The following is a compendium of research materials and case law that may be of interest to our AG offices working on affirmative and defensive civil rights matters. Neither the National Association of Attorneys General nor the National Attorneys General Training & Research Institute expresses a view as to the accuracy of any listed articles nor as to the position expounded by the authors of any hyperlinked articles.

FEBRUARY 2015

FEDERAL CASE LAW

U.S. SUPREME COURT – CERTIORARI GRANTED

Same-Sex Marriage – Validity of State Laws Regarding Same-Sex Marriage
Judge Sutton began the opinion for a divided court by citing Baker v. Nelson, 409 U.S. 810 (1972), for the proposition that the issue did not raise “a substantial federal question.” Id. at *14. The majority then applied ordinary rational basis review to the state laws, finding two “plausible reason[s]” why a state would decide to limit marriages to opposite-sex couples: (1) a wish to establish “ground rules” for how to handle children and create “stable family units for the planned and unplanned creation of children,” and (2) a wish to “wait and see before changing a norm that our society (like all others) has accepted for centuries.” Id. at *19-21. The court then explained why it did not believe any higher standard of scrutiny was appropriate. First, the laws at issue were not passed out of animus; they simply “codified a long-existing, widely held social norm already reflected in state law.” Id. at *24. Next, the right for same-sex couples to marry did not “turn[] on bedrock assumptions of liberty,” as states regularly enact limitations on the parties to and types of marriages into which their citizens may enter. Id. at *28. Finally, the court cited precedent from the Sixth Circuit and the Supreme Court for the proposition that the Equal Protection Clause does not apply to legislative classifications based on sexual orientation. Judge Daughtrey dissented, taking issue with both of the proffered “plausible reasons” offered by the states and declaring that she would have found the state laws in violation of the Equal Protection Clause, as all other circuits that have heard the issue since United States v. Windsor, 133 S. Ct. 2675 (2013), have done. The Supreme Court has been presented with and agreed to answer two questions when it granted certiorari: 1) Does the Fourteenth Amendment require a state to license a marriage between two people of the same sex?; and 2) Does
the Fourteenth Amendment require a state to recognize a marriage between two people of the same
sex when their marriage was lawfully licensed and performed out-of-state? The parties are currently
in the briefing stages, and a date for oral argument has not yet been decided.

Prisoner Litigation – Rights of Pretrial Detainees
Kingsley v. Hendrickson, No. 14-6368 [744 F.3d 443 (7th Cir. 2013)]
The extent of protection from physical force that the Fourteenth Amendment affords to pretrial
detainees will appear before the Supreme Court this year in the case of Kingsley v. Hendrickson, 744
F.3d 443 (7th Cir. 2013), cert. granted, No. 14-6368, 2015 U.S. LEXIS 621 (U.S. Jan. 16, 2015). The
plaintiff in the case, Kingsley, was imprisoned awaiting trial when a group of officers attempted to
move him to a new cell. After the officers moved Kingsley, they attempted to take his handcuffs
off. A scuffle ensued, which ended with the officers applying a Taser to Kingsley. Kingsley brought
suit against the officers under 42 U.S.C. § 1983, alleging that they used excessive force to detain him.
Because Kingsley was a pretrial detainee (not a prisoner), he stated his claim under the Fourteenth
Amendment’s protection of due process, instead of the Eighth Amendment’s protection against
cruel and unusual punishment. The case proceeded to trial, and the jury was instructed that—in
order to return a verdict for Kingsley—it had to find (among other things) that (1) the officers’ use
of force was unreasonable, and (2) that the officers knew the use of force presented a risk of harm
to Kingsley, but they recklessly disregarded Kingsley’s safety. The jury returned a verdict for the
officers. Kingsley appealed, claiming that the jury instruction was defective because it included both
an objective (unreasonable) and a subjective (reckless disregard) element. While proving a violation
of the Eighth Amendment does require a subjective element (the intent to punish), Kingsley argued
that the Fourteenth Amendment has no such requirement, and that violations for excessive force
should be evaluated solely under the objective standards of Fourth Amendment jurisprudence. The
Seventh Circuit disagreed with Kingsley and affirmed the jury’s verdict. The majority noted that the
Supreme Court has yet to articulate the precise scope of the Fourteenth Amendment in comparison
to the Eighth Amendment. However, the court drew on its own precedent to conclude that a claim
under the Fourteenth Amendment, like the Eighth Amendment, requires some subjective intent to
punish. Judge Hamilton dissented, arguing that a plaintiff need only show intent in the form of a
volitional act and need not show an intent to punish. The Supreme Court will answer the specific
question of whether the requirement of a 42 U.S.C. § 1983 excessive force claim brought by a
plaintiff who was a pretrial detainee at the time of the incident are satisfied by a showing that the
state actor deliberately used force against the pretrial detainee and the use of force was objectively
unreasonable. A date for oral argument has not yet been set.

U.S. SUPREME COURT – DECIDED CASES

Prisoner Litigation – Rights under the Religious Land Use and
Institutionalized Persons Act
The Supreme Court issued its unanimous decision in Holt v. Hobbs, No. 13-6827, 2015 U.S. LEXIS
626 (Jan. 20, 2015). The case involves an inmate’s right to grow a half-inch beard. Holt, the
petitioner inmate, claimed that his religion as a Muslim dictated that he grow a half-inch beard;
however, the Arkansas Department of Correction (the “Department”) forbade beards except on inmates who had a specific dermatological condition. Even for those inmates, beard length was restricted to a quarter-inch. The Court’s unanimous opinion began by noting that Holt had met his initial burden under the Religious Land Use and Institutionalized Persons Act (RLUIPA) by showing (1) that the growing of a beard was a religious exercise grounded in a sincerely held religious belief, and (2) that the Department’s policy imposed a “substantial burden” on the religious exercise by requiring Holt to “engage in conduct that seriously violates [his] religious beliefs” (the shaving of his beard). Id. at *7. The burden then shifted to the Department to show that its refusal to allow Holt to grow a one-half-inch beard was the least-restrictive means of furthering a compelling governmental interest. The Department presented two specific compelling interests that its policy served: (1) to prevent prisoners from hiding contraband in their beards, and (2) to prevent prisoners from easily changing their appearance by shaving off their beards. The Court, however, declined to accept the Department’s policy as the least restrictive means to accomplish either interest. Addressing first the contraband concern, the Court noted that the Department could either have guards search inmates’ one-half-inch beards—as it does with clothing, hair, and quarter-inch beards—or have the prisoner himself run a comb through his beard. Either would be a “less restrictive alternative” to a complete ban on one-half-inch beards. As for the concern regarding a prisoner altering his appearance, the Court proposed that the Department could “largely solve this problem by requiring that all inmates be photographed without beards when first admitted to the facility and, if necessary, periodically thereafter.” Id. at *12. The Court found unpersuasive the Department’s contrary arguments, noting that other prison systems employ similar rules and that the Department had failed to show why a one-half-inch beard posed a substantially greater threat than a quarter-inch beard, mustache, or head hair—all of which were allowed. In sum, the Department had failed to show that its policy was the least restrictive means of accomplishing its compelling interest, and the policy therefore violated RLUIPA.

**DECIDED FEDERAL CASES**

**Employment Law – Causation in a Retaliation Claim**


The Seventh Circuit issued its opinion in *Greengrass v. International Monetary Systems, Ltd.*, No. 13-2901, 2015 U.S. App. LEXIS 464 (7th Cir. Jan. 12, 2015), holding that a company might violate Title VII’s retaliation provisions when making disclosures required by the SEC. In *Greengrass*, the plaintiff (an employee at International Monetary Systems, or IMS) filed a complaint with the EEOC, alleging sexual harassment by a supervisor. Under SEC rules, IMS had to disclose any potential legal liability in its annual SEC filings. IMS disclosed the plaintiff’s complaint in its filing, naming the plaintiff and characterizing the complaint as “meritless.” The plaintiff then filed suit against IMS, contending that disclosing her name constituted a retaliatory action in violation of Title VII. The district court granted summary judgment to the defendant, holding that the plaintiff could not prove that her complaint caused the SEC filing because IMS was required by law to issue the filing. She appealed, and the Seventh Circuit reversed the district court’s decision. The Seventh Circuit explained that, while IMS was required to disclose its potential legal liabilities, it was not required to name the plaintiffs. Indeed, the plaintiff here had introduced at least some evidence that IMS’s prior practice
was not to name plaintiffs. Along with other information the plaintiff planned to introduce (for example, signs of animus by IMS), the evidence created a question of fact as to the impetus of the employer’s decision to change its prior practice of not naming plaintiffs. Summary judgment for the defendant was therefore inappropriate, and the case was remanded.


Although the case concerns only Pennsylvania law, the Third Circuit’s decision in *Pearson v. Secretary Department of Corrections*, No. 13-1412, 2015 U.S. App. LEXIS 247 (Jan. 7, 2015), sheds light on how federal courts might interpret state tolling provisions when deciding the timeliness of claims under 42 U.S.C. § 1983. Pennsylvania law provides for a 2-year statute of limitations on personal injury claims—and therefore on 42 U.S.C. § 1983 claims—but tolls the statute of limitations when commencement of a suit is stayed by “court or by statutory prohibition.” Before filing suit, Pearson attempted to invoke the prison’s grievance process. After he was unable to obtain redress through filing a grievance, Pearson filed suit; however, the district court dismissed his claim because the statute of limitations had run. The Third Circuit reversed, reasoning that 42 U.S.C. § 1983’s exhaustion of remedies requirement qualified as a “statutory prohibition” that tolled the statute of limitations as long as a prisoner was proceeding through the grievance process.

**Government Employees – Ability to Investigate and Discrimination in Discipline**


The ability of state governments to discipline their employees arose several times this month, including in the case of former Michigan state court judge Sylvia James. *James v. Hampton*, No. 14-1151, 2015 U.S. App. LEXIS 384 (6th Cir. Jan. 7, 2015) (unpublished). The Michigan Judicial Tenure Commission (JTC) investigated James, an African-American Judge (prior to removal from Office), for certain claims of financial wrongdoing and abuse of office, and this investigation eventually led to her removal from office. The JTC alleged in its formal complaint that James engaged in judicial misconduct involving financial, administrative, and employment improprieties, and made misrepresentations to the JTC during the course of the investigation. During this investigation, James alleged that her safe and office were searched without her permission, that exculpatory evidence was removed from her safe, and that she was singled out for punishment because of her race. James alleged that white judges who engaged in serious wrongdoing did not receive any disciplinary action from the JTC, and that engaged in activities, such as improper personal contact with a litigant in a case that resulted in an improper termination and subsequent pay-off to court personnel; retaliatory termination of court employee; conspiring to fire a court employee after a judge’s wife was embarrassed; and improperly terminating a whistleblower employee. All five judges faced civil lawsuits that resulted in unfavorable outcomes. However, because the JTC failed to pursue any disciplinary action, James alleges that she was treated differently. James therefore filed a suit under 42 U.S.C. § 1983, alleging violations of her
constitutional rights. The district court dismissed James’s suit for failure to state a claim. James appealed, and in a fractured opinion the Sixth Circuit reversed in part the decision of the district court. Although each judge wrote separately, the two opinions that made up the holding agreed that the search of James’s safe violated her rights under the Fourth and Fourteenth Amendments, as the safe was kept locked in her office and used primarily for personal (as opposed to professional) purposes. In addition, the court held that James had adequately pled a violation of the equal protection clause of the Fourteenth Amendment. James “identifie[d] herself as a member of a protected class, detail[ed] the JTC investigation against her . . . and identifie[d] and describe[d] the misconduct of five white state court judges who were not investigated or disciplined by the JTC.” Id. at *19. These assertions, the Sixth Circuit held, “raise[d] a right to relief above the speculative level,” and rendered the district court’s dismissal of James’s claim inappropriate.


*Georgia State Conference of the NAACP v. Fayette County Board of Commissioners, No. 14-11202, 2015 U.S. App. LEXIS 204 (11th Cir. Jan. 7, 2015)*

While *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project* has been progressing through the Supreme Court, the Eleventh Circuit delivered its opinion in another voting rights case, *Georgia State Conference of the NAACP v. Fayette County Board of Commissioners, No. 14-11202, 2015 U.S. App. LEXIS 204 (11th Cir. Jan. 7, 2015)*. The case before the Eleventh Circuit concerned the districting scheme used to elect board members to the Fayette County Board of Commissioners (BOC) and the Fayette County Board of Education (BOE). Fayette County lies in Northwest Georgia, and its population is predominately white (73.6%) with a significant African American minority (19.5%). At the time the suit was filed, although only one board member was elected from each district in Fayette County, members of both the BOC and BOE were elected at large by the whole county’s vote. No African American candidate had ever won a position on either board. The NAACP filed suit, seeking to have the BOC and BOE create a minority-majority district in Fayette County. The NAACP reached a consent agreement with BOE in which the BOE admitted that the at-large election method violated Section 2 of the Voting Rights Act; however, that agreement was rejected by the district court. Thereafter, the BOE ceased its participation in the case. The BOC, on the other hand, continued to dispute that the minority percentage was numerous enough and geographically compact enough to adequately state a Section 2 claim. Each side introduced testimony of an expert it intended to call on the questions of numerousness and compactness. The NAACP then moved for summary judgment against BOC, which the court not only granted, but *sua sponte* awarded summary judgment against BOE as well. BOE and BOC both appealed to the Eleventh Circuit. First, the circuit court noted that the NAACP had not moved for judgment against BOE. While a court may grant summary judgment *sua sponte* under Federal Rule of Civil Procedure 56(f), it must first give notice to the parties—a requirement it had not fulfilled here. The grant of summary judgment against BOE was therefore reversed. Next, the court turned to the grant of summary judgment against BOC. Each side had presented evidence as to the numerousness and compactness of the minority group, and a genuine issue of material fact existed as to these characteristics. Hence, the district court had inappropriately weighed the evidence in the
summary judgment stage of the litigation, where “[i]f any fact issues exist a trial judge must not make findings but is required to deny the motion and proceed to trial.” *Id.* at *21. The Eleventh Circuit therefore held that the district court had erred in both grants of summary judgment and remanded the case for further proceedings.

**Higher Education – Ability of Universities to Refuse Graduation**


The case does not fall within the traditional realm of civil rights litigation, but it is noted here for guidance for those who practice education law. The Sixth Circuit issued a decision this month regarding the ability of medical schools to refuse degrees to students whom they feel “lack[] the professionalism required to discharge [their] duties responsibly.” *Al-Dabagh v. Case W. Reserve Univ.*, No. 14-3551, 2015 U.S. App. LEXIS 1464 (6th Cir. Jan. 28, 2015).

While progressing through medical school at Case Western Reserve University, Amir Al-Dabagh “did well academically,” even winning an award for “Honors with Distinction in Research.” *Id.* at *3. The school, however, found his professionalism lacking and repeatedly confronted Al-Dabagh regarding his behavioral issues. These confrontations culminated in April 2014—after the University had invited Al-Dabagh to graduate—when it learned that North Carolina had convicted Al-Dabagh for driving while intoxicated. Case Western dismissed Al-Dabagh, and he filed suit against the University for breaches of good faith and fair dealing. The Sixth Circuit disagreed with Al-Dabagh, holding that Case Western had not breached any duty it owed to Al-Dabagh. Emphasizing that “[p]rofessionalism has been a part of the doctor’s role since at least ancient Greece,” the court employed a “deferential standard” to determine that the University’s dismissal of Al-Dabagh was justified. *Id.* at *7-10. Al-Dabagh’s claim was therefore dismissed.

**Identity Theft Laws - Immigration**


Plaintiffs challenged the constitutionality of two Arizona statutes related to identity theft laws (those that make it a crime to knowingly take the name, birth date, or social security number of another person without the person’s consent and with unlawful intent to cause financial loss to the person). They alleged that these laws were unconstitutional because they are preempted by federal immigration law under the Supremacy Clause and because they impermissibly discriminate against noncitizens in violation of the equal protection clause. The plaintiffs in *Puente v. Arpaio* included an arrestee under the challenged laws and an organization representing the immigrant community. They sought to have the laws deemed unconstitutional but also to have an injunction imposed, preventing Maricopa County, Arizona, officials from using documentation employees used to obtain employment as a basis to make arrests or prosecute individuals under the law. Defendants filed a motion to dismiss, arguing that the plaintiffs lacked standing, that they failed to state a claim, that the County was not a proper party, and that the complaint includes irrelevant information. The District Court resolved numerous issues in its Order, but, as to the civil rights equal protection claim, it refused to dismiss the plaintiffs’ equal protection claim on the grounds that they were attacking the laws directly as being unfairly applied to an unpopular group as opposed to the defendant’s argument that the laws were not being applied in a discriminatory manner. The Court
granted the injunction against the defendants from enforcing the law, finding that certain plaintiffs met the four-prong test required for injunctive relief.

**PENDING FEDERAL CASES**

**First Amendment – Religious Discrimination**


The case of *Hassan v. City of New York* is before the Second Circuit this month. *Hassan* involves a program implemented by the New York City Police Department, involving surveillance and documentation of mosques, their congregation members, and Muslim-owned businesses and organizations (the “Program”). The NYPD did not publicize the Program; however, the Associated Press (AP) broke a story about it. After the AP’s story, a group of Muslim organizations and individuals alleged that the Program caused them a series of spiritual, stigmatic, and pecuniary losses that stemmed from religious discrimination in violation of the 1st and 14th Amendments. The district court below dismissed the plaintiffs’ case for lack of standing, holding that there was no injury sufficient to give the plaintiffs standing and that—even if such injury existed—it was caused by the AP’s article publication, not the NYPD’s Program. *Hassan v. City of New York*, Civ. No. 2:12-3401 (WJM) at *5-7 (D.N.J. Feb. 20, 2014). In addition, citing *Ashcroft v. Iqbal*, 556 U.S. 662 (2009), the district court held that plaintiffs failed to allege that the NYPD acted with the requisite purpose to invidiously discriminate against the plaintiffs, and the plaintiffs had thus failed to state a claim. *Id.* at *9-10. Oral argument of the case was heard on January 13 and is available [here](#).

**Employment Law – Applicability of Title VII to Transgender Employees**


**Voting Rights – Vote Dilution**


A group of white plaintiffs filed a complaint in the Northern District of Texas, alleging that Dallas County’s districting scheme “violate[s] the rights of Dallas’s Anglo minority.” *Original Complaint, Harding v. County of Dallas*, No. 3:15-cv-00131-D (N.D. Tex. Jan. 15, 2015). The complaint claims that the County Commissioners Court drew its districts to “intentionally crack and pack Dallas’s Anglo minority . . . to provide Anglos a . . . less-than-equal opportunity to participate in the political process.” *Id.* at *5. The plaintiffs state claims under the Voting Rights Act, the Fifteenth Amendment, and the Equal Protection Clause of the Fourteenth Amendment.
Americans with Disabilities Act – Constitutionality


A transgender woman in the Eastern District of Pennsylvania has challenged the constitutionality of the transgender exclusion in the Americans with Disabilities Act. *Pl.’s Mem. in Opp’n to Def.’s Mot. To Dismiss, Blatt v. Cabela’s Retail, Inc.*, No. 14-4822 (E.D. Pa. Jan. 20, 2015). Kate Lynn Blatt sued her former employer, Cabela’s, under the ADA, alleging that Cabela’s failed to accommodate Blatt’s transgender status. The ADA, however, contains an explicit exclusion for “gender disorders not resulting from physical impairments.” Blatt contends that this exclusion violates the Fifth Amendment’s implied guarantee of equal protection. Specifically, she argues that legislation directed at transgender individuals should receive heightened scrutiny and that the gender disorder exclusion fails to pass such a review. Additionally, she proposes that the gender disorder exclusion even fails to pass rational basis review. Her motion is currently under review by the district court.

Prisoner Litigation – Transgender Prisoners


LeslieAnn Manning, a transgender woman being held at a men’s maximum-security prison, has filed suit against several prison staff who she claims showed “deliberate indifference” that resulted in her rape. *Complaint, Manning v. Griffin*, No. 15 CV 003 (S.D.N.Y. Jan. 5, 2015). According to Manning’s complaint, she was working as an inmate program associate while incarcerated at the Sullivan Correctional Facility in New York. During her shift, one of Manning’s supervisors tasked her with delivering a paper to another inmate who was alone in a classroom. After delivering the paper, Manning claims that she was assaulted and raped by the inmate. Manning’s complaint states claims under the Eighth and Fourteenth Amendments for what she argues was the prison’s deliberate indifference to her vulnerable condition. This case emphasizes the often difficult question of how prisons should handle transgender inmates.

**STATE CASE LAW**

**DECIDED STATE CASES**

Public Employees – Free Speech & Government Termination Rights


The Michigan Court of Appeals decided an appeal concerning the ability of a state to terminate its employees for offensive off-duty speech, as well as the employee’s subsequent ability to collect unemployment compensation. *Shirvell v. Dep’t of Attorney General*, No. 314223, 2015 Mich. App. LEXIS 8 (Mich. Ct. App. Jan. 8, 2015). Shirvell worked as an assistant attorney general with the Michigan Department of the Attorney General (the Department). While working for the Department, Shirvell maintained a blog aimed at the president of the University of Michigan Student Assembly, Chris Armstrong. This blog focused on Armstrong’s homosexuality and included...
references to what Shirvell termed Armstrong’s “radical homosexual agenda,” which Shirvell compared to that of Nazi Germany. Shirvell appeared on several television and radio stations, and—although Shirvell attempted to disassociate himself from the Department—his position as an assistant attorney general was typically noted during the programming. Although the Department attempted to reach a compromise with Shirvell, it eventually decided that his activities compromised the Office and its work and terminated Shirvell. Shirvell challenged his termination, arguing that it violated his First Amendment right to free speech and further challenged the Unemployment Insurance Agency’s denial of his unemployment compensation. The Michigan Court of Appeals first balanced the interests of Shirvell with the interests of the Department, employing the balancing test from *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968). The Michigan Court of Appeals determined that Shirvell’s speech interests were outweighed by the Department’s interest in the efficient provision of public services. The court emphasized the role of the Department in representing citizens, and how Shirvell’s actions had undermined the Department’s programs, specifically those related to cyber-bullying. Moreover, Shirvell’s behavior “evinced a willful disregard of the Department’s interests,” sufficient to justify denying him unemployment compensation. As such, the Court held that, not only did the Department not violate Shirvell’s right to free speech, but further that Shirvell was not entitled to unemployment compensation.

**Government Employees—Rights to Promotion**


The New Jersey Superior Court decided the case of *In re Camuso*, 2015 N.J. Super. Unpub. LEXIS 106 (App. Div. Jan. 20, 2015) (unpublished), involving when a refusal to promote an employee can create a claim for discrimination. Glenn Camuso worked as a captain for the Newark Police Department (NPD), which had a vacancy for a deputy chief (the position superior to Camuso’s). The state Civil Service Commission created a list of three eligible candidates for the position, and Camuso’s name was third on this list. However, the NPD decided not to promote anyone to the deputy chief position and requested that the Commission cancel the list. Camuso filed an administrative appeal of this decision with the Commission, claiming that he was not promoted because of his political affiliation and his race. The Commission denied Camuso’s appeal, noting that the NPD had not passed over Camuso for another candidate—instead, it had decided not to promote anyone, as was its prerogative. Camuso appealed to the New Jersey Superior Court, which likewise rejected his appeal. The court held that the mere presence of Camuso’s name on the list did not give Camuso the right to a promotion. Instead, it merely gave Camuso the right to be considered for a promotion if the NPD chose to promote anyone. As the NPD gave a credible non-discriminatory reason for not promoting anyone (lack of funding), Camuso could not prove a case of discrimination, and his appeal was denied.
**PENDING/IN-PROGRESS STATE CASES**

**Same-Sex Marriage – Ability to Decline to Provide Wedding-Related Services on Basis of Sexual Orientation**


A flower shop in Washington state is facing claims under the state’s Consumer Protection Act (CPA) and the Washington Law Against Discrimination (WLDA) for refusing to provide flower arrangements for a same-sex couple’s wedding in *Washington v. Arlene’s Flowers, Inc.*, No. 13-2-00871-5 (Sup. Ct. Wash. Jan. 7, 2015). Barronelle Stutzman owns Arlene’s Flowers, a shop that provides and arranges flowers for weddings. When she received an order to provide flowers for a same-sex wedding, Stutzman declined, stating that her religious beliefs prevented her from providing arrangements for such a ceremony. The couple then sued Stutzman for violating the CPA and the WLDA, and the Washington Attorney General joined the suit. The Superior Court hearing the case has yet to rule on Stutzman’s constitutional defenses, but it has held that the attorney general has standing to bring the case. *Arlene’s Flowers* parallels a case currently on appeal in Colorado, *Craig v. Masterpiece Cakeshop, Inc.*, No. 2013 CR 0008 (Colo. Civil Rights Comm’n 2014), in which the owner of a cake shop refused to fill an order for a same-sex couple’s wedding.

**FEDERAL NOTICES AND REGULATIONS**

**Fair Housing — Re-Opening Public Comment Period on Subject of Later First AFH Submission Date for Certain Entities**

*Proposed Rule; Re Opening Of Comment Period For A Specific Topic*

The Department of Housing and Urban Development (HUD) has proposed extending the submission date for the first Assessments of Fair Housing (AFHs) for several entities, including states. HUD reasons that the AFH process may be better suited for local jurisdictions, and that states and insular areas might therefore require more time to prepare to submit their AFHs. In addition, HUD has decided to design a separate Assessment Tool for use by states and insular areas, in order to address commenters’ concerns.