

ZAVOS JUNCKER ■ LAW GROUP, PLLC

Family Law for a Changing World

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Big News in Virginia!

On Thursday February 13, a federal judge declared that Virginia's ban on same-sex marriage is unconstitutional. Read more about this monumental decision below.

UPCOMING EVENTS

Rainbow Families is holding its 2014 Annual Conference this year on Saturday, April 26 at Georgetown Day High School. It's a great way to connect with LGBT families. Go to www.rainbowfamiliesdc.org for more information! Our Firm will be there!

LOCAL UPDATES

Virginia

Virginia's ban on same-sex marriages found unconstitutional!

U.S. District Court Judge Arenda L. Allen Wright issued a landmark ruling February 13, striking down the Commonwealth's constitutional amendment banning marriages between same-sex couples, in the case of [Bostic v. Rainey](#). The Judge stayed her decision pending appeal, so the ban is still in effect. Post-*Windsor*, every judge who has considered bans on marriage equality has struck down those bans.

Read Judge Wright's decision here:

http://media.nbcwashington.com/documents/Gay_Marriage_Ruling.pdf

Mark Herring, Virginia's new Attorney General, has said that he will not defend the state's constitutional amendment and that he will actively work to overturn the law. The 4th Circuit Court of Appeals is scheduled to hear [Bostic v. Rainey](#) on May 12th. If the Court of Appeals issues a decision fairly quickly, which is expected, the U.S. Supreme Court could hear this case during its next term, and there could be a decision on marriage equality for the entire country sometime next year.

See more information at these websites:

<http://www.washingtontimes.com/news/2014/feb/13/federal-judge-strikes-down-virginias-constitutiona/?page=all> <http://www.npr.org/blogs/thetwo-way/2014/01/23/265050444/virginias-new-attorney-general-will-not-defend-gay-marriage-ban> <http://www.buzzfeed.com/chrisgeidner/federal-appeals-court-sets-quick->

[schedule-for-virginia-marriage](#)

Second-Parent Adoptions

Virginia's Senate Rehabilitation and Social Services Committee failed to advance a proposal to authorize second-parent adoptions for same-sex couples in Virginia. A similar bill was introduced in the Virginia House, so the bill may come up again.

REMINDER: IF YOU ARE A LESBIAN COUPLE WHO LIVES IN VIRGINIA (OR ANY OTHER STATE WHERE YOU CAN'T OBTAIN A SECOND-PARENT ADOPTION), YOU CAN GIVE BIRTH IN THE DISTRICT OF COLUMBIA AND OBTAIN A SECOND-PARENT ADOPTION BASED SOLELY ON THE BIRTH OF THE CHILD IN THE DISTRICT. YOU DO NOT HAVE TO MOVE!

Our firm was instrumental in changing the laws in D.C. so that lesbian couples can insure their parental rights to their children even if they can't obtain a second-parent adoption in their home jurisdiction. Surrogacy continues to be illegal in the District, so it is unlikely gay men can take advantage of the new law.

Other Legislation

A Virginia House Committee rejected proposals to include a ban on sexual orientation discrimination in housing and employment. Another House Committee refused to pass a ban on licensed mental-health providers engaging in efforts to change a minor's sexual orientation.

Filing of State Taxes for Same-Sex Married Couples

The Internal Revenue Service has announced that same-sex couples married in a jurisdiction that permits such marriages will be treated as married for federal tax purposes, even if they live in jurisdictions that do not currently recognize their marriages, such as Virginia. Thus, same-sex couples who were legally married outside of Virginia, **MUST** file their federal taxes as married filing jointly or married filing separately. However, on the state level, those same couples **MUST** (for the time being) file as single.

See: http://www.tax.virginia.gov/Documents/TB_13-13_DOMA.pdf

Maryland

MD Transgender Rights Bill

The Maryland Senate passed The Fairness for All Marylanders Act of 2014, which would extend gender-identity protections in employment, housing, credit and public accommodations across the state. The bill is now awaiting a vote in a House of Delegates committee as the bill reached the House floor.

Baltimore City and Baltimore, Montgomery, and Howard Counties have already added gender identity and expression to their non-discrimination laws. Hyattsville became the first jurisdiction in Prince George's County to pass a trans-inclusive anti-discrimination ordinance.

See: <http://www.washingtonblade.com/2014/01/14/maryland-transgender-rights-bill-introduced-monday/>

<http://www.metroweekly.com/poliglot/2014/03/maryland-senate-passes-gender-identity-bill-32-15.html>

Non-Bias Rules for Trans Patients Clarified by Maryland Insurance Administration

The Maryland Insurance Administration issued a bulletin on January 27th mandating that insurance carriers not discriminate on the basis of gender identity against transgender individuals in Maryland.

See: <http://www.mdinsurance.state.md.us/sa/docs/documents/insurer/bulletins/bulletin-1402-transgender.pdf>

Estate Tax

The Maryland Legislature has voted to increase Maryland's estate tax exemption from \$1 million gradually to \$ 4 million by 2018. The Bill has been sent to Governor O'Malley.

See: <http://baltimore.cbslocal.com/2014/03/20/md-senate-approves-raising-estate-tax-exemption/>

District of Columbia

DC Real Property Can Be Transferred on Death by Deed (D.C. Code § 19-604 (2014))

The District now allows real property to be transferred on death (TOD) through a designation on a Deed. TOD Deeds take effect only when the owner dies, and can be an easy and inexpensive way to avoid probate for real estate. The TOD Deed can be changed at any time, like any beneficiary designation, and there are no transfer/recordation taxes due at the time of transfer. A TOD Deed must be recorded in order to be valid, and only a primary beneficiary can be named. Therefore, the TOD Deed could be somewhat cumbersome to use, but can be useful in estate planning. Changing the beneficiary designation requires the recording of a new Deed.

CALL US TO SEE IF THIS DEED MIGHT BE USEFUL FOR YOUR ESTATE PLANNING.

New Health Care Plans May Drop Same-Sex Spouses

Reports are surfacing from a number of states about same-sex spouses being dropped by their new health plans and the plans claiming that they "cannot recognize" these marriages, which are legal in the eyes of the federal government.

See: <http://www.kaiserhealthnews.org/Stories/2014/February/11/Michelle-Andrews-same-sex-couples-denied-marketplace-plans.aspx>

IF THIS HAPPENS TO YOU, PLEASE CONTACT US.

FEDERAL UPDATES

Social Security Benefits for Same-Sex Married Couples and Surviving Spouses

The Social Security Administration (SSA) has said that it is now processing some retirement and surviving spouse claims for same-sex couples and paying benefits where they are due. It will be issuing more policy and processing instructions over the next months. Nonetheless, SSA encourages individuals to apply now to protect themselves against the loss of any potential benefits. If you have questions about how a same-sex marriage may affect your claim, SSA says to call 1-800-772-1213 (TTY 1-800-325-0778) or contact your local Social Security office. To apply:

<https://faq.ssa.gov/ics/support/default.asp?deptID=34019&referrer=>

Second-Parent Adoption after DOMA

We repeat: Even if both members of a same-sex couple are put on the birth certificates of their children at birth, (possible now for lesbian couples in at least 11 jurisdictions) because of their marital, civil union, or domestic partnership relationships, they should still perform a second-parent adoption. Lesbian and gay parents should NOT rely on recognition of their adult relationships alone to insure legal relationships to their children.

Unfortunately, the laws of one jurisdiction are not necessarily recognized by other jurisdictions. Court judgments, however, almost certainly are. State laws create a "status" whereas court orders are judgments that should be given "full faith and credit" by other states, pursuant to the U.S. Constitution. States do not have to give the same "full faith and credit" to a status created in another state. This is why states don't have to honor each other's marriages - being married is a status. So is being a parent if the parent relationship derives from another status, such as marriage.

Our VERY strong advice is to obtain a court order regarding your parental relationship to your children, so that your legal relationship to your children is not dependent on the status between the two parents. These court orders include second-parent adoptions, joint adoptions, judgments of parentage, and pre- and post-birth orders.

PLEASE CONTACT US IF YOU HAVE CHILDREN WITH A SAME-SEX SPOUSE OR PARTNER BUT HAVE NOT OBTAINED ONE OF THESE COURT ORDERS.

Department of Justice (DOJ) Expands Recognition of Same-Sex Marriages

DOJ will further expand federal recognition of same-sex marriages "to the greatest extent possible under the law," according to Attorney General Eric Holder. According to a new policy memorandum, Holder will formally instruct Justice Department employees to recognize same-sex marriages in federal legal affairs such as bankruptcy cases, prison visits and court proceedings even if a state does not recognize same-sex marriages.

To read more about the new policy and its implications:

<http://www.metroweekly.com/poliglot/2014/02/justice-department-to-expand-federal-recognition-o.html>

<http://www.npr.org/blogs/thetwo-way/2014/02/08/273608036/holder-orders-equal-treatment-for-married-same-sex-couples>

<http://www.gayrva.com/news-views/bills-to-allow-second-parent-adoption-head-to-2014-ga-with-bi-partisan-support/>

Transportation Security Administration (TSA)

The Transportation Security Administration will allow same-sex couples to undergo pre-flight security screenings together.

See: <http://www.washingtonblade.com/2014/01/23/tsa-poised-change-airport-security-procedures-gay-couples/>

Federal Estate Tax Portability Election for Same-Sex Spouses

If federal estate tax was paid for someone who died between December 31, 2010 and December 31, 2013, a member of a same-sex couple or opposite-sex couple, IRS Rev. Proc. 2014-18 sets out rules for a claim of a credit or refund of that estate tax, and gives a surviving spouse an extension of time to make a "portability" election. Post-*Windsor*, a surviving same-sex spouse may apply a deceased spouse's unused exclusion amount (deceased spousal unused exclusion amount, or DSUE amount) to a surviving

spouse's subsequent transfers during life or at death. Generally, these rules are important to individuals with estates of over \$5 million.

See: http://www.irs.gov/irb/2014-7_IRB/ar08.html

IF YOU THINK THIS APPLIES TO YOU, IMMEDIATELY CONSULT AN ACCOUNTANT.

Change in DOS position on ART and automatic citizenship transmission upon birth abroad

The Department of State (DOS) policy to determine American citizenship of children born outside the United States using Assisted Reproductive Technology (ART) has changed. A child born to a legally married lesbian couple will be defined as being "born in wedlock" if the baby is conceived from the egg of one mother and carried by the other. But, DOS will still rely on genetics to determine "birth in wedlock" for children born to surrogates.

See: <http://travel.state.gov/content/travel/english/legal-considerations/us-citizenship-laws-policies/assisted-reproductive-technology.html>

Internal Revenue Service (IRS) Issues Additional Guidance on Same-Sex Spouse Benefits

The IRS has clarified how the rules governing cafeteria plans, flexible spending accounts (FSAs) and health spending accounts (HSAs) should be applied in situations involving an employee's same-sex spouse after *Windsor*.

See Notice 2014.1 here: <http://www.irs.gov/pub/irs-drop/n-14-01.pdf>

If you have one of these plans, and are married to your same-sex spouse, your spouse can now be covered and the amounts paid for your spouse's health insurance will not be subject to tax, subject to certain rules.

IF YOU HAVE ONE OF THESE PLANS, YOU SHOULD CONSULT WITH AN ACCOUNTANT AS SOON AS POSSIBLE REGARDING THESE ISSUES.

TIP: IF YOU HAVE RECENTLY MARRIED, OR BEEN DIVORCED, YOU SHOULD REVIEW YOUR ESTATE PLAN, INCLUDING UPDATING ANY BENEFICIARY DESIGNATIONS. MARRIAGE AND DIVORCE HAVE IMPACTS ON YOUR ESTATE PLAN THAT NEED TO BE ADDRESSED. WE ARE HAPPY TO HELP WITH THESE UPDATES.

OUR TEAM



From left: (top row) Katie Caffey, Luis Sosa, Jill Seiferth, Timothy Compton, Kate Ference, Kelli Meredith, (bottom row) Camellia Jacobs, Eva Juncker, Michele Zavos, Emily Neuhausen

Michele Zavos

Michele is the managing partner and founder of the Firm. She works primarily in the areas of adoption, assisted reproductive technology, collaborative law, estate planning, family mediation, LGBT issues, parentage, and probate. She has over 30 years of legal experience and has been a pioneer in the development of legal protections for families, including families headed by same-sex couples. Michele is an elected Fellow of both the American Academy of Adoption Attorneys and the American Academy of Assisted Reproductive Attorneys. She is a member of the National Center for Lesbian Rights' National Family Law Advisory Council, and has been given many awards for her service to the LGBT community. She was named one of the 25 best divorce lawyers in Montgomery County by Bethesda Magazine in 2013. She graduated from The Catholic University of America Columbus School of Law in 1979.

Eva N. Juncker

Eva is a partner with the Firm, and heads the Firm's litigation practice. She has over 14 years of experience litigating divorce, custody, LGBT issues, and dissolution issues. She was named a Virginia Rising Star by Super Lawyers. Eva graduated cum laude from George Mason University School of Law in 1999. She has served on the Board of Directors of the National Gay and Lesbian Lawyers Association and as its affiliate member to the Young Lawyers Division of the ABA. She is also a member of the National Center for Lesbian Right's National Family Law Advisory Council. Eva spent 10 years as a qualified Virginia Guardian ad litem. Eva was also named one of the best divorce lawyers in Montgomery County by Bethesda Magazine in 2013.

Jill Seiferth

Jill joined the Firm in October 2011 as an associate attorney. She received her J.D. from American University's Washington College of Law where she participated in the Domestic Violence Clinic assisting individuals in obtaining civil protection orders. She was also a student federal prosecutor at the United States Attorney's Office, where she prosecuted crimes of domestic violence in the child sex offense unit.

Emily Neuhausen

Emily joined the Firm in October 2012 as an associate attorney. She received her J.D. from American University's Washington College of Law where she participated in the Women and the Law Clinic. She worked in the areas of estate planning and immigration law. She was a member of the Moot Court Honor Society and finished among the top-16 teams at the Domenick L. Gabrielli National Family Law Moot Court Competition at Albany Law School.

Timothy Compton

Timothy is the Firm's adoption, estate planning, and probate paralegal. He has 10 years of legal experience. Timothy is a native of the D.C. metropolitan area and has been an active member of the Academy of Washington, an association that has been involved with the LGBT community for over 50 years.

Luis Sosa

Luis is the Firm's litigation paralegal. Luis is a native of Miami, Florida where he received his B.A. in Liberal Studies/Humanities at Florida International University. Prior to relocating to the Washington, D.C. area and joining the Firm, Luis had over 8 years of experience as a paralegal in the field of family law in Miami.

Kate Ference

Kate is the Firm's administrator. She received her B.A. from the University of Virginia in May 2010, where she double-majored in Sociology and Studies of Women & Gender.

Kelli Meredith

Kelli is the Firm's receptionist. She is a graduate of Trinity University with B.A. in psychology. She has 14 years of experience in the legal profession. Kelli was previously employed with O'Malley, Miles, Nylén & Gilmore, P.A. in Beltsville, Maryland.

Katie Caffey

Katie is the Firm's law assistant and graphic designer. She received her B.A. in 2012 from St. Mary's College of Maryland, where she double-majored in Art History and Economics, with a minor in Women, Gender, and Sexuality Studies.

Camellia Jacobs, Of Counsel

Camellia J. Jacobs is an experienced attorney, mediator, and Collaborative Law practitioner. She has been certified as a family mediator by the Superior Court of the District of Columbia, and the Circuit Court for Montgomery County, Maryland. She received her J.D. from American University's Washington College of Law.

***IF YOU WOULD LIKE ONE OF OUR ATTORNEYS TO TALK TO YOUR GROUP,
PLEASE CONTACT US.***

Interested in learning more about the legal services offered by the ZAVOS JUNCKER LAW GROUP, PLLC? Please visit us on the web at www.zavosjunckerlawgroup.com.

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