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BANKRUPTCY ATTORNEY DISCIPLINED

A Hollywood bankruptcy lawyer is one of 14 South Florida attorneys disciplined by the Florida Supreme Court. **A2**



Coleman

BAR PRESIDENT-ELECT FROM WEST PALM BEACH

West Palm Beach civil litigator Gregory Coleman will be sworn in Friday as president-elect of The Florida Bar, the nation's second-largest state bar group. **A3**

COURT WILL NOT HEAR CANKER CASE

A divided appeals court said it would not reconsider a decision last year that cleared the way for a class-action lawsuit stemming from the state's destruction of tens of

U.S. SUPREME COURT Few immediate benefits in Florida

With federal marriage law struck, same-sex couples now turn to state

by Adolfo Pesquera
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The U.S. Supreme Court decision Wednesday dismantling the federal Defense of Marriage Act may be the thunderous warning of a coming storm in Florida, which twice passed laws making marriage a legal union between a man and a woman.

Mathew Staver, the founder of

Liberty Counsel who championed the 1997 state law and the 2008 constitutional amendment limiting marriage to heterosexual couples, criticized the decision as "simply illegitimate."

"There is no place in the (U.S.) Constitution they could find to support this decision," he said. "It creates out of clear cloth the proposition that you can't have a federal law rec-

ognizing one-man one-woman marriage."

The DOMA opinion was narrowly tailored to address those states with same-sex marriage laws that conflicted with the federal law, said Fort Lauderdale constitutional law attorney Bruce Rogow.

"It is a small but important step

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DOMA: Immigration law respects state where marriage took place

forward in the quest for equal treatment for same-sex couples," he said, citing a famous metaphor from Martin Luther King Jr.: "The arc of the moral universe is long, but it bends toward justice."

Sentiment in the gay and lesbian community was optimistic but cautious. Elizabeth Schwartz, a gay and lesbian activist and family law attorney in Miami Beach, said the decision would have little immediate effect in Florida.

"This is definitely a moment to celebrate, but it just means we have to reinforce our efforts to obtain same-sex marriage," she said.

In the coming months, Schwartz said she and other attorneys will be interacting with the federal agencies to figure out which of them will allow benefits based on where the marriage took place.

Questions remain about whether same-sex couples in Florida will be recognized by the Internal Revenue Service or the Department of Veterans Affairs, Schwartz said. And their status under state law and state benefit programs will continue to exclude them from protection in divorce, inheritance and family medical leave, she said.

IMMIGRATION IMPACT

The one immediate benefit for same-sex couples involves immigration law, which respects marriage based on the state where it took place. A spouse living in Florida who married the partner in a state or country where same-sex unions are recognized would be able to obtain residency for the alien spouse, said Daniel Tilley, an American Civil Liberties Union attorney in Miami.

Greenberg Traurig employee benefits attorney Steve Lapidus in Miami, co-chair of the firm's global benefits and compensation practice, said there are many ways the decision will affect retirement, health and welfare plans regardless of the Florida Constitution.

Death benefits from a 401(k) plan would now go to the surviving spouse, Lapidus said. Some health plans were taxable when same-sex spouses were not recognized, "now they won't be tax-



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ELIZABETH SCHWARTZ
FAMILY LAW AND LGBT
RIGHTS ATTORNEY
MIAMI BEACH



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MATHEW STAVER
FOUNDER
LIBERTY COUNSEL

able," he said. A same-sex spouse also would now be entitled to COBRA medical coverage in a divorce, he added.

A successful challenge to the ban in the state Constitution may remain a daunting endeavor, however.

"I think today the Supreme Court crossed a line from having been deemed a legitimate institution to one that has essentially cast doubt on its legitimacy in the eyes of the people," Staver said.

By painting opponents of same-sex marriage with a broad brush as bigots, he said the high court's rejection of the federal DOMA law would reinforce the majority's opposition in Florida.

"It will ultimately damage the court, damage marriage and eventually chil-

dren in our society," Staver insisted.

There are no active legal challenges to the state law after a number of unsuccessful challenges. But in light of the decision, he acknowledged, "I don't doubt that we will see state challenges all over the country now."

The 2008 constitutional referendum had the backing of 62.5 percent of the popular vote.

"We were the first state to have to pass the 60 percent threshold," Staver said. "I think that would be very hard to undo."

While he believes change through either the Legislature or the ballot is unlikely, state law could be overturned in court. He promised to be involved in

the defense of the constitutional amendment.

FLORIDA CHALLENGE?

Justice Anthony Kennedy wrote, "That avowed purpose and practical effect of [DOMA] are to impose a disadvantage, a separate status and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of the states."

Schwartz said the gay, lesbian, bisexual and transgender community is evaluating its options. With public sentiment shifting over time in favor of same-sex marriage, lifting the ban through court challenge may not be necessary.

"We have to consider which challenge would garner the most likely success," she said.

In the event of a court fight, she noted that the decision helps. It contains strong language indicating the U.S. Supreme Court would frown on bans as discriminatory.

C.J. Ortuño, executive director of SAVE Dade, a Miami-Dade County LGBT activist organization, saw in the decision new-found optimism for challenges at the municipal level.

"Overall, today is a tremendous victory for our movement, but it is not the finish line, especially in the state of Florida and Miami-Dade County where gay and transgender people can still be fired from their jobs," Ortuño said. "That's why we're committed in Miami-Dade to passing a trans-inclusive human rights ordinance that would guarantee employment and housing protections to the local trans community."

Wilton Manors mayor and GrayRobinson shareholder Gary Resnick, representing the largest gay and lesbian community per capita in the nation, called the ruling "one of those rare instances in history that changes our lives. This has tremendous personal meaning for me and my partner, Eric, as a gay couple who have been together for over 12 years."

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