

Married, but Without Benefits: Obergefell Saga Continues in Texas

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Same-sex couples can legally marry, but are they legally entitled to benefits? The *Supreme Court of Texas* will decide this issue after hearing oral arguments in March of 2017 in ***Pidgeon v. Turner***.

This case started in November of 2013, when the City of Houston announced that it would begin offering benefits such as health insurance to same-sex partners of city employees if the spouses were married in a state that recognized same-sex marriage. This policy was in contradiction with the Texas Family Code, which expressly prohibited the state or any political subdivision from giving effect to a right or claim to any benefit asserted as a result of a marriage between persons of the same sex.

Taxpayers Jack Pidgeon and Larry Hicks, residents of the city of Houston, brought a lawsuit seeking temporary and permanent injunctions prohibiting the city from providing benefits to same-sex spouses of city employees married in other states. While Pidgeon and Hicks were initially successful in getting a trial court to block

the city's plan, the city appealed the decision to the Fourteenth Court of Appeals in Texas.

While *Pidgeon* was on appeal, the Supreme Court of the United States decided ***Obergefell v. Hodges***, announcing that “same-sex couples may exercise the fundamental right to marry in all States,” and “there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the grounds of its same-sex character.” Based on the reasoning in *Obergefell*, the Fourteenth Court of Appeals dissolved the injunction and sent the matter back to the trial court for a decision in line with the new Supreme Court precedent.

In their appeal to the Supreme Court of Texas, Pidgeon and Hicks argue that *Obergefell* deals only with access to marriage and that it did not extend to spouses of same-sex employees a right to receive taxpayer-funded benefits.

Pidgeon has garnered support through amicus briefs filed by the Texas governor, Texas attorney general, and state senators and representatives.

Key Takeaways

Pidgeon could have far-reaching effects on employers' obligations to the spouses of employees who are in same-sex marriages. Although this case specifically focuses on a statute that deals with governmental employers, a narrow interpretation of *Obergefell* by the Supreme Court of Texas could open the door for private employers to justify recognizing same-sex marriages but not extend the same benefits to spouses of same-sex employees. Any such ruling would most likely set up an appeal to the Supreme Court of the United States.

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