



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

February 25, 2011

The Honorable John A. Boehner
Speaker
U.S. House of Representatives
Washington, DC 20515

Re: Information on Defense of Marriage Act Litigation

Dear Mr. Speaker:

Pursuant to the Attorney General's letter to you under 28 U.S.C. § 530D, dated February 23, 2011, we are providing follow-up information concerning those pending cases where Section 3 of the Defense of Marriage Act has been challenged and where the Department of Justice will cease its defense of Section 3. While we will remain a party to these cases in order to represent the interests of the United States, we are notifying you of the details of these specific cases in order to provide Congress a full and fair opportunity to participate in the litigation of them. A list of all pending cases is enclosed, along with significant upcoming litigation deadlines in those cases. Should you have any questions regarding participation in these matters, please direct them to Judith C. Appelbaum, Deputy Assistant Attorney General, Office of Legislative Affairs, at 202-514-2141.

We hope this information is helpful. Please do not hesitate to contact this office if we may provide additional assistance regarding this or any other matter.

Sincerely,

A handwritten signature in black ink, appearing to read "m w", written over a light blue horizontal line.

Ronald Weich
Assistant Attorney General

Enclosure

Pending cases where the Defense of Marriage Act is being challenged:

Bishop v. United States, No. 04-848 (N.D. Okla.)

- No impending deadlines, but motion to dismiss pending decision.

Commonwealth of Massachusetts v. U.S. Dep't of Health and Human Services, et al., No. 09-11156 (D. Mass.), *on appeal*, No. 10-2204 (1st Cir.), *consolidated with Gill v. OPM*, Nos. 10-2207 & 10-2214.

- Appellees' brief for plaintiffs due March 1, 2011
- Consolidated reply brief for defendants due April 4, 2011

Dragovich, et al. v. Department of the Treasury, et al., No. 10-1564 (N.D. Cal.)

- Defendants' discovery on class certification due February 28, 2011
- Plaintiff's motion for class certification due April 14, 2011
- Defendants' response to motion for class certification due May 12, 2011
- Plaintiffs' reply in support of motion for class certification due May 26, 2011
- Hearing on class certification scheduled for June 9, 2011
- Discovery closes on September 30, 2011
- Defendants' summary judgment brief due October 6, 2011
- Plaintiffs' opposition/cross motion for summary judgment due November 3, 2011
- Defendants' reply/opposition to cross motion due December 1, 2011
- Plaintiffs' reply due December 22, 2011
- Hearing on the cross motions for summary judgment scheduled for January 5, 2012

Gill, et al. v. Office of Personnel Management, et al., No. 09-10309 (D. Mass.), *on appeal*, Nos. 10-2207 & 10-2214 (1st Cir.), *consolidated with Commonwealth of Massachusetts v. HHS*, No. 10-2204.

- Plaintiff's brief as appellee due March 1, 2011
- Consolidated reply brief of defendants due April 4, 2011

Golinski v. Office of Personnel Management, No. 10-00257 (N.D. Cal.)¹

- Response to court inquiry due February 28, 2011

Hara v. Office of Personnel Management, No. 09-3134 (Fed. Cir.)

- No impending deadlines

Lui v. Holder, No. 09-72068 (9th Cir.)

- Case stayed pending administrative action and no impending deadlines

Pedersen et al. v. OPM et al., No. 10-CV-1750 (D. Conn.)

- Defendants' motion to dismiss due March 11, 2011
- Plaintiffs' opposition and cross-motion for judgment on pleadings or summary judgment due March 31, 2011
- Defendants' reply and opposition to plaintiffs' brief due May 16, 2011.
- Plaintiffs' reply brief due June 20, 2011

Torres-Barragan v. Holder, No. 10-55768 (9th Cir.), *consolidated with* Nos. 08-73745 & 09-71226 for purposes of calendaring

- Defendant's brief as appellee due on March 28, 2011

Torres-Barragan v. Holder, Nos. 08-73745 & 09-71226 (9th Cir.), *consolidated with* No. 10-55768 for purposes of calendaring

- Fully briefed and awaiting oral argument

Windsor v. United States, No. 10-CV-8435 (S.D.N.Y.)

- Defendant's motion to dismiss due March 11, 2011
- Plaintiff's opposition to motion dismiss and cross-motion for summary judgment due April 11, 2011
- Defendant's reply in support of its motion to dismiss and government's motion, if any, to stay briefing and consideration of plaintiff's cross-motion for summary judgment due April 25, 2011
- If no motion to stay is filed by the government, then opposition to plaintiff's motion for summary judgment due May 9, 2011

¹ While this case does not assert a direct challenge to the constitutionality of Section 3 of DOMA, the district court previously ordered supplemental briefing on this issue, and the parties provided such briefing.