

No. 21-476

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In the Supreme Court of the United States

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303 CREATIVE, LLC & LORIE SMITH,  
*Petitioners,*

v.

AUBREY ELENIS, ET AL.,  
*Respondents.*

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*On Writ of Certiorari to the  
United States Court of Appeals  
for the Tenth Circuit*

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**BRIEF FOR ILAN H. MEYER, PhD, AND  
OTHER SOCIAL SCIENTISTS AND  
LEGAL SCHOLARS AS AMICI CURIAE  
SUPPORTING RESPONDENTS**

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## TABLE OF CONTENTS

Table of Authorities.....	iii
Interest of Amici Curiae .....	1
Introduction.....	2
Summary of Argument .....	7
Argument.....	10
I. Stigma is a fundamental cause of health inequalities.....	10
II. LGB people face discrimination and other minority stressors stemming from anti-LGB stigma.....	13
A. LGB people face minority stressors stemming from anti-LGB stigma and prejudice.....	13
B. LGB people have endured a long history of stigma and discrimination.....	19
C. LGB people continue to experience significant discrimination.....	20
D. Exclusion from public accommodations is a minority stressor.....	27

III.	Minority stress adversely affects the health, well-being, and relationship quality of LGB people.....	29
A.	Minority stress negatively impacts the health and well-being of LGB people.....	29
B.	Minority stress negatively impacts same-sex couples' relationship quality. ....	31
C.	Better social and legal conditions are associated with fewer adverse effects of minority stress. ....	33
D.	This research reflects a broad scientific consensus. ....	35
	Conclusion .....	38
	Appendix: List of Amici.....	1a

## TABLE OF AUTHORITIES

	Page(s)
<b><u>Cases</u></b>	
<i>Arcara v. Cloud Books, Inc.</i> , 478 U.S. 697 (1986).....	3, 4
<i>Baskin v. Bogin</i> , 766 F.3d 648 (7th Cir. 2014).....	9, 19
<i>Bd. of Dirs. of Rotary Int’l v. Rotary Club of Duarte</i> , 481 U.S. 537 (1987).....	5
<i>Bostock v. Clayton County</i> , 140 S. Ct. 1731 (2020).....	2, 25, 31
<i>Cohen v. Cowles Media Co.</i> , 501 U.S. 663 (1991).....	4
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<i>Lawrence v. Texas</i> , 539 U.S. 558 (2003).....	9, 19, 31
<i>Lorain J. Co. v. United States</i> , 342 U.S. 143 (1951).....	4
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413 U.S. 376 (1973)..... 3

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468 U.S. 609 (1984)..... 5, 7, 34, 35

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517 U.S. 620 (1996)..... 9, 19

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512 U.S. 622 (1994)..... 5

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570 U.S. 744 (2013)..... 9, 19, 31

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699 F.3d 169 (2d Cir. 2012) ..... 9, 19

**Constitutional Provisions**

U.S. Const. amend. I ..... 3, 4, 7

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Colo. Rev. Stat. § 24-34-601 ..... 3, 6

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of Sexual and Gender  
Minorities in the United  
States*, 6 *Sci. Advances* (Oct. 2,  
2020) .....21
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Couples, in LGBTQ Divorce and  
Relationship Dissolution* 70  
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Bisexuals*, 59 *J. Counseling  
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Accommodations Based on  
Sexual Orientation and Gender  
Identity* (2016).....24, 27

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## INTEREST OF AMICI CURIAE<sup>1</sup>

Amici are 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 bisexuals (“LGB people”).<sup>2</sup> Many of the amici have conducted extensive research and authored publications in peer-reviewed academic journals on the effects of discrimination on LGB people.<sup>3</sup> Amici also include

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<sup>1</sup> No counsel for any party authored this brief in whole or in part, and no person or entity, other than the amici and their counsel, made any monetary contribution intended to fund the preparation or submission of this brief. Petitioners filed their blanket consent to the filing of amicus briefs on March 10, 2022, and Respondents filed their blanket consent on April 11, 2022.

<sup>2</sup> The outcome of this case will also implicate the rights of transgender people, including those in same-sex and opposite-sex relationships. Research shows that stigma and prejudice against transgender people can adversely affect their health and well-being. *See, e.g.,* Walter Bockting et al., *Adult Development and Quality of Life of Transgender and Gender Nonconforming People*, 23 *Current Op. Endocrinology, Diabetes & Obesity* 188, 188 (2016). But given the facts of this case, this brief focuses primarily on the effects of stigma and prejudice on LGB people.

<sup>3</sup> *Sexual minorities* and *gender minorities* are terms social- and public-health scientists often use to refer to LGB and transgender people, respectively; *LGBT* refers to lesbian, gay, bisexual, and transgender people. In this brief we refer primarily to LGB people. When referring to the

legal scholars who are recognized experts on the law and policy affecting LGB people’s health and well-being. Individual amici are listed in the Appendix.

This Court has relied on work by several of the amici. *See, e.g., Bostock v. Clayton County*, 140 S. Ct. 1731, 1752 (2020) (citing Cary Franklin, *Inventing the “Traditional Concept” of Sex Discrimination*, 125 Harv. L. Rev. 1307, 1338 (2012)); *Obergefell v. Hodges*, 576 U.S. 644, 668 (2015) (citing Br. for Gary J. Gates as Amicus Curiae).

As scholars who specialize in issues related to LGB people, amici have a substantial interest in the question before the Court. In particular, amici describe the harmful effects on LGB people when a business or other place of public accommodation discriminates against them on the basis of sexual orientation.

## INTRODUCTION

The Accommodations Clause of the Colorado Anti-Discrimination Act (CADA), like countless

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community, or when making statements to refer to both sexual and gender minorities, we use the term *LGBT*. It is also important to note that LGBT people include diverse populations in terms of race and ethnicity, socioeconomic status, state and region of residence, and other characteristics and, thus, experience LGBT discrimination at the intersection of these varied characteristics.

state and federal laws that regulate commerce, is neutral and generally applicable. *See Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm’n*, 138 S. Ct. 1719, 1727, 1728 (2018). It is not aimed at speech or expressive conduct, nor does it single out particular speakers.<sup>4</sup> It applies broadly to all businesses that qualify as “place[s] of public accommodation”—that is, to businesses that sell goods or services to the general public, Colo. Rev. Stat. § 24-34-601(1)—and bars discrimination on enumerated bases, including sexual orientation, *id.* § 24-34-601(2)(a). In short, it bars only exclusionary commercial conduct.

Generally applicable laws that are not directed to speech do not raise First Amendment concerns, even when their enforcement burdens or compels protected speech to some degree. Thus, in *Arcara v. Cloud Books, Inc.*, 478 U.S. 697, 707 (1986), this Court found no First Amendment problem when a bookseller complained that his bookshop was shut down by enforcement of a generally applicable state law that

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<sup>4</sup> The Communications Clause does prohibit businesses from advertising policies that violate CADA’s Accommodations Clause. *See* Colo. Rev. Stat. § 24-34-601(2)(a). But because the advertising of unlawful commercial conduct is not protected by the First Amendment, the constitutionality of the Communications Clause stands or falls with the constitutionality of the Accommodations Clause. *See Pittsburgh Press Co. v. Pittsburgh Comm’n on Hum. Rels.*, 413 U.S. 376, 389 (1973).

required closure of premises where solicitation of prostitution took place. The Court remarked that “every civil and criminal remedy imposes some conceivable burden on First Amendment protected activities,” *id.* at 706, and heightened scrutiny was appropriate only when the law was directed at expressive conduct or inevitably placed a disproportionate burden on the First Amendment activity, *id.* at 707; *see also Lorain J. Co. v. United States*, 342 U.S. 143, 155-56 (1951) (no First Amendment violation where antitrust law prevented newspapers from refusing to sell advertising space to certain businesses); *Cohen v. Cowles Media Co.*, 501 U.S. 663, 670 (1991) (promissory-estoppel law).

“[E]nforcement of such general laws against the press”—and, a fortiori, against businesses that offer speech-related services to the public, like 303 Creative—“is not subject to stricter scrutiny than would be applied to enforcement against other persons or organizations.” *Cohen*, 501 U.S. at 670. The fact that Smith may find compliance with CADA contrary to her beliefs is of no moment in terms of the First Amendment, any more than a libertarian’s objection to tax laws. Blocking enforcement of generally applicable laws based on a regulated person’s moral or philosophical objections to them has staggering implications.

Despite the clarity of these principles, Petitioners Smith and 303 Creative (collectively, “the

Company”) have advocated (Br. 15) that the application of CADA to the Company’s web-design business requires strict scrutiny, which means that CADA can be upheld only if it is the least restrictive means of serving a compelling state interest. Such a standard would buck a long line of this Court’s precedents. As Respondents have argued (Br. 25-28), even if CADA singled out expressive conduct—which it does not—it would still warrant only intermediate scrutiny. *See Turner Broad. Sys., Inc. v. FCC*, 512 U.S. 622, 640 (1994) (applying intermediate scrutiny because a content-neutral law “single[d] out the press”).

Nonetheless, CADA’s application here withstands even strict scrutiny. Remedying discrimination that excludes certain groups from equal participation in economic life is inherently a compelling state interest. *See Bd. of Dirs. of Rotary Int’l v. Rotary Club of Duarte*, 481 U.S. 537, 549 (1987); *Roberts v. U.S. Jaycees*, 468 U.S. 609, 626 (1984). But it is especially so here, for not only marketplace exclusion but also the health of LGB persons is at stake. The object of this brief is to inform the Court of the established and 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 this Court were to allow the kind of discriminatory exclusion that the Company wishes to practice.

As the Court weighs the prevention of these harms against the Company's putative speech interests, three considerations are paramount.

First, Smith's insistence that she harbors no ill will toward LGB persons is not relevant to whether the Company is engaged in discriminatory conduct, or to the effects upon LGB persons of that conduct. A person might have no ill will toward African Americans per se but still hold a sincere belief that people of different races should not mix, and therefore that a restaurant should be able to exclude African Americans and that schools should be segregated. That is still discrimination on the basis of race, and the Company similarly seeks to discriminate on the basis of LGB orientation. LGB people correctly understand such conduct as discrimination against them and, as a result, experience the harms documented by the research presented in this brief.

Second, the Company has stipulated that it is a "place of public accommodation" and that it "offer[s] services to the public." Pet. App. 189a. As such, it concedes that it is not a purely private and selective vendor open only to certain customers based on religious criteria. It also implicitly concedes that it is not a "place that is principally used for religious purposes," which would exempt it from CADA's definition of a place of public accommodation. Colo. Rev. Stat. § 24-34-601(1).

Finally, the principle that combatting offensive *speech* is not a compelling interest, *see Hurley v. Irish-Am. Gay, Lesbian & Bisexual Grp. of Boston*, 515 U.S. 557, 579 (1995), is not dispositive here. Rather, this case is about the harm that results from the Company’s exclusionary *conduct*. As this Court has held, combatting that harm “plainly serves compelling state interests of the highest order,” even when the goods and services at issue involve protected speech. *Roberts*, 468 U.S. at 624 (applied to leadership training and business contacts).

As the remainder of this brief demonstrates, the harm to LGB people of exclusionary conduct is substantial, and preventing it is a compelling interest that outweighs the Company’s speech interests under any legal standard.

### SUMMARY OF ARGUMENT

The core question in this case is whether the First Amendment guarantees a web designer the right to engage in harmful discriminatory conduct directed at same-sex couples, which the State of Colorado seeks to prohibit. Amici submit this brief to provide the Court with essential information about the long history and present-day impacts of discrimination experienced by same-sex couples and LGB people generally, as well as the types of harms that the Company’s actions could produce. Our research and expertise lead

us to the inescapable conclusion that discrimination causes harm to the dignity of LGB people and to their health and well-being.

To prevent discriminatory harm to LGB people, providers of services to the public must be expected to comply with antidiscrimination laws. The Company argues that it should be exempt from these expectations due to Smith's religious beliefs, despite the fact that she wishes to offer a commercial service to the general public. But the Company is not a religious institution; it is a business. Same-sex couples, and LGB people generally, may expect some religious institutions to disapprove of their relationships and marriages. However, same-sex couples should not have this expectation when engaging with businesses in the marketplace.

LGB people also understand that a business that rejects same-sex couples is hostile to them as LGB individuals, not just to their weddings. Should this Court accept the Company's position, it would guarantee a marketplace that is segregated into businesses that are open to same-sex couples and those that are not. Engaging in commercial activities in such a segregated marketplace will have both *tangible* and *symbolic* stressful effects on LGB consumers. LGB people will bear the burden of finding businesses that do not discriminate against them, a process that may entail significant harm to their dignity and well-being.

LGB people are no strangers to discrimination and violence. As the Seventh Circuit has explained, “homosexuals are among the most stigmatized, misunderstood, and discriminated-against minorities in the history of the world.” *Baskin v. Bogin*, 766 F.3d 648, 658 (7th Cir. 2014); *accord Windsor v. United States*, 699 F.3d 169, 182 (2d Cir. 2012) (“It is easy to conclude that homosexuals have suffered a history of discrimination.”), *aff’d*, 570 U.S. 744 (2013). But this Court has repeatedly ruled that such harm to the dignity of LGB people is of constitutional proportion. *See, e.g., Obergefell v. Hodges*, 576 U.S. 644, 681 (2015). This Court’s decisions recognizing some of these harms<sup>5</sup> have helped LGB people live with dignity. And yet, many of these harms persist.

As we will show, the minority-stress literature converges on one conclusion: when a place of

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<sup>5</sup> *See, e.g., Obergefell*, 576 U.S. at 681 (fundamental right to marry is guaranteed to same-sex couples by the Due Process and Equal Protection clauses of the Fourteenth Amendment); *United States v. Windsor*, 570 U.S. 744, 749-52 (2013) (Defense of Marriage Act violates the Due Process Clause of the Fifth Amendment); *Lawrence v. Texas*, 539 U.S. 558, 578 (2003) (right to intimate consensual sexual conduct is protected by the Due Process Clause of the Fourteenth Amendment); *Romer v. Evans*, 517 U.S. 620, 623-24 (1996) (Equal Protection Clause bars state constitutional amendment prohibiting the extension of antidiscrimination protections to LGB people).

public accommodation refuses to serve LGB people because of their sexual orientation or their desire to marry a same-sex partner, that refusal causes minority stress. Minority stress is experienced as additive stress to the general stress all people experience. And that added stress has powerful tangible and symbolic implications for LGB people. In turn, decades of social-science and public-health research have shown that stress adversely impacts the health and well-being of LGB people. In comparison with heterosexual people, this excess stress (*minority stress*) leads to excess adverse mental and physical health outcomes, including depression, substance use, and suicide attempts.

Discrimination against LGB people in the marketplace, even if non-discriminating alternatives are available, imposes real harms on LGB people's mental and physical health. States have a compelling interest in addressing these harms by prohibiting discrimination.

## ARGUMENT

### I. **Stigma is a fundamental cause of health inequalities.**

The concept of *stigma* was first suggested in 1963 by sociologist Erving Goffman<sup>6</sup>; it has since

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<sup>6</sup> See generally Erving Goffman, *Stigma: Notes on the Management of Spoiled Identity* (1963).

risen as a conceptual framework in the social sciences and has been identified as a fundamental cause of health disparities among populations defined by social status (e.g., LGB people versus heterosexuals). Stigma refers to the social process of attributing low regard to a member of a disliked social group, such as LGB people, racial and ethnic minorities, religious minorities, and people with disabilities, among others. It is “a social identity that is devalued.”<sup>7</sup> Link and Phelan identified as essential elements of stigma inter-related components of “labeling, stereotyping, separation, status loss, and discrimination” in the context of differences in social power.<sup>8</sup> Racism is an example of stigma, but “the stigma concept encompasses multiple statuses and characteristics, such as sexual orientation . . . ; thus, stigma can be seen as broader in scope than racism.”<sup>9</sup>

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<sup>7</sup> Jennifer Crocker et al., *Social Stigma*, in 2 *The Handbook of Social Psychology* 504, 505 (Daniel T. Gilbert et al. eds., 4th ed. 1998).

<sup>8</sup> Bruce G. Link & Jo C. Phelan, *Conceptualizing Stigma*, 27 *Ann. Rev. Socio.* 363, 363 (2001).

<sup>9</sup> Mark L. Hatzenbuehler et al., *Stigma as a Fundamental Cause of Population Health Inequalities*, 103 *Am. J. Pub. Health* 813, 813 (2013).

Hatzenbuehler, Phelan, and Link defined stigma as a fundamental cause of health disparities in the United States, in that stigma underpins several processes that lead to poor health.<sup>10</sup> These processes include impeding the availability of resources (money, education, prestige) and beneficial social relationships, and increasing the experience of stress. These stigma-induced processes lead, in turn, to adverse mental and physical health outcomes.

Stigma is referred to as a *fundamental cause* of health disparities because it is resistant to change across historical periods. For example, while the Jim Crow laws may have gone by the wayside, they have been replaced by less overt forms of racism that researchers call *aversive racism*.<sup>11</sup> Similarly, while same-sex marriages have become more accepted in American society, there has been evolving stigma against LGBT people—for example, the recent resurgence of accusations that LGBT people are “groomers” who aim to corrupt young school children.<sup>12</sup> Thus,

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<sup>10</sup> *See id.*

<sup>11</sup> *See* John F. Dovidio et al., *Aversive Racism and Contemporary Bias*, in *The Cambridge Handbook of the Psychology of Prejudice* 267, 267 (Chris G. Sibley & Fiona Kate Barlow eds., 2016).

<sup>12</sup> *See, e.g.*, Matt Lavietes, “Groomer,” “Pro-pedophile”: *Old Tropes Find New Life in Anti-LGBTQ Movement*, NBC News (April 12, 2022, 12:54 PM),

over time, stigma produces new mechanisms for exclusion and discrimination and increases stress-related stigma in members of the target minority group.<sup>13</sup>

Below, we discuss the specific impacts of stigma on LGB people.

## **II. LGB people face discrimination and other minority stressors stemming from anti-LGB stigma.**

### **A. LGB people face minority stressors stemming from anti-LGB stigma and prejudice.**

Because of widespread anti-LGB stigma, experiences of discrimination and rejection are among significant minority stressors that adversely impact LGB people's health and well-being. A stressor is "any condition having the potential to arouse the adaptive machinery of the

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<https://www.nbcnews.com/nbc-out/out-politics-and-policy/groomer-pedophile-old-tropes-find-new-life-anti-lgbtq-movement-rcna23931> [https://perma.cc/QBC9-GKDR]; Melissa Block, *Accusations of "Grooming" Are the Latest Political Attack—with Homophobic Origins*, NPR (May 11, 2022, 5:27 AM), <https://www.npr.org/2022/05/11/1096623939/accusations-grooming-political-attack-homophobic-origins> [https://perma.cc/8BH4-844T].

<sup>13</sup> See Hatzenbuehler et al., *supra* note 9, at 816-17.

individual.”<sup>14</sup> Stress can be described, using an engineering analogy, as the load relative to the supportive surface.<sup>15</sup> Like a surface that may break when the load weight exceeds the surface’s capacity to withstand the load, so too can stress reach a breaking point beyond which an organism may reach “exhaustion.”<sup>16</sup> A stressor is stressful because it requires an adaptation effort by the individual exposed to it.<sup>17</sup> Research over decades has shown that stress causes mental and physical disorders, such as self-rated poor health, chronic health conditions, disabilities,

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<sup>14</sup> Leonard I. Pearlin, *Stress and Mental Health*, in *A Handbook for the Study of Mental Health* 161, 163 (Allan V. Horwitz & Teresa L. Scheid eds., 1999). Here we use *stress* to mean the *exposure* to a stressful event or condition (in common language it also refers to the resultant *feeling* of stress). Researchers typically distinguish between stress *exposure* (e.g., a stressful event such as being victimized by violence) and the potential *outcome* of the stress, which is measured as mental or physical health (e.g., psychological *distress*). See Pearlin, *supra*, at 175.

<sup>15</sup> See Blair Wheaton, *The Nature of Stressors*, in *A Handbook for the Study of Mental Health* 176, 177 (Allan V. Horwitz & Teresa L. Scheid eds., 1999).

<sup>16</sup> Hans Selye, *History of the Stress Concept*, in *Handbook of Stress* 7, 10 (Leo Goldberger & Shlomo Breznitz eds., 2nd ed. 1993).

<sup>17</sup> See *id.*; Pearlin, *supra* note 14, at 163.

high blood pressure, psychological distress, and anxiety and depressive disorders.<sup>18</sup>

LGB people are exposed to stressors that stem from anti-LGB stigma, which researchers refer to as *minority stress*.<sup>19</sup> In addition, all people (including LGB people) are exposed to *general* stressors, which do not stem from anti-LGB stigma. LGB and non-LGB people may also experience stigma stressors related to other identities, such as their race/ethnicity.<sup>20</sup> Because minority stress relates to stigma against LGB people, it is unique to them. Thus, minority stress refers to *excess* exposure to stress by LGB people as compared with heterosexuals, which requires special adaptation by LGB individuals.<sup>21</sup> Adaptation is a stress response that can have physical

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<sup>18</sup> Peggy A. Thoits, *Stress and Health*, 51 *J. Health & Soc. Behav.* S41, S44-45 (2010).

<sup>19</sup> See, e.g., Ilan H. Meyer, *Minority Stress and Mental Health in Gay Men*, 36 *J. Health & Soc. Behav.* 38, 38 (1995) [hereinafter Meyer, *Minority Stress*]; Ilan H. Meyer, *Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations*, 129 *Psych. Bull.* 674, 674 (2003) [hereinafter Meyer, *Prejudice*]; cf. Ilan H. Meyer et al., *Social Patterning of Stress and Coping*, 67 *Soc. Sci. & Med.* 368, 371 (2008) [hereinafter Meyer et al., *Social Patterning*] (examining “social stress theory”).

<sup>20</sup> See Hatzenbuehler et al., *supra* note 9, at 813.

<sup>21</sup> See Meyer et al., *Social Patterning*, *supra* note 19, at 376; cf. Gregory M. Herek, *Sexual Stigma and Sexual*

and psychological implications. Because any stress can cause mental and physical disorders, the excess exposure to minority stress among LGB people, as compared with heterosexuals, confers an excess risk for diseases caused by stress.<sup>22</sup>

Minority stress is defined by specific stress processes, including, among others, *prejudice events and conditions* and *expectations of rejection and discrimination*.<sup>23</sup> *Prejudice events and conditions* refers to large and small events and conditions that stem from societal anti-LGB stigma. Thus, being fired from a job is a general stressor that could affect any person, but it is classified as a prejudice event—or a minority stressor—when it is motivated by discrimination against LGB people.

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*Prejudice in the United States, in Contemporary Perspectives on Lesbian, Gay, and Bisexual Identities* 65, 67 (Debra A. Hope ed., 2009); Gregory M. Herek, *Hate Crimes and Stigma-Related Experiences Among Sexual Minority Adults in the United States*, 24 *J. Interpersonal Violence* 54, 57 (2009); Meyer, *Prejudice*, *supra* note 19, at 676; David M. Frost & Ilan H. Meyer, *Internalized Homophobia and Relationship Quality Among Lesbians, Gay Men, and Bisexuals*, 59 *J. Counseling Psych.* 97, 97 (2009).

<sup>22</sup> Meyer et al., *Social Patterning*, *supra* note 19, at 368.

<sup>23</sup> Meyer, *Prejudice*, *supra* note 19, at 680-82.

Minority stress has both structural and interpersonal manifestations. Structural stigma refers to exclusion from resources and advantages available to heterosexuals, such as the historical exclusion of LGB people from the institution of marriage prior to *Obergefell*. Legally sanctioned exclusion from the marketplace, advocated by the Company here, would be a form of structural stigma. Structural stigma can also lead to stressful events through the experience of interpersonal interactions that are perpetrated by individuals, such as hate crimes, discriminatory employment and housing practices, or legally sanctioned rejection and discrimination.

Because of the social significance of stigma, a discriminatory event may be perpetrated by one person, but it carries a symbolic message of social disapprobation. The added symbolic value makes a prejudice event more damaging to the victim's psychological health than a similar event not motivated by prejudice.<sup>24</sup> This exemplifies an important quality of minority stress: prejudice

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<sup>24</sup> David M. Frost et al., *Minority Stress and Physical Health Among Sexual Minority Individuals*, 38 J. Behav. Med. 1, 1 (2015) [hereinafter Frost et al., *Minority Stress and Physical Health*]; Gregory M. Herek et al., *Psychological Sequelae of Hate Crime Victimization Among Lesbian, Gay, and Bisexual Adults*, 57 J. Consulting & Clinical Psych. 945, 945 (1999); Thoits, *supra* note 18, at S45.

events and conditions have a powerful impact because they convey deep cultural meaning.<sup>25</sup> Minority-stress events can be characterized as either major (e.g., being fired from a job) or seemingly minor, “everyday” events (e.g., being refused service at a restaurant). Even “[a] seemingly minor event, such as a slur directed at a gay man, may evoke deep feelings of rejection and fears of violence [seemingly] disproportionate to the event that precipitated them.”<sup>26</sup> Therefore, assessment of stressors related to stigma and prejudice must consider not only the tangible impact of stress—typically defined as the amount of adaptation required by the event—but also the symbolic meaning of the experience within the social context.

In sum, stressors are ubiquitous in our society and experienced by LGB and heterosexual people alike. But LGB people are uniquely exposed to minority stressors that stem from stigma toward them. This added source of stress exposes LGB people to excess stress compared with heterosexuals and leads to excess adverse health outcomes in LGB as compared with heterosexual populations.

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<sup>25</sup> Meyer, *Minority Stress*, *supra* note 19, at 41-42.

<sup>26</sup> *Id.* at 42.

**B. LGB people have endured a long history of stigma and discrimination.**

LGB people have faced a long, painful history of public and private discrimination in the United States. In *Obergefell*, this Court observed that gay and lesbian people have been “prohibited from most government employment, barred from military service, excluded under immigration laws, targeted by police, and burdened in their rights to associate.” 576 U.S. at 661; *see also United States v. Windsor*, 570 U.S. at 770 (“The avowed purpose and practical effect of the law here in question are to impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of the States.”); *Lawrence*, 539 U.S. at 575 (discussing stigma from criminal sodomy statutes); *Romer*, 517 U.S. at 632 (discussing animus in anti-LGB legislation). Speaking to both public and private discrimination, the Seventh Circuit has explained that “homosexuals are among the most stigmatized, misunderstood, and discriminated-against minorities in the history of the world, the disparagement of their sexual orientation, implicit in the denial of marriage rights to same-sex couples, is a source of continuing pain to the homosexual community.” *Baskin v. Bogin*, 766 F.3d 648, 658 (7th Cir. 2014); *accord Windsor v. United States*, 699 F.3d 169, 182 (2d Cir. 2012)

(“It is easy to conclude that homosexuals have suffered a history of discrimination.”), *aff’d*, 570 U.S. 744 (2013).

This history is well-documented. In Colorado specifically, a 1992 legislative report noted that LGB people “have been found to experience discrimination in access to employment, housing, military service, commercial space, public accommodations, health care, and educational facilities on college campuses.”<sup>27</sup> Colorado amended its antidiscrimination law in 2007 and again in 2008 to address many of these same forms of discrimination against LGB people.<sup>28</sup>

### **C. LGB people continue to experience significant discrimination.**

Despite advances to protect the autonomy and equality of LGB people under the U.S. Constitution and some state and local laws, research

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<sup>27</sup> See Brad Sears et al., Williams Inst., *Documenting Discrimination in State Employment* 7-4 (2009) (quoting Report on Ballot Proposals of the Legislative Counsel of Colorado General Assembly, An Analysis of 1992 Ballot Proposals, Research Publ. No. 369, at 9-12 (1992)), <https://williamsinstitute.law.ucla.edu/publications/lgbt-discrim-state-employment/> [https://perma.cc/D4WS-9QFE].

<sup>28</sup> See 2007 Colo. Sess. Laws 1254 (employment); 2008 Colo. Sess. Laws 1596 (places of public accommodation).

shows that violence, mistreatment, and discrimination remain persistent and pervasive. One study has shown that LGB and transgender people are nearly four times as likely to experience violent attacks.<sup>29</sup> But anti-LGBT discrimination often manifests in the form of day-to-day interactions related to meeting basic needs. In a study of a nationally representative sample of LGBT people, almost half reported that they had generally been treated with less courtesy (45%) and less respect (44%) than non-LGBT people.<sup>30</sup>

Research has documented the discrimination and harassment that LGB people continue to

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<sup>29</sup> Andrew R. Flores et al., *Victimization Rates and Traits of Sexual and Gender Minorities in the United States*, 6 *Sci. Advances* 5 (Oct. 2, 2020), <https://www.science.org/doi/10.1126/sciadv.aba6910>.

<sup>30</sup> Ilan H. Meyer et al., Williams Inst., *LGBTQ People in the U.S.* 21 tbl.9 (2021).

face in almost all aspects of public life,<sup>31</sup> including in employment,<sup>32</sup> housing,<sup>33</sup> education,<sup>34</sup>

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<sup>31</sup> See, e.g., Letter from Williams Inst. Scholars to Members of the S. Comm. on the Judiciary (Mar. 22, 2021), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Testimony-Equality-Act-State-Governments-Mar-2021.pdf> [<https://perma.cc/UQF3-6PGR>]; see also Christy Mallory et al., Williams Inst., *The Impact of Stigma and Discrimination Against LGBT People in Florida* 25-32 (2017), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-LGBT-Discrimination-FL-Sep-2017.pdf> [<https://perma.cc/Q7MA-UHRQ>]; Christy Mallory et al., Williams Inst., *The Economic Impact of Stigma and Discrimination Against LGBT People in Georgia* 25-32 (2017), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-LGBT-Discrimination-GA-Jan-2017.pdf> [<https://perma.cc/HK4Q-RN3A>]; Christy Mallory et al., Williams Inst., *The Impact of Stigma and Discrimination Against LGBT People in Texas* 25-31 (2017), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Impact-LGBT-Discrimination-TX-Apr-2017.pdf> [<https://perma.cc/34JP-6N5B>].

<sup>32</sup> See, e.g., Letter from M.V. Lee Badgett, Professor of Econ., Univ. of Mass. Amherst, to Members of the S. Comm. on the Judiciary (Mar. 17, 2021), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Testimony-Equality-Act-LGBT-Employment-Mar-2021.pdf> [<https://perma.cc/Z4PH-FWV5>] (discussing employment discrimination experienced by LGB and transgender people).

<sup>33</sup> See, e.g., Diane K. Levy et al., Urban Inst., *A Paired-Tested Pilot Study of Housing Discrimination Against*

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*Same-Sex Couples and Transgender Individuals* xiii (2017), [https://www.urban.org/sites/default/files/publication/91486/2017.06.27\\_hds\\_lgt\\_final\\_report\\_report\\_finalized\\_0.pdf](https://www.urban.org/sites/default/files/publication/91486/2017.06.27_hds_lgt_final_report_report_finalized_0.pdf) [<https://perma.cc/7YML-GNDP>]; Adam P. Romero et al., Williams Inst., *LGBT People and Housing Affordability, Discrimination, and Homelessness* 4 (2020); Christy Mallory & Brad Sears, Williams Inst., *Evidence of Housing Discrimination Based on Sexual Orientation and Gender Identity* 1 (2016), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Housing-Discrimination-US-Feb-2016.pdf> [<https://perma.cc/69X5-S4GJ>].

LGBT people are also more likely to rent their homes and thus have less stable housing. *See* Bianca D.M. Wilson et al., Williams Inst., *LGBT Renters and Eviction Risk* 2 (2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Eviction-Risk-Aug-2021.pdf> [<https://perma.cc/55JS-X7TF>].

<sup>34</sup> *See, e.g.*, Joseph G. Kosciw et al., GLSEN, *The 2015 National School Climate Survey* xvi-xvii (2016), <https://www.glsen.org/sites/default/files/2020-01/GLSEN%202015%20National%20School%20Climate%20Survey%20%28NSCS%29%20-%20Full%20Report.pdf> [<https://perma.cc/PV7V-8F87>]; Joshua R. Wolff et al., *Sexual Minority Students in Non-Affirming Religious Higher Education*, 3 *Psych. Sexual Orientation & Gender Diversity* 201, 201 (2016).

health care,<sup>35</sup> financial services,<sup>36</sup> government programs,<sup>37</sup> the judicial system,<sup>38</sup> and public accommodations.<sup>39</sup> The employment context provides a clear example. In a study conducted in

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<sup>35</sup> See Lambda Legal, *When Health Care Isn't Caring* 5-6 (2010), [https://www.lambdalegal.org/sites/default/files/publications/downloads/whcic-report\\_when-health-care-isnt-caring.pdf](https://www.lambdalegal.org/sites/default/files/publications/downloads/whcic-report_when-health-care-isnt-caring.pdf) [<https://perma.cc/R39K-D6PS>].

<sup>36</sup> See Hua Sun & Lei Gao, *Lending Practices to Same-Sex Borrowers*, 116 PNAS 9293, 9293 (2019).

<sup>37</sup> See, e.g., Kerith J. Conron & Bianca D.M. Wilson, Williams Inst., *LGBT Youth of Color Impacted by the Child Welfare and Juvenile Justice Systems* 4-5 (2019), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBTQ-YOC-Social-Services-Jul-2019.pdf> [<https://perma.cc/VMC8-CCUG>].

<sup>38</sup> See, e.g., Letter from Todd Brower, Jud. Educ. Dir., Williams Inst., to Members of the S. Comm. on the Judiciary (Mar. 17, 2021), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Testimony-Equality-Act-Judicial-System-Mar-2021.pdf> [<https://perma.cc/WS7V-X5G4>].

<sup>39</sup> See Christy Mallory & Brad Sears, Williams Inst., *Evidence of Discrimination in Public Accommodations Based on Sexual Orientation and Gender Identity* 1 (2016) [hereinafter Mallory & Sears, *Public Accommodations*], <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Public-Accomm-Discrimination-Feb-2016.pdf> [<https://perma.cc/ZTX8-WV7M>]; Lindsay Mahowald et al., Ctr. for Am. Progress, *The State of the LGBTQ Community in 2020*, at 4 (2020), <https://www.americanprogress.org/>

2021, one year after this Court decided *Bostock*, over 45% of LGBT workers reported experiencing unfair treatment at work at some point in their lives, including being fired, not hired, or harassed because of their sexual orientation or gender identity.<sup>40</sup> Nearly one-third (31.1%) of LGBT respondents reported experiencing employment-based discrimination or harassment during the five-year period prior to the study.<sup>41</sup> Other studies have assessed employment discrimination using experimental methods, such as by submitting matching pairs of resumes.<sup>42</sup> Results showed that LGBTQ candidates were significantly less likely than “effectively identical” non-LGBTQ candidates to be invited for an interview or to be offered a job.<sup>43</sup> An analysis of employment-discrimination complaints filed with state enforcement agencies (in 22 states that protected against LGBT discrimination) between 2008 and

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wp-content/uploads/2020/10/LGBTQpoll-report.pdf  
[<https://perma.cc/ME47-3XEC>].

<sup>40</sup> Brad Sears et al., Williams Inst., *LGBT People’s Experiences of Workplace Discrimination and Harassment* 32 tbl.2 (2021), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/Workplace-Discrimination-Sep-2021.pdf> [<https://perma.cc/VH4G-NC8J>].

<sup>41</sup> *Id.* at 1.

<sup>42</sup> See M.V. Lee Badgett et al., *LGBTQ Economics*, 35 J. Econ. Persps. 141, 159 (2021).

<sup>43</sup> *Id.*

2014 showed that complaints of discrimination based on sexual orientation and gender identity were filed at a similar rate by LGBT workers as complaints of discrimination based on race or sex were filed by people of color or women, respectively (between 4 and 5 complaints per 10,000 workers in the relevant class).<sup>44</sup>

Most relevant to the present case, research shows that LGB people continue to experience discrimination by public accommodations when they seek goods and services in the marketplace. For example, in a nationally representative study of LGB people, 24% reported receiving poorer service in restaurants and stores.<sup>45</sup> Similarly, another recent study found that, of the 36% of LGBT people who had experienced discrimination within the past year, 51% said the experience occurred in a public space, such as a store.<sup>46</sup> Complaints filed with state enforcement agencies between 2008 and 2014 suggest that LGBT people continue to experience discrimination in

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<sup>44</sup> Christy Mallory & Brad Sears, Williams Inst., *Evidence of Employment Discrimination Based on Sexual Orientation and Gender Identity* 1 (2015), <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Employment-Discrimination-US-Oct-2015.pdf> [<https://perma.cc/9PV9-B2N9>].

<sup>45</sup> Meyer et al., *LGBTQ People in the U.S.*, *supra* note 30, at 21 tbl.9.

<sup>46</sup> Mahowald et al., *supra* note 39, at 4.

public accommodations at rates similar to those of women and people of color (between about 1 and 4 complaints filed per 100,000 people in the relevant class).<sup>47</sup> Data from Colorado are similar.<sup>48</sup>

**D. Exclusion from public accommodations is a minority stressor.**

Based on the large body of research on minority stress, amici conclude that a wedding vendor's declining to serve same-sex couples would be a prejudice event—a type of minority stress—which would subject LGB persons to indignities that have both tangible and symbolic impacts.

The potential pitfalls an LGB couple may encounter in finding a business willing to serve them demonstrate the basic premise of minority stress as an *excess* stress: the extra burden of finding an alternative vendor adds to the stress of planning a wedding as compared with heterosexual couples. Presuming an alternative business can be found at all, this added burden is unique to the class of customers who are shunned by the website designer for planning a same-sex wedding.

If a segregated marketplace becomes the norm, same-sex couples can expect to encounter

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<sup>47</sup> Mallory & Sears, *Public Accommodations*, *supra* note 39, at 1.

<sup>48</sup> *See id.* at 4.

such struggles in other areas of commerce that involve commodified speech or expression. A rejected customer may not always be able to find an appropriate and timely replacement because an alternative business may not be available or because the immediacy of the particular need may limit the choice of businesses available in the area. *See, e.g.*, First Am. Compl. at ¶¶ 26, 27, 34, *Zawadski v. Brewer Funeral Services, Inc.*, No. 55CI1:17-cv-00019-CM, (Miss. Cir. Ct., filed Mar. 7, 2017) (widower alleging funeral home refused to transport and cremate deceased same-sex spouse because of their sexual orientation, leaving the decedent's body without proper storage for hours and the family scrambling to find alternative funeral services).

Being discriminated against by service providers in the marketplace is stressful, as it requires LGB people to expend greater effort and expense to secure the services or goods provided to non-LGB people.<sup>49</sup> It is even more stressful because it conveys to the LGB person discriminated

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<sup>49</sup> Comparisons of LGB and heterosexual people throughout our analysis assume everything else being equal in terms of other sources of potential discrimination, such as minority racial/ethnic identity. Of course, other forms of discrimination would similarly apply to LGB people and heterosexuals. Thus, racial discrimination would apply equally to Black heterosexual and LGB people, but only the LGB people would experience the additional anti-LGB discrimination.

against that they are inferior, evoking deep feelings of rejection informed by prior experiences of rejection and discrimination. Moreover, the possibility of public rejection from services and goods creates a stigmatizing social environment. As we discuss next, minority stress and a stigmatizing social environment adversely impact LGB people's health and well-being.

**III. Minority stress adversely affects the health, well-being, and relationship quality of LGB people.**

**A. Minority stress negatively impacts the health and well-being of LGB people.**

Stigma is a “fundamental social cause” of disease in that it “influences multiple disease outcomes through multiple risk factors among a substantial number of people.”<sup>50</sup> This makes stigma “a central driver of morbidity and mortality at a population level.”<sup>51</sup> Stigma leads to poor health outcomes by blocking resources “of money, knowledge, power, prestige, and beneficial social connections,”<sup>52</sup> increasing social isolation, limiting social support, and increasing stress.<sup>53</sup>

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<sup>50</sup> Hatzenbuehler et al., *supra* note 9, at 813.

<sup>51</sup> *Id.*

<sup>52</sup> *Id.* at 814.

<sup>53</sup> *Id.* at 815.

Decades of research have demonstrated the negative effects of minority stress on the health and well-being of LGB people. Studies have concluded that minority-stress processes are related to an array of mental health problems, including depressive symptoms, substance use, and suicide ideation and attempts.<sup>54</sup>

Several studies have also demonstrated links between minority-stress factors and some physical health problems. For example, one study found that LGB people who had experienced a prejudice-related stressful life event were about three times more likely than those who did not experience such an event to have suffered a seri-

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<sup>54</sup> See Vickie M. Mays & Susan D. Cochran, *Mental Health Correlates of Perceived Discrimination Among Lesbian, Gay, and Bisexual Adults in the United States*, 91 Am. J. Pub. Health 1869, 1869, 1871 tbl.1 (2001); Gregory M. Herek & Linda D. Garnets, *Sexual Orientation and Mental Health*, Ann. Rev. Clinical Psych. 353, 359-60 (2007); Michael King et al., *A Systematic Review of Mental Disorder, Suicide, and Deliberate Self Harm in Lesbian, Gay and Bisexual People*, 70 BMC Psychiatry 1 (Aug. 18, 2008), <https://bmcp psychiatry.biomedcentral.com/track/pdf/10.1186/1471-244X-8-70.pdf> [https://perma.cc/K5M3-2BBZ]; Meyer, *Prejudice*, *supra* note 19, at 679-80; Susan D. Cochran & Vickie M. Mays, *Sexual Orientation and Mental Health*, in *Handbook of Psychology and Sexual Orientation* 204, 208-09 (Charlotte J. Patterson & Anthony R. D'Augelli eds., 2013).

ous physical health problem over a one-year period.<sup>55</sup> This effect remained statistically significant even after controlling for the experience of other non-prejudicial stress events and other factors known to affect physical health. Thus, prejudice-related stressful life events were more damaging to the physical health of LGB people than similar stressful life events that did not involve prejudice.

**B. Minority stress negatively impacts same-sex couples' relationship quality.**

LGB people have the same aspirations for achieving intimate relationships as heterosexuals, but they face greater social barriers to maintaining long-term relationships.<sup>56</sup> This Court's decisions in *Lawrence*, *Windsor*, *Obergefell*, and *Bostock* have helped remove some major barriers. But minority stress remains a burden for same-sex partners. Studies indicate that minority stress in LGB people's lives may negatively

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<sup>55</sup> Frost et al., *Minority Stress and Physical Health*, *supra* note 24, at 1.

<sup>56</sup> See David M. Frost, *Similarities and Differences in the Pursuit of Intimacy Among Sexual Minority and Heterosexual Individuals*, 67 J. Soc. Issues 282, 294 (2011).

affect couples' relationship quality.<sup>57</sup> While different-sex and same-sex couples all experience general stressors—such as stressors related to finances or household chores—same-sex couples experience additional minority stressors that stem from the stigmatization of same-sex relationships.<sup>58</sup> Stigma surrounding same-sex relationships can also contribute to feelings of internalized homophobia among people in same-sex relationships,<sup>59</sup> which has been shown to be detrimental to relationship quality among sexual-

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<sup>57</sup> See Hongjian Cao et al., *Sexual Minority Stress and Same-Sex Relationship Well-Being*, 79 *J. Marriage & Fam.* 1258, 1258 (2017); David Matthew Doyle & Lisa Molix, *Social Stigma and Sexual Minorities' Romantic Relationship Functioning*, 41 *Personality & Soc. Psych. Bull.* 1363, 1363 (2015); Sharon Scales Rostosky & Ellen D.B. Riggle, *Same-Sex Relationships and Minority Stress*, 13 *Current Op. Psych.* 29, 29 (2017); David M. Frost & Allen J. LeBlanc, *Stress in the Lives of Same-Sex Couples, in LGBTQ Divorce and Relationship Dissolution* 70, 72-73 (Abbie E. Goldberg & Adam P. Romero eds., 2018); David M. Frost et al., *Social Change and Relationship Quality Among Sexual Minority Individuals*, 84 *J. Marriage & Fam.* 920, 920 (2022).

<sup>58</sup> See David M. Frost et al., *Couple-Level Minority Stress*, 58 *J. Health & Soc. Behav.* 455, 456 (2017); Meyer, *Prejudice*, *supra* note 19, at 678.

<sup>59</sup> See Allen J. LeBlanc & David M. Frost, *Couple-Level Minority Stress and Mental Health Among People in Same-Sex Relationships*, 10 *Soc'y & Mental Health* 276, 277 (2020).

minority individuals.<sup>60</sup> The mental-health effects of stigma can also strain relationships.<sup>61</sup>

**C. Better social and legal conditions are associated with fewer adverse effects of minority stress.**

Studies have used multiple approaches to study the impact of stigma and minority stress, including assessing the relationship between antidiscrimination laws and LGB health. One study found that LGB people who lived in states without laws extending protections to sexual minorities—for example, in employment or hate-crime laws—demonstrated higher levels of mental health problems compared to those living in states with laws that provide such protections.<sup>62</sup>

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<sup>60</sup> See Kimberly F. Balsam & Dawn M. Szymanski, *Relationship Quality and Domestic Violence in Women's Same-Sex Relationships*, 29 *Psych. Women Q.* 258, 258 (2005); Katie M. Edwards & Kateryna M. Sylaska, *The Perpetration of Intimate Partner Violence Among LGBTQ College Youth*, 42 *J. Youth & Adolescence* 1721, 1721 (2013).

<sup>61</sup> Cf. LeBlanc & Frost, *supra* note 59, at 287; Allen J. LeBlanc et al., *Minority Stress and Stress Proliferation Among Same-Sex and Other Marginalized Couples*, 77 *J. Marriage & Fam.* 40, 40 (2015).

<sup>62</sup> See Mark L. Hatzenbuehler et al., *State-Level Policies and Psychiatric Morbidity in Lesbian, Gay, and Bisexual Populations* 99 *Am. J. Pub. Health* 2275, 2275 (2009).

Similarly, another study found that denying marriage rights to same-sex couples had a negative effect on the mental health of lesbians and gay men, regardless of their relationship status.<sup>63</sup> A study that looked at national variations in marriage laws prior to *Obergefell* showed that a state's permitting same-sex marriage was associated with a seven-percent reduction in the proportion of high school students reporting suicide attempts.<sup>64</sup>

This research demonstrates the critical importance of the state's interest in combatting discrimination, providing empirical support for what this Court observed in *Roberts*: that public accommodation laws "protect[] the State's citizenry from a number of serious social and per-

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<sup>63</sup> See Ellen D.B. Riggle et al., *Psychological Distress, Well-Being, and Legal Recognition in Same-Sex Couple Relationships*, 24 J. Fam. Psych. 82, 82 (2010); see also Sharon Scales Rostosky et al., *Marriage Amendments and Psychological Distress in Lesbian, Gay, and Bisexual (LGB) Adults*, 56 J. Counseling Psych. 56, 56 (2009); Mark L. Hatzenbuehler et al., *The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations*, 100 Am. J. Pub. Health 452, 452 (2010).

<sup>64</sup> Julia Raifman et al., *Difference-in-Differences Analysis of the Association Between State Same-Sex Marriage Policies and Adolescent Suicide Attempts*, 171 JAMA Pediatrics 350, 350 (2017).

sonal harms” by ensuring that members of historically disadvantaged groups can participate as full members of civic society. 468 U.S. at 625.

**D. This research reflects a broad scientific consensus.**

To date, hundreds of peer-reviewed research articles have used the minority-stress framework. By and large, this body of work shows that exposure to minority stress negatively affects the health and well-being of LGB people. There is no significant disagreement among social scientists and public-health experts on this point. The National Academies of Sciences, Engineering, and Medicine (NASEM), formerly the Institute of Medicine, concluded that “[t]he disparities affecting [LGBT] populations are driven by experiences of minority stress, which include both structural and interpersonal stigma, prejudice, discrimination, violence, and trauma.”<sup>65</sup> NASEM operates under a congressional charter and provides independent, objective analysis of scientific research. Other leading public-health authorities, including the U.S. Department of Health and Human Services, have also recognized

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<sup>65</sup> Nat’l Acads. of Scis., Eng’g, & Med., *Understanding the Well-Being of LGBTQI+ Populations* 8 (2020) (citation omitted); see also Inst. of Med., *The Health of Lesbian, Gay, Bisexual, and Transgender People* 7 (2011).

stigma as a cause of health disparities between LGB and heterosexual populations.<sup>66</sup>

In a brief supporting the Company, a group of six academics disputes the precise mechanisms by which discrimination harms LGB health. *See* Br. of Scholars of Fam. & Sexuality as Amici Curiae in Supp. of Pet’rs 4. But these academics agree that “the proposition that anti-gay discrimination can diminish psychological and physical health is widely acknowledged.” *Id.* Their methodological critiques center on the difficulty of proving causation—a difficulty that attends observational studies generally, and which social scientists routinely address, including through

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<sup>66</sup> *See* Off. of Disease Prevention & Health Promotion, U.S. Dep’t of Health & Hum. Servs., *Healthy People 2020: Lesbian, Gay, Bisexual, and Transgender Health*, <https://www.healthypeople.gov/2020/topics-objectives/topic/lesbian-gay-bisexual-and-transgender-health> [<https://perma.cc/YL6N-TLFF>] (last visited Aug. 18, 2022); Off. of Disease Prevention & Health Promotion, U.S. Dep’t of Health & Hum. Servs., *Healthy People 2030: Discrimination*, <https://health.gov/healthypeople/priority-areas/social-determinants-health/literature-summaries/discrimination> [<https://perma.cc/B3YG-75SR>] (last visited Aug. 18, 2022) (describing “[d]iscrimination as a social determinant of health”).

the use of diverse methods of study.<sup>67</sup> These difficulties do not undermine the consensus that even these six amici acknowledge—that discrimination negatively affects the health of LGB people.<sup>68</sup>

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<sup>67</sup> Cf. Ronald T. Campbell & Donald W. Fiske, *Convergent and Discriminant Validation by the Multitrait-Multimethod Matrix*, 56 Psych. Bull. 81, 81 (1959).

<sup>68</sup> Their brief also misinterprets one study of racial discrimination, asserting that “less than half of one percent of reported discrimination was due to sexual orientation, even among LGB respondents.” Br. 9 (footnote omitted) (citing Brian B. Boutwell et al., *The Prevalence of Discrimination Across Racial Groups in Contemporary America*, 12 PLoS ONE 5 (Aug. 24, 2017), <https://journals.plos.org/plosone/article/file?id=10.1371/journal.pone.0183356&type=printable> [https://perma.cc/Y4HB-QTV6]). But the analyses in that study “were limited to racial differentiation,” and “if [the] analyses were conducted based on sex or sexual orientation, the results may differ.” Boutwell et al., *supra*, at 7. Their brief also questions whether the Company’s planned acts of discrimination would, on their own, affect an LGB person’s health. *See* Br. 5. This is difficult to evaluate in this case’s hypothetical posture. But regardless of whether any single instance of discrimination triggers a health problem for a particular customer, the stigma and burdens of a segregated market—which a ruling for the Company would require—contribute broadly to health inequalities. *See supra* pp. 27-31.

## CONCLUSION

The scientific literature converges on one conclusion: discrimination by places of public accommodation hurts the health and well-being of LGB people. If this Court should find that the First Amendment prevents Colorado from remedying such harms, our Constitution will be made a source of stigma rather than dignity for LGB people.

The judgment of the court of appeals should be affirmed.

Respectfully submitted,

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## **APPENDIX**

**APPENDIX:  
LIST OF AMICI**

1. **Ilan H. Meyer**, Ph.D., is Distinguished Senior Scholar for Public Policy at the Williams Institute, UCLA School of Law, and Professor Emeritus of Sociomedical Sciences at Columbia University. Dr. Meyer studies public health issues related to minority health, particularly the relationship of minority status, minority identity, prejudice and discrimination and health outcomes in sexual and gender minorities. In several highly cited papers, Dr. Meyer has developed a model of *minority stress* that describes the relationship of social stressors and adverse health outcomes. The model helps to explain lesbian, gay, bisexual, and transgender (LGBT) health disparities. The model has guided his and other investigators' population research on health disparities by identifying the mechanisms by which stigma and prejudice cause stress, which in turn impacts mental and physical health outcomes. Dr. Meyer's and others' research using the minority stress perspective describe the harm to LGBT people from prejudice and stigma. For this work, Dr. Meyer received many awards, including the California Psychological Association Distinguished Scientific Contribution in Psychology award (2018), the American Psychological Association Presidential Citation (2019), and the National Institutes of Health Sexual and Gender Minority Distinguished Investigator Award

(2022). Dr. Meyer has served as an expert in several court cases and hearings, including *Perry v. Schwarzenegger*, 704 F. Supp. 2d 921 (N.D. Cal. 2010); a United States Commission on Civil Rights briefing on peer-to-peer violence and bullying in K-12 public schools (2011); *Garden State Equality v. Doe* (N.J. Sup. Ct. 2013); *Bayev v. Russia* (European Court of Human Rights 2014); and *Sexual Minorities Uganda v. Scott Lively* (D. Mass. 2016). Dr. Meyer has been a principal investigator for over 20 research projects and most recently completed two important National Institutes of Health-funded studies: the *Generations Study*, a study of stress, identity, health, and health care utilization across three cohorts of lesbians, gay men, and bisexuals; and the *TransPoP* study, the first national probability sample of transgender individuals.

2. **M. V. Lee Badgett**, Ph.D., is a Professor of Economics at the University of Massachusetts Amherst and a Williams Distinguished Scholar at the Williams Institute, UCLA School of Law. Her current research focuses on poverty in the LGBT community, employment discrimination against LGBT people in the U.S., and the cost of homophobia and transphobia in global economies. Dr. Badgett's latest book is *The Public Professor: How to Use Your Research to Change the World*. Her book, *When Gay People Get Married: What Happens When Societies Legalize Same-Sex Marriage*, analyzes the positive U.S. and European experiences with marriage equality for

gay couples. Her first book, *Money, Myths, and Change: The Economic Lives of Lesbians and Gay Men*, presented her groundbreaking work debunking the myth of gay affluence. Dr. Badgett's work includes testifying as an expert witness in legislative matters and litigation (including as an expert witness in California's Prop 8 case), consulting with development agencies (World Bank and United Nations Development Programme), analyzing public policies, consulting with regulatory bodies, briefing policymakers, writing op-ed pieces, speaking with journalists, and advising businesses.

**3. Juan Battle, Ph.D.**, is a Presidential Professor at the Graduate Center of the City University of New York (CUNY); where he holds appointments in Sociology, Urban Education, Social Welfare, the School of Public Health & Health Policy, as well as the School for Labor and Urban Studies. Additionally, he is currently the Executive Officer [Chair] of the PhD Program in Nursing as well as the former and inaugural Coordinator of the Africana Studies Certificate Program. With over 100 grants and publications—including books, book chapters, academic articles, and encyclopedia entries—his research focuses on race, sexuality, and social justice. He tends to teach courses centered around statistics, methods, race, and/or sexuality; and has served on and/or chaired over 65 dissertation committees. In addition to having delivered lectures at a multitude of academic institutions, community-

based organizations, and funding agencies throughout the world, his scholarship has included work throughout North America, South America, Africa, Asia, and Europe. He is a former president of the Association of Black Sociologists and is the former chair of the American Sociological Association's section on Race, Gender, and Class. Prof. Battle received his A.S. and B.S. from York College of Pennsylvania. His M.A. and Ph.D. were both received from the University of Michigan.

4. **Amanda K. Baumle**, J.D., Ph.D., is a Professor of Sociology at the University of Houston. Dr. Baumle's research is primarily focused on examining employment discrimination experiences and outcomes for lesbian, gay, bisexual, and transgender individuals. In addition, she studies the role of the law in family formation for LGBT parents, as well as the demography of sexuality and trans demography. She is the author or editor of six books, including *LGBT Families & the Law: How the Law Shapes Parenthood* (NYU Press), *Same-Sex Partners: The Demography of Sexual Orientation* (SUNY Press), *The International Handbook on the Demography of Sexuality* (Springer Press), the *Handbook on the Demography of Transgender, Nonbinary, and Gender Minority Populations* (Springer Press), and others. She has published peer-reviewed articles in outlets such as *Social Forces*, *Social Science Research*, *Population & Development Re-*

*view, Law & Policy, Journal of Marriage & Family, Journal of Homosexuality, and others. Her research has been funded by the National Science Foundation and the U.S. Department of Labor.*

**5. John R. Blosnich**, Ph.D., M.P.H. is an Assistant Professor and Director of the Center for LGBTQ+ Health Equity in the Suzanne Dworak-Peck School of Social Work at the University of Southern California. He is also a Research Health Scientist with the Center for Health Equity Research and Promotion in the U.S. Department of Veterans Affairs. His research focuses on health equity for LGBT individuals, with specific emphasis on social determinants of health and suicide risk.

**6. Michael Boucai**, J.D., M.Phil., teaches Criminal Law and Family Law, as well as courses on gender, sexuality, and reproduction, at the University at Buffalo School of Law. His research focuses on the law and legal history of marriage, parenthood, and LGBTQ rights.

**7. Khiara M. Bridges**, J.D., Ph.D., is a professor of law at UC Berkeley School of Law. She has written many articles concerning race, class, reproductive rights, and the intersection of the three. Her scholarship has appeared in the *Harvard Law Review*, *Stanford Law Review*, and *Columbia Law Review*, among others. She is also the author of three books: *Reproducing Race: An*

*Ethnography of Pregnancy as a Site of Racialization* (2011), *The Poverty of Privacy Rights* (2017), and *Critical Race Theory: A Primer* (2019). She is a coeditor of a reproductive justice book series that is published under the imprint of the University of California Press.

8. **Susan D. Cochran**, Ph.D., M.S., is a Professor of Epidemiology at the UCLA Fielding School of Public Health and a Professor of Statistics, UCLA. Her research focuses on the mechanisms by which social adversity affects health. She has received numerous awards for her research and professional activities including the prestigious 2001 Award for Distinguished Contributions to Research in Public Policy from the American Psychological Association. In 2010, she was a member of the APA Presidential Task Force on “Reducing and preventing discrimination against and enhancing benefits of inclusion of people whose social identities are marginalized in society.” Using funding from the National Institute on Drug Abuse, she conducted three large-scale population-based studies of mental health and substance use concerns among lesbian, gay, and bisexual individuals in California. She was also a member of the World Health Organization ICD-11 Working Group on the Classification of Sexual Disorders and Sexual Health. She has served as amicus curiae and provided expert testimony for LGB-related matters.

9. **Gregory Davis, J.D., Ph.D.**, is the Williams Institute/Critical Race Studies Richard Taylor Law Teaching Fellow at UCLA School of Law. He writes on issues in constitutional law, empirical legal studies, and the intersection of race, sexuality, and law. Davis' research has been published in the National Black Law Journal, the Dukeminier Awards Journal, and multiple book chapters. He completed his J.D. at UCLA School of Law in 2014 and his Ph.D. at Harvard University in African American Studies in 2020.

10. **Lisa Davis, J.D., M.A.**, is an Associate Professor of Law, Special Adviser on Gender Persecution to the International Criminal Court Prosecutor, and Co-Director of the Human Rights & Gender Justice Clinic (formerly named International Women's Human Rights Clinic) at CUNY School of Law. Davis has written and reported extensively on international human rights and gender justice issues, including women's rights and LGBTQI+ rights in conflict and disaster settings. Lisa has testified before Congress, the U.K. Parliament, the Inter-American Commission on Human Rights, and various international human rights bodies.

11. **Adam W. Fingerhut, Ph.D.**, is Professor and Chair in the Department of Psychological Science at Loyola Marymount University in Los Angeles, California. His research focuses on prejudice, discrimination, and stereotyping, examining these phenomena from the perspectives of

targets and perpetrators, individuals and couples. Examples of Dr. Fingerhut's research include survey studies of heterosexuals' stereotypes of gay and lesbian individuals; daily experience studies of stress among LGB individuals and same-sex couples during marriage equality campaigns; and experimental studies investigating the role of stereotype threat in healthcare decision making among African American women. Dr. Fingerhut has received funding for his research from the National Institutes of Mental Health, the Society for the Psychological Study of Social Issues, the Williams Institute, and the Center for Integrative Approaches to Health Disparities. For his contributions to scholarship and service, Dr. Fingerhut received the Michele Alexander Early Career Award from the Society for the Psychological Study of Social Issues (American Psychological Association Division 9).

**12. Jessica N. Fish, Ph.D.**, is Assistant Professor of Family Health and Wellbeing in the Department of Family Science at the University of Maryland School of Public Health. Dr. Fish studies the factors that shape the development and health of LGBTQ people across the life course. Her area of research, in particular, focuses on how stigma and other factors are associated with the presence and developmental patterns of substance use and mental health among LGBTQ youth and adults. Among other findings, her research demonstrates the deleterious effects of stigma and discrimination on health. She has

over 95 publications in academic journals and books. In 2022, Dr. Fish received the National Institutes of Health Sexual and Gender Minority Research Early-Stage Investigator Award.

**13. Annesa Flentje, Ph.D.**, is an Associate Professor at the University of California, San Francisco. Dr. Flentje's research focused on understanding and reducing health disparities among sexual and gender minority people including prevention, increasing visibility in research, understanding the biological mechanisms of minority stress, and developing interventions to reduce minority stress. Dr. Flentje was an inaugural recipient of the National Institutes of Health Sexual and Gender Minority Investigator Award. Dr. Flentje is also Associate Director and UCSF Site Director of The PRIDE Study, a prospective national longitudinal study of the health of sexual and gender minority individuals within the United States that has enrolled over 22,000 sexual and gender minority people to date. Dr. Flentje is the Director of the Center for Sexual and Gender Minority Health at UCSF.

**14. Andrew R. Flores, Ph.D.**, is a political scientist, an Assistant Professor at the School of Public Affairs at American University, and a Visiting Scholar at the Williams Institute, UCLA School of Law. Dr. Flores studies attitude formation and change about marginalized groups, particularly lesbian, gay, bisexual, and

transgender (LGBT) people; the political behavior of LGBT people with a central focus on the role of linked fate in LGBTQ politics; the demography of LGBT people; and the experiences of LGBT people while incarcerated. Dr. Flores has also analyzed the effects of social attitudes about LGBT populations on the physical and mental health of LGBT populations. Dr. Flores's research has appeared in or are forthcoming in the *American Journal of Public Health*, *Political Psychology*, *Public Opinion Quarterly*, the *Journal of Social Issues*, *Political Research Quarterly*, *Politics, Groups, and Identities*, the *Journal of Youth and Adolescence*, *Aggression and Violent Behavior*, the *International Journal of Public Opinion Research*, *Research and Politics*, *Transgender Studies Quarterly*, and the *Indiana Journal of Law and Social Equality*.

15. **Katherine Franke**, LL.M., J.S.D., is the James L. Dohr Professor of Law at Columbia University and Director of the Center for Gender & Sexuality Law. She is also on the Executive Committees of Columbia's Institute for the Study of Sexuality and Gender and the Center for Palestine Studies. Professor Franke is the founder and faculty director of the Law, Rights, and Religion Project, a think tank based at Columbia Law School that develops policy and thought leadership on the complex ways in which religious liberty rights interact with other fundamental rights. She is among the nation's leading scholars writing on law, sexuality, race, and religion,

drawing from feminist, queer, and critical race theory. Her first book, *Wedlocked: The Perils of Marriage Equality*, considers the costs of winning marriage rights for same sex couples today and for African Americans at the end of the Civil War. Her second book, *Repair: Redeeming the Promise of Slavery's Abolition*, makes the case for racial reparations in the United States by returning to a time at the end of the Civil War when many formerly enslaved people were provided land explicitly as a form of reparation.

**16. Cary Franklin**, J.D., D.Phil., is the McDonald/Wright Chair of Law at UCLA School of Law, where she writes and teaches in the areas of constitutional law, antidiscrimination law, and legal history. Her work focuses on the historical development of conceptions of equality in American law and how this history influences the shape of contemporary legal protections in the contexts of sex, sexual orientation, gender identity, and race. She is the Faculty Director of the Williams Institute, a research institute at UCLA focused on sexual orientation and gender identity law and public policy, and the Faculty Director of the Center on Reproductive Health, Law, and Policy, an innovative new center engaging with community organizations, lawmakers, practitioners, scholars, and advocates on matters related to reproductive rights and justice. Her work has appeared in numerous publications including the *Harvard Law Review*, the *Michigan Law Review*, the *NYU Law Review*, the *Supreme*

*Court Review*, the *Virginia Law Review*, and the *Yale Law Journal*.

17. **David M. Frost**, Ph.D., is an Associate Professor in Social Psychology in the Department of Social Science at University College London. His research focuses on close relationships, stress, stigma, and health. His primary line of research examines how stigma, prejudice, and discrimination constitute minority stress and, as a result, affect the health and well-being of marginalized individuals. He also studies how couples psychologically experience intimacy within long-term romantic relationships and how their experience of intimacy affects their health. These two lines of research combine within recent projects examining same-sex couples' experiences of stigmatization and its resulting impact on their relational, sexual, and mental health. His research has been published in several top tier social science, public health, and policy journals and has been recognized by grants and awards from the U.S. National Institutes of Health, the Society for the Psychological Study of Social Issues, and the New York Academy of Sciences.

18. **Kristi Gamarel**, Ph.D., is an Associate Professor in the Department of Health Behavior and Health Education at the University of Michigan School of Public Health. Dr. Gamarel has over 15 years of experience working on community-engaged research focused on addressing stigma and

violence experienced by sexual and gender minority communities. She led the first dyadic study documenting the deleterious effects of stigma on transgender women and their intimate partners. She has served as Principal Investigator or Multiple Principal Investigator on multiple NIH-funded projects and has published over 120 manuscripts focused on health inequities experienced by sexual and gender minority communities. Her current projects focus on addressing economic vulnerability and health harming legal needs experienced by transgender women of color in Detroit, Michigan.

**19. Nanette Gartrell, M.D.**, is a Visiting Distinguished Scholar at the Williams Institute, UCLA School of Law. She has a Guest Appointment at the University of Amsterdam, and she was formerly on the faculties of Harvard Medical School and UCSF. Dr. Gartrell is a psychiatrist, researcher, and writer whose 48 years of scientific investigations have focused primarily on sexual minority parent families. Dr. Gartrell is the principal investigator of the U.S. National Longitudinal Lesbian Family Study, now in its 31st year. Her research has been cited internationally in litigation and legislation concerning equality in marriage, foster care, and adoption, and it contributed to the American Academy of Pediatrics' 2013 endorsement of marriage equality. "The U.S. National Longitudinal Lesbian Family Study: Psychological Adjustment of the

17-year-old Adolescents,” published in *Pediatrics*, was cited by *Discover Magazine* as one of the top 100 science stories of 2010.

**20. Gary J. Gates, Ph.D.**, is a recognized expert on the geography and demography of the lesbian, gay, bisexual, and transgender (LGBT) population. Justice Anthony Kennedy cited his friend-of-the-court brief in his majority opinion in *Obergefell v. Hodges*, holding that same-sex couples have a constitutional right to marriage. Dr. Gates holds a Ph.D. in Public Policy and Management from the Heinz College, Carnegie Mellon University, a Master of Divinity degree from St. Vincent Seminary, and a Bachelor of Science degree in Computer Science from the University of Pittsburgh at Johnstown. He is co-author of *The Gay and Lesbian Atlas* and publishes extensively on the demographic and economic characteristics of the LGBT population. National and international media outlets regularly feature his work. Dr. Gates is retired as a Distinguished Scholar and Research Director at the Williams Institute, UCLA School of Law. He has also held positions as a Senior Researcher at Gallup, a Research Associate at the Urban Institute, and Director of the AIDS Intervention Project in Altoona, Pennsylvania.

**21. Marie-Amélie George, J.D., Ph.D.**, is an Associate Professor at Wake Forest University School of Law. She has written extensively about the history of discrimination against lesbians,

gay men, bisexuals, and transgender people, publishing both law review and peer-reviewed articles on the subject. She has also written numerous articles on contemporary LGBTQ+ legal issues, many of which discuss how discrimination negatively affects LGBTQ+ people's health and wellbeing. Dr. George is a three-time winner of the Dukeminier Award from the Williams Institute for her scholarship on LGBTQ-related law and policy. She is currently writing a book on the evolution of gay and lesbian rights, which is under contract with Cambridge University Press.

**22. Jeremy Goldbach, Ph.D.**, is the Masters & Johnson Distinguished Professor of Sexual Health and Education. His work is primarily focused on measuring, understanding, and intervening upon experiences of minority stress and discrimination among LGBTQ+ children and adolescents. Goldbach's work in the area has been continuously funded since 2012 by the Substance Abuse and Mental Health Services Administration, the National Institute on Minority Health and Health Disparities, the National Institute of Child Health and Human Development, the National Institute on Drug Abuse, the Department of Defense, and through foundations.

**23. Abbie E. Goldberg, Ph.D.**, is a Professor of Psychology at Clark University in Worcester, Massachusetts. She received her Ph.D. in clinical psychology from the University of Massachusetts

Amherst. Her research examines diverse families, including lesbian- and gay-parent families and adoptive-parent families. A particular focus of her research is key life transitions (e.g., the transition to parenthood, the transition to kindergarten, and the transition to divorce) for same-sex couples. She has also studied the experiences of transgender college students, families formed through reproductive technologies, and bisexual mothers partnered with men. She is the author of over 140 peer-reviewed articles and four books: *Gay Dads*, *Lesbian- and Gay-Parent Families*, *Open Adoption & Diverse Families*, and *LGBTQ Family Building*. She is the co-editor of four books, including the award-winning SAGE Encyclopedia of LGBTQ Studies. She has received research funding from the American Psychological Association, the Alfred P. Sloan Foundation, the Williams Institute, the Gay and Lesbian Medical Association, the Society for the Psychological Study of Social Issues, the National Institutes of Health, and other sources.

**24. Perry N. Halkitis, Ph.D., M.S., M.P.H.**, is a public health psychologist, infectious disease epidemiologist, applied statistician, researcher, educator, and advocate. Dr. Halkitis is currently Dean and Hunterdon Professor of Public Health & Health Equity Rutgers School of Public Health. He is also the founder and director of the Center for Health, Identity, Behavior & Prevention Studies and a primary member of the Rutgers Cancer Institute of New Jersey and the

Global Health Institute. He holds the status of Professor Emeritus at the College of Global Public Health at New York University. For three decades, the focus of his research has been on the emergence, prevention, and treatment of infectious diseases, specifically, HIV, HPV, and other sexually transmitted infections, and more recently SARS-CoV-2 and monkeypox. Dr. Halkitis is the author of the 2019 book, *Out in Time: The Public Lives of Gay Men from Stonewall to the Queer Generation*. His 2013 book, *The AIDS Generation: Stories of Survival and Resilience*, is a 2014 Lambda Literary Award nominee. Both books received the American Psychological Association Distinguished Book Award in LGBT Psychology. He has authored some 300 peer-reviewed academic manuscripts and also actively disseminates knowledge to mainstream media, appearing frequently on television, radio, print, and podcasts.

**25. Phillip Hammack, Ph.D.**, is Professor of Psychology and Director of the Sexual and Gender Diversity Laboratory at the University of California, Santa Cruz. He received his Ph.D. in 2006 in Cultural Psychology from the Committee on Human Development at the University of Chicago. Prior to his doctoral training, he completed a research training fellowship in Developmental Psychopathology at the National Institute of Mental Health and an M.A. in Clinical Psychology at Loyola University Chicago. Dr. Hammack

is an expert on gender and sexual identity diversity and diversity in intimate relationships. His research has been supported by the National Institutes of Health and the William T. Grant Foundation and has appeared in numerous scientific journals. He has received several early career awards for his research and has been a fellow at the Center for Advanced Study in the Behavioral Sciences at Stanford University. In 2018, he published *The Oxford Handbook of Social Psychology and Social Justice*, part of the Oxford Library of Science. Dr. Hammack is also editor of the *Oxford University Press Series on Sexuality, Identity & Society* and Associate Editor of *Qualitative Psychology*, the official journal of the Society for Qualitative Inquiry in Psychology.

**26. Gary W. Harper, Ph.D., M.P.H.**, is Professor of Health Behavior and Health Education and Professor of Global Public Health at University of Michigan. Dr. Harper is an expert in the mental health and sexual health of sexual and gender minority (SGM) adolescents and young adults and has received numerous national awards for research and community work, including the 2018 American Psychological Association Award for Distinguished Professional Contributions to Applied Research. For the past 25 years, he has received continual funding from the National Institutes of Health and the Centers for Disease Control and Prevention for his youth-focused research and has more than 150 publica-

tions in peer-reviewed scientific journals on issues of SGM health and the negative effects of discrimination.

**27. Mark L. Hatzenbuehler, Ph.D.**, is the John L. Loeb Associate Professor of the Social Sciences in the Department of Psychology at Harvard. He was previously an Associate Professor (with tenure) and Deputy Chair for Faculty Development and Research Strategy in the Department of Sociomedical Sciences at Columbia. Dr. Hatzenbuehler received his PhD in clinical psychology from Yale and completed his post-doctoral training in population health at Columbia, where he was a Robert Wood Johnson Foundation Health & Society Scholar. Dr. Hatzenbuehler's work examines the role of stigma in shaping population health inequalities, with a particular focus on the mental health consequences of structural forms of stigma. His research has been continuously funded by the National Institutes of Health, the Centers for Disease Control and Prevention, and through the William T. Grant Foundation Scholars Program. He has received several early career and distinguished contribution awards from the Society for the Psychological Study of Social Issues, the American Psychological Association, and the Association for Psychological Science. In 2020, he was one of only 200 social scientists named to the prestigious Highly Cited Researcher List by Clarivate Analytics in recognition of his research influence, as demonstrated by the production of multiple highly-cited papers

that rank in the top 1% by citations for field and year in *Web of Science*. Dr. Hatzenbuehler is an elected fellow of the Academy of Behavioral Medicine Research, the premier honorary organization for scientists working at the interface of behavior and medicine, and he has been appointed to serve on two consensus committees at the National Academies of Sciences, Engineering, and Medicine.

28. **Jody L. Herman**, Ph.D., is the Reid Rasmussen Senior Scholar of Public Policy at the Williams Institute, UCLA School of Law. Her research focuses on measures of gender identity in survey research and the prevalence and impacts of discrimination based on gender identity or expression. At the Williams Institute, her work has included the development of trans-inclusive questions for population-based surveys and research on minority stress, health, violence, and suicidality among transgender people, among other topics. Dr. Herman co-authored *Injustice at Every Turn*, based on the National Transgender Discrimination Survey, and *The Report of the 2015 U.S. Transgender Survey*. She served as a Co-Investigator on the U.S. Transgender Population Health Survey. She currently serves as a Co-Principal Investigator on the 2022 U.S. Transgender Survey, led by the National Center for Transgender Equality, and as a Co-Investigator on NIH-funded studies to assess health disparities among gender minority youth and to improve gender identity data collection through the

National Violent Death Reporting System. She holds a Ph.D. in Public Policy and Public Administration from The George Washington University.

**29. David M. Huebner, Ph.D., M.P.H.,** is a Professor of Prevention and Community Health at George Washington University. He received his Ph.D. in Clinical Psychology from Arizona State University and his M.P.H. in epidemiology from the University of California, Berkeley. He has been conducting research for over 25 years on how discrimination from families, schools, and communities impacts HIV risk and other health outcomes among sexual minority adolescents and young adults, and how preventive interventions can help mitigate those impacts. He has received funding for this research from the National Institute of Health and the Centers for Disease Control and Prevention. Dr. Huebner has served on several local and regional HIV prevention community planning groups, and was the Chair of the National Board of Directors for the Gay, Lesbian, Straight Education Network (GLSEN), a national nonprofit that seeks to improve K-12 school experience for sexual and gender minority youth.

**30. Ning Hsieh, Ph.D.,** is an Associate Professor of Sociology at Michigan State University. Their research concerns health, sexuality and gender, aging, and social relationships. Their current projects focus on health and health care

inequities at the intersection of sexual orientation, gender, and race/ethnicity. Dr. Hsieh's research appears in *Demography*, *Gerontologist*, *Health Affairs*, *Journal of Health and Social Behavior*, *Journal of Gerontology: Social Sciences*, *Journal of Marriage and Family*, *LGBT Health*, *Society and Mental Health*, and other peer-reviewed journals and book volumes. Their research has been supported by the National Institutes of Health and recognized by several awards from the American Sociological Association, among others. Dr. Hsieh received their doctoral degree in demography and sociology from the University of Pennsylvania.

**31. Laura T. Kessler**, LL.M., J.S.D., teaches Civil Procedure, Family Law, Antidiscrimination Law, and Reproductive Rights. Her research focuses on the legal regulation of families and sex in various contexts. Professor Kessler's scholarship has examined LGBTQ family rights, sex and sexuality discrimination in the law of marriage and divorce, polygamy and religious freedom, multi-parent families, and access to contraception, among other topics. She is an author of the case book *Women and the Law*. In 2018, Professor Kessler was a Fulbright Senior Scholar in Israel. Her project investigated legal theories and procedural strategies developed by human rights lawyers to overcome the disabilities and limitations that religious family laws impose upon individuals' fundamental rights and liberties.

**32. Sapna Khatri, J.D.**, is the Sears Clinical Law Teaching Fellow for 2021-2024 at UCLA School of Law and the Williams Institute. Her research takes an intersectional approach, exploring the discriminatory impact of new technology and barriers to accessing sexual and reproductive healthcare. Khatri received her B.A. *cum laude* in International Studies and B.J. *magna cum laude* in Strategic Communication from the University of Missouri-Columbia in 2014 and her J.D. from Washington University in St. Louis. Khatri's publications have appeared in the Washington University *Global Studies Law Review* and the *Chicago Sun-Times*, among others.

**33. Nancy J. Knauer, J.D.**, is the Sheller Professor of Public Interest Law and Director of the Law & Public Policy Program at Temple University, Beasley School of Law. For the past thirty years, Professor Knauer has explored the impact of federal and state policies on the lives of LGBTQ people. She is the author of *Gay and Lesbian Elders: History, Law, and Identity Politics in the U.S.* and more than fifty academic articles, books, and book chapters. Some of her most recent scholarship focuses on the intersection of federalism and civil rights protections, as well as the challenges faced by LGBTQ older adults, including health disparities and issues related to minority stress. Professor Knauer has received a Dukeminier Award and the Stu Walter Prize from the Williams Institute at UCLA Law School for her scholarship on LGBTQ aging issues. She

is the co-founder of the Aging, Law & Society Collaborative Research Network of the Law & Society Association and has served on the Executive Committee of the Family Law Institute of the National LGBTQ Bar Association.

**34. Craig Konnoth, J.D., M.Phil,** is Professor of Law and has been appointed to a research chair as the Martha Lubin Karsh and Bruce A. Karsh Bicentennial Professor of Law at UVA Law School. He is also the John T. Casteen III Faculty Fellow and Affiliated Faculty at the Center for Health Humanities and Ethics at the University of Virginia. He is a Faculty Fellow with the Greenwall Foundation. Professor Konnoth was an Associate Professor of Law at the University of Colorado and a Deputy Solicitor General for the State of California, addressing issues of interest to the State before the United States Supreme Court. He holds a J.D. from Yale Law School and an MPhil from Cambridge University.

**35. Elizabeth Kukura, J.D., MSc,** is an Assistant Professor of Law at the Drexel University Thomas R. Kline School of Law. Her research focuses on the intersections of gender and health law, with attention to the impact of discrimination and bias on access to health care, health status, and health outcomes. In particular, Professor Kukura's research addresses the relationship between law and health disparities linked to mi-

nority status. Her work has appeared or is forthcoming in the *Georgetown Law Journal*, *Washington & Lee Law Review*, *Fordham Law Review*, and the *Journal of Law, Medicine & Ethics*.

**36. Allen J. LeBlanc**, Ph.D., is Health Equity Institute (HEI) Professor of Sociology at San Francisco State University. His research on societal and individual responses to chronic illness and disability, the social etiology of stress and health, and government programs relating to disability and health care for low-income Americans has been widely published. His projects have included a five-year study of “Minority Stress and Mental Health among Same-Sex Couples,” funded by the Eunice Kennedy Shriver National Institute of Child Health & Human Development.

**37. Marguerita Lightfoot**, Ph.D., is the Associate Dean for research in the OHSU-PSU School of Public Health and the Ronald Naito-John McAnulty Professor in Health Equity. Dr. Lightfoot is a counseling psychologist whose work has focused on promoting and supporting the health and well-being of adolescents and young adults. This has included multiple NIH-funded research studies to develop culturally competent, efficacious preventive interventions for populations disproportionately burdened by health disparities. Her extensive research has received recognition, including the Award for Distinguished

Contributions to Psychology in the Public Interest from the American Psychology Association, the Chancellor Award for LGBTQ and Intersex Leadership from the University of California San Francisco, and the Ambassador Award from the Oregon Consular Corp.

**38. Bruce G. Link, Ph.D.**, is Distinguished Professor of Public Policy and Sociology at the University of California Riverside and Professor Emeritus of Epidemiology and Sociomedical Sciences at the Mailman School of Public Health at Columbia University. Dr. Link received his Ph.D. in Sociology and a Masters in Biostatistics from Columbia University. He received the Leonard Pearlin Award for career achievement from the Mental Health Section of the American Sociological Association in 2002. In 2007 he received the Leo G. Reeder Award from the Medical Sociology Section of the American Sociological Association and the Rema Lapouse Award from the Mental Health Section of the American Public Health Association. He was elected to the U.S. National Academy of Medicine in 2002. He has written on the connection between socioeconomic status and health, homelessness, violence, stigma, and discrimination. With Jo Phelan, he has advanced the theory of social conditions as fundamental causes of disease.

**39. Christy Mallory, J.D.**, is the Director of State & Local Policy at the Williams Institute, UCLA School of Law. She studies the prevalence

and impact of discrimination against LGBT people and same-sex couples in areas such as employment, housing, public accommodations, and education. Her work has been published in various journals and books, including *When Mandates Work*, the *Loyola of Los Angeles Law Review*, the *LGBTQ Policy Journal at the Harvard Kennedy School*, and the *Albany Government Law Review*.

**40. Anya A. Marino** (she/her), J.D., instructs Harvard Law School's LGBTQ+ Advocacy Clinic. Through litigation, education, and other advocacy methods, she advances LGBTQ+ rights and justice for other marginalized communities. In June 2021, she became the first transgender woman of color to teach at Harvard Law School. Previously, Anya was the Deputy Legal Director for the American Civil Liberties Union (ACLU) of Florida, where she oversaw the ACLU of Florida's voting rights litigation and litigated LGBTQ+ and First Amendment cases. Anya also is the first openly transgender woman of color to serve in any senior legal position throughout the ACLU's federation of national and affiliate offices.

**41. John Pachankis**, Ph.D., is the Susan Dwight Bliss Professor of Public Health and Psychiatry at Yale University. Dr. Pachankis is a clinical psychologist who studies the mental health of LGBT individuals. He developed a highly cited model of stigma concealment, which

has been used to understand the reasons that people conceal stigmatized identities and the psychological costs of doing so. He has also studied the psychological impact of bullying, parental non-acceptance, and discrimination on sexual and gender minority mental health over the lifespan. He has translated this research into some of the first evidence-based mental health treatments for LGBT individuals. He has published more than 150 scientific papers on LGBTQ mental health and stigma and co-edited the *Handbook of Evidence-Based Mental Health Practice with Sexual and Gender Minorities*. He has received the American Psychological Association's Distinguished Contribution to Psychology in the Public Interest award, Distinguished Contribution to the Advancement of Psychotherapy award, and awards for Distinguished Book and Distinguished Scientific Contribution to LGBTQ scholarship.

**42. Charlotte J. Patterson, Ph.D.**, is a Professor of Psychology at the University of Virginia. The author of more than 150 articles and chapters, she is best known for her research on the role of sexual orientation in human development and family lives—and in particular for her work on child development in lesbian- and gay-parented families. Patterson is a Fellow of the American Psychological Association (APA) and of the Association for Psychological Science (APS) and a past president of APA Division 44, the So-

ciety for Psychological Study of Sexual and Gender Minority Issues. She has won a number of awards, including the APA's Distinguished Contributions to Research in Public Policy Award. She also served as a member of the United States Institute of Medicine Committee on Lesbian, Gay, Bisexual, and Transgender Health Issues, whose 2011 report, *The Health of Lesbian, Gay, Bisexual, and Transgender People: Building a Foundation for Better Understanding*, has been highly cited. More recently, she co-chaired the National Academies of Sciences, Engineering, and Medicine committee whose report, *Understanding the Well-Being of LGBTQI+ Populations*, was published in 2020.

**43. Ellen D.B. Riggle, Ph.D.**, is Professor of Political Science and Professor and Chair of Gender and Women's Studies at the University of Kentucky. Dr. Riggle studies the impact of stigma and identity strengths on the health and well-being of LGBTQ people and same-sex couples, including the effects of minority stress on LGBTQ individuals and same-sex couples, how laws and policies affect LGBTQ individuals' reports of distress and well-being, and the role of positive LGBTQ identity factors in well-being and resilience. Dr. Riggle is an American Psychological Association Fellow, a former Scholar-in-Residence at the Indiana University School of Law Center for Law, Society, and Culture, and the co-author of *A Positive View of LGBTQ: Embracing Identity and Cultivating Well-Being*,

winner of the 2012 American Psychological Association Division 44 Distinguished Book Award, and *Happy Together: Thriving as a Same-Sex Couple in Your Family, Workplace, and Community*.

**44. Darren Rosenblum** (they/them), J.D., M.A., is a Full Professor of Law and Associate Dean at McGill University. Their scholarship focuses on corporate governance, in particular on diversity initiatives and remedies for sex inequality. Professor Rosenblum wrote the first article of queer legal theory, *Queer Intersectionality*, and the first article on transgender prisoners, *Trapped in Sing Sing*. They have presented work on corporate board quotas in English, French, Spanish, and Portuguese. As a Fulbright Research Scholar in France, they performed a qualitative study on the French quota for women on corporate boards, which they presented at the French National Assembly in 2015.

**45. Sharon Scales Rostosky**, Ph.D., is Professor of Counseling Psychology and Director of Graduate Studies in the Department of Educational, School, and Counseling Psychology at the University of Kentucky. She is also a licensed psychologist. Dr. Rostosky uses qualitative and quantitative methodologies to document the negative psychosocial impacts of prejudice and discrimination against LGB individuals and same-sex relationships that is sourced at all levels of

the ecological system (intrapersonal, interpersonal, and socio-cultural). Her research on same-sex couple relationships was first funded by the American Psychological Foundation in 2000 and most recently by NIH in 2017. In addition to over 100 journal articles and book chapters, Dr. Rostosky has coauthored two books based on her research findings: *A Positive View of LGBTQ: Embracing Identity and Cultivating Well-Being*, and *Happy Together: Thriving as a Same-Sex Couple in Your Family, Workplace, and Community*. Dr. Rostosky is an American Psychological Association Fellow in the *Society for the Psychology of Sexual Orientation and Gender Diversity* (Division 44) and the *Society of Counseling Psychology* (Division 17).

**46. Esther D. Rothblum**, Ph.D., is Professor Emerita of Women's Studies at San Diego State University and Visiting Distinguished Scholar at the Williams Institute at UCLA School of Law. She is editor of the *Journal of Lesbian Studies*, a former president of Division 44 (Society for the Psychological Study of LGBT Issues) of the American Psychological Association (APA), and a Fellow of seven divisions of the APA. Her research and writing have focused on LGBT relationships and mental health, focusing on using heterosexual and cisgender siblings as a comparison group. Since 2001, Dr. Rothblum has compared same-sex couples in legal relationships with their heterosexual married siblings. She

has edited 27 books and has over 130 publications in academic journals and books.

**47. R. Bradley Sears, J.D.**, is the Founding Executive Director and the David Sanders Distinguished Scholar of Law and Policy at the Williams Institute and Associate Dean of Public Interest Law at UCLA School of Law. Over the past two decades, Sears has published a number of research studies and articles, primarily on discrimination against LGBT people in private and public sectors and the economic and fiscal impact of such discrimination.

**48. Scott Skinner-Thompson, J.D.**, is an Associate Professor at the University of Colorado Law School and affiliate faculty with the LGBTQ Studies Program at the University of Colorado Boulder. His research focuses on constitutional law, civil rights, privacy law, and the First Amendment, with a particular focus on LGBTQ and HIV issues.

**49. Dean Spade, J.D.**, is a professor at the Seattle University School of Law. He is the author of *Normal Life: Administrative Violence, Critical Trans Politics and the Limits of Law*, and *Mutual Aid: Building Solidarity During this Crisis (and the Next)*.

**50. Edward Stein, J.D., Ph.D.**, is a Professor of Law and the Director of the Gertrud Mainzer Program in Family Law, Policy, and Bioethics at the Benjamin N. Cardozo School of

Law at Yeshiva University in New York City. He holds a B.A. from Williams College, a J.D. from Yale Law School, and a Ph.D. in Philosophy from M.I.T. Stein has written extensively about sexual orientation, sexuality, and gender in relation to family law, bioethics, and science in legal, philosophical, scientific, and interdisciplinary journals, and he received a Dukeminier Award for Best Sexual Orientation Law Review Article. Two of his most important works on sexual orientation are *The Mismeasure of Desire: The Science, Theory and Ethics of Sexual Orientation*, and *The Forms of Desire: Sexual Orientation and the Social Constructionist Controversy*.

**51. Ari Ezra Waldman** (he/they), J.D., Ph.D., is a professor of law and computer science at Northeastern University, where he is also the faculty director of the School of Law's Center for Law, Information, and Creativity. He serves on the Board of Directors of the Electronic Privacy Information Center and the Cyber Civil Rights Initiative. Professor Waldman's research focuses on law, technology, and civil rights, particularly how modern technology exacerbates LGBTQ+ inequality. He earned a Ph.D. in sociology from Columbia University, a J.D. from Harvard Law School, and an A.B., magna cum laude, from Harvard College.

**52. Bianca D.M. Wilson**, Ph.D., is a Senior Scholar of Public Policy at the Williams Institute, UCLA School of Law, and affiliated faculty with

the UCLA California Center for Population Research. She earned a Ph.D. in Psychology from the Community and Prevention Research program at the University of Illinois at Chicago with a minor in Statistics, Methods, and Measurement, and received postdoctoral training at the UCSF Institute for Health Policy Studies. Her research focuses on the relationships between culture, oppression, and health, with an emphasis on racial, sexual, and gender minorities. Her most current work focuses on LGBT economic instabilities and population research among foster youth, homeless youth, and youth in juvenile custody, with a focus on sampling, data collection, and assessing disproportionality in these systems.

*Institutional affiliations are for identification purposes only.*