

ZAVOS JUNCKER ■ LAW GROUP, PLLC

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Happy New Year to Everyone!

Our Firm is proud to announce Bethesda Magazine has named Michele Zavos and Eva Juncker two of the top 25 divorce lawyers in Montgomery County, Maryland! As expected, much has happened in the months since the Supreme Court's landmark ruling on the Defense of Marriage Act. Litigation has erupted in states all over the country. In addition, federal agencies are steadily releasing new information on how the repeal of DOMA is affecting their determination of marital benefits. Keep reading for more updates!

UPCOMING EVENTS

D.C. Bar Course on Same-Sex Marriage and Domestic Partnerships

Lawyers: There is still time to Register for this upcoming course from the D.C. Bar: Update on Same-Sex Marriage and Domestic Partnerships 2014. Learn about the recent U.S. Supreme Court decisions [U.S. v. Windsor](#) and [Hollingsworth v. Perry](#) that struck down the Defense of Marriage Act and rejected an appeal about California's Proposition 8. Find out how these decisions changed existing law and how these changes are being implemented in the District of Columbia, Maryland, and Virginia.

Thursday, January 9, 2014 from 6:00 pm to 8:45 pm

CLE Credit: 2.5 Credit Hours

Price: From \$89.00 to \$129.00

Click [HERE](#) or call 202-626-3488 to register today!

Question of Marriage Discussion

Join us for a FREE lively and timely discussion on the QUESTION OF MARRIAGE: What does it mean? Should you? Shouldn't you?

When: Sunday, January 12, 2014, 1-3 pm

Where: 6901 Rockledge Drive, Bethesda, MD

Who: Michele Zavos, of Zavos Juncker Law Group, PLLC and Fran Toler of the Toler Financial Group

What: *The Financial, Legal and Practical Aspects of the New Marriage Equality, What it means for where you live and for your family, Federal and State Implications in Maryland, DC and Virginia*

Refreshments, Child Care, Free Parking Please invite and bring friends who might be interested. Please RSVP by January 5, 2014 for childcare at 301-214-6764, or to ksloan@tolerfinancialgroup.com.

LOCAL UPDATES

Maryland

The City Council of Hyattsville passed the Hyattsville Human Rights Act which prohibits discrimination in employment, housing, and public accommodations, based on sexual orientation, gender identity, marital status, disability, national origin, religion, creed, race, color, or physical characteristic. Hyattsville is the first small city in Prince George's County to prohibit such discrimination. Thanks to Equality Maryland for reporting this development!

Equality Maryland has publicized organization and websites that can help LGBT and HIV+ Marylanders learn about the Affordable Care Act. (See this [link](#) and this [link](#) for more information.)

Thanks again to Equality Maryland!

Morgan State University's chapter of the Kappa Alpha Psi fraternity has been put on probation until 2015 after an investigation into a student's complaint that the fraternity rejected him because he is gay, *The Baltimore Sun* reported.

District of Columbia

In July, the District of Columbia Council passed the Birth Certificate Equality Amendment: the country's most liberal policy for updating birth certificates for individuals who are transgender and one that activists of transgender rights hope will become a nationwide model. Nationwide, only 24% of transgender people can get their gender changed on their birth certificates because of restrictive laws, according to a study by the National Gay and Lesbian Task Force. [Link](#)

Virginia

Two hearings have been filed in Virginia seeking to overturn Virginia's constitutional ban on marriage for same-sex couples. [Link](#)

The newly-elected Attorney General for Virginia, Mark Herring, has said publicly that his office will determine whether to continue to defend Virginia's anti-marriage constitutional amendment. If that office withdraws from these two cases, it is likely that, like

Proposition 8 in California, Virginia's constitutional amendment will be found invalid.

Also in Virginia, a Roanoke County Circuit Court denied a petition for a second-parent adoption by a same-sex couple that was married in Connecticut, finding that since marriages between same-sex couples are not recognized in Virginia, the couple cannot complete an adoption in Virginia. (Virginia Lawyers Weekly)

Virginia has decided that notwithstanding recognition of marriage between same-sex couples by the IRS, married same-sex couples MUST file their Virginia tax returns as single individuals. [Link](#)

Equality Virginia has a campaign to launch an "Equality for All" branded license plate in the state. Despite some possible hurdles the license plate could be on cars before 2015. For more information on registering for an "Equality for All" license plate, visit Equality Virginia online at www.equalityvirginia.com

Lambda Legal, a national gay rights organization, is challenging West Virginia's ban on same-sex marriages on behalf of three same-sex couples seeking the freedom to marry. Recently the organization has filed a motion for summary judgement asking the U.S. District Court for the Southern District of West Virginia to rule swiftly in the case. [Link](#)

OTHER STATES AND MARRIAGE EQUALITY

Marriage Equality

Sixteen states and the District of Columbia allow same-sex marriages to be performed within their borders. Those states are Maryland, Minnesota, Maine, Massachusetts, New Hampshire, Vermont, New York, Delaware, Connecticut, Rhode Island, New Jersey, California, Illinois (June 1, 2014), Iowa, and Hawaii (December 2, 2013) in addition to Ohio (in a limited decision) and Utah (but the case is on appeal). Approximately 40% of the population of the United States now has marriage equality. Other states recognize marriages between same-sex couples although such marriages cannot be performed in those states.

Several states are converting their Civil Unions to marriages. Some of those states AUTOMATICALLY convert the Civil Unions to marriages unless a couple opts out, some convert to marriages if a couple opts in. IF YOU HAVE A CIVIL UNION, you should determine whether you will automatically become married when these conversions occur. We would be glad to assist you with this.

FEDERAL GOVERNMENT POST-DOMA

After DOMA was struck down by the Supreme Court in Windsor v. United States, federal agencies began deciding how to implement Windsor. There are two approaches to determine whether a marriage is valid under federal law - "place of celebration" which means that a marriage is valid if it was valid where it took place, or "place of residence," which means that the marriage is valid only if it is valid where the couple resides. Most

federal agencies, although not all, have adopted a "place of celebration" rule to determine whether a marriage between a same-sex couple is recognized for federal purposes. See our chart below to see how marital benefits are determined in each federal agency.

To read about what the Supreme Court did not do in the [Windsor](#) case, click this [link](#) to read Michele's recent article in the Blade.

Federal Agency	How the Agency Determines Benefits
Active Military/Department of Defense (DOD)	Place of celebration
Citizenship and Immigration Services (USCIS)	Place of celebration
Department of Homeland Security (DHS)	Place of celebration
Department of Labor (DOL)	Place of celebration
Department of Treasury (DOT)	Place of celebration
Department of Veterans Affairs (VA)	Place of celebration
Federal Election Commission (FEC)	Place of celebration
Health and Human Services (HHS)	Place of celebration
Internal Revenue Service (IRS)	Place of celebration
Office of Government Ethics (OGE)	Place of celebration
Office of Personnel Management (OPM)	Place of residence
Social Security Administration (SSA)	Place of residence

The **Department of Defense (DOD)** has extended spousal and family benefits to legally married same-sex spouses of uniformed service members. Benefits including health care, housing allowances, and family separation allowances will be provided retroactively to June 26, 2013 (the date of the [Windsor](#) decision). In addition, the Pentagon will grant "non-chargeable marriage leave" to allow Service members in same-sex relationships to travel to a jurisdiction that allows same-sex marriages. State National Guard Units must also extend benefits to same-sex married couples.

[Link](#)

Certain provisions of Title 38 of the U.S. Code define "spouse" and "surviving spouse" as a person of the opposite sex. Because the Supreme Court did not address these provisions, the **Department of Veterans Affairs** has not officially decided whether or how it can extend veterans' benefits to a same-sex spouse. However, a federal district court in California declared these provisions unconstitutional ([Cooper-Harris, et al v. U.S.](#), August 29, 2013). Legislation has also been introduced in Congress to remove the statutory requirement that a veteran's spouse be of the opposite sex. On September 4, 2013, U.S. Attorney General Eric Holder announced that President Obama has directed the Executive Branch to take steps allowing for same-sex spouses of military veterans to collect federal benefits, meaning that the Department of Veterans Affairs will no longer enforce statutory language restricting benefits to opposite-sex spouses only.

The **Office of Personnel Management (OPM)** has issued a final rule to amend the Federal Employees Health Benefits Program (FEHB) regulations to offer coverage for children up to age 26. *The regulations also allow children of same-sex domestic partners living in states that do not allow same-sex couples to marry to be covered family members under the FEHB and the Federal Employees Dental and Vision Insurance Program (FEDVIP).*

OPM is also providing notice of a 2-year opportunity for annuitants who are in legal same-sex marriages to elect survivor annuities for their spouses under the Civil Service Retirement System (CSRS) and Federal Employees' Retirement System (FERS), which means that federal employees who retired pre-Windsor can have their pensions or annuities re-figured. **BE SURE TO REVISIT YOUR CHOICES!**

The **Family Medical Leave Act**, the federal law that allows employees to take 12 weeks of job-protected leave to care for a sick family member, is administered by the Labor Department, which currently determines marital status based on an employee's state where they got married. The **Department of Labor** has also issued guidance that the "place of celebration" rule will be used for purposes of ERISA, the Internal Revenue Code and governing DOL regulations.

The **Social Security Administration (SSA)** has released instructions that it will be processing claims for surviving spouses where the deceased spouse lived in a recognition state at the time of death. However, the SSA is currently holding all claims in which the deceased died in a state that does not recognize same-sex marriage, and is requiring the office to refer all marriages that occurred out of the US for a legal opinion first. **MAKE A CLAIM IF THIS APPLIES TO YOU!**

The SSA has not yet released complete instructions on spousal disability benefits, spousal benefits of all types for spouses living in recognition states, or spousal benefits for registered domestic partners or civil union partners - though the SSA is accepting and holding all claims. We strongly encourage anyone who may be eligible to **APPLY AND PRESERVE YOUR ELIGIBILITY DATE!**

More about the SSA:

[Same-Sex Marriage - Benefits for Surviving Spouses](#)

[Same-Sex Marriage - Lump Sum Death Payment \(LSDP\)](#)

[Frequently Asked Questions](#)

More instructions: <http://www.socialsecurity.gov/same-sexcouples>.

[HRC: Social Security and Same-Sex Couples](#)

Same-sex couples will be recognized as families while going through the customs declaration process in the U.S., under a final rule submitted Friday by **U.S. Customs and Border Protection**. The rule allows long-term same-sex couples as well as residents and international visitors to file a joint customs declaration upon entering the U.S. Officials believe the change will "more accurately reflect relationships for U.S. citizens, residents and international visitors who are traveling together as a family." [Link](#)

The Affordable Care Act and the LGBT Community

For people who are already insured, not much will change under the Affordable Care Act, also known as "Obamacare." However, there are many reasons why members of the LGBT community should be excited about the benefits of the Act. Insurance companies are no longer allowed to discriminate on the basis of sexual orientation or gender identity. If you do experience discrimination, you can file a complaint with the **Department of Health and Human Services Office of Civil Rights**. People can no longer be discriminated against because of pre-existing conditions, like living with HIV/AIDS or being diagnosed with Gender Dysphoria. Young people will be able to stay on their parent or guardian's insurance plan until the age of 26. [Link](#)

More on the **Affordable Care Act**: Where to Start, What to Ask: A Guide For LGBT People Choosing Healthcare Plans click this [link](#).

Pension Plans and Retiree Health Plans

Pension plans and retiree health plans are required to treat a married same-sex spouse like other spouses, effective September 16, 2013. However, it is unclear whether private pension plans must, or may, offer do-overs for those who retired before September 16. Without further guidance from the IRS, although some companies may actively decide to allow such "do-overs" without prompting, many are likely to put off the decision pending an official statement from federal agencies. The IRS has indicated that it intends to issue such guidance in the future, stating:

"The Service intends to issue further guidance on the retroactive application of the Supreme Court's opinion in [Windsor](#) to other employee benefits and employee benefit plans and arrangements. Such guidance will take into account the potential consequences of retroactive application to all taxpayers involved, including the plan sponsor, the plan or arrangement, employers, affected employees and beneficiaries. The Service anticipates that the future guidance will provide sufficient time for plan amendments and any necessary corrections so that the plan and benefits will retain favorable tax treatment for which they otherwise qualify."

The Department of Labor has only partially weighed in on the issue, addressing future benefits plans while remaining silent as to the potential for amending past plans. On September 18, 2013, the Department of Labor Employee Benefits Security Administration issued Technical Release No. 2013-04, Guidance to Employee Benefit Plans on the Definition of "Spouse." The DOL indicated that private and public employee benefit plans should recognize same sex marriages by state of celebration, not state of residence.

Private and public pension plans must now offer married same sex couples all spousal protections, including default beneficiary rights and default joint and survivor annuity form of retirement payment. It is currently unclear whether the Departments of Labor and Treasury will allow or require companies to amend plans for those who retired prior to the [Windsor](#) decision, and so did not have the opportunity to elect the spousal option. **BUT MAKE A CLAIM TO PRESERVE THE OPTION!**

Private pension plan amendments are now being drafted to permit "do-overs" for those who retired pre-September 16, 2013, but may be held pending further guidance from the Departments of Treasury and Labor. CHECK YOUR PLAN!

Questions from the End of DOMA:

1. Should you marry? What are the implications for Medicaid or other income-based benefits?
2. Should you amend your Federal Income Tax Returns? (ONLY if married in those years) Were you imputed income because you paid for your spouse's health insurance?
3. Should you claim a refund for federal or state estate taxes (survivor rights)?
4. Can you get a do-over as a federal retiree? Can you now make the spousal election?
5. Can you make a different election for your social security benefits?
6. Have you filed your federal income tax returns as married filing jointly or singly?
7. If you are planning to move to a nonrecognition state, have you considered all of the legal implications of your move? Have you done the appropriate estate planning since your marriage won't be recognized?
8. Have you revisited all of your beneficiary designations? Elections of survivor rights in any state, private, local, or federal plan?
9. Have you reviewed your choices for Medicare Part B?
10. If you are a b-national couple, have you met with an immigration attorney?

FIRM UPDATES

Bethesda Magazine: Michele and Eva were named in Bethesda Magazine's 2013 "Best Of" list, which showcased the top 25 Divorce Lawyers practicing predominantly in Montgomery County.

Recent awards: Michele was named Family Law Practitioner of the Year by the Bar Association of Montgomery County. Eva was voted President Elect of the Virginia State Bar Diversity Conference.

OUR TEAM

Michele Zavos

Michele is the managing partner and founder of the Firm. She works primarily in the areas of adoption, assisted reproductive technology, collaborative law, estate planning, family mediation, and probate. She has over 30 years of legal experience and has been a pioneer in the development of legal protections for families, including families headed by same-sex couples. Michele is an elected Fellow of both the American Academy of Adoption Attorneys and the American Academy of Assisted Reproductive Attorneys. She is a member of the National Center for Lesbian Rights' National Family Law Advisory Council, and has been given many awards for her service to the LGBT

community. She was named one of the 25 best divorce lawyers in Montgomery County by Bethesda Magazine in 2013. She graduated from The Catholic University of America Columbus School of Law in 1979.

Eva N. Juncker

Eva is a partner with the Firm, and heads the Firm's litigation practice. She has over 14 years of experience litigating divorce, custody, and dissolution issues. She was named a Virginia Rising Star by Super Lawyers. Eva graduated cum laude from George Mason University School of Law in 1999. She has served on the Board of Directors of the National Gay and Lesbian Lawyers Association and as its affiliate member to the Young Lawyers Division of the ABA. She is also a member of the National Center for Lesbian Right's National Family Law Advisory Council. Eva spent 10 years as a qualified Virginia Guardian ad litem. Eva was also named one of the best divorce lawyers in Montgomery County by Bethesda Magazine in 2013.

Jill Seiferth

Jill joined the Firm in October 2011 as an associate attorney. She received her J.D. from American University's Washington College of Law where she participated in the Domestic Violence Clinic assisting individuals in obtaining civil protection orders. She was also a student federal prosecutor at the United States Attorney's Office, where she prosecuted crimes of domestic violence in the child sex offense unit.

Emily Neuhausen

Emily joined the Firm in October 2012 as an associate attorney. She received her J.D. from American University's Washington College of Law where she participated in the Women and the Law Clinic. She worked in the areas of estate planning and immigration law. She was a member of the Moot Court Honor Society and finished among the top-16 teams at the Domenick L. Gabrielli National Family Law Moot Court Competition at Albany Law School.

Timothy Compton

Timothy is the Firm's adoption, estate planning, and probate paralegal. He has 10 years of legal experience. Timothy is a native of the D.C. metropolitan area and has been an active member of the Academy of Washington, an association that has been involved with the LGBT community for over 50 years.

Luis Sosa

Luis is the Firm's litigation paralegal. Luis is a native of Miami, Florida where he received his B.A. in Liberal Studies/Humanities at Florida International University. Prior to relocating to the Washington, D.C. area and joining the Firm, Luis had over 8 years of experience as a paralegal in the field of family law in Miami.

Kate Ference

Kate is the Firm's administrator. She received her B.A. from the University of Virginia in May 2010, where she double-majored in Sociology and Studies of Women & Gender.

Kelli Meredith

Kelli is the Firm's receptionist. She is a graduate of Trinity University with B.A. in psychology. She has 14 years of experience in the legal profession. Kelli was previously

employed with O'Malley, Miles, Nysten & Gilmore, P.A. in Beltsville, Maryland.

Katie Caffey

Katie is the Firm's law assistant and graphic designer. She received her B.A. in 2012 from St. Mary's College of Maryland, where she double-majored in Art History and Economics, with a minor in Women, Gender, and Sexuality Studies.

IF YOU WOULD LIKE ONE OF OUR ATTORNEYS TO TALK TO YOUR GROUP, PLEASE CONTACT US.

Interested in learning more about the legal services offered by the ZAVOS JUNCKER LAW GROUP, PLLC? Please visit us on the web at www.zavosjunckerlawgroup.com.

QUICK TIP

Take some time for a review of your personal affairs. Be sure you have a Will, up-to-date beneficiary designations, and other personal planning documents, particularly if you have recently been married or brought children into your family. Contact us to discuss the implications of the fall of DOMA.

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Please share this E-Newsletter with anyone who may benefit from the information we have provided, and attribute the information to the Newsletter.

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