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Another victory for gays

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Chalk up another well-deserved defeat for all those who oppose same-sex marriage, particularly in New York. Governor Paterson's courageous order that this state has to recognize marriages of gay couples performed elsewhere has passed its first legal challenge.

We're gratified but hardly surprised. This was a case, after all, that bordered on the frivolous. Here were lawmakers who resentfully opposed the governor's order, along with other opponents of same-sex marriage, arguing that only the state Legislature could take the action necessary to make such marriages legally performed in other states and countries valid in New York.

In fact, Justice Lucy A. Billings of state Supreme Court in the Bronx has ruled, Mr. Paterson was merely complying with laws passed by that very same Legislature. New York is compelled to honor those marriages, just as it does others legally performed elsewhere, Judge Billings explained. As for the more specific nature of them, New York's laws provide no exclusion for same-sex marriages.

Refusal to recognize otherwise legal marriages would have left New York open to lawsuits by the affected couples. Mr. Paterson's order in May last came in specific response to that very legal dilemma. A state appellate court in Rochester had ruled that a woman who worked at Monroe Community College was entitled to the same health insurance benefits as her co-workers. Her marriage to another woman, legally performed in Canada, guarantees her all the rights, especially regarding government employment and related benefits, that married couples of opposite sexes enjoy.

Judge Billings' ruling also touches on same-sex marriage itself. It represents "a personal expression of emotional devotion, support and interdependence and a public commitment," she wrote. "With that validity, they expect equal treatment with other married couples."

The order by Mr. Paterson that Judge Billings has upheld is as far as he, or any governor, can go to extend such equal treatment. The next step, obviously, is for New York to allow same-sex couples to marry here. That, though, would require action by the Legislature.

Legislators who continue to resist the idea of truly equal rights might keep in mind the words of Chief Judge Judith Kaye, whose court may yet hear an appeal of the now dismissed case against Mr. Paterson.

"Fundamental rights are fundamental rights," she wrote in a passionate dissent to a 2006 ruling by the state's highest court that only the Legislature can add marriage to the civil rights enjoyed by gays. "They are not defined in terms of who is entitled to exercise them."

The governor understands that. So does a state Supreme Court judge. If only the people who serve, as the people's representatives, in the other branch of government would be so enlightened.