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## LAW, RIGHTS, AND RELIGION PROJECT


# Press Advisory: Columbia Law Experts Submit Two Briefs to Supreme Court in Free Speech/LGB Rights Case

August 22, 2022

**SUBJECT:** Columbia Law Experts Submit Two Briefs to Supreme Court in Free Speech/LGB Rights Case

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Columbia Law School faculty and policy teams submitted amicus briefs to the Supreme Court on Friday in [303 Creative v. Elenis](#) , a case the Court will decide next term.

*303 Creative* involves a Colorado web designer who claims that the Free Speech Clause of the First Amendment allows her company to turn away same-sex couples seeking a wedding website. The designer also claims she has a Free Speech right to post a message on her website explaining her refusal to make wedding websites for same-sex couples on account of her religious beliefs. Earlier Supreme Court cases, such as *Masterpiece Cakeshop v. Colorado Civil Rights Commission* (2018), addressed claims based in First Amendment religious liberty rights to deny services to same sex-couples. *303 Creative* raises a different claim, based in free speech

rights, to refuse service to same-sex couples.

One of the [briefs](#) was submitted by the [Law, Rights, and Religion Project \(LRRP\)](#), along with co-authors Muslim Advocates and the law firm Hogan Lovells. It was filed on behalf of 30 faith and civil rights groups, including Muslim, Jewish, Sikh, Hindu, Protestant, Catholic, and secular advocacy organizations. The brief argues that allowing for-profit businesses to deny service to customers because of their owner's religious beliefs would have a devastating impact on religious liberty, particularly for religious minorities.

As LRRP's brief explains, a ruling in favor of 303 Creative would decimate civil rights laws, allowing segregation—including religious segregation—to flourish:

*“Public accommodation laws are essential to ensure that religious minorities are able to engage with society on equal terms in the open market. Through these protections, public accommodation laws support true religious freedom by enabling adherents of all religions to live a full social and economic life.”*

The brief also outlines numerous examples of the kind of discrimination that might be permitted if the company's request is granted, including the denial of services to customers wearing a hijab, kippah, or cross, to parties requesting kosher or halal food, or to families celebrating a baptism, bar mitzvah, or other religious event.

[Read the LRRP brief here.](#)

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Professor Katherine Franke, Faculty Director of the Law, Rights, and Religion Project, and James L. Dohr Professor of Law, joined another [amicus brief](#) in the *303 Creative* case, submitted on behalf of scholars of public health and social science who are recognized experts on the health and well-being of sexual minorities, including lesbians, gay men, and bisexual people (“LGB people”).

The brief urges the Supreme Court to recognize that the Colorado Antidiscrimination Act (the law at issue in the case that prohibits all businesses in the state from discriminating against customers on the basis of, among other things, sexual orientation) advances compelling public interests in securing equal citizenship and rights of all people in Colorado. It argues that 303 Creative's policy of denying wedding website design services to same-sex couples inflicts significant harms on LGB people in the state — the precise harms the law was designed to prevent.

The brief provides the Supreme Court with extensive social science literature demonstrating that minority stress has proven detrimental effects on the health of LGB persons, and there is a high risk of such negative effects if the Court were to allow the kind of discriminatory exclusion 303 Creative wishes to practice.

[Read the scholars' brief here.](#)