

# Fire Island Reporter

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Photo above by Robert Zash  
See ad inside for his weekend gallery  
show info for Zash Studio 2013

## DOMA Overturned, Now What?

"After last week's decision by the Supreme Court holding that Section 3 of the Defense of Marriage Act (DOMA) is unconstitutional, President Obama directed Federal departments to ensure the decision and its implication for federal benefits for same-sex legally married couples are implemented swiftly and smoothly. To that end, effective immediately, I have directed U.S. Citizenship and Immigration Services (USCIS) to review Immigration visa petitions filed on behalf of a same-sex spouse in the same manner as those filed on behalf of an opposite-sex spouse." -Janet Napolitano.

Throughout the years, same-sex marriage has been a much debated topic. Many of those who support a liberal, democratic ideology believe that Americans should be entitled to full and equal benefits under the law as promised in the 14<sup>th</sup> amendment to the U.S. Constitution. The disparate treatment that has historically plagued the Lesbian, Gay, Bisexual, Transgender, Queer ("LGBTQ") community, has recently spurred outrage from same-sex couples and LGBTQ activists, and has culminated in rallies and protests taking place outside major government buildings. Gay individuals and couples have expressed their indignation and insist on justification as to why they are being treated as second class citizens. This demand for equality has helped to create a more open dialogue for immigration reform.

Overturning DOMA was an enormous victory for the LGBTQ community. Many believe this diversion is a catalyst which will drive other triumphs for all individuals. With regard to immigration, the impact of this decision is that same sex couples may file a green card application for the foreign national spouse. In addition, same-sex couples who petitioned for a green card years ago will now have a new opportunity for review of their cases. The policy went so far as to direct immigration officers that they may not require additional documents or information for applications filed by same sex couples. In short, the Supreme Court decision mandates that same sex-couples be afforded all applicable federal benefits that are otherwise granted to opposite sex couples. The overturning of DOMA has been a historic occasion which signifies the tides of change.

Society has been accustomed to seeing a mother, father and their children as the standard American family. Yet, shouldn't a family unit revolve around two loving and caring parents regardless of their sexes? The United States Census Bureau estimates that there were about 131,729 same-sex married couples in 2010. Moreover, there were 515,735 same-sex unmarried couples. In 2011, Washington D. C. had the highest share of households with reported same-sex couples, both married and unmarried while California had 18,000 legally married gay couples. Clearly the idea of the nuclear family is evolving.

On a practical note, when filing an application for a same sex couple, it must be shown that the marriage was entered into in good faith. This standard is universal as applied to all couples. In order to ensure a smooth application process with the United States Citizenship and Immigration Services, follow these tips when preparing for the filing of the I-130, Petition For Alien Relative.

- 1) Gather biographical data for both of you (i.e., the name, date, and place of birth of your parents, your addresses and employer information for the last five years.)
- 2) Make sure you have access to all original documents such as your and your spouse's original birth certificates, divorce decrees if either of you were married before, or birth certificates of any children you together.
- 3) Open and use joint bank and credit card accounts. Keep copies of all statements.
- 4) Collect photos of your life together, including your courtship, marriage, and other important occasions spent together such as holidays, birthdays, or vacations.

Don't be fooled into thinking that the process is completely painless. The government has a tough job to do reviewing the many applications and marriage records they receive each year. Experts will finely comb each petition they receive to determine whether the couple married for "love" or as a convenient way to help someone obtain immigration benefits. Of course, seeking the advice of immigration counsel experienced in these matters is strongly urged.

**Michael Wildes** is a Managing Partner with the leading immigration law firm of Wildes and Weinberg, P.C. ([www.wildeslaw.com](http://www.wildeslaw.com)). He serves as immigration counsel to Lincoln Center, and two international corporate law firms. A former Federal Prosecutor with the United States Attorney's Office in Brooklyn (1989-1993), he has testified on Capitol Hill in connection with anti-terrorism legislation and is internationally renowned for his successful representation of distinguished individuals and corporate clients. Mr. Wildes is a frequent participant on professional panels and commentator on network television and radio with regard to corporate immigration law, employer sanction work and compliance. His boutique law firm has offices in New York City, New Jersey, and Miami and serves a distinguished domestic and international clientele. Mr. Wildes is an Adjunct Professor of Business Immigration Law at Cardozo Law School and also served two terms as the Mayor of Englewood, New Jersey. Feel free to email him at [michael@wildeslaw.com](mailto:michael@wildeslaw.com) or call at (212) 753-3468 if he can be of any assistance to you or someone you know.

## Society News

**Robert Downing hosted a small dinner party at Les Boys last week.**

**The guests included Juan Punchin, Vincent Munnell and Eric Their. A great time was had by all.**

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