



Testimony from the Congressional Field Forum on the Defense of Marriage Act

Prepared by the Office of Congressman Mike Quigley (IL-05)

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**I. Kate & Trish Varnum
Congressional Field Forum on the Defense of Marriage Act (DOMA)**

Almost 11 years ago I met Kate and two months later we began dating. It took a trip to Chicago without Kate to realize the truth. I'd fallen in love with her. After two years together, I asked Kate to marry me. I knew that it would not be a legal marriage, but it would be in front of our families, our friends and God.

In October 2004, Kate and I were united in a Holy Blessing. We have come to call this simply "our wedding" because it was this day that we made a public commitment to each other, to our future. My father came from Texas to walk me down the aisle. Kate's father stood proud as he walked her down the aisle. Later this month, we expect to add a son to our family through adoption.

We were one of the six plaintiff couples in the lawsuit with Lambda Legal to win marriage equality in Iowa. We are the Varnums of *Varnum v. Brien*. In September 2009, Kate and I were married in a civil marriage. Finally, we had a word that truly described our relationship...to everyone except our federal government. To the US Government, we are still "legal strangers".

This was brought home on two occasions since our legal marriage. The first was when we did our tax returns. We had to file 3 tax returns; 1 for Kate as a single person, 1 for Trish as a single person and 1 for our State Tax return as a married couple. Preparing tax returns are not free unless you're an accountant yourself.

The second occasion was when Kate was laid off earlier this year. Her insurance continues through November. After that, she must obtain her own insurance. At my previous job, she would not have been able to go onto my insurance because of ERISA. She would have been left to pay Cobra insurance which is extremely expensive.

Thankfully, I changed jobs and now work for a company that offers domestic partner benefits. So let me make it clear...I receive domestic partner benefits...not spousal benefits. In Iowa, we may be married, but to Uncle Sam, we're 2nd class citizens. Ultimately, for us, the financial disadvantages that we endure as a result of DOMA aren't even the worst part—the worst part is that this law devalues our family.

II. Janean L. Watkins & Lakeesha J. Harris Congressional Field Forum on the Defense of Marriage Act (DOMA)

Ours is a story of a family; a true family in every sense of the word. Even when we first started out on this voyage – we defined the terms of our family using traditional standards. Standards like how we'd educate our children, where we would live, how we would expose our children to the wonders of the world and the like.

Lakeesha and I have been in a loving committed relationship for ten years. We were so excited to be able to get a civil union, that we stood in line overnight, and were the first in Cook County to get a license. On June 2nd, we had our ceremony in Millennium Park. However, as proud as we and our six children were that day, we all felt, and continue to feel, the hurt of being shut out of marriage and the daily struggle to obtain respect for our family as a result.

We've been there – as a family – through every triumph and for every pitfall; through the good times and the bad. Very much like how any other American family operates. We've stayed up late to nurse an ailing child, gone to church, school social events, taken the children to Florida, Canada, and camping on family trips.

That is why, when we're asked by school officials, "which one of you is the real mother," as if we must prove our parentage, we are hurt and angry. When we work diligently to educate our six children and equip them with the tools necessary to navigate through our society and teach them to be proud of who they are – and we're told that we need to prove our familial ties for those very same children – we feel disempowered, humiliated, and oppressed.

We are working toward the American dream just as most families are. Lakeesha is the Illinois Lincoln Laureate for our university. I am a McNair Scholar and work part time. But just recently, we endured a roof collapse which set off a chain of events that completely depleted our savings. Lakeesha had also lost her full time employment. We approached the Illinois Department of Human Services for assistance by way of medical and food subsidies. Though Lakeesha and I went into the office together, put everyone in our family on the application forms, and explained our situation as having a civil union in the state of Illinois, we weren't recognized as a "real" family, and received only half of the benefits allotted to a family of eight.

Consistently, we deal with blatant institutional oppression – with schools, hospitals, churches, law enforcement, and other agencies. Our battle for rights, equality, and respect as a family is a daily occurrence. In so many ways we're made to feel that we don't exist. We're second class citizens in a country that we love, honor, and represent in such a dignified way. Both our state and federal governments invite others to treat us this way by labeling our family as worth less than other families. We know that if we were able to say "we are married", it would make a difference to the respect we receive.

Ours is a struggle for equality in marriage, in human rights, in dignity and respect. What Blacks, Whites, and everybody in between needs to know and understand is that our movement towards equality is equal to that of the Civil Rights Movement. There are Black folks in the fight for marriage equality that have studied the Civil Rights Movement, and can tell you that it is one and

the same. We are fighting to gain our value as citizens of this country. Society and our legislators need to be reminded, that every struggle for human rights, every offense against human rights, and every instance where we aren't able to enjoy the dignity of being recognized as a family has a negative impact on society as a whole.

Dr. Martin Luther King Jr. implored that we understand, "Injustice anywhere, is a threat to justice everywhere." Thank you.

III. Grant Gochnauer Congressional Field Forum on the Defense of Marriage Act (DOMA)

First I would like to thank Congressman Quigley and his very capable team as well as Congressman Schakowsky and Congressman Gutierrez for giving me the opportunity to share how DOMA specifically affects my life.

My name is Grant Gochnauer and I'm in a five year bi-national committed relationship with my partner Gabriel. We're committed to each other like any other couple. We have the same aspirations that any couple has: raising kids to be better than ourselves, building a loving home, enjoying life, and growing old together. These are aspirations that we cannot fully realize because of the uncertainty of our future together in this country. Uncertainty caused by DOMA.

Five years ago, I had the tremendous opportunity to start a technology company with 3 other people. In that time, we've been able to grow our business from the original four founders to about 40 people. We're now in our 4th office space – first starting in coffee shops and then working our way up to a space which was actually designed by Gabriel who is an architect in the city. Starting and running a technology company has been a life-long dream of mine.

With regards to DOMA, it's a piece of legislation which is basically dictating that I choose between the one I love and my professional passion. More explicitly, DOMA is asking me to make a choice between staying in the US, having a positive economic impact in the city, but potentially losing the one I love OR leaving my company to join Gabriel in Brazil effectively putting other's lives and jobs at risk in Chicago.

Many people don't fully understand DOMA's impact. Often people tell me, "Well Grant, just go to Massachusetts and get married". Unfortunately, because of DOMA, our marriage is effectively null and void in the eyes of the federal government. From an immigration perspective, this means I cannot sponsor Gabriel for a green card to stay in the US and we'll always have the fear of him having to go back to Brazil.

What kind of choice does this leave me with? Who is DOMA protecting? Clearly DOMA is not protecting me or Gabriel or the jobs of those who I employ. In this economy, this should be a no brainer. DOMA not only destroys families but it has a substantial destructive impact on our economy which cannot be afforded in today's climate.

I believe that familiarity and understanding the specific impact of DOMA has on our community will help our legislature take action to finally repeal this counterproductive law. The Congressmen here today clearly understand this and I stand with them on their efforts to build awareness on the destructive forces of DOMA.

IV. Angelica Lopez

On behalf of Claudia Mercado & Herself

Congressional Field Forum on the Defense of Marriage Act (DOMA)

My partner Claudia and I have been together over 13 years. We both did community service together in college, Special Olympics, dance marathons, food drives and we saw each other pretty regularly. We were friends for a long time and fell in love. We had a commitment ceremony (when/where) and then got a civil union in June.

We attend mass at Dignity Chicago where people within our Catholic faith value our family. Church is very important to us. We're all created in the likeness of God. For us, it's been great to find a place that accepts us for who we are and that says we are loved, we're welcomed, and we are children of God.

To have a safe place, a happy life, to be able to take care of our children is why we think marriage is so important. We deserve to be given the exact same rights as everyone else who wants these things for themselves and their family.

We've tried to do everything we can to legally protect ourselves, especially with our daughter, Isa, and a child on the way. Even with protections in Illinois, we know that's not enough. We travel a lot to Indiana and also to Missouri, where our family lives --- we don't want there to be any reason why Claudia would not have full parental rights over our kids at any stage. Our children need to know that, no matter what, both of their parents are able to take care of them. So, we spend the money to hire the lawyer and have every conceivable paper in place so that Claudia and our kids, my family, are protected.

The truth is that you don't know if everything's taken care of. There's always fears. Where will our daughter be able to go to school and what type of treatment will she receive? Have we taken care of everything legally? Can we afford to take care of everything legally that we need to address. So we try to do our best, but there's most likely other things that we're going to face and there will be challenges for us. We deserve and need the exact same rights as everyone else to protect our family.

V. Gail H. Morse

Partner

Jenner & Block, LLP, Chicago, Illinois*

**Any opinions in this statement are the author's own and are not those of Jenner & Block, LLP*

Tax Issues Raised by the Defense of Marriage Act

Congressional Field Forum on the Defense of Marriage Act (DOMA)

Thanks to Congressmen Quigley and Gutierrez and Congresswoman Schakowsky for holding this forum today on the financial harms to working men and women in same sex relationships recognized by their own states as marriage, yet ignored by the federal government. Your support on this issue and the work you will be able to do with the information from today's field forum will benefit many hard working Americans who should not fear the tax law simply because of who they love and have chosen to be their family.

The Defense of Marriage Act ("DOMA") denies same sex couples access to over 1,100 benefits under federal law, despite the fact that the state in which the couple resides allows them to be married or confers marriage-like status on them (collective referred to herein as "same sex married couple"). In particular, DOMA allows the federal government to discriminate against same sex married couples in determining their income, gift and estate tax liabilities and social security benefits available to other married couples, although the tax rates paid by same sex couples are the same for everyone. This complicated matrix of state v. federal recognition of marriage also places reporting and compliance burdens on employers who want to and do treat all of their employees equally.

Disparate treatment in taxes and social security benefits have a broad reaching effect because, as the saying goes, "nothing is certain except death and taxes." DOMA makes both more expensive for same sex married couples compared to other married couples, and anything but certain. A government of the people should not require some of its people to pay more taxes or deny them benefits in instances where they pay the same taxes simply based on who they love and build a family around.

I. Defense of Marriage Act

- a. H.R. 3396; P.L. 104-199; 110 Stat. 2419, enacted 9/21/1996.
- b. Section 2: No State, territory, U.S. possession or Indian tribe is required to give effect to any public act, record, or judicial proceeding "respecting a relationship" between same sex persons that is "treated as a marriage" nor required to recognize a right or claim arising from such relationship. 28 U.S.C. §1738.
- c. Section 3: When interpreting the meaning of any Act of Congress, of any ruling, regulation or interpretation of any U.S. administrative bureau and agencies, the word "marriage" means only a "legal union between one man and one woman as husband and wife;" the word spouse refers only to a person of the opposite sex who is a husband or wife. 1 U.S.C. §7.

II. Income Tax—There are over 100 provision in the Internal Revenue Code that are dependent on marital status. By excluding state recognized same sex married couples from application of these provisions, DOMA allows the federal government to discriminate against such couples and their families. The issues outlined below are not meant to be an exhaustive list of the disparities created by DOMA but to provide a representation of the type of common benefits that are excluded from same sex couples.

a. Employer-Provided Health Benefits

- i. Thanks to the advocacy of many LGBT civil rights groups, public and private employers have expanded their health care plans to provide benefits to the non-working partner of employees in a “domestic partnership.”
- ii. As the emphasis on delivering health insurance through employer provided insurance has increased, this benefit has been welcome by workers as a valuable benefit.
- iii. Where employers pay some or all of the insurance premium, the cost of the premium allocated to cover the non-working partner of the working employee is considered income to the working employee and subject to both income and payroll taxes.
- iv. However, where the married couple is in a federally recognized marriage, the income generated by benefits provided by the employer in covering the non-working spouse, are excluded from the working spouse’s income under the tax law.
- v. Thus, two couples working for the same employer receiving the same income and receiving the same health insurance benefit will receive a very different tax bill from the IRS. DOMA causes the married same sex couples to pay higher income and payroll taxes by failing to recognize the same sex couple as married.
- vi. This failure also causes employers to pay higher payroll taxes on income that must include the value of the insurance benefit provided to same sex couples.
- vii. One way to cut taxes on individuals as well as business is to eliminate this tax disparity.

b. Family Benefits—Adverse Treatment of Children—DOMA prevents same sex married couples from receiving the same tax benefits accorded to other married

couples thereby depriving same sex families of the ability to make tax neutral decision about work and family rearing.

- i. **Earned Income Tax Credit**—Credit requires the parent claiming the credit to be the biological or adopted parent of the child. In states where second parent adoption is allowed, and the biological parent of a child stays home to raise the child, the working parent is unable to take advantage of this credit thereby depriving the couple of the resources that the credit was intended to ensure were available to be used in raising the child.
 - ii. **Head of Household Tax Filing Status**—provides greater standard deduction to single parent, however, as above, only available to biological or adoptive parents. Where non-biological parent is raising the child as single parent, the additional resources meant to help ease the financial burdens of the family are not available.
 - iii. **Child Tax Credit**—allows a credit against tax for qualifying children in a household after meeting some income eligibility tests. Again, limited to biological or adoptive parents.
 - iv. **Alimony and Child Support**—alimony is deductible by the payee and child support is excluded from income but both require that the terminated relationship to have been a marriage.
- c. **Sale of Principal Residence**—If a same sex married couple sells the house they have lived in as a family that was paid for from the salary of the working spouse, the tax laws will allow further disparate tax treatment. A federally recognized married couple is able to exclude up to \$500,000 in gain from the sale of their residence, a benefit denied to the same sex married couple whose exclusion is limited to \$250,000, that afforded to “single” taxpayers.
 - d. **Joint Filing Status**—A federally recognized married couple can choose to file a joint return or a “married but separate return.” In general, filing a joint return allows the couple to file as a unit and receive a much lower blended tax rate than the married filing separately return. Same sex married couples, however, have no choice, they can only file separate individual returns, which in many cases deny the family unit the blended, lower tax rate applicable to the joint return status.
 - e. **Dissolution of the Relationship**—transfers incident to divorce for federally recognized married couples are non-taxable events. Transfers incident to the dissolution of a same sex marriage, however, will be treated as a taxable event and likely result in a taxable transfer especially where one spouse was the breadwinner and the other stayed home with the children.

- III. **Estate Tax**—No marital deduction is provided for the transfer of property upon the death of the first same-sex spouse. This means after a lifetime of joint acquisition and ownership, a hefty tax bill is due upon the death of the first spouse on the amount of that spouses assets passing to the other (after the estate tax exclusion).
- IV. **Gift Tax**—Same sex marriages present an opportunity for the tax law to treat the payment of joint living expenses as a taxable gift unless the expenses can qualify for very specific rules relating to medical or educational payments. Where a state recognizing the relationship also imposes an obligation of support during the marriage/union (as Illinois) an argument can be made that support should not be treated as a taxable gift. Joint ownership of a home can also cause gift tax consequences, where one partner does not equally contribute to the purchase of the home, could create a taxable gift.
- V. **State Income Tax**—Most states begin the calculation of state taxable income with federal taxable income. Federally recognized married couples can simply use that number to begin the calculation of their state tax calculation. Same sex married couples, however, generally have to re-calculate their federal taxable income “as if” they were married, by completing a second federal return so that they can use the income figure to calculate their state tax. However, calculating federal income and completing two sets of tax returns is bad enough, but there is a possibility that a state’s taxing authorities will view DOMA as determinative of the calculation of state taxable income despite recognition of the relationship under state law as a marriage. In such cases, same sex couples will be denied the benefit of joint filing not only at the federal level but also on their state returns, doubly discriminating against the couple and inexplicably treating them differently than federally recognized married couples.
- VI. **Retirement Savings**—DOMA prevents same sex spouses from receiving the benefit of automatic distribution from a deceased spouse retirement account and roll over of those benefits into a tax deferred account. Upon the death of a same sex spouse, any benefits in a qualified pension plan will be distributed to the partner as a beneficiary (assuming such designation was made) and will become immediately taxable (or over a very short deferral period). If the spousal relationship was recognized, the surviving spouse would be entitled to roll those amounts into his or her own retirement account thereby delaying the tax on payment from such account.
- VII. **Social Security Benefits**—employees pay the same rate of Social Security tax whether they are married or not. Social Security is the sole means of support for many elderly Americans. Upon the death of a spouse, his or her surviving spouse and the minor children of the deceased spouse are entitled to benefits. However, in the case of a same sex marriage, the spouse of a deceased partner will receive no spousal survivor benefits, spousal retirement benefit (allowing survivor to receive higher of the couples benefit) and no lump sum death benefit to defray the cost of a funeral. Moreover, the minor children of the couple will receive benefits only if the children are biological or adopted children of the deceased spouse.

Thank you for the opportunity to be here today and to discuss the very real financial effect DOMA has on hard working men and women living in same sex marriages.

VI. Camilla B. Taylor
National Marriage Project Director
Lambda Legal Defense and Education Fund, Inc.
Congressional Field Forum on the Defense of Marriage Act (DOMA)

Good Morning Mr. Quigley, Mr. Gutierrez, and Ms. Schakowsky. Thank you for the opportunity to testify before you this morning and thank you all for being original cosponsors of HR 1116, the 2011 Respect for Marriage Act. My name is Camilla Taylor and I am the National Marriage Project Director of Lambda Legal, the nation's oldest and largest legal organization dedicated to the advancement of the civil rights of lesbians, gay men, bisexuals, transgender people, and people with HIV.

In recent years, we have seen great advances in the recognition and respect afforded to the legal relationships of same-sex couples and their children. Six states (Connecticut, Iowa, Massachusetts, New Hampshire, New York, and Vermont) and the District of Columbia now permit same-sex couples to marry. Three of those states (Massachusetts in 2003, Connecticut in 2008, and Iowa in 2009) obtained marriage equality as a result of litigation victories. The three others (Vermont in 2009, New Hampshire in 2010, New York in 2011, and D.C. in 2010) obtained it through legislative reform. Further, marriages lawfully entered by same-sex couples in other jurisdictions are now respected in three additional states (Maryland, New Mexico, and Rhode Island).

Census data indicate there are 130,000 married same-sex couples living around the country and that more than 13% of all same-sex couples in this nation currently live in a jurisdiction in which they can legally marry. We look forward to further progress as still more states are actively considering marriage legislation, and our lawsuit for the freedom to marry for New Jersey couples is pending in a New Jersey court.

Here in Illinois, however, same-sex couples continue to face exclusion from marriage, although we saw a significant step forward this summer with the enactment of civil unions. Since June 1st, when the law became effective, more than two thousand couples have entered into civil unions around the state. By January 1st of 2012, eight states in addition to Illinois will provide all or almost all the state law rights of marriage through either civil unions or broad domestic partnership laws (California, Delaware (effective Jan. 1), Hawaii (effective Jan. 1), Nevada, New Jersey, Oregon, Rhode Island, and Washington). While this is important progress, it is up to states such as Illinois to eliminate discriminatory marriage bans and ensure equal access to marriage under state law for all families. We have much work to do.

We also have seen rapid shifts in public support for marriage equality and other forms of relationship recognition. For example, in a national poll conducted in April of 2008, 53% of Americans opposed same-sex couples being allowed to marry and only 35% supported it. However, in a Gallup poll released this past May, instead of 53% opposed, 53% *supported* allowing same-sex couples to marry, and only 45% opposed. This is a dramatic shift over a mere two year period. Further, among 18-34 year-olds, who will be the future voting majority, support for marriage equality is now at 70%.

However, despite all these advances and majority public support for equality, the federal government continues to deny respect to legally married same-sex couples and their children. The so-called Defense of Marriage Act (“DOMA”), Pub. L. No. 104-199, 110 Stat. 2419 (1996), is an unprecedented law that does three things. First, it purports to allow states to deny any respect to the marriages of same-sex couples validly entered into in another state—a subject previously governed by state law and constitutional considerations. Second, it excludes married couples of the same sex from all federal laws and programs in which marital status is a factor for eligibility, even though the federal government long has deferred to a state’s determination that a couple is married. Third, DOMA brands same-sex couples and their children as inferior to other families and unworthy of respect, inviting private bias and discrimination in every aspect of their daily lives – whether or not the members of these families are married or even wish to marry. DOMA gives federal approval to those who wish to discriminate against lesbian and gay individuals and their children, from private employers who wish to deny bereavement leave to a grieving spouse, to administrators at a child’s school who question the validity of a child’s family.

This law was a historic first, and a stain on our nation. Never before has Congress decided to override a state’s determination that a class of marriages is valid, or rendered a class of valid marriages a nullity for all federal purposes.

The federal protections and programs denied to same-sex married couples and their children represent some of the critical legal safety nets that couples count on when they marry, as they plan their lives and futures together, as they raise children and deal with difficult times, and for which they contribute their tax dollars. These include:

- Social Security spousal protections that contribute to a family’s economic security in old age and upon disability and death;
- Protections for one spouse’s essential monetary resources and ability to stay in the family home when a spouse needs Medicaid for nursing home care;
- Inclusion in a family health insurance policy, and, if receiving that family coverage, to be free of income tax on its value;
- Use of “Married Filing Jointly” status for federal income tax purposes to save the family money;
- Family medical leave from a job to care for a seriously ill spouse;
- Disability, dependency, or death benefits for spouses of veterans and public safety officers;
- Employment benefits for federal employees, including access to family health insurance benefits, as well as retirement and death benefits for surviving spouses;
- Estate/death protections that allow a spouse to bequeath assets to a spouse—including the family home—without incurring taxes.

DOMA’s discrimination most deeply affects those with children and those with fewer financial resources, including many senior citizens.

Of course, with marital protections also come responsibilities. Financially, some two-earner same-sex married couples would pay more in taxes if their marriages were respected. In means-tested programs, the government could account for both spouses' resources, incomes, and assets in determining when a person is qualified for government payments for care. For these types of reasons, DOMA actually costs the federal government money. A Congressional Budget Office report in 2004 pointed out that recognition of marriages of same-sex couples by all fifty states and the federal government would increase revenue by \$1 billion a year.¹

In addition to these problems, DOMA stigmatizes gay and lesbian couples and their children. One married Iowa couple, Jen and Dawn BarbouRoske, explained the harm they experience with this story. They have been in a committed relationship to each other for 20 years and have two young daughters. When they were searching for a preschool for their oldest child, they thought they found the perfect place. They were about to write a check when they thought to ask the head administrator of the school if their child would be treated differently because she had two moms. The principal thought for a moment and then answered, "Well, she wouldn't be able to give a presentation on her family during the unit when the other children each are invited to give presentations on their families, because we wouldn't want to offend any other parents." Jen and Dawn realized that their daughter would be asked to sit silently while every other child in her class proudly talked about their families. Clearly, it did not occur to the principal that there was anything wrong with this. After all, our own government tells us that Jen and Dawn are not a family. While Jen and Dawn chose not to send their daughter to this school, they continue to worry that their daughter will internalize the message that she receives from her government that her family is a bad family. For Jen and Dawn, it comes down to this: the federal government should not be in the business of delivering the message to a class of American children that they should be ashamed of their families and of who they are.

In recent years, several lower courts already have declared DOMA unconstitutional.² Lambda Legal's case on behalf of plaintiff, Karen Golinski, a federal court employee who was denied the ability to add her same-sex spouse to her family health insurance plan, continues through the courts in addition to a number of others. However, it remains the obligation of those in Congress to repeal this law, and we thank you for your courage and leadership.

You long have maintained that the law is unconstitutional. The president agrees. The Department of Justice has determined that it is indefensible. President Clinton, who signed the law in 1996, now disavows it. Bob Barr, the author of DOMA, now supports the law's repeal. And most importantly, thousands same-sex couples who have married in Iowa, Massachusetts, Connecticut, Vermont, New Hampshire, California and the District of Columbia, and their children, face discrimination from their own government, and government-sanctioned differential treatment elsewhere in their daily lives. This is not only unconstitutional -- it's un-American.

¹ Letter and report from Douglas Holtz-Eakin, director, Congressional Budget Office, to Steve Chabot, chairman, Subcommittee on the Constitution, Committee on the Judiciary (June 21, 2004) available at <http://www.cbo.gov/ftpdocs/55xx/doc5559/06-21-SameSexMarriage.pdf>.

² See, e.g., *Gill v. Office of Personnel Management*, 669 F. Supp. 2d (D. Mass. 2010) and *Commonwealth of Massachusetts v. U.S. Dep't of Health & Human Servs.*, 698 F. Supp. 2d 234 (D. Mass. 2010), currently pending before the 1st Circuit.

**VII. James Cappleman
Alderman of Chicago's 46th Ward
Congressional Field Forum on the Defense of Marriage Act (DOMA)**

I want to thank our members of Congress Mike Quigley, Jan Schakowsky, and Luis Gutierrez for this opportunity to speak today on a policy that has serious negative consequences for families all over the country as well as my own family.

I'm James Cappleman, the 46th Ward Alderman for the City of Chicago. I've been a community activist my entire adult life, and it was this passion for social justice that led me to meet my other half, Richard Thale. In the next few weeks, we will be celebrating 20 years as a couple.

Twelve years ago, we moved to the 46th Ward and very quickly got involved in the neighborhood. Within a year, we had both joined the Uptown Chicago Commission, an organization that is dedicated to improving the quality of life for Uptown residents and we also got involved with CAPS, a program that involves the community working with the police to reduce crime.

Through the years, I have become a part of Richard's family and he is a part of mine. I am expected at family gatherings with his mother and siblings. Through the years, I have become a part of Richard's family and he is a part of mine. I am expected at family gatherings with his mother and siblings. Richard's niece refers to me as her uncle and his brother and sister worked countless hours knocking on doors in the middle of winter for my campaign.

The work we both do is important to our families, and us and we both remain committed to supporting one another in our efforts to strengthen our community. My relationship with Richard has pushed me to do more, and it's what led me to later run for public office. For Richard, it's been the same. I had a strong influence with him to increase the amount of volunteer work he does for the community. For the past several years, that means I've become the main breadwinner. We made the decision, as many gay and straight families do, that by keeping our expenses low, we could afford to have one of us support the both of us. I'm fortunate to have a job that offers domestic partnership benefits. Without health insurance, my partner Richard would not be able to do the work that he does.

However, there's one problem: I pay into FICA, which will qualify me for Medicare and social security when I retire. Because I support my partner, he can't qualify for Medicare or receive my social security at a later point. Although the State of Illinois recognizes our relationship through a civil union, the Federal Government denies us even this legal right.

Well, it's time for our Government to do the right thing. We're not asking for special rights. We're just asking for the same rights as other couples that happen to be heterosexual. We happen to be gay. Illinois should allow us the right to be married and the Federal Government should provide all the rights and responsibilities that married couples receive. We're asking that you allow Richard the opportunity to continue his important volunteer work improving the community.

Doing the right thing isn't always easy. Richard and I know that. It's time for the Federal Government to take to heart that we indeed are all created equal and stop preventing us from our legal rights.

VIII. Heather C. Sawyer
Minority Counsel, Subcommittee on the Constitution, Committee on the
Judiciary
U.S. House of Representatives
Congressional Field Forum on the Defense of Marriage Act (DOMA)

Thank you, Congressmen Quigley and Gutierrez and Congresswoman Schakowsky. You have been courageous leaders and tremendous allies in the struggle for equality now being waged in our Nation's capital. Thank you for holding this field forum.

I am thrilled to be here today on behalf of the author and lead sponsor of the Respect for Marriage Act, Congressman Jerrold Nadler of New York. Congressman Nadler regrets that he cannot be here today, but thanks you for highlighting the harm that DOMA causes to American families each and every day, and for your collaboration and leadership on this and many other critical issues facing the Congress.

The Respect for Marriage Act, which would repeal DOMA in its entirety, now enjoys the support of 127 co-sponsors in the House, including the support of the three Members here today. This Congress, the Senior Senator from California, Senator Feinstein, along with Judiciary Chairman, Senator Leahy from Vermont, and the outstanding Junior Senator from New York, Senator Kirsten Gillibrand, introduced the Respect for Marriage Act in the Senate and it currently enjoys the support of 27 of their colleagues. President Obama has announced his support for the bill, and we applaud his leadership on this issue.

Of exceptional importance, as well, is the fact that Republican Congresswoman Ileana Ros-Lehtinen of Florida has become the first Republican co-sponsor of the Respect for Marriage Act. Just as the State of New York showed the nation this summer in its bipartisan embrace of marriage equality, the drive to end DOMA is – and must be – a nonpartisan effort that unites Americans behind a simple push for equality.

When Congress passed DOMA in 1996, it was not yet possible for a lesbian or gay couple to marry anywhere in the world. Still lacking meaningful protection from discrimination and facing criminalization in some jurisdictions, many lesbians and gay men were understandably reluctant to speak openly about themselves or their families. This understandable reticence permitted false stereotypes and reflexive bias to dominate the public and congressional debate in 1996 about allowing same-sex couples to marry.

DOMA's proponents capitalized on this, portraying the issue as an attack on "traditional" heterosexual marriage by "homosexual extremists" and exhorting Congress to act quickly to preempt this possibility. Regrettably, Congress did so, acting hastily and without examining any of the thousand-plus federal laws that factor marital status into account or hearing from family law or child welfare experts. Congress also did not pause to consider the value of deferring to state marriage determinations for purposes of federal law before it ruptured this federalist practice by adopting a federal definition of marriage as "only a legal union between one man and one woman." As a result of this federal definition, married lesbian and gay couples are denied

all federal responsibilities and rights that hinge on marriage, including access to critical programs like Social Security that help ensure the wellbeing of American families.

DOMA was not a cautious or benign example of Congress exercising its authority to define federal benefits. One of the clearly expressed and primary purposes of the law was to express moral disapproval of lesbians, gay men, and their relationships. There certainly was no need to change the law to include heterosexual couples – the federal government recognizes their marriages regardless of DOMA. The inescapable conclusion that flows from any objective examination of the Congressional debate over and the actual impact of this law is that – unlike most acts of Congress, which are rightly entitled a degree of judicial deference and presumed valid – DOMA was not the rational result of impartial lawmaking. DOMA was not constitutional in 1996; it is not constitutional now.

And while the harm caused by DOMA was hypothetical fifteen years ago because there were no married lesbian and gay couples, the harm caused by DOMA is very real today. Six states and the District of Columbia now allow lesbian and gay couples to marry, and an estimated 130,000 couples have done so. Because of DOMA, these lawfully married couples – couples who have undertaken the serious social and legal commitment that civil marriage entails – are treated as complete strangers under federal law. These couples suffer tangible harm from the denial of actual benefits but all couples – including the couples here with us today who undoubtedly hope for the day when Illinois joins its sister states in moving from civil unions to marriage equality – are harmed by the stigma that accompanies state-sanctioned discrimination.

The time for sending DOMA into the history books is long overdue. While 75% of the public opposed allowing lesbian and gay couples to marry when Congress enacted DOMA, a majority of Americans now support marriage equality. Once viewed as a fiercely partisan issue, most individuals under age 45 who identify as Republican now support equal responsibilities and rights for lesbian and gay couples.

While several court cases pending in the courts raise the prospect that DOMA may meet its demise through judicial review, Congress should not let the courts beat it to the punch. Congress enacted this shameful law; Congress should repeal it.

The Respect for Marriage Act, the bill to repeal DOMA, honors the greatest traditions of this Nation. It does not define marriage but, instead, restores our historic practice of respecting all state-sanctioned marriages for purposes of federal law while allowing each state to determine its own marriage laws.

Unlike DOMA, the Respect for Marriage Act protects states' rights. Though each state now sets its own marriage law, DOMA currently prevents the federal government from treating all states' marriages equally. The Respect for Marriage Act would restore equal respect for the marriages of every state.

The Respect for Marriage Act also honors America's highest traditions of religious freedom. Religious views on marriage unquestionably differ, with some religions opposing and others solemnizing marriages for lesbian and gay couples. The Respect for Marriage Act allows this

diversity to flourish, leaving every religion free to marry the couples it chooses without government interference.

In authoring this bill, Congressman Nadler worked closely with family law experts to ensure that the federal government once again works cooperatively with the states to support and stabilize American families. We are confident that this bill strikes the right balance, and we look forward to working with all of you to ensure its passage.

I want to thank Representatives Quigley, Schakowsky, and Gutierrez for holding this forum and for the invitation to discuss the work they and Representative Nadler are doing to ensure equality for all families.

I. John K. Barry
Member of the Board of Directors
Human Rights Campaign
Congressional Field Forum on the Defense of Marriage Act (DOMA)

In anticipation of the hearing regarding the “so-called” Defense of Marriage Act (DOMA) I respectfully would like to submit the following excerpt of the testimony provided by Joe Solmonses, the President of the Human Rights Campaign, to the United States Senate on July 20, 2011:

“...on behalf of the Human Rights Campaign and our more than one million members and supporters nationwide, thank you for the opportunity to offer testimony.... As the nation’s largest civil rights organization advocating for the lesbian, gay, bisexual and transgender (LGBT) community, the Human Rights Campaign strongly supports S. 598, the Respect for Marriage Act and a repeal of the discriminatory and ill-named Defense of Marriage Act (DOMA).

As President of the Human Rights Campaign, I have the tremendous opportunity to travel the country, speaking to LGBT people, their family, friends, religious leaders, and employers about the difficulties they face because of discrimination. I have the privilege today to bring their stories and concerns before the Committee. Gay and lesbian couples work hard to provide for their families, obtain quality healthcare, plan for retirement, and save for college tuition – just like their family and friends, neighbors and coworkers. But they do so in a country that still refuses to recognize them and their families as equal. And for those who are lucky enough to live in States that do permit them to marry, they still face a federal government that treats their marriages as if they do not exist, denying critical benefits and protections to their families.

On behalf of the tens of thousands of married same-sex couples in this country, including myself and my husband, I urge this Committee and the Congress as a whole to pass the Respect for Marriage Act and end the federal government’s disrespect for and discrimination against lawfully married same-sex couples.

A Great Deal Has Changed Since DOMA Was Enacted

Fifteen years and just about two months ago, my friend and predecessor as head of the Human Rights Campaign, Elizabeth Birch, offered testimony at the first congressional hearing on the Defense of Marriage Act before the House Judiciary Committee’s Subcommittee on the Constitution. In her remarks, Elizabeth noted that, at that time, nowhere in the United States could gays and lesbians lawfully marry. Still, she reminded the subcommittee members of an important fact:

Lesbian and gay Americans are your constituents, your sports heroes, your co-workers, your neighbors -- and in thousands and thousands of American homes, including many of yours, we are members of your own families. Gay Americans are found in every community, in all walks of life, at every income level and in all age groups. We are conservatives, liberals, Christians, Jews, Democrats, Republicans and independents -- and of every race. And being gay does not

even affect the extent to which someone cherishes the true values of this Nation, the most sacred of which are fairness and nondiscrimination. There have always been gay Americans in the history of this country, and there always will be gay Americans.

Today, one of these things remains true, and one of them does not. Lesbian, gay, bisexual and transgender people remain a part of the fabric of our nation, and a part of the states and communities that you represent. Gay and lesbian couples live in nearly every county in America. Many of them are raising children. But, unlike fifteen years ago, today tens of thousands of same-sex couples in the United States are lawfully married.

Eight years after DOMA was enacted, Massachusetts became the first state to extend the freedom to marry to loving, committed couples regardless of sexual orientation. Today, gay and lesbian couples can marry in five additional states – Connecticut, Iowa, New Hampshire and Vermont, as well as the District of Columbia. On Sunday, (July 24, 2011) marriages between same-sex couples will begin in New York, after the state legislature passed marriage equality legislation just weeks ago. In 2008, thousands of gay and lesbian couples married in California before the adoption of a constitutional amendment stripping them of that right, and those marriages remain valid under California law. And finally, marriages between same-sex couples, while not available under state law, are nonetheless recognized in Maryland.

This sea change in laws recognizing the equality of LGBT people and their relationships is part of a broader shift in public perceptions of our community and laws that would treat us unequally. In the last year, a series of national public opinion polls have shown, for the first time, majority support for equal access to marriage for gay and lesbian couples. In March (of 2011), HRC commissioned a poll about the Defense of Marriage Act and specific rights and benefits that it denies to married same-sex couples. That poll showed majority support for the repeal of DOMA, including across age and gender demographics and among both Catholics and Christians, and plurality support for repeal regardless of region, level of education and race.

While so much has changed for the positive in the last fifteen years, DOMA has also meant that gay and lesbian couples' joy at being recognized as equal by their states has been tempered by the reality that the federal government continues to treat them and their marriages as if they did not exist at all.

DOMA Does Real Harm to Real American Families

Shortly after DOMA was passed in 1996, the Government Accountability Office (GAO) prepared a report (updated in 2004) detailing more than 1,100 instances in which federal law conditions a right, benefit or responsibility on marital status. These include a host of social safety net benefits designed to protect American families when they are most in need – in difficult economic times, in retirement and when loved ones die. By denying these critical rights and benefits to lawfully married same-sex couples, DOMA is, in no uncertain terms, visiting real harm on American families, often when they are most vulnerable.

You have already heard compelling stories of those harms from Susan, Ron and Andrew. Our colleagues at Gay & Lesbian Advocates & Defenders have presented the Committee with a

DOMA Story Book detailing many more. And these are just a small sample. For every married gay and lesbian couple in America, there is a laundry list of ways in which DOMA denies them critical health benefits, makes their finances and long-term plans more difficult, costs them thousands in additional tax dollars and even threatens their ability to be together at all.

As President of the Human Rights Campaign, I have heard these stories from gay and lesbian families from all corners of the country and all walks of life. Families like Rachel Black and Lea Matthews from the Bronx, who are here today with their five-year old daughter, Nora. Rachel and Lea met in college in Mississippi and have been together for thirteen years. With marriage now a reality for gay and lesbian couples in New York, Rachel and Lea are excited to be tying the knot at long last. But for gay and lesbian couples like them, the joy of finally being able to marry is tempered by the fact that DOMA remains in the way of true equality. Rachel and Lea worry about the important protections their family will still be denied, like unpaid leave from work for one to care for the other if she gets sick, or the ability to continue health coverage for their family if one of them gets laid off.

DOMA means that the many protections the federal government provides for the health and financial security of American families remain out of reach for same-sex couples and their children. Same-sex spouses of federal employees and active members of the military are denied access to health insurance coverage and a host of other benefits. Even when private sector companies voluntarily provide spousal health benefits, they are taxed, making it financially burdensome if not impossible for gay and lesbian couples to make use of these fair-minded policies. Gay and lesbian married couples cannot file their federal income taxes jointly, requiring some of them to pay thousands of dollars to the IRS that married heterosexual couples do not.

Beyond their day-to-day lives, gays and lesbians wonder how, after a lifetime of hard work, they will afford to enjoy their golden years and ensure that their spouses and children are provided for. DOMA weighs heavily on their minds, and for good reason. This discriminatory law denies Social Security survivors benefits to a same-sex spouse, leaving him or her without critical income earned through years of payments into the Social Security system. Notwithstanding the tremendous service to our country of retired federal employees and military veterans, DOMA bars their same-sex spouses from receiving the health insurance and share of a pension that surviving heterosexual spouses do. DOMA even prohibits the spouse of a gay or lesbian service member or veteran from being buried with him or her in a veterans' cemetery. Same-sex spouses are not exempted from the taxation of a spousal inheritance, nor are their homes and incomes protected when a spouse enters nursing care under Medicaid. In short, in all the ways that federal laws seek to ensure spouses are protected and financially secure in retirement, DOMA leaves gays and lesbians –people like today's witnesses Andrew Sorbo and Ron Wallen– vulnerable when they are perhaps most in need.

And finally, for some same-sex couples, DOMA does not simply interfere with their financial security; it threatens their very ability to be together. Our nation's immigration laws permit American citizens to sponsor certain family members for legal residency in the United States, but because of this discriminatory law, gay and lesbian Americans are barred from doing so for a foreign spouse. As a result, thousands of bi-national same-sex couples struggle to find a way to

stay together in the United States, and far too many gay and lesbian Americans are forced to choose between their country and the people they love.

In these and many other ways, the Defense of Marriage Act most clearly demonstrates the gross inaccuracy of its name. Rather than defending marriage, this law attacks the marriages of loving, committed same-sex couples and places far too many of them into difficult financial circumstances. DOMA does not protect a single marriage, but rather does immeasurable damage to many thousands.

DOMA Hurts More Than Gay and Lesbian Couples

DOMA does not just harm married gay and lesbian couples. It hurts all of those who share in their day-to-day struggles under this discriminatory law. First and foremost, it hurts the children of same-sex couples, who suffer from the financial instability created for their parents by DOMA's discrimination. But this discriminatory law burdens other children as well, namely LGBT youth, who see the federal government continue to formally disrespect and discriminate against their community. DOMA tells them, in no uncertain terms, that they cannot be full and equal citizens of their country.

DOMA also harms others who are part of the lives of married same-sex couples, like the parents and siblings who step in with financial and emotional support when health insurance is too costly or tax bills are unmanageable, or the friends who stay with one ailing spouse because the other is not permitted to take leave and cannot afford to stop working. It hurts fair-minded employers, who take on complicated administrative burdens, not to mention additional tax obligations, simply in order to offer equal benefits to the same-sex spouses of their employees. And it impacts religious leaders, who struggle to counsel their parishioners facing the financial and emotional burdens of DOMA's discrimination.

As you have heard today, particularly from those who have felt firsthand the hardships imposed by DOMA, the impacts of this discriminatory law are real and they are unconscionable. It is long past time for the federal government to end its discrimination against lawfully married same-sex couples. Congress must repeal this law enacted solely to treat gays and lesbians unequally. I urge you to pass the Respect for Marriage Act and ensure that all American families have the full respect and protection of their federal government. Thank you.

As Mr. Solmonese mentioned DOMA harms married same sex couples and the communities to which they belong. It has absolutely no effect on married opposite sex couples.

II. David Amen, Chair
Mark Wojcik, Vice-Chair
Paul Johnson, Legislative Liaison
Chicago Bar Association – LGBT Committee
DOMA’s Harmful Impact on Chicago and Illinois Residents
Congressional Field Forum on the Defense of Marriage Act (DOMA)

The Chicago Bar Association’s LGBT Committee is proud to join Congressman Mike Quigley and other members of Congress in calling for the repeal of the federal Defense of Marriage Act (“DOMA”). The law’s constitutionality is at best questionable and adversely affects Chicago and Illinois residents, and their fellow Americans, in a number of ways. DOMA’s impact on Illinois residents in particular has become clear recently, as the state passed legislation providing a civil union scheme (for both same- and opposite-sex couples) that mirrors Illinois law regarding marriage and dissolution of marriage. Under DOMA, neighboring states such as Indiana and Missouri are given the prerogative not to recognize a legally recognized status conferred by the state of Illinois based solely on the sexual orientation of the parties involved. This class-based distinction encourages states to unfairly and unconstitutionally discriminate against thousands of their own citizens and communicates a message to same-sex couples bound in an Illinois civil union that their status is uncertain or simply unrecognized in the majority of U.S. jurisdictions. Moreover, the U.S. government’s failure to recognize same-sex couples for tax purposes illustrates the pure irrationality and animus on which the government’s position is based: the federal government defers to the states on issues of marriage, *except* when the married (or “civilly unioned”) couple happens to be comprised of two persons of the same sex.

We call on Congressman Quigley, and all members of Congress, to repeal DOMA as expeditiously as possible.

III. Bernard Cherkasov
Chief Executive Officer of Equality Illinois³
Congressional Field Forum on the Defense of Marriage Act (DOMA)

Family is the bedrock of society. Marriage is a fundamental institution that provides stability for families.

Families play an equal importance in the lives of lesbian, gay, bisexual, and transgender (“LGBT”) people. Beyond the obvious fact that LGBT people have parents and siblings just like the rest of the society, LGBT people have long-term, loving, committed relationships. According to U.S. Census, there are over 34,000 same-sex couples in committed, loving relationships in Illinois. Many of these same-sex couples raise children. In fact, U.S. Census reports that more than 21 percent of same-sex couples in Illinois raise children.

Unique nature of marriage is recognized not just by the social constructs, but also by public policy. Both state and federal law recognize the importance of marriage and provide certain rights, protections, benefits, and responsibilities to couples in a marriage. The protections are broad and many: from emergency medical decision-making powers to hospital visitation, from taxation to inheritance, from family unification rights to civil procedure protections. In fact, the federal government provides well over 1,100 such rights, protections, benefits, and responsibilities. And the State of Illinois provides nearly 650 additional protections.

Same-sex families face the same challenges and carry the same burdens as their heterosexual neighbors, coworkers, and friends. And same-sex families deserve and need the same protections.

As I travel throughout the state, I meet LGBT individuals and same-sex-headed families who are directly harmed by the law’s refusal to recognize their families. There is a woman in Barrington who was physically thrown out of a hospital and denied the ability to stay at the side and hold the hand of her comatose partner because their twelve-year relationship was not recognized as family.

There is a couple in Rockford who has been together for over fifty years, but when one of them passes away, the surviving partner will be treated as a total stranger by the estate and probate laws.

There is a family in Springfield, where the parents have been together for over a decade and are raising happy, healthy, and fun-loving children. But at every point they have to jump through hoops to ensure that their children receive the same protections at law as children of heterosexual couples.

³ Equality Illinois is the State’s largest organization securing, defending, and protecting full equality for lesbian, gay, bisexual, and transgender people. The organization was founded in 1991 and additional information is available at www.EqualityIllinois.org.

Less than a year ago, Illinois General Assembly intended to remedy the lack of equal treatment at state law by establishing Civil Unions. Civil Unions were intended to be an institution separate from and parallel to marriage, but provide equal benefits, protections, rights and responsibilities that come with marriage in state law.

Almost a year civil unions took effect on June 1, 2011, it became evident that they did not provide the full remedy that legislators intended – in many instances directly because of the federal so-called Defense of Marriage Act (“DOMA”).

For example, upon Civil Unions taking effect, Illinois Department of Revenue stated that same-sex couples in a civil union will not be permitted to file state taxes jointly because the Department follows the IRS determination of joint filing eligibility. The IRS, in turn, does not permit same-sex couples to file jointly because of DOMA. This is not the way to “defend marriage” or strengthen families.

Under civil unions, most employers in Illinois are required to treat employees in a civil union in the same way as they treat employees in a marriage. However, when Illinois employers provide health insurance, for example, to an employee’s civil union partner just as they would for a married spouse, the federal government taxes that benefit as if it was income – because of DOMA. This is not the way to “defend marriage” or strengthen families.

Again, because of DOMA, LGBT people have no protection when their civil union partner of the same-sex falls ill and requires care. Without DOMA, same-sex partners just like married spouses would be allowed to take unpaid time off to care for each other in sickness. That is not the way to “defend marriage” or strengthen families.

Under civil unions, a child born to civil-unioned parents is presumed to be a child of both parents. And both parents can attend to the child’s needs. But because of DOMA, as soon as the family leaves the border of Illinois, they lose that crucial protection. Should the child be sick or require urgent care while the family is traveling, the non-biological parent would not have the automatic right to make medical decision for the child. This is not the way to “defend marriage” or strengthen families.

In separate testimony, which we submitted separately today as LGBT Immigrant Rights Coalition of Chicago, we highlight other ways in which DOMA hurts the wellbeing of same-sex-headed families by denying them the same treatment that is given to married Americans.

There are too many other ways in which DOMA not just denies benefits but directly harms same-sex families and children in their care. Should you find it helpful, we would welcome the opportunity to invite impacted families to tell their own stories.

In order to truly defend marriage and protect all families, Congress should repeal the discriminatory and offensive Defense of Marriage Act. Families will grow stronger and be happier when we remove the laws that marginalize them.

On behalf tens of thousands of our supporters throughout the State of Illinois, I thank you for your leadership on this issue.

IV. David Orr
Cook County Clerk
Congressional Field Forum on the Defense of Marriage Act (DOMA)

First, let me thank Rep. Mike Quigley, Rep. Luis V. Gutierrez, and Rep. Jan Schakowsky for holding this hearing on the Defense of Marriage Act. I believe that this law, which institutionalizes discrimination against American families, must be overturned.

As Cook County Clerk, my office issues marriage licenses to couples who marry in Cook County. As of June 1, 2011, we also issue civil union licenses to couples who want legal recognition from the state of Illinois. Civil unions are a gender-blind institution, so they are open to both same-sex and opposite-sex couples. While some couples certainly choose to have a civil union, unfortunately, most of them would prefer a marriage, which DOMA and other discriminatory laws prevent

There is no question that there is a large demand for same-sex couples to form legally-recognized unions. Since the advent of civil unions, we have issued nearly 1,600 licenses. Ninety-three percent have been to same-sex couples. In less than five months we have nearly reached the enrollment in the Cook County's Domestic Partnership registry, which registered fewer than 2,000 same-sex couples in its eight years of operation.

While we are pleased to be able to offer a license which sanctions same-sex couples' committed relationships under Illinois law, this is far short of justice. Same-sex couples who apply for civil unions come from across Cook County, representing every geographic, racial and age group.

A report issued by my office in July analyzed the 831 couples who applied for licenses during June, 2011—the first month of civil unions. Of these, 65 percent live in Chicago. However, couples from 68 suburban Cook County municipalities also sought licenses. That is, couples from more than half of Cook County's suburbs applied for civil union licenses in June alone.

In that first month, the oldest applicant was 93. Of those first 831 couples, there were 34 with at least one partner age 70 or older. At least one partner was Hispanic in 13 percent of female unions and 15 percent of male unions, while at least one partner was African-American in 22 percent of female unions and 10 percent of male unions. In short, they were representative of our democracy.

I have no doubt that these couples, eager for legal recognition, want full rights, and the opportunity to marry. I feel very strongly that by denying them marriage licenses, my staff continues to be in the terrible position of enforcing government-sanctioned discrimination. We are being forced to short-change our friends, neighbors and family members. It is, quite simply, time for that to end.

V. LGBTQ Immigration Rights Coalition of Chicago Congressional Field Forum on the Defense of Marriage Act (DOMA)

The LGBTQ Immigrant Rights Coalition of Chicago (“Coalition”) submits this letter urging Congress to act on a swift repeal of the Defense of Marriage Act (DOMA) in favor of marriage equality. Our non-partisan Coalition is comprised of Lesbian, Gay, Bisexual, Transgender, Queer (LGBTQ) and supporting groups all of whom seek fair and respectful immigration policies that address the human and civil rights of all people, including the LGBTQ immigrant community. In that vein, our group fully supports the recognition of gay and lesbian marriages and civil unions at the federal level.

In passing DOMA in 1996, Congress statutorily enacted a discriminatory law directed at gays and lesbians. Despite six states and the District of Columbia that now recognize marriage equality and a handful of other states, including Illinois, that recognize civil unions for same-sex couples, the federal government continues to bar validly executed relationships from any and all benefits at the federal level. This bar totals over 1,100 benefits in areas of taxation, health care and survivor benefits that same-sex married couples cannot access or receive, while equally-positioned heterosexual married couples may. The repeal of DOMA will allow for the equal applicability of federal benefits (and obligations) to same-sex couples, easing the hardship that has been imposed statutorily on gay and lesbian couples for the last 15 years. DOMA is discrimination in its most capricious form and we call on Congress to act quickly in its repeal.

The impact that DOMA has on immigration benefits for same-sex couples is one of the principal issues of the Coalition. As stated above, many states in our union now recognize same-sex marriages legally performed in the United States and in jurisdictions abroad. Yet, a United States citizen is not able to sponsor a foreign national spouse because such relationships are not cognizable under the Immigration & Nationality Act (INA) due to DOMA.

Continuing to define marriage as a union between one man and one woman is not only offensive to the many same-sex couples who are legally married, it has far-reaching destructive effects in separating families, many of whom have children – whether through deportation or due to the pressures of instability where a foreign national may not be able to legally stay in the United States. More troubling, there are undocumented spouses who cannot seek Lawful Permanent Resident (LPR) status through their United States citizen spouses or LPRs who are delayed in qualifying for naturalization due to DOMA. In the case of undocumented spouses, such individuals are forced to live in the shadows of our society and in constant fear of deportation. There is nothing fair, just or rational in the targeted destruction of a family that DOMA mandates. Congress must recognize this and should immediately repeal DOMA.

The longer Congress delays in repealing DOMA, the greater the suffering will be for gay and lesbian Americans, especially those in committed same-sex bi-national relationships. The 2010 U.S. Census reports there were 131,729 married same-sex couple households and 514,735 unmarried same-sex partner households in the United States. Immigration Equality, a national immigration rights group, estimates that there are at least 36,000 bi-national same-sex couples in the United States. Households headed by same-sex couples will continue to have a strong and

growing presence in the United States. Congress must now act to pave the way to allow for the repeal of DOMA so that same-sex couples can receive the same, not different or special, benefits that have long been afforded heterosexual married couples.

The Coalition is also in strong support of the United American Families Act (UAFAs). This legislation has been introduced in Congress so that same-sex permanent partners or those in marriages or civil unions would be recognized for immigration benefits. However, this is the moment for Congress to recognize and make available all federal benefits for all same-sex couples that are married or in civil unions by and through the full repeal of DOMA.

Congress must take a stand for all Americans and their families in favor of marriage equality. Additionally, the Coalition continues to advocate for comprehensive immigration reform, against the criminalization and stigmatization of immigrant communities, and against the forced separation of families through deportation.

For these reasons, DOMA must be repealed and the Coalition urges swift and immediate action in its repeal.

Signed by Coalition Members:

Affinity Community Services
AIDS Foundation of Chicago
AIDS Legal Council of Chicago
Amigas Latinas
Association of Latino Men for Action
Center on Halsted
Chicago Community and Worker's Rights
Civil Rights Agenda
Congregation Or Chadash
Equality Illinois
Immigrant Youth Justice League
Jewish Council on Urban Affairs
Latino Organization of the Southwest
National Immigrant Justice Center
Unid@s: The National Latino LGBT Human Rights Organization

VI. Linda J. Turney & Nettie F. Sabin
Congressional Field Forum on the Defense of Marriage Act (DOMA)

People across the land know Nettie and I, we are your sisters, your children, your cousins, your Aunties, your neighbors. Americans recognize now is time for the discriminatory 1996 statute known to us as the Defense of Marriage Act, DOMA, to end and find its place in history with the Dred Scott decision.

Our purpose in testifying today is to present real, concrete examples as to the negative effects of the Defense of Marriage Act and to put a face on discrimination.

Twenty five years ago, we met like many couples at a Christmas party thrown by family and friends. After a year or so, we decided to reside together. At first, we let our relationship be known to friends, then family. Life was constantly a coming out process. Linda worked for the United States Postal Service and kept our relationship a secret at work. Nettie is an attorney, a sole practitioner, so her work responsibilities did not require concealment. As life goes on, we bought a home, had a dog, thought about children, and went on with life as most Americans.

We were and continue to be activists, we have and still participate in Pride Parades and demonstrations, we joined HRC and visit our representatives frequently to ask about equality. In 2000, at the Senators breakfast in Washington DC, we asked Senator Durbin when LGBT people would have equality. He stated, "Not in my life time, due to DOMA." We were sickened and disheartened.

Linda is employed by Uncle Sam. If she worked for Mickey Mouse, we would have had family health insurance for many years now. Currently, the financial burden costs us thousands of dollars extra each year because Linda cannot cover Nettie on her Federal Employees Health Benefits (FEHB). In 2006, Nettie was diagnosed with Type 2 Diabetes. Her insurance premium is outrageously expensive and covers very little. In fact it mostly covers catastrophic illness. If she is sick, Linda is not covered under the Family Medical Leave Act (FMLA) which would allow her take time off for Nettie's care. While President Obama has relaxed some medical benefits for same sex couples, Postal Employees have not been allowed access to that equality due to the DOMA. Even if Linda could include Nettie on her health benefits, she would be unfairly taxed on that money, unlike heterosexual married couples.

Nettie cannot participate in Federal Government Life Insurance (FEGLI) a term insurance program that would cover her in the event of an untimely death. Nettie is not be entitled to the defined benefit portion of Linda's Federal Employees Retirement. When Linda retires, Nettie will not be listed as the surviving spouse. We will not be entitled to each-other's social security. We are not able to file our income taxes jointly. Just not being able to file jointly costs us hundreds of dollars per year.

These benefits and more have and will be a financial burden not shared by Linda's coworkers who are heterosexual because the DOMA prevents the federal government from recognizing the validity of same sex marriages, Civil Unions or Domestic Partnerships. We pay our taxes, taxes

that fund federal, state and municipal governments, and provide benefits to our neighbors, the community and the country. We are now watching our nephews get married. They will have these rights that we do not. Marriage is based on a commitment between two people. There is no proof that same-sex relationships and marriages cause any harm whatsoever to heterosexuals or marriage itself. There is only the conclusion that same-sex marriage is harmful by those that oppose it, usually on religious grounds. Congress is set to spend \$1.5 million dollars defending the DOMA at a time when every penny counts and programs for those in need are being slashed.

Although we applaud the recent adoption of Civil Unions in Illinois, that law does not cover us on a federal level, not just because Linda is a federal employee, but because right now even legitimately married same-sex couples all across the country cannot get the same federal rights and benefits of heterosexuals. The DOMA goes so far as to allow states to ignore the full faith and credit of the laws of other states as regards same-sex marriage.

The DOMA has taken both a financial toll and an emotional toll on the LGBT community. Religious faith and belief does not and should not empower a select few to monopolize what they see as God's will and apply it to our civil laws. Marriage is a civil law, not a religious one. Our country respects religious freedom. Churches opposed to same-sex marriage will not be forced to celebrate same-sex marriages.

We know that when diversity flourishes in America, America flourishes. When America stands up for equality, the years of bigotry and hatred will be forgotten, and we will wonder why it took so long to recognize equality for LGBT people.

VII. Ryan A. Parker
My Outlook on the Crisis of DOMA
Congressional Field Forum on the Defense of Marriage Act (DOMA)

A couple years ago I fell deeply in love, like many Americans do, with a foreign national visiting our great country. Time passed, we moved in together, we traveled together, and we decided we are the ones for each other. Now I wear a ring, but I'm not married. I would be, if it weren't for DOMA which essentially means my marriage would be second class and worthless in the eyes of the Federal Government currently.

My partner and I share an apartment, but only I can pay the bills because DOMA prevents me from marrying and sponsoring the immigration of my partner. We live in Chicago, but for how long? Because of DOMA restricting us from a marriage based Green Card for my partner, he has to be on a visa that only allows him a short period of time in this country.

We'd spend holidays with my family, but since DOMA has restricted our time in the US, we may not be together in this country long enough to have many holidays with my family. We have bank accounts here, but we also have bank accounts in Australia, where we have to fall back on if my country never repeals this Defense of Marriage Amendment that unfairly weighed down on my life so oppressively these past years.

The Defense of Marriage Amendment has created a family crisis in this country. Families like mine, where my older brother refers to my partner as his new brother, have to be separated, strained, and stressed because we never know what is next for us. I often wonder if the people of congress knew what pain they would cause families when they told mothers and fathers that their sons and daughters would have to face the burden of choosing between their families and their life partner. Do we stay in America, where my family is and where my heart is, or do we bail and find a new country that will accept us, and hope my family can afford to visit us on occasion?

I personally left the United States to be with my partner for a year in Australia. Australia is great, but the entire time, as an outsider, I longed for home in the US. It pained me to miss my mother, and my brothers and my nephew and friends so much. I longed for the Independence Day parade and fireworks, and I much missed my favorite holiday, Thanksgiving. My partner, Egyptian, ended up trying to soothe my sadness by cooking a traditional American Thanksgiving dinner that day. We came back because this is my home, and because this is where our family is.

The government has the opportunity to change this crisis for loving, committed binational couples by ending the destruction of their community and families. Committed couples should not have to unfairly be asked to choose country over love. I urge to take action immediately to limit the impact of DOMA on binational couples.

First, all married binational same-sex couples should be able to file green card petitions and applications, despite DOMA, and have those cases held in abeyance. That is not asking much, only that the government not deny those cases until DOMA is repealed or struck down by the Supreme Court. This administration should accept those cases, process them fully, interview the

couples like all other marriage-base green card cases, and then hold final decisions where the only reason to deny would be DOMA. As the President recently said, DOMA's fate will soon be decided by the Supreme Court, if not by Congressional action, and holding those cases for 1-2 years is not much to ask considering the devastating, unnecessary impact that DOMA has on binational couples: separating spouses, forcing Americans into exile, etc.

Second, this government must get realistic about the crisis of DOMA deportations and order them to be halted. Prosecutorial discretion memos must be uniformly applied in all cases involving LGBT couples that otherwise meet the criteria set forth so that proceedings are terminated and deportations are halted. Right now, lesbian and gay Americans with foreign spouses have to hope that a local ICE office or Deportation Officer will see an LGBT family as worthy of discretion. This should not be a decision left to chance. The only reason these deportations are even happening is DOMA. The administration, not Congress, has the power to stop these deportations and should do so immediately.

Can you imagine being in a committed, loving relationship and not having the opportunity to keep your partner with you without fear that there might be no future viable avenue to do such? You can stop DOMA deportations, you can push for pros discretion for binational same sex couple cases and you can save families from having to go through what my mother calls “watching her youngest boy have to weigh being near her, against being with her new family member she may hardly ever get to see again.”

VIII. Brad Mattan Congressional Field Forum on the Defense of Marriage Act (DOMA)

My name is Brad Mattan, an IL resident and one half of a bi-national same-sex couple. My fiancé, Raúl, lives in Ecuador.

Raúl and I met halfway through my Peace Corps service in Ecuador in late 2009. We soon started a relationship that would grow over the remainder of my service and beyond. When my service ended a year later, we both hoped that he would be able to come to the US and get to know my family over the holidays. Sadly, his visa application was rejected by the US Consulate in Guayaquil in part because our relationship constituted evidence of immigration intent.

Given that Raúl could not even visit the US, I returned to Ecuador. Between running our café/bar by night and working our full-time jobs by day, we worked on a new visa application so that Raúl could join my family for my grandparents' 50th wedding anniversary celebration. Thanks to the advice of Lavi Soloway at **Stop the Deportations: the DOMA Project**, we were able to prepare a much stronger application, acquiring supporting letters from Rep. Bruce Braley and Peace Corps/Ecuador Country Director Parmer Heacox, a bond offer, and many affidavits.

To our great joy and relief, Raúl was granted a visa. During his visit, I had the privilege to show Raúl where I grew up, where I studied, and, above all, my family, who welcomed him with open arms. Later, I proposed to Raúl. We're both thrilled about our engagement though we didn't have long to celebrate due to his imminent return to Ecuador. Currently, I am pursuing a Master's Degree at the University of Chicago. Raúl is living and working on his own in Ecuador.

This is truly a crisis for the two of us. We can and will try again at some point for another visa, though it is far from guaranteed, especially given that I am no longer residing in Ecuador. Even if he were to attain a visa, it would still only be temporary. Though we are eligible for immigration benefits in Ecuador, my career makes exile even less palatable than it normally would be. PhD programs in research psychology simply do not exist in Ecuador.

However, this crisis isn't limited just to Raúl and me. There is a couple in Pennsylvania that is about to be separated through deportation for a minimum of 10 years. One American is living exiled in Brazil, in a taxing arrangement that requires frequent trips to New York City, without his Brazilian husband. These are just a few examples. There are tens of thousands of US citizens facing the deportation, separation, and exile along with their same-sex spouse because of DOMA. This is the same law being defended in courts by Congress with our taxpayer dollars to the tune of \$1.5 million.

So, how long must we wait to start families together here in the US? Will I be forced to choose between a successful career and love? DOMA places a significant burden on law-abiding and tax-paying citizens for which there is no justification. Though a repeal of this discriminatory law would help, there are other more immediate ways in which Congress can and *should* act in order to alleviate this crisis for same sex bi-national couples currently in separation.

At the moment, the executive branch's interpretation of DOMA goes beyond the intended scope of the law and imposes the significant burden of separation of LGBT US citizens from their foreign fiancées/spouses. Congress should encourage the State Department to reevaluate its policies. One feasible interim solution is mandating greater consideration for visitor visa applications from the same sex fiancées/spouses of LGBT US citizens in the interest of family reunification. Another interim solution is to encourage greater executive discretion in approving green card applications from bi-national same sex couples. In the domain of immigration policy, where the executive branch is given broad deference in its decisions, DOMA need not be interpreted to require the inhumane separation, deportation, and exile of same sex bi-national couples. Congress must urge the executive branch to consider these and other options in order to address this pressing crisis in the timely manner that is sorely needed by many couples, including Raul and me.

IX. Sveta Apodaca

Congressional Field Forum on the Defense of Marriage Act (DOMA)

My name is Sveta Apodaca; my wife Andi and I are a bi-national same-sex couple in Illinois. The **Defense of Marriage Act** was once quoted to me as the reason why I had to strike my wife's name from my application for the asylum in the United States. Paradoxically, even in that aspect, our relationship couldn't have been acknowledged. As civil unions became legal in Illinois this summer, as Section 3 of DOMA was declared unconstitutional early this year, I still faced the threat of imminent separation from my family, and all the while, my US citizen wife was not allowed the basic right to sponsor me for a green card: a right freely afforded to any heterosexual couple in our situation. Thanks to the efforts of our family and friends, activists and attorneys and, especially **Stop the Deportations: the DOMA Project**, we are lucky to stay together in the States, but we are exhausted: mentally, emotionally, and financially, by the tremendous struggle to keep our family intact in a legal landscape that continues to treat us as strangers.

Another Illinois bi-national couple is now separated with no way to reunite, even on a tourist visa. A married gay couple in Philadelphia is about to be torn apart this week, and countless gay and lesbian exiles all over the world are already banned from seeing the rest of their families in the US.

Every day DOMA continues to be enforced, every day that the 'privilege' of marriage is 'defended' from couples like us, in courts, with taxpayer money, the outrageous injustice done to bi-national gay and lesbian families is allowed to continue unaddressed. Tens of thousands other couples, their families and their children, were in need of solutions years ago. DOMA excludes our marriages from recognition and places our lives in years of limbo; it breaks up and bans gay and lesbian families from the US, and then denies them any means of seeking justice.

Such a nightmare can easily be prevented right now, for all bi-national same-sex couples, without waiting until DOMA is repealed for good, be it through the long road of courts or through the legislature.

Green card applications filed by married same-sex bi-national couples like us must be held in abeyance until the Supreme Court strikes the law down or it is repealed by Congress.

Prosecutorial discretion memos must be uniformly applied in all cases involving LGBT couples that otherwise meet the criteria so that proceedings are terminated and deportations are halted. And finally, we must all call for a moratorium to end DOMA deportations. These simple measures to protect the couples most vulnerable to the impact of DOMA, are long overdue.