

Case No. 10-56634

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

LOG CABIN REPUBLICANS,
a non-profit corporation,

Plaintiff-Appellee,

vs.

UNITED STATES OF AMERICA; ROBERT M. GATES,
SECRETARY OF DEFENSE, in his official capacity,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
No. CV 04-8425, Honorable Virginia A. Phillips, Judge

**MOTION OF APPELLEE LOG CABIN REPUBLICANS TO EXCEED
PAGE LIMIT ON RESPONSE TO EMERGENCY MOTION FOR STAY**

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Pursuant to Ninth Circuit Rule 32-2, Appellee, Log Cabin Republicans, respectfully requests leave to file its attached Response to the Government's Emergency Motion for Stay Pending Appeal in excess of the twenty pages allotted by rule for responses to motions. See Fed. R. App. P. 27(d)(2).

The judgment that the government seeks to stay enjoins enforcement of the "Don't Ask, Don't Tell" Act, 10 U.S.C. § 654, and is a matter of great public interest and substantial importance. That judgment is supported by an 85-page Memorandum Opinion of the district court, 84 pages of Findings of Fact and Conclusions of Law entered by the district court, a 15-page Order Granting Permanent Injunction, and the record of a six-year litigation history and a two-week full bench trial. The government's motion to stay does not address any of the procedural history of the action below, or any of the district court's many detailed rulings during the course of the proceedings below.

Appellee believes that an adequate exposition of that history, in addition to discussion of the legal issues presented, is important to due consideration of the motion, and is warranted to address these matters fairly and effectively and aid the motions panel's consideration of the motion. Appellee therefore requests leave to file the attached response in excess of the provisions of Fed. R. App. P. 27(d)(2).

Dated: October 25, 2010

Respectfully submitted,

WHITE & CASE LLP

By: /s/ Earle Miller

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CERTIFICATE OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 West Fifth Street, Suite 1900, Los Angeles, California 90071.

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on October 25, 2010.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate system.

I declare that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on October 25, 2010, at Los Angeles, California.

/s/ Earle Miller
Earle Miller