

May 2015 Alert: US SUPREME COURT CASE UNLIKELY TO AFFECT NEW MEXICO

On April 28, 2015 the United States Supreme Court heard arguments in the widely-publicized case about whether the United States Constitution requires states to (1) authorize same-sex marriages; and/or (2) recognize same-sex marriages lawfully performed out-of-state. The case, named **Obergefell vs. Hodges**, is actually a combined appeal from four decisions of the US Court of Appeals for the 6th Circuit affecting Ohio, Michigan, Kentucky, and Tennessee. While virtually all other decisions throughout the nation (including by all other US Courts of Appeals) have held that the answer to those propositions is yes, the 6th Circuit Court of Appeals held that the answer is *No*. The Obergefell case is an appeal of that holding, asking the Supreme Court to overrule it and thereby make the answer to the two propositions YES.

The Supreme Court is expected to announce its decision around the end of June. That decision will have nation-wide implications, and there has been intense speculation as how the Supreme Court will decide. However, it is important to be aware that whether the Court overrules or upholds the Court of Appeal's rulings its decision is unlikely to have much effect, if any, on the lawful status of same-sex marriage --- and the benefits rights of same-sex married couples --- in New Mexico. That is because: (1) our *state* Supreme Court's decision requiring recognition of same-sex marriage here, and requiring equal rights for same-sex spouses, was based on our *state* Constitution; and (2) the United States Supreme Court has already ruled that same-sex couples married in states recognizing same-sex marriage have equal rights under federal benefits.