

## Kent Rutter in HR Magazine on SCOTUS Wedding Cake Case

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By Kent Rutter | December 8, 2017

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The U.S. Supreme Court heard oral arguments on Dec. 5 in a case that addresses the tension between lesbian, gay, bisexual and transgender (LGBT) civil rights under state law and the right to free speech and free exercise of religion under the First Amendment to the U.S. Constitution, *HR Magazine* [reported](#).

In *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, a Colorado baker refused to create a wedding cake for a same-sex couple because it would conflict with his religious beliefs. The same-sex couple said this violates a state anti-discrimination law—and the Colorado Civil Rights Commission agreed.

Although the case is not employment-related, the decision could provide a barometer of where the high court stands on LGBT issues, said [Kent Rutter](#), an attorney with Haynes Boone in Houston.

The justices will weigh in on LGBT rights for the first time since the landmark 5-4 decision in *Obergefell v. Hodges*, No. 14-556 (2015), which legalized same-sex marriage nationwide.

Justice Anthony Kennedy's vote in *Obergefell* was determinative of the outcome — and it likely will be in *Masterpiece Cakeshop*, too. "As usual the swing vote will be Justice Kennedy's," Rutter said. "But this will be a tough case for him to decide," he added, noting that in addition to penning the *Obergefell* opinion, Kennedy is also "a fierce defender of free speech." ...

Excerpted from *HR Magazine*. To read the full article, click [here](#).