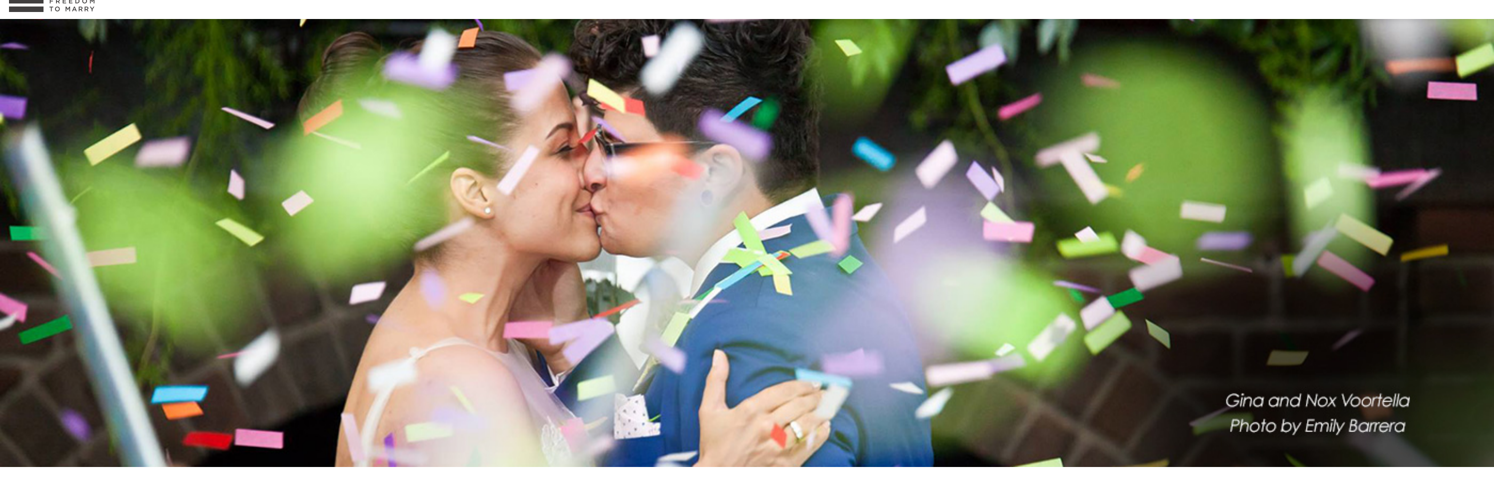

Winning the Freedom to Marry Nationwide: The Inside Story of a Transformative Campaign

- Chapter 1: Pioneering the Marriage Movement
- Chapter 2: Launching the Movement
- Chapter 3: Creating Freedom to Marry
- Chapter 4: Winning the First State
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"Our nation was founded on a bedrock principle that we are all created equal," President Barack Obama declared just after 11:00am on Friday, June 26, 2015. "The project of each generation is to bridge the meaning of those founding words with the realities of changing times - a never-ending quest to ensure those words ring true for every single American."

Less than an hour before, the United States Supreme Court issued a landmark ruling that the Constitution guarantees the freedom to marry to same-sex couples.

President Obama continued: "Progress on this journey often comes in small increments, sometimes two steps forward, one step back, propelled by the persistent effort of dedicated citizens. And then sometimes, there are days like this, when that slow, steady effort is rewarded with justice that arrives like a thunderbolt."

The president's words could not have rung out more powerfully: As he delivered his remarks, same-sex couples were at last legally marrying in Georgia, in Ohio, in Texas, in Mississippi, with city and town clerks throughout the country nationwide preparing to issue marriage licenses to all loving couples in the coming hours and days. The immediate, tangible impact was overwhelming.

> No union is more profound than marriage, for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. ... [These men and women] ask for equal dignity in the eyes of the law. The Constitution grants them that right.
>
> *- The Supreme Court of the United States, Obergefell v. Hodges, June 26, 2015*

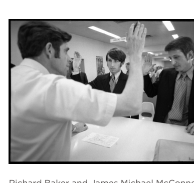
Members of the Freedom to Marry team celebrate in New York City following the U.S. Supreme Court victory in *Obergefell v. Hodges*.

Our nation will remember June 26, 2015 as the day that Love Won – a day where all of America could proudly celebrate a triumphant transformation. The pathway to this final victory stretched back for miles and years, drawing on those "small increments" and the "countless, often anonymous heroes" that the President acknowledged. The decades-long journey required the effort, energy, talents, and passion of a movement and millions of people – as well as a national strategy and a campaign to drive that strategy every single day. It required a dream, and it depended on a national conversation among all Americans about who gay and lesbian people are – and why marriage matters.

But how did we get here? How did gay people go from being an oppressed minority, whose love was denied and scorned, to a group that claimed the freedom to marry and at last won respect, dignity, and equality for their love and for their families? This is the story of the movement that transformed a nation, the strategy that movement followed, and the campaign that drove that strategy to victory: Freedom to Marry.

Chapter 1: Pioneering the Marriage Movement

THE EARLY YEARS (1970S-1983)



Richard Baker and James Michael McConnell were among the early pioneers who sought the freedom to marry in court in the 1970s and 1980s.

Within living memory, gay people in America were a despised, oppressed minority. Same-sex couples' love was scorned, summarily rejected by enormous swaths of the country, feared, deemed "immoral" and "pathological," and made illegal. The notion of same-sex couples lawfully marrying was unthinkable - and early pioneers who bravely stepped forward to claim the freedom to marry were met with derision and venom.

From the dawn of the modern LGBT movement, in the immediate aftermath of Stonewall in 1969, same-sex couples in several states filed legal challenges seeking the freedom to marry. Courts of Appeals in Washington and Kentucky dismissed cases, with the Kentucky judge writing, "What they propose is not a marriage." In Colorado an American was forced to choose between his country and the love of his life, an Australian man, when their legal request for a spousal visa was denied by the Immigration & Naturalization Service which literally wrote, on government letterhead: "You have failed to establish that a bona fide marital relationship can exist between two faggots." And in 1972, a Minnesota couple took their attempt to marry all the way to the U.S. Supreme Court, which summarily turned down the case "for want of a substantial federal question."

The country wasn't ready, and the cases were rubber-stamped away. Too many Americans were unfamiliar with gay and lesbian people, and following these cases – beginning in 1972 with Maryland – several states passed statutes explicitly banning marriage between same-sex couples.

Evan Wolfson wrote one of the earliest analyses of the freedom to marry for same-sex couples in 1983 with his Harvard Law School thesis.

In 1983 during his third year at Harvard Law School, Evan Wolfson wrote his thesis on the freedom to marry, asserting gay people's claim to this constitutional right. The 140-page thesis, written at a time when same-sex couples had no country- or state-level recognition anywhere in the world (let alone marriage), explained that denying one class of people access to marriage was state-sponsored discrimination that required correction.

Wolfson, now often referred to as the "godfather" and "architect" of the marriage movement, believed that by claiming the resonant vocabulary of marriage (love, commitment, connectedness, and freedom), same-sex couples could transform the country's understanding of who gay people were and, as a result, why exclusion and discrimination are wrong. The fight for marriage would function as a powerful engine to change hearts and minds, which would provide impetus to enact legal protections for LGBT people even beyond including same-sex couples in marriage.

Wolfson's pioneering vision in this paper later served as the inspiration for the national strategy to win marriage for same-sex couples, anticipated the case for ending marriage discrimination that would prevail in the courts of law and the court of public opinion, and framed the national campaign behind the strategy that won, Freedom to Marry.

A PIONEERING VISION

Samesex Marriage and Morality: The Human Rights Vision of the Constitution

In 1983, Evan Wolfson wrote his Harvard Law School thesis on the freedom to marry, which later served as the foundation for the national strategy to win marriage for same-sex couples.

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Chapter 2: Launching the Movement

THE GLOBAL MARRIAGE MOVEMENT BEGINS IN HAWAII (1993-1996)

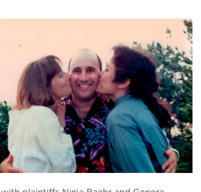
Same-sex couples weathered many challenges in these early years following the failed first wave of marriage litigation, most tragically the cataclysm of HIV/AIDS, which shattered the silence about gay people's lives. The epidemic forced non-gay people to see gay people, not just as stereotypes, but as human beings who love, grieve, sacrifice, and fight back. And it prompted gay people to better understand how the denial of marriage harmed their ability to care for each other. It transformed the movement from seeking to be let alone – "don't harass us, don't persecute us, don't attack us" – to seeking to be *let in*.

As the LGBT community worked to prevail against the epidemic and escalating discrimination, activists grappled over what the movement's priorities should be going forward. Some activists presented ideological resistance to marriage entirely, asserting that working to win marriage was in itself a flawed goal – arguing that marriage is a patriarchal institution that should be avoided and that LGBT people should chart their own path for sexual liberation and relationships rather than embrace marriage. Others had strategic concerns, declaring that the nation would never be ready to allow same-sex couples to wed and that the pursuit would harm the community's ability to prevail on other, seemingly more likely, gains. There were fierce debates, with Evan Wolfson – then at Lambda Legal – pressing for an affirmative strategy on claiming marriage. Wolfson's call for action was joined by a handful of others, including the then-editor of *The New Republic* Andrew Sullivan.

> Gay marriage is not a radical step. It avoids the mess of domestic partnership; it is humane; it is conservative in the best sense of the word.
>
> *- Andrew Sullivan, "Here Comes the Groom."*

In 1993, a game-changing victory for the freedom to marry, in Hawaii, shifted the debate permanently.

With the advent of a second wave of marriage litigation nearly 20 years after the first, several same-sex couples went to court in 1990 seeking the freedom to marry, represented by non-gay attorney Dan Foley, who brought in Evan Wolfson as his co-counsel. In 1993 the Hawaii Supreme Court declared marriage discrimination presumptively unconstitutional for the first time in history, and the subsequent historic trial in 1996 resulted in the world's first-ever ruling that same-sex couples should have the freedom to marry.



Evan with plaintiffs Ninia Baehr and Genora Dancel in Hawaii case, 1993.

The Hawaii victory, put on hold while opponents appealed, showed that what had been an abstract notion could become real. With the prospect of the freedom to marry now a real possibility in the United States, anti-marriage opponents nationwide pushed exhaustively to block pro-marriage advances. Most painfully, in Hawaii, before the Hawaii Supreme Court could even hear the appeal, anti-gay forces poured millions of dollars into a fear-based campaign, stampeding voters into passing a constitutional amendment that snatched away the freedom to marry shimmering within reach. A similar turn of events – a lower court marriage win followed by a constitutional amendment outright restricting marriage to different-sex couples – followed in Alaska, while another case, in DC, lost on appeal. By 1998, many state legislatures had adopted updated statutes restricting marriage to different-sex couples and in some cases rolling back what little legal protections – health coverage at work, bereavement leave – gay people had achieved piecemeal over decades.

Opponents of the freedom to marry didn't stop at the state level. As a 1996 election-year tactic, anti-gay activists and members of Congress successfully pushed through the so-called "Defense of Marriage Act" (DOMA), a preemptive measure declaring that even if states began issuing marriage licenses to same-sex couples, these marriages would be denied all federal respect, and same-sex couples would not be eligible for any of the 1,100+ protections and responsibilities that marriage triggers at the federal level. The attack sought to shut down the debate before Americans even had a chance to consider the question of marriage for same-sex couples. In September 1996 – even as the marriage trial was underway in Hawaii – the bill was signed into law by President Bill Clinton following its passage in the House by a 342-67 vote and in the Senate by an 85-14 vote.

HAWAII'S GLOBAL IMPACT

The Freedom to Marry in Hawaii: A Victory 20 Years in the Making

Don't miss this in-depth look at the fight for marriage in Hawaii, focused mostly on the historic 1990s ruling and trial that ignited a global movement for marriage.

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The United States Congress passed the so-called Defense of Marriage Act in 1996 to preemptively deny respect to marriages between same-sex couples.

In spite of the pushback, the Hawaii victory offered hope to many gays and lesbians throughout the country that victory could be achieved and that marriage was a pursuit worth fighting for. Wolfson, now marriage project director for Lambda Legal, organized national LGBT groups to meet on a regular basis to enhance efforts to achieve the freedom to marry. They came together around a single statement of support, the Marriage Resolution, declaring a commitment to fighting for the freedom to marry.

Wolfson took to the road speaking to groups small and large in every part of the country to encourage them endorse the "Marriage Resolution," enlisting same-sex couples eager to marry, activists ready to fight, and non-gay allies who recognized this important moment in the country's history (some even took to calling Wolfson the "Paul Revere of marriage" as he traveled the country telling people that the freedom to marry is coming). With his recurrent mantra, "there is no marriage without engagement," Wolfson preached that winning would require hard work and wouldn't be happen overnight. Wolfson encouraged grassroots groups to come together to do the public education necessary to advance the cause, and small groups sprung up, including in Massachusetts and New York.

As the Hawaii case moved forward, the movement opened a new front in the marriage fight with litigation filed in Vermont by civil rights attorney Mary Bonauto of Gay & Lesbian Advocates & Defenders and local attorneys Beth Robinson and Susan Murray. In 1999, the Vermont Supreme Court ruled that the state must afford same-sex couples the same "benefits and protections" that different-sex couples can access through marriage, but gave the legislature the right to determine whether to open marriage to same-sex couples or create a new status that provided the same protections and benefits at the state level. The legislature and governor preemptively took marriage off the table, and intense debate ensued around whether to create the new status of civil union or to adopt a constitutional amendment undoing the court's ruling. In the end, civil union prevailed, with the marriage movement hailing this as an important – though incomplete – step forward. Even though the legislature had withheld marriage and offered only civil union, the anti-gay resistance was severe, and under the banner of "Take Back Vermont," opponents mounted an effort that unseated sixteen lawmakers who had voted for civil union.

Chapter 3: Creating Freedom to Marry

THE NATIONAL CAMPAIGN (2003)

After the enactment of the federal "Defense of Marriage Act" (DOMA) adding a new level of prospective federal marriage discrimination to the marriage discrimination already in all 50 states, the snatching away of the freedom to marry win in Hawaii by a state constitutional amendment ballot-measure, and the unsatisfying securing of civil union, though not marriage itself, in Vermont, Evan Wolfson decided that in order to win the freedom to marry, the movement needed a new campaign organization with a singular focus to drive a national strategy forward.

The passage of DOMA demonstrated the need for more thoroughly educating the American people and their representatives about who gay people are and what marriage brings to them and their families, intangibly as well as tangibly. The Hawaii constitutional amendment showed that a win in court was useless if the win – and the joy it brought afterward – couldn't be defended and sustained. And the establishment of civil union in lieu of marriage in Vermont confirmed the idea that educating on why marriage matters was crucial.

In 2000, leaders of the Evelyn & Walter Haas Jr. Fund approached Wolfson seeking advice about how they could best support work to advance rights and dignity for gay people.

Wolfson urged them to support a sustained affirmative campaign to drive a national strategy and win the freedom to marry. The campaign Wolfson called for would bring together key organizations and bring in new ones, galvanize a movement and millions of conversations, and develop and drive tactics to win.

Haas Jr., a highly respected, non-gay foundation, took the leap and made a $2.5 million challenge grant investment in 2001 – then the largest foundation award in the history of the gay rights movement. The grant seeded Freedom to Marry, the campaign to win marriage nationwide, which officially launched in 2003.

DEVELOPMENT & FUNDRAISING

Raising the Funds Needed to Fuel the Movement

In this resource from our "Lessons Learned" anthology, read about the work to raise funds to fuel the campaign to win marriage nationwide.

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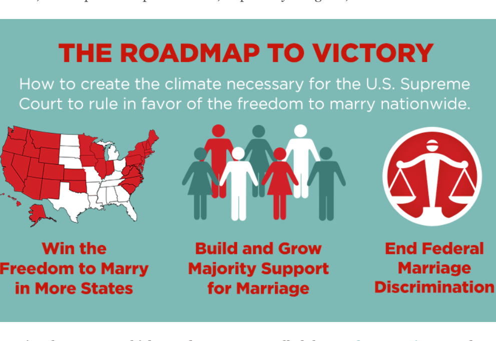
In a September 2001 rallying cry laying out a blueprint for a sustained, affirmative marriage campaign, Wolfson wrote, "It is time for a peacetime campaign to win the freedom to marry. We cannot win equality by focusing just on one court case or the next legislative battle – or by lurching from crisis to crisis. Rather, like every other successful civil rights movement, we must see our struggle as long-term and must set affirmative goals, marshal sustained strategies and concerted efforts, and enlist new allies and new resources."

> Shimmering within our reach is a legal structure of respect, inclusion, equality, and enlarged possibilities, including the freedom to marry. Let us build the new approach, partnership, tools, and entities that can reach the middle and bring it all home.
>
> *- Evan Wolfson, "All Together Now: A Blueprint for the Movement," September 2001*

Drawing from other civil rights movements and battles, as well as the law of marriage in the United States, the campaign Wolfson envisioned would drive a clear strategy: The movement would win the freedom to marry nationwide when one of the country's two national actors, Congress or the U.S. Supreme Court (most likely the Court), brought the country to national resolution. To create the climate that would impel that national resolution, the campaign would work to build a critical mass of states where same-sex couples could marry and a critical mass of public support.

The Freedom to Marry strategy proposed that marriage advocates didn't have to win every *state*, but they had to win *enough* states – and not every American had to be persuaded to support the freedom to marry, but *enough* Americans needed to be supportive to empower, embolden, and impel the Supreme Court, or possibly Congress, to act.



This national strategy – which Freedom to Marry called the Roadmap to Victory and spelled out publicly and often – was the strategy responsible for the movement's long climb to success, building from 27% support among the American people (at the time of the Hawaii trial in 1996) to 63% (in 2015), from zero states to 37 states when the Supreme Court heard oral arguments and finally ruled.

Key organizations and funders embraced the Freedom to Marry strategy and brought crucial pieces to the table. The strategy and campaign catalyzed nationwide action and a true movement of engagement, creating the powerful momentum and progress that encouraged the Supreme Court Justices in June 2015 to finish the job and strike down marriage discrimination once and for all.

VISION & STRATEGY

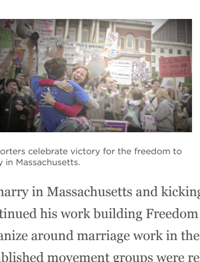
Developing the Roadmap to Victory

In this resource from our "Lessons Learned" anthology, read about the early years of Freedom to Marry – and the critical development of the central strategy to win marriage nationwide .

READ MORE ▸

Chapter 4: Winning the First State

FIRST MARRIAGE STATE IN MASSACHUSETTS (2003-2004)



Supporters celebrate victory for the freedom to marry in Massachusetts.

The top objective of the marriage movement in the first few years of the new millennium was simple but not at all easy: Win and hold the freedom to marry in one state – anywhere.

In 2001, Mary Bonauto and the Gay & Lesbian Advocates & Defenders team filed *Goodridge v. Department of Public Health*, seeking the freedom to marry in Massachusetts and kicking off a multi-year court battle, while Wolfson continued his work building Freedom to Marry and encouraging local LGBT advocates to organize around marriage work in their own communities and states. Many of the established movement groups were reluctant - but Wolfson's call to arms inspired individuals throughout the country to form their own marriage advocacy groups, such as the Massachusetts Freedom to Marry Coalition. As Bonauto and GLAD made their case to the Massachusetts courts, the Massachusetts Freedom to Marry Coalition engaged with LGBT community and potential non-gay allies in the legislature, in houses of worship and elsewhere, explaining why marriage matters to all loving couples.

The year 2003, when Freedom to Marry officially launched, saw a flurry of significant advances for gay and lesbian people: Neighbors to the North in Ontario, Canada began marrying following a court victory; couples celebrated their second wedding anniversaries in the Netherlands; and the U.S. Supreme Court affirmed the freedom of intimate conduct, including for gay people, in the landmark *Lawrence v. Texas*, litigated by Lambda Legal. Justice Antonin Scalia summed up the impact of these advances in his fiery dissent in Lawrence, where he said, "This reasoning leaves on pretty shaky grounds state laws limiting marriage to opposite-sex couples."

THE FIGHT ABROAD

The Freedom to Marry Internationally

See all of the countries where same-sex couples can share in the freedom to marry – including Canada, where momentum in 2003 helped kickstart the fight to win marriage in Massachusetts.

READ MORE ▸

Justice Scalia's lament proved prophetic when, on November 18, 2003, the Massachusetts Supreme Judicial Court ruled in favor of the plaintiffs in the *Goodridge* case. In 180 days, the freedom to marry for same-sex couples would be a reality for the first time in American history.

Within minutes of the *Goodridge* decision, marriage opponents vowed to reverse it, bent on standing in the way of committed couples. With the freedom to marry finally in reach, it was more important than ever for marriage supporters to double down and stave off the kind of state constitutional amendment that had forestalled ultimate victory in Hawaii. Advocates formed MassEquality--a coalition made up of the Massachusetts Freedom to Marry Coalition, the ACLU of Massachusetts, the Massachusetts Gay & Lesbian Political Caucus, GLAD, and other organizations as well as key funders — to defend the *Goodridge* win.

Headed by seasoned campaign operatives Marty Rouse and later Marc Solomon (who would go on to become Freedom to Marry's National Campaign Director), MassEquality fought back against the opposition with a grassroots campaign on the ground, a targeted lobbying campaign in the statehouse, and strategic work re-electing pro-equality lawmakers and defeating a few who were opposed. Everyone understood how critical this work was: Marriage in Massachusetts was a flame that the movement had succeeded in lighting - and the flame was still glowing, still illuminated, despite constant efforts to snuff it out. Protecting the flame was vital.

RELIVE THE MA FIGHT

The Full Story Behind Winning Marriage in MA

Get the full story of the fight for marriage in Massachusetts in *Winning Marriage*, in which Freedom to Marry's National Campaign Director exhaustively chronicles the years-long battle.

GET THE BOOK ▸

Freedom for Massachusetts advocates stand on a pedestal, presenting a bust of Mary Bonauto, representing and demonstrating what their cause stands for, to the crowd at the Massachusetts State House, May 17, 2004.

The breakthrough in Massachusetts also gave new energy to advocates nationwide. In early 2004, San Francisco Mayor Gavin Newsom directed clerks to begin issuing marriage licenses to same-sex couples, and similar developments occurred in Oregon, New Mexico, New Jersey, New York, and Multnomah County, Oregon. Although these actions were quickly halted and the legal validity of the marriages licenses was called into question, they showcased the intense demand among same-sex couples for the freedom to marry and started many Americans on their journeys toward understanding same-sex couples.

When it came to defending Massachusetts, of course, the movement's losses in Hawaii and Alaska were still fresh in everyone's minds. Thus, the idea of "protecting" marriage from the freedom to marry – then-Governor of Massachusetts Mitt Romney, the Catholic Church, the right-wing anti-gay industry, and even President George W. Bush, scrambled to unleash the constitutional amendment. Thanks to the leadership of Senate Democrats, the House Speaker, the Attorney General, and even Senator John Kerry – some also opposed. But with national support mobilized by President to Marry and his leaders such as GOstrategy's Tim Gill, marriage supporters kept fighting, using smart organizing and creative campaign strategies to build a powerful grassroots movement. Gill and his allies created three successive legal challenges that attempted to delay the first weddings in the state.

And when midnight on May 17, 2004 – three decades after the very first legal case from a same-sex couple seeking marriage – Mary Bonauto took the stage at a reception at Cambridge City Hall, where dozens of same-sex couples were ready to "I do," Bonauto invoked the words of Dr. Martin Luther King as she looked on the crowd: "The arc of the moral universe is long but bends toward justice." She paused. "In a few minutes, it's going to take a sharp turn." In the hours that followed, hundreds of couples married. It was the 46th anniversary of *Brown v. Board of Education* – "civil rights time" in Boston.

Over the next two years, Massachusetts activists lived on all cylinders. They deflected bills after bills that would have put the question of the freedom to marry. They mobilized thousands of supporters to engage in real conversations with state legislators on the importance of voting NO on any anti-marriage constitutional amendment. They threw their support and energy behind incumbent legislators who had voted to protect the freedom to marry, and they helped to defeat anti-marriage efforts persuaded. With a vital boost from Governor Deval Patrick and support of hundreds of volunteers, activists were able to get the legislature to vote down the constitutional amendment that would have repealed the freedom to marry. And when – of the 195 pro-equality incumbent reelection races over the course of 2004 and 2006 election cycles, pro-equality candidates were every one, beginning to change the notion that a pro-equality vote was politically risky.

The first freedom to marry state was won and held.

Tim Gill, founder of GOstrategy, and Mary Bonauto, lead attorney in the Goodridge case, hold hands for the celebrated ceremony to demonstrate the inseparable nature of Mary, Tim, and Gill's work for marriage equality.

Chapter 5: Pursuing the 2nd State

LESSONS FROM MARYLAND WHILE PURSUING THREE DEFEATS (2006-2010)

While Mary Bonauto and the Maryland activists were focused on protecting the freedom to marry in Massachusetts, national leaders based significant resources on a third state fighting back against state and federal anti-marriage constitutional amendments while seeking to secure victory in a second state. In 2004, anti-marriage constitutional amendments were on the ballot in thirteen different states, an insidious maneuver by Karl Rove and the national Republican Party to increase conservative turnout at the polls. Election day, the election Rove chose and it appeared nearly certain that all the anti-gay constitutional amendments would pass, the Democratic Party leadership was adamant about pushing forward on the marriage work. That worrying demand other key donors.

Others, however, pushed onward, opposed to slowing down the path for marriage. The movement had already won its first victory – and for the first time, Americans were seeing same-sex couples and their families. Polling was showing increasing support on the broken now, momentum could turn, and the movement could become stagnant.

Evan Wolfson spoke to these concerns in an address at the Lavender Law Conference, just before Election Day. He placed the movement's struggles in context. Any time there are four ballot measures in states that don't have marriage yet break through to win the freedom to marry in the country's first state itself is actually a winning year. Wolfson argued. He offered lessons from history on the "Scary Week of Winning," and lesson one, he said, is "Write Strong Issues," because the power of the vote, in the end, is not the minds brought up by the vote – would enable the movement to keep organizing and educating and persuading. Wolfson argued that the vote was not the end-all, but the movement cannot rely on the opposition's timeline, it should not let "bad forward" one each fight to grow support for the next inevitable battle. Winning the vote, he explained, can entail losing many battles and yet still make the most of the fight with smart education and constant work to spark conversations, grow support, and keep going.

"Our Scary Week of Winning" – Evan Wolfson speaks at the Lavender Law Conference before the 2004 Elections, which also meant a double-edged sword for the movement. Wolfson offered lessons from history and strategies for overcoming setbacks and turning them into opportunities. Watch the full speech and hear the strategy – when it comes to social justice movements.

Watch Video >

On Election Day 2004, marriage supporters lost every one of the ballot fights. And President George W. Bush, who validly discussed his support for amending the bribed voters, continued to make anti-gay marriage, even decline in a second term. Several prominent Democrats blamed the court's losses on the push for the freedom to marry, and that narrative unfortunately took hold in certain circles in spite of the fact that political scientists later concluded that wasn't the case. Certain leading LGBT groups suggested slowing down the campaign to win marriage.

Following the elections, Wolfson helped organize leaders in the LGBT movement to recommit to the fight. The problem wasn't pursuing marriage. It was the lack of a well-resourced, coordinated campaign to prevail. In 2005, more than a dozen leaders, including Kate Kendell, Rea Carey, Matt Foreman, Rick Jacobs, and Wolfson, came together to reprioritize the strategy, this time around, to ensure success and to avoid the pitfalls that cost us expanded campaign. The outcome of many discussions was a concept paper, with Coles the chief author, titled "Winning Marriage: What We Need to Do."

> "We need to have a coordinated, national campaign, building on the work that is already being done, but going way beyond it to take on the comprehensive national work that is not being done today. It that is crucial to success. This must be a thoroughly professional campaign, professionally staffed and run, with the enthusiastic support of the organizations working on marriage today.
>
> – Matt Coles, in 2006 Concept Paper, "Winning Marriage: What We Need to Do"

The concept paper again called for a robust public education campaign on marriage and outlined how, over the next decade plus, the movement could win the freedom to marry through the strategy of building a critical mass of states and public support to erect the climate for litigation in the Supreme Court. Explaining what that critical mass might look like, marriage proponents needed stakeholders to imagine that, before litigation can in the Supreme Court, the movement had won marriage in two states, secured civil union or domestic partnership in two states, and had at least one state legislature poised to pass additional win, and substantially grown support for the freedom to marry in the remaining twenty. The concept paper, which became known as the "20 on 20 on 20" or "Jenny Unions," was another crucial turning point for the movement, signed over to target LGBT group and helping stamp out discussions within movement leadership about backpedaling on marriage.

In 2005, for the first time ever in the United States, a state legislature approved marriage legislation – a bill in California shepherded by Equality California – but Governor Arnold Schwarzenegger vetoed it just a subsequent marriage bill in 2007. Advances through civil union and domestic partnership moved forward in Connecticut, Washington, California, Important public education campaigns surged in New York and across New England.

The Coalition for Marriage, which was created to counter the freedom to marry, was a formidable force in the fight against marriage equality. Its leaders were Democrats, Republicans, and Independents, and they were well-resourced.

These were also years losses: Iowa, Maine, and Maryland voters approved constitutional amendments to another eight states in 2006, and, most painfully, the movement continued to struggle to win State No. 2 (first in six-month period in 2006 and 2007). Eight courts in four states – New York, Washington, Maryland, and New Jersey – ruled against the freedom to marry.

Finally, following a relatively large and public education and organizing effort brought to bear, the groundwork for court victories was finally sufficiently established. In 2008, winning the freedom to marry in California in May 2008. In a unanimous ruling, the ACLU, Lambda Legal, and the National Center for Lesbian Rights, the California Supreme Court declared it unconstitutional to deny marriage to same-sex couples. Thousands of long-committed couples from across the country flocked to California over the next few months to say "I do."

The day of a campaign to block access of the freedom to marry in California, Governor Arnold Schwarzenegger, Lieutenant Governor Cruz Bustamante, and Attorney General Jerry Brown, all Democrats, stand together to oppose the ballot measure.

On November 4, 2008, however, the joy and victory were snatched away when Proposition 8 – another anti-gay constitutional amendment – was approved by California voters. Exit polls and ballot allies so emotionally draining and financially taxing campaign, mightily halting the California weddings and quelling a years-long process to win back the state.

Winning Legislative Ballots: Lesson learned from the campaign to block access to marriage in California, Maine, and Maryland, Gill and his team worked on at least seven legislative victories – Vermont, Connecticut, Washington, New Jersey, New York, and Minnesota.

Watch Video >

Fortunately, the movement had, as Evan Wolfson put it, "brought a quiver." A year from Gay & Lesbian Advocates & Defenders won the freedom to marry in Connecticut in October 2008, and even in spite of the loss of California, the year ended with the long-sought second state in hand – plus a third pro-community motivated by their anger about Proposition 8 and inspired with the hope of a better climate reflected in the historic election of a new president, Barack Obama.

Chapter 6: Rebounding and Transforming Freedom to Marry

STRENGTHENING THE CAPACITY & INFRASTRUCTURE OF THE CENTRAL CAMPAIGNER (2009-2012)

Marriage Equality USA, a grassroots group of LGBT people and our families, was formed in response to the Proposition 8 ballot initiative in California. Our organization began as a DIY movement.

Without a doubt, Proposition 8 was a painful disappointment, and in California in particular, it was a tough blow to the movement and the movement. But despite the loss, Prop 8 was also a wake-up call for the pro people who had set on the sidelines and counted on our "betters" to win. Yes, gay people, too, were their consciences shocked by Prop 8 and the ballot initiative's unprecedented results of a freedom that they already held in their hands. The rebound from Prop 8 gave new energy to the campaign, with many more across the country ready to mobilize and fight to win the freedom to marry.

Among the crucial players joining Freedom to Marry in upping the game was the Gill Action Fund, launched by entrepreneur and donor Tim Gill after the passage of the 19 constitutional amendments in 2004. The Gill Action Fund built a crew of political strategists and helped focus LGBT funders to invest their donations into advocacy campaigns and candidates that would advance LGBT rights in the states. With most of the movement organizations in this point were limited in the political work they could do, Gill Action Fund was a critical ally in the movement's rebuilding and growth. In the political fundraising, Gill Action partnered with Freedom to Marry and another donor colleagues nationwide by the loss in California, focusing now on creating the climate to win in the near-term of targeted states.

Funders also stepped up to the challenge, with several banding together to support the Freedom to Marry strategy through a "Civil Marriage Collaborative," supplying new resources to support the needed state-based efforts. For the next 2 years, the Civil Marriage Collaborative worked diligently to support a wide array of strategies and multi-dimensional public education efforts to change hearts and minds, working closely with Freedom to Marry and its partner organizations in the states to ensure the effectiveness of the philanthropic and social strategy tools.

The movement's central legal arm – the ACLU, GLAD, Lambda Legal, and the National Center for Lesbian Rights – mounted court challenges in several more states. And Freedom to Marry and its partner organizations in the states, including statewide organizations and downstatewide, the African American, Latino, and Asian American civil rights organizations; and the business world, while working hard to amp up and drive a national narrative to the media.

While California reeled from the pain of the loss, the bulk of the marriage movement kept working the Freedom to Marry strategy and delivered in areas the winnings must go to that point, taking up more states and climbing toward a national majority in favor of the freedom to marry. State and national progress worked together beginning in New England with a focus on Vermont, Maine and New Hampshire – to build a strong pro-marriage public climate and to demonstrate to the LGBT community that our movement was still victorious. In Vermont, advocates persuaded the legislature to push past civil unions and embrace the freedom to marry, even overriding the Governor's veto for the first marriage win in a legislature. The Iowa Supreme Court unanimously ruled for marriage for same-sex couples in a Lambda Legal case, and on the ground, organizers worked with national partners were able to successfully hold the vote, protect crucial members, and stave off legislative threats of a constitutional amendment. Maine and labor News Corporation, Freedom to Marry, Lambda Legal, and Gill Action helped elect a pro-marriage Governor. The City Council in Washington, D.C. passed a bill bringing the freedom to marry to the nation's capital.

Winning Legislative Victories: Lesson learned from the campaign to block access to marriage in California, Maine, and Maryland, Gill and his team worked on at least seven legislative victories – Vermont, Connecticut, Washington, New Jersey, New York, and Minnesota.

Watch Video >

Back in California, groups like Equality California, Lambda Legal, and the National Center for Lesbian Rights worked to repeal yet together constructive public education efforts, and held toward a "re-run" ballot campaign to restore the freedom to marry. Meanwhile, Prop 8 was challenged in court by Chad Griffin and conservatives Theodis Laurence Black, brought together former George W. Bush Solicitor General Ted Olson and Democratic attorney David Boies to mount a challenge to Proposition 8 in federal court, *Perry v. Schwarzenegger*. They created the American Foundation for Equal Rights to fundraise and fix public relations around their case, declaring their intent to seek a national marriage ruling from the Supreme Court as soon as possible. The District Court judge in the case instead ordered a careful timeline for the trial, which, in the end, was a blessing for the movement. Our movement needed time and had far more resources to mount a strong campaign to win the freedom to marry in California with the passage of Question 1 at the ballot.

The ballot losses in Maine and California, coupled with Barack Obama's victory as president (see next chapter) – and the urgency that emerged from the Prop 8 wake-up call – underscored the urgency of strengthening the central campaign in order to ensure we learn how to overcome persistent barriers, fill in the gaps, and drive faster to the goals of a critical mass of states and support as the prerequisite for the Supreme Court – or, the impact now of key movement colleagues, funders, and other stakeholders, Freedom to Marry and its partners in the states, and the movement's leaders and strategists conducted and internal and become the truly national campaign that the movement required. "The exhibited together approach pursued so far by the marriage movement is not sufficient for today's opportunities and challenges," Wolfson wrote in a concept paper proposing the bulked up campaign.

> "The moment requires a stronger national capacity and galvanizing brand – a transformed Freedom to Marry – with the expertise, resources, and infrastructure to be able to move nimbly yet consistently to marshal and channel messages, messengers, people, and resources to serve the needs that exist at the state and national level, for both the vital state-by-state and increasingly doable federal work.
>
> – Evan Wolfson, in 2008 Concept Paper, "Strengthening and Transforming Freedom to Marry"

After the Iba and starts of the states and zones, national movement funders and partner organizations were now ready to buy into Wolfson's vision for Freedom to Marry, seeing that the raising ad hoc and coalition efforts were insufficient to capitalize on the momentum and drive towards nationwide victory most rapidly. Wolfson set about assembling a team that would provide the needed campaign expertise.

One of Wolfson's first calls was to Matt Sanchez, who worked so skillfully in richest Democratic Congressional campaigns. Sanchez was a Democrat who had resigned and refused from Prop 8. Wolfson asked Sanchez to come to Freedom to Marry as national campaign director, recruiting new staff and shaping programs to fulfill the Freedom to Marry strategy. Wolfson also enlisted Tilinda Espana, a campaign expert and movement veteran to guide public engagement strategy, with a particular focus on retaking the messaging (her more on the messaging overhaul later). To grow support federally for repealing DOMA and build support with national elites for marriage, Freedom to Marry hired Jennifer Chrisler, who had helped lead the Human Rights Campaign's work on DOMA with digital lead Michael Crawford and political and communications strategist Jon Hilsinger. Freedom to Marry could now itself do what was needed, rather than have to cajole other organizations to step up. Freedom to Marry immediately redoubled its work to drive long-term public education and messaging work, build state campaigns in priority states to achieve victory: organize conservatives, mayors, and other political leaders, and secure support on Capitol Hill and within the DC Beltway.

Strategic Leadership: Left to right, Matt Sanchez, Tilinda Espana, and Evan Wolfson, the three leaders who helped lead the transformation of Freedom to Marry into a powerful, well-resourced, and strategic campaign.

By 2010, the Freedom to marry had become, without a doubt, a multi-faceted national commonwealth that invited participation from millions of Americans and action from decision-makers coast to coast. The power of that conversation strategy became clearer than ever on August 2010, when a national poll tracked, for the first time, majority support for the freedom to marry. The nation was moving forward, and Freedom to Marry was dedicated to moving it forward quickly and strategically as possible.

Chapter 7: Shifting the Political Center of Gravity

WINNING MARRIAGE IN NEW YORK (2011)

The newly expanded Freedom to Marry team – which increased its budget seven-fold to more than $19 million and grew to a roster of more than 40 between 2010 and 2014 – was quickly put to the test. With the increased capacity, Freedom to Marry sought to construct building momentum for marriage by winning more states. Its 2011 goals were set for aggressive campaigns in Rhode Island, Maryland, and New York – and after the first two campaigns fell tough parties, victory in New York became a crucial focal point.

Governor Andrew Cuomo signed the legislation to legalize marriage for same-sex couples, and he was strong supporting it. Gill Action Fund and Freedom to Marry worked closely with the governor's office.

For years, marriage supporters had urged our New York as an early battleground. In 2009, a marriage bill was introduced in the Legislature and for one in the Senate failed in the Assembly. Gay and marriage supporters devoted a clever electoral strategy to demonstrate to New York lawmakers that our community was serious about holding elected accountable. The Eight Back New York political advocacy committee ended three anti-marriage incumbents, and replaced them with strong supporters.

In 2010, Andrew Cuomo was elected Governor of the state, and from Day 1, he set passing a marriage bill as one of his administration's top priorities.

> "I don't want to be the governor who just proposes marriage equality. I don't want to be the governor who lobbies for marriage equality. I don't want to be the governor who fights for marriage equality. I want to be the governor who signs the law that makes equality a reality in the state of New York.
>
> – Gov. Andrew Cuomo, in 2011
>
> New York Governor Andrew Cuomo, October 31, 2010

Freedom to Marry – headquartered in New York City – was ready for the fight, realizing how dramatically a win in the nation's third largest state would shift the political center of gravity. A victory in New York would double the number of Americans living in a state with the freedom to marry, and the state's size as a political and cultural leader made it a tremendous prize. Plus, a New York victory would shift the political center of gravity in the nation's north capital, the place the GOP defends in other states to support marriage bans for all.

Since the state bans, the GOP, Action Fund along with the Empire State Pride Agenda had been working hard to prepare our supporters. Now, with the 2011 legislative session underway, it was clear a nimble, robust, and coordinated campaign was vital – so Freedom to Marry worked together with the Empire State Pride Agenda and the Human Rights Campaign to hold New Yorkers United for Marriage, with the Gill Action Fund a crucial behind-the-scenes player leading political hell. Freedom to Marry have replicated this successful coalition campaign model in multiple states to succeeding years.

Building State Coalitions: Here is a list of some the leading organizations that formed the coalition to win marriage in New York, starting with some of the leaders in the Democratic Party and other allies.

Watch Video >

Over the next five months, the New Yorkers United players swung for the fences. The campaign brought on a Republican dream team of consultants, Lodh Sandy and Jeff Pollard, who helped lead the effort, ballied up on communications and grass roots, and enlisted support from top Wall Street executives.

The work surged – fast days before the legislative session was set to end, the votes weren't yet there to pass the bill. Even on the last day of the session and with time ticks very second, it was unclear whether the Republican leadership would bring the bill to a vote. Governor Cuomo refused to take no for an answer – and just before midnight on June 24, 2011, the New York Senate approved the freedom to marry, with four Republican Senators joining all but one Democrat.

The Republican Senators were in good company with other prominent conservatives who underwent changes of heart. Prominent Republican donors and conservatives had joined the Freedom to marry. Former Vice President Dick Cheney famously defrosted his support, saying, "I'm for the freedom to marry for those who want to enter into it." Rudy Giuliani, a foe, a chief shaker of DOMA and vocal opponent of LGBT equality, reversed his opposition to DOMA and supported the freedom to marry. Ken Mehlman, President Bush's Campaign Manager and former chairman of the Republican National Committee, came out as gay and began aggressively organizing to win the freedom to marry. Prominent Republicans Steve Schmidt and Steve Schmulowitz, who had helped lead Bush's successful re-election campaign, joined Gill Action and Freedom to marry to work with a bipartisan coalition to support marriage for all.

Two days after the New York vote marked the end of the 2011 legislative session, Freedom to Marry began its work to support marriage legislation in Maryland and Rhode Island.

March. An estimated two million people ranged through the streets of Manhattan, certain to celebrate the freedom to marry. Near the front of the parade was the Gotham Gallery Chorus, a group of gay men from Chelsea led by her wife Kim Catullo; and just behind one the New Yorkers United for Marriage contingent, varying signs that shouted, "Promise Made, Promise Kept."

Press a button to learn more about the Gotham Gallery Chorus's participation in the parade.

PLAY VIDEO ▶

The New Yorkers United for Marriage float celebrating in New York City, June, 2011.

Chapter 8: Securing Support of the President and the Democratic Party

REVEALING NATIONAL SUPPORT WITH THE "MESSAGE IN CHIPS" (2012)

Vice President Joseph Biden speaks to the Democratic National Convention in Charlotte, NC, September 5, 2012. Behind him, the convention's official backdrop, a "message in chips" that spelled out the Democratic Party's support for marriage equality, was revealed for the first time.

Heading into 2012, President Obama's support for marriage equality was the *other* first, the primary first (challenging) goals for the year. First, to persuade President Barack Obama to publicly state his freedom to marry, and then, to finally break the movement's decade-long fable measure being steady.

In running for president, Barack Obama opposed the Defense of Marriage Act and the Federal Marriage Amendment and calling for the full repeal of DOMA. This represented a dramatic change from his predecessor, George W. Bush, but Obama's new stance was not guaranteed to get President Obama all the way to full support, even though some in the movement urged holding off until after the election.

President Obama's recent two-year evolution, displacing from Wolfson to press the case directly to a reputed marriage with senior members of the administration mounting a forceful digital campaign by members – along with a call of celebrities and Vice President Joseph Biden's well-publicized comfortable with marriage equality, the White House, Department of Justice, and campaign decision makers. The work leadership after Obama signaled his openness to a shift, telling Americans in a strict interview that he was "evolving" on the issue.

In fact, President to Marry and other movement groups' engagement with the Administration had already achieved a lot. From the first meeting with White House officials early in the first term up, Wolfson had pressed for the Administration to embrace "heightened scrutiny" and a presumption of unconstitutionality for sexual orientation discrimination such as DOMA. So February into the administration made a courageous, unprecedented decision to stop defending DOMA's Section 3 as constitutional discrimination, that DOMA violated the 5th Amendment of the Constitution, and that, as a result, the U.S. government should no longer defend DOMA in federal court (though the Administration would continue to enforce the law until it had been struck down by a court).

During the weight of the US government can-do in the movement years challenging DOMA was a big step forward, and Wolfson and others argued that having gone so far, there was little to lose in embracing the freedom to marry outright. And so in the winter of 2012, President to Marry launched a new effort to create space for, and persuade, President Obama to "evolve." The campaign, "Democratic Joy I To," called for the Democratic Party to adopt a freedom to marry plank in the party platform at the National Convention later in 2012.

> If we look historically at the Democratic platform, it has really been a vision document for where we'd like to go in the Democratic Party. Certainly I think this is a place where most of us believe we need to encourage the Democratic Party to go.
>
> — Sen. Jeanne Shaheen, D-NH, about Democratic Joy I To

President to Marry enlisted a cascade of dozens, 22 Senators, House Democratic leader Nancy Pelosi, Dozens of high-profile mayors, Four former chairs of the Democratic National Committee and honorary chairs of the Obama campaign itself. And more than 45,000 Americans signed a President to Marry petition demanding the freedom to marry.

The Democratic Joy I To campaign gave marriage supporters real vehicles to mobilize around, And media heavyweights like Group Stephanopoulos packed top Democrats and the White House for their reaction to the calls for a marriage plank in the platform.

Clinton, Hillary, Secretary of State, Testifies to the Senate Foreign Relations Committee on the Benghazi attack, Washington, DC, January 23, 2013. Clinton's testimony in the concerns and advocacy for the freedom to marry, and her support for marriage equality, was a major factor in President Obama's support.

Inside movement, President to Marry continued to have high-level conversations with the White House about the most helpful way for the president to talk about his journey when he was ready to. Wolfson urged that the president underline the conversations so many Americans were having about the issue, and underline the new understandings of who gay people were and why they wanted to marry, emphasizing the same-sex couples in the first family's life and the values they share.

On Sunday, May 6, Vice President Joe Biden appeared on Meet the Press and spoke about the freedom to marry. Responding to questions about President Obama's "evolving" marriage views, Biden said, "I am absolutely comfortable with the fact that men marrying men, women marrying women, and heterosexual men and women marrying one another are entitled to the exact same rights, all the civil rights of the rest of America."

Three days later, on May 9, 2012, President Obama announced that he did, indeed, support the freedom to marry. In an interview with Robin Roberts of ABC News Obama announced his unequivocal support for marriage between committed same-sex couples. He spoke movingly about his evolution, noting the same-sex couples in his extended family Michelle Obama's life. He spoke of the religious values important to him, chief among them the Golden Rule. And he spoke of the daughters who had school friends being raised by gay parents and didn't think it fair that their families should be treated unequally.

President Obama's support was a major, major, major,

and protect … This places same-sex couples in an unstable position of being in a second-tier marriage.

- U.S. Supreme Court Ruling, Windsor v. United States, striking down core of DOMA

Working closely in partnership with the movement legal groups and others, Freedom to Marry had laid the groundwork with the White House and the Justice Department to apply the DOMA ruling to the broadest possible number of same-sex couples—respecting all marriages legally entered into, regardless of where the couple now resided. The Administration's embrace of that position and swift implementation meant that even married same-sex couples living in states still discriminating would be respected by the federal government and able to share in crucial legal protections under federal law (except for a handful that the Administration concluded it could not make available without further litigation or legislation, most notably some veteran's programs and Social Security). Binational couples now were able to access the immigration protections long denied their families; people, like Edie Windsor, were no longer subjected to adverse tax treatment; and the bulk of the significant federal safety-net of legal and economic protections and responsibilities finally was made available without discrimination.

ENDING FEDERAL MARRIAGE DISCRIMINATION

Implementing Federal Protections for Same-Sex Couples

Read about how Freedom to Marry and our fellow national organizations worked hand in glove with the Obama administration in ensuring that the *Windsor* ruling was implemented to the most powerful extent possible.

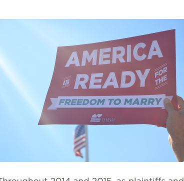
READ MORE ▸

In addition to making a powerful tangible difference in the lives of so many, the movement's strategy and momentum, culminating in the blow to federal marriage discrimination, had now transformed the federal government from being the No. 1 discriminator against gay people to putting its weight on the side of same-sex couples and their freedom to marry.

Chapter 11: Accelerating Momentum

SHOWING AMERICA IS READY FOR THE FREEDOM TO MARRY (2014)

The resounding Supreme Court decision striking down DOMA and the Obama Administration's implementation of federal respect throughout the law and the land flashed the brightest spotlight yet on the untenability of America's house divided - and the inequality and injustice of marriage discrimination where it still persisted in several states.



Throughout 2014 and 2015, as plaintiffs and legal groups filed vital cases challenging marriage bans in every state, Freedom to Marry and national partners beat an unceasing drumbeat calling for the Supreme Court to take a case and rule in favor of marriage nationwide.

Legally, the country was now filled with multiple different "classes" of married couples: Different-sex couples who could marry in any state and move to any state, and whose marriages were respected by the federal government without a question; married same-sex couples whose marriages were respected by both their state and the federal government but not by, perhaps, a neighboring state with a marriage ban; married same-sex couples living in a non-marriage state whose marriages were only respected by the federal government and the growing number of freedom-to-marry states; and couples who weren't yet married because in order to do so, they had to leave their home state and either couldn't—or didn't want to—do so. DOMA's effective demise rawly exposed that same-sex couples were still irrationally being forced to play "now you're married, now you're not," their marriages sputtering in and out arbitrarily, like cellphone reception, depending on their geographic location. The house divided put the government, families, and businesses in an unsustainable position, and without the freedom to marry nationwide, all same-sex couples were still facing real discrimination, especially those living in the states still discriminating.

Spurred by the accelerating public support and political progress, as well as the additional constitutional clarity provided by the Supreme Court's ruling in Windsor, same-sex couples – many represented by private attorneys and many by the movement's pillar legal organizations (the ACLU, GLAD, Lambda Legal, and NCLR) – filed waves of new federal legal cases seeking the freedom to marry. Within just a few months, every existing marriage ban was being challenged in litigation.

As these cases worked through the courts, momentum for marriage continued to surge: The campaigns Freedom to Marry and local and national partners had built and litigation by the movement legal groups yielded victories in the Illinois legislature and through high court decisions in New Jersey (with a decision not to appeal by NJ Governor Chris Christie) and New Mexico (a unanimous ruling followed by a strong defensive legislative campaign to protect the win). And in December 2013, two decades after the favorable 1993 Hawaii Supreme Court decision that ignited a global movement, the Hawaii legislature embraced the freedom to marry. It was a win two decades in the making.

Then on December 20 came another accelerant: A federal judge struck down the anti-marriage constitutional amendment in ruby-red Utah. The ruling took effect immediately, and the appellate court refused to stay it; on that beautiful Friday afternoon, dozens of couples married in Salt Lake City. The judge's ruling noted that the growth in public understanding and the climate created by changing hearts in minds had now made clear how the Constitution's guarantees applied to gay people and their claim to the freedom to marry. Despite multiple requests from the state to halt the implementation of the ruling, the federal 10th Circuit Court of Appeals refused, and same-sex couples continued to marry statewide for over two weeks, until the U.S. Supreme Court placed a hold as the state appealed.

"It is not the Constitution that has changed, but the knowledge of what it means to be gay or lesbian."

- U.S. District Court Judge Robert Shelby in Kitchen v. Herbert, which struck down Utah's marriage ban in December 2013

The Utah ruling was the first in a nearly unanimous winning streak from state and federal judges across the country, as couples won the freedom to marry Oklahoma, Kentucky, Texas, Virginia, Ohio, Tennessee, and more. A two week-long trial in Michigan led to a March ruling striking down that state's marriage ban. In May, the first same-sex couples ever in the American South tied the knot when a state judge ruled in favor of the freedom to marry in Arkansas, with no stay. And in Pennsylvania and Oregon, the freedom to marry became the law of the land once and for all when the states' Attorneys General and Governors refused to defend marriage discrimination and chose not to appeal the rulings. The cascade of decisions continued for months - with just a handful of losses accompanying more than 70 pro-marriage rulings between June 2013 and 2015.

Throughout 2014, same-sex couples from across the country married after state and federal court rulings struck down marriage bans. From Arkansas to Utah, Virginia to Idaho, thousands of couples won the freedom to marry in 2014.

Most of these rulings were taken to the appellate courts, and as movement legal groups and private counsel fueled these cases' legal journeys, Freedom to Marry and partners continued making the case in the court of public opinion. In many of these states, the marriage conversation had only recently arrived, and Freedom to Marry wanted to ensure that the energy and momentum across these states propounded two key themes: All of America is ready for the freedom to marry (message to the justices: you can do this), and each day of marriage discrimination is a day where real families suffer real harm (message to the justices: you must do this).

Freedom to Marry launched robust public education campaigns, in coordination with legal partners and state groups, in many states that would be immediately affected by federal appellate decisions – including Why Marriage Matters Arizona, Utah Unites for Marriage, Wyoming Unites for Marriage, and Freedom Oklahoma, among many others. Through its Southerners for the Freedom to Marry, the campaign coordinated with state groups in Southern states on marriage work. Press hits, social media content, and television ads featuring unlikely messengers (Mormon families; a conservative, rural ranch owner with a lesbian daughter: Republican former Senator Alan Simpson of Wyoming) drove the intended narrative and made the momentum palpable and irrefutable across the country and around the Supreme Court.

Meanwhile, the now frequently expedited legal process moved along, with three consecutive decisions from federal appellate courts holding that denying marriage to same-sex couples is unconstitutional. And by the beginning of the fall 2014 term, five different marriage cases sat before the U.S. Supreme Court seeking review. Surely, marriage advocates thought, the Court understood that it was time to directly take on the question of the freedom to marry once and for all.

WINNING IN COURT

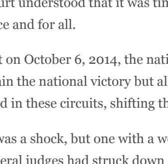
Building Robust Litigation Campaigns

Read this in-depth guide to running – and winning – strategic litigation campaigns.

READ MORE ▸

But on October 6, 2014, the nation's highest court denied review to the cases, delaying yet again the national victory but allowing the pro-marriage rulings to stand as the law of the land in these circuits, shifting the landscape once again.

It was a shock, but one with a wonderful, instantaneous outcome. The five states in which federal judges had struck down marriage bans (Indiana, Oklahoma, Utah, Virginia, and Wisconsin) saw those decisions implemented immediately, setting a binding precedent across those circuits. In the weeks that followed, federal judges, bound by the appellate rulings, struck down marriage discrimination in Colorado, Kansas, North Carolina, South Carolina, West Virginia, and Wyoming. And the very next day, October 7, the U.S. Court of Appeals for the 9th Circuit unanimously ruled against marriage discrimination, bringing five other states – Alaska, Arizona, Idaho, Montana, and Nevada – over to the right side of history. In that one week alone, the freedom to marry arrived in an additional 16 states.



On October 6, 2015 the U.S. Supreme Court accelerated momentum immeasurably by denying review of many pro-marriage rulings and allowing the freedom to marry to essentially take effect in 16 different states, from coast to coast.

Throughout October, a wave of joy swept the country. And despite chatter from marriage opponents that the impact would be met with so-called "backlash," very little negative uproar was sparked by the freedom to marry's arrival in even these very "red" states. If anything, the progress added to the groundwork for a positive Court decision in the future by demonstrating that the public, indeed, was ready to accept marriage wins, including in some of the most conservative parts of the country. A new report by the Williams Institute at UCLA showed that once a state adopted the freedom to marry, support didn't regress – indeed, didn't just continue to increase, but in fact accelerated.

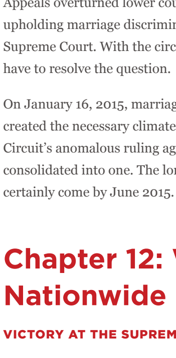
Speculation over what the Supreme Court would do surged when the 6th Circuit Court of Appeals overturned lower court rulings in Kentucky, Michigan, Ohio and Tennessee, upholding marriage discrimination and reigniting the process of seeking review from the Supreme Court. With the circuits now split, most thought the Supreme Court would finally have to resolve the question.

On January 16, 2015, marriage supporters finally got the news they had worked for: Having created the necessary climate and momentum, the Supreme Court would review the 6th Circuit's anomalous ruling against the freedom to marry in cases coming out of 4 states, consolidated into one. The long-sought national freedom to marry ruling would almost certainly come by June 2015.

Chapter 12: Winning Marriage Nationwide

VICTORY AT THE SUPREME COURT (2015)

As the Supreme Court considered arguments on the freedom to marry in 2015, it was vital that the national climate, shaped through earned media stories and social buzz, mirror the momentum in the courts. While the movement's legal groups and local attorneys and firms made the case in the courtroom, the role of Freedom to Marry's national campaign was to continue successfully making the case in the court of public opinion.



Thousands of supporters of the freedom to marry weighed in with the Supreme Court through signing an "amicus brief," which served as crucial organizing tools for marriage supporters. Read all of the briefs – as well as the party briefs from plaintiffs and defendants - here.

Freedom to Marry partnered with the movement legal groups and others to enlist a wide array of both noteworthy and unexpected signers on amicus briefs to the U.S. Supreme Court. The shared effort yielded a compelling set of friend-of-the-courts, including thousands of faith leaders, hundreds of mayors, leading Republicans, medical and public health authorities, and America's leading companies including 40 of the Fortune 100. Freedom to Marry aired TV ads in Washington, DC and in key states, driving its central national narratives that "America is ready" and "It's time." Freedom to Marry concentrated its resources on an integrated "soup to nuts" campaign that placed organizers in frontline states to identifying messengers and stories, and then amplifying that authentic content through an enhanced communications team and operation that reached new heights online and through a wide range of local and national media. Freedom to Marry's goal was to fill the national conversation, in every corner of the country and around the Court itself, with stories of same-sex couples harmed by the delay and evidence that all of America was ready for the Court to bring the country to national resolution.

Momentum continued to surge across the country. In January and February, same-sex couples began marrying in Florida and Alabama after federal decisions took effect with the acquiescene of the 11th Circuit Court of Appeals and the United States Supreme Court. And later, an aberrant and isolated, though egregious, fit of resistance from the Alabama Supreme Court underlined the importance of federal involvement to ensure compliance with civil rights requirements.

On Tuesday, April 28, 2015, the Supreme Court heard oral argument in the consolidated marriage case, now known as *Obergefell v. Hodges*. The case felt like a perfect summation of the decades-long journey to this moment. Each of the four national LGBT legal organizations – ACLU, GLAD, Lambda Legal, and NCLR – was involved in at least one of the cases, alongside private attorneys and law firms.

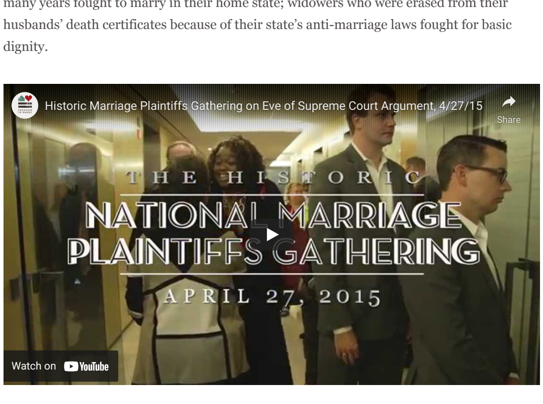
75 MARRIAGE PLAINTIFFS FROM 30 STATES

Photos from a Pre-SCOTUS Gathering of Marriage Plaintiffs and Attorneys Spanning 4 Decades of Cases

On the eve of the Supreme Court oral argument, Freedom to Marry brought together more than 75 marriage plaintiffs from 30+ states spanning 40 years of history in Washington, D.C. for a National Marriage Plaintiffs Gathering.

SEE PHOTOS & READ MORE ▸

And the 16 families and individuals who were plaintiffs in the case, sharing hundreds of years of commitment between them, showcased a wide range of life events: Spouses who had just welcomed children into the world fought for both parents' names to be listed on the birth certificate; couples who had lived together for many years fought to marry in their home state; widowers who were erased from their husbands' death certificates because of their state's anti-marriage laws fought for basic dignity.



At the argument Mary Bonauto of GLAD made the arguments to the Supreme Court on behalf of the freedom to marry, joined by an expert Supreme Court litigator Douglas Hallward-Driemeier and the Solicitor General of the United States Donald Verrilli. After Bonauto's years of carefully stewarding the marriage litigation strategy since Vermont in 1998, it was poetic that she got to argue the final case.

This poster, compiled by Freedom to Marry in 2015, displays all 500+ names of the same-sex couple who ever served as plaintiffs in a marriage case. Read more here.

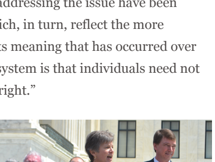
On June 26, 2015 – the second anniversary of *Windsor v. United States* and the twelfth anniversary of the *Lawrence v. Texas* ruling – the Supreme Court released its decision in *Obergefell*: Victory for the freedom to marry. Nationwide. Once and for all.

The decision was breathtaking. "The ruling is a profound affirmation of gay people's right to be fully part of America," Evan Wolfson wrote in a New York Times op-ed the day of the victory. "America got it right. Love won. We all did."

Wolfson was especially struck by the way that the Court's opinion pointedly acknowledged the decades of conversation and campaigning that had transformed public opinion and created the climate for victory. Justice Kennedy wrote:

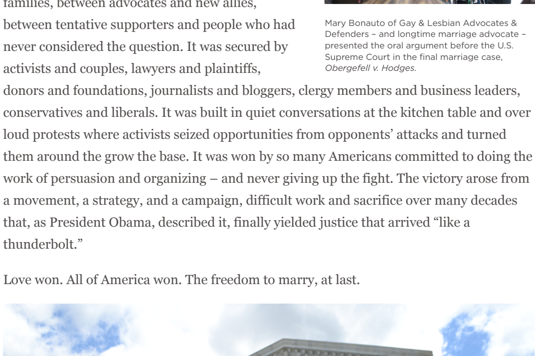
"There may be an initial inclination in these cases to proceed with caution—to await further legislation, litigation, and debate. The respondents warn there has been insufficient democratic discourse before deciding an issue so basic as the definition of marriage. … Yet there has been far more deliberation than this argument acknowledges. There have been referenda, legislative debates, and grassroots campaigns, as well as countless studies, papers, books, and other popular and scholarly writings. There has been extensive litigation in state and federal courts. Judicial opinions addressing the issue have been informed by the contentions of parties and counsel, which, in turn, reflect the more general, societal discussion of same-sex marriage and its meaning that has occurred over the past decades. … The dynamic of our constitutional system is that individuals need not await legislative action before asserting a fundamental right."

This freedom to marry victory, Freedom to Marry declared, and the Supreme Court affirmed, belonged to everyone. The victory – and the change that it represented – was won by millions of Americans. Its path was paved through discussions between same-sex couples and their families, between advocates and new allies, between tentative supporters and people who had never considered the question. It was secured by activists and couples, lawyers and plaintiffs, donors and foundations, journalists and bloggers, clergy members and business leaders, conservatives and liberals. It was built in quiet conversations at the kitchen table and over loud protests where activists seized opportunities from opponents' attacks and turned them around the grow the base. It was won by so many Americans committed to doing the work of persuasion and organizing – and never giving up the fight. The victory arose from a movement, a strategy, and a campaign, difficult work and sacrifice over many decades that, as President Obama, described it, finally yielded justice that arrived "like a thunderbolt."



Mary Bonauto of Gay & Lesbian Advocates & Defenders – and longtime marriage advocate – presented the oral argument before the U.S. Supreme Court in the final marriage case, *Obergefell v. Hodges*.

Love won. All of America won. The freedom to marry, at last.

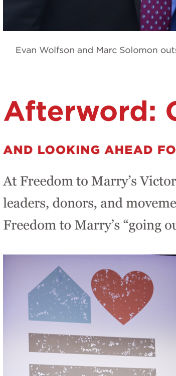


Evan Wolfson and Marc Solomon outside of the U.S. Supreme Court the day of the *Obergefell v. Hodges* oral argument.

Afterword: Celebrating Victory

AND LOOKING AHEAD FOR THE LGBT MOVEMENT (2015)

At Freedom to Marry's Victory Celebration on July 9, 2015, more than a thousand activists, leaders, donors, and movement colleagues came together to savor the win and mark Freedom to Marry's "going out of business."



Vice President Biden spoke about the watershed Supreme Court victory for marriage at Freedom to Marry's Celebration Event on July 9, 2015.

"We won under the Constitution," Evan Wolfson said to the audience. "But, of course, the Constitution didn't just fulfill its own promise. It took a movement to do that – so much work, sacrifice, trust, and hope to achieve this transformation, this triumph. No one person alone, no one organization alone, no one state, no one case, no one methodology of social change, no one battle, no one decade alone did this. It took a whole movement to bring us to this victory. It took the Constitution and it took the country, millions of conversations and many battles that changed hearts and minds and helped the American people rise to fairness."

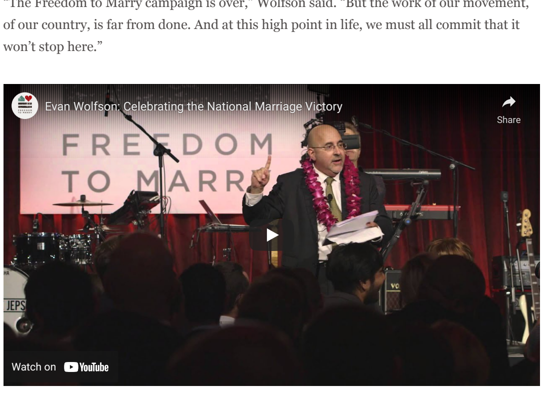
"At the same time, this movement was not just a random series of episodes. There was a strategy that we stuck with, and there was a campaign built to drive that strategy and foster and leverage the movement. That campaign was Freedom to Marry. It was the combination of all of that – America's promise, a decades-long movement, a successful strategy, a tenacious campaign – that delivered, through slow and steady successes and stumbles, as the President said, justice, that came like a thunderbolt."

Earlier in the night, Wolfson shared that in the hours after the release of the Supreme Court decision in favor of the freedom to marry nationwide, he received thousands of messages with congratulations and kind words – but two phone calls in particular deeply moved him. The first was from Vice President of the United States Joe Biden, who joined the party as a very special guest.

The second call, Wolfson explained, was from Bernie Cohen, one of the attorneys who argued before the Supreme Court inLoving v. Virginia, which brought an end to state laws prohibiting interracial marriages in 1967.

Wolfson said that Cohen conveyed how proud he was of being a part of the Loving v. Virginia fight. It marked the high point of his life. And, he told Wolfson, "I am so glad that it didn't stop there."

"The Freedom to Marry campaign is over," Wolfson said. "But the work of our movement, of our country, is far from done. And at this high point in life, we must all commit that it won't stop here."



Calling up Freedom to Marry's extraordinary team, Wolfson raised his glass and asked the same of the rest of the audience – so many of whom played such key roles in the hundreds of small and large marriage victories through the years – to join him in a toast. "To the freedom to marry," Wolfson said. "And to continuing to work for a more perfect union for everyone!"