



Written by [Dave Bohon](#) on April 27, 2011

Law Firm Bails on House Republicans DOMA Defense

A prestigious Atlanta law firm hired by Republicans in the House of Representatives to defend the Defense of Marriage Act (DOMA) in federal court has withdrawn from the case under pressure from homosexual activist groups, prompting the resignation of one of the firm's prominent attorneys, who said he intends to go ahead with defending the law.



Gay rights groups had fiercely criticized the law firm, the 126-year-old King & Spalding of Atlanta, reported the [New York Times](#), saying that its agreement to defend the law, which prohibits federal recognition of same-sex marriages, would hurt its ability to recruit and retain lawyers.

That veiled warning prompted King & Spalding's chairman, Robert D. Hays, Jr., to issue a statement announcing that the firm would not work with Republicans to defend the marriage laws constitutionality. In reviewing this assignment further, I determined that the process used for vetting this engagement was inadequate, Hays said. Ultimately I am responsible for any mistakes that occurred and apologize for the challenges this may have created.

The House Republicans were prompted to begin preparing to defend the 1996 law after President Obama ordered the Justice Department to stop defending it. As reported by [The New American](#), the February 23 announcement by the administration was predicated upon two recent court cases challenging the constitutionality of DOMA, filed in the 2nd U.S. Circuit Court of Appeals, a judicial district without precedent on the issue. The Administration will not defend the Defense of Marriage Act in the 2nd Circuit, White House Press Secretary Jay Carney announced, adding that the President directed the attorney general not to defend because of the decision that it is not constitutional.

While Mr. Obama had given lip service in support of traditional marriage, the political backing he enjoyed from the homosexual lobby prompted Carney to declare that the President had long opposed DOMA as unnecessary and unfair.

In his own statement regarding the administrations decision to throw DOMA overboard, Attorney General Eric Holder declared, Much of the legal landscape has changed in the 15 years since Congress passed DOMA. The Supreme Court has ruled that laws criminalizing homosexual conduct are unconstitutional. Congress has repealed the militarys Dont Ask, Dont Tell policy. Several lower courts have ruled DOMA itself to be unconstitutional.

Paul Clement, the King & Spalding attorney who was to handle the case for the House Republicans, promptly resigned from the firm after its announcement that it would withdraw, saying that he had a duty to stand against the political pressure and see the case through to completion.

I resign out of the firmly held belief that a representation should not be abandoned because the clients



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legal position is extremely unpopular in certain quarters, Clement said in a written statement. 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.

As reported by the *Times*, Mr. Clement wrote that his personal opinions about the marriage act were irrelevant and he did not indicate what they were. But he said he intended to represent the House in its defense of the law as a partner at Bancroft P.L.L.C., his new employer.

Bancrofts founder and head Viet Dinh, who served as Assistant Attorney General under President George W. Bush, welcomed Clement to the firm, saying that he brings an unparalleled record of success, integrity and obviously demonstrated commitment to the interests of his clients. We cannot be more proud of our new partner.

A spokesman for House Speaker John Boehner (R-Ohio, pictured above), who is leading the Republican defense of DOMA, expressed the Speakers disappointment in King & Spaldings careless disregard for its responsibilities to the House in this constitutional matter. At the same time, Mr. Clement has demonstrated legal integrity, and we are grateful for his decision to continue representing the House.

While the *Times* said that it was unclear why the leadership of King & Spalding chose to withdraw from the contract to defend the constitutionality of the marriage act, Richard Socarides, president of the homosexual activist group Equality Matters, insisted that the firms decision came from a realization that DOMA was indefensible, a point Socarides said Clement apparently missed in his insistence on continuing with the case. While it is sometimes appropriate for lawyers to represent unpopular clients when a important principle is at issue, Socarides said in a statement, here the only principle he wishes to defend is discrimination and second-class citizenship for gay Americans.

Bruce Hausknecht, a judicial analyst at Focus on the Families [CitizenLink](#), applauded Clements decision to stand on personal and professional integrity. It is encouraging to see Paul Clement stand up for the ideals that the practice of law supposedly stands for fidelity to clients and to the law; taking up unpopular causes; and a refusal to bow to political and financial pressure in order to help the cause of justice, he said. Clements action in resigning from his law firm in order to see the defense of marriage successfully carried out raises his stellar reputation to a new level.

Similarly, Tony Perkins of the [Family Research Council](#) commended Clement for standing firm in the face of homosexual activists who seek to censor any opposition even in the courtroom to their campaign to overturn the marriage laws of 45 states.

Perkins called it a shocking revelation that King & Spalding would rather lose their most brilliant and talented Supreme Court lawyer than confront a smear campaign by homosexual activists.

He added that under the American rule of law, everyone is entitled to have a good lawyer to make the best constitutional arguments. This puts the court in the best position to reach the right result. In the case of DOMA, having very good aggressive lawyers on both sides is what will put the courts in the best position correctly to hold that DOMA is perfectly constitutional.



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