

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 1:16-cv-02372-MSK-CBS

303 CREATIVE LLC, a limited liability company; and
LORIE SMITH,

Plaintiffs,

vs.

AUBREY ELENIS, Director of the Colorado Civil
Rights Division, in her official capacity;
ANTHONY ARAGON,
ULYSSES J. CHANEY,
MIGUEL “MICHAEL” RENE ELIAS,
CAROL FABRIZIO,
HEIDI HESS,
RITA LEWIS, and
JESSICA POCOCK, as members of the Colorado Civil
Rights Commission, in their official capacities, and
CYNTHIA H. COFFMAN, Colorado Attorney General,
in her official capacity,

Defendants.

**AFFIDAVIT OF LORIE SMITH IN SUPPORT OF PLAINTIFFS’
MOTION FOR SUMMARY JUDGMENT**

I, Lorie Smith, hereby declare as follows:

1. I am competent to testify, and, in addition to my sworn testimony in the Verified Complaint, make this declaration based on my personal knowledge.
2. I own and manage the website: www.303creative.com (“my website”). This is the website for my business, 303 Creative, LLC.

3. On my website, people can submit electronic requests for my creative services through the “contact” webpage.
4. Information received from requests for creative services submitted via the “contact” webpage on my website are immediately reduced to email form and sent to my email inbox once the requestor clicks “submit.”
5. When I receive emails containing requests for creative services from my website via the “contact” webpage, it is my routine business practice to keep these requests and, if appropriate, respond.
6. On September 21, 2016, I received a request through the “contact” webpage on my website from a person named, “Stewart,” reference number 9741406, to create graphic designs for invitations and other materials for a same-sex wedding (“same-sex wedding request”).
7. The same-sex wedding request indicated the prospective client may also desire me to create a website for a same-sex wedding.
8. A true and accurate copy of this same-sex wedding request is included in the Appendix at pages 001-002.
9. Expressive businesses in Colorado regularly maintain websites that share stories of their art and their clients.
10. On these websites, creative professionals often communicate social, political, and religious messages in telling the stories of their clients and sharing the messages they express with their art.
11. Many expressive businesses in Colorado freely express their views in favor of same-sex marriage.

12. For example, I personally visited each of the websites referred to in paragraphs 13, 17-18, 20, 26, 29, 31, and 33 *infra* on January 30, 2017.
13. Brian Kraft Photography, before the legalization of same-sex marriage in Colorado, posted on its blog at <http://blog.briankraft.com/denver-art-museum-wedding/>:

It's a shame that I even feel the need to mention it—as it should be a non-issue, but as you enjoy these wedding photos of this wonderful same sex couple, please note how “right” everything is between these two and everyone that surrounds them, yet in the State of Colorado it is still not “right” (by law) to consider their union a “marriage,” with the benefits that come with that. Fortunately, Adam and Brian live in California, where they are finally offered the rights they so deserve. Hopefully all states will follow suit as soon as possible.
14. This Brian Kraft Photography blog post excerpt was found on a webpage directly under a header titled “Brian Kraft Photography” that also served as a hyperlink back to the Brian Kraft Photography blog homepage.
15. This Brian Kraft Photography blog post excerpt was not found in a comment section or other place where members of the public could create content to be published on the website.
16. A true and accurate copy of this Brian Kraft Photography blog post excerpt is included in the Appendix at page 003.
17. Sarah Roshan Wedding Photographer similarly states on its homepage at <http://sarahroshan.com/>, under the heading “We Believe”: “There doesn't always have to be one bride and one groom. We fully support and love our LGBT couples. We are so happy that the US [sic] government is finally recognizing you for the beautiful people you are.”

18. Sarah Roshan Wedding Photographer also states on its homepage at <http://sarahroshan.com/>, under the heading “Meet Sarah”: “I believe one voice is enough to change the world.”
19. True and accurate copies of these excerpts from the Sarah Roshan Wedding Photographer homepage are included in the Appendix at pages 004-005.
20. In the introduction to a gallery of same-sex wedding pictures posted on its website at <http://www.sarahroshanphoto.com/phillip-gary-chautauqua-elopement-same-sex-wedding-photographer/>, Sarah Roshan Wedding Photographer further states:

After Colorado ruled that a ban on gay marriage was unconstitutional I had a wave of peace and just started to cry. This topic always is rooted so deep in what I believe not only about gay marriage but the world. I grew up doing theatre and so, as the stereotype would have it about half of my male friends were gay and a decent amount of my female friends as well. I truly believe that our differences and hate are taught. I was never taught that same-sex couples love any different than a heterosexual couple and therefor[e] my views on this subject have always been love is love. I stand for love period. I am so happy that our country is moving in a direction of less and less judgement [sic] and more and more equality and love for each other. We are all different. That is what makes us beautiful. How we love is all the same.

When I got a phone call for Phillip and Gary’s elopement back in October, I was so excited! This was to be my first same-sex wedding since the law took effect I found myself tearing up behind my lens. This means so much to so many people. Something that I took for granted they were finally able to do. Reading the piece of paper that said marriage. All of it was magical

. . . .

Colorado is not yet 6 months into allowing gay marriage so I am looking forward to many more weddings, and someday I hope that people won’t even give it a second thought. Love is love after all.

21. A true and accurate copy of this Sarah Roshan Wedding Photographer webpage excerpt is included in the Appendix at page 006.

22. These Sarah Roshan Wedding Photographer statements were found on a webpage directly under a header titled “Sarah Roshan Wedding Photographer,” a business logo, within a top menu containing links to other parts of the website.
23. These Sarah Roshan Wedding Photographer statements were not found in a comment section or other place where members of the public could create content to be published on the website.
24. Anginet Photography also expresses its views favoring same-sex marriage.
25. Anginet Photography, through its owner Anginet Page, expressed its views regarding same-sex marriage to Castle Rock News-Press following the U.S. Supreme Court’s *Obergefell* decision.
26. Castle Rock News-Press’s story explaining Anginet Photography’s support for same-sex marriage is located at <http://castlerocknewspress.net/stories/Wedding-photographer-celebrates-court-ruling,192421>.
27. This Castle Rock News-Press story, entitled “Wedding photographer celebrates court ruling,” explains that Anginet Page left the Mormon church because of her support for same-sex marriage:

As long as she can remember, Anginet Page said, she supported same-sex marriage rights. Her passion for marriage equality even led her to leave the Mormon church.

“I was raised LDS, and one of the main reasons I left the church was because they didn’t support the right for people to love freely,” she said. “And so my whole life has been geared towards having same-sex marriage be legalized. The fact that it has is incredible.”
28. A true and accurate copy of this Castle Rock News-Press story is included in the Appendix at page 007.

29. In introducing pictures of a same-sex wedding on its website at <http://nicolenichols.com/blog/weddings/wedding-gay-new-orleans/>, Nicole Nichols Photography also notes its support for same-sex marriage and criticizes religions that express a different view:

. . . I loved their pastor's English accent & how he focused his sermon on how normal a gay union is, perhaps not popular, but certainly just as normal as any two people sharing their love & lives together. Throughout history gays have always been a part of reality, and always will be, its [sic] just unfortunate government & religion has not always recognized it. It was great to see that Jeremie & Jonathan's wedding was certainly full of lots of family & friends celebrating their love & bond.

30. A true and accurate copy of this Nicole Nichols Photography blog post excerpt is included in the Appendix at page 008.

31. On its blog at <http://nicolenichols.com/blog/special-events/denver-pridefest-co-gay-weddings/>, Nicole Nichols Photography further publicized its support for same-sex marriage and participation in Denver Pridefest:

I am a strong believer that ALL should have the right to marry whomever he or she wants.

Other than for the art and the challenge, one of the reasons I became a wedding photographer is because I'm a lover...a sentimental romantic that has always "awed" when I see *any* two people in love. I have no enemies, I love everyone. Sure some have called me a naive idealistic hippie, but I *really* do believe love can change the world. And if someone wants to express their love to another person through a wedding, well they should have the right do [sic] get married, and get divorced, just like everyone else!

Not only am I a big supporter of gay rights...but also of brightly colored costumes, parades, and just having fun! So, on Sunday June 17th I was proud to be walking in support of CO gay weddings in the annual Denver Pridefest Parade. Wedding planner extraordinaire Mark . . . started CO Gay Weddings to help the gay and transgender community find LGBT friendly wedding professionals that don't discriminate on sexual orientation

32. A true and accurate copy of this Nicole Nichols Photography blog post excerpt is included in the Appendix at page 009.

33. In introducing pictures of a same-sex wedding on its blog at <http://nicolenichols.com/blog/weddings/denver-gay-wedding-photographer-denver-botanical-gardens-tivoli-hall/>, Nicole Nichols Photography also expressed its support for the Supreme Court's decision in *Obergefell*:

It was an honor to witness and be able to document the strong endearing love Ashley & Paige share. And I'm so proud of not only our state of Colorado, but the nation, for finally legalizing gay and lesbian marriages. All men and women should share the same rights that a legal marriage allows, from getting to file taxes together to being allowed to visit their spouse in severe hospital situations. Hopefully the rest of the world will soon follow. Love conquers all.

34. A true and accurate copy of this Nicole Nichols Photography blog post excerpt is included in the Appendix at page 010.

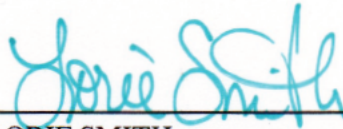
35. These Nicole Nichols Photography blog post excerpts were found on a webpage directly under a header titled "Nicole Nichols Photography," a business logo and hyperlink back to the Nichole Nichols Photography website homepage.

36. These Nicole Nichols Photography blog post excerpts were not found in a comment section or other place where members of the public could create content to be published on the website.

DECLARATION UNDER PENALTY OF PERJURY

I, LORIE SMITH, a citizen of the United States and a resident of the State of Colorado, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 1st day of February, 2017, at Littleton, Colorado.



LORIE SMITH
303 CREATIVE LLC