No. 12-307

IN THE

Supreme Court of the United States

THE UNITED STATES OF AMERICA,

Petitioner,

v.

EDITH SCHLAIN WINDSOR, IN HER CAPACITY AS EXECUTOR OF THE ESTATE OF THEA CLARA SPYER

and

BIPARTISAN LEGAL ADVISORY GROUP OF THE UNITED STATES HOUSE OF REPRESENTATIVES,

Respondents.

On Writ of Certiorari
to the United States Court of Appeals
for the Second Circuit

BRIEF OF 278 EMPLOYERS AND ORGANIZATIONS REPRESENTING EMPLOYERS AS *AMICI CURIAE* IN SUPPORT OF RESPONDENT EDITH SCHLAIN WINDSOR (MERITS BRIEF)

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INTEREST OF THE *AMICI CURIAE*[1]

This brief is submitted with the written consent of all parties pursuant to Rule 37.3(a).

Amici are financial institutions, medical centers, providers of health care and of health-care coverage, airlines, builders, energy and high technology businesses, manufacturers, media companies, insurers, pharmaceutical companies, law and professional firms, retailers, marketers, restaurants, non-profit organizations, the cities of Baltimore, Bangor, Boston, Cambridge, Hartford, Healdsburg, Los Angeles, New York, Northampton, Portsmouth, Providence, San Francisco, Santa Monica, Seattle, and West Hollywood, King and Santa Clara counties, and trade and professional associations. *Amici* are employers or associations of employers, and we share a desire to attract, retain, and secure a talented workforce. We are located in or operate in states that recognize marriages of certain of our employees and colleagues to spouses of the same sex. At the same time, we are subject to section 3 of the federal Defense of Marriage Act ("DOMA"),[2] which precludes federal recognition of these marriages. This dual regime uniquely burdens *amici*. It puts us, as employers, to unnecessary cost and administrative complexity, and regardless of our business or professional judgment forces us to treat

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[1] Pursuant to Rule 37.6, counsel for *amici* certify that no counsel for any party had any role in authoring this brief in whole or in part, and that no person other than *amici curiae*, their members, or their counsel made any monetary contribution intended to fund the preparation or submission of this brief. The parties have consented to the filing of this brief, and their letters of consent have been filed with the Clerk.

[2] Codified at 1 U.S.C. §7.

one class of our lawfully married employees differently than another, when our success depends upon the welfare and morale of all employees. *Amici* write to advise the Court concerning the impact on the employer of these conflicting legal regimes.

Amici curiae are the following businesses:

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Aetna Inc.
Aggregate Supply
Akamai Technologies, Inc.
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Alaska Airlines
Alcoa Inc.
Alere Inc.
Amazon.com, Inc.
American International Group, Inc. (AIG)
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Out & Equal Workplace Advocates
Portland Area Business Association

Rainbow Chamber of Commerce Silicon Valley
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and Cities, Counties and the United States Conference of Mayors:

The City of Baltimore, Maryland
The City of Bangor, Maine
The City of Boston, Massachusetts
The City of Cambridge, Massachusetts
The City of Hartford, Connecticut
The City of Healdsburg, California
The City of Los Angeles, California
The City of New York, New York, and the Council of the City of New York, New York
The City of Northampton, Massachusetts
The City of Portsmouth, New Hampshire
The City of Providence, Rhode Island
The City and County of San Francisco, California
The City of Santa Monica, California
The City of Seattle, Washington
The City of West Hollywood, California
The County of King, Washington
The County of Santa Clara, California
The United States Conference of Mayors[3]

SUMMARY OF THE ARGUMENT

Although marriages are celebrated and recognized under state law, DOMA, a federal law withholding marital benefits from some lawful marriages but not

[3] The *amici* are identified more fully in Appendix A.

others, requires that employers treat one employee differently from another, when each is married, and each marriage is equally lawful. DOMA thus impairs employer/employee relations and other business interests. In this brief, *amici* show how the burden of DOMA's dual regime is keenly felt by organizations that conduct operations or do business in jurisdictions that authorize or recognize marriage between two people of the same sex.

ARGUMENT

The House of Representatives argues that Congress, through DOMA, sought to impose a uniform rule of eligibility for federal marital benefits.[4]

The perspective of the American employer who must implement DOMA is very different. Far from creating uniformity, DOMA obliges employers to treat an employee married to someone of the same sex and an employee married to someone of a different sex unequally.[5]

Twelve states, the District of Columbia, and three federally recognized Indian tribes now either authorize the marriages of same-sex couples, or recognize

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[4] *See* Brief on the Merits for Respondent Bipartisan Legal Advisory Group of the United States House of Representatives, at 33-37.

[5] The fact that marriage laws vary from state to state does not create the practical problems we discuss below. Absent DOMA, employers could treat all employees married under the law of any state in a consistent way. Our burden arises because federal law intrudes to conflict with state law, forcing the employer to create two groups of married employees, and to treat one group differently from another.

(to varying degrees) such marriages when performed in other states, while DOMA, operating in each state, territory, and upon each tribe, precludes federal recognition of these marriages.[6] The burden of a dual regime arises for employers that conduct operations or do business in any of these jurisdictions.[7]

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[6] Marriages between same-sex couples are licensed in Connecticut, Iowa, Maine, Maryland, Massachusetts, New Hampshire, New York, Vermont, Washington, the District of Columbia, and the Coquille and Suquamish Tribes. *See* CONN. GEN. STAT. § 46b-20; *Varnum v. Brien*, 763 N.W.2d 862 (Iowa 2009); ME. REV. STAT. tit. 19-A, § 650A; MD. CODE ANN., FAM. LAW § 2-201; *Goodridge v. Department of Public Health*, 798 N.E.2d 941 (Mass. 2003); N.H. REV. STAT. ANN. § 457:1-a; N.Y. DOM. REL. LAW § 10-A; VT. STAT. ANN. tit. 15, § 8; WASH. REV. CODE § 26.04.010; D.C. CODE § 46-401; COQUILLE INDIAN TRIB. CODE § 740.010; SUQUAMISH TRIB. CODE, tit. 9, ch. 9.1.

Rhode Island, New Mexico, and the Tulalip Tribes recognize marriages between same-sex couples lawfully performed in other states. Recognition of Out of State Same-Sex Marriages, R.I. Exec. Order No. 12-02 (May 14, 2012), http://www.governor.ri.gov/documents/executiveorders/2012/Executive_Order_12-02.pdf (last visited Jan. 28, 2013); N.M. STAT. ANN. § 40-1-4; Are same-sex marriages performed in other jurisdictions valid in New Mexico?, N.M. Op. Att'y. Gen. 11-01, 2011 WL 111243 (Jan. 4, 2011); TULALIP TRIB. CODE § 4.20.030(1).

California recognizes marriages between same-sex couples as valid under state law if those marriages were performed in California between June 16, 2008 and November 4, 2008, or were performed outside of California prior to November 5, 2008. *See Strauss v. Horton*, 46 Cal. 4th 364, 397, 470, 207 P.3d 48, 68, 119 (Cal. 2009); CAL. FAM. CODE § 308(b).

[7] *Amici* acknowledge that further complexity arises from additional categories of committed relationships, such as domestic partnerships and civil unions that are recognized by various states; however, because Ms. Windsor was married to her spouse, these other relationships are not presently before the Court in this matter.

A. DOMA Imposes Compliance Burdens upon Employers

1. Workplace Benefits and a Workplace Ethos of Transparent Fairness are Critical to *Amici*'s Success

The capital of modern enterprises is in many ways a human capital. Success depends on the talent, morale and motivation of the workforce for private and public employers alike. To attract the best employees and colleagues, *amici* must offer robust workplace benefits and a workplace ethos of transparent fairness. In 2012, 86% of full-time U.S. workers in private industry had access to medical benefits through the employer, and 74% to an employer-provided retirement plan.[8] Benefits packages—especially health-care and retirement benefits—are a direct contributor to employee loyalty.[9] Satisfied and engaged workers are more productive and perform better across a variety of metrics than less-satisfied col-

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[8] U.S. Bureau of Labor Statistics, *Employee Benefits in the United States — March 2012* (July 11, 2012), http://www.bls.gov/news.release/ebs2.nr0.htm (last visited Jan. 28, 2013).

[9] MetLife, *10th Annual Study of Employee Benefit Trends*, 20 (2012), http://www.metlife.com/assets/institutional/services/insights-and-tools/ebts/ml-10-Annual-EBTS.pdf (last visited Jan. 28, 2013). Sixty-six percent of polled employees agreed that health-care benefits were "very important for feelings of loyalty to the company," 59 percent agreed regarding retirement benefits, and 51 percent agreed regarding dental, disability, vision, and life insurance benefits. *Id.* at 26.

leagues.[10] Workplace benefits enhance the employer/employee relationship, which in turn is a key to institutional success. To compete effectively in the modern employment market, *amici* strive to offer workplace benefits to their employees on an equitable basis.

2. DOMA Burdens *Amici* and Their Employees, and Strains the Employer/Employee Relationship

Federal law provides to the working family many benefits and protections relating to health care, protected leave, and retirement. These protections provide security and support to an employee grappling with sickness, disability, childcare, family crisis, or retirement, allowing the employee to devote more focus and attention to his work.

DOMA thwarts these employee expectations, to the direct detriment of some married employees of *amici*, and, by extension, of *amici* ourselves. As set forth below, DOMA forces *amici* to consider the gender of the spouses of our lawfully married employees when determining the scope and manner of benefits that may be extended to those spouses (and the children of those spouses).[11] DOMA enforces discriminatory tax treatment of spousal retirement and health-

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[10] James K. Harter, Frank L. Schmidt & Theodore L. Hayes, *Business-Unit-Level Relationship Between Employee Satisfaction, Employee Engagement, and Business Outcomes: A Meta-Analysis*, 87 J. Applied Psychol. 268 (2002).

[11] *Amici* do not intend to suggest that every *amicus* has encountered each of the burdens identified in this section, though most *amici* have encountered at least some of them.

care benefits. In many other benefit-related matters, *amici* may incur the cost and administrative burden of "workarounds" (employer-created benefit structures attempting to compensate for the discriminatory effects of DOMA), or leave the married workforce in separate castes.[12]

Health Insurance and Related Benefits. While DOMA does not prevent a non-federal employer from offering health-care benefits[13] to the same-sex spouse of an employee,[14] it does impose discriminatory tax treatment. Under the Internal Revenue Code, the fair market value of health-care benefits for a qualified employee's spouse who is not otherwise a dependent of the qualified employee is not subject to

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[12] *See, e.g.*, Human Rights Campaign, *Domestic Partner Benefits: Grossing Up to Offset Imputed Income Tax*, http://www.hrc.org/resources/entry/domestic-partner-benefits-grossing-up-to-offset-imputed-income-tax ("Human Rights Campaign: Grossing Up") (last visited Jan. 28, 2013).

[13] Such benefits typically are offered through a "group health plan." *See* 29 U.S.C. § 1167(1); 26 U.S.C. § 5000(b)(1).

[14] Multiple petitions concerning the limitations that DOMA places on extension of such benefits by federal employers are pending before this Court. *See Bipartisan Legal Advisory Group of the U.S. House of Representatives v. Gill*, No. 12-13; *Department of Health and Human Services v. Massachusetts*, No. 12-15; *Office of Personnel Management v. Golinski*, No. 12-16; *Massachusetts v. Department of Health and Human Services*, No. 12-97; *Pedersen v. Office of Personnel Management*, No. 12-231; *Office of Personnel Management v. Pedersen*, No. 12-302; *see also* WENDY R. GINSBERG, CONG. RESEARCH SERV., R41030, FEDERAL EMPLOYEE BENEFITS AND SAME-SEX PARTNERSHIPS (2011) (analyzing benefits unavailable to employees whose spouse or partner is of the same sex), http://assets.opencrs.com/rpts/R41030_20100121.pdf.

federal income tax,[15] but DOMA forces both employer and employee to treat that value as taxable income when the qualified employee and his spouse are of the same sex.[16] Even where an employer provides coverage under a "family plan," in which the addition of a discrete beneficiary may not add a discrete premium cost, an employee who elects such coverage for her same-sex spouse or for the children of her same-sex spouse is taxed on the imputed fair market value of that coverage, unless the individuals covered qualify as tax dependents through independent means.[17]

DOMA creates other tax distinctions with respect to workplace health-care and other benefits. An employer may allow a married employee to reduce her taxable income by paying, on a pre-tax basis, the cost of coverage for a different-sex spouse, but not for a same-sex spouse.[18] A married employee may reduce her tax burden through pre-tax contributions to a

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[15] *See, e.g.*, 26 U.S.C. §§ 105, 106(a), 152; Treas. Reg. § 1.106-1 (1960) (excluding from gross income "contributions which his employer makes to an accident or health plan for compensation . . . to the employee for personal injuries or sickness incurred by him, [or] his spouse").

[16] *See, e.g.*, I.R.S. Info. Ltr. 2011-0066, 2011 WL 4626122 (Jul. 27, 2011); I.R.S. Priv. Ltr. Rul. 200524016, 2005 PLR LEXIS 278 at *23-24 (Mar. 17, 2005); I.R.S. Priv. Ltr. Rul. 200339001, 2003 PLR LEXIS 879 at *9-11 (June 13, 2003); I.R.S. Priv. Ltr. Rul. 9850011, 1998 PLR LEXIS 1650 at*10-12 (Sept. 10, 1998); I.R.S. Priv. Ltr. Rul. 9717018, 1997 PLR LEXIS 85 at *11-12 (Jan. 22, 1997).

[17] *See* 26 U.S.C. § 152(a) (defining "dependent").

[18] 26 U.S.C. §§ 105(b), 106(a) (limiting pre-tax treatment of medical expenses to employees, [opposite-sex] spouses and certain dependents).

"cafeteria" plan on behalf of a spouse, or be reimbursed on a pre-tax basis for spousal medical expenses from a health savings account or flexible savings account—but only for a different-sex spouse.[19] While an employer may allow an employee to reduce his salary on a pre-tax basis to cover certain day-care or elder-care expenses through a dependent care assistance plan, such plans may not extend to care of children or adults who are tax dependents of a same-sex spouse.[20]

Because of DOMA, the typical paycheck and Form W-2 for a married employee with a same-sex spouse looks quite different from that of her colleague married to a different-sex spouse. The Form W-2 for the first will show higher taxable wages, due to the addition of the imputed value of the spouse's health-care coverage, and reduced take-home pay, reflecting the increased withholding on that imputed income. In New York City, for example, taxable income to city employees in 2011 imputed from the city's cost of providing health-care benefits for a same-sex spouse ranged from $5,148.39 to $5,795.92.[21] One study

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[19] *See* 26 U.S.C. § 125(f) (limiting "qualified benefits" under a cafeteria plan to benefits that are "not includible in the gross income of the employee"); Treas. Reg. § 1.106-1 (1960) (excluding from gross income "contributions which his employer makes to an accident or health plan for compensation… to the employee for personal injuries or sickness incurred by him, his spouse" or certain dependents).

[20] 26 U.S.C. § 129(e) (defining "dependent care assistance" by reference to 26 U.S.C. § 21(b)(2)); 26 U.S.C. § 21(b)(2) (defining "qualifying individual" in terms of an employee's dependents or spouse); Treas. Reg. § 1.21-1(b) (2007) (same).

[21] *See* Brief for the City of New York, et al., as *Amici Curiae* Supporting Plaintiff-Appellee, Dkt. 300, *Windsor v. United*

shows that, on average, the Form W-2 of the employee married to a same-sex spouse will show $1,069 more in federal taxes paid than that of her colleague married to a different-sex spouse.[22] The former, unlike the latter, cannot reduce her tax obligation by pooling her same-sex spouse's uncompensated medical expenses to meet the threshold required for a federal tax deduction.[23]

Continuing Health-Care Coverage and Open Enrollment Periods. Under COBRA,[24] most private employers must continue to offer existing group health-care coverage to employees, their spouses, and their dependent children upon certain qualifying events,

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States, No. 12-2335-cv(L), 12-2435(Con), 2012 WL 4201895, at *17 (2d Cir. Sep. 7, 2012).

[22] M.V. Lee Badgett, Center for American Progress & UCLA Williams Institute, Unequal Taxes on Equal Benefits, at 7 (Dec. 2007), http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-UnequalTaxesOnEqualBenefits-Dec-2007.pdf (last visited Jan. 28, 2013).

[23] *See* 26 U.S.C. § 213(a) (uncompensated medical expenses of the taxpayer, his or her spouse, or his or her dependents deductible to the extent exceeding 7.5 percent of adjusted gross income). DOMA bars the married, same-sex couple from filing federal income tax returns under "married, filed jointly" status—a prerequisite for pooling deductions like uncompensated medical expenses. *See generally* 26 U.S.C. § 6013 (joint tax returns).

[24] Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Pub. L. No. 99-272, 100 Stat. 82 (codified in scattered titles, including at 29 U.S.C. §§ 1161-1169; *see also* Treas. Reg. § 54.4980B-1 (2001). COBRA applies to businesses with 20 or more employees. 29 U.S.C. § 1161(b).

such as death, job termination, and divorce.[25] DOMA excludes same-sex spouses from this default protection. Unless an employer voluntarily extends coverage (which may be difficult as a practical matter in markets where such coverage is limited or unavailable),[26] the same-sex spouse of a terminated employee will be without the equivalent of federal COBRA protection.[27]

Under HIPAA,[28] an employee who marries may immediately add a new spouse to his health-care plan that allows for spousal coverage.[29] HIPAA also allows an employee to change his coverage status to cover a spouse under his own plan in special circumstances, including where the spouse loses coverage

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[25] *See, e.g.*, 29 U.S.C. § 1163(1)-(6) (defining qualifying events for COBRA coverage); *id.* § 1167(3) (defining "qualified beneficiary," in relevant part, in terms of the covered employee's "spouse").

[26] *See, e.g.*, City of New York Office of Labor Relations, Health Benefits Program, *Notice of Rights: When Your Health Benefits Terminate* at pages 2-3, http://nyc.gov/html/olr/downloads/pdf/healthb/cobra.pdf (last visited Jan. 28, 2013).

[27] Because COBRA does not extend to small businesses, DOMA does not impair the operation of state statutes that provide comparable benefits to businesses with fewer than 20 employees. *See, e.g.*, CAL. HEALTH & SAFETY CODE § 1366.20 *et seq.*; CAL. INS. CODE § 10128.50 *et seq.*; IOWA CODE § 509A.13A; MASS. GEN. LAWS ch. 176J § 9; N.H. REV. STAT. ANN. § 21-I:26.

[28] Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936 (codified in scattered sections, including at 29 U.S.C. §§ 1181-1183).

[29] *See* 26 U.S.C. § 9801(f) (discussing "special enrollment"); Treas. Reg. § 54.9801-6 (2004) (regulating coverage in special enrollment periods).

due to job termination.[30] Because of DOMA, lawfully married same-sex couples lack this federal protection.[31] An employer must voluntarily secure a special plan accommodation, or else treat groups of its lawfully married employees differently.[32]

Protections in Times of Family Crisis and Illness. If an employee's different-sex spouse becomes seriously sick or injured, federal law permits her up to 12 work weeks of unpaid, protected leave to care for her spouse.[33] In emergencies, she may use a pre-retirement "hardship distribution" from her 401(k) plan to pay his medical expenses.[34] While the distribution is taxable, the employee may be exempted from certain penalties that would otherwise apply.[35]

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[30] *Id.* Employees under cafeteria plans may also change their health-care coverage following triggering qualifying events. *See* Treas. Reg. § 1.125-4 (2001).

[31] Similarly, when an employee's same-sex spouse gives birth to or adopts a child, the employee may not be able to immediately enroll the child unless the child otherwise qualifies as the employee's dependent. *See, e.g.*, Treas. Reg. § 54.9801-6(b)(2)(iv)-(vi) (2004).

[32] An employer providing such an accommodation may also need to secure the cooperation of any relevant carrier or service provider.

[33] Family and Medical Leave Act of 1993, Pub. L. 103-3, 107 Stat. 6 (codified in scattered sections of 5 U.S.C. and 29 U.S.C., including at 5 U.S.C. §§ 6381-6387 and 29 U.S.C. § 2601 *et seq.*).

[34] 26 U.S.C. § 401(k)(2)(B)(i)(IV); Treas. Reg. § 1.401(k)-1(d)(3)(iii)(B)(1) (2009).

[35] Under 26 U.S.C. § 72(t), an enrollee may avoid imposition of additional tax on early retirement fund distributions if certain criteria are met, including distributions for spousal medical expenses and qualified domestic relations orders.

An employee with a same-sex spouse has no such assurances. Federal law secures her no leave. Under DOMA, the medical expenses of an employee's same-sex spouse who is not a tax dependent are not a recognizable ground for hardship distribution.[36] If the employee's 401(k) plan does not permit pre-retirement distribution for reasons other than hardship, she may not be eligible for a distribution, at all. In the absence of such protection under the Family and Medical Leave Act of 1993 ("FMLA"), some employers extend "FMLA-like" rights to employees with same-sex spouses, allowing them to take protected leave to care for a same-sex spouse.[37] In addition, employers may devise 401(k) plans to permit pre-retirement hardship distributions for a "primary beneficiary" designated by the participant.[38] Absent employer-funded programs, the employee will lack the flexibility—enjoyed by her colleague with a different-sex spouse—to care for a same-sex spouse in times of crisis or illness.

Retirement Protections. DOMA also strikes at retirement protections. An employee who designates her different-sex spouse as the beneficiary of her employee pension plan benefits or her employer-sponsored life insurance can expect those proceeds to pass to her spouse free of federal estate tax, because

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[36] *See* Treas. Reg. § 1.401(k)-1(d)(3)(i) & (iii) (2009).

[37] *See, e.g.* New York City Dep't of Citywide Admin. Servs., Pers. Servs. Bulletin 440-8R, Guidelines on the Family and Medical Leave Act of 1993, at 2, http://www.nyc.gov/html/dcas/downloads/pdf/psb/440_8R.pdf (last visited January 28, 2013).

[38] *See* I.R.S. Notice 2007-7, 2007-1 C.B. 395, Q&A 5 (Jan. 27, 2007).

the proceeds will qualify for the estate tax marital deduction.[39] Because of DOMA, no such estate tax marital deduction would apply to the benefits received by a surviving same-sex spouse, leaving her with less financial support than an equivalent different-sex spouse if the decedent's estate is subject to estate tax.

Most employee pension plans are controlled by ERISA, which provides substantive rights to spouses—but under DOMA, only to spouses of a different sex. For example, most defined-benefit pension plans and certain defined-contribution retirement plans are required to distribute benefits in a form, such as a qualified joint and survivor annuity or qualified preretirement survivor annuity, that ensures that a participant's different-sex spouse may receive a portion of the participant's benefit absent express waiver by the participant (with spousal consent), and most retirement plans must provide different-sex spouses with special rights to the participant spouse's benefit if the participant dies while still employed.[40] The same-sex spouses of *amici*'s employees lack these ERISA safeguards. Employers can provide equivalent protections across the workforce only by building workarounds into retirement plans. Even then, the same-sex spouse will not be afforded the full range of federal tax benefits associated with qualified joint and survivor annuities or qualified preretirement

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[39] *See* 26 U.S.C. § 2056.

[40] *See* 29 U.S.C. § 1055; 26 U.S.C. §§ 401(a)(11), 417.

survivor annuities that a different-sex spouse enjoys.[41]

Visa Rights. Under federal immigration law, employers may recruit certain highly qualified scientists, business executives and scholars.[42] This is of great benefit to those *amici* that actively recruit foreign nationals, or transfer international employees domestically. DOMA burdens an organization's ability to do so by precluding it from offering a foreign national's same-sex spouse the shared visa status that a different-sex spouse would receive. A recruited or transferred foreign national married to a same-sex spouse must either leave his spouse behind, or secure an independent visa status for the spouse (at personal expense and effort), and thereafter live with the risk of the expiration or rescission of that visa. For obvious reasons, this is a considerable impediment to attracting foreign nationals. Many may decline to come to a country that will not recognize a marriage

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[41] *See, e.g.*, 29 U.S.C. § 1055(d), (e) (defining qualified joint and survivor annuities and qualified pre-retirement survivor annuities as covering the "surviving spouse" of the plan participant); 26 U.S.C. § 417(b), (c) (same). Benefits under a qualified joint and survivor annuity are excluded for purposes of calculating annual limits on retirement benefits an individual may receive on a tax-deferred basis. 26 U.S.C. § 415(b). A surviving same-sex spouse receives benefits as a straight life annuity, which counts towards these limits without exclusion. A surviving employee is also unable, because of DOMA, to defer the payment of death benefits (and associated taxes) from his spouse's plan. *See* 26 U.S.C. § 401(a)(9). An opposite-sex surviving spouse, by contrast, may defer to age 70.5. *Id.*

[42] 8 U.S.C. § 1153(b)(1)(A)-(C).

that is lawful at home;[43] others may require assurances from the prospective employer that their relationship and marital estate can be adequately protected despite DOMA—assurances that the employer cannot provide. The preclusion of recognition of the foreign, same-sex spouse under immigration law also subjects the foreign national, and accordingly the employer, to special taxation problems.[44]

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[43] *See* 8 U.S.C. § 1153(d) (providing that a "spouse" shall share the same visa status of an immigrant granted a visa). Currently, *amici* understand that individuals may lawfully marry a same-sex spouse in eleven countries: Argentina, Belgium, Canada, Denmark, Iceland, the Netherlands, Norway, Portugal, South Africa, Spain, and Sweden. *See* Law 26.618, July 22, 2010 [CXVIII] B.O. 31.949 (Arg.); Code Civil [Civil Code], art. 143 (Belg.); Civil Marriage Act, S.C. 2005, c. 33 (Can.); Law No. 532, June 12, 2012 (Den.); Law No. 65/2010, June 27, 2012 (Ice.); Burgerlijk Wetboek [Civil Code], Art. 30:1 (Neth.); Act of 27 June 2008 No. 53 (Nor.); Law No. 9/2010, May 31, 2010 (Port.); Civil Union Act 17 of 2006 (S. Afr.); Law 13/2005 Código Civil [Civil Code] 2005, 157 (Spain); Äktenskapsbalk [Marriage Code] 1:1 (Swed.). The Brazilian states of Alagoas, Bahia, Piaui , and Sao Paulo and the Mexican state of Quintana Roo permit individuals to marry a same-sex spouse. *See* Corregedoria-Geral Da Justica de Alagoas, Provimento No. CG 40/2011 (Braz.); Corregedor-Geral Da Justica da Bahia, Provimento Conjunto No. CGJ/CCI – 12/2012 (Braz.); Corregedor-Geral De Justica Piaui, Provimento No. 04/2012 (Braz.); Corregedoria-Geral Da Justica de Sao Paulo, Provimento CG No. 41/2012 (Braz.); Código Civil Para el Estado De Quintana Roo [Civil Code of the State of Quintana Roo], Art. 680 (Mex.). Mexico City licenses marriages of same-sex couples that are recognized in all Mexican states. *See* Código Civil para el Distrito Federal [Civil Code of the Federal District], art. 146 (Mex. City).

[44] Whereas the same-sex spouse of a foreign national might be considered the tax dependent of the foreign national in the home country, DOMA precludes this treatment for the purposes of federal income taxes (even if the foreign national is the cou-

3. DOMA Forces Employers to Incur Administrative Burdens and Expense.

DOMA forces *amici* to administer dual systems of benefits and payroll, and imposes on them the cost of the workarounds necessary to protect married colleagues.

The burden of compliance. In states recognizing marriage between two people of the same sex, DOMA requires *amici* simultaneously to treat employees with same-sex spouses as (1) single for the purposes of federal tax withholding, payroll taxes, and workplace benefits that turn, as most do, on marital status, and (2) married for all other purposes under state law, including state community property laws.[45] This requires *amici* in effect to maintain two sets of books—one for married employees with same-sex

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ple's sole income source). *See* 26 U.S.C. § 152(b)(3)(A) (foreign national cannot qualify as dependent of taxpayer). Absent DOMA, the same-sex spouse of the foreign national would be eligible for a US resident visa, *see* 8 U.S.C. § 1153(d), would receive a social security number, and could be claimed as a tax dependent by the foreign national.

[45] Because of DOMA, federal self-employment tax may require a third treatment of employees married to persons of the same sex in community property states. *See* Questions and Answers for Registered Domestic Partners and Same-Sex Spouses in Community Property States (advising that same-sex spouses and domestic partners in California, Nevada and Washington should split income subject to federal self-employment tax, even though opposite-sex spouses are prohibited from doing so by statute), http://www.irs.gov/uac/Questions-and-Answers-for-Registered-Domestic-Partners-and-Same-Sex-Spouses-in-Community-Property-States; I.R.S. Pub. 555, Community Property, 6 (same), http://www.irs.gov/pub/irs-pdf/p555.pdf (each website last visited January 28, 2013)

spouses, and another for married employees with different-sex spouses.[46] The double entries ripple through human resources, payroll, and benefits administration.

Tax treatment of employer-provided health-care benefits for married, same-sex couples is an illustrative (and important) example. When an employee resident in a state such as New York adds a same-sex spouse to his health-care plan, the employer must impute the value of that coverage as taxable income under federal law. Because the employer pays a portion of federal Social Security (FICA) and unemployment insurance taxes based on employees' wages, this imputed income increases the employer's overall tax burden as well.[47] How should the imputation be calculated? The I.R.S. declines to provide official guidance, and instead puts the burden (and risk of error) on the employer.[48]

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[46] *See, e.g.*, N.Y. State Dep't of Tax'n and Fin, Technical Memorandum, The Marriage Equality Act, TSB-M-11(8)C, TSB-M-11(8)I, TSB-M-11(7)M, TSB-M-11(1)MCTMT, TSB-M-11(1)R, TSB-M-11(12)S, July 29, 2011, http://www.tax.ny.gov/pdf/memos/multitax/m11_8c_8i_7m_1mctmt_1r_12s.pdf (last visited Jan. 28, 2013).

[47] *See* Badgett, *supra* n. 22 at 5-7.

[48] *See* I.R.S. Priv. Ltr. Rul. 200108101, 2000 PLR LEXIS 2092 at *22, *24 (Nov. 17, 2000) (ruling that the fair market value of health-care benefits provided to domestic partners is taxable and declining "to issue a ruling that approves [a given] method of determining the value of the domestic partner health coverage"). While the I.R.S. has since issued various private letter rulings in response to written requests from individual taxpayers regarding specific valuation methods, other taxpayers cannot rely on those private letter rulings as precedent, as they

An employer with an employee married to someone of the same sex may then have to reverse course, and for purposes of calculating the employee's state income taxes, treat benefits for a same-sex spouse exactly as it does for a different-sex spouse.[49] Because marriages of same-sex couples are not recognized federally, but are recognized by many jurisdictions, DOMA's regime obliges an employer to maintain systems capable of tracking married employees by spousal gender—even when the employer has no current employee with a same-sex spouse.[50] Confusion abounds, and even sophisticated employers struggle. Employees of Yale University, for example, learned in January 2011 that the university had failed to withhold taxes for the imputed value of spousal healthcare coverage in 2010, and that these amounts would be deducted from their paychecks in 2011.[51] Such incidents unnecessarily strain the employer-employee relationship and attract unwanted attention from the I.R.S.

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neither constitute official I.R.S. guidance on a topic nor have the force or effect of law. *See* 26 U.S.C. § 6110(k)(3).

[49] See Badgett, *supra* n. 22 at 5-7.

[50] Because changes to payroll/benefits administration require preparation, long lead time, and substantial expenditures, employers in states that recognize marriages between people of the same sex must prepare systems that can address married employees with same-sex spouses well in advance of their hiring.

[51] Tara Siegel Bernard, *Yale Payroll Error Gives Gay Employees a New Year Surprise*, N.Y. TIMES, Jan. 11, 2011 ("Yale Payroll Error"), http://bucks.blogs.nytimes.com/2011/01/11/yale-payroll-error-costs-gay-employees-thousands (last visited Jan. 28, 2013).

These dual regimes have spawned an industry of costly compliance specialists. Some *amici* have had to pay vendors to reprogram benefits and payroll systems, to add coding to reconcile different tax and benefit treatments, to reconfigure at every benefit and coverage level, and to revisit all of these modifications with every change in tax or ERISA laws for potential DOMA impact. Attorneys and ERISA advisors must be consulted. Human resources, benefits, and payroll personnel must be trained and retrained as tax or ERISA laws change. Plan documents, enrollment forms, and administrative procedures must be scoured for the word "spouse," and amendments and disclosures drafted to try to explain the numerous implications and consequences of a given benefits decision on the personal tax situation of an employee with a same-sex spouse. Enrollment systems must be reprogrammed to account for different spousal circumstances, and linked to provider records to ensure the providers extend appropriate coverage. Benefits and human resources departments, facing questions from employees with same-sex spouses regarding workplace benefit selections and coverage, must be adequately trained and prepared to explain the disparate treatment to employees who may later realize (perhaps too late) that their benefits choices and decisions carried unanticipated and significant financial implications. The complexity and uncertainty saps critical time, focus, and energy from the human resources and benefits administration function.

The burden on the small employer is especially onerous. Regular retention of outside consultants is generally not an option, and many may not be capable of devoting limited resources to understanding

and administering the conflicting regimes. Administration of benefits for an employee married to a same-sex spouse is more likely to occur in an ad hoc, piecemeal fashion, and may require that employee to divulge personal information that she would not otherwise be required to make, enhancing a sense of marginalization. Such burdens, standing alone, might chill some employers from employing an otherwise qualified employee because she happens to be married to a same-sex spouse.

The dual regime especially burdens certain providers of workplace benefits, who must counsel their customers struggling with administration of inconsistent regimes. They must keep a roster of attorneys and ERISA consultants on retainer to grapple with the multi-faceted impact of DOMA on benefits packages. Call center employees and the sales force must be appropriately trained and prepared to respond to questions from both employers and employees about DOMA's impact on health insurance, tax, medical leave benefits, and retirement benefits. The complexities that arise from the variety of individual cases increase the risk that incorrect information may be given.

Workarounds. Many employers seek to rectify the invidious treatment of a class of their married employees by creating and funding parallel systems of benefits for employees lawfully married to same-sex spouses. These may include stipends representing the amount of imputed health-care benefits,[52] leave

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[52] *See* Human Rights Campaign: Grossing Up, *supra* n. 12; *see generally* Tara Siegel Bernard, *For Gay Employers, an Equalizer*, N.Y. TIMES, May 20, 2011, http://www.nytimes.com/2011/05/21/your-money/health-insurance/21money.html (report-

policies modeled to duplicate FMLA-related rights, and retirement plans that safeguard the same-sex spouse. These policies impose a direct cost on the employer. They carry administrative burden, requiring *amici* to retain experts to craft the policies and structure systems that can record gross-up amounts, educate human resources, benefits, and payroll administrators, and manage the dual systems. Workarounds may attract attention from regulators or cause tension with shareholders or investors, all of which consumes time, resources and goodwill. However enlightened and necessary, such voluntary policies perpetuate a caste system among married employees. Unhelpful distinctions are inimical to teamwork and, by extension, to the success of the entire organization.

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ing that "a growing number of companies have taken it upon themselves to make life a little more equal for their gay employees" by "pay[ing] for an extra tax that their gay employees owe on their partners' health insurance—something that their married heterosexual co-workers don't have to worry about because the federal government recognizes them as an economic unit."). For a list of companies currently "grossing up" the pay of employees who must pay federal taxes on the imputed value of health-care benefits for their same-sex spouses, *see* Tara Siegel Bernard, *A Progress Report on Gay Employee Health Benefits*, N.Y. TIMES, Dec. 5, 2012, http://bucks.blogs.nytimes.com/2010/12/14/a-progress-report-on-gay-employee-health-benefits/ (each website last visited January 28, 2013).

B. DOMA Forces *Amici* to Affirm Discrimination They Regard as Injurious to Their Corporate Missions and Contrary to Non-Discrimination Laws and Policies

DOMA imposes on *amici* not simply the considerable burden of compliance and cost. DOMA conscripts *amici* to become the face of its mandate that two separate castes of married persons be identified and separately treated. As employers, we must administer employment-related health-care plans, retirement plans, family leave, and COBRA. We must impute the value of spousal health-care benefits to our employees' detriment. We must treat one employee less favorably, or at minimum differently, when each is as lawfully married as the other. We must do all of this in states, counties, and cities that prohibit workplace discrimination on the basis of sexual orientation and demand equal treatment of all married individuals.[53] This conscription has harmful consequences.

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[53] Some United States jurisdictions prohibit discrimination in employment or hiring on the basis of either marital status or sexual orientation. *See, e.g.*, CAL. GOV'T CODE § 12940(a); CONN. GEN. STAT. §§ 46a-60, 46a-81c; DEL. CODE. tit. 19, § 711; HAW. REV. STAT. § 368-1; 775 ILL. COMP. STAT. 5/1-103, 5/2-102; MD. CODE ANN., STATE GOV'T § 20-606; MINN. STAT. § 363A.08; N.H. REV. STAT. ANN. § 354-A:1; N.J. REV. STAT. §§ 10:5-12, 10:5-33; N.Y. EXEC. LAW. § 296(a); OR. REV. STAT. § 659A.003; WASH. REV. CODE §§ 49.60.030, 49.60.180; WIS. STAT. §§ 111.321, 111.36; D.C. CODE § 2-1402.11; Blackfeet Trib. Empl. Rights Ord. & Safety Enforcement Act of 2009 § 4-101; LITTLE RIVER BAND OF OTTAWA INDIANS TRIB. CODE ch. 600, tit. 03, § 4.01; LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIB. CODE § 14.108; Mandan Hidatsa and Arikara Nation Emp. Rights and Contracts Pref. Ord. § 206; NOTTAWASEPPI HURON BAND OF THE

Litigation Risk. American employers are accustomed to statutory regimes that are either silent as to, or prohibit workplace discrimination. But a regimen that forces employers to differentiate imposes subtle but real risk. For example, DOMA forces upon *amici* conduct (*e.g.*, withholding on wages attributable to the imputed value of the cost of group health-care plan benefits) that, but for the Supremacy Clause, would be unlawful under state law. More broadly, DOMA forces the employer to determine, at its own risk, where DOMA supersedes state law and where state law continues to protect the employee. Future litigation risk may take other forms, even harder to predict. Litigation may arise from disputes over a same-sex spouse's entitlement to employer-provided benefits.[54] Although constitutional litigation claims typically require state action, and most of the *amici* are not state actors, several *amici* are cities or counties. Municipal and county actors often are

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POTAWATOMI TRIB. CODE, tit. V, ch. 2, § 301; Poarch Band of Creek Indians Trib. Emp. Rights Ord. §§ 33-4-3, 33-4-10; Shoshone-Bannock Tribes Worker Prot. Ord. § 401. Other United States jurisdictions prohibit discrimination in employment or hiring on the basis of sexual orientation but not on the basis of marital status. *See, e.g.*, COLO. REV. STAT. § 24-34-402; IOWA CODE §§ 216.6, 216.6A; MASS. GEN. LAWS ch. 151B, § 4; ME. REV. STAT. tit. 5, § 4572 ; N.M. STAT. ANN. § 28-1-7 ; NEV. REV. STAT. § 613.330; R.I. GEN. LAWS § 28-5-7; VT. STAT. ANN. tit. 21, § 495; ; *see also infra* n. 57 (listing municipal antidiscrimination laws and ordinances).

[54] *See, e.g.*, First Amended Complaint for Interpleader, Jan. 24, 2011, Dkt. 3, *Cozen O'Connor P.C. v. Tobits*, No. 2:11-cv-00045 (E.D. Pa.) (interpleader action arising, in part, from dispute over effect of DOMA on distribution of benefits from ERISA-covered pension plan).

required, in costly litigation, to respond to allegations that they are "state actors."[55] The practical fact is that DOMA makes the employer the unwilling agent of federally-required disparate treatment of lawfully married employees. Whatever the lack of merit of a formal legal challenge, disparate treatment in the workplace imposed by DOMA fosters workplace distress, and practical experience teaches that workplace distress increases the risk of the employer's having to respond, at its own expense, to claims of the aggrieved.

Morale. In the modern workplace, the employer becomes the face of DOMA's discriminatory treatment, and is placed in the role of intrusive inquisitor, imputer of taxable income, and withholder of benefits. The employer is thus forced by DOMA to participate in the injury of its own workforce morale. Yale University's error in administering DOMA, and its implementation of unexpected tax withholding against employees married to same-sex spouses in 2011,[56] cast the university as the antagonist to its own employees. Many *amici*, as employers, provide certain workarounds that attempt to address some of the disparate treatment of same-sex couples that DOMA requires. Many *amici* that are cities and counties have gone even farther, making substantial efforts to prevent discrimination against same-sex couples, up to and including passing anti-

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[55] *See Bd. of the County Comm'rs of Bryan County v. Brown*, 520 U.S. 397, 400 (1997) (municipal actors may be liable under section 1983 where plaintiff identifies an official policy or "custom" of the municipality that caused injury).

[56] *See* Yale Payroll Error, supra n. 51.

discrimination ordinances and amending city charters to outlaw discrimination against same-sex couples.[57] Administering and implementing DOMA subverts efforts to eliminate obstacles to full legal recognition for employees who have lawfully entered into committed relationships with persons of the same sex.

The enforced compliance with DOMA's discriminatory regime has another dimension. The employee confused about the conflicting legal rules typically puts his first question to the human resources department. Every benefits administrator must become a constitutional scholar, or give uncertain advice.[58] Even the best-informed can provide only a general answer. The wrong answer may lead to harsh tax

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[57] *See, e.g.*, Baltimore City Code, art. 4, § 3-1 (prohibiting workplace discrimination based on sexual orientation); Code of the City of Bangor § 195-3 (same); City of Cambridge Municipal Code § 2.76.120 (same); New York City Administrative Code § 8-107 (same); City of Santa Monica Municipal Code § 4.40.030 (same); City of Seattle Municipal Code § 14.04.040 (same); City of Hartford Municipal Code § 2-696 (prohibiting discrimination based on sexual orientation with respect to municipal employees and applicants); City of Boston Equal Opportunity Statement (prohibiting discrimination based on sexual orientation with respect to applicants for municipal employment); County of Santa Clara Ordinance Code § A25-124 (same); City of Cambridge Municipal Code §§ 2.76.100, 2.76.030, and 2.76.120 (requiring that city contractors and subcontractors comply with City employment non-discrimination provisions); City of West Hollywood Municipal Code § 9.28.050 (same); King County Code § 12.16.020 (same); San Francisco Admin. Code § 12B.1(b) (same).

[58] In some states, employers may be required by law to provide information about all of the benefits and coverage options to their employees. *See, e.g.*, Cal. Lab. Code § 2808.

and financial consequences, and further erosion of workplace morale.

Our Mission. The injury runs far deeper than mere litigation risk; deeper even than the morale of the work force. For many employers, DOMA does violence to the morale of the institution itself. Like other persons, legal and natural, *amici* are motivated by core principles. As of December 2012, 88% of Fortune 500 companies provided nondiscrimination protection for their gay and lesbian employees.[59] To take one example of many, *amicus* Eastern Bank "embrace[s] diversity in our workplace because it makes us a better employer and a better provider of service to our customers."[60] The business judgment of other *amici* has been to the same effect. These principles spring from hard experience. Our organizations are engaged in national and international competition—for talent, customers, and business. That competition demands teamwork, and teamwork thrives when the organization minimizes distracting differences, and focuses on a common mission. DOMA's core mandate—that we single out some of our married colleagues and treat them as a lesser class—upsets this imperative.

Our principles are not platitudes. Our mission statements are not simply plaques in the lobby. Statements of principle are our agenda for success:

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[59] *See* Human Rights Campaign, *Employment Non-Discrimination Act*, http://www.hrc.org/laws-and-legislation/federal-legislation/employment-non-discrimination-act (last visited Jan. 28, 2013).

[60] See Eastern Bank: Embracing Diversity, https://www.easternbank.com/site/about_us/Pages/diversity.aspx (last visited Jan. 28, 2013).

born of experience, tested in laboratory, factory, and office, attuned to competition. Our principles reflect, in the truest sense, our business judgment.[61] By force of law, DOMA rescinds that judgment and directs that we renounce these principles or, worse yet, betray them.

CONCLUSION

The judgment of the United States Court of Appeals for the Second Circuit should be affirmed.

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[61] "[T]he skills needed in today's increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints." *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003).

Respectfully submitted,

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February 27, 2013

APPENDIX A:
IDENTIFICATION OF *AMICI*

Addis Creson is a brand consulting firm based in Berkeley, California

Adobe Systems Inc. is one of the world's largest and most diversified software companies. Founded in 1982, Adobe employees more than 11,000 employees worldwide.

Aetna Inc. is one of the nation's leading diversified health care benefits companies offering a broad range of traditional, voluntary and consumer-directed health insurance products and related services to approximately 37.3 million people. Aetna is a publicly traded corporation based in Hartford, Connecticut with over 35,000 employees across the U.S. and worldwide.

Aggregate Supply is a partnership operating a Valencia Street store in San Francisco, which features three lines of products: Heliotrope San Francisco, a local, all-natural skin care line, Turk + Taylor, a local clothing line, and Acacia, a curator of furniture and home decor.

Akamai Technologies, Inc. is an Internet content delivery network headquartered in Cambridge, Massachusetts. Akamai employees 3000 people worldwide with U.S. offices in California, Illinois, Washington, New York, and Virginia.

Alaska Air Group, Inc. is an airline holding company based in Washington State.

Alaska Airlines together with its partner regional airlines, serves 95 cities through an expansive network in Alaska, the Lower 48, Hawaii, Canada and Mexico.

Alcoa Inc. is the world's third largest producer of aluminum. With operational headquarters in Pittsburgh, Pennsylvania, Alcoa employs 61,000 people across the U.S. and worldwide.

Alere Inc. By developing new capabilities in near-patient diagnosis, monitoring and health information technology, Alere enables individuals to take charge of improving their health and quality of life at home. Alere's global leading products and services, as well as its new product development efforts, focus on cardiology, infectious disease, toxicology and diabetes. Alere is headquartered in Waltham, Massachusetts, has locations in 28 states and employs 8,000 employees in the US.

Amazon.com, Inc., based in Seattle, Washington, is one of the world's largest and best known online retailers. Amazon seeks to be the Earth's most customer-centric company, where customers can discover anything they might want to buy online at the lowest possible prices.

A. L. Nella & Company, LLP, CPAs is an accounting firm based in San Francisco, California.

American Benefits Council is an employee benefits policy advocacy organization based in Washington, D.C. whose member companies and organizations either sponsor directly or administer health and re-

tirement plans covering more than 100 million Americans.

American International Group, Inc. (AIG) is a leading international insurance organization headquartered in New York City serving customers in more than 130 countries and jurisdictions. AIG companies serve commercial, institutional, and individual customers with property-casualty, life insurance and retirement services.

Ameristar Casinos, Inc. is a casino operator based in Las Vegas, Nevada. Ameristar operates eight properties and employs approximately 7,100 people across the U.S.

Apple Inc. is a multinational consumer electronics and software company based in Cupertino, California. Apple employs over 72,000 people across the U.S. and worldwide.

AppNexus Inc. provides an industry-leading online advertising technology platform. AppNexus has offices around the world and is headquartered in New York City.

ARC Design is a family-owned business based in Healdsburg, California specializing in unique homes and destination environments, custom cabinetry and furnishings.

Artify, Inc. an innovative San Francisco, California, based consumer internet startup in the art market. Artify Inc.'s subscription model allows affordable, unlimited access to a catalog of original, curated contemporary art that each subscriber can check out,

keep at their home or business for an unlimited amount of time, swap out, or exhibit for sale.

Avanade, Inc. provides business technology solutions and managed services that connect insight, innovation and expertise in Microsoft technologies to help customers realize results. Avanade, which is majority owned by Accenture, was founded in 2000 by Accenture LLP and Microsoft Corporation and has 17,000 professionals in more than 20 countries.

A|X Armani Exchange, LLC, launched in 1991, is the youthful label created by Italian designer and entrepreneur Giorgio Armani. Today A|X Armani Exchange has an exclusive direct controlled retail network that currently comprises 264 freestanding stores in 32 countries.

Axcel Law Partners is a San Francisco, California based litigation boutique representing businesses and select individuals in commercial and intellectual property disputes.

Bain & Company, Inc. is a leading global strategy consulting firm, headquartered in Boston, Massachusetts, with over 5,500 staff based in 50 offices around the world.

Baker & McKenzie LLP is a global law firm of 4,000 locally qualified lawyers in 72 offices around the world, including offices in New York and California.

The Bank of New York Mellon Corporation (BNY Mellon), headquartered in New York, is a leading provider of investment management and investment services.

Bankers Trust Company. With operations in multiple states, Bankers Trust is the largest locally-owned bank in Iowa, and the 4th largest overall, with assets exceeding three billion dollars. Bankers Trust does not discriminate on the basis of age, race, color, religion, sex, national origin, disability, sexual orientation, or gender identity. Bankers Trust takes affirmative steps to employ women, minorities, individuals with disabilities, and veterans. In 2011 alone Bankers Trust hired personnel to fill 83 open positions.

Big Duck Studio, Inc. (doing business as Big Duck) is a New York communications firm that works exclusively with nonprofits to help reach supporters, build awareness, and raise money.

Bigelow Villa LLC dba The Lobby Bar is located on Capitol Hill in Seattle, Washington. We are a cocktail lounge that caters to the diverse Seattle community.

Biogen Idec, Inc. is a biotechnology company that discovers, develops and delivers to patients worldwide innovative therapies for the treatment of neurodegenerative diseases, hemophilia and autoimmune disorders. Biogen Idec is headquartered in Weston, Massachusetts and employs over 6,000 people in Massachusetts, North Carolina, and internationally.

BlackRock, Inc. is a leader in investment management, risk management and advisory services for institutional and retail clients worldwide. Headquartered in New York City, BlackRock's AUM was $3.792 trillion at 12/31/12. BlackRock has approximately 10,500 employees in 30 countries and offers

products that span the risk spectrum to meet clients' needs across markets and asset classes.

Blu Homes, Inc. is a leading provider of green precision-built prefab homes in North America. Headquartered in Waltham, Massachusetts, Blu uses proprietary steel framing and building technology to ship and construct homes on site.

Blue Cross Blue Shield of Massachusetts, Inc. is a private health insurance company headquartered in Boston, Massachusetts and employing over 3,000 people.

Boehringer Ingelheim USA Corporation is the U.S. arm of pharmaceutical company Boehringer Ingelheim GmbH, which employs over 44,000 people worldwide.

Borrego Solar Systems Inc. designs and installs commercial solar power systems. Headquartered in San Diego, California, Borrego Solar employs 100 people and has offices in Oakland, Boston, Austin, and Washington D.C.

Boston Community Capital, Inc. is a Boston, Massachusetts based community development financial institution that invests in affordable housing projects, and job creation in low-income communities.

The Boston Foundation is a corporation located in Boston, Massachusetts that is one of the oldest and largest community foundations in the nation, with net assets of more than $800 million. The Foundation is a partner in philanthropy with some 900 separate charitable funds established by donors, either for

the general benefit of the community or for special purposes.

Boston Medical Center Corporation is a private, not-for-profit, 496-bed academic medical center located in Boston, Massachusetts, and is the largest provider of trauma and emergency services in New England.

Boston Scientific Corporation transforms lives through innovative medical solutions that improve the health of patients worldwide. The company, which has approximately 24,000 employees, is headquartered in Massachusetts and has operations in multiple locations around the world.

The Bridgespan Group is a nonprofit advisor and resource for mission-driven organizations and philanthropists. The Bridgespan Group employs 200 people across three different offices in Boston, New York and San Francisco.

Broadcom Corporation is a global leader and innovator in semiconductor solutions for wired and wireless communications. Broadcom is headquartered in Irvine, California with over 11,000 employees across the U.S. and worldwide.

Burns & Levinson LLP is a Boston, Massachusetts-based law firm with over 125 attorneys and offices in Providence, Rhode Island and New York.

Caesars Entertainment Corporation is a public gaming corporation that owns and operates over 50 casinos, hotels, and seven golf courses across the United States and employing approximately 70,000 people.

Car Toys, Inc. is a chain of stores selling automotive and wireless consumer electronics, founded and headquartered in Seattle, Washington and distributing throughout Washington, Oregon, Colorado, and Texas.

CBS Corporation's operations span the media and entertainment industries and include a major television network (CBS), cable program services (including Showtime), television content production and distribution, motion pictures, radio stations, television stations, interactive businesses, outdoor advertising, and publishing (Simon & Schuster). CBS Corporation is headquartered in New York City with over 20,000 employees across the United States and worldwide.

Central Physical Therapy and Fitness, Inc. is an outpatient physical therapy clinic in Seattle, Washington, providing individualized physical therapy care and personal fitness training.

Chang Consulting is a sole proprietorship with offices in San Francisco, California. Chang Consulting has been doing business since 2005 with clients ranging from Fortune 20 companies to start-ups.

Choate, Hall & Stewart LLP, one of the nation's leading law firms, focuses on a core group of areas where it represents clients across the United States and internationally. Choate's areas of focus include private equity and mergers and acquisitions, finance and restructuring, technology companies, intellectual property and intellectual property litigation, government enforcement and compliance, insurance and reinsurance and wealth management.

Cisco Systems, Inc. is a multinational networking equipment and technology company headquartered in San Jose, California. Cisco has over 72,000 employees across the United States and worldwide.

Citigroup Inc., a leading global bank, provides consumers, corporations, governments and institutions with a broad range of financial products and services. Headquartered in New York, Citi has 259,000 employees worldwide and does business in more than 160 countries and jurisdictions.

City Catering Company is a full-service Seattle, Washington caterer providing innovative food, beverage, decor and service.

City Lites Neon, Inc. is an electrical sign company in Seattle, Washington, servicing, fabricating and installing all types of electrical signs.

The City of Baltimore, Maryland is the largest city in Maryland and has 14,278 employees and 14,940 retirees and beneficiaries currently receiving benefits. In addition, there are over 1,100 past employees, who will be eligible to receive retirement benefits in the future.

The City of Bangor, Maine is the third largest city in Maine employing approximately 500 full-time employees.

The City of Boston, Massachusetts is the capital and largest city of Massachusetts and a municipal employer.

The City of Cambridge, Massachusetts is a municipal employer. Over the past quarter century, the city has adopted policies and laws to prohibit discrimination based on sexual orientation and to extend to same-sex couples the rights and benefits afforded to opposite-sex couples to the maximum extent allowed by law.

The City of Hartford, Connecticut, the capitol city of Connecticut, employing approximately 1800 persons, was an early leader in adopting laws and policies to ensure equal treatment of same-sex couples to the maximum extent allowed by law.

The City of Healdsburg, California is a municipal employer and full service city of 11,500 citizens, nestled in the heart of the wine country, and a major tourist destination 65 miles north of San Francisco.

The City of Los Angeles, California is a municipal employer in California, with over 30,000 active employees, who receive health and other employment benefits through the City. Over the last several decades, the City of Los Angeles has adopted laws and policies to prohibit discrimination based on sexual orientation and to extend the same benefits to same-sex couples as are afforded to opposite-sex couples.

The City of New York, New York is the largest municipal employer in the United States with more than 300,000 employees, and more than 200,000 retirees receiving health insurance through the City. Over the past quarter century, the City of New York and its City Council have adopted policies and laws to prohibit discrimination based on sexual orientation

and to extend to same-sex couples the same rights and benefits afforded to opposite-sex couples.

The City of Northampton, Massachusetts is a municipal employer in Massachusetts.

The City of Portsmouth, New Hampshire, founded in 1623, employs over 550 people. Unfortunately, with the existence of DOMA, the 173 same-gender marriage licenses issued by Portsmouth City Hall and the more than 2,235 same-gender marriages celebrated thus far throughout New Hampshire are not fully legally equal to all others.

The City of Providence, Rhode Island, the capitol city of Rhode Island, employs approximately 2000 persons. The City of Providence has adopted laws and policies to ensure equal treatment of same-sex couples to the maximum extent allowed by law. Since 2012, the State of Rhode Island has recognized marriages between persons of the same sex from other states.

The City and County of San Francisco, California employs roughly 26,000 employees and provides health and other benefits to almost all those employees. Hundreds of San Francisco's employees are members of same-sex unions.

The City of Santa Monica, California is a municipal employer in California.

The City of Seattle, Washington, employs over 10,000 employees and provides benefits to those employees and their families, including same sex spouses and

domestic partners. Washington State recognizes same-sex marriage and the City wants to assure its employees are not discriminated against under Federal law.

The City of West Hollywood, California is a municipal employer in California.

Clean Yield Asset Management is an SEC-registered investment advisor serving social investors.

Connecticut Alliance for Business Opportunities is the LGBT chamber of commerce for the State of Connecticut.

The County of King, Washington . Located on Puget Sound in Washington State, and covering 2,134 square miles, and home to more than 1.9 million people, King County is the 14th most populous county in the nation.

The County of Santa Clara, California is a municipal employer in California.

Commune Hotels & Resorts is a multi-brand boutique and lifestyle platform, uniting Thompson Hotels, based in New York and Joie de Vivre Hotels based in San Francisco.

Conlin Properties, Inc. Conlin Properties manages over 8,000 retail units in the Greater Des Moines, Iowa area, along with 250,000 square feet of commercial retain and industrial space. It employs approximately 75 people and offers a wide range of real estate related services. Conlin Properties does not discriminate on the basis of age, race, color, religion, sex,

national origin, disability, sexual orientation, or gender identity.

The Corcoran Group, a residential real estate brokerage company in New York City, operates 40 offices with 3,000 sales associates and employees serving the Manhattan, Brooklyn, East End of Long Island and South Florida markets.

Coupons.com Inc., is a leader in digital coupons, including online printable, pure digital and mobile promotions. The company is based in Mountain View, California.

Crazy Misfits Pet Services is a pet service company based in Kent, Washington, and providing services in 8 cities.

Credit Suisse Securities (USA) LLC is one of the world's leading financial services providers and part of the Credit Suisse group of companies, offering clients its expertise in private banking, investment banking and asset management. With offices nationwide, the largest U.S. office is located in New York City and has 47,400 employees.

Dana-Farber Cancer Institute, Inc. is a not-for-profit hospital and research institute located in Boston, Massachusetts that provides care to children and adults with cancer while advancing the understanding, diagnosis, treatment, cure and prevention of cancer and related diseases. Dana-Farber employs more than 4,000 people.

David Kosar Insurance Agency is a full-service agency offering property, auto, life, specialty personal lines, commercial and health insurance products in Everett, Washington.

Davis, Brown, Koehn, Shors & Roberts, P.C. The Davis Brown Law Firm employs 185 attorneys and support personnel. It is a significant participant in the legal profession, with multiple offices around the state of Iowa. The firm does not discriminate on the basis of age, race, color, religion, sex, national origin, disability, sexual orientation, or gender identity.

Depository Trust & Clearing Corporation (DTCC), through its subsidiaries, provides clearing, settlement and information services. In addition, DTCC is a leading processor of mutual funds and insurance transactions. DTCC is headquartered in New York.

Design Worlds for Learning, Inc. is a San Jose, California college admission counseling corporation that serves students world-wide.

Deutsche Bank AG is a leading global investment bank headquartered in Frankfurt, Germany, with major hubs in London, New York, Sao Paulo, Dubai, Hong Kong and Tokyo. With 10,000 of its 100,000 employees in the United States, Deutsche Bank offers unparalleled financial services throughout the world.

Diageo North America, Inc., an indirect subsidiary of Diageo plc, a public limited company in England and Wales, has employees in the States of California, Connecticut, Massachusetts, Maryland, and New York, and the District of Columbia, and owns and op-

erates production, technical and warehouse facilities in Illinois, Kentucky, and Tennessee.

Distinguished Gay Men is a professional matchmaking service based in San Jose, California.

DLK Law Group, P.C., is a San Francisco, California-based law firm that provides comprehensive estate planning, trust and probate administration, elder law services, and prenuptial agreements.

DML Insurance Services, Inc., located in Seattle, Washington, is a property casualty insurance brokerage.

Dry Creek Vineyard is a vineyard located in Healdsburg, California.

DRY Soda Co. is Seattle, Washington-based manufacturer of all-natural soda.

Eastern Bank Corporation is the oldest and largest mutual banking company in the nation. Founded in 1818 in Salem Massachusetts, it is headquartered in Boston, Massachusetts, and has over 1650 employees.

eBay Inc., headquartered in San Jose, California, and employing more than 30,000 people, is a global commerce platform and payments leader, connecting millions of buyers and sellers through online platforms including eBay, PayPal, and GSI.

Edwards Wildman Palmer LLP is a law firm with 625 lawyers and 14 offices across three continents, including offices in California, Massachusetts, and Illinois.

Eldercare Consulting, is a sole proprietorship based in Seattle, Washington, and provides project management services for seniors and their families.

Electronic Arts Inc. is a multinational interactive entertainment software company headquartered in Redwood City, California. Electronic Arts has over 9,000 employees across the U.S. and worldwide.

EMC Corporation offers data storage, information security, virtualization, and cloud computing products and services which enable businesses to store, manage, protect, and analyze massive volumes of data.

EnduringHydro, LLC is a clean energy company headquartered in Chevy Chase, Maryland that develops hydroelectric power plants at existing dams, seeking to increase the electricity production from non-fossil fuel sources.

Ernst & Young LLP is a member firm of the global Ernst & Young organization, providing assurance, tax, transaction and advisory services in offices throughout the U.S. Ernst & Young member firms have 167,000 people worldwide who are united by our shared values and an unwavering commitment to quality.

Exelon Corporation is one of the nation's leading competitive energy providers, with 2012 revenues of approximately $23.5 billion. Headquartered in Chicago, Illinois, Exelon employs approximately 30,000 people and has operations and business activities in 47 states, the District of Columbia and Canada. Its

utilities serve more than 6.6 million customers in Illinois, Pennsylvania and Maryland.

Facebook, Inc., based in Menlo Park, California, is a social media service with more than one billion users.

Farella Braun + Martel, LLP is a 130-lawyer San Francisco, California firm that represents clients in sophisticated business transactions and high-stakes commercial, civil and criminal litigation. Farella's unwavering service ethic and interdisciplinary team approach advances our clients' objectives in the most effective, coordinated and efficient manner.

Fenwick & West LLP is a law firm with more than 700 partners and employees in California and Washington, providing comprehensive legal services to technology and life sciences companies.

Firefly Creative Co., located in Sonoma County, California specializes in advertising and marketing communications for print, web, TV and radio.

500 BC, Inc., is a California-based company behind a new educational media application.

Flanery CPA is a CPA firm located in the greater Seattle, Washington area.

The Forward Motion Group, LLC is an independent consulting agency based in Minneapolis, advising corporations, associations and non-profit organizations in travel and tourism, philanthropy and LGBT outreach.

Full Court Press Communications is a public affairs, public relations, crisis communications and social media company based in Oakland, California.

Gammelgården LLC is a Pownal, Vermont, Jersey farm and creamery that sells skyr and other products prepared from fresh Jersey milk.

Gardenworks Inc. is a landscape contracting company located in Healdsburg, California, offering innovative and creative solutions for commercial and residential spaces.

Geolo Capital, Inc., is an investment group based in San Francisco, California, that invests in products and services that improve and enrich people's lives, with a focus on hospitality, entertainment, health and wellness, and consumer products.

Gilt Groupe Holdings, Inc., based in New York City and employing more than 1,100 people, is an innovative online shopping destination, offering members special access to leading fashion, home décor, hotel and travel experiences, and unique local activities in select cities.

Go Factory, LLC is a software startup located in San Francisco and Silicon Valley, California that helps enterprises and businesses to create mobile collaboration solutions that integrate data and content with people and systems.

The Golden Gate Restaurant Association is a non-profit trade association that promotes the interests of the San Francisco, California Bay Area restaurant industry, with over 1,000 member locations.

The Goldman Sachs Group, Inc. is a leading global investment banking, securities and investment management firm that provides a wide range of financial services to a substantial and diversified client base that includes corporations, financial institutions, governments and high-net-worth individuals. The firm is headquartered in New York City.

Google, Inc. is a global technology leader focused on improving the ways people connect with information, with headquarters in California.

Goulston & Storrs, P.C. is an international law firm practicing real estate, environmental, retail, tax and other practices in Boston, New York, and Washington, D.C.

Greater Boston Chamber of Commerce is a non-profit corporation with a principal place of business in Massachusetts.

Greater San Diego Business Association was founded in 1979 and is the LGBT chamber of commerce in San Diego County, California, with over 800 members.

Greater Seattle Business Association is the LGBT chamber of commerce in Seattle, Washington.

Greensulate provides sustainable building consulting in New York City, Long Island, the San Francisco Bay Area, and Los Angeles.

Grippo & Elden LLC is a Chicago, Illinois-based litigation boutique that litigates in courts throughout the country.

Grossman Marketing Group is a marketing firm with offices in Atlanta, Boston, Chicago, Hartford, New York, Providence, and Washington, D.C.

Group Health Cooperative is a nonprofit health care system that coordinates care and coverage for more than 600,000 residents of Washington state and Idaho.

Hafner Vineyard is a small family winery in Sonoma County, California's Alexander Valley.

Harrell Remodeling is a full-service residential design and building company based in Mountain View, California and operating in the Silicon Valley with 40 employees.

Heath-Newton LLP is a San Francisco, California-based law firm focused on family law and asset protection issues, including premarital agreements, divorce, and child custody.

Holdredge Wines, is a winery located in Healdsburg, California, bottling Pinot Noir grown in Sonoma County.

Homeward Pet Adoption Center is one of the leading non-profit, no-kill animal shelters serving the Greater Seattle, Washington area. Our mission is to give homeless animals a second chance through our rescue, shelter, and adoption programs.

Horizon Air Industries, Inc. is an airline serving cities throughout Arizona, California, Oregon, Washington, Idaho, Montana, and Nevada; Baja California

Sur (Mexico); and British Columbia and Alberta (Canada).

Hughes Hubbard & Reed LLP is an international law firm practicing business and financial law, litigation and arbitration with U.S. offices in New York, Washington D.C., Los Angeles, Miami, Jersey City, and Kansas City.

ID Financial, LLC, based in Seattle, Washington and New Mexico, is a financial planning firm offering comprehensive financial advisory services.

Inspirato, LLC, is a world leading private luxury travel club for discerning travelers, headquartered in Denver, Colorado.

Integrated Archive Systems, Inc. is a corporation based in Palo Alto, California, that provides data management solution and services.

Integrity Law Group is a law firm based in Seattle, Washington that focuses on immigration, family law, bankruptcy, estate planning, escrow, personal injury, short sales, and loan modifications.

Intel Corporation is the world's largest semiconductor manufacturer and is also a leading manufacturer of computer, networking, and communications hardware and software products. Intel is headquartered located in Santa Clara, California.

Intuit Inc. is a leading provider of innovative business and financial management solutions for small businesses, consumers, accounting professionals and financial institutions. With 8,500 employees in offices

around the world, the company has been recognized for its commitment to diversity for eight consecutive years by the Human Rights Campaign.

INUS Group, LLC offers business consulting services in the Northwest United States and across the country.

iStrategyLabs is a brand consulting agency with offices in New York and Washington D.C.

The Jackson Hole Group LLC is a consulting firm headquartered in in San Francisco, California that advises client Boards, CEO's and C-Suite executives on key business, organizational and executive issues.

James D. Wood, D.D.S. Family Dental Care provides dental care to residents of Cloverdale, California and the Alexander Valley.

Jazz Pharmaceuticals, Inc. Jazz Pharmaceuticals is a specialty biopharmaceutical company that identifies, develops and commercializes innovative products. It has offices in California and Pennsylvania.

Jennifer Brown Consulting is a consulting firm based in New York City founded to guide executives and HR leadership in their efforts to build more inclusive, innovative workplaces.

JetBlue Airways Corporation is a U.S. passenger airline headquartered in New York and operating throughout the United States and internationally throughout the Caribbean and in Latin America. JetBlue employs 15,000 people throughout North America.

The Jim Henson Company, headquartered in Los Angeles, California. is recognized worldwide as an innovator in puppetry, animatronics and digital animation.

Johnson & Johnson embraces research and science - bringing innovative ideas, products and services to advance the health and well-being of people. Our nearly 129,000 employees at more than 275 Johnson & Johnson operating companies in 150 countries (including all 50 states) work with partners in health care to touch the lives of over a billion people every day, throughout the world.

Jo-Lynn Otto Photography is an independent, freelance photography firm based in San Jose, California.

Jonathan L. Bowman, Attorney at Law, PS, is a law firm in Seattle, WA, focusing upon estate planning, corporate and business law, trademark and copyright protection, real estate law, and domestic partnership and same-sex marriage legal matters.

JTracz Designs LLC, headquartered in Hartford County, Connecticut, focuses on educating businesses on how to do business with and market to the lesbian, gay, bisexual and transgender community.

Kazan, McClain, Satterley, Lyons, Greenwood & Oberman, PLC, is an 80-employee law firm with offices in Oakland, California and a national practice focused on the representation of asbestos cancer victims from all over the United States.

Keker & Van Nest LLP is a San Francisco, California law firm that tries and litigates high-stakes civil and criminal cases throughout the country.

Kemp Goldberg Partners is an advertising, public relations, and public affairs agency with offices in Portland, Maine and Washington D.C.

Kimpton Hotel & Restaurant Group, LLC operates hotels and restaurants in 24 major cities throughout the United States and has approximately 8,100 employees. Kimpton is a privately held Delaware limited liability company with its principal place of business in California.

Kinzer Real Estate provides real estate services in Seattle, Washington.

Kollmar Sheet Metal Works, Inc. is a metal fabrication and installation contractor doing residential and commercial work, located in Seattle, Washington.

Kotzan Chiropractic, a sole proprietorship located in San Carlos, California, is a provider of chiropractic care.

Lafayette & Kumagai LLP is a law firm based in San Francisco, California.

Laparoscopic Institute for Gynecologic Oncology, based in Portola Valley, California, produces comprehensive courses on minimally invasive gynecologic surgery.

Larson Marketing & Communications LLC is a marketing and communications consulting firm serving

the healthcare, professional services, and nonprofit sectors in the greater Seattle, Washington area.

Law Office of Lisa E. Schuchman is a law firm in Seattle, Washington.

The Law Office of Susan K. Fuller, PLLC is a full-service law firm for small businesses that represents clients in federal and state courts in all sorts of disputes.

Law Offices of Cynthia F. Buhr PLLC is a family law firm in Seattle, Washington.

Lieff Cabraser Heimann & Bernstein, LLP is a law firm specializing in complex individual and class actions on behalf of consumers, investors, employees, patients, and small business owners, with over 50 attorneys across offices in San Francisco, New York, and Nashville.

Levi Strauss & Co. is one of the world's largest brand-name apparel marketers, with products sold under the Levi's®, Dockers®, Signature by Levi Strauss & Co.™ and Denizen™ brands. Based in San Francisco, California, it has roughly 16,000 employees worldwide.

Liberty Mutual Group, Inc. is a diversified global insurer and property and casualty insurer in the U.S. Based in Boston, Massachusetts, Liberty Mutual Group employs more than 45,000 people in more than 900 offices throughout the world.

Littler Mendelson, P.C. is a labor and employment law firm with more than 900 lawyers in 55 offices across the U.S. and globally.

Long Beach Community Business Network is the LGBT chamber of commerce of Long Beach, California.

Loring, Wolcott & Coolidge Trust, LLC is a non-depository trust company and limited liability company organized under the laws of New Hampshire with a principal place of business in Massachusetts.

M. Arthur Gensler Jr. & Associates, Inc. (Gensler) is a global architecture, design, planning and consulting firm based in San Francisco, California with more than 3,500 professionals in more than 40 locations.

Marriott International, Inc. is a leading lodging company based in Bethesda, Maryland with more than 3,700 properties in 74 countries and territories. The company operates and franchises hotels and resorts under 18 brands, including Ritz-Carlton, Renaissance and Courtyard by Marriott, and has approximately 300,000 associates.

Mars, Incorporated is a global petcare, chocolate, gum and confections, food, and drinks business headquartered in McLean, Virginia with 70,000 associates across the U.S. and worldwide.

Marsh & McLennan Companies is a global professional services firm providing advice and solutions in the areas of risk, strategy, and human capital. It includes Marsh (insurance brokering and risk management), Guy Carpenter (risk and reinsurance in-

termediary services), Mercer (talent, health, retirement, and investment consulting), and Oliver Wyman (management consulting).

Massachusetts Association of Health Plans is a nonprofit corporation with a principal place of business in Massachusetts.

Massachusetts Mutual Life Insurance Company is a life insurance company with its principal place of business in Massachusetts.

Massachusetts Teachers Association (MTA) is a nonprofit labor and professional organization representing approximately 110,000 members employed at all levels of the Massachusetts public educational system. The MTA has 220 employees, including employees married to same sex spouses, and joins this brief in its capacity as an employer.

Mattson, based in Foster City, California, develops new products for the food and beverage industry.

The McGraw-Hill Companies, Inc. provides financial, publishing and business services and is headquartered in New York City with over 20,000 employees across the U.S. and worldwide.

McKinstry Co. is a national leader in the integrated delivery of construction, energy and facility services with offices in Washington, Minnesota, Montana, Missouri, Idaho, Oregon, Texas, California, Kansas, Missouri and Wisconsin.

Microsoft Corporation prides itself on its products and services, its brand, and its global reach. But our

employees are unquestionably our greatest asset. Inclusiveness is a fundamental part of our values, and integral to our company's business success. It's critical that we have a workforce as diverse as our customers, are able to treat all of our employees equally, and that we can attract top talent in our highly competitive industry. In addition to corporate policies supporting diversity and equality, we strive to engage in a thoughtful manner in public discussions on issues that have a significant impact on our employees and our business.

Mona Smith PLLC is a law firm in Seattle, Washington, focusing on the transactional and litigation needs of clients in the areas of business law, real estate, estate planning and LGBT families.

Moody's Corporation provides credit ratings, research, tools and analysis that contribute to transparent and integrated financial markets. It is the parent company of Moody's Investors Service, which provides credit ratings and research, and Moody's Analytics, which offers software, advisory services, credit research, economic analysis and financial risk management. Headquartered in New York, Moody's employs approximately 6,800 people and has a presence in 28 countries.

Morgan Stanley is a global financial services firm that provides products and services to corporations, governments, financial institutions and individuals. Morgan Stanley is headquartered in New York City, with regional offices throughout the U.S. and principal offices in London, Tokyo, and Hong Kong.

Mosaic Financial Partners, Inc. is a financial planning firm based in the San Francisco, California Bay area, providing services in estate and retirement planning, business and compensation planning, and mutual and index fund management.

MultiPlan, Inc. offers a wide range of healthcare cost management solutions for the commercial, government, and property and casualty markets. It is headquartered in New York City.

The National Fire Protection Association, Inc. is a non-profit corporation with a principal place of business in Massachusetts.

National Gay and Lesbian Chamber of Commerce is a not-for-profit advocacy organization headquartered in Washington, D.C. They are the national certification body for LGBT-owned businesses.

Neumann Capital Management, LLC is a wealth management firm based in Foster City, California providing comprehensive investment management and financial planning services.

New York Life Insurance Company is one of the largest mutual life-insurance companies in the U.S. and is headquartered in New York City with over 12,000 employees across the U.S.

NewZoom, Inc., doing business as ZoomSystems, is a leading global provider of automated retail solutions to top brands and retailers. ZoomSystems is based in downtown San Francisco, California and has operations in Japan, Canada and Western Europe.

NIKE, Inc., based near Beaverton, Oregon, is a world-leading designer, marketer and distributor of authentic athletic footwear, apparel, equipment and accessories for a wide variety of sports and fitness activities.

Nixon Peabody LLP is a law firm of approximately 700 attorneys across the U.S., Europe and Asia. Nixon Peabody is headquartered in Boston, Massachusetts.

The Ogilvy Group, Inc. is a corporation engaged in advertising and other businesses and based in New York.

The Olivia Companies, LLC, based in San Francisco, California, is a travel company that provides cruise and resort vacations for lesbians worldwide.

1 Source Consulting Solutions, based in San Jose, California, is a sole proprietorship providing executive coaching and leadership development programs and services to corporations and non-profits.

Onyx Pharmaceuticals, Inc. is a biopharmaceutical company dedicated to developing innovative therapies that target the molecular mechanisms that cause cancer. Onyx is headquartered in South San Francisco, California.

Oracle America, Inc. is a leading global technology company, delivering hardware, middleware, application software, database software, and operating systems that work together in the cloud and in the data center. Based in Redwood City, California, Oracle has over 115,000 employees worldwide.

Orbitz Worldwide is a leading global online travel company, with a portfolio of consumer brands, including Orbitz, CheapTickets, ebookers and HotelClub. Orbitz Worldwide is headquartered in Chicago.

Out & Equal Workplace Advocates is a non-profit, national organization headquartered in San Francisco, California that addresses LGBT issues in the workplace.

Partners HealthCare System, Inc. is a not-for-profit, integrated health care system in Boston, Massachusetts, including community and specialty hospitals, a managed care organization, a physician network, community health centers, home care and other services. Partners is the largest private employer in Massachusetts, with approximately 60,000 employees.

Paul's Draperies, Inc. is a custom window covering retailer in Silicon Valley.

Peabody & Arnold LLP is a law firm in Boston, Massachusetts. Its practice focuses on employment, professional liability, and insurance law.

Pfizer Inc. is headquartered in New York and has 30,000 colleagues across the U.S. Pfizer is engaged in the discovery, development, manufacture and sale of many of the world's best-known prescription medicines and consumer healthcare products. We are committed to applying science and our global resources to improve health and well-being at every stage of life. We are also committed to maintaining a

diverse and inclusive workplace for all colleagues, including LGBT colleagues.

Pierson Labs is an engineering firm working on neural net algorithmic innovation based in San Francisco, California.

Planet Fitness is a franchise of fitness centers based in Newington, New Hampshire.

Portland Area Business Association is the LGBT Chamber of Commerce for the great Portland, Oregon and Vancouver, Washington metro area. Many of our members either live, work, or own businesses in the State of Washington.

Precision Door Service provides installation, service and sales for garage doors and openers, and has locations in Washington, Utah, and California.

Prince Lobel Tye LLP is a midsized, full-service law firm located in downtown Boston, Massachusetts with approximately 60 lawyers and 115 total employees.

The PrintingWorks is a commercial printer and print broker located in Sunnyvale, California.

Prior Construction is a construction company in Sonoma County, California.

Pro-Tec Data, Inc. is a national intellectual asset protection consulting, publishing, and licensing firm based in Los Altos, California, serving high-tech, biotech, pharmaceutical, financial, and manufacturing industries.

ProTrials Research, Inc. is a clinical research organization that supports pharmaceutical, biotechnology and medical device companies initiate, manage and complete clinical trials on a global basis. ProTrials corporate headquarters is located in Sunnyvale, California, and employs 125 professionals. We have offices both in North America and the United Kingdom.

Public Interest Law Group, PLLC is a Seattle, Washington-based law firm that emphasizes public interest litigation and serving clients who might otherwise be unable to hire an attorney.

Puma Springs Vineyards is an organic and biodynamic farming company in Healdsburg, California, that grows and sells luxury wine grapes to Sonoma County wineries.

Qualcomm Incorporated, based in San Diego, California, is a world leader in 3G, 4G and next-generation wireless and digital communications technologies, products, and services.

Rainbow Chamber of Commerce Silicon Valley is the LGBT chamber of commerce of Silicon Valley.

Ray Holley Communications is a sole proprietorship that provides writing and editing services in Healdsburg, California.

Recreational Equipment, Inc. (REI) is a retail corporation organized as a consumers' cooperative that sells outdoor recreation gear, sporting goods, and clothing. REI is headquartered in Kent, Washington and employs over 11,000 people across the U.S.

Regroup is a San Francisco, California-based corporation offering an all-in-one communications platform that enables group emails, text messages, voice broadcasts, and social media messaging.

Reproductive Science Center of New England, P.C. is a reproductive services provider with locations in Massachusetts, Rhode Island, and New Hampshire.

Resource Systems Group, Inc. RSG is a 100% employee-owned consulting firm that creatively applies state-of-the-art modeling and analytics to transportation planning, market strategy, environmental management, and custom software design. RSG is headquartered in Vermont, with additional offices in Illinois, New Hampshire, Washington, D.C., and Utah.

Rising Tide Brewing Company is a brewery based in Portland, Maine.

RLL Consulting & Advocacy, LLC is a Seattle, Washington-based consulting firm providing advice and consultation on health care policy and health insurance reform implementation to businesses and other employers.

Rocket Science Associates is a consulting firm based in San Francisco, California.

Ropes & Gray LLP is a global law firm headquartered in Boston, Massachusetts with over 1,000 lawyers in offices across the U.S., Asia, and Europe.

Rural Communications Service Corporation is a small employer providing broadband and telecommunica-

tions services to rural communities of Oregon, Idaho, and Nevada.

Russell & Olson, LLP is a law firm that specializes in campaign, election, lobby and public ethics compliance, as well as establishing and administering non-profit organizations. The firm represents candidate and ballot measure committees, corporations, labor unions, individuals and foundations. The firm has offices in Burlingame and Sacramento, California.

Salera Consulting is a consulting firm based in Ipswich, Massachusetts.

salesforce.com, Inc. is a leading provider of enterprise cloud computing services headquartered in San Francisco, California. salesforce.com employs people across the United States and throughout the world.

The San Francisco Chamber of Commerce, representing over 1500 local businesses, attracts, develops and retains business in San Francisco, California.

Seabold International Services LLC (doing business as Seabold Group) is an investigative consulting firm in Seattle, Washington.

Seattle Hospitality Group LLC is a Seattle, Washington-based company that invests in corporate hospitality properties and services.

The Seattle Lesbian, LLC publishes a daily online news magazine operating from offices in the Pacific Northwest, and reaching communities spanning continents around the world.

Seattle Metropolitan Chamber of Commerce represents 2,200 small, medium and large businesses in the four-county Puget Sound region.

Seyfarth Shaw LLP is an international law firm with more than 800 attorneys that offers a national platform and an international gateway to serve clients' changing business and legal needs in litigation, employment, corporate, real estate and employee benefits.

Shawmut Design and Construction is a leading national construction management firm with offices in Massachusetts, New York, Rhode Island, Connecticut, Nevada and California. Shawmut serves clients in academic, commercial, corporate, cultural, gaming, healthcare and life sciences, retail, sports and other venues.

Shearman & Sterling LLP is a global law firm with approximately 900 lawyers in 20 offices in 12 countries. The firm is a leader in mergers and acquisitions, capital markets, project development and finance, complex business litigation and international arbitration, asset management and tax.

Silicon Valley Progressive Faith Community is a nonprofit in the Silicon Valley, California, affiliated with the Silicon Valley United Church of Christ.

Sing Out Louise! Productions is a Tony-Nominated Broadway production company based in New York City, with credits that include *Catch Me If You Can*, *American Idiot*, *Elling*, and the upcoming *ALLEGIANCE*.

Skadden, Arps, Slate, Meagher & Flom LLP is law firm headquartered in New York City with nearly 4,200 employees in 23 offices.

Skellenger Bender, P.S. is a Seattle, Washington-based law firm that serves individuals, families, businesses, and governmental entities.

Smith & Quinn LLC (doing business as Orange Crush Studios) is located in the heart of Japan Town in San Jose, California. The staff at Orange Crush Studios is committed to providing hair salon services of the highest caliber that reflect the latest trends in fashion and style.

Solutions Wealth Management is a 30-year-old financial planning firm in Campbell, California serving a diverse client base.

Sōw is a fresh juice company showcasing organic and heirloom produce sourced from California farmers and juiced to order at its San Francisco retail location.

Spectra Law PS is a law firm in Seattle, Washington that provides estate planning, probate, and small business services to the LGBT community.

Starbucks Corporation. Since 1971, Starbucks Coffee Company has been committed to ethically sourcing and roasting the high-quality *arabica* coffee. Today, with stores around the globe, the company is the premier roaster and retailer of specialty coffee in the world. Through our unwavering commitment to excellence and our guiding principles, we bring the unique

Starbucks Experience to life for every customer through every cup.

StartOut is a national not-for-profit organization with active chapters in New York, San Francisco, Los Angeles and Austin, dedicated to helping and fostering entrepreneurship and business leadership within the LGBT community through education, networking, mentorship, and connection to capital.

State Street Corporation is a global leader in providing financial services to institutional investors, delivering solutions across investment management, research and trading, and investment servicing. Headquartered in Boston, State Street operates in 29 countries and serves clients in more than 100 markets.

Stone Way Eateries, LLC (doing business as Tutta Bella Neapolitan Pizzeria) is an award-winning pizzeria company operating in Seattle, Washington.

Stonyfield Farm, Inc., with locations in New Hampshire and California, is a world-leading organic yogurt company, selling certified organic yogurt, smoothies, frozen yogurt, and other products.

Stuffed Cakes, LLC, located in West Seattle, Washington creates and sells custom cakes.

Sun Life Financial (U.S.) Services Company, Inc. has approximately 2,000 employees in 35 states supporting the U.S. insurance operations of Sun Life Financial Inc., a leading international provider of protection and wealth accumulation products and services to individual and corporate customers.

Support.com is a publicly traded company that provides cloud-based technology services and software. Headquartered in Redwood City, California, and with offices in Washington and Oregon, Support.com employs approximately 900 people.

Sweet is a travel company that designs vacations for lesbians while partnering with the communities it visits to do projects that enrich the places we visit. Sweet is based in San Francisco, California.

Taber Food Services, Inc. owns and operates seven Hobee's California Restaurants, serving up fresh, healthful California fare.

Thomson Reuters is a world-leading source of intelligent information for businesses and professionals in the financial and risk, legal, tax and accounting, intellectual property and science and media markets, powered by the world's most trusted news organization. With headquarters in New York and major operations in London and Eagan, Minnesota, Thomson Reuters employs approximately 60,000 people and operates in over 100 countries.

Total Awareness Accounting Services provides individual and small business tax preparation and accounting consulting services in Kirkland, Washington.

Total Home Improvement Inc. is a residential remodeling firm located in Seattle, Washington.

Transparent Language, Inc. is a New Hampshire-based provider of language learning software for con-

sumers, government agencies, educational institutions, and businesses.

Twitter, Inc., founded in 2006, provides a real-time information service on which people around the world can post ideas, comments and news, plus photos and videos, in 140 characters or fewer. Twitter is based in San Francisco, California.

206 Inc. is a non-traditional marketing agency based in Seattle, Washington that builds authentic, multi-dimensional campaigns for globally recognized brands.

UBS AG is a global leader in providing wealth management, investment banking and asset management services. Headquartered in Switzerland, UBS is present in all major financial centers and has offices in over 50 countries and employs more than 63,000 people around the world.

U.S. Balloon Co. is the largest nationwide wholesale balloon distributor. Based in Brooklyn, New York, the company offers balloon designs and related party products.

The Ultimate Software Group, Inc., headquartered in Weston, Florida, with 1,600 employees nationwide, is a leading cloud provider of people management solutions for businesses.

Unigo LLC is one of the web's largest resources helping college students, with more than 15 million visitors per year.

The United States Conference of Mayors is the official non-partisan organization of all United States cities with populations of 30,000 or more. The conference supports the legal protection of gay and lesbian rights at all levels of government, and marriage equality for same-sex couples, and the recognition and extension of full equal rights to such unions, including family and medical leave, tax equity, and insurance and retirement benefits.

Valdez Noor Todd & Doyle LLP is a law firm based in San Francisco, California.

VCB Consulting & Accounting Services is a Seattle, Washington-based company that provides CPA services including taxation, write-up work, financial planning, and assistance to start-up companies.

Velsch Unlimited LLC is a consulting firm in Seattle, Washington.

Venable LLP is a law firm serving corporate, institutional, governmental, nonprofit and individual clients throughout the U.S. and around the world. Headquartered in Washington, D.C., with offices in California, Maryland, New York and Virginia, Venable LLP employs over 500 attorneys.

Verity Credit Union, with 6 branches and 115 employees, provides quality financial services. Founded in 1934 as a credit union for Federal employees, it now serves all residents in the greater Seattle, Washington area.

Viacom Inc., headquartered in New York City, is home to premier entertainment brands that connect

with content across television, motion picture, online and mobile platforms in over 160 countries and territories. With media networks reaching approximately 700 million global subscribers, Viacom's leading brands include MTV, VH1, CMT, Logo, BET, CENTRIC, Nickelodeon, Nick Jr., TeenNick, Nicktoons, Nick at Nite, COMEDY CENTRAL, TV Land, SPIKE, Tr3s, Paramount Channel and VIVA. As of September 30, 2012, Viacom employed approximately 9,880 full-time and part-time employees worldwide, and had approximately 740 additional project-based staff on payroll.

VitalSource Staffing, LLC, located in downtown Seattle, Washington is a staffing firm, focused on technology, human resources, operations, sales & marketing, and accounting.

Vulcan Inc., based in Seattle, Washington, creates and implements groundbreaking projects in technology, business, and the arts.

W/S Development Associates LLC is a leading shopping center developer and owner based in Chestnut Hill, Massachusetts.

Walt Disney Company, together with its subsidiaries, is a diversified worldwide entertainment enterprise with operations in five business segments: Media Networks, Parks and Resorts, Studio Entertainment, Consumer Products and Interactive, employing more than 135,000 people.

Wasserman Media Group is a sports marketing and entertainment company headquartered in Los Ange-

les, California with global expertise in Media Rights, Consulting, Athlete Management, gold, Soccer/Football and Action Sports and Olympics.

Willkie Farr & Gallagher LLP is a leading international law firm with approximately 600 lawyers based in key financial centers: New York, Washington, D.C., Paris, London, Milan, Rome, Frankfurt, and Brussels.

Windows Management Experts, Inc. is an information technology consulting company based in Edmonds, Washington.

Witeck Communications, Inc., based in Washington, D.C., provides media, marketing and strategic communications counsel to U.S. corporations and non-profits to build successful, trusted bridges with the LGBT community.

Xerox Corporation, with 140,000 employees in 160 countries, is a world-leading enterprise for business process and document management. Xerox provides true end-to-end solutions, from back-office support to the printed page, to help customers operate their businesses and manage information.

Zynga Inc., headquartered in San Francisco, California, is the world's largest social gaming company. Zynga's popular games like FarmVille, CityVille, Zynga Poker, and Words with Friends are played by over 300-million players monthly.