

## Rutter in HR Magazine on the Supreme Court and LGBT Issues

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PRACTICES Appellate

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*HR Magazine* quoted Haynes Boone Partner [Kent Rutter](#) on cases before the U.S. Supreme Court involving LGBT rights and the implications for employers.

In *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, No. 16-111, the court is scheduled to hear arguments Dec. 5 on whether a baker can refuse to create a wedding cake for a same-sex couple because their marriage conflicts with his sincerely held religious beliefs.

The critical question in the case 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](#). Although the case isn't related directly to employment, a ruling in the case could have implications for the workplace, the magazine reported.

"I would not expect the case to directly affect employment nondiscrimination laws," said Rutter, who co-chairs Haynes Boone's Appellate Practice. "But employers should keep an eye on this case anyway, because this decision may provide a barometer of where the Supreme Court stands on LGBT issues."

While the case will be the first time the justices address LGBT rights since the court's landmark *Obergefell v. Hodges* ruling in 2015 that legalized same-sex marriage nationwide, another case, *Evans v. Georgia Regional Hospital*, could be more significant for employers and HR professionals, *HR Magazine* reported.

The court has not yet decided whether to hear arguments in *Evans*, which raises the issue of whether the prohibition in Title VII of the Civil Rights Act of 1964 against employment discrimination "because of . . . sex" encompasses discrimination based on an individual's sexual orientation.

As *HR Magazine* wrote: The justices could decide anytime between late October and early December as to whether they will hear the *Evans* case, Rutter said. If they do hear the case, it will likely be decided this term—which ends in June 2018.

In the meantime, it is a best practice for employers to have policies that clearly communicate to employees that the business will not tolerate discrimination of any kind, including discrimination based on LGBT or perceived LGBT status, Rutter said: "Make sure those policies are known to employees and that employees understand that those policies will be enforced; otherwise, you open yourself up to the risk of claims under Title VII."

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