

## **New York Divorce and Family Law Blog**

# **Same Sex Marriage Found Valid: Surviving Spouse Allowed to Inherit**

*Posted by Daniel Clement on March 01, 2011*

A New York appeals court has recognized the widowed spouse of a same sex marriage as the surviving spouse for the purpose of inheriting under a will. In affirming a Surrogate's Court ruling, the Appellate Division in *the Matter of the Estate of H. Kenneth Ranftle*, recognized as valid, a Canadian same-sex marriage.

While same sex marriages cannot be validly performed in New York, New York will recognize marriages validly performed in another jurisdiction. This rule does not extend such recognition where the foreign marriage is "contrary to the prohibitions of natural law or the express prohibitions of a statute"

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The court clearly and unequivocally announced that “Same-sex marriage does not fall within either of the two exceptions to the marriage recognition rule.”

There is a growing trend by New York courts to recognize the validity of same sex marriages entered into elsewhere. At a minimum, New York courts seem to be increasingly inclined to uphold the validity of same sex marriages as it affects the couple’s rights in the event of death or **divorce** - events, which ironically, terminate the marital relationship. In this case, the couple was found to have been validly married so that the survivor was deemed to be a spouse for inheritance purposes. Likewise, I have had success for obtaining divorces for same sex couples