

Maurice A. Deane School of Law at Hofstra University

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Joanna L. Grossman

*Maurice A. Deane School of Law at Hofstra University*

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# Verdict

November 1, 2011  
[Joanna L. Grossman](#)

## Can Universal Life Church Ministers Officiate at Weddings? In Some States, the Answer Is No Part One in a Two-Part Series of Columns



For me, it's a guilty pleasure to waste time on Sunday morning reading the *New York Times wedding announcements* (<http://www.nytimes.com/pages/fashion/weddings/index.html>). I used to indulge myself in this habit to see if I knew any of the couples or went to the same schools they had attended. Now, as I have gotten older, and have passed the age that is typical for first marriages, I find that I rarely know the people whose weddings are described in the announcements. But I still read them, in part as a barometer of changes in marriage practices, which interest me as a feminist and a family law scholar.

How many, and which kinds of, women keep their names? How many retain their names professionally? How many couples have had previous marriages that ended in divorce? At what age do people marry the first, second, or even third time? And now, since the *Times* made the decision a few years back to start including same-sex marriages, how many couples are made up of two men or two women? And how do the marriage practices of same-sex couples vary from those of straight couples?

Now, I have added another question to my completely unscientific, anecdotal wedding-data collection project: What type of officiant solemnized the marriage? In the case of clergy (as opposed to judges, village justices, city clerks, and assorted other secular officials who might be authorized to conduct marriages in a particular jurisdiction), the announcements identify the officiant by both the name and the denomination: A Jewish Rabbi, a Roman Catholic Priest, a Hindu Priest, a Presbyterian minister, and so on.

Then there are those announcements that say something like this: The couple was married by "a friend of the couple who was ordained by the Universal Life Church for the event." Or by the Church of Spiritual Humanism, or by the American Marriage Ministries. The number of marriages officiated by such ministers seems to be growing, and many of them take place in New York. This is curious given that there is good reason to believe such officiants do not have the authority to solemnize marriages under New York marriage law.

In this, Part One of this two-part series of columns, I will explain the basic procedural requirements for marriage and the questions raised when weddings are presided over by ministers ordained online, who have no congregation or other trappings of religious power.

Then, in Part Two—which will appear on Justia’s *Verdict* in two weeks, on November 15—I will provide a detailed jurisdiction-by-jurisdiction analysis of cases in which the validity of online-minister marriages have been challenged. In that part, I will focus with special detail on New York, where, while online minister weddings are clearly common, there is case law suggesting that the resulting marriages are not valid.

## **The Requirements for a Valid Marriage**

Marriage law, and especially marriage procedure, is governed by state law. Every state has a set of statutes governing marriages—resolving questions such as who is eligible to marry, what procedures must be followed to create a marriage, and when and how marriages can be dissolved.

Two people who consent to marry and are eligible to marry—because they are not closely related, not already married to someone else, old enough, etc.—must still follow certain procedures to establish a valid marriage. (About a dozen states also still recognize common-law marriage, which can be created by the agreement and consent of the parties, without a license or formal ceremony.) The two basic requirements are a marriage license and the solemnization of the marriage by a valid officiant.

To apply for a license, couples generally need to provide proof of their age and identity. Both parties also need to personally appear at the clerk’s office to apply for the license, unless special circumstances apply. A blood test for syphilis or other communicable diseases used to be a standard part of the requirements for a marriage license, but most states have repealed these requirements.

Most states also impose a waiting period of at least 24 hours after the couple applies for the license before the wedding can take place. This waiting period can be waived in many jurisdictions, though. The marriage license also has an expiration date: The wedding must take place within 30 or, in some states, 60 days or a new license must be sought. And, a small fee must be paid.

With the marriage license in hand, couples can proceed to the next step: solemnization. The statutes generally do not specify any necessary form or content for a wedding ceremony. Neither The Wedding March nor Pachelbel’s Canon need be played while the bride is walking down the aisle. Indeed, there doesn’t need to be an aisle at all, nor music for that matter. The statutes specify only that a recognized officiant must preside over a ceremony during which the parties express their consent to marry and the officiant declares them to be married. (Thus, the standard “I do” part of wedding ceremonies—or something close to it—is not just a nicety, but also a legal requirement.)

The ceremony must then be finalized by the signature of two witnesses and the officiant on a marriage certificate, which is then filed and kept as a public document. Contrary to popular myth, the consummation of a marriage is not a formal requirement for a valid marriage to exist, although the inability to consummate can be grounds for an annulment. And the Catholic Church treats the failure to consummate as an adequate basis for a canonical annulment, though that would have no effect on one’s civil marital status.

## **Who Has the Power to Solemnize Marriages?**

Who can be an officiant at a marriage ceremony? All states allow an array of civil officers to solemnize marriages—mayors, judges, magistrates, court clerks, and others. They also allow religious figures to solemnize civil marriages. But who qualifies as an appropriate religious figure? State statutes generally bestow the power to solemnize on “clergy,” referring to a category of persons that states define differently. The most common definition of “clergy” or “minister” is an individual who has been ordained by a recognized religious body and has a congregation or following.

Marriage officiant laws also reflect local idiosyncrasies. In Ohio, for example, the “superintendent of the school for the deaf” can conduct weddings; in New York, leaders of the New York Society for Ethical Culture, a group that provides “non-theistic services in a congregational setting,” can perform marriages. Many states specifically accommodate Quakers, who believe that every member is a minister, even though the members wouldn’t otherwise meet the typical definition of clergy.

## The Universal Life Church (ULC) and Online Ordinations

One recurring question for courts has been whether ministers who have only been ordained through the mail, or more commonly today, on the Internet, count as “clergy”. The answer has generally been that these ministers do not meet the standard definition of the term.

The largest supplier of online ordinations is the ULC, a non-denominational church founded in Modesto, California in 1962 that claims to have ordained more than 20 million ministers. According to its own [website \(http://ulc.net/\)](http://ulc.net/), the ULC joins together ministers who “come from all walks of life and spiritual traditions”; their “common thread” is “adherence to the universal doctrine of religious freedom: Do only that which is right.” There is no set doctrine for ministers to accept, nor is there a mandate that ministers must believe in God. The ULC advocates “religious freedom,” and the pursuit of “spiritual beliefs without interference from any outside agency, including government or church authority.”

In the ULC, ordination is free, accomplished through a click on the website and the filling out of a short online form. (Other clicks make possible online confessions and prayer requests.) The ordination request then must be approved, which takes about 24 hours.

I became a minister of the Universal Life Church while writing this column. In a confirming e-mail, I was informed that my “ordination is for life, without price, and without question of [my] specific beliefs.” In the Church’s eyes, I am authorized to “perform all peaceful rites and ceremonies of the church, including weddings, funerals, baptisms, blessings, and to preach, teach and hold meetings” and “entitled to all privileges and courtesies normally offered to members of the clergy.” I was offered (but not pressured) to buy various certificates, business cards, books and manuals, robes, stoles and other accoutrements to facilitate my ministerial activities. The “complete ministry package” even includes a parking placard that says “Minister.”

I was also asked to please note that I was not “ordained ‘by Internet’ or ‘online.’” The ULC, the e-mail explained, is a “regularly established church or congregation” and all ordinations are done as the deliberate, thoughtful, and responsible act of a human being, not by a computer.” The Internet and e-mail were merely used, I was told, “[a]s is the case with nearly every church, organization and business,” for “administrative communications.” I was told that it was also important for me to note that I did not ordain myself.

## Are Marriages Conducted by Ministers Who Have Been Ordained Online Valid? A Difficult Question

The legal validity (or lack thereof) of marriages officiated by ULC ministers, or other similar churches, varies by jurisdiction.

Take a 1988 case from Mississippi, *In re Will of Blackwell*. The case arose when siblings of Cobert Blackwell, who was then deceased, challenged Nadine Fortenberry’s claim for a widow’s elective share of Blackwell’s estate, claiming that Blackwell and Fortenberry’s marriage was invalid because it was solemnized by Claude Clark, a constable and Methodist with “Credentials of Ministry” from the ULC.

At the time the couple had married, Blackwell was a fifty-eight-year-old widower in Walthall County, Mississippi. He and Nadine obtained a marriage license in November 1984, and, in the court’s words, the “next day, a Friday, our couple set sail for Jackson (of all places) in search of legal blessing for their bliss.” They were referred by a local judge to Clark, who performed their marriage the following day.

When Blackwell died less than three months later, his seven brothers and sisters stood to inherit everything except the share designated for a surviving spouse under Mississippi law. They came up with the idea to challenge Clark’s credentials, and thus the validity of the marriage. No marriage would mean no surviving spouse, and no spouse would mean no elective share for Nadine.

Under Mississippi law, only a minister, rabbi, or “other spiritual leader of any other religious body” could solemnize marriages in Mississippi. The Mississippi Supreme Court upheld the validity of the marriage. While the majority conceded that the “ULC is hardly a conventional church by Bible Belt standards,” it was “enough of a religious body,” and Clark was “enough of a spiritual leader,” to validate the marriage. (One justice concurred

only in the result, criticizing the majority's "enough of" standard as "horseshoe jurisprudence.")

But courts in some other states have reached different conclusions. The Virginia Supreme Court, for example, held in 1974, in *Cramer v. Commonwealth*, that the authority of a group of ULC ministers was rightfully rescinded by a lower court given that they did not meet the state's definition of clergy.

Virginia law requires that, in order to officiate at weddings, a minister must show "proof of ordination and of his being in regular communion with the religious society of which he is a reputed member." This requirement, the court explained, is not a "religious test," nor a way of encouraging church marriages. It is, instead, designed to ensure that a "person of responsibility and integrity and by one possessed of some educational qualifications" would oversee the legal requirements for creating a valid marriage.

Ministers are delegated this power based on the assumption that, in any church, the selection of ministers is a "considered, deliberate and responsible act." But the ULC encourages all members to be ministers, and, in this court's view, a "church which consists of all ministers, and in which all new converts can become instant ministers, in fact has no 'minister' within the contemplation of [state marriage law]." The legislature never "intended to qualify, for licensing to marry, a minister whose title and status could be so casually and cavalierly acquired."

In **Part Two** (<http://verdict.justia.com/2011/11/21/can-laypersons-ordained-online-as-universal-life-church-ministers-or-the-like-officiate-at-weddings>) of this series for Justia's *Verdict*, I will continue looking at cases involving the validity of ULC marriages, with a special focus on the vulnerability of such marriages in the state of New York.



Joanna L. Grossman, a Justia columnist, is the Sidney and Walter Siben Distinguished Professor of Family law at Hofstra University. She is the coauthor of [Inside the Castle: Law and the Family in 20th Century America](#) (Princeton University Press 2011), co-winner of the 2011 David J. Langum, Sr. Prize for Best Book in American Legal History, and the coeditor of [Gender Equality: Dimensions of Women's Equal Citizenship](#) (Cambridge University Press 2009). Her columns focus on family law, trusts and estates, and sex discrimination.

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