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NEWS REPORT

Country:	United Kingdom
Title:	The "gay cake" case; Lee v Ashers & Ors
Date:	15 June 2015
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<u>Context</u>	
Issue at stake:	Discrimination in the field of access to goods and services
Ground of discrimination:	Sexual orientation, religious belief and political opinion
Source:	Belfast County Court, 19 May 2015
Field:	access to goods and services
Applicable law:	Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 Regs 2, 3, 5, 16; Fair Employment and Treatment Order 1998 Arts 2, 3, 28, 31

Content

Case: The case concerned a challenge to the refusal of the Respondents, a baking company run by a conservative Christian family, to make a cake for the Claimant. The cake in question was to bear the slogan "Support Gay Marriage", and the Claimant wanted it in connection with a public event.

Decision of the Court: A County Court in Northern Ireland ruled that the bakery (Ashers) had discriminated on grounds of sexual orientation, religious belief and political opinion when it refused to bake a cake at the request of the Claimant, Gareth Lee, because the cake was to bear the slogan "Support Gay Marriage". The County Court awarded damages in the agreed sum of £500. The Judge found that the bakery "cancelled this order as they oppose same sex marriage for the reason that they regard it as sinful and contrary to their genuinely held religious beliefs". But because the bakery was "not a religious organisation" the Judge found that it had discriminated unlawfully and directly against the Claimant, and that there was no justification defence. The Judge also rejected the argument that the decision breached the Convention rights of the bakery.

Key points of analysis:

- This decision adopts a very broad approach to direct discrimination and appears inconsistent with the authorities;
- The Judge appears to have ruled that direct discrimination on grounds of religion/belief could result where the less favourable treatment was because of the discriminator's beliefs, rather than those of the person complaining of discrimination. This would appear to have the effect that a refusal by a Jewish person (for example) to serve pork could be interpreted as direct discrimination on religious grounds (which must be wrong);
- The DUP, Northern Ireland largest legal party, wishes to amend the equality legislation to introduce a "conscience clause".

Internet link source:

http://www.equalityni.org/ECNI/media/ECNI/Cases%20and%20Settlements/2015/Lee-v-Ashers_Judgement.pdf