

BASF Statements/Reactions on Supreme Court Ruling on Same-Sex Marriage

EQUAL DIGNITY IN THE EYES OF THE LAW: STATEMENT FROM BASF EXECUTIVE DIRECTOR
YOLANDA JACKSON

The Bar Association of San Francisco (BASF) applauds today's ruling by the United States Supreme Court vindicating marriage equality nationwide. Over the eleven years since the first same-sex marriage license was issued in San Francisco, BASF members have worked hard for this day, showing leadership, strength in numbers, and questioning the constitutionality of a ban on same-sex marriage.

In 2008, BASF formed the Marriage Fairness Task Force which brought together over 65 bar associations and organizations throughout California to oppose Proposition 8. The task force helped to found the Lawyer's Leadership Council for Equality, which raised over a half a million dollars for No on 8.

BASF, its members, and presidents wrote letters to the editors, op-ed pieces, and articles about the need to defeat Prop 8 and allow same-sex marriage. A member and past president was the lead attorney in the legal work and arguments in California.

Our board of directors approved the filing of, or joining with, over ten amicus briefs on various cases across the United States calling for same-sex marriage to be allowed under the law.

BASF's board stood firm in its disagreement with the suggestion that "judges should recuse themselves whenever some members of the public might 'perceive' bias based solely on personal characteristics."

Throughout these eleven years, our LGBT Committee has been at the forefront on all these initiatives and has been a consistent voice for change in our laws.

As Justice Kennedy wrote today, we now have "equal dignity in the eyes of the law."

BASF LGBT ISSUES COMMITTEE STATEMENT

Today, the United States Supreme Court handed down its landmark opinion in *Obergefell v. Hodges* and related cases, providing a definitive and affirmative answer to the question of whether the federal Constitution protects the rights of same-sex couples to marry. The opinion, authored by Kennedy, in which Ginsburg, Breyer, Sotomayor, and Kagan, joined, found all state laws banning same sex marriage to be unconstitutional:

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These considerations lead to the conclusion that the right to marry is a fundamental right inherent in the liberty of the person, and under the Due Process and Equal Protection Clauses of the Fourteenth Amendment couples of the same-sex may not be deprived of that right and that liberty. The Court now holds that same-sex couples may exercise the fundamental right to marry. No longer may this liberty be denied to them.

This decision is a huge achievement for the LGBT community nationwide, and marks one of the most significant equal rights decisions of the Supreme Court in decades. The impact of the Supreme Court's opinion will be felt far and wide, strengthening the bond of same-sex families, knocking down discriminatory laws prohibiting same-sex marriage, and helping usher in a new era of equality for LGBT Americans.

The Bar Association of San Francisco applauds the Supreme Court's ruling and appreciates the countless sacrifices made by the Bay Area legal community and beyond that culminated in today's opinion. BASF has long championed equality for LGBT Americans and recognizes today's ruling as a monumental step forward.

Although there is still work to be done, today is a day of celebration for the legal community, the LGBT community, and equality across the United States. BASF is proud of today's achievements, and will continue to champion the fight for equality for all Americans.

COMMENTS FROM BASF MEMBERS AND LEADERS:

"I personally could not be happier. This ruling represents the culmination of so much hard work and creativity on the legal side, and real courage on the part of the many couples around the country who were willing to push boundaries and demand equality. We here in San Francisco and California have a special connection to the marriage equality movement, and I am very proud of BASF's unwavering commitment to the cause."

- Merri A. Baldwin, BASF Treasurer
Rogers Joseph O'Donnell

"With the passage of Prop 8 I cried tears of sadness, with this decision my tears are pure joy."

- Russell S. Roeca, 2009 BASF President
Roeca Haas Hager

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“At the heart of today’s decision is the evolving theory of equality rights for all Americans. That not only makes this a great day for gays but for other outsiders who aspire to reach America’s promise. The Bar Association of San Francisco is proud to have worked with so many others to bring us to this day.”

- James J. Brosnahan, 1977 BASF President
Morrison & Foerster

“Today, we celebrate a Constitution that offers the promise of equality for all, and are humbled by how far we have come on LGBT equality in a single lifetime. In 1986, the year before I came out as lesbian, the United States Supreme Court issued its ruling in *Bowers V. Hardwick*, upholding a Georgia anti-sodomy statute as applied to criminalize same-sex intimacy between consenting adults. In that ruling, the majority adopted and approved the inherited bigotry of the “millennia” against homosexuals. A concurrence by Chief Justice Warren Burger got to the heart of it, saying this about homosexual conduct:

Blackstone described “the infamous crime against nature” as an offense of “deeper malignity” than rape, a heinous act “the very mention of which is a disgrace to human nature,” and “a crime not fit to be named.” 4 W. Blackstone, Commentaries *215. The common law of England, including its prohibition of sodomy, became the received law of Georgia and the other Colonies. In 1816 the Georgia Legislature passed the statute at issue here, and that statute has been continuously in force in one form or another since that time. To hold that the act of homosexual sodomy is somehow protected as a fundamental right would be to cast aside millennia of moral teaching.

It was a scary and dangerous time to be openly gay, and that was even before factoring in the AIDS crisis.

And yet even in the year of *Bowers v. Hardwick*, BASF was already on the right side of history. BASF formed its new Equality Committee in 1986 to make recommendations to eliminate barriers to advancement for historically disadvantaged groups, including lesbians and gay men. By 1990, when I entered law school at Berkeley (Boalt Hall), BASF had become an institutional role model and safe harbor for LGBT professionals. Thankfully, this is the professional culture I have grown up in as a lawyer.

So, as I absorb what today’s marriage decision means to me, to my community of LGBT people, and to the larger



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connected movements for all human rights, I am profoundly affected. I only wish that all of the women and men who struggled and fought for this day were here to enjoy it. Words and laws and institutions matter.

We have more work to do in the LGBT community, but it is a great day to be recognized as a full member of the human race.”

- Kelly Dermody, 2012 BASF President
Lief Cabraser Heimann & Bernstein