



## Supreme Court Holds That The Colorado Civil Rights Commission Violated Cake Baker's Religious Freedom Rights

*Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, No. 16-111

Decided June 4, 2018

The Supreme Court held 7-2 that the Colorado Civil Rights Commission violated the Free Exercise Clause when it rejected a baker's religious justification for refusing to create a wedding cake for a same-sex couple.

### Background:

Jack Phillips, a Christian baker, refused to create a wedding cake for a same-sex couple. The couple then filed a discrimination complaint with the Colorado Civil Rights Commission. After investigating, the Commission concluded that Phillips had violated the Colorado Anti-Discrimination Act and rejected his argument that providing the cake would violate his First Amendment rights to free speech and free exercise of religion. The Commission held formal public hearings about the case, during which some commissioners disparaged Phillips' religious beliefs and suggested they were insincere.

### Issue:

Whether the Commission's decision violated the Free Speech Clause or Free Exercise Clause of the First Amendment.

### Court's Holding:

Yes. The Commission violated the Free Exercise Clause because it did not give "neutral and respectful consideration" to the sincere religious beliefs that motivated Phillips' objection.

*"[T]hese disputes must be resolved with tolerance, without undue disrespect to sincere religious beliefs, and without subjecting gay persons to indignities when they seek goods and services in an open market."*

Justice Kennedy,  
writing for the majority

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## What It Means:

- The Court resolved the case on narrow grounds, focusing on the Commission’s animus toward Phillips’ religious beliefs and avoiding broader questions regarding the scope of religious exemptions to facially neutral laws of general applicability.
- The Court articulated principles that should guide the resolution of similar cases in the future, recognizing that “religious and philosophical objections to gay marriage are protected views and in some instances protected forms of expression,” yet cautioning that “such objections do not allow business owners and other actors in the economy and in society to deny protected persons equal access to goods and services.” The Court emphasized that “gay persons and gay couples cannot be treated as social outcasts or as inferior in dignity and worth.”
- State agencies, courts, and other tribunals responsible for enforcing anti-discrimination statutes must consider sincere religious beliefs in a tolerant, neutral, and respectful way, consistent with “the religious neutrality that the Constitution requires.”
- Any future decision in favor of a business owner who refuses goods or services to a same-sex couple based on sincere religious beliefs must be “sufficiently constrained” to avoid imposing a “serious stigma on gay persons.”

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Gibson Dunn's lawyers are available to assist in addressing any questions you may have regarding developments at the Supreme Court. Please feel free to contact the following practice leaders:

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