

Same-sex partners of state employees will keep benefits

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[Employee Benefits -- Same-Sex Partners](#)

by **Dinita L. James**

In a bit of housecleaning after its landmark rulings in two same-sex marriage cases on Wednesday, the U.S. Supreme Court decided Thursday not to hear an Arizona case that was one of 10 others that had been awaiting action raising similar issues. The Court's action is significant to employees of state agencies, who will continue to be able to include their same-sex (but not opposite-sex) domestic partners on their state-provided health insurance.

We have covered the Arizona case, *Brewer v. Diaz*, extensively in *Arizona Employment Law Letter*, with articles appearing in the September 2010, April 2011, August 2012, and January 2013 issues. The controversy started back in 2008, when then-Governor Janet Napolitano's administration began offering healthcare coverage to both opposite- and same-sex domestic partners of state employees. After the November 2008 election, Governor Napolitano went to Washington to become secretary of homeland security, and Jan Brewer succeeded her.

In September 2009, Governor Brewer signed legislation that eliminated coverage for all unmarried domestic partners of state employees, and a federal lawsuit soon followed. The federal trial court in Phoenix blocked enforcement of the law until the case could be tried, finding that it violated the right of gay and lesbian state employees to equal protection of the laws because they couldn't marry to maintain benefits while their peers with opposite-sex domestic partners could.

The state appealed the ruling to the U.S. 9th Circuit Court of Appeals, which covers Arizona, and lost there. The state's petition asking the U.S. Supreme Court to reverse the lower courts and allow the law to be implemented is what was denied Thursday, along with nine other petitions raising same-sex marriage issues the Court had been sitting on while briefing and argument proceeded in the two cases decided Wednesday.

Governor Brewer has issued a statement expressing disappointment that the Court won't hear the case. "In terminating domestic-partner benefits for State employees of every sexual orientation, the action I took with the Legislature was driven by financial necessity rather than a social agenda," she said in the statement. "This case has never been about domestic partners, same-sex or otherwise. It [has] always been about the authority of elected State officials to make decisions with which we have been entrusted by the voters. I'm disappointed the High Court has eroded that authority with its decision."

Look for a full report on what comes next for the case in the August issue of [Arizona Employment Law Letter](#).

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