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A Warning of Intimidations to Come

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The defense of the Defense of Marriage Act [DOMA] got a little more complicated yesterday as the law firm that the House of Representatives had hired to defend the law withdrew from the case. As *The New York Times* stated bluntly, the firm dropped the case “amid pressure from gay rights groups.”

The Atlanta-based firm, King & Spalding, had agreed to take the case, and one of its lawyers, Paul D. Clement, was to lead the legal effort to defend the constitutionality of DOMA, which defines marriage as the union of a man and a woman in terms of federal recognition. The law also prevents any state from being forced to grant legal recognition to a same-sex marriage performed in another state.



Robert D. Hays, Jr., chairman of King & Spalding, released a statement in which he said: “In reviewing this assignment further, I determined that the process used for vetting this engagement was inadequate. ... Ultimately I am responsible for any mistakes that occurred and apologize for the challenges this may have created.”

Clement, a former solicitor general of the United States under President George W. Bush, immediately resigned from King & Spalding and will continue to represent the House of Representatives in the case.

As *The New York Times* reported, Clement said: “I resign out of the firmly held belief that a representation should not be abandoned because the client’s legal position is extremely unpopular in certain quarters. ... Defending unpopular clients is what lawyers do. I recognized from the outset that this statute implicates very sensitive issues that prompt strong views on both sides. But having undertaken the representation, I believe there is no honorable course for me but to complete it.”

Gay rights groups hailed the law firm’s decision. Activist groups such as the Human Rights Campaign had lobbied King & Spalding to drop the case. *The Weekly Standard* obtained copies of emails sent by the Human Rights Campaign to supporters that read, in part: “Later that day we announced the elements of our campaign to show King & Spalding’ hypocrisy for taking on Defense of DOMA while touting their pro-gay policies - including their 95% score on HRC’s Corporate Equality Index. ... In the meantime we also contacted many of the firm’s clients, LGBT student groups at top law schools and used social media to inform the public about K&S’s wrongheaded decision.”

The success of the group’s efforts to intimidate King & Spalding serves as a warning of things to come. This is the kind of intimidation that will be used against any organization or institution — or law firm — that takes a controversial case and opposes the agenda of the gay rights movement. Watch and be warned.

We should also take special note of the statement by Paul Clement. He defended his commitment to defend DOMA and the U.S. House of Representatives by stating, “Defending unpopular clients is what lawyers do.”

So, now DOMA and the House of Representatives fall under the category of “unpopular clients” despite the fact that DOMA was passed by the overwhelming vote of both houses of Congress and was signed into law by President Bill

Clinton in 1996. That statement underlines the moral revolution happening in our midst and indicates what groups like the Human Rights Campaign are certain is the direction of history. Armed with that confidence, intimidation is now the order of their day.

Michael D. Shear and John Schwartz, "Law Firm Won't Defend Marriage Act," *The New York Times*, Monday, April 25, 2011.

John McCormack, "Gay Rights Group Contacted Law Firm's Clients in Campaign to Intimidate DOMA's Defenders," *The Weekly Standard*, Monday, April 25, 2011.

"HRC Statement on King & Spalding's Decision to Drop DOMA Defense," Monday, April 25, 2011.

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