

# Masterpiece Cakeshop Case Decision: June 4, 2018

## OVERVIEW

The Supreme Court of the United States ruled 7-2 today in favor the owner of Colorado-based Masterpiece Cakeshop, Jack Phillips. Phillips refused to make a wedding cake in 2012 for a same-sex couple, Charlie Craig and David Mullins, citing his faith and objection to same-sex marriage. He argued a First Amendment rights issue; that he cannot be compelled to utilize his artistic talents as a baker for an event that runs contrary to his religious values. Conversely, Craig and Mullins, backed by the Colorado Civil Rights Commission, contend that Phillips' refusal violated public accommodation law and discriminated against the couple based on their sexual orientation.

## INTERPRETING THE RULING

The ruling was narrow and specific to the unique issues within the case itself. SCOTUS found evidence of anti-religious sentiment on the part of the Colorado Civil Rights Commission, and, thus, reversed the Commission's original ruling.

Furthermore, it is important to note that today's SCOTUS ruling **does not** grant businesses the license to discriminate against LGBTQ individuals as many opponents of LGBTQ rights had hoped. In fact, more importantly, the decision reaffirmed the importance of non-discrimination law and makes it clear that states can protect LGBTQ consumers from discrimination

## WHAT YOUR COMPANY NEEDS TO KNOW

There is still no federal law that bans discrimination based on sexual orientation and gender identity. With the Supreme Court decision favoring Masterpiece Cakeshop's owner Jack Phillips, it will be increasingly vital for fair-minded businesses and leaders to:

- Amplify your own policies of equal treatment, respect, and nondiscrimination for your employees, vendors, and customers.
- Be public and proud by making your stance widely known. Consider joining corporate coalitions that endorse "open to all" principles.
- Refresh your own training procedures, if necessary, and communicate them widely. For more information regarding training on LGBTQ issues, visit [outandequal.org/education](http://outandequal.org/education).

## WHAT YOUR COMPANY NEEDS TO KNOW CONT.

- Be active in the public square, advocating for local, state, and federal nondiscrimination laws in public accommodations and in other ways.
- Urge Congress to pass the Equality Act to ensure that LGBTQ individuals are protected from discrimination on a national level.

Businesses may face new challenges from employees who conclude the Masterpiece decision is a personal license, based on their religious beliefs, to deny service or sales to a customer because of their sexual orientation or gender identity. Some may go even farther and misjudge this decision as giving individual religious beliefs priority in serving customers over other characteristics, including race, ethnicity or even other faiths. However, again it is important to understand that today's SCOTUS ruling does not mean businesses can discriminate against LGBTQ individuals. Furthermore, it does not change existing rules that businesses are open to all.

The Movement Advancement Project (MAP) sees the Court's ruling this way:

*"The court's decision affirmed the importance of nondiscrimination laws and the need to protect LGBT people from discrimination. While the decision reversed the original ruling by the Colorado Civil Rights Commission, it did so on grounds that were unique to Masterpiece Cakeshop and this case, finding that the commission had not acted impartially when originally considering the case. As such, this ruling applies only to Masterpiece Cakeshop and does NOT broadly allow similar businesses to discriminate. Rather, the court affirmed that states can protect LGBT people from discrimination in the marketplace."*

## WHAT YOUR EMPLOYEES, VENDORS, AND CLIENTS NEED TO KNOW

While many were unsure of how to interpret the Supreme Court's ruling, the American Civil Liberties Union (ACLU) views the decision this way:

*"Today was the big day for Masterpiece Cakeshop v. Colorado. The Supreme Court reversed the Colorado decision based on concerns specific to this case, but importantly, the Court recognized that the Constitution doesn't give businesses open to the public the right to discriminate. **People are already saying today's decision means that businesses can turn away LGBT people. It doesn't.**"*

Out & Equal knows, as do many of our corporate partners and employers across the country who are committed to the principle of being "Open To All," that organizations are more successful and competitive when they employ diverse talent and serve diverse customers.

Co-authored by Out & Equal and Bob Witeck, founder and President of Witeck Communications. For the past 25 years, he has been an adviser and strategic communications consultant on LGBTQ issues for Fortune 500 corporations and nonprofits [www.witeck.com](http://www.witeck.com)

