

June 26, 2013

SUPREME COURT STRIKES DOWN DOMA, CLEARS WAY FOR SAME-SEX MARRIAGE IN CALIFORNIA

On June 26, 2013, the U.S. Supreme Court announced decisions in two significant cases regarding laws affecting same-sex marriage:

- The federal Defense of Marriage Act of 1996 (DOMA), which limited marriage to opposite-sex unions for purposes of federal law; and
- California's Proposition 8, which banned same-sex marriages in the state of California.

In [U.S. v. Windsor](#), the Court **struck down Section 3 of the Defense of Marriage Act (DOMA)**, which defined marriage as a union between one man and one woman as husband and wife. In a 5-4 decision, the court found this definition to be a violation of equal protection rights under the U.S. Constitution, holding that same-sex couples who are legally married under state law will be entitled to equal treatment under federal law with regard to income taxes and federal benefits. However, the Court's ruling does not establish a constitutional right to same-sex marriage.

In [Hollingsworth v. Perry](#), the Court **dismissed the case involving California's Proposition 8** in a 5-4 decision, holding that it did not have jurisdiction to hear the case. Proposition 8 was previously struck down by federal courts in California. Supporters of Proposition 8 appealed, but the Supreme Court ruled that they did not have standing to do so. This means the lower court's ruling will stand, allowing same-sex marriages to resume in California.

FUTURE IMPLICATIONS

Both cases will have a significant impact on many individuals and will create issues for state and federal governments and employers. In the days to come, decisions will be made by state and federal agencies on how to specifically implement these rulings. California's Governor Brown has already directed that marriage licenses must be issued to same-sex couples in the state as soon as the court there confirms that the stay on its ruling is lifted.

Guidance is also anticipated from agencies affected by the revised definitions of spouse and marriage on how the ruling affects the laws they enforce, but the Court has essentially redefined these terms under the law. Protections granted to opposite-sex spouses by federal law must now be provided to legal same-sex spouses as well.

The following is a summary of today's Supreme Court rulings.



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DEFENSE OF MARRIAGE ACT

Background

DOMA has two sections regulating same-sex marriage at the federal level:

Section 2 provides that no U.S. state or political subdivision is required to recognize a same-sex marriage treated as a marriage in another state.

Section 3 provides that, under federal law, the term “marriage” means only a legal union between one man and one woman as husband and wife.

Because DOMA barred federal recognition of same-sex marriage, a same-sex spouse was not a legal spouse for federal tax purposes. If a same-sex spouse did not qualify as a tax dependent of the employee under federal tax law, employers were required to report and withhold taxes on the value of employer-provided health coverage for the same-sex spouse. In addition, DOMA affected eligibility for employee benefits that are regulated by federal law.

DOMA has been the target of numerous lawsuits challenging its validity on constitutional grounds. In February 2011, the Obama Administration announced its position that Section 3 of DOMA is unconstitutional and directed the Justice Department to stop defending the law in federal court. However, Republican leaders in the House of Representatives intervened to defend DOMA in legal challenges.

The Court’s Decision

The Supreme Court ultimately ruled that Section 3 of DOMA violates the Constitution’s Equal Protection Clause. In its ruling, the Court concluded that DOMA’s definition of marriage is invalid because it singles out a class of individuals “deemed by a state entitled to recognition and protection to enhance their own liberty.”

The Court concluded that DOMA treats same-sex marriages that are legal under state law as less respected than heterosexual marriages. As a result, the Court held that this section of DOMA is invalid, and that the state’s definition of marriage will apply for purposes of federal law.

The Court’s ruling means that same-sex couples who are legally married under state law will be entitled to equal treatment under federal law with respect to federal benefits. Therefore, in states that have legalized same-sex marriage, a same-sex spouse is now considered a legal spouse for federal tax purposes and same-sex spouses will be eligible for federal benefits in the same manner as other spouses.

The Supreme Court’s decision applies only to same-sex marriages that are legal under state law. Although the Court ruled that Section 3 of DOMA is unconstitutional, the ruling did not establish a constitutional right to same-sex marriage.



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This means that state bans on same-sex marriage continue to be valid. In states that have banned same-sex marriage, a same-sex spouse is not a legal spouse for federal tax purposes.

The Court did not address Section 2 of DOMA, which means that states can still refuse to recognize same-sex marriages that are legal in other states. This issue may be addressed in future cases.

CALIFORNIA'S PROPOSITION 8

Background

In May 2008, same-sex marriage was legalized after the California Supreme Court ruled it was a fundamental right. However, in September 2008, Proposition 8 was passed by California voters. Proposition 8 was a ballot proposition and constitutional amendment stating that only marriage between a man and a woman is valid or recognized in California.

Numerous lawsuits have been filed challenging the validity of Proposition 8 on equal protection and due process grounds. Most recently, in February 2012, the U.S. Court of Appeals for the Ninth Circuit held that Proposition 8 was unconstitutional. However, the court's ruling was stayed pending an appeal to the U.S. Supreme Court.

California's Governor and Attorney General chose not to defend the lawsuits, taking the position that Proposition 8 violates the U.S. Constitution's Equal Protection Clause. ProtectMarriage.com, a proponent group of Proposition 8, intervened in the case to act as the main defendant.

The Court's Decision

The Supreme Court ruled that it did not have jurisdiction to rule on the case involving California's Proposition 8. Although ProtectMarriage.com stepped in as defense when California's Governor and Attorney General chose not to defend the case, the Court held that ProtectMarriage.com did not have the legal right to defend the law in court. As a result, the decision by the Ninth Circuit has no legal force, and the case was sent back to that court with instructions to dismiss it.

Because the Court dismissed the appeal regarding Proposition 8, the trial court's final order will go into effect. This final order prohibits the Governor and the Attorney General from enforcing Proposition 8. As a result, same-sex marriages will likely continue to be legal in California.

ADDITIONAL RESOURCES

Copies of the Supreme Court's decisions are available at www.supremecourt.gov. Each decision can be accessed at the following links:

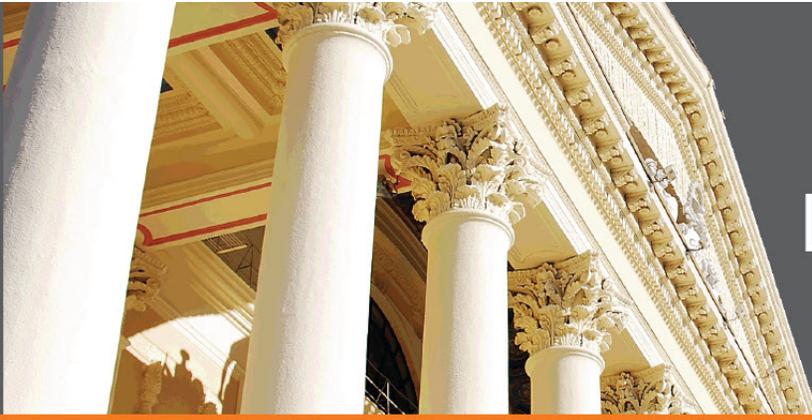
U.S. v. Windsor - http://www.supremecourt.gov/opinions/12pdf/12-307_g2bh.pdf

Hollingsworth v. Perry - http://www.supremecourt.gov/opinions/12pdf/12-144_8ok0.pdf

The information contained in this Legislative Update includes emerging health care news from a limited perspective and does not encompass all views. The information was selected from a wide range of sources selected on the basis of their potential impact on employers and/or their employee benefit plans. For more information, please contact Burnham Benefits.

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A Legislative Brief describing specific impacts of today's rulings to California employers sponsoring employee benefit plans will be forthcoming. In the interim, please do not hesitate to contact your Burnham Benefits consultant with any questions.

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