
WilmerHale Plays Key Role in Historic Supreme Court Ruling Favoring Marriage Equality

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Today the Supreme Court of the United States issued two long-awaited decisions affecting the legality of same-sex marriage. The law firm WilmerHale played a significant role in both cases, which involved challenges to the federal Defense of Marriage Act (DOMA) and California's Proposition 8.

In *United States v. Windsor*, the Court struck down the federal Defense of Marriage Act of 1996. The Court's opinion tracks arguments made in an amicus brief WilmerHale filed on behalf of more than a dozen former Solicitors General of the United States, White House Counsel, and heads of the Office of Legal Counsel-WilmerHale Partners [Seth Waxman](#) and Randolph Moss among them-explaining that the Supreme Court has jurisdiction to hear a case challenging DOMA even though the federal government did not defend the law. The Court's jurisdictional ruling was essential to its ultimate decision to strike down DOMA, which now requires the federal government to recognize same-sex marriages originating in states that allow them. WilmerHale's *Windsor* brief was filed by Partners [Paul Wolfson](#) and [Mark Fleming](#), Counsel [Felicia Ellsworth](#) and [Alan Schoenfeld](#), and Associate [Daniel Winik](#).

WilmerHale separately represents the Commonwealth of Massachusetts as co-counsel in its [challenge to the constitutionality of DOMA](#) in the First Circuit, which prevailed. That decision marked the first ruling by a federal appeals court striking down DOMA and was effectively affirmed by today's Supreme Court decision. The First Circuit's decision is expected to take effect shortly, such that same-sex marriages under Massachusetts law will finally be recognized under federal law.

"WilmerHale has made an important contribution to yet another historic legal matter," said WilmerHale Partner Mark Fleming. "The right to marriage equality under our Constitution is essential, and we are proud to have played a role in this monumental decision."

In its decision in *Hollingsworth v. Perry*, the Court ruled that it lacked jurisdiction to consider the constitutionality of Proposition 8, a California ballot initiative barring same-sex marriage. In that case, WilmerHale filed a brief on behalf of more than 100 prominent Republicans, including top advisers to former President George W. Bush, seven former governors, and 12 current and former members of Congress. Kenneth Mehlman, former chairman of the Republican National Committee,

led the client group. Although the *Perry* case did not produce a ruling on the merits, the Court predicted that it would soon have occasion to consider the issue.

"I am very grateful to WilmerHale for its outstanding work on this brief, which was done entirely pro bono," Mr. Mehlman said. "The WilmerHale lawyers gave powerful and eloquent voice to a balanced center-right perspective that will be an important part of this continuing conversation."

WilmerHale's brief in *Perry* received significant media attention when it was filed on February 28 and was submitted by WilmerHale Partners [Reginald Brown](#), [Seth Waxman](#), [Paul Wolfson](#), and [Mark Fleming](#), Counsel [Felicia Ellsworth](#) and [Alan Schoenfeld](#), and Associates Elisabeth Oppenheimer, [Rebecca Bact](#) and Daniel Aguilar.