGN MEMBERS ROBERT KOEHL and STYLIANOS MANOLAKAKIS

*Bi-National Couple Together 15 Years*

**F**ifteen years ago this Christmas, while on sabbatical from Hunter College where I am a professor of Classical Archaeology, I met and fell in love with a Greek fellow. I had never met anyone like Stylianos. We have been together ever since, but it's not been easy.

After spending a small fortune traveling back and forth between Greece and the U.S. for several years, Stylianos applied for a 0-1 visa – an artist's visa – to stay in the States longer. He is an accomplished playwright, director and actor here in New York City. He got the visa, but years later, when it came time to renew it, his request was denied. This was shortly after 9/11. The following months, years, were all very emotionally draining and destabilizing. It was a horrible situation, and not to mention all the legal fees we incurred! We spent thousands and thousands of dollars on attorney services – something many same-sex couples end up doing.

Two years from August of this year, Stylianos' visa is up again.

There is no guarantee he will be given another one. If he's denied, he'll have to return to Greece and we begin again the exhausting and costly process of visiting each other when possible.

Our lawyer advised us not to marry because she said it might raise red flags. So, we're waiting. As long as DOMA is in the books, there is no way our marriage would be recognized. But if DOMA got repealed, we would get married the following day.

I am nearly 60 years old. How much longer will I have to wait to enjoy the stability of a marriage with my long-term partner, without the fear that at any time, we will have to separate?

#### CONTACTS:

Robert Koehl, [REDACTED]  
Ana Beatriz Cholo, Courage Campaign Communications Manager, [anabeatriz@couragecampaign.org](mailto:anabeatriz@couragecampaign.org),  
312-927-4845 (cell)

*Courage Campaign is a multi-issue online organizing network that empowers more than 700,000 grassroots and netroots supporters to work for progressive change and full equality in California and across the country. Through a one-of-a-kind online tool called Testimony: Take A Stand, the Courage Campaign is chronicling the sights, sounds and stories of LGBT families and all who wage a daily struggle against discrimination across America. For more information about Testimony, please visit, <http://www.couragecampaign.org/Testimony>.*

Courage Campaign • 7119 West Sunset Boulevard, No. 195 • Los Angeles, California • 90046  
Phone: 323-969-0160 • Fax: 323-969-0157

Statement of Jane A. Leyland

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S.598, The Respect for Marriage Act: Assessing the  
Impact of DOMA on American Families”

July 20, 2011

My wife Terry and I met over 27 years ago and fell deeply in love shortly afterwards. We had this very strong need and desire to commit to sharing our lives and building a future together. This is indeed the essential element of marriage! Although this occurred before the enactment of the Defense of Marriage Act (DOMA), the Federal Government and no state recognised same-sex marriage at the time. So accordingly, we exchanged vows and rings on our own and have been living as a married couple ever since, even though this marriage was not able to be sanctioned by the State of California until 2008. Notwithstanding DOMA, we succeeded in becoming legally married according to California law on 3 July 2008, the day we celebrated our 24th year anniversary, with the same rings we exchanged 24 years previously. That day is certainly the most memorable day in our lives. We were fortunate to have Molly McKay of Marriage Equality USA perform the Ceremony in the San Francisco City Hall Rotunda adjacent to the Harvey Milk Bust. It can't get any better than that! Everyone was so nice and supportive. We have many wonderfully strong and different emotions from this ceremony.

Initially, Terry and I exchanged Vows and Rings on our own without the benefit of official governmental sanction because it was not available to us at that time. Being pro-active, we knew that the absence of governmental sanction did not in any way diminish our love for each other and our commitment to build a future together where we would share our lives and be supportive of each other. We have shared a strong spiritual and mental bond ever since we first exchanged vows and rings. Accordingly, we have no doubt that our relationship is indeed a real "marriage" notwithstanding governmental policy.

Our legal marriage had totally surprising effects. The ceremony and legal recognition gave us a feeling of acceptance and belonging to the community that we had not experienced previously. Upon hearing of our marriage, we received recognition as a couple, congratulations and best wishes from family and friends as well as from strangers. We both remain greatly elated and are still on Cloud Nine as a result. We have come to feel much better about ourselves, be more openly “out” than before, and I believe better members of the community in general. It is difficult to describe the many wonderful emotions that we feel, but as stated above, they are wonderfully strong and different. This is clearly a win-win situation for the general community and for same-sex couples! Our marriage cannot possibly adversely affect anyone else’s marriage.

It is important to recognise that by marriage, one becomes a member of their spouse’s family. Accordingly, love of one’s new in-laws, the parents, siblings, grand parents, nieces and nephews can greatly extend and broaden the spectrum of the type and kinds of love one can have. This in turn can spill over to the general community and contribute greatly to becoming a better member of the community. This has been my experience. As stated previously, this is clearly a win-win situation!

This truly wonderful experience of being able to marry the person of one’s choice is certainly a fundamental basic human right which all people should have and which is certainly on par with the “unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness” as stated in the *Declaration of Independence* and for which governments are instituted

to secure. The Federal Government by enactment of the Defence of Marriage Act (DOMA) has denied this basic human right to same-sex couples. DOMA is based solely on unwarranted prejudice and fear and is grossly un-American. DOMA, which defines marriage to be union between a man and a woman, is a federal law enacted by congress and is not an amendment to the U.S. Constitution.

The effect of DOMA is to essentially negate all federal level spousal benefits to same-sex married people such as Terry and myself. Specifically, some of the most important federal benefits that are currently denied because of DOMA, or will be if Federal policy changes do not occur, to Terry and myself (currently a federal employee who previously served honourably in the U.S. Military) are:

1. **Spousal pension benefits provided by Social Security.** Denial of the spousal part of these benefits will occur unless there is a change in the federal policy on same-sex marriage. Specifically, if our marriage were recognised by the U.S. Government, Terry as my legal spouse would receive approximately \$1400 per month in the event of my death. The unavailability of the spousal part of these benefits greatly skews my financial activities and forces me continue to work whilst in my seventies, and to take investment risks I wouldn't take otherwise, in order to maximise the build-up of assets to partially off-set the lack of spousal benefits that Terry would receive in the event that I die first.
2. **Spousal pension benefits provided by the Civil Service Retirement Plan.** Denial of the spousal part of these benefits will

occur unless there is a change in the federal policy on same-sex marriage. Specifically, if our marriage were recognised by the U.S. Government, Terry as my legal spouse would receive approximately \$3300 per month in the event of my death. The unavailability of the spousal part of these benefits greatly skews my financial activities and forces me continue to work whilst in my seventies, and to take investment risks I wouldn't take otherwise, in order to maximise the build-up of assets to partially off-set the lack of spousal benefits that Terry would receive in the event that I die first. These limitations on both of these retirement plans pose a very great problem for us at this time.

3. **Federal Employees' Family Health Benefits.** I applied for the family health insurance plan to cover Terry and submitted a copy of our Marriage Certificate with a hard copy application. It is noted that the electronic application process that is frequently used for this would not accept same sex spouses even though the form used terms such as "married", "spouses", et cetera. This application was denied because of the Federal Government's definition of marriage via DOMA. The net difference between the cost of securing individual comparable private health coverage for Terry and the cost of the government subsidised group family coverage is approximately \$525 per month. We have not been able to purchase health insurance for my wife because we can't afford it.

The lack of health benefits has placed my wife's health maintenance in jeopardy. Just recently, my wife had an emergency medical condition

that necessitated taking her to the emergency room of a local hospital. The bills are still coming in and will amount to several thousand dollars. We don't know how we are going to pay all these, but expect that it will take several years to do so, plus running the risk that it will be taken to collections.

4. **Federal Employees' Family Coverage Life Insurance.** I applied for supplemental spousal life insurance at the same time that I applied for the family health insurance plan. Supplemental spousal life insurance is offered to married couples whose marriages are recognised by the U.S. Government at a group rate significantly less than that obtained from private non-group sources. The result was the same; it was denied to us because of DOMA.
  
5. **Federal Income Tax Reporting Status.** Because of DOMA, we are faced with the problem that the U.S. Government will not allow us to file our Federal tax returns jointly, even though California will allow us to file California tax returns jointly. Accordingly, our tax filing preparations are much more complicated and we are denied the reduction in tax liability on the Federal return that federally recognised married couples enjoy. In our case, we have to pay about \$12,000 per annum more than if we were a federally recognised married couple because of DOMA.

One of the most aggravating issues resulting from the Federal definition of marriage in the Defence of Marriage Act (DOMA) is that federally non-recognised married people are forced to subsidise many of

the benefits enjoyed by federally recognised married people. This is true for all of the five above listed benefits. For example, the amounts withheld from our pay for both Social Security and the Federal Retirement Plans are not dependent on family status. Consequently, individuals will have paid the same amount into either or both plans regardless of their marital status, but the benefits paid out to married couples recognized by the federal government will be substantially greater than for me and Terry, and for other same-sex couples. Essentially, I am helping subsidize benefits I can't collect.

As we learned years ago, "Separate is not equal." In fact, there are at least some 1,100 federal rights and privileges that federally recognised married couples have, but which are denied to same-sex couples because of DOMA.

I urge Congress to repeal this discriminatory and hurtful law.

Thank you.



## TESTIMONY

COURAGECAMPAIGN.ORG/TESTIMONY

Senate Committee on the Judiciary  
"S.598, *The Respect for Marriage Act: Assessing the Impact  
of DOMA on American Families*"

Wednesday, July 20, 2011 at 10:00 a.m.  
Room 216 of the Hart Senate Office Building

### **COURAGE CAMPAIGN MEMBERS – HEATHER AND KATH POEHLER** *Married September 10, 2005*

***Pennsylvania State Law:*** "It is hereby declared to be the strong and longstanding public policy of this commonwealth that marriage shall be between one man and one woman. A marriage between person of the same sex which was entered into in another state or foreign jurisdiction, even if valid where entered into, shall be void in this commonwealth."

In December of 2004 in New Zealand, my girlfriend of four years asked me to make a lifetime commitment to her. I accepted. On September 10, 2005, we got married on the beach in Truro, Massachusetts. It was a beautiful, sunny day. A small gathering of about 40 family members and friends shared in the most wonderful day of our lives.

In January of 2007, I accepted a job offer from a mutual fund company based in Malvern, Pennsylvania. I did not move here permanently because I was originally supposed to move back to Massachusetts. However, after six months of on-site training, the company offered me a promotion. I accepted and on September 14, 2007, my wife Kath and I closed on a home in Downingtown.

Crossing state lines meant we were no longer married – thanks to a law signed by then-Governor Ed Rendell and the Defense of Marriage Act (DOMA). We suddenly lost our rights as a married couple. Perhaps in the eyes of our new neighbors, we were roommates, or two women simply living together.

Every year, we file our federal taxes but we do not get the benefits of filing as a married couple (in our state of residence or with the federal government). When we refinanced our house, we both checked single because the loan was through FHA. We cannot get the health insurance we want because it has a federal savings account attached to it.

We love each other, we are committed to each other, we work hard, we volunteer and we contribute to our local community. DOMA and the state of Pennsylvania deny us our rights as a married couple – and as American citizens.

#### **CONTACT:**

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*Courage Campaign is a multi-issue online organizing network that empowers more than 700,000 grassroots and netroots supporters to work for progressive change and full equality in California and across the country. Through a one-of-a-kind online tool called Testimony: Take A Stand, the Courage Campaign is chronicling the sights, sounds and stories of LGBT families and all who wage a daily struggle against discrimination across America. For more information about Testimony, please visit, <http://www.couragecampaign.org/Testimony>.*



Statement of Sherri and Amy Shore

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S.598, The Respect for Marriage Act: Assessing the Impact of  
DOMA on American Families”

July 20, 2011

Our names are Sherri and Amy Shore. We have been together for twenty six years. In that time we have filed as domestic partners, been legally married twice (once was voided), and had a ceremonial wedding on our 20<sup>th</sup> anniversary. In many ways we are no different than many of you. We have worked hard, bought property, agonized over the challenges of a multiple sclerosis (MS) diagnosis, and many other un-favorable healthcare issues.

For eighteen years Amy worked in the high tech industry, fourteen of them with Silicon Graphics (SGI). I have worked for NASA Ames Research Center (ARC) for twenty one years, eleven as a civil servant. We have both demonstrated unconditional loyalty to our employers utilizing the strong work ethics and values we were both raised with. That same strong moral code led Amy to take a sabbatical after she was laid off during the economic downturn to assist her mother in caring for her father suffering from Alzheimer's.

Amy was laid off by SGI and she received a substantial package that included COBRA coverage. During much of Amy's tenure at SGI, I was carried on Amy's healthcare coverage under SGI's "Domestic Partners Benefit Package". This is significant because in 2001, when I was diagnosed with MS, my drug therapy was not covered under my Federal Employee Health Benefits (FEHB) plan. This cost was significant (\$6,000.00 per month). When Amy's separation package concluded and converted to COBRA, we were informed that my coverage would be dropped because COBRA is a Federal program and the federal government does not recognize domestic partners.

To avoid any interruption in coverage I quickly filed for “life changing circumstances” and requested that not only I be extended medical benefits outside the open enrollment period but that my domestic partner Amy be added as well. While I was approved, Amy was denied. Requests and appeals were filed with the OPM, EEO, and Union. All were denied citing DOMA.

At the conclusion of the one year COBRA coverage, we were forced to purchase private coverage which proved to be costly (\$585 per month) due to Amy’s pre-existing conditions. So in addition to large out-of-pocket co-pay for my MS medication we had Amy’s medical insurance costs to deal with. We probably could have afforded such costs had Amy still been working, but without her income this became a huge financial burden. We began eliminating unnecessary comforts such as cable and internet services, limiting grocery and car trips, just like many other families in our situation.

At the same time Amy was taking a more active role in care-giving for her father as he became less physically able to perform the most basic tasks. Amy’s father would eventually succumb to the ravages of multiple strokes and dementia. Amy takes great pride that he was able to remain at home until his death.

Unfortunately, his care took a physical toll on Amy, leaving her unable to work and in need of emergency surgeries to repair painful damage to her

back, shoulders, and knee. Amy's costly insurance while covering a portion still left us with costs we simply could not afford.

We avoided recommended MRI's, X-Rays, and physical therapy, all in an attempt to avoid adding to growing medical bills.

All the while I continued annually to try to add Amy to my FEHB, writing numerous letters and emails to OPM, EEO, and union representation. All expressed their "heart-felt" concern for our situation but with almost painful ease referred to DOMA in their denial.

In October of 2008 Amy received a "fully favorable" notice of decision from Social Security/Disability. This had been a three year process that we'd hoped would give us some relief from the private sector insurance cost. We quickly found out how little Medicare covers and that a supplement was required.

Because Amy is under 50 years of age she did not qualify for any "gap" coverage. We turned to the State of California in an attempt to qualify for one of their many programs only to be told that we didn't qualify because we are "legally married" and in the state of CA employers are required to offer domestic partners benefits or spousal benefits to married employees, this includes same sex couples. Therefore Amy should be on my benefit plan. While the state employees heard our explanation that I was a "federal" employee and that DOMA denied such benefits, they too only offered their "heart-felt" concern for our situation but also denied our request.

Currently our home is in foreclosure despite successful completion of a loan modification program by our lender. Outstanding medical bills have been the chief contributor to a poor credit score and hampering efforts to refinance. For years our property title was listed in our names but communicated as “Amy Shore an unmarried woman and Sherri Rybak (my maiden name) an unmarried woman.” Do you have any idea how painful that kind of indifference and invisibility is? Now we are “legally married” and still invisible because of DOMA. In the last three years two of my office mates have gotten married, both adding their husbands to FEHB without so much as a hick-up! This type of discrimination has to stop!

We are honest, hard working, taxpaying individuals who care for their aging parents and face many of the same challenges every family does! We are just the same as every other American and should be afforded the same liberties and protections.

We respectfully request that you vote to repeal the Defense Of Marriage Act (DOMA).

Sherri and Amy Shore  
San Jose, California

Statement of Cathy Speck

Before the Committee on the Judiciary

United States Senate

Submitted for the Record of a Hearing Entitled

“S.598, The Respect for Marriage Act: Assessing the  
Impact of DOMA on American Families”

July 20, 2011

My name is Cathy Speck, and I appreciate you for listening to our story and our plea for equal marriage rights. I live in Davis, CA with my wife Linda Duval. Though we have no children, we did adopt Mazie the Amazing Monkey-Face Pug/Poodle Terrier Princess. She is a SPCA rescue dog who came into our lives at the right time.

In January 2009, I was diagnosed with Amyotrophic Lateral Sclerosis (ALS) a.k.a. Lou Gehrig's Disease. This is a progressive, fatal neuromuscular disease. Most people with ALS die 2 to 5 years after diagnosis. ALS is very rarely genetic, in fact only two percent of the cases are caused by a genetic mutation. The SOD1 positive chromosome mutation runs in my family, and each of my surviving siblings has a 50/50 chance of getting the disease. Our family has already lost my mom, Dorothy, her Aunt Mary, my brothers Paul and Larry, and I'm still hanging on. I have a powerful incentive to live long enough to see the federal government recognize our marriage. Without this recognition, my wife Linda will not receive my social security benefits.

I met my wife, Linda, in 1993 and we had our first unofficial wedding celebration on June 16, 2001. In February of 2004, we were one of thousands of couples who got married in San Francisco City Hall after Gavin Newsom honored our rights to

marry. We had to travel three times to San Francisco in attempts get our marriage license because we weren't allowed to schedule appointments as is done for heterosexuals. With thousands of other couples, we had to line up for blocks in rain, fog, cold, and wind for up to thirteen hours each trip. Our determination and steadfast love prevailed. The fourth time, we, like other couples, were allowed to schedule appointments and receive our marriage license. We exchanged vows immediately after in the glory of the S.F. City Hall rotunda. We framed our marriage license from the County of San Francisco, which the courts later nullified.

Again we did not give up. We were one of the 18,000 gay couples who did get married legally in California before California's Proposition 8 put an end to gay marriages in the state. Our marriage is still considered valid in California, so we do have the same rights as any married couple in California.

However, when we step out of California, or deal with federal laws, we have none of those rights. This means if Linda and I travel out of state and my ALS requires a trip to the emergency room or a hospital stay, Linda could be denied the right to be with me at a time when I could be breathing my last breath.

When I die, Linda will not get my social security benefits. For heterosexual couples all over the country, when a person

dies, their partner gets their social security benefits. You get a monthly stipend because you've been paying into social security all your working life. You then draw off that money after you retire and if you die, it goes to your spouse or your dependent.

However, since the federal government does not recognize our marriage, Linda won't get that. All the money I would have gotten to help support us if I were to grow older just goes back to the government. Linda can't have it.

I contacted attorneys to see if there was anything I could do. They told me that, in the eyes of the federal government, I have no spouse. A few friends suggested that I legally adopt Linda, but the only way I could do that was if she were mentally incompetent. I don't have any children so when I die my hard-earned money goes back into a government that doesn't honor our legal California vows. Not only will Linda suffer the loss of her wife, her life companion, she will suffer financially.

Although some people consider social security benefits to be of minimal help, in this case it could mean the difference of Linda being able to pay her rent. We are not wealthy and, even though we are known regionally as "rock stars," most of our years together we lived paycheck to paycheck. We did inherit some money after my brother Larry died of ALS, but most of this was

spent on pre-paying my cremation, the death certificates, and taking care of other legal matters upon my death.

So once again I emphasize that with DOMA currently in place, the absence of social security benefits will burden Linda during her already stressful and sorrowful grief and mourning. Because her immediate and extended families shun her, they certainly will not be helping her emotionally or financially. As more of my family members die of ALS, Linda's support system will continue to diminish.

Linda and I had a well-known duo, Duval Speck, a band, The Essentials, and produced three CDs. We performed all over California sometimes, for LGBT rights and celebrations, and other times at "mainstream" public events. We never changed a word in any song, which made us vulnerable to "haters." For example, if the lyrics were: "I fell in love with her, and knew she'd be my wife; I would comfort her for all of her life," we'd never switch "her" to "him."

In 2009, the first year and a half after I was diagnosed, we directed and played in many benefit concert fundraisers for ALS.

Sadly, the ALS has now taken away my ability to sing, and my arms and hands hurt and are too weak to play percussion. I have

to sleep with special equipment to deliver oxygen now, and my energy continues to decline. My degree of fatigue determines what I can accomplish each day. Nothing, and if you could see my face right now, you'd know I ***mean nothing will dampen my spirit.*** And I hold onto hope that if I live long enough, maybe the laws will change and the federal government will recognize our marriage. That keeps me getting out of bed in the morning, striving for LGBT equal rights, and continuing to raise funds to find a cause and cure for ALS.

I'm a tangible poster child for why DOMA should be repealed. If someone asks what's unfair about our marriage not being recognized in all states, I can offer several examples, but here is the most glaring one: I'm dying. I have a terminal illness and I pretty much know my life span. Linda and I have been together since 1993, and we're legally married in the state of California, yet the federal government does not recognize our marriage and the rights included therein.

And talk about the old standard marriage vows: "in sickness and health, til death do us part." Ask any caregiver of an ALS patient: is there a more cruel and heart wrenching disease? Linda took big risk when she married me. And before I was diagnosed, she and I were the primary caregivers of my brother

Larry who died of ALS in June 2008, about eight months before I was diagnosed.

Once again if you want a real-life example of why DOMA is unjust, I'm right here--a 51-year-old woman dying from ALS (a disease our society tends to hide) and my wife, 53, with still plenty of life to live. I'm the "poster child" for "Repeal DOMA" and "Defeat ALS." Some people in our great country don't think we're as good as they are, and don't think we deserve the same rights. Well, we are as "good as they are" and we do deserve the same marriage rights. Go ahead and plaster my story on every wall and every screen.

I'm not dead yet. Even the terminally crippling disease of ALS won't stop me as I strive to open hearts and eyes, so that may all live with love and equality.



## TESTIMONY

COURAGECAMPAIGN.ORG/TESTIMONY

Senate Committee on the Judiciary  
"S.598, *The Respect for Marriage Act: Assessing the Impact  
of DOMA on American Families*"

Wednesday, July 20, 2011 at 10:00 a.m.  
Room 216 of the Hart Senate Office Building

### **COURAGE CAMPAIGN MEMBERS** **BETH VORRO and BETH CODERRE** *Married September 18, 2004, Together 26 Years*

**B**y the time we got married in Massachusetts in 2004, my spouse and I had already been together for 19 years. As a federal employee, I immediately filled out the appropriate paperwork for a change in marital status. Although I knew it would be rejected, I also filled out the form to add my spouse to my health insurance plan. Someone apparently made a mistake at first, as we received a membership card and welcome packet for my spouse – even though I had included her name and gender on the application. After a few weeks, I received a call from someone in the Office of Personnel Management, saying I had "obtained health benefits illegally," and that the Defense of Marriage Act (DOMA) prevented the government from extending these benefits to my spouse.

Because my wife, Beth Coderre, is a psychotherapist in private practice, she purchases an individual health insurance policy – to the tune of about \$635 a month. DOMA directly costs us over \$7,000 a year and denies me wages and benefits equal to those extended to my colleagues. We estimate that's about \$70,000 of wasted money already in our careers. Money we could have tucked away for our retirement or some nice vacations. After 26 years together, we are still not considered a couple in the eyes of the federal government – a travesty created and perpetuated by DOMA.

Rhode Island recently passed a civil unions law. It states that any same sex couple who had a civil union in another state would be recognized as civilly united here. However, it's silent on the issue of couples married in other states. Our marriage is not recognized as a marriage in Rhode Island because of DOMA. Nor is it recognized as a civil union because of the statute's language. In other words, we can't get civilly united in our state because we would have to state that we are not married. As a result, we have fewer rights as a married couple than one joined in a civil union. How unfair is that?

The bottom line is DOMA really makes a mess in the states, and causes couples the unnecessary stress of not knowing our legal status or rights. In Rhode Island, it puts us right back to where we were before we got married.

It occurred to us that we could have marriage in all 50 states, but if the federal government doesn't recognize it, then what's the point? Unless DOMA is repealed, our marriage is legally meaningless and our 26 years together dishonored.

#### **CONTACTS:**

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