

WHAT DOES THE **MARRIAGE EQUALITY DECISION OF THE SUPREME COURT** MEAN FOR YOUR ORGANIZATION?

PART 1 FEATURING RICHARD HAMMAR: ATTORNEY, CPA, AUTHOR AND SPEAKER

The Supreme Court of the United States made a landmark 5-4 decision on June 26, 2015 which invalidated laws and constitutional provisions in 13 states defining marriage solely as a union between a man and a woman.

The decision states that “Finally, it must be emphasized that religions, and those who adhere to religious doctrines, may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned. The First Amendment ensures that religious organizations and persons are given proper protection as they seek to teach the principles that are so fulfilling and so central to their lives and faiths, and to their own deep aspirations to continue the family structure that they have long revered. The same is true of those who oppose same-sex marriage for other reasons. In turn, those who believe allowing same-sex marriage is proper or is indeed essential, whether as a matter of religious conviction or secular belief, may engage those who disagree with their view in an open and searching debate. The Constitution, however, does not permit the state to bar same-sex couples from marriage on the same terms as accorded couples of the opposite sex.”

IMPLICATIONS FOR RELIGIOUS ORGANIZATIONS

Two key areas of risk:

1. Will ministers be legally required to perform same-sex marriages?
2. Will churches be required to host same-sex marriages on church property?

Risk #1: Will ministers be legally required to perform same-sex marriages?

It is unlikely that ministers will be legally required to perform same-sex marriages, as per the following:

- Previous SCOTUS rulings suggest clergy will be free to decline to marry same-sex couples without penalty or civil liability; First Amendment’s protection of religious freedom is robust with regard to clergy performance of sacerdotal functions.
- Prior to the SCOTUS decision, clergy was able to refuse to perform marriages on religious grounds (e.g., marriages in which one or both members are not members of the faith, or have been previously married and divorced).
- KEY POINT: No minister has been sued, much less been found liable, for not performing such marriages.
- Every state that recognized same-sex marriage included accommodations for the right of clergy to refuse to perform marriage.
- 37 states previously recognized same-sex marriages, and in most states there was an explicit and unequivocal recognition of the right of clergy to marry, or not marry, any couple on the basis of their religious beliefs.

WHAT DOES THE **MARRIAGE EQUALITY DECISION OF THE SUPREME COURT** MEAN FOR YOUR ORGANIZATION?

PART 1 FEATURING RICHARD HAMMAR: ATTORNEY, CPA, AUTHOR AND SPEAKER

Risk #2: Will churches be required to host same-sex marriages on church property?

A church must determine:

1. If it is a place of “public accommodation” under applicable local, state or federal laws;
2. If so, is an exemption available for churches;
3. If a church exemption exists, have all the conditions for the exemption been satisfied; and
4. The constitutional protections available to churches based on applicable judicial precedent.

Likely conclusions:

- Churches that do NOT rent their facilities to outsiders for marriages and other events face no civil liability for not allowing their facilities to be used to host a same-sex marriage, reception, etc., in violation of their religious beliefs.
- Churches that DO rent their facilities to outsiders for marriages and other events MAY face civil liability for not allowing their facilities to be used to host a same-sex marriage, reception, etc., even if same-sex marriages violate their religious beliefs.



Featuring **Richard Hammar**
Attorney, CPA, Author and Speaker

Mr. Hammar is an attorney specializing in legal and tax issues for churches and clergy. He serves as the Counsel for Assemblies of God, and you may recognize him from his frequent publications across the country.

Please visit www.churchmutual.com to learn more about upcoming webinars and speakers in the CMIC Leaders Webinar Series