

# JULY 2022 NEWSLETTER

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## ESTATE PLANNING CONSIDERATIONS FOR SAME SEX COUPLES IN LIGHT OF THE SUPREME COURT ELIMINATING THE CONSTITUTIONAL RIGHT TO ABORTION IN DOBBS

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### 1. AWARDS:

Pozzuolo Rodden Pozzuolo is pleased to announce that Joseph R. Pozzuolo has been awarded the 2022 Martindale-Hubbel AV Preeminent rating for the Highest Level of Professional Excellence – the highest Peer Review Rating achievable recognizing lawyers for their strong legal ability and high ethical standards. These rating are used to identify, evaluate and select the most appropriate lawyers by attorneys seeking to refer colleagues as well as individuals looking for legal counsel. This designation is trusted worldwide by seekers of legal services and held only by 10 percent of all attorneys.

### 2. SEMINARS:

Jeffrey S. Pozzuolo, Esquire recently presented a CPE seminar titled “Business Succession Planning and Buy-Sell Agreements” to the Montgomery County Society of Certified Public Accountants.

Speakers are available upon request to Joseph R. Pozzuolo at [Joe@Pozzuolo.com](mailto:Joe@Pozzuolo.com)

### 3. BLOGS:

The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website [www.pozzuolo.com](http://www.pozzuolo.com):

- a. Choosing A Retirement Plan;
- b. Living Wills and Power of Attorney; and,
- c. The Use Of A Will In An Estate Plan.

**Please visit our website [www.pozzuolo.com](http://www.pozzuolo.com) for more information on these and other relevant business, tax, estate, business litigation and employment topics.**

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### **ESTATE PLANNING CONSIDERATIONS FOR SAME SEX COUPLES IN LIGHT OF THE SUPREME COURT ELIMINATING THE CONSTITUTIONAL RIGHT TO ABORTION IN DOBBS**

It is safe to say that the United States Supreme Court's June 24, 2022 decision in *Dobbs, State Health Officer of the Mississippi Department of Health et al. v. Jackson Women's Health Organization et al.* has given LGBTQ couples many valid legal precedents to consider. While the Court was careful to note that the decision only applied specifically to abortions, many members of the LGBTQ community feel that it is only a matter of time until the legal argument used in the opinion is extrapolated and applied to other legal precedents and judicial practices. Particularly, many are concerned with Justice Clarence Thomas alluding to potential reconsideration of cases allowing same-sex marriage, contraception, gay sex, etc. Individuals who are part of the LGBTQ, same-sex married community are now considering the legal and estate planning ramifications of what would happen if their marriage was suddenly declared illegal.

Based on the *Dobbs* decision, many estate planning experts are recommending that LGBTQ couples create specific estate planning documents in order to ensure that their wishes and/or end of life decisions are carried out once they cannot voice them and are disabled and/or pass away. Specifically, for LGBTQ couples it is important to have an Advance Health Care Directive as well as a General Power of Attorney document that specifically names the person you wish to be responsible for making legal and/or end of life decisions for you if you become unable to do so.

Further, having a valid Last Will and Testament is extremely important if same-sex marriage is deemed to be illegal in the future. A valid Last Will and Testament will ensure that you are able to have all of your assets and property distributed how you choose once you pass away, regardless of whether you are in a same-sex marriage. Without a valid Last Will and Testament, your assets and property would be subject to being distributed according to very old, antiquated and outdated default intestate inheritance laws; thus, a same-sex partner would not be entitled to inherit your assets and property or be the Guardian responsible for your children upon your death.

LGBTQ couples should also be certain that their beneficiary designations are up to date on bank, retirement and IRA accounts and life insurance policies; otherwise, an ex-mate or family member may be an unexpected beneficiary.

Another area of major concern is parental rights for same-sex couples. In order to calm fears about any potential change in law regarding same-sex marriage, it is recommended that same-sex couples who share children take steps to complete what is the equivalent of “step-parent adoption.” Basically, both spouses should legally adopt any children they share, support and raise ensuring that both parents’ names are on the child’s birth certificate so that in the future, if same-sex marriage is determined to be illegal, both partners still have legal parental rights to the child(ren) they share and raise.

The Supreme Court’s decision in *Dobbs* has brought to light numerous legal and estate planning considerations for the LGBTQ community across the United States, which may come more into focus in the coming years. Consequently, if you are a partner in a same-sex marriage, having a solid, legally binding estate plan in place is mandatory to calm concerns and put to rest any questions about your final wishes. Each individual’s situation is different and has nuanced facts and circumstances. For this reason, if your family situation is “non-traditional,” or you are estranged from your family or expect a family conflict over your property and assets, kindly contact our office to speak with one of our experienced Estate Planning attorneys to discuss your specific facts and circumstances so that we can help you create an Estate Plan that is tailored to your specific family needs and requirements, including the integration of a valid no-contest clause.

This newsletter is courtesy of Pozzuolo Rodden Pozzuolo, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at [INFO@POZZUOLO.COM](mailto:INFO@POZZUOLO.COM).