

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

PART 2 FEATURING JAMES A. FRIEDMAN: ATTORNEY

How does a case make its way to the Supreme Court? It is based on the following three criteria:

1. Facts
2. Legal/Social Landscape
3. Split in Lower Courts

Obergefell v. Hodges – Supreme Court Decision 2015

What the Court decided and what it did not address

Decided	Did Not Address
States are required to license marriages of same-sex couples	Legality of private, church-sanctioned marriage ceremonies
States are required to recognize marriages of same-sex couples who were licensed in other states	Effect on existing anti-discrimination or public accommodation laws
Contrary state laws are unconstitutional	Effect on insurance coverage for claims under those laws

National vs. Local Battle

Legal cases will most likely arise locally, rather than at the national level, so check local statutes and ordinances.

Examples of Potential Claims

1. Refuse/agree to perform marriage ceremony for same-sex couple
2. Refusal to permit same-sex couple to use facility for marriage ceremony or reception
3. Refusal to provide employment benefits to same-sex spouse
4. Breach of fiduciary duty

Insurance Coverage and Risk Mitigation

1. Insurance coverage is a solid risk mitigation strategy
 - Insurance coverage will not mitigate all risk
2. Every claim and coverage decision is unique
 - Based on specific facts and specific policy language

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Understanding Insurance Coverages

Review all policies:	Risk Management and Mitigation
Multi-Peril/General Liability Coverage	1st Amendment free exercise clause, RFRA (42 U.S.C. §§ 2000bb et seq.), etc. <ul style="list-style-type: none">• See <i>Burwell v. Hobby Lobby</i>, 134 S. Ct. 2751 (2014)
Professional Liability <ul style="list-style-type: none">• Directors, Officers and Trustees Liability• Employment Practices Liability	Confirm bylaws, policies, etc., consistent with church doctrine
Legal Defense Coverage	Enforce bylaws, policies, etc., consistently
Umbrella Coverage	Align use of facilities by members and/or non-members to bylaws, policies, etc., consistently
	Document decisions and reasons
	Consult with your attorney and insurance professionals



Featuring **James A. Friedman**
Attorney

James A. Friedman is an attorney with extensive experience in insurance and reinsurance law. He is the leader of the Insurance & Reinsurance Working Group and a co-leader of the Litigation Team at the Madison, Wis., law office of Godfrey & Kahn, S.C.

He practices in the civil litigation area with an emphasis on insurance coverage, insurance liquidation and guaranty fund work, media law and appellate litigation. James earned his undergraduate degree from Georgia Tech. He graduated with honors from the University of Wisconsin Law School and he received a Master of Public Affairs from the University of Wisconsin.

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