



Michael Lahti -- Steve O'Neill -- Mia Lahti



## Lahti, Lahti & O'Neill, LLC

Estate Planning and Elder Law

One Richmond Square – Suite 303N  
Providence, Rhode Island 02906

Telephone: (401) 331-0808 Fax: (401) 223-5115

www.llo-law.com

New Bedford Office  
651 Orchard Street, Suite 304  
New Bedford, MA 02744  
(508) 992-8677

Cape Cod Office  
72 Route 28, Suite 5  
West Harwich, MA 02671  
(508) 430-8677

Providing Peace of Mind Since 1976

*Estate Planning Solutions*

*Late Fall 2013*



*"Have A Wonderful Holiday Season  
& Best Wishes for a Prosperous New Year!"*

### CONTENTS OF THIS ISSUE

Planning for Non-Traditional Families.....	1
Campus and Confidentiality.....	2
Testimonials.....	3
Clients Beware.....	3
An Interview With Emily M. Parker .....	4

### Planning for Non-Traditional Families: Same-Sex Marriage Planning Post-DOMA

By Emily M. Parker, J.D.

On June 26, 2013, in the landmark case *U.S. v. Windsor*, the United States Supreme Court overturned Section 3 of the Defense of Marriage Act ("DOMA"), which had defined "marriage" as between a man and a woman only. It was found unconstitutional under principals of federalism, equal protection, and due process clauses of the U.S. Constitution. The Court did not address Section 2 of DOMA and thus states are not required to recognize same-sex marriages performed in other

states. Further, the decision seems to suggest that *Windsor* does not apply to couples who are parties to a civil union or domestic partnership. Regardless, these changes to the law mean dramatic shifts in estate planning and tax planning strategies, *not only for same-sex couples but also for those who wish to provide for them.*

Parts of federal law applicable to married persons now apply to married same-sex couples living in a jurisdiction that recognizes their marriage, such as Rhode Island and Massachusetts. Federal agencies are also adding to existing regulations to comply with *Windsor*. Here are some of the most important considerations for planning:

#### A. Federal Income Taxes

Before *Windsor*, married same-sex couples were required to file federal income tax returns as either "single" or as "head of household." Now, however,

same-sex married couples must file federal income tax returns as either “married filing jointly” or “married filing separately.” Amended returns can be submitted and can be filed within three years of the date of filing the original return or from two years when the tax was paid, whichever was done later. There is no requirement to file amended returns but it could result in tax savings.

## B. Estate and Gift Tax Planning

- The federal gift and estate tax unlimited marital deductions are now available to same-sex married couples. In other words, assets can be transferred between them deferring tax until the death of the survivor.
- The surviving spouse of a same-sex married couple can now use the predeceasing spouse’s unused federal estate tax exemption amount to make additional gifts tax-free or reduce the survivor’s estate taxes upon their death.
- There are other issues related to lifetime gifting, portability, and generation-transfer tax planning, for instance, that we cannot go into great detail about here.

Although *Windsor* does not answer many estate planning questions for same-sex couples, it does provide a framework of guidance for them and their families in this process.

All same-sex couples should review their estate planning documents for marital deduction planning and to update provisions in their particular plans. Again, same-sex couples should consider filing amended returns for income, gift, estate, or other taxes that were negatively affected because their marriage was not previously recognized under federal law. Federal statute of limitations will apply, however.

*The decision in Windsor also affects social security benefits, retirement benefits, veterans’ or military spousal benefits, immigration status, and many other federal laws and programs.*

This article serves only as a brief introduction to the legal issues to be aware of in the wake of *Windsor*, so please reach out to our office should you seek legal advice on these issues.

<sup>1</sup> United States v. Windsor, 570 U.S. 25-26 (2013)

## Campus and Confidentiality

By Michael T. Lahti

It’s hard to imagine things happening to children. Imagine something happening to a child, and being powerless to discuss medical decisions with your child’s doctor, let alone making medical and financial decisions for them. Unfortunately, this happens many times when children are attending college. At this point the children are adults.

As adult children, the parents are powerless to discuss these things without court intervention. This is incredibly stressful, and is expensive when court work is required. To prevent this, our clients who have children away from home in college should have the children sign, at the very least, a Medical Power of Attorney (called a Health Care Proxy in Massachusetts and Designation of Health Care Surrogate in Florida), and a HIPAA Release (medical information release). Armed with these documents, parents legally can make medical decisions for their children and communicate with persons involved with their children’s medical care.

Our office has a “college package” for adult children, that offers these important documents at a discount to our existing clients, and we would be happy to discuss them with you.

### Email Addresses?

*We’re updating our email address list.  
If you have a new email address,  
or if you never gave it to us originally,  
simply send an email with your name to  
[Rose@LLO-Law.com](mailto:Rose@LLO-Law.com)*

### Request a Speaker

*Lahti, Lahti & O’Neill will be happy  
to conduct complimentary Estate Planning  
& Elder Law educational workshops and  
seminars for professional management  
organizations, retired professional groups,  
financial advisor firms and senior support  
groups. To arrange an educational seminar or  
workshop for a group of 25 or more people,  
email or call us at (401) 331-0808.*

## Testimonials

During the last two years Lahti, Lahti & O'Neill, LLC has received well over fifty very positive testimonials from new clients. All testimonials can be viewed on the LL&O web site at [www.LLO-Law.com](http://www.LLO-Law.com) by clicking on the home page tab titled Client Satisfaction & Testimonials.

We truly appreciate these kind words from our clients, and we thank them all very much for taking the time to express their feelings. Here are a few samples of our client's thoughts:

"We are extremely satisfied with all aspects of our relationship at your office; certainly, trust being the most important. As we felt immediately that we could have utmost confidence in everyone there. There never was, and still isn't any doubt that we found the right people, both professionally and otherwise to handle our affairs. Thanks so much!!"

**-R&SP, Warwick, RI, July 17, 2013**

"We were very satisfied with the legal work. Everything was explained very well and Michael had patience with all our questions. Would recommend the firm to family and friends! In fact we already have!"

**-R&KF, Coventry, RI, June 29, 2013**

"Knowledgeable, honest, courteous and professional. Never felt rushed or uncertain of how to proceed with decision making. Thanks!"

**-PA&LAH, Warren, RI, April, 3, 2013**

"Professional and friendly staff. A positive experience." -JA, North Kingstown, RI March 29, 2013

"Office is very professional, efficient and friendly. Overall, getting this living trust set up was a good experience." -C&KH...West Greenwich, RI, December 7, 2012

"Outstanding and very professional service. We would highly recommend LL&O for top notch estate planning." -T&JB...Smithfield, RI, July 31, 2012

"I was very satisfied with the time taken by Michael Lahti and the paralegal, Laurie. The binder is beautifully done. I would recommend this office."

**-MJM...Harwich, MA, May 2, 2012**

All testimonials are in our clients own handwriting, and have been voluntarily offered. In addition, clients submitting testimonials have given the firm written permission to use their words. All testimonials are on file at the LL&O headquarters in Providence.

## Clients Beware!

By Laurie J. LaRoche, Senior Paralegal

As clients establish estate plans, an important component is the funding process or the repositioning of assets into the name of their trust(s). Many clients will transfer their real estate into their trust which requires the recording of a deed at the Registry of Deeds.

Our Massachusetts and Rhode Island clients have reported receiving solicitations, which give specific information about the client's property and recommends they obtain a copy of their current Grant Deed which provides evidence that their property was, in fact, transferred to the trust or individual. The transfer service requests the client mail \$83.00 in a provided postage paid envelope and, in turn, the company will forward within 21 business days a copy of the deed and property profile.

Clients should know, when our office records clients' deeds, all registries in Massachusetts (excluding Land Court) and all City and Town Clerk's offices in Rhode Island return the recorded deeds back to us. We then forward recorded copies to our clients for placement with their estate planning documents at no charge. These documents are public record and anyone can go into a registry and obtain a copy of a deed for the copying cost of \$1-\$2 dollars.

Clients should NOT respond to these solicitations or any other solicitation they may receive where they have any doubt the contents are not accurate and should contact our office to discuss them.

## Introductions

*Lahti, Lahti & O'Neill is always grateful to receive referrals from our clients and professional colleagues. If you know of anyone interested in our estate planning or elder law services, please have them contact us for a free consultation.*

*Pursuant to U.S. Treasury Department Regulations, we are required to advise you that, unless otherwise expressly indicated, any federal tax advice contained in this communication is not intended or written to be used for, and may not be used for, the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any tax-related matters addressed herein.*

*This Newsletter should not be construed as legal advice but rather as general guidance on matters as to which you may wish to consult with a qualified professional advisor.*



## **An Interview With Emily M. Parker, J.D.**

*Interviewed By  
Brian McCarthy*

### **1. Congratulations on passing the Rhode Island and Massachusetts Bar Exams. Did you find them difficult?**

Thank you! Both exams were very difficult, and I am so relieved my hard work paid off. The exams spanned three days because I took both Rhode Island and Massachusetts during the same week. The state specific days were all essays, whereas the multi-state testing day was comprised of only multiple choice questions which I found more challenging. The exams were especially difficult because they tested over 25 different subjects.

### **2. How did you prepare for taking the two Bar Exams?**

I spent two-and-a-half months this past summer taking a course with Kaplan at Suffolk Law School every day. After the course each morning, I spent my afternoons, evenings, and weekends studying in various libraries and coffee shops around Boston, as well as at home.

**3. Why did you want to become a lawyer?** I became a lawyer because I wanted to find a job I would love that would allow me to help people, as cliché as that sounds. Even before law school, I knew that an ideal job for me would be one that balanced intellectual challenges and working with interesting people.

**4. What attracted you to Estate Planning and Elder Law?** I originally thought I wanted to work in criminal law, but after getting a research position with an Elder Law Professor at Syracuse University, I knew it was the path for me. I loved all of my coursework in elder law, estate planning, tax planning, and the tax clinic. I also knew that this field would be very client-focused and that estate planning and elder law attorneys are known as being friendly and warm people. I wanted to be in a work environment where I would like my clients, co-workers, and my work – this is the perfect field for that. I am also very close with my Grandmother; she and I discuss issues the elderly face regularly, and it only made me want to understand this field more to make an impact.

**5. Do you feel that the legal education you received at Syracuse prepared you properly for the work you are now doing?** Absolutely! It opened my eyes to this field which I hadn't had exposure to before and I am so thankful for that. It was a rigorous three years and they trained me to be a critical thinker, to be confident, and to stand up for what I believe. I was Editor-in-Chief of the International Law Review during my third year and that taught me vital organizational and management skills, as well.

**6. How did you get together with Lahti, Lahti & O'Neill, LLC?** After sending them a cover letter and resume articulating my interest in what they do, we had a few interviews and I was elated when they offered me a position! This is my dream job.

**7. Although you have only been working for a few months, how do you like it so far?** I am really happy! First and foremost, everyone in this office is a pleasure to be around – it's a great work environment. Secondly, I am very lucky to be trained by some of the best estate planning and elder law attorneys in southern New England. In addition, the clients are just lovely.

**8. What aspect of your work do you find the most enjoyable? What is the most difficult part of your job?** I love working with people and finding solutions to their problems. The most challenging part of my job is the learning curve – there is just so much to learn.

**9. Describe a typical work day for you at Lahti, Lahti & O'Neill, LLC.** Every day is different! Each day is a mix of meeting with clients, drafting estate planning documents, helping clients on the phone, preparing Medicaid applications, and assisting with the probate process.

**10. I heard that you have played your violin at Tanglewood in the Massachusetts Berkshires. Are you that good of a violinist?** I used to be! Law school devoured my free time and I don't play as much as I'd like. I recently played at a family wedding and that was really enjoyable. I played with the Colby College Symphony, the University of Edinburgh Symphony, and even with the Brooklyn Symphony Orchestra for a few years. I hope to find a quartet or small strings group to play with as I get more settled.

**11. What do you do with your free time?** When I'm not working, I love to jog and bike around Boston where I live with my fiancé. I love to cook, spend time with friends and family, read, play the violin, and travel.

*Brian McCarthy is an independent marketing consultant*