

SUPREME COURT OF THE UNITED STATES

IN THE SUPREME COURT OF THE UNITED STATES

```

-----
303 CREATIVE LLC, ET AL.,      )
                                )
          Petitioners,         )
                                )
          v.                    ) No. 21-476
                                )
AUBREY ELENIS, ET AL.,      )
                                )
          Respondents.        )
-----

```

Pages: 1 through 154

Place: Washington, D.C.

Date: December 5, 2022

HERITAGE REPORTING CORPORATION
Official Reporters
 1220 L Street, N.W., Suite 206
 Washington, D.C. 20005
 (202) 628-4888
www.hrccourtreporters.com

1 IN THE SUPREME COURT OF THE UNITED STATES
2 - - - - -
3 303 CREATIVE LLC, ET AL.,)
4 Petitioners,)
5 v.) No. 21-476
6 AUBREY ELENIS, ET AL.,)
7 Respondents.)
8 - - - - -

9
10 Washington, D.C.
11 Monday, December 5, 2022

12
13 The above-entitled matter came on for
14 oral argument before the Supreme Court of the
15 United States at 10:01 a.m.

16
17 APPEARANCES:

18 KRISTEN K. WAGGONER, ESQUIRE, Washington, D.C.; on
19 behalf of the Petitioners.
20 ERIC R. OLSON, Solicitor General, Denver, Colorado; on
21 behalf of the Respondents.
22 BRIAN H. FLETCHER, Deputy Solicitor General,
23 Department of Justice, Washington, D.C.; for
24 the United States, as amicus curiae, supporting
25 the Respondents.

1	C O N T E N T S	
2	ORAL ARGUMENT OF:	PAGE:
3	KRISTEN K. WAGGONER, ESQ.	
4	On behalf of the Petitioners	3
5	ORAL ARGUMENT OF:	
6	ERIC R. OLSON, ESQ.	
7	On behalf of the Respondents	57
8	ORAL ARGUMENT OF:	
9	BRIAN H. FLETCHER, ESQ.	
10	For the United States, as amicus	
11	curiae, supporting the Respondents	108
12	REBUTTAL ARGUMENT OF:	
13	KRISTEN K. WAGGONER, ESQ.	
14	On behalf of the Petitioners	149
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

P R O C E E D I N G S

(10:01 a.m.)

CHIEF JUSTICE ROBERTS: We'll hear argument first this morning in Case 21-476, 303 Creative LLC versus Elenis.

Ms. Waggoner.

ORAL ARGUMENT OF KRISTEN K. WAGGONER
ON BEHALF OF THE PETITIONERS

MS. WAGGONER: Mr. Chief Justice, and may it please the Court:

Lorie Smith blends art with technology to create custom messages using words and graphics. She serves all people, deciding what to create based on the message, not who requests it. But Colorado declares her speech a public accommodation and insists that she create and speak messages that violate her conscience.

This Court rejects such government-compelled speech. In *Hurley*, the Court considered a very similar issue, asking two questions: Is there speech, and is the message affected? That test is easily met here. Colorado agrees Ms. Smith creates speech, and the law undeniably affects her message. She's not asking this Court to create new law but to

1 apply its precedent.

2 Colorado first says this case is about
3 a sale. It's not just about a sale. The state
4 forces Ms. Smith to create speech, not simply
5 sell it.

6 Next, Colorado says it can compel
7 speech on the same topic. But Ms. Smith
8 believes opposite-sex marriage honors scripture
9 and same-sex marriage contradicts it. If the
10 government can label this speech equivalent, it
11 can do so for any speech, whether religious or
12 political. Under Colorado's theory,
13 jurisdictions could force a Democrat publicist
14 to write a Republican's press release.

15 Colorado's last resort is to argue
16 that it can at least compel the same expression.
17 But even the same expression can mean different
18 things, like a black sculptor who carves a
19 custom cross to celebrate a Catholic baptism but
20 not an Aryan church rally.

21 If the government may not force
22 motorists to display a motto, school children to
23 say a pledge, or parades to include banners,
24 Colorado may not force Ms. Smith to create and
25 speak messages on pain of investigation, fine,

1 and re-education.

2 I welcome this Court's questions.

3 JUSTICE THOMAS: Counsel, would you
4 spend just a few minutes on whether or not this
5 -- your case is ripe?

6 MS. WAGGONER: Sure. This Court has
7 considered pre-enforcement challenges before,
8 and, in those contexts, it has looked at the
9 facts. This is one of the strongest
10 pre-enforcement cases, I think, that this Court
11 has considered in that the parties have
12 stipulated every message that Ms. Smith would
13 create has a unique, customized message and that
14 it celebrates a wedding and celebrates a
15 marriage.

16 It's also difficult to imagine a
17 scenario where there is a more aggressive
18 enforcement history by Colorado. Ms. Smith's
19 speech has been chilled. For six years, she has
20 been unable to speak in the marketplace. She's
21 ready to do so today, and she's ready to post
22 her website statement today, which makes this
23 case ripe.

24 JUSTICE KAGAN: Ms. Waggoner, unless
25 you're not through with that -- sorry. Your --

1 MS. WAGGONER: I'm through.

2 JUSTICE KAGAN: Okay.

3 MS. WAGGONER: Thank you.

4 JUSTICE KAGAN: Can I give you a
5 hypothetical? It's not really a hypothetical,
6 because I happen to have two clerks in my
7 chambers this year who are engaged, so, in
8 looking at this case and preparing this case, I
9 looked at their websites.

10 And so the hypothetical is about,
11 like, I'm going to call it the standard website.
12 They both have their names on it, the date of
13 the wedding, a picture of the couple. Then
14 there are a bunch of places that you can click
15 to, and one is the schedule of events and the
16 other is travel and hotel arrangements, and
17 another is favorite things to do in town while
18 you're here, and another is registry.

19 So that's what most websites look
20 like, yeah? And they're not particularly
21 ideological and they're not particularly
22 religious. They're not particularly anything,
23 all right?

24 And -- and then there's a tag line
25 just like the tag line in this case about sort

1 of who created the website or whose graphics and
2 design and typefaces and so forth were used in
3 the website.

4 And so one of them says -- I'm going
5 to substitute a woman's name just to not
6 advertise -- but one of them says, Made By Love
7 With Amber by -- Made With Love By Amber, right?
8 It's actually bigger than the 303 tag line.

9 So I guess what I want to know is
10 suppose Amber wakes up tomorrow morning and
11 says, you know what, I don't want to do those
12 websites anymore for same-sex couples.

13 Could she do that?

14 MS. WAGGONER: In terms of creating
15 new websites?

16 JUSTICE KAGAN: No, you know, like
17 she's providing these templates and she has all
18 these designs and -- and -- and typefaces and --
19 and that's what people use when they create
20 their own website because they give her the date
21 and they give her the -- the -- you know, the --
22 the list of hotels and so forth.

23 So can Amber wake up and just say no
24 more gay couples?

25 MS. WAGGONER: She can't say no more

1 gay couples, but a speaker does have the ability
2 to decide not to speak under the law, but I
3 think the hypothetical that you're mentioning is
4 assuming that it's a plug-and-play website
5 essentially, that this website is already made
6 and that the speech creator isn't making any
7 additions to it.

8 JUSTICE KAGAN: No, no, no.

9 MS. WAGGONER: But compelled --

10 JUSTICE KAGAN: I mean, you know, just
11 like -- I -- I mean, I have to think that your
12 client does something similar. You have lots of
13 graphics, you have, you know, typefaces, and,
14 you know, maybe, you know, some are a little bit
15 more you talk to the client and some are a
16 little bit less you talk to the client.

17 But, basically, you know, clients are
18 coming in and they're saying, we just want a
19 standard website, you know, that tells people
20 where to stay and what -- how to travel there
21 and -- and, you know, what our favorite things
22 to do are.

23 And -- and the question is, can a
24 website designer say, sorry, that's not my kind
25 of marriage?

1 MS. WAGGONER: The website designer --

2 JUSTICE KAGAN: There's no scripture,
3 there's no ideology, there's no nothing.

4 MS. WAGGONER: There is ideology. And
5 this Court has already recognized that there is
6 ideology and different views on marriage. And
7 the Court's promise in Obergefell is to protect
8 those who would believe marriage is between a
9 man and a woman from having to express a view
10 that violates their conscience. But I think --

11 JUSTICE KAGAN: Okay. So I think that
12 if I understand you, you're saying, yes, she can
13 refuse because there's ideology just in the fact
14 that it's Mike and Harry and there's a picture
15 of these two guys together.

16 MS. WAGGONER: That is speech. You
17 are announcing a wedding. And if you believe
18 the wedding to be false, then the -- the
19 government would be compelling you to say
20 something that you otherwise wouldn't say, which
21 makes it --

22 JUSTICE KAGAN: So --

23 MS. WAGGONER: -- content-based.

24 JUSTICE KAGAN: -- so it's really
25 nothing about the content of this speech. I

1 mean, it could be Mike and Pat and you don't
2 actually even know whether Pat is a woman or a
3 man. There's really nothing about the content
4 of this speech, am -- am I right?

5 In your case, you have, like,
6 scripture examples and so that might, you know,
7 be different maybe, but you're being forthright
8 and saying it's really not about that, it's
9 nothing about the content of the speech. It's
10 just that the content is being -- what --
11 what -- whatever the graphics and typefaces and,
12 you know -- you know, which hotels are -- you
13 know, have been reserved for the wedding, it's
14 being used in a same-sex marriage.

15 MS. WAGGONER: No, it's not about the
16 use. It -- what it's about when a person is
17 creating speech, it is what is the message that
18 they are expressing. The Hurley framework asked
19 this Court to first look at is their speech, and
20 there clearly is words, graphics, text, videos,
21 pictures, that's speech and it's generally
22 protected.

23 The second is to ask is the speaker's
24 message affected. And when you're requiring a
25 speaker to create a message to celebrate

1 something that they believe to be false, you're
2 compelling their speech and it's affecting their
3 message.

4 JUSTICE JACKSON: So their message is
5 not actually the content of the website. I
6 mean, this is Justice Kagan's point. We could
7 have a situation in which the identical website
8 is being offered, one to Harry and Ann and one
9 to Harry and Steve, but everything on the
10 website is exactly the same.

11 I think I hear you saying that the
12 message that the designer would be sending when
13 she offered the website to Harry and Steve would
14 be different and contrary to her beliefs, and
15 so -- so it's -- it's the implicit message that
16 she's endorsing that wedding --

17 MS. WAGGONER: No.

18 JUSTICE JACKSON: -- that's the
19 problem.

20 MS. WAGGONER: No, she's not -- it's
21 not about whether she's endorsing it. She's not
22 speaking through anything but creating a speech.
23 And when you switch out those names, you're
24 switching out the concept and the message that
25 is actually in the website. Think of an example

1 --

2 JUSTICE SOTOMAYOR: Where?

3 MS. WAGGONER: -- of God bless this
4 marriage.

5 JUSTICE ALITO: Suppose that be a --

6 JUSTICE SOTOMAYOR: Well, that's --
7 that's a particular message, but I looked to
8 your proposed website, and I turn to page 51.
9 It says Save The Date, Lilly and Luke, November
10 17, 2017.

11 So what's the message if it says, Save
12 The Date, Lilly and -- Lilly and Lillian or
13 Lilly and Mary? What's the message there?

14 MS. WAGGONER: That's an invitation to
15 celebrate a marriage, and --

16 JUSTICE SOTOMAYOR: But why is it your
17 invitation? I go to a wedding website. It's
18 something that I send, meaning you, your client,
19 I send it to my family and friends or Lilly and
20 Luke send it to their family and friends. You
21 don't send it. They go to this website. You're
22 not inviting them to the wedding. Lilly and
23 Mary are. So how does it become your message?

24 MS. WAGGONER: In the same way that it
25 is the message of a ghostwriter who writes an

1 anonymous press release or a book. It is still
2 that writer's speech. The whole point of the
3 Compelled Speech Doctrine is to ensure that in
4 --

5 JUSTICE SOTOMAYOR: So what's the
6 limiting line of yours -- of yours? Justice
7 Kagan asked you about another website designer.
8 But how about people who don't believe in
9 interracial marriage or about people who don't
10 believe that disabled people should get married?

11 What's -- where's the line? I choose
12 to serve whom I want. If I disagree with their
13 personal characteristics, like race or
14 disability, I can choose not to sell to those
15 people --

16 MS. WAGGONER: Not at --

17 JUSTICE SOTOMAYOR: -- this website --

18 MS. WAGGONER: -- not --

19 JUSTICE SOTOMAYOR: -- because it's my
20 speech?

21 MS. WAGGONER: -- not at all, Your
22 Honor. The Hurley framework provides that in a
23 public accommodation context, the first thing
24 the Court looks at is, is the speech creator
25 otherwise serving those in a protected class and

1 expressing other messages.

2 In the context of race, it's highly
3 unlikely that anyone would be serving black
4 Americans in other capacities but only refusing
5 to do so in an interracial marriage context --

6 JUSTICE KAGAN: Well, it's not
7 impossible.

8 MS. WAGGONER: -- but --

9 JUSTICE ALITO: Suppose -- suppose we
10 agreed that the website designer could not
11 refuse to provide that service to a same-sex
12 couple if the website is of the kind that
13 Justice Kagan described.

14 What does that say about the
15 particular case that is before us on stipulated
16 facts?

17 MS. WAGGONER: Well, it would say that
18 the Court isn't considering those facts because
19 that's not this case that's presented to them,
20 but, at the same time, even that website --

21 JUSTICE ALITO: Well, so what are the
22 differences between -- what differences do you
23 see between her hypothetical and the actual case
24 that is before us?

25 MS. WAGGONER: She provided a number

1 of hypotheticals, so in terms of assuming it's a
2 --

3 JUSTICE KAGAN: Just one, Ms.
4 Waggoner.

5 MS. WAGGONER: -- website --

6 JUSTICE ALITO: The hypothetical where
7 there is a website and, basically, all the --
8 the website operator does is to put in the names
9 of the two people who are getting married.

10 MS. WAGGONER: That's not a service
11 that -- or a speech creation that Ms. Smith
12 provides, but, if she did provide that, if it's
13 a plug-and-play website where the couple, for
14 example, is putting in their names and -- and
15 using their website, then you don't have
16 compelled speech because you don't have a speech
17 creator.

18 But even in the context of putting in
19 names --

20 JUSTICE SOTOMAYOR: I'm sorry. Show
21 me on your website, show me in -- on the pages
22 of your petition for a writ of certiorari, show
23 me a page on that website that is an endorsement
24 of a marriage as opposed to the story of a
25 couple.

1 MS. WAGGONER: Well, either one
2 violates the Compelled Speech Doctrine.

3 JUSTICE SOTOMAYOR: No, no, no.

4 MS. WAGGONER: You can't --

5 JUSTICE SOTOMAYOR: Please show me a
6 page on your website that's attached to your
7 petition. I'll start you on page 51.

8 MS. WAGGONER: Pages 53, 52, 54 --

9 JUSTICE SOTOMAYOR: Okay. But leave
10 this --

11 MS. WAGGONER: -- 55 and 56 all
12 represent an invitation to celebrate --

13 JUSTICE SOTOMAYOR: Fifty-three says
14 "our photo gallery." Fifty-four says "funny
15 dating story." How is that your story, your
16 photo gallery?

17 MS. WAGGONER: Fifty --

18 JUSTICE SOTOMAYOR: It's the couple's
19 photo gallery. Page 54 is "funny dating story."
20 It's their story, not your story.

21 I'm looking at every page, and,
22 basically, it's the story of the couple. It's a
23 date on page 51. Fifty-two is our special day.
24 Fifty-three is RSVP. Our photo gallery.
25 Fifty-four is a funny dating story. I keep

1 looking at all of the mockups and all of them
2 relate to what Lilly and Luke are saying or
3 doing, who they are, who are their grooms, who
4 aren't their -- who's their bridesmaids. I
5 don't understand. How is this your story? It's
6 their story.

7 MS. WAGGONER: If you're asking
8 whether -- first of all, book authors, newspaper
9 editors, those who write all kinds of
10 publications may be writing about someone else's
11 story, but it's still their speech, and it's
12 still protected --

13 JUSTICE JACKSON: But they're not
14 public accommodations in the same way.

15 JUSTICE BARRETT: Ms. Waggoner, can I
16 ask you --

17 MS. WAGGONER: But they --

18 JUSTICE BARRETT: -- a question about
19 a heterosexual couple? So, in response to
20 Justice Sotomayor's questions, I took it that
21 your website where you say why a wedding
22 website, you go through and it seems like
23 careful, Ms. Smith was careful to say things
24 like I fully customize the look, feel, theme,
25 message, color palettes, et cetera. And then

1 there's the engagement story page and inspired
2 by -- "a page inspired by you and written by
3 Lorie that captures and conveys the cherished
4 storybook of your love."

5 So I want to ask you a hypothetical
6 about a heterosexual couple that comes to your
7 client, and their wedding story, you know, that
8 they want to write under the engagement story
9 page goes like this: We are both cisgender and
10 heterosexual, but that is irrelevant to our
11 relationship which transcends such categories.
12 We knew we were soulmates from the moment that
13 we met and on and on.

14 Would your client publish that site?

15 MS. WAGGONER: Yes, she would publish
16 the site because her objection -- assuming that
17 the marriage is between a man and a woman, she
18 would publish it and that there's no
19 message that she objected --

20 JUSTICE BARRETT: Even though that
21 narrative, I assume, is inconsistent with her
22 biblical views about marriage? I'll give you
23 another related one. A heterosexual couple
24 comes to her and in the engagement story part
25 writes a story that goes like this: We met at

1 work, we were both married to other people, but
2 what began as late nights at the office quickly
3 turned into love. After six months, we realized
4 we could be happy only with each other, so we
5 decided to begin our story today, got divorced,
6 and are marrying each other.

7 Does she publish it?

8 MS. WAGGONER: I don't believe that
9 she would. I also don't believe that she would
10 embrace or express a message that would
11 essentially say it doesn't matter whether there
12 is a marriage between a man and a woman. She
13 wouldn't create that speech either.

14 JUSTICE BARRETT: So it's about the
15 message and not about the sexuality of the
16 couple that asked her to express it that
17 matters?

18 MS. WAGGONER: Yes, which is exactly
19 how the Court decided the case in Hurley, but
20 it's also in other cases as well, the Pacific
21 Gas and Miami Herald cases. This Court has
22 routinely looked at compelled speech cases to
23 determine if the message --

24 JUSTICE BARRETT: And, Ms. Waggoner,
25 can I just ask you to clarify before we move on?

1 When I first asked you the question about the
2 cisgender heterosexual couple, you said you
3 thought she would publish it, but then it seemed
4 like you wavered and said something different a
5 minute ago.

6 MS. WAGGONER: If I could just clarify
7 the hypothetical. The second part of the
8 statement was that it didn't matter? Is -- is
9 that --

10 JUSTICE BARRETT: That concepts of
11 gender or, you know, sexual orientation were
12 irrelevant to their relationship because they
13 believed that those categories don't matter.
14 What matters is their union of souls.

15 MS. WAGGONER: No, she would not
16 create a website that would say that because
17 that would violate her beliefs about what
18 scripture holds on marriage, in the same way,
19 though, this law and the Compelled Speech
20 Doctrine protects the LGBT website designer, who
21 won't be forced to have to create a website
22 essentially advocating for a view of marriage
23 that they don't hold.

24 JUSTICE KAGAN: Can I ask not just --

25 JUSTICE GORSUCH: Well, what do we --

1 what do we do --

2 JUSTICE KAGAN: -- and this is --

3 JUSTICE GORSUCH: -- what do we -- I'm
4 sorry. No.

5 JUSTICE KAGAN: No, go ahead.

6 JUSTICE GORSUCH: No, no, please.

7 JUSTICE KAGAN: No, no, no.

8 CHIEF JUSTICE ROBERTS: Justice --
9 Justice Gorsuch?

10 (Laughter.)

11 JUSTICE GORSUCH: I -- I -- I -- I'm
12 sorry.

13 JUSTICE KAGAN: No, no, no.

14 JUSTICE GORSUCH: One can view these
15 websites, or last time around we had cakes, as
16 either expressing the maker's point of view or
17 the couple's point of view, and -- and that's
18 really at -- at the heart of a lot of this. And
19 I guess I'm -- I'm a little confused because
20 sometimes, as I -- as I understand it, you're
21 saying inherently here it is my client's point
22 of view and not just the couple's point of view.
23 I'm being compelled to speak. I get it.

24 And sometimes Colorado agrees with
25 you, for example, when it comes to the example

1 you just gave, which is why it popped up. I
2 believe it was William Jack in -- in the
3 Masterpiece Cake example where Colorado said he
4 didn't have to create cakes that -- that spoke
5 against same-sex marriage, that that would be
6 his compelled speech, not just the couple's
7 speech.

8 So what do we do about this level of
9 generality problem, if you will, where people
10 slide back and forth based upon their priors?
11 How do we avoid that as a Court? What rule
12 would you have us draw?

13 MS. WAGGONER: The Court should follow
14 a rule that says, if the speech is being created
15 and there's an objection and that objection is
16 contained in the message, it is protected speech
17 and the government can't --

18 JUSTICE SOTOMAYOR: So please --

19 MS. WAGGONER: -- slide up and down --

20 JUSTICE SOTOMAYOR: -- tell me why
21 it's not protected speech, the identical message
22 that -- that Justice Barrett put forth, but by a
23 disabled couple. And you say I don't want
24 disabled people to get married. I think
25 propagating a disability is against my personal

1 belief. It doesn't have to be religious because
2 we're not dealing with the religious part of
3 this. I don't want to speak that message. I
4 too believe that two disabled people getting
5 married and telling their story of how they got
6 in love, I'm not going to serve those people
7 because I don't believe --

8 MS. WAGGONER: It's not --

9 JUSTICE SOTOMAYOR: -- that they
10 should be married. What's the difference
11 between that and I don't believe black people
12 and white people should get married?

13 MS. WAGGONER: What matters is what
14 the objection is that the speaker is being asked
15 to create and whether the objection --

16 JUSTICE SOTOMAYOR: But -- but, if I
17 just -- that's my objection. I don't believe
18 they should be telling their story.

19 MS. WAGGONER: If you don't believe
20 they should be telling their story and what
21 they're asking you to do is tell their story,
22 then you don't have to do that, in the same way
23 --

24 JUSTICE SOTOMAYOR: So it doesn't
25 really -- there is no line on race, there is no

1 line on disability, ethnicity, none of the
2 protected categories --

3 MS. WAGGONER: That's --

4 JUSTICE SOTOMAYOR: -- in a public
5 accommodation law?

6 MS. WAGGONER: There is a line.
7 There's a very clear line, and it's worked --

8 JUSTICE SOTOMAYOR: Well, tell me --

9 MS. WAGGONER: -- very well.

10 JUSTICE SOTOMAYOR: -- what the clear
11 line is. It's compelled --

12 MS. WAGGONER: The clear --

13 JUSTICE SOTOMAYOR: You're saying it's
14 compelled speech, correct, not compelled
15 service?

16 MS. WAGGONER: I'm saying that in the
17 public accommodation cases, this Court has
18 routinely looked at whether there's speech and
19 whether the message is affected and whether the
20 objection lines up with the final speech.

21 JUSTICE SOTOMAYOR: But the one -- one
22 line --

23 MS. WAGGONER: That --

24 JUSTICE SOTOMAYOR: -- that you're
25 missing is Justice Gorsuch's line. Whose speech

1 --

2 MS. WAGGONER: The Pulitzer --

3 JUSTICE SOTOMAYOR: -- is the person
4 viewing it going to think is talking? You --

5 MS. WAGGONER: The Pulitzer Prize
6 doesn't go to the customer or to the subject; it
7 goes to the photographer, and there's a reason
8 for that. That reason is because you are
9 requiring that artist to speak a message. It is
10 their work. It might also be the customer's and
11 the customer can use that.

12 But the First Amendment is broad
13 enough to cover the lesbian website designer and
14 the Catholic calligrapher. The line is that no
15 one on any side of any debate has to be
16 compelled to express a message that violates
17 their core convictions because, as this Court
18 found, it's demeaning to them.

19 JUSTICE SOTOMAYOR: But the line you
20 want us --

21 JUSTICE JACKSON: So can I --

22 JUSTICE SOTOMAYOR: I'm sorry.

23 JUSTICE JACKSON: -- can I ask you a
24 hypothetical that just sort of helps me to flesh
25 that out? Because I also heard you suggest

1 earlier that there's something different about
2 race, maybe the person wouldn't sell to someone
3 of a different race.

4 So -- so suppose -- you say that
5 photography is expressive. Can you give me your
6 thoughts on a photography business in a shopping
7 mall during this holiday season that offers a
8 product called Scenes with Santa, and this
9 business wants to express its own view of
10 nostalgia about Christmases past by reproducing
11 classic 1940s and 1950s Santa scenes. They do
12 it in sepia tone and they are customizing each
13 one. This is not off a rack. They're really
14 bringing the people in and having them interact
15 with Santa, children, because they're trying to
16 capture the feelings of a certain era.

17 But precisely because they're trying
18 to capture -- capture the feelings of a certain
19 era, their policy is that only white children
20 can be photographed with Santa in this way
21 because that's how they view the scenes with
22 Santa that they're trying to depict.

23 Now the business will gladly refer
24 families of color to the Santa at the other end
25 of the mall who will take anybody, but -- and --

1 and they will photograph families of color in
2 other scenes -- other scenes, so they're not
3 discriminating against the families. What
4 they're saying is scenes with Santa is preserved
5 for white families and they want to have a sign
6 next to the Santa that says "only white
7 children."

8 Why isn't your argument that they
9 should be able to do that? And maybe it is?

10 MS. WAGGONER: Because, in the
11 photograph itself, the objection is not
12 contained in that photograph. But, in addition,
13 I think it's important to remind the Court that
14 --

15 JUSTICE JACKSON: No, no, no, don't
16 leave. Sorry, what do you mean? I mean, the
17 objection, just like your client's objection, is
18 to expressions that violate their own views of
19 what is being depicted, and so their view of
20 what is being depicted is that a scene with
21 Santa and a child on the lap and all of that in
22 sepia tone, trying to harken back to the good
23 old days, should only have white children in it.
24 That's their firm belief. They are not willing
25 to take photographs of black, Hispanic, Asian

1 children on Santa's lap.

2 Why is that any different than a
3 situation like this?

4 MS. WAGGONER: Because the specific
5 objection that you're including is not
6 necessarily in that photograph, but even if it
7 were, this Court has protected vile, awful,
8 reprehensible, violent speech in the past, and
9 it has never --

10 JUSTICE JACKSON: No, I'm just asking
11 you why is the objection of the web designer, as
12 Justice both Kagan and Sotomayor's pointed out,
13 when we look at your examples, they just say
14 things like "Please come to the wedding on this
15 day."

16 MS. WAGGONER: Precisely. It's an
17 invitation to a wedding --

18 JUSTICE JACKSON: Okay. So I --

19 MS. WAGGONER: -- which --

20 JUSTICE JACKSON: -- so -- so, if my
21 hypothetical is an invitation to join me in the
22 1950s through looking at this photo, you say one
23 is different?

24 MS. WAGGONER: I say that that same
25 clarity of the message isn't in that photo, but

1 there are difficult lines to draw and that may
2 be an edge case, but this is not. We have a
3 creative -- a creator of speech and a very
4 clear message --

5 JUSTICE KAGAN: It may be an edge case
6 meaning it could fall on either side, you're not
7 sure?

8 MS. WAGGONER: I am -- I am sure in
9 that the message isn't in the product. It's not
10 in the photograph. But even if this Court were
11 to find that it was, the Court would still have
12 to protect the speech and the Court could draw a
13 line in a different place, as it has juxtaposed
14 Loving and Obergefell in terms of the beliefs
15 between same-sex marriage. But it --

16 JUSTICE KAGAN: So just --

17 JUSTICE ALITO: In --

18 JUSTICE KAGAN: Sorry.

19 JUSTICE ALITO: -- in Obergefell, did
20 the Court say that religious objections to
21 same-sex marriage are the same thing as
22 religious or other objections to people of
23 color?

24 MS. WAGGONER: No. In fact, it said
25 that decent and honorable people hold beliefs

1 about marriage, believing that there's a
2 gender-differentiated marriage and that that's
3 based on reasonable religious and philosophical
4 premises.

5 When we review Loving, there's a very
6 different --

7 JUSTICE SOTOMAYOR: But tell me how to
8 write this decision for you that draws the line
9 just on gay marriage, because that's what you
10 seem to be saying right now, but draws a line
11 that doesn't affect my example of a disabled
12 person or an interracial couple.

13 You're saying it's just because it's
14 compelled speech.

15 MS. WAGGONER: I'm saying that the
16 interracial couple, the disabled person, the
17 lesbian graphic designer, the Democrat, the
18 Republican, no one should be compelled to speak
19 a message. And this Court has never found a
20 compelling interest that was narrowly
21 tailored --

22 JUSTICE SOTOMAYOR: So you -- you're
23 -- you're saying a print shop, a web designer,
24 a -- a cake maker, a --

25 JUSTICE JACKSON: A photographer.

1 JUSTICE SOTOMAYOR: -- a jewelry -- a
2 photographer, a jewelry maker, they can refuse
3 to serve anyone they want to refuse because they
4 have a deeply felt belief that serving -- taking
5 pictures of black couples, black and white
6 couples, taking pictures of disabled people,
7 people are going to believe that they're
8 speaking that message?

9 MS. WAGGONER: I'm not saying that at
10 all. What I'm saying is that in every free
11 speech case the Court looks first is there
12 speech. In many of the situations you've
13 raised, there would not be speech.

14 JUSTICE SOTOMAYOR: But why not? I'm
15 saying your identical website, and I don't see a
16 page in here where it says I am speaking, 303.
17 That's on your personal website. It's not on
18 the wedding website. I've asked you to show me
19 where, in which pages, it's your message as
20 opposed to the couple's message.

21 MS. WAGGONER: Every page is my
22 client's message --

23 JUSTICE SOTOMAYOR: But that --

24 MS. WAGGONER: -- just as in a
25 newspaper that hosts an op-ed written by someone

1 else --

2 JUSTICE SOTOMAYOR: So why doesn't the

3 --

4 MS. WAGGONER: -- or Hurley, the
5 parade.

6 JUSTICE SOTOMAYOR: But then why does
7 an off-the-shelf website -- the creator of an
8 off-the-shelf website is then speaking? That's
9 what you're saying.

10 MS. WAGGONER: No, because the
11 Compelled Speech Doctrine doesn't apply once
12 you've entered that speech into the stream of
13 commerce. When the speech is completed, the
14 Compelled Speech Doctrine no longer applies.
15 But, in addition, there are 20 states that have
16 filed an amicus brief in this case and said they
17 are right now using their public accommodation
18 laws to allow message-based protections, as
19 Hurley would require, and they're not
20 experiencing these issues. And in --

21 JUSTICE SOTOMAYOR: But you're not
22 asking for that. You're saying, I don't want to
23 serve a particular person, a disabled person, a
24 black and white couple, a disabled couple, a --
25 a gay couple. You're basing it not on the

1 nature of the message, you're basing it on who
2 you're serving.

3 MS. WAGGONER: That's -- I don't think
4 that's a fair characterization. The stipulated
5 facts in this case are that Ms. Smith has LGBT
6 clients. She serves them regularly. She has
7 all kinds of clients.

8 JUSTICE SOTOMAYOR: Tell me how that's
9 different, by the way. What you're basically
10 saying is, in our Ollie's Barbecue case, the
11 company there said, I'll serve blacks but only
12 on a takeout window, not inside my restaurant
13 because that sends a message that I endorse
14 integration.

15 MS. WAGGONER: Ms. Smith isn't looking
16 to send a message through her conduct.

17 JUSTICE SOTOMAYOR: No, she -- what
18 you're saying is, I want to give gay couples a
19 limited menu, not a full menu, just the way that
20 luncheonette said.

21 MS. WAGGONER: No. Just as this Court
22 found in Hurley, she's being asked to shape her
23 speech by a third party and it's -- again, it's
24 about what message that she is creating. In
25 Ollie's Barbecue, they weren't engaging --

1 JUSTICE SOTOMAYOR: Well, when I sit
2 down to eat a meal by a full chef who creates
3 this beautiful picture on a plate, why can't he
4 say, I make specialized meals for my clients. I
5 will not serve a black person. I won't serve a
6 disabled person because they can't appreciate
7 fully what I'm creating. That's basically what
8 you're saying.

9 MS. WAGGONER: No, I don't think it is
10 what I'm saying. We're conflating service and
11 speech in that instance. A chef isn't --

12 JUSTICE SOTOMAYOR: But why is yours
13 not a service?

14 MS. WAGGONER: May I answer the
15 question?

16 CHIEF JUSTICE ROBERTS: Yes.

17 MS. WAGGONER: Because it is creating
18 speech. And the public accommodation law is
19 broad enough to ensure that we're not crushing
20 consciences not just of Ms. Smith but of her
21 LGBT friends.

22 CHIEF JUSTICE ROBERTS: Thank you,
23 counsel. If your client's website -- yeah,
24 don't go. Not so fast.

25 (Laughter.)

1 MS. WAGGONER: A new way of doing it.

2 CHIEF JUSTICE ROBERTS: If your -- if
3 your client's website was the same as it is, but
4 the only indication of any limitation was a tag
5 line at the end saying these services are for
6 heterosexual couples only, could that
7 constitutionally be applied under the Colorado
8 statute?

9 MS. WAGGONER: The speech could be
10 compelled if you're suggesting that she
11 essentially has a "no customers only" sign. And
12 that's exactly --

13 CHIEF JUSTICE ROBERTS: No, no. Well,
14 no -- as in your case, no websites. No websites
15 are available for -- except for heterosexual
16 couples.

17 MS. WAGGONER: For marriage?

18 CHIEF JUSTICE ROBERTS: Yeah, same
19 thing.

20 MS. WAGGONER: Generally speaking, no.
21 In Ms. Smith's particular case, all of her
22 websites are created, they're original,
23 customized to the story, and so, in that
24 instance, she believes same-sex marriage to be
25 false and couldn't create the speech.

1 CHIEF JUSTICE ROBERTS: Okay. What if
2 it said, I won't provide websites for anything
3 other than heterosexual marriages because of
4 religious reasons? Could that be covered, or is
5 it simply the invocation of religious basis for
6 the objection that protects it from coverage
7 under the statute?

8 MS. WAGGONER: The religious basis is
9 not determinative here. This Court has provided
10 broad protection for religious speech, but it --
11 it wouldn't matter. This -- this Compelled
12 Speech Doctrine applies in a host of situations
13 and cases that are not religious.

14 CHIEF JUSTICE ROBERTS: I guess I
15 don't understand that answer. In other words,
16 is it simply adding for religious reasons to the
17 label that would change whether it could be
18 regulated or not?

19 MS. WAGGONER: I think what's
20 important is that the objection is to the
21 message she's being asked to create. And so, if
22 she believes she's being asked to create a
23 message that violates her convictions, whether
24 those convictions are based on a moral reason or
25 a religious reason, it would be protected.

1 CHIEF JUSTICE ROBERTS: Okay. Thank
2 you.

3 Justice Thomas?

4 Justice Alito?

5 Justice Sotomayor?

6 Justice Kagan?

7 JUSTICE KAGAN: Yeah. I -- I wanted
8 to take you back to my opening questions and
9 then Justice Alito's question about how your
10 case is different from my hypothetical, and
11 maybe the way to sort of cut through some of
12 this is to not make it a hypothetical and just
13 ask about your client.

14 So Mike and Mary go into your client,
15 we love your graphics, we saw them someplace
16 else, we love how this looks. Here's what we
17 want. We want the standard site, our names, our
18 -- the picture, the hotels, the registry, you
19 know, just -- just that.

20 And you say okay, don't you?

21 MS. WAGGONER: Yes, assuming all the
22 details line up with the message that she's
23 willing to create.

24 JUSTICE KAGAN: Yeah. I mean, then
25 they say we don't want your scripture. That's

1 all right with you? They don't have to have
2 scripture?

3 MS. WAGGONER: No, they do not.

4 JUSTICE KAGAN: Yeah. They can just
5 have a standard site, right? Okay.

6 So now it's not Mike and Mary. Now
7 it's Mike and Mark, and they want the identical
8 site. We saw Mike and Mary's site. We loved
9 it. We're getting married, you know -- you
10 know, all they want to change is the date maybe
11 or, you know, their names, whatever. We loved
12 it. And -- and they don't get it.

13 And the question -- and -- and you say
14 no, right? You -- you -- you wouldn't be up
15 there if you weren't going to say no, right?
16 They can't get that site.

17 MS. WAGGONER: Yes, because the same
18 words can even convey different meanings.

19 JUSTICE KAGAN: Yeah. So then -- I
20 mean, the difference is one couple is opposite
21 sex, one couple is same sex. How is this -- you
22 know, what -- what are the different meanings?
23 What is the speech that your client is
24 expected -- is -- is required to provide in the
25 way I expressed it to you?

1 MS. WAGGONER: The purpose of the
2 websites is to celebrate an upcoming wedding.
3 It's to announce a wedding. And so --

4 JUSTICE KAGAN: It is to announce a
5 wedding. I mean, let's -- this is a standard
6 site. You know, there's not a whole lot of,
7 gosh, isn't this great? It's just like here's
8 the registry, you know. It's announcing the
9 wedding. It's announcing where to get the hotel
10 reservations and so forth, right?

11 So what speech is being -- I mean,
12 that's -- that's what -- that's what websites
13 do, just like it's what invitations do, right?
14 So, you know, next, we'll have the stationer up
15 there, saying, you know, we print the station --
16 the stationery, right? I mean, it would be the
17 same. It is announcing the wedding.

18 What's the speech that's been required
19 of your client that we -- I mean, I'm going to
20 have lots of questions for these guys too, but,
21 in -- in that context, what is the speech that
22 is required of your client that would violate
23 the First Amendment?

24 MS. WAGGONER: She believes that
25 same-sex weddings contradict scripture and she's

1 announcing a concept of marriage that she
2 believes to be false. And, in addition to that,
3 even --

4 JUSTICE KAGAN: I mean, but that just
5 sounds to me like I would be participating in a
6 wedding, I would be, you know, lending my
7 services to a wedding. You know, as Justice
8 Sotomayor suggested, the florist, the baker, and
9 the guy who provides the chairs are also
10 providing the services in a wedding that they
11 don't like. So why are they any different?

12 MS. WAGGONER: The person providing
13 the chairs isn't providing speech, but when
14 you're engaging in symbolic speech, whether that
15 be through the creation of a custom wedding cake
16 or a custom wedding website, you are creating
17 speech. I can't --

18 JUSTICE KAGAN: Even though the site
19 doesn't say anything about that? It doesn't
20 say, wow, gay marriage is a wonderful thing. It
21 doesn't say -- it doesn't even say, you know,
22 we're here to celebrate this wonderful marriage
23 in my hypothetical. It doesn't even say that.

24 MS. WAGGONER: Again, the announcement
25 of the wedding itself is a concept that she

1 believes to be false. And the entire purpose
2 behind the Compelled Speech Doctrine is to avoid
3 these ends by avoiding these beginnings. It's
4 to ensure that individuals don't speak messages
5 that betray their conscience, and that applies
6 just as much to the Democrat as to the LGBT or
7 the black cross sculptor.

8 JUSTICE KAGAN: Thank you.

9 CHIEF JUSTICE ROBERTS: Justice
10 Gorsuch?

11 JUSTICE GORSUCH: So, counsel, we've
12 spoken a little bit about how Colorado has
13 handled this compelled speech question
14 differently with respect to different messages,
15 some that it prefers, others that it dislikes.

16 I'm curious how other states have
17 dealt with this conundrum besides Colorado and
18 how you -- which ones of those you think we
19 should take account of.

20 MS. WAGGONER: Twenty states filed an
21 amicus brief in support of Ms. Smith
22 and expressed to this Court that they're
23 applying their public accommodation law to
24 provide message-based object -- protections,
25 just like the Court did in Hurley, following the

1 same test that's being articulated today, and
2 they've been doing it successfully.

3 Yes, there are difficult line-drawing
4 questions, but those are in every speech case,
5 whether it's sleeping in the park or putting on
6 an arm band. The Court doesn't have to resolve
7 every single one of them, but we do have the
8 rules, and we need the Court to provide
9 guidance, again, reaffirming public
10 accommodation laws cannot compel speech
11 creators, whether that's artistic expression
12 with symbols or pure speech.

13 JUSTICE GORSUCH: And just so I make
14 sure I understood your colloquy with Justice
15 Barrett, the objections to compelled speech on
16 religious grounds could include, in fact, do
17 include, some objections with respect to certain
18 heterosexual marriages, that there are certain
19 heterosexual unions that your client would not
20 speak toward either, is that correct?

21 MS. WAGGONER: Certainly, and that's
22 in the stipulated facts in terms of she declines
23 messages based on the message, and she has
24 declined other projects based on the message
25 that have nothing to do with same-sex marriage.

1 JUSTICE GORSUCH: So the question
2 isn't who, it's what?

3 MS. WAGGONER: Always.

4 JUSTICE GORSUCH: Thank you.

5 CHIEF JUSTICE ROBERTS: Justice
6 Kavanaugh?

7 JUSTICE KAVANAUGH: From the briefs, I
8 saw a lot of agreement actually between the
9 parties in this case on basic legal principles.
10 In your reply brief, page 15, you say that
11 hairstylists, landscapers, plumbers, caterers,
12 tailors, jewelers, and restaurants ordinarily
13 wouldn't have a First Amendment free speech
14 right to decline to serve a same-sex wedding.
15 At least that's how I read that reference in
16 your brief. But you say artists are different,
17 like publishing houses. And I think the other
18 side -- I'll hear from them -- but agree that
19 artists are different because of the First
20 Amendment rights that artists possess.

21 But then, at least as I read the
22 briefs, the case comes down to a fairly narrower
23 -- narrow question of, how do you characterize
24 website designers? Are they more like the
25 restaurants and the jewelers and the tailors, or

1 are they more like, you know, the publishing
2 houses and the other free speech analogues that
3 are raised on the other side?

4 That's what I took away from the
5 briefs. A lot of agreement on broad legal
6 principles and some disagreement about how to
7 characterize the website designers. So why are
8 you right about how you characterize website
9 designers or, put another way, why are they
10 different -- and you've gotten this question --
11 but why are they different from, say,
12 restaurants or caterers, for example?

13 MS. WAGGONER: Because they're
14 creating speech. In those other examples,
15 speech is not at issue, that is creating speech,
16 announcing a wedding, or announcing anything.
17 And art is different. And so, while there may
18 be agreement on that, there also is a problem
19 with Colorado's advancing theories that keep
20 narrowing and providing alternatives.

21 But, in the end, one thing is certain:
22 Those who object to same-sex marriage and
23 creating messages about them, those are the ones
24 that can't speak, but everyone else seems to be
25 able to do so under Colorado's theory.

1 In addition, this Court has already
2 articulated how we determine whether speech is
3 involved for an artist, and I think the Court
4 could follow those tests here, with words,
5 graphics, videos, and, again, symbolic speech.

6 JUSTICE KAVANAUGH: So, for you, as --
7 as there's an effort to protect both the equal
8 rights of gay and lesbian people and same-sex
9 couples and at the same time protect free speech
10 rights, your line is look at whether the action
11 of the business involves speech?

12 MS. WAGGONER: And the second line
13 would be to look at what is the objection that
14 the creator is asserting and would that actually
15 be in the final product, because that's how this
16 Court has ferreted out pretextual objections.
17 So, if a -- if a speech creator articulates an
18 objection and it's not in that final photograph,
19 the objection or the -- the message isn't in
20 there, that's one way we can know. Another is
21 if they're refusing to serve an entire class of
22 people and design other messages, none of which
23 are true here. But I do --

24 JUSTICE KAVANAUGH: So, if you win
25 this case, if you prevail here, you know, and

1 the next case involves a caterer, at least your
2 position here is that's different.

3 MS. WAGGONER: I won't be coming back
4 with the caterer, but I will be coming back with
5 perhaps a custom wedding cake or a cake --

6 JUSTICE KAVANAUGH: I understand that,
7 but the --

8 MS. WAGGONER: -- that has a symbolic
9 meaning to it.

10 JUSTICE KAVANAUGH: Okay. But the --
11 the caterer, the -- the list of things that you
12 had on page 15 of the reply brief, at least
13 ordinarily -- you had a caveat in there -- but
14 ordinarily wouldn't -- wouldn't have the same
15 right that your client here does, who's a
16 website designer?

17 MS. WAGGONER: They wouldn't have a
18 free speech right. And as -- in terms of your
19 initial statement about the parties agreeing, I
20 do think it's important, on pages 17 and 32 of
21 the United States' brief, they're even conceding
22 that it's a burden on a speaker to have to
23 express a message that violates their
24 convictions. They're just simply relabeling
25 this or repackaging speech as a sale or conduct.

1 JUSTICE KAVANAUGH: Thank you.

2 CHIEF JUSTICE ROBERTS: Justice
3 Barrett?

4 JUSTICE BARRETT: So I think the
5 questions that Justice Kagan asked you are hard
6 because they seem like they're not creating. I
7 mean, you're on your strongest ground when
8 you're talking about her sitting down and
9 designing and coming up with the graphics to
10 customize them for the couple. So let me just
11 clarify exactly what your position is on things
12 that are already created in the past.

13 What if it is plug-and-play? I don't
14 know that much about website design, so I don't
15 know how it could be plug-and-play. I'm sure it
16 can be. She -- she does the programming, the
17 coding. She has stock pictures. And she sells
18 that as a product, and the customers, you know,
19 Mike and Henry or, you know, Lilly and Luke,
20 fill it in themselves. Is that protected?

21 MS. WAGGONER: It is not protected in
22 the same way that if you sold a Bible
23 commentary, you wouldn't be able to decide
24 whether the Bible commentary will be burned or
25 it will be used in a church service. The stream

1 of commerce, it's been put in the stream of
2 commerce.

3 JUSTICE BARRETT: Okay. So why is it
4 different? Justice Kagan said, so maybe you do
5 create customized websites and you've created
6 one for, you know, Lilly and Luke, and then, you
7 know, Mike and Henry see it and say, you've
8 created that already, we love it, we want to buy
9 it. Don't create anything new for us. Just
10 give us exactly what you did for them.

11 Why is that different than plug and
12 play, or is it?

13 MS. WAGGONER: It is different. I
14 mean, first of all, if I take your hypothetical
15 on its face, we would be selling essentially a
16 web -- she would be creating a website that's
17 exactly the same with the same pictures and text
18 and graphics and videos of an opposite sex
19 couple and selling it to a same-sex couple,
20 which seems highly unlikely they would use that
21 to celebrate their wedding.

22 So, in terms of if you're asking her
23 to change the text, to change the logistics, to
24 change the names, you're changing bride and
25 groom. You're changing the couple's name.

1 You're changing -- we know context changes
2 meaning.

3 Justice Ginsburg said that in *Yates*
4 versus *United States*. Even the same words have
5 different meaning. "God bless this marriage"
6 means something different. "My body, my choice"
7 means something different to an anti-vaxxer or a
8 pro-abortion opponent -- or proponent.

9 So, in -- in that sense, that's why
10 she would object if she were changing the words
11 in the text, but, of course, she would sell the
12 same website celebrating an opposite-sex wedding
13 to a same-sex couple.

14 JUSTICE BARRETT: Okay. So context
15 changes meaning. What if, instead of a graphic
16 designer, she's a songwriter and she writes a
17 song, you know, let's say "At Last" or "Wind
18 Beneath My Wings" or something that people want
19 to dance to at their wedding, and the lyrics are
20 out there. You know, it could be played at a
21 heterosexual wedding or it could be played at a
22 gay wedding. Once the artist has created that
23 song, can the artist say, but I'm not licensing
24 it to be played at certain kinds of weddings?

25 MS. WAGGONER: No, I don't think the

1 artist could. I'm not familiar with the
2 licensing rules and how all that would apply in
3 terms of the contractual relationship, but in
4 terms of just having a song used at a wedding,
5 assuming that would otherwise be okay, there's
6 no other legal rights, she couldn't. That was
7 in the stream of commerce.

8 But I think it's important to point
9 out that if that artist were being asked to
10 perform that song in a live way, for example,
11 sang at a Democratic inauguration and they were
12 asked to perform at the Republican one, under
13 Colorado's theory, they could be compelled to do
14 so in a number of jurisdictions. Nineteen
15 jurisdictions have political ideology. And when
16 we think about that, there's no limit to what
17 the government could compel.

18 JUSTICE BARRETT: Thank you.

19 CHIEF JUSTICE ROBERTS: Justice
20 Jackson?

21 JUSTICE JACKSON: But isn't an artist
22 typically sort of a -- a freelancer and they are
23 selling their own messages? They're not
24 purporting to be a business for hire in -- in --
25 in any meaningful sense. And so I -- I want to

1 kind of go back to Justice Kavanaugh's thought
2 of, like, where do we place your client as
3 between, you know, restaurants and artists.

4 I thought that there really isn't that
5 clear a distinction in a situation like this
6 because your client is an artist for hire
7 essentially. Yes, she does customize things,
8 they're not off the shelf, but she purports to
9 be a public accommodation providing customized
10 things to anyone who pays her, except for people
11 whose messages are those that she disagrees
12 with.

13 And I just don't know that I've ever
14 seen that kind of scenario, even in the cases
15 that you're talking about, because sort of what
16 Justice Gorsuch was saying, it's -- it's relying
17 on the implicit message that she does not want
18 to convey by supporting this person.

19 There's an explicit message in the
20 actual work, but to the extent that actual work
21 is identical to the -- to the work that she
22 would otherwise sell to the gay couple except
23 for their names, then she is implicitly saying,
24 you know, by selling this, I'm going to be
25 violating my own beliefs.

1 So let me just ask you another quick
2 hypo. So I -- I'm trying to understand the
3 extent to which this matters that she's a
4 speaker as opposed to a restaurant. So I sell
5 food, and one line of products that I make is
6 from scratch for particular customers that are
7 based on my grandmother's cherished family
8 recipes.

9 My dearly departed grandmother was
10 clear that she only wanted to provide this kind
11 of nourishment for people who share our same
12 religious heritage. So I call these products
13 Grandma Helen's Protestant Provisions. And I
14 sit with each customer who comes in and I hear
15 about their faith and their family, and I
16 customize the recipe for them after having this
17 discussion.

18 So the food is not expressive, right?
19 I'm not speaking in my food, but I am trying to
20 convey that only certain people get to partake
21 in this product. Can I do that consistent with
22 the First Amendment or not?

23 MS. WAGGONER: No, and in -- and in a
24 situation as you said, in terms of a caterer,
25 the caterer is not engaging in speech. In terms

1 of your initial statements or questions, speech
2 is speech whether it's paid or pro bono.

3 JUSTICE JACKSON: But -- but aren't --
4 don't we have cases that suggest that people's
5 conduct can be expressive? I thought there was
6 a whole line of cases that said you didn't have
7 to actually have an express message, you could
8 be acting in such a way as to express a message.

9 And in my restaurant hypo, I'm saying,
10 if I sell to non-Protestants, I'd be expressing
11 a message contrary to Grandma Helen's core
12 beliefs.

13 MS. WAGGONER: You're speaking through
14 conduct at that point, and that is a different
15 analysis. In terms of the expressive conduct
16 test, the Court has already articulated what
17 those tests are and what a reasonable person
18 would observe.

19 But, in that case, you're talking
20 essentially about status discrimination.
21 There's no message that she is creating that
22 would be compelled in that way. That would
23 simply be service.

24 In addition, though, I think it's
25 important to recognize the breadth of the public

1 accommodation law. You started with a statement
2 about freelance writers. At oral argument at
3 the Tenth Circuit, my friend in Colorado
4 admitted that freelance writers are considered
5 to be public accommodations under this law as --

6 JUSTICE JACKSON: All right. Well,
7 I'll ask them about that. But what about my
8 photographer? My photographer is speaking
9 through photography, yes?

10 MS. WAGGONER: In -- in your
11 photography, yes, photography is speech --

12 JUSTICE JACKSON: Is speech.

13 MS. WAGGONER: -- just as websites are
14 under the Court's decision in Reno.

15 JUSTICE JACKSON: All right. So my
16 photographer could -- is speaking by -- by being
17 forced to create a Santa photo with minority
18 children in it that they don't want to, they
19 don't think that should be there?

20 MS. WAGGONER: The issue in that
21 hypothetical isn't whether there is speech. The
22 issue is, in that context, are they otherwise
23 serving those and expressing other messages and
24 does the objection that they're asserting line
25 up with the message.

1 The Court in Hurley did the exact same
2 analysis to say is the parade organizers
3 otherwise in -- otherwise --

4 JUSTICE JACKSON: But Hurley was a
5 private association. It wasn't a public
6 business. What I'm asking you is I have a
7 public business, I'm a photographer. My belief
8 is that -- you know, I'm doing "It's a Wonderful
9 Life" scenes. That's what I'm offering, okay?
10 I want to do video depictions of "It's a
11 Wonderful Life."

12 And I -- knowing that movie very well,
13 I want to be authentic, and so only white
14 children and families can be customers for that
15 particular product. Everybody else can -- I'll
16 give to everybody else, I'll sell them anything
17 they want, just not the "It's a Wonderful Life"
18 depictions.

19 I'm expressing something, right? For
20 your purposes, that's speech. What about --
21 what's the other step? It's speech, and I can
22 say anti-discrimination laws can't make me sell
23 the "It's a Wonderful Life" package to nonwhite
24 individuals.

25 MS. WAGGONER: In the same way -- I --

1 I would say, first of all, in the same way that
2 this Court, when there is a message and a status
3 and it's overlapping, the Court would say that
4 message wins in that instance. I don't think
5 that the message --

6 JUSTICE JACKSON: So -- so -- so I
7 don't have to sell it to --

8 MS. WAGGONER: -- I don't think that
9 that message is in that hypothetical. But take
10 the example of the musical of "Hamilton."
11 There's a direct overlap in the musical of
12 "Hamilton." And, in that case, we know that
13 they're expressing a preference for who they're
14 hiring in terms of race. Yet we would say that
15 --

16 JUSTICE JACKSON: No, I'm not talking
17 about -- you're -- you're sort of slipping into,
18 like, a thousand different analogies. I just
19 want -- I just want you to focus on whether or
20 not I am -- I have speech when I am a
21 photography business and I hang out my shingle.
22 Everybody can come, but I have certain products
23 that I'll only sell to non -- to -- to white
24 individuals because the speech that I'm trying
25 to depict is the authentic depiction of that

1 scene as I understand it and that I want to put
2 out there in the world and it has my signature
3 on the bottom of it, so people are seeing my
4 photos and I want my photos of "It's a Wonderful
5 Life" to be as authentic as possible, meaning no
6 people of color.

7 MS. WAGGONER: It seems, in each
8 iteration of the hypothetical, the objection is
9 changing. What I can articulate is the test.
10 And I can also say that when there's an overlap
11 between message and status, message does win.
12 And "Hamilton" provides an example of that.

13 JUSTICE JACKSON: All right. Thank
14 you.

15 MS. WAGGONER: But I -- I would --

16 CHIEF JUSTICE ROBERTS: Thank you,
17 counsel.

18 Mr. Olson.

19 ORAL ARGUMENT OF ERIC R. OLSON

20 ON BEHALF OF THE RESPONDENTS

21 MR. OLSON: Mr. Chief Justice, and may
22 it please the Court:

23 The central dispute here is what
24 public accommodations law target when they
25 require a business to provide equal access to

1 its services. The company claims that because
2 it wants to sell websites, the law somehow
3 targets expression and therefore violates the
4 First Amendment.

5 But, because Colorado law targets the
6 commercial conduct of discriminatory sales and
7 its effect on expression is at most incidental,
8 it easily satisfies the framework set out in
9 O'Brien.

10 The company can choose to sell
11 websites that only feature biblical quotes
12 describing a marriage as between a man and a
13 woman, just like a Christmas store can choose to
14 sell only Christmas-related items. The company
15 just cannot refuse to serve gay couples, as it
16 seeks to do here, just as the Christmas store
17 cannot announce no Jews allowed.

18 Here, the company seeks a
19 pre-enforcement order allowing it to turn away
20 all gay couples, even if, as we've discussed,
21 the wedding website they request is identical to
22 one the company would sell to a heterosexual
23 couple. Granting such a license to discriminate
24 would empower all businesses that offer what
25 they believe to be expressive services, from

1 architects to photographers to consultants, to
2 refuse service to customers because of their
3 disability, sexual orientation, religion, or
4 race.

5 The Free Speech Clause exemption the
6 company seeks here is sweeping because it would
7 apply not just to sincerely held religious
8 beliefs, like those of the company and its
9 owner, but also to all sorts of racist, sexist,
10 and bigoted views. This rule would allow
11 another web design company to say no interracial
12 couples served, an ad agency could refuse
13 women-led businesses, and a tech consulting
14 company could refuse to serve 303 Creative
15 itself because it disagreed with the owner's
16 religion.

17 This Court should not upend
18 long-settled law that protects the full and
19 equal access of all Americans to our public
20 marketplace.

21 I welcome the Court's questions.

22 JUSTICE THOMAS: Counsel, you've spent
23 quite a bit of your brief talking about the
24 history -- the tradition of public
25 accommodations laws. Would you just spend a few

1 minutes or whatever amount of time you can
2 explaining whether there is a similarly long
3 tradition of public accommodations laws applying
4 to speech?

5 MR. OLSON: Well --

6 JUSTICE THOMAS: Or expressive
7 conduct?

8 MR. OLSON: -- certainly, Justice
9 Thomas. The history of public accommodation
10 laws shows that when those held themselves open
11 to the public, they were required to serve every
12 --

13 JUSTICE THOMAS: I understand that. I
14 understand -- the complicating factor here --
15 fact here is this is not a hotel, this is not a
16 restaurant, this is not a riverboat or a train.
17 I'm interested in the intersection of public
18 accommodations law and speech.

19 MR. OLSON: I think we see some public
20 accommodation law being applied to examples that
21 are speech today, tailors, barbers, et cetera.
22 But what we don't see over the long history of
23 public accommodation laws in this country is
24 people raising First Amendment speech objections
25 to those laws applying to it.

1 JUSTICE THOMAS: Well, I think that in
2 part depends upon whether or not you're engaging
3 in speech. If you're running a train business
4 or a riverboat business, that's not exactly --
5 doesn't implicate speech. So those are
6 straightforward. I understand that.

7 What I'm interested in is, when you
8 are talking about public accommodations laws
9 directly or indirectly regulating speech, is
10 there a tradition of that? Can you point to
11 cases? Can you point to common law treatises,
12 et cetera?

13 MR. OLSON: So I think that the
14 historical record is sparse on both sides, but
15 the two things I would say, Justice Thomas, is
16 what we don't see is a history of public
17 accommodation laws carving out speech. They all
18 are laws of general applicability that apply to
19 all those operating a trade to the public. They
20 don't say except those engaged in expressive
21 conduct.

22 And with that framework, we do not see
23 a history of cases where people raise their hand
24 and say it shouldn't apply to me because I'm
25 speaking. And so I think the public

1 accommodations brief on our side in this case
2 sets that out quite nicely. But -- but there is
3 no case from 150 years ago that comes out either
4 way with this exact issue.

5 JUSTICE GORSUCH: Mr. Olson, I --

6 CHIEF JUSTICE ROBERTS: Well, just --

7 JUSTICE GORSUCH: I'm sorry, Chief.

8 CHIEF JUSTICE ROBERTS: No, not 150
9 years ago, but I think it's 10 or -- or -- or 12
10 years ago, in City of Fulton, which you cite in
11 your brief, it sort of follows up on Justice
12 Thomas's question, although you don't even get
13 to speech. I think the Court in that case said,
14 when you're looking at some of the concerns that
15 you're talking about, that a individualized,
16 subjective, multifactor, whatever,
17 determination, in that case foster care and
18 adoption, is not the same as a seat on the bus
19 or a room in the hotel.

20 How -- how does your argument fit with
21 that position that was articulated in the Court
22 with respect to the nature of individual
23 speakers' message?

24 MR. OLSON: Well, I think those
25 questions are not presented in this case because

1 most artists are not public accommodations. But
2 my friend stipulated that the company was a
3 public accommodation, and often a lot of the
4 hypotheticals that we've been talking about,
5 about artists, and -- and, certainly, Lin-Manuel
6 Miranda, who is writing the play "Hamilton," is
7 not a --

8 CHIEF JUSTICE ROBERTS: But, in terms
9 of -- in terms of the concern expressed in a lot
10 of our cases about compelled speech and the
11 distinction of others where you can have a
12 requirement of serving people without regard to
13 certain characteristics, the case did make the
14 point that to the extent there's subjective,
15 individualized determinations that go into the
16 decision about placing children, that it did
17 not -- that those cases were not, at least not
18 directly, applicable?

19 MR. OLSON: That's correct, Chief
20 Justice Roberts. And I think, here, again, the
21 record is entirely devoid of those factors
22 because the company chose to litigate this case
23 as a public accommodation. I think a lot of the
24 description that we heard today would be
25 powerful arguments that they may not be a public

1 accommodation in what they do, but we simply
2 don't have those facts here. But, certainly,
3 the level of selectivity, the -- the way in
4 which the -- the potential customer engages with
5 the -- the client -- I'm sorry, with the service
6 provider, and how the service provider makes
7 their product available or -- or known to the
8 public all factor in in that analysis.

9 CHIEF JUSTICE ROBERTS: Yeah, and I'd
10 like to ask you a question about one other case.
11 It's the one you rely on most heavily in your
12 brief, Rumsfeld against FAIR. And it seems to
13 me that a distinction you have to deal with in
14 that case is that the speech there was not
15 compelled, or what was compelled was not
16 considered speech. It involved the schools
17 providing rooms for the military recruiter, and
18 when it came to the question of compelled
19 speech, what the Court said is empty rooms don't
20 speak.

21 But, here, of course, the whole
22 argument is that the speech is being compelled.
23 So -- so how does the either holding or analysis
24 in FAIR help you?

25 MR. OLSON: Two responses, Chief

1 Justice. First is, in FAIR, it recognized that
2 there was some speech by the schools. There
3 were e-mails, posters on bulletin boards, et
4 cetera. So there was some speech, but it said
5 it was incidental, like in O'Brien, to the
6 purpose of the regulation, which was ensuring
7 equal access, similar to Colorado's law here.

8 And -- and the second point I would
9 make, and it comes from the example of the
10 identical website being turned away for the
11 same-sex couple but provided to the opposite-sex
12 couple, here, sometimes the speech itself does
13 not change. And what this company seeks, if you
14 look at the -- the specific prayer for relief in
15 the complaint, is a total permission to turn
16 away every same-sex couple, even if they seek
17 exactly the same website that an opposite-sex
18 couple that they will provide.

19 CHIEF JUSTICE ROBERTS: Well, just to
20 -- just to stop you, their point is they do not
21 turn away same-sex couples who want the service
22 that they're providing. They just won't provide
23 that service with respect to a particular type
24 of wedding.

25 MR. OLSON: I respectfully disagree,

1 Your Honor. What the company said is under no
2 circumstances will they provide a wedding
3 website for a same-sex wedding, period.

4 CHIEF JUSTICE ROBERTS: Correct.

5 MR. OLSON: Right. And --

6 CHIEF JUSTICE ROBERTS: But that --
7 I'm sorry.

8 MR. OLSON: -- and that is
9 status-based discrimination when -- and it
10 doesn't matter whose credit card is used for
11 that transaction. What -- what -- the sole
12 basis that the company seeks relief from this
13 Court is they would like an injunction that says
14 so long as -- if this is going to be used for a
15 same-sex wedding, then we need not provide it.
16 And so it's a status-based discrimination that
17 they seek from this Court.

18 JUSTICE ALITO: Let me see if I
19 understand your argument. I understand you to
20 be arguing that a website designer can put
21 anything it wants on a standardized website,
22 even if that includes a denunciation of same-sex
23 marriage. Is that correct?

24 MR. OLSON: Yes.

25 JUSTICE ALITO: So, if the -- to pick

1 up on Justice Kagan's hypothetical from earlier
2 this morning, if the standard announcement is
3 Made With Love by Amber, who believes that a
4 valid marriage is a union between one man and
5 one woman," that's okay?

6 MR. OLSON: If that's on every
7 website, yes.

8 JUSTICE ALITO: Then this is -- your
9 argument is -- you're making kind of a sliver of
10 an argument, right? What is the difference
11 between that and what you think is a violation
12 of your law?

13 MR. OLSON: Two things, Justice Alito.
14 The first --

15 JUSTICE ALITO: I mean, you're not --
16 that website designer is not going to be serving
17 a same-sex couple if the website designer puts
18 that on the website. They're turning away
19 same-sex couples by doing that, are they not?

20 MR. OLSON: No, they're -- they're not
21 turning away same-sex couples. They are
22 defining their -- they are able to choose what
23 services they offer, and that is the service
24 they are choosing to offer.

25 The state does not regulate that at

1 all. All that the state says is whatever you
2 choose to sell --

3 JUSTICE ALITO: No, I understand that.
4 Does it any difference in the real world as a
5 practical matter?

6 MR. OLSON: Well, it -- it does in the
7 real world because a -- a -- my second point is
8 that a website designer like that will lose a
9 lot of opposite-sex couples as potential clients
10 as well because they don't want to be seen with
11 that message.

12 And what the company wants to do here
13 is take advantage of the public marketplace, go
14 out and sell their wares to everyone and have
15 control over -- and change what they sell to
16 different people based on the status of -- of
17 what they have.

18 JUSTICE ALITO: Okay. To --

19 MR. OLSON: And -- and --

20 JUSTICE ALITO: Yeah, I understand
21 that. So to sell to everyone. So this goes to
22 your -- to the interpretation of your statute,
23 and I'm not quite clear what your position is on
24 it. If a business provides a service that is
25 "open to the public," it's a public

1 accommodation, right?

2 MR. OLSON: Yeah. You have to engage
3 in sales or offering services to the public,
4 yes.

5 JUSTICE ALITO: Okay. So what does
6 "open to the public" mean? Does that mean no
7 selectivity whatsoever? Anybody who wants this
8 service can get it and it may be, if there's a
9 greater demand, then the demand exceeds the
10 supply, you've got to wait in line. But, if
11 there's any selectivity at all, they're out?

12 MR. OLSON: Well, again, it's not
13 presented in this case. The way that Colorado
14 has historically addressed that question is --
15 are, say, golf clubs who had limited their
16 membership to one gender, you know, did they
17 make money from the public coming to their
18 courses, did they -- did you have to be a member
19 to dine in the restaurant, et cetera.

20 So selectivity as the Court discussed
21 in *Fulton* certainly is a factor, but it -- but
22 it is a -- a fact-specific determination that --
23 that awaits more facts than we have here because
24 it can --

25 JUSTICE ALITO: Well, you should

1 understand what your statute means. So suppose
2 a website designer says, I'm -- I'm offering my
3 services, but I'm really in -- I -- I'm in a lot
4 of demand for my services and I reserve the
5 right to decide who I will provide a website for
6 and who I will not.

7 Is it a public accommodation then?

8 MR. OLSON: If that's the only factor,
9 then yes, but it can make decisions about who to
10 supply that -- that aren't based on protected
11 characteristics and choose its clientele just
12 fine.

13 What it can't do is say I reserve the
14 right to refuse service which means in practice
15 I will not serve black people.

16 JUSTICE JACKSON: And isn't part of
17 the problem here in terms of trying to answer
18 Justice Alito's various hypotheticals that were
19 presented with a record of stipulated facts and
20 that the opposing -- your friend on the other
21 side actually stipulated to the application of
22 the statute?

23 So it's really hard for us to know and
24 figure out and determine in this context how the
25 statute would actually apply because we don't

1 really have a real record on that -- on that
2 score.

3 MR. OLSON: That's correct. And --
4 and I would say that we've heard some discussion
5 from my friend about sort of Colorado's history,
6 but what we haven't heard is any specific
7 example since this Court announced Masterpiece
8 of Colorado enforcing this law, the state
9 enforcing this law against anyone to --

10 JUSTICE ALITO: Well, my question
11 really was not whether this website is a public
12 accommodation. I understand that's been
13 stipulated. That wasn't my question.

14 What I'm trying to understand is the
15 breadth of your argument, and what I get is that
16 you're making a -- a tiny sliver of an argument.
17 So the website can put anything on its website,
18 even something that will blatantly or subtly
19 tell a same-sex couple, well, this is not a
20 service that I want. They can do that.

21 And a website can also potentially get
22 itself out from being a public accommodation
23 simply by reserving a degree of selectivity.
24 That's what you've told me so far.

25 MR. OLSON: No, I -- I don't think

1 it's just by reserving a degree -- degree of
2 selectivity, but I think it -- the more
3 selective and sort of curated the process is, it
4 makes it less likely to be a -- a public
5 accommodation, as the Court recognized in -- in
6 Fulton.

7 JUSTICE ALITO: All right.

8 JUSTICE KAGAN: General --

9 JUSTICE ALITO: Let me ask you a --
10 a -- and then I'll finish this line.

11 Some hypotheticals in a brief
12 submitted by Josh Blackman, okay? A -- a Jewish
13 man and a Jewish woman who are engaged to be
14 married ask a Jewish website designer to build a
15 website to celebrate their upcoming -- their
16 nuptials. No problem. Okay?

17 Another Jewish man and a Christian
18 woman who are engaged to be married ask a Jewish
19 website designer to build a website to celebrate
20 their -- their nuptials. Big problem. "Many
21 Jews consider intermarriage an existential
22 threat to the future of Judaism."

23 Does that website have to accept the
24 second couple?

25 MR. OLSON: Again, as we talked about

1 before, if the Jewish website designer has, you
2 know, very explicitly Jewish themes on the --
3 the wedding, they don't need to -- on the
4 website, they don't need to take that down for
5 the -- the -- the interreligious couple that
6 comes. But they -- if they offer a general
7 service to the public, they need to offer that
8 regardless of the customer's religion.

9 JUSTICE ALITO: So the fact that they
10 offer this to -- that this is a Jewish -- that
11 is offered mostly to Jews, that's enough to make
12 it -- or exclusively to Jews, that's enough to
13 make it sufficiently selective to get them out
14 from your --

15 MR. OLSON: No. I'm -- I'm drawing a
16 distinction between what the website designer
17 chooses to put on the website and who the
18 website designer sells the website to.

19 The website designer can choose to put
20 on their websites whatever they want, but they
21 just can't refuse to sell -- if they're a public
22 accommodation, they can't refuse to sell that
23 website to someone solely because of their --
24 the customer's or the couple's religion.

25 JUSTICE ALITO: Okay. An unmarried

1 Jewish person asks a Jewish photographer to take
2 a photograph for his Jdate dating profile. It's
3 a dating service, I gather, for Jewish people.

4 JUSTICE KAGAN: It is.

5 (Laughter.)

6 JUSTICE ALITO: All right. Maybe
7 Justice Kagan will also be familiar with the
8 next website I'm going to mention.

9 So, next, a Jewish person asks a
10 Jewish photographer to take a photograph for his
11 ashleymadison.com dating profile.

12 (Laughter.)

13 JUSTICE ALITO: I'm not suggesting
14 that. I mean, she knows a lot of things. I'm
15 not suggesting -- okay. Does he have to do it?

16 MR. OLSON: Well, again, it would --
17 it would -- what Colorado look -- it depends.
18 What Colorado looks to is what services the
19 photographer makes available to the public. And
20 if -- if the photographer makes that service
21 available to -- to others, taking pictures, you
22 know, for use on websites, then probably yes,
23 but it depends on --

24 JUSTICE ALITO: Okay, Justice -- then
25 I really will stop.

1 Justice Jackson's example of the --
2 the Santa in the mall who doesn't want his
3 picture taken with black children, so if there's
4 a -- a black Santa at the other end of the mall
5 and he doesn't want to have his picture taken
6 with a child who's dressed up in a Ku Klux Klan
7 outfit, that -- that black Santa has to do that?

8 MR. OLSON: No, because Ku Klux Klan
9 outfits are not protected characteristics under
10 public accommodation laws.

11 JUSTICE KAGAN: And, presumably, that
12 would be the same Ku Klux Klan outfit regardless
13 whether the child was black or white or any
14 other characteristic.

15 JUSTICE ALITO: You do see -- you do
16 see a lot of black children in Ku Klux Klan
17 outfits, right? All the -- all the time.
18 Suppose that -- I mean --

19 JUSTICE KAGAN: Can I -- can I -- can
20 I --

21 JUSTICE ALITO: Yeah.

22 JUSTICE KAGAN: Yeah? Is that all
23 right?

24 JUSTICE ALITO: Sure.

25 JUSTICE KAGAN: I have one, I -- I

1 hope, easy question for you and then a more
2 difficult question.

3 So, as I understand your argument, the
4 kind of you can say anything you want as long as
5 you say it to everybody or not say anything you
6 want as long as you don't say it to anybody.

7 So a gay couple walks in to Ms.
8 Smith's office and says, we want a quote from
9 Obergefell, and she says, I don't do that.

10 That's okay with you, yes?

11 MR. OLSON: Yes.

12 JUSTICE KAGAN: Because she doesn't do
13 it for anybody, yeah?

14 MR. OLSON: Correct.

15 JUSTICE KAGAN: Okay. Gay couple
16 walks in and says -- this is the harder one, all
17 right? A gay couple walks in and says, I'd like
18 the standard website, you know, everything
19 standard, the kind of website we were talking
20 about before, but I want something in addition
21 to that. I want -- I want in the -- on the home
22 page the website to say God Blesses This Union.
23 All right?

24 And Ms. Smith says -- that's a
25 problem, Ms. Smith says. And the gay couple

1 says, well, you would say that if -- if we were
2 an opposite-sex couple, right? And -- and she
3 says, we -- I would say that if you were an
4 opposite-sex couple.

5 And the gay couple says, well, what's
6 the big deal then? I don't know, I think that
7 that kind of is different, so I'm wondering
8 whether you think it's different.

9 MR. OLSON: Well, I -- I think it's
10 different in part because it implicates the very
11 compelling free exercise concerns of the vendor,
12 which aren't present in this case, right? This
13 is just a procedure --

14 JUSTICE KAGAN: Yeah, possible. I get
15 the -- I get the idea that there's a kind of
16 religious element to it. I wish I could think
17 of one that didn't have that component because I
18 feel like there's something else going on there
19 as well, that it is a statement of opinion about
20 the nature of this marriage, which, you know, in
21 my earlier hypotheticals I took care to remove.

22 But now there's a kind of statement of
23 opinion about the nature of this marriage, and
24 unlike the kind of "our story" things, which is
25 like -- obviously, it's their story, it's not

1 the designer's story. You know, unlike that, it
2 feels a little bit to me as though it could be a
3 kind of third person saying God blesses this
4 union. And who would the third person be other
5 than the person who's put the whole website
6 together? So I have difficulty with that
7 hypothetical, and I'm wondering what you think
8 about it.

9 MR. OLSON: So I agree, Justice Kagan,
10 and I think -- imagine a statement that says
11 something along the lines of -- you know,
12 there's a dating website that meets people and
13 then the people that they connect through it
14 says, you know, this is a wonderful marriage
15 that we support. No religion, right?

16 And then where you have that direct
17 speech, it does get a little trickier, but --
18 but I -- but what I would say is this is -- you
19 know, the default rule would still apply even
20 though that is an edge case, I agree, because
21 the question is what services does the company
22 choose to provide and, if it chooses to provide
23 that service to some -- now, here, it's -- you
24 know, it may be that -- that looking at the
25 service is, well, I evaluate your marriage and I

1 give it a thumbs-up or a thumbs-down, and, you
2 know, I assume you don't want the thumbs-down on
3 the website, so if you get a thumbs-up, you get
4 on the website. So that's a fact question I
5 think that would be hard.

6 But, if it was a statement that was
7 made solely based on the status of the person
8 seeking the website, in other words, thumbs-up
9 for all opposite-sex couples, thumbs-down for --
10 for same-sex couples, then it's an easier --
11 easier question.

12 JUSTICE JACKSON: Isn't Justice --

13 JUSTICE KAGAN: Yeah, I --

14 CHIEF JUSTICE ROBERTS: Thank -- thank
15 you, counsel.

16 Justice Thomas, anything further?

17 Justice Alito?

18 JUSTICE ALITO: Well, back to my black
19 Santa example, suppose it's a state that defines
20 a public accomodation -- prohibits a public
21 accommodation to discriminate on the basis of
22 political ideology. So then -- then the picture
23 has to be taken?

24 MR. OLSON: I -- I think that is
25 likely -- those political ideology distinctions

1 face much more difficult constitutional scrutiny
2 and I think are separate in kind from the kind
3 of characteristics that we're talking about
4 here, which are categories of invidious
5 discrimination. I can only think, in most
6 circumstances, political ideology did not
7 satisfy the constitutional requirements.

8 JUSTICE ALITO: So it has to satisfy a
9 constitutional requirement? Your argument is
10 dependent on that?

11 MR. OLSON: Yes, because even under
12 O'Brien, there's -- there's -- we have to show a
13 basis for what we're doing.

14 JUSTICE ALITO: In light of what
15 Justice Kennedy wrote in Obergefell about
16 honorable people who object to same-sex
17 marriage, do you think it's fair to equate
18 opposition to same-sex marriage with opposition
19 to interracial marriage?

20 MR. OLSON: Yes, because -- in how the
21 law applies, not in -- in the -- the discussion
22 with folks because, of course, honorable people
23 have different views on this issue. But I
24 think, when you look at what Justice Kennedy
25 said there, the way to honor that requirement

1 is, as this Court has set forth in *Fulton*, in
2 *Masterpiece*, of having a rigorous interrogation
3 to make sure that there are neutral and
4 generally applicable laws applied in fact that
5 way that don't single out religion.

6 And then the very next sentence of
7 what Justice Kennedy said in *Obergefell* talked
8 about, when -- when it transformed, that honest
9 and decent disagreement transformed into enacted
10 law and policy, the necessary consequence is to
11 put the imprimatur of the state on that
12 exclusion. And I think, if this Court were to
13 say that the imprimatur of this Court would
14 allow a web designer to say no same-sex people
15 allowed or allow a school photographer to say,
16 you know, no pictures of --

17 JUSTICE ALITO: Well, do you think
18 Justice Kennedy would have said that there are
19 -- that it's honorable to oppose -- to
20 discriminate on the basis of race?

21 MR. OLSON: No, I don't think so.

22 JUSTICE ALITO: Let me just give you
23 one -- one more hypothetical. Suppose someone
24 offers the service of writing customized wedding
25 vows or customized speeches to be given at a

1 wedding by people who have an idea what they
2 would like to say about a family member or good
3 friend, but they just don't feel they're very
4 good with words. They can't put it into words.

5 And let's say that this outfit is just
6 starting up. They don't have a lot of clients.
7 They're sitting at -- you know, they're sitting
8 by the phone and their computer waiting for
9 somebody to show up, so they will take anybody.
10 All right? Can -- can they be forced to write
11 vows or speeches that espouse things they
12 loathe?

13 MR. OLSON: No, they cannot be forced
14 to -- to write vows or speeches that espouse
15 things they loathe because that's not a
16 protected characteristic. But they cannot -- I
17 assume in your example --

18 JUSTICE ALITO: Well, is -- is -- is
19 the prohibition or the limitation against
20 compelled speech limited to things that are
21 unconstitutional?

22 MR. OLSON: No. I think -- I think
23 there are --

24 JUSTICE ALITO: So why does it matter?

25 MR. OLSON: Well, because, here,

1 things they loathe is not a protected
2 characteristic anywhere I know -- anywhere that
3 I know of, but on the constitutional limit, it
4 doesn't have --

5 JUSTICE ALITO: Okay. It doesn't fall
6 within -- you say -- you say it doesn't fall
7 within your statute. But maybe it's going to
8 fall within the statute -- it may fall within
9 another statute.

10 MR. OLSON: Under -- under any level
11 of scrutiny here, you look at the state's
12 compelling interest in -- in -- in determining
13 the -- the burden -- the incidental burden on
14 the -- in our example, the vow writer's rights,
15 and I don't know of any state that has sort of a
16 compelled -- it has the same compelling interest
17 as they do -- as they do for, you know,
18 protecting things that other people loathe as
19 they do for sex, gender, religion
20 discrimination. So I think it would be a
21 different analysis.

22 CHIEF JUSTICE ROBERTS: Justice
23 Sotomayor?

24 JUSTICE SOTOMAYOR: This would be the
25 first time in the Court's history, correct, that

1 it would say that a business open to the public,
2 as this Petitioner has said it is, that it's
3 open -- a commercial business open to the
4 public, serving the public, that it could refuse
5 to serve a customer based on race, sex,
6 religion, or sexual orientation, correct?

7 MR. OLSON: Yes.

8 CHIEF JUSTICE ROBERTS: Justice Kagan?
9 Justice Gorsuch?

10 JUSTICE GORSUCH: Good morning,
11 Mr. Olson.

12 MR. OLSON: Is it still morning?

13 JUSTICE GORSUCH: Just barely.

14 (Laughter.)

15 JUSTICE GORSUCH: It must not feel
16 like it standing where you are.

17 (Laughter.)

18 MR. OLSON: I'm here all day, Justice
19 Gorsuch.

20 (Laughter.)

21 JUSTICE GORSUCH: It's good to see
22 you. We -- we've had some discussion about
23 whether websites are speech or whether they are
24 some -- a service off the shelf. And I -- I --
25 I, like a lot of my colleagues, don't profess to

1 know much about this. But I do know that there
2 are some stipulations that you made in
3 paragraphs 81, 82, 83, which say that this is
4 customized, personalized, and expressive
5 activity in each and every circumstance.

6 What do we do about that from your
7 perspective? Don't we have to take that as
8 given?

9 MR. OLSON: Yes, but it doesn't change
10 the analysis, I think.

11 JUSTICE GORSUCH: Why not? Because I
12 do see a thing very different if I put a cake on
13 display, it's been made, it is what it is, or a
14 website that you can then go customize yourself,
15 and another thing to commission an expressive
16 activity and -- and -- and to require someone to
17 create an expression. Those are two different
18 things analytically in our law. So help me out.

19 MR. OLSON: Well, I think, along with
20 the stipulations, we need to look at the
21 specific relief that the company seeks.

22 JUSTICE GORSUCH: But those are the
23 stipulations.

24 MR. OLSON: They are the stipulations.
25 And the specific relief that the company seeks

1 is the ability to turn away every single
2 same-sex customer.

3 JUSTICE GORSUCH: Well, they can ask
4 for what they want. What they get might be
5 another thing, Mr. Olson. But how we analyze
6 the case depends upon those stipulations.

7 MR. OLSON: Of course, it does. And
8 -- and --

9 JUSTICE GORSUCH: Okay. Okay. And
10 then, separately, I -- I was intrigued by your
11 answer before my friends at the Tenth Circuit
12 about freelance writers and people like that and
13 the notion that Colorado could compel, for
14 example, an individual to write a speech or a
15 press release on behalf of, say, a religious
16 entity with whom he or she disagrees.

17 Does -- does every press release
18 writer, freelance writer have to write a press
19 release for the Church of Scientology, say, even
20 though the beliefs of that institution may be
21 inimical to that person?

22 MR. OLSON: Not at all. And -- and I
23 admit I don't have firmly in mind the exact
24 contours of my answer a couple years ago to the
25 Tenth Circuit, but I will tell you what Colorado

1 law says, which is you -- a freelance writer may
2 or may not be a public accommodation --

3 JUSTICE GORSUCH: Well, let's -- let's
4 assume they -- they are --

5 MR. OLSON: Okay.

6 JUSTICE GORSUCH: -- under your
7 definition, pretty broad, very different than
8 the historical understanding of public
9 accommodation, but we've gone over that.

10 MR. OLSON: So -- so assuming away
11 that hard part of the question, getting to -- to
12 what limitations, all that Colorado law requires
13 is that if you choose to offer a service to
14 someone, you need to offer that service to be
15 done --

16 JUSTICE GORSUCH: I offer to write
17 press releases for anyone. It's not a who, but
18 it is a what. And the what is, I won't write a
19 press release that expresses religious views or
20 that I disagree with.

21 MR. OLSON: Well -- well, I think,
22 certainly, a -- a freelance writer who is a
23 public accommodation could say, I don't write
24 press releases that express religious views,
25 full stop, I won't write that for anybody.

1 Right? You -- you can --

2 JUSTICE GORSUCH: No, no, no, I'm --
3 I'm happy to do it generally speaking but just
4 not ones I disagree with. There are many I
5 would agree with across a wide variety of
6 religious faiths, but I'm not going to do it for
7 some with whom I disagree.

8 MR. OLSON: Well, even in that
9 circumstance, what Colorado looks to is the
10 service you actually provide and you choose the
11 service so long as -- you -- you could say I --
12 I --

13 JUSTICE GORSUCH: So the answer is
14 yes, Colorado would compel that person?

15 MR. OLSON: No, no, the answer is no.

16 JUSTICE GORSUCH: Okay, why?

17 MR. OLSON: Because Colorado could say
18 you as a -- as a speech writer could say, I
19 write -- you know, the religious speeches that I
20 write touch on a few traditions that I have
21 knowledge of and I don't write speeches that
22 touch on other knowledges. But you --

23 JUSTICE GORSUCH: Well, no, no, no.
24 It's not on -- you're changing my hypothetical,
25 Mr. Olson --

1 MR. OLSON: Well --

2 JUSTICE GORSUCH: -- that I disagree
3 with, that --

4 MR. OLSON: Okay.

5 JUSTICE GORSUCH: -- that I find
6 offensive to my religious beliefs. That's the
7 hypothetical.

8 MR. OLSON: So long as you would sell
9 that to everyone, not based on their religion,
10 but you -- you can define the contours of the
11 product, you can choose the contours of the
12 product that you sell, but you --

13 MR. GORSUCH: I call it -- I call it
14 speech, but you can call it a product if you
15 want.

16 MR. OLSON: Well, we'll -- we'll call
17 it speech. You -- you can choose the content
18 of -- of what you sell. You just can't --

19 JUSTICE GORSUCH: What you say.

20 MR. OLSON: -- choose who you sell to.

21 JUSTICE GORSUCH: Okay.

22 MR. OLSON: Right? And so you could
23 say, I'm going to -- I'm going to focus on these
24 things and -- but I need to sell that to
25 everyone even if the person who wants to buy it

1 is a member of a religious faith that I disagree
2 with. That gets by --

3 JUSTICE GORSUCH: So I will -- I will
4 write a press release for many faiths and many
5 belief systems that are -- but they have to be
6 consistent with mine and I won't do it if it --
7 if it offends my religious faith. Good to go?

8 MR. OLSON: So long as you sell that
9 to everybody.

10 JUSTICE GORSUCH: Yes. Okay. All
11 right. What's different about this case?
12 Because -- I'll just finish the question. I
13 know you're already ready to answer it. But we
14 have an individual who says she will sell and
15 does sell to everyone all manner of websites.

16 But she won't sell a website that
17 requires her to express a view about marriage
18 that she finds offensive to her religious
19 beliefs. What's the difference between the two
20 cases? I'm struggling to understand.

21 MR. OLSON: The difference is, and,
22 again, looking at the specific relief the
23 company seeks, is --

24 JUSTICE GORSUCH: Put aside the
25 specific relief the company seeks because it's

1 up to courts to fashion relief.

2 MR. OLSON: Yeah.

3 JUSTICE GORSUCH: So that's -- that's
4 not going to persuade me. Work on something
5 that might.

6 MR. OLSON: The difference is, is that
7 that distinction the -- well, the company has
8 chosen to say they want to provide wedding
9 websites generally and they will not provide --

10 JUSTICE GORSUCH: Well, all manner of
11 websites.

12 MR. OLSON: Well --

13 JUSTICE GORSUCH: This individual will
14 provide all manner of websites, just not one
15 that celebrates -- requires her to write
16 something, words on a page, customizable, all
17 the stuff you stipulated to, that celebrate a
18 particular thing that she finds offends her
19 religious beliefs.

20 I -- I still -- I'm -- I'm looking for
21 the distinction between the two cases. One you
22 say is okay and the other one not okay.

23 MR. OLSON: Because the company,
24 unlike our first example of the speech writer --

25 JUSTICE GORSUCH: Yeah.

1 MR. OLSON: -- the company here says
2 in no uncertain terms will they ever sell a
3 company -- a -- a -- a -- a product or a service
4 to a same-sex couple permitting that I --

5 JUSTICE GORSUCH: No, what they say is
6 we will not sell to anyone -- anyone a -- a
7 message that I disagree with as a matter of
8 religious faith, just as a speech writer says or
9 the press release writer, the freelance writer,
10 says I will not sell to anyone a speech that
11 offends my religious beliefs.

12 MR. OLSON: But, here, they are
13 defining their service by excluding someone
14 based on their --

15 JUSTICE GORSUCH: That's their
16 religious belief.

17 MR. OLSON: Well, in Colorado --

18 JUSTICE GORSUCH: You can't change
19 their religious belief, right?

20 MR. OLSON: No, but -- but -- well,
21 two --

22 JUSTICE GORSUCH: And you protect
23 religious beliefs under the statute, right?
24 That is one of the protected characteristics in
25 theory.

1 MR. OLSON: Yes, and in practice. If
2 it wasn't in practice, we have heard about it
3 over -- over the past several years and -- and
4 my friend has pointed to no example where this
5 has been applied in a --

6 JUSTICE GORSUCH: Mr. Phillips did go
7 through a re-education training program pursuant
8 to Colorado law, did he not, Mr. Olson?

9 MR. OLSON: He -- he went through a --
10 a process that ensured he was familiar with --

11 JUSTICE GORSUCH: It was a
12 re-education program, right?

13 MR. OLSON: It was not a re-education
14 program.

15 JUSTICE GORSUCH: What do you call it?

16 MR. OLSON: It was a process to make
17 sure he was familiar with Colorado law.

18 JUSTICE GORSUCH: Someone might be
19 excused for calling that a re-education program.

20 MR. OLSON: I strongly disagree,
21 Justice Gorsuch.

22 JUSTICE GORSUCH: Thank you, Mr.
23 Olson.

24 CHIEF JUSTICE ROBERTS: Justice
25 Kavanaugh?

1 JUSTICE KAVANAUGH: I'm interested in
2 picking up on those questions and -- and what
3 Colorado's position on the First Amendment could
4 lead to, not what you would do based on your
5 representation, but what your theory of the
6 First Amendment could lead to in thinking about
7 the proper analogy to a website designer.

8 So I've been thinking about a
9 publishing house that says, we're not going to
10 publish -- we support pro choice positions.
11 We're not going to publish books that support a
12 pro life position or that we support same-sex
13 marriage and we're not going to publish books
14 that take a different position on same-sex
15 marriage.

16 Does the publishing house have a First
17 Amendment ability to select the kinds of books
18 that it will publish along the lines of my
19 hypotheticals there?

20 MR. OLSON: Of -- of course, it does,
21 and I think a publishing house is not a public
22 accommodation for precisely the level of
23 selectivity and choice that -- that it goes
24 into, just like the Court recognized in *Fulton*.

25 JUSTICE KAVANAUGH: Right. But, if it

1 were a public accommodation, it would still have
2 a First Amendment right, correct?

3 MR. OLSON: Yes.

4 JUSTICE KAVANAUGH: You sure about
5 that?

6 MR. OLSON: Yes, because what -- all
7 the public accommodation law says is you can't
8 turn someone away because of who they are.
9 And -- and it would be different if your
10 hypothetical was they will not publish gay
11 authors. If -- if they were -- if they were a
12 -- a publishing house who said they will -- will
13 not --

14 JUSTICE KAVANAUGH: Right. That's the
15 distinction right there.

16 MR. OLSON: Yes.

17 JUSTICE KAVANAUGH: You put your
18 finger on it, I think. So the website designer
19 is different from the publishing house how?

20 MR. OLSON: Because the website
21 designer is refusing to -- to publish gay
22 authors using the publishing house example.
23 They are saying, I will not provide this service
24 to someone because of who they are, period.

25 JUSTICE KAVANAUGH: They say it's

1 because of the message.

2 MR. OLSON: I -- I -- I understand,
3 but they define the service in a way that
4 excludes people based on who they are, and that
5 violates Colorado law.

6 And to the extent there's some
7 incidental impact on their message, it's the
8 kind of incidental impact that this Court held
9 in O'Brien as to be appropriate, where a law is
10 focused on conduct and not the -- the message
11 itself.

12 JUSTICE KAVANAUGH: I felt the amicus
13 brief of Professors Carpenter and Volokh was
14 fairly interesting. They supported the same-sex
15 position in Masterpiece but that they say
16 they're on the opposite side in this case and
17 they say that the reason is because this case
18 involves speech.

19 They say a website designer is unlike
20 a baker and that Hurley therefore is the key
21 precedent here, and they say there is no serious
22 question, their words, no serious question that
23 this case involves compelled speech.

24 Do you agree it involves compelled
25 speech?

1 MR. OLSON: No.

2 JUSTICE KAVANAUGH: Even though they
3 say there's no serious question that it does,
4 you disagree with that?

5 MR. OLSON: We disagree with that.

6 JUSTICE KAVANAUGH: Okay. Thank you.

7 CHIEF JUSTICE ROBERTS: Justice
8 Barrett?

9 JUSTICE BARRETT: How can you disagree
10 with that in light of the stipulations that
11 Justice Gorsuch reviewed with you? Because, if
12 it's speech, you know, as the stipulations
13 Justice Gorsuch read did, and she has to say it,
14 why isn't it compelled speech?

15 MR. OLSON: Because, on the
16 stipulations and -- and where we are here, the
17 company would refuse to provide the same
18 identical speech to a customer solely because of
19 who they are.

20 And if the company is going to -- is
21 going to provide speech, already said they're
22 going to do it at the website, I think was the
23 colloquy with Your Honor, Justice Barrett, where
24 someone comes in and says I want the exact same
25 website as you gave to my friends, and the

1 company says, no, I will not provide that to you
2 and the only reason is because of who -- who you
3 are, that's not compelled speech.

4 Certainly, there are some
5 circumstances where there may be more of this,
6 you know, tell the story, et cetera, but the
7 company can choose to determine the services
8 that it wants. Here, it has chosen to say that
9 I will not provide the exact same website for
10 one couple than I would for another solely based
11 on the identity of the couple.

12 JUSTICE BARRETT: Okay. I want to
13 give you a hypothetical that doesn't rely on
14 disagreement, philosophical or otherwise, with
15 speech but just a desire to promote a different
16 kind of speech.

17 So let's say a newspaper is running --
18 as many newspapers do, runs marriage
19 announcements. And so, you know, The New York
20 Times says that such announcements which it
21 picks have to satisfy its normal editorial
22 standards.

23 Let's just say that the newspaper for
24 gay pride month decides that it's going to run
25 to promote and recognize same-sex marriage, only

1 same-sex marriage announcements, turns away
2 heterosexual announcements, not because it
3 disparages or disagrees with opposite-sex unions
4 but because it's trying to promote something
5 else.

6 Can it do that? That's a protected
7 characteristic under the law?

8 MR. OLSON: Well, that's a hard
9 hypothetical because, normally, the marriage
10 announcements are considered to be a public
11 accommodation, but your intro -- hypothetical
12 introduces a layer of editorial discretion in --

13 JUSTICE BARRETT: Well, you can't run
14 every marriage announcement that comes. There
15 would be too many. So you're necessarily going
16 to pick and choose, just like every business is
17 going to have to pick and choose based on
18 resources.

19 MR. OLSON: Well, and I think -- but,
20 in that circumstance, if the sole basis for
21 picking and choosing is a protected
22 characteristic, The New York Times couldn't say
23 that we're -- we're going to have -- this month
24 we're just going to run opposite-sex weddings,
25 next month we're just going to run white people

1 weddings, next month we're just going to run --

2 JUSTICE BARRETT: So, for gay pride
3 month, a newspaper can't choose to try to
4 celebrate that and communicate a message by
5 running only gay marriage announcements?

6 MR. OLSON: Well, again, I think the
7 answer is no, but that's an unusual case because
8 a newspaper obviously typically has great
9 discretion.

10 JUSTICE BARRETT: Well, it might be an
11 unusual case, but the problem and what a lot of
12 the hypotheticals are getting at is however we
13 decide this case obviously applies to others.
14 And what if we say it's not The New York Times,
15 but what if we say that it's a gay rights group
16 that wants to publish gay rights announcements
17 online all year round, not just for gay pride
18 month, because it wants to celebrate love in
19 that community, and so it publishes only
20 same-sex marriage -- marriage announcements and
21 turns away opposite sex.

22 MR. OLSON: Well --

23 JUSTICE BARRETT: Can the gay rights
24 organization do that?

25 MR. OLSON: Right. I think there

1 that's very unlikely to be a public
2 accommodation, so the answer is likely yes, but
3 --

4 JUSTICE BARRETT: Well, they're paid.
5 Why? I mean, they're paid. I mean, they --
6 they craft these for -- it's a business, it's a
7 commercial enterprise, but they craft these
8 announcements for the gay community.

9 MR. OLSON: I guess -- who crafts the
10 announcements? I thought it was --

11 JUSTICE BARRETT: So it's a -- it's a
12 -- it's a -- it's a gay rights enterprise. It's
13 a -- it's a group run by, you know, people who
14 are interested in promoting gay rights, and it's
15 a forum to celebrate gay marriage. They charge.
16 You make money, and you run marriage
17 announcements that have our story, et cetera,
18 but it's done specifically to celebrate love in
19 that community. Can they turn away opposite-sex
20 marriage announcements?

21 MR. OLSON: So, in this unusual
22 hypothetical, assuming they're a public
23 accommodation, they cannot turn away
24 announcements based on a protected
25 characteristic. So they couldn't turn -- turn

1 away opposite-sex announcements or interracial
2 marriages, I think, if they're a public
3 accommodation. But I think the --

4 JUSTICE BARRETT: So they can be
5 compelled to -- it's not -- it's not that they
6 have anything against opposite-sex unions, but
7 they can be compelled to give their, you know,
8 web space to those -- to those announcements
9 even though it's not consistent with the message
10 of their organization?

11 MR. OLSON: Again, assuming they're a
12 public accommodation and opening themselves to
13 the public --

14 JUSTICE BARRETT: Yes, assuming
15 they're --

16 MR. OLSON: Yes, they -- they can be
17 --

18 JUSTICE BARRETT: -- a public
19 accommodation.

20 MR. OLSON: -- they can do that, but I
21 think what makes the hypothetical difficult is
22 that that assumption likely does -- does not
23 apply to most organizations like that that we
24 talked --

25 JUSTICE BARRETT: But it seems like

1 you can't get out of everything by defining
2 public accommodation narrowly or broadly
3 depending on it. I mean, you agree that in
4 Hurley the parade was a public accommodation as
5 we held? Because Hurley is your hardest case,
6 right?

7 MR. OLSON: It's a difficult case, but
8 it -- but we are different than Hurley, and I'm
9 happy to talk about why. But the public
10 accommodation law was applied to the parade in
11 Hurley, and the Court said that was -- because
12 of the peculiar circumstances there, it was
13 inappropriate.

14 But, importantly, in Hurley, everyone
15 could march in the parade. The only issue was
16 who could carry the banner in the parade. And,
17 in this case, people can't march in the parade.
18 The company is turning away people for their
19 products based solely on who they are, and
20 that's the big difference from here and Hurley.

21 JUSTICE BARRETT: Thank you.

22 CHIEF JUSTICE ROBERTS: Justice
23 Jackson?

24 JUSTICE JACKSON: Yes. So I just
25 wanted to say how perplexed I was about the

1 questions that seemed to distinguish this kind
2 of sexual orientation refusal to provide
3 services from the race discrimination. And
4 there were some questions raised about, you
5 know, religion being the basis, but I guess --
6 and -- and you might be able to help me with
7 this and you might not, but I -- I was fairly
8 certain that, historically, opposition to
9 interracial marriages and to integration in many
10 instances was on religious grounds. So I don't
11 know that we can say that just because we have a
12 religious objection to same-sex marriage in this
13 situation, that wouldn't necessarily implicate
14 religious objections to other kinds of
15 situations. Am I right about that?

16 MR. OLSON: Absolutely correct about
17 that. I mean, Bob Jones University is a good
18 example of that case --

19 JUSTICE JACKSON: All right. So --

20 MR. OLSON: -- where there was a
21 religious basis --

22 JUSTICE JACKSON: -- so whatever we
23 decide here, as Justice Barrett suggested, could
24 have implications for other kinds of
25 categorizations and First Amendment -- strongly

1 religious held First Amendment invocations of
2 rights?

3 MR. OLSON: Absolutely, and I think
4 the -- the reason my friend was having such
5 difficulty giving clear answers to some of these
6 hard questions was because there is no way to
7 cabin this to -- under the Free Speech Clause
8 exemption they seek, just to weddings or --
9 sexual orientation is involved.

10 JUSTICE JACKSON: All right. So can I
11 just direct your attention back to Justice
12 Kagan's question? Because I think she -- she
13 made good points about, you know, the "God bless
14 this union" hypothetical. And I guess I was
15 thinking, isn't part of the problem trying to
16 figure out whose statement of opinion it is when
17 you have a public accommodation?

18 When you have an artist for hire,
19 right, ordinarily, you would have an artist who,
20 even though they're making custom, you know,
21 things, they're making custom things based on
22 their own views and opinions and this is my art.
23 But, when you have an artist for hire and people
24 come to them and say here's what I'd like you to
25 make, there's a question about whether what they

1 make is their statement or the customer's
2 statement.

3 So, if it was clear that it was not
4 their statement, let's say the gay couple comes
5 and they say we want "God bless this union" on
6 our website, and the web designer says that's
7 fine, but you understand under our name at the
8 bottom we say on every website we believe that
9 marriage is only between one man and one woman
10 and we're going to put that on your website?
11 Justice Alito says maybe that person will walk
12 away, and maybe they will. But the point is, if
13 they do that in every situation and it's clear
14 that it's not their statement, then do we solve
15 the -- the -- the difficult Justice Kagan
16 problem of, like, who's -- who's making an
17 expression here?

18 MR. OLSON: I think we -- we make
19 progress towards solving it. And I think, back
20 to the stipulations, I think it's notable that
21 the stipulations here do not address that
22 question that you raise, Justice Jackson.

23 What the company says is, well, every
24 website has "Designed by 303 Creative" at the
25 bottom. That's paragraph 83 of the

1 stipulations. And then they say: And if a
2 viewer of a wedding website goes to 303
3 Creative, then they will understand our
4 philosophy -- our own website, then they will
5 understand our philosophy and understand that
6 there's some implicit, you know, recognition or
7 endorsement, whatever, of the wedding.

8 But, on the stipulated facts here, the
9 question you pose is totally wide open. There's
10 no evidence in the record whatsoever and no
11 websites in the record to look at to see whether
12 anyone would attribute the speech about the
13 couple on the wedding website to the designer as
14 opposed to the couple.

15 JUSTICE JACKSON: Should -- should we
16 have that as part of our standard in the
17 holding? Like let's say we don't want to go as
18 far as you're suggesting perhaps with the
19 holding in this case. Could -- could it be that
20 we would say, you know, the First Amendment
21 protects the web designer's abilities to, you
22 know, not have this kind of -- a same-sex
23 wedding website only if it would be clear from,
24 you know, a neutral observer or from the
25 audience that having that website is their own

1 expression?

2 MR. OLSON: So two things to say on
3 that, Your Honor. First is I think both Spence
4 and Hurley itself talked about the importance of
5 how an onlooker would look at the message and --
6 and who the onlooker would attribute the message
7 to. So I think you certainly could -- could --
8 could build on that. And, again, here, there's
9 no evidence whatsoever that -- that anyone would
10 look at a wedding website designed by 303
11 Creative and say, oh, that is, you know, the
12 speech and beliefs of the designer as opposed to
13 the couple getting married.

14 JUSTICE JACKSON: Thank you.

15 CHIEF JUSTICE ROBERTS: Thank you,
16 counsel.

17 MR. OLSON: Thank you.

18 CHIEF JUSTICE ROBERTS: Mr. Fletcher.

19 ORAL ARGUMENT OF BRIAN H. FLETCHER
20 FOR THE UNITED STATES, AS AMICUS CURIAE,
21 SUPPORTING THE RESPONDENTS

22 MR. FLETCHER: Thank you, Mr. Chief
23 Justice, and may it please the Court:

24 My friend, Ms. Waggoner, offered a
25 two-part test this morning for when a commercial

1 business is entitled to an exemption from a
2 generally applicable public accommodations law.
3 She said, number one, is their product speech,
4 and, number two, does serving a particular
5 customer change the message in the view of the
6 business.

7 Now, as the questions today have
8 already explored, that leads to extremely
9 sweeping results. It means that any provider of
10 expressive services is entitled to put up a sign
11 saying we do not serve people with particular
12 characteristics whenever they believe that
13 serving those people would change their message.
14 What I want to begin with today is to explain
15 why that way of approaching the problem is also
16 inconsistent with this Court's cases, most
17 notably *Rumsfeld versus FAIR*, which you
18 mentioned, Mr. Chief Justice. That case was not
19 just about access to the law school's rooms.
20 The law schools had a separate claim that said
21 we provide other services to recruiters in the
22 form of e-mails, newsletters, other things of
23 that nature, and this Court did not disagree.

24 It said those things are clearly
25 speech. And the law schools also said, when we

1 are required to provide those services to the
2 military, it changes our message because it
3 forces us to support a cause we deeply oppose.
4 And this Court did not disagree.

5 Instead, it said that compulsion of
6 speech is permissible because it's incidental to
7 a content-neutral regulation of conduct and that
8 law schools are required to speak only if and to
9 the extent they would provide the same speech
10 for others.

11 I welcome the Court's questions.

12 CHIEF JUSTICE ROBERTS: I do think the
13 Court in -- in Rumsfeld was dealing with a sort
14 of compulsion that is significantly different
15 from the compulsion here. In what other case
16 have we upheld compelling speech, in other
17 words, not simply just restricting speech but
18 actually compelling an individual to engage in
19 speech contrary to her beliefs?

20 MR. FLETCHER: So I think, Mr. Chief
21 Justice, Rumsfeld really is one of those cases.
22 And I want to emphasize that the law schools
23 there really did have a very credible claim, I
24 think, that they deeply opposed the military's
25 policies and that --

1 CHIEF JUSTICE ROBERTS: Well, they
2 opposed the military's policies, but all they
3 really had to do was give them an empty room.

4 MR. FLETCHER: Mr. Chief Justice,
5 that's not correct. At pages 60 to 62, the
6 Court acknowledges that there were things that
7 the law schools were required to do, like
8 sending e-mails, coordinating meetings,
9 including announcements in their newsletters
10 that were clearly speech. The court below had
11 held that that --

12 CHIEF JUSTICE ROBERTS: Advising --
13 advising people that the military recruiters
14 were available in a particular room, right?

15 MR. FLETCHER: And including their
16 announcements, distributing the announcements on
17 behalf of the military, including the military's
18 announcements in the law school's own
19 newsletter. The court below held and the law
20 school --

21 CHIEF JUSTICE ROBERTS: Of the -- of
22 the fact that they would be recruiting on campus
23 pursuant to the Solomon amendment. Do you think
24 that's the same as the speech that's compelled
25 here, which is directly opposite to the beliefs

1 that the -- Ms. Smith is -- is seeking to
2 convey?

3 MR. FLETCHER: So I think it depends
4 very much about what type of speech we're
5 talking about here. I don't know that it is
6 different in a constitutional sense from the
7 sort of speech that was described in what
8 Justice Kagan, I think, called the basic
9 website, where we're talking about a website
10 that presents in an attractive way the details
11 of the couple's wedding.

12 I think it might be a very different
13 case if she were compelled, if Colorado ever
14 applied its law to compel her to create messages
15 or express religious views about marriage or to
16 do some of the opinion-based statements that
17 Justice Kagan described, but I think that case
18 might well come out differently.

19 JUSTICE KAGAN: In other words, you
20 would say that here is where the military
21 recruiters are going to be, with those
22 recruiters, of course, using the discriminatory
23 policy that the law schools deeply objected to.
24 Here is where the military recruiters are going
25 to be is very similar to here is where the

1 wedding is going to take place, which is what
2 standard websites do.

3 MR. FLETCHER: Exactly. And in saying
4 that, I don't want to at all minimize Ms.
5 Smith's sincere religious objection to saying
6 that for a wedding that she opposes. I'm just
7 making the point that the law schools also had
8 sincere moral objections to making those
9 statements to facilitate recruiting that they
10 found deeply objectionable.

11 JUSTICE BARRETT: What if the law
12 schools also had to make available their CDO to
13 sit down with the military and help them craft,
14 you know, in a statement that would be
15 attributable to the military, you know, this is
16 why a career with the military -- this is what
17 it would be, this is why it's attractive, and
18 then post it? Would that change Rumsfeld?

19 MR. FLETCHER: So there was actually
20 evidence that those sorts of services were
21 offered, that the law schools were pressing that
22 are referenced in the Third Circuit's opinion
23 but not specifically referenced in this Court's
24 cases.

25 I think what that starts to get into

1 is how do you draw the line between are you
2 providing -- is it really the same speech that
3 you would provide for someone else and are you
4 being required to do something that goes beyond
5 that to express the sort of opinion-related
6 statements that Justice Kagan espoused.

7 JUSTICE BARRETT: What if they do it
8 for everyone? The Career Development Office
9 will do that for, you know, law firms, this is
10 the job of an associate, and here is why it
11 would appealing, what you'd be getting out of
12 it. If they do that, then they would have had
13 to do that for the military, or would that make
14 that case more like Hurley?

15 MR. FLETCHER: So I guess here is the
16 way I'd answer the question, is the way that
17 Hurley did. We read Hurley to ask is the
18 compulsion, is the burden on speech, is it truly
19 incidental to the content-neutral regulation of
20 conduct.

21 And what Hurley started with on pages
22 572 to 573 is being emphatic in saying this
23 parade is not excluding people because they are
24 gay and lesbian. It is excluding them solely
25 because of the message that they want to send.

1 And so the Court said applying the public
2 accommodations law to them is not incidental,
3 it's not serving the content-neutral regulation
4 of conduct because they're not discriminating on
5 the basis of status.

6 Instead, the law in Hurley, the Court
7 said, was equivalent to a law saying that the
8 parade had to include any message that any
9 protected group wanted to offer. That is not an
10 incidental burden on speech. That is a direct
11 burden on speech.

12 And the reason why we view this case
13 as being like FAIR and not like Hurley is
14 because Colorado is not asking Ms. Smith to say
15 messages or to speak messages that she would not
16 speak for anybody. The only thing that it is
17 saying is you can't discriminate based on status
18 and you can't define your services based on
19 protected status, so that you can't say the
20 thing, the message that I object to that I won't
21 speak for anybody is a message that is tied to
22 the customer's status.

23 JUSTICE KAGAN: But what --

24 JUSTICE SOTOMAYOR: Well, I -- I don't
25 know how many of my colleagues have looked at

1 the actual website. I don't even see
2 celebration of marriage in any of the examples.

3 Exhibit A, page 51, says Save The
4 Date, Lilly and Luke, November 20, you're
5 invited. And it says Lilly and Luke, and the
6 date and place, the town. The Exhibit 52 is
7 counting down the days. It doesn't even say
8 what it's counting down for, except our special
9 day, which everybody has to assume is the
10 couple's.

11 Fifty-three is an RSVP with pictures.
12 Fifty-four is our blog, bring your dancing
13 shoes. Fifty-five is their date, it all began
14 seven years ago, Lilly's version and Luke's
15 version. It's clearly not 303's version. We
16 love each other and coffee -- I don't even know
17 what CO -- Colorado, Jesus, dogs, and diving.
18 We love each other is the couple who loves
19 Jesus, I assume your adversary won't say Jesus
20 doesn't love them back, but it doesn't say that.

21 The 57 is the ceremony. Fifty-eight
22 is the reception, location, spirits, dinner menu
23 and dancing. Fifty-nine is location. I don't
24 see anywhere I'm celebrating the marriage or God
25 loves anyone or anything to do with anything

1 like that. So have you reviewed this website?

2 MR. FLETCHER: I have, Justice
3 Sotomayor.

4 JUSTICE SOTOMAYOR: Do you believe
5 that there's any page that says celebrate the
6 marriage?

7 MR. FLETCHER: I -- honestly, to -- as
8 I stand here today, I can't remember whether
9 there is or not. I don't think it would make a
10 difference if there were. And I think what the
11 examples that you just read highlight is that
12 there is a lot of websites or content on
13 websites that is properly within this case
14 because it is consistent with the stipulations
15 Justice Gorsuch and with the scope of relief
16 that they're asking for and with the type of
17 services that Ms. Waggoner has described this
18 morning.

19 JUSTICE SOTOMAYOR: What they're
20 asking for is a status-based exemption to
21 accommodate.

22 MR. FLETCHER: That's exactly right.

23 JUSTICE GORSUCH: Well, on that --

24 CHIEF JUSTICE ROBERTS: I thought --

25 JUSTICE SOTOMAYOR: Not a speech-based

1 exemption.

2 CHIEF JUSTICE ROBERTS: Just I thought
3 at pages 188A and 189A, the stipulation below
4 said that the additions to the web page stated,
5 and then it lists the firm belief in God that
6 they, Ms. Smith, subscribed to. Is that -- do
7 you understand that to be part of the
8 stipulations or not?

9 MR. FLETCHER: I do, Mr. Chief
10 Justice, but that's referring to her website,
11 her business's own website, not the websites
12 that she would create for clients and not the
13 websites that would be subject to the public
14 accommodations law.

15 JUSTICE GORSUCH: We also --

16 CHIEF JUSTICE ROBERTS: And -- I'm
17 sorry, go ahead.

18 JUSTICE GORSUCH: No, no. Please,
19 Chief.

20 CHIEF JUSTICE ROBERTS: I was just
21 going to say also on page 188A is the determined
22 -- the stipulation that her religious beliefs
23 will be unmistakable to the public after viewing
24 the addition to the web page.

25 MR. FLETCHER: Yes. Once again,

1 that's describing her website, not the websites
2 that she would create for clients or the
3 Colorado law might her -- might require her to
4 provide on a nondiscriminatory basis.

5 JUSTICE GORSUCH: And, counsel, we
6 also have stipulations from Colorado that the
7 plaintiff is willing to work with all people,
8 regardless of classification, such as race,
9 creed, sexual orientation, and gender, right?

10 MR. FLETCHER: In some respects, yes,
11 but not --

12 JUSTICE GORSUCH: No, that is the stip
13 -- I -- I -- I just read it. Do you disagree
14 with that? It's a stipulated fact in this case.

15 MR. FLETCHER: That is stipulated, but
16 it's also clear that she will not provide any
17 wedding website for a same-sex couple.

18 JUSTICE GORSUCH: Well, for a same-sex
19 wedding --

20 MR. FLETCHER: For a same-sex wedding,
21 yes.

22 JUSTICE GORSUCH: -- and she won't
23 provide it to a heterosexual couple either,
24 right?

25 MR. FLETCHER: But that's still

1 discrimination within the meaning of --

2 JUSTICE GORSUCH: Just as she wouldn't
3 sell a website that celebrates a heterosexual
4 union that she disagreed with to anyone
5 regardless of their sexual orientation, right?

6 MR. FLETCHER: That may be right,
7 Justice Gorsuch, but I think Masterpiece
8 couldn't have been clearer in saying that
9 declining to sell goods or services, even
10 expressive goods and services, for a same-sex
11 wedding is a form of status-based discrimination
12 properly within the scope of public
13 accommodations laws.

14 JUSTICE GORSUCH: And on -- on that, I
15 just want to make sure I understand. Do we
16 agree as well that this is -- this work that the
17 plaintiff performs is expressive in nature?

18 MR. FLETCHER: We do.

19 JUSTICE GORSUCH: Okay. Thank you.

20 JUSTICE JACKSON: And if it's
21 expressive, what -- what about my photograph
22 hypothetical?

23 MR. FLETCHER: So I didn't belabor
24 this at the beginning, Justice Jackson, but your
25 photograph hypothetical is exactly the sort of

1 implication of the arguments that Petitioners
2 are advancing that are of concern to the United
3 States.

4 We really do think it's very difficult
5 if you accept her principle, is it speech and
6 does the speaker believe the message has
7 changed, to say that someone who is doing that
8 would not be entitled under her theory to an
9 exemption from the public accommodations laws.

10 And we think that's a very sweeping
11 accommodation that's inconsistent with the
12 Court's admonition in Masterpiece Cakeshop that
13 any sorts of carveouts in these areas have to be
14 carefully cabined to avoid undermining the
15 government's compelling interest in ensuring
16 that all Americans have equal access to the
17 public marketplace.

18 JUSTICE JACKSON: And so just to be
19 clear, right, it -- it's the same photograph for
20 both customers, that this expression in my
21 example is classic scenes with Santa, "It's a
22 Wonderful Life," 1940s, and we want -- the --
23 the artist, the photographer, wants Santa with
24 the kinds of depictions that are in that movie,
25 and he wants to sell that to everybody, but what

1 that means is only some people can be depicted
2 in that picture.

3 Is that -- that's -- I'm just trying
4 to make it -- because we've heard a lot of
5 questions about, well, isn't she customizing it?
6 I mean, he's customizing each photo, but what
7 he's saying is, I won't do the customization for
8 these folks who want depictions with Santa
9 because that is inconsistent with my beliefs
10 about how that scene should be depicted, and I'm
11 an artist, and you'd be forcing me to put out
12 into the world pictures of Santa with children
13 that I think are inconsistent with my view of
14 how Santa should be depicted.

15 MR. FLETCHER: We agree, Justice
16 Jackson. We think, if you accept Petitioners'
17 theory, the upshot is that that photographer or
18 a photographer who says, I won't take corporate
19 head shots for women because I don't want to
20 send the message that women should be leaders in
21 the workplace, can deny service to a class of
22 people.

23 JUSTICE BARRETT: Mr. Fletcher, what
24 if you have a gay couple who runs a web design
25 business in a college town, and, you know, a big

1 part of their business is developing websites
2 for student organizations, the environmental
3 organization, like, different rec club leagues,
4 whatever. And then you have a Christian
5 organization or Catholic organization that
6 basically stands for and advocates traditional
7 views of marriage. This is the raison d'etre
8 for the club. They host debates, invite
9 speakers, and they want the standard website
10 that this couple provides in their business,
11 which is, you know, graphics that make it look
12 appealing, kind of an About Us page that
13 describes what they do and what their beliefs
14 are. And let's say that this couple, like 303
15 Creative, has on the bottom of every page like,
16 you know, "Designed" -- "Designed by," you know,
17 "Jack and Michael." Everything this club wants
18 to say is an anathema to this couple.

19 Do they have to -- can you compel that
20 speech? Do they have to publish it?

21 MR. FLETCHER: I don't think they do,
22 Justice --

23 JUSTICE BARRETT: Why?

24 MR. FLETCHER: Because I don't think
25 that's a refusal based on status.

1 JUSTICE BARRETT: Okay. This is my
2 question, that's why I asked it, because I
3 think, here, there's a difference of opinion
4 about whether turning down the same-sex couple
5 simply for purposes of a marriage announcement
6 is a turn-down based on status or message. And
7 it seems to me in my hypothetical that the
8 status of the club is inextricably intertwined
9 with the message they want to speak.

10 So why is it different?

11 MR. FLETCHER: For a couple of
12 reasons. I think, first of all, just to start
13 with same -- the same-sex marriage context, this
14 Court has recognized that that's a circumstance
15 where status and conduct are inextricably
16 intertwined. In Lawrence and Masterpiece, the
17 Court has said refusing to serve for same-sex
18 marriages is discrimination against same -- gays
19 and lesbians because status and conduct is
20 inextricably intertwined.

21 The public accommodations laws and the
22 anti-discrimination laws generally don't work
23 that way in general. We don't think that the
24 expression of particular views is inextricably
25 intertwined with having a particular religion or

1 being a Democrat or a Republican.

2 In general, in public accommodations
3 laws, we say, when you discriminate against
4 someone because they want you to print a website
5 or serve an event or cater an event for
6 something that you disagree with, we wouldn't
7 say that that's a status-based refusal. And I
8 think that's correct. I -- I don't think --

9 JUSTICE BARRETT: So this is a
10 carve-out that's applicable just to the same-sex
11 context?

12 MR. FLETCHER: I think it's a context
13 -- it's like the Court's recognition in Bray
14 that a tax on yarmulkes is a tax on Jews. There
15 are certain rare contexts where status and
16 conduct are inextricably intertwined, and I
17 think the Court has rightly recognized that
18 same-sex marriage is one of them.

19 JUSTICE BARRETT: Thank you.

20 CHIEF JUSTICE ROBERTS: Justice
21 Thomas?

22 Justice Alito?

23 JUSTICE ALITO: I want to make sure I
24 understand some of the contours of your
25 argument. So my first question is whether you

1 believe that speech can be compelled so long as
2 the person who is compelled to speech -- to
3 speak is -- is not associated with the compelled
4 speech.

5 MR. FLETCHER: That's not the line
6 that we draw, Justice Alito. I think we focused
7 on is it being compelled pursuant -- incidental
8 to a content-neutral regulation of conduct as in
9 FAIR, or is it not.

10 JUSTICE ALITO: Well, outside of that
11 context, in general, does the prohibition or
12 restriction of compelled speech apply only where
13 there is no danger of attribution?

14 MR. FLETCHER: I don't think so, no.
15 I would imagine it applying in other contexts
16 too.

17 JUSTICE ALITO: Okay. Do you agree
18 with Mr. Olson that a -- a website for marriages
19 can tailor the website in a way that makes the
20 website unacceptable to same-sex couples?

21 MR. FLETCHER: By saying, for
22 instance, we -- on every website, we believe
23 that marriage is only between one man and one
24 woman or something like that, yes, we do.

25 JUSTICE ALITO: You believe that's --

1 that's permissible?

2 MR. FLETCHER: We understand that to
3 be permissible as a matter of Colorado law, and,
4 also, we think that's consistent with the way
5 the public accommodations laws usually work.

6 JUSTICE ALITO: Mr. Olson's answer to
7 that was if a website -- or part of the answer
8 at least was that if a website included
9 something like that, that would cause the
10 website to lose a significant amount of business
11 because some opposite-sex couples wouldn't want
12 that. But that's dependent on the views of the
13 community about opposite sex -- about same
14 sex -- I'm sorry, about same-sex marriages.

15 What if it's in a community where 99
16 percent of the public agree with that view, that
17 same-sex marriages are -- are bad, and they're
18 happy to have that associated with it?

19 MR. FLETCHER: So I don't think my
20 answer changes, Justice Alito, because I think
21 that imposing a requirement or prohibiting that
22 inclusion on a website is directly targeting the
23 expressive content of the website.

24 JUSTICE ALITO: Isn't that kind of a
25 silly distinction?

1 MR. FLETCHER: Justice Alito,
2 respectfully, no, I -- I don't think it is. I
3 think it's one that's familiar both to public
4 accommodations laws and to the First Amendment.
5 So, in the public accommodations context, as Mr.
6 Olson said, you could have a store that can say
7 we sell products that are solely for -- related
8 to Judaism, and it's not likely to be appealing
9 to Christians or Hindus, but no one thinks the
10 store is violating the public accommodations
11 laws unless it says no Christians or Hindus may
12 enter, and then it is violating the public
13 accommodations laws.

14 JUSTICE ALITO: Is there any limit to
15 how broadly a state can define a public
16 accommodation? So suppose the state defines it
17 as any business -- a business that provides
18 services to a significant portion of the public.

19 MR. FLETCHER: I --

20 JUSTICE ALITO: Would that make --
21 mean it's no -- it can't be regarded as public
22 accommodations anymore?

23 MR. FLETCHER: I don't know about that
24 line specifically, Justice Alito. I -- I will
25 accept the premise of the question. I do think

1 there are limits as to how far the state can go
2 at least when we're talking about what's a
3 sufficiently substantial interest to justify or
4 to pass scrutiny under the O'Brien test.

5 JUSTICE ALITO: Well, I ask this
6 because a lot of the arguments on your side
7 seemed to view public accommodations -- that if
8 it's a public accommodations law, it's generally
9 okay, there's no problem with it. And that's
10 why I want to know how far that can be expanded.

11 So some selectivity would not
12 necessarily take a business outside of the --
13 the definition of public accommodations? The
14 same arguments would apply?

15 MR. FLETCHER: Some selectivity
16 wouldn't take them out, but I think the farther
17 the state wanders from the sort of traditional
18 core of commercial establishments that hold
19 themselves out as serving the public, the weaker
20 the state interest is.

21 JUSTICE ALITO: What about the
22 characteristics that form the basis for an
23 impermissible denial of service? Any limit to
24 those?

25 MR. FLETCHER: I think there, the same

1 answer. So not in the sense that a state can
2 define its public accommodations laws however it
3 wants. But, yes, when it starts to bump up
4 against the First Amendment and you're
5 applying the O'Brien standard, protection for
6 some characteristics, you know, things that go
7 beyond the traditional things, like race, sex,
8 sexual orientation, religion, those at issue
9 here, and get out into political affiliation or,
10 you know --

11 JUSTICE ALITO: It can't define it as
12 political affiliation?

13 MR. FLETCHER: I --

14 JUSTICE ALITO: It can't define it to
15 include political affiliations --

16 MR. FLETCHER: I'm not saying it can't
17 --

18 JUSTICE ALITO: -- or ideology?

19 MR. FLETCHER: I'm not saying it can't
20 define it that way. I'm just saying that the
21 interest supported by such a prohibition would
22 be weaker than the really core ones like those
23 that we see at issue here.

24 JUSTICE ALITO: Along -- okay. So how
25 much selectivity do you think is required?

1 MR. FLETCHER: So that's going to be,
2 I think, in the first instance, as a state law
3 matter or as a constitutional sort of backstop
4 matter, I think it's hard to give a precise
5 answer. I think the Court's opinion in Fulton
6 gives some guidance and says more selectivity,
7 more individualized review is less likely to be
8 a public accommodation, and in contrast, an
9 entity that generally holds itself out as open
10 to the public can't escape the public
11 accommodations laws just by imposing a
12 discriminatory limitation or some pretense of
13 selectivity. And I -- I know I can't give you a
14 bright line, but I think this is a familiar
15 problem in public accommodations law.

16 JUSTICE ALITO: Okay. Suppose -- last
17 -- I -- I think my last question. Suppose 303
18 Creative says that there's so much demand for
19 our services that we have to be selective in who
20 we choose. Would this be -- would that make
21 this case -- would this case come out
22 differently then?

23 MR. FLETCHER: I don't think so,
24 Justice Alito. I think that a business that is
25 open to the public and serves the public but has

1 more business than it can handle and so has to
2 be selective is still a public accommodation.

3 JUSTICE ALITO: Thank you.

4 CHIEF JUSTICE ROBERTS: Justice
5 Sotomayor?

6 Justice Kagan?

7 JUSTICE KAGAN: Mr. Fletcher, when I
8 read your brief, I had the sense that you and
9 General Olson, Colorado, parted ways on -- on --
10 on some matters, and I'll just -- on my
11 hypothetical, God Blesses This Union, I thought
12 that you might find -- find that more difficult
13 than General Olson, and I'm wondering if I'm
14 right about that and -- and if I am right why
15 and what that says about your argument
16 generally.

17 MR. FLETCHER: So let me give you the
18 answer I give today. I'd start with just the
19 same observation that General Olson gave you,
20 which is that I think there are free exercise
21 clause issues might come into play. I'll put
22 those to the side because this is a speech case,
23 right?

24 And I think what that pushes on is can
25 the person who's providing services credibly say

1 I'm not denying service just because of status,
2 I'm denying service because there's some message
3 that's not just tied to status that I'm not
4 willing to speak for anybody.

5 And, to me, some --

6 JUSTICE KAGAN: Gay marriages are
7 wonderful to take the religion out of it.

8 MR. FLETCHER: Right. Right. So,
9 obviously, Ms. Smith can say, I will not make
10 any wedding website for anyone that says gay
11 marriages are wonderful. She can refuse on that
12 ground. Colorado agrees. We agree. Right?

13 JUSTICE KAGAN: Right. I get the "God
14 Blesses This Union" was -- was supposed to be so
15 that it would be, she would be, like, perfectly
16 fine with saying it for some couples and not
17 fine with saying it for other couples.

18 MR. FLETCHER: Correct, yes. And I
19 guess I -- it's -- it's a harder case. You
20 know, I think it's one of the reasons why this
21 case is frustrating is because we don't have any
22 concrete facts.

23 I think my inclination on that case is
24 that I think she has a strong argument to say,
25 really, that is making me send a different

1 message because of the context. It's not a
2 literal test. It's not just are the words
3 exactly the same, right?

4 We acknowledge that context matters.
5 And so, in a case like that, I think she has a
6 much stronger claim to say, if Colorado law
7 applied its law to make me say that, and I think
8 it's far from clear that Colorado would, then it
9 wouldn't be imposing the sort of incidental
10 burden the Court saw in FAIR. Then it's
11 imposing the sort of direct burden you saw in
12 Hurley, and the analysis looks very different.

13 JUSTICE KAGAN: Yeah. So what you
14 said is part of what frustrates me about this
15 case, because, you know, I guess my view when
16 I'm trying to think of hypotheticals for myself
17 is a little bit it depends.

18 On the first set of hypotheticals I
19 gave, I would come out one way, and on the
20 second set of hypotheticals I gave -- I hope I'm
21 not giving too much away -- I think it's much
22 tougher and I might come out the other way.

23 And -- and it really depends on the
24 facts and on what exactly Ms. Smith is being
25 asked or compelled to do and that matters. And

1 we have a case without any of that in it. And
2 what should I do with that?

3 MR. FLETCHER: So I think you should
4 take the case as it comes to you. And as it
5 comes to you, it's Ms. Smith saying, I want to
6 post a sign saying I will not provide any
7 websites for any same-sex marriages. That's
8 Pet. App. 7A.

9 JUSTICE KAGAN: Categorical rule.

10 MR. FLETCHER: Categorical rule based
11 on status. And at page 303 to 304 in the -- of
12 the Joint Appendix, which General Olson referred
13 to, that's the relief that she's seeking, how
14 she's framed her claim. What she wants is an
15 injunction that says you can't make --

16 JUSTICE KAGAN: Justice Gorsuch says
17 we don't want to do things based on relief
18 because courts are in control of relief, so take
19 out that part of your -- I mean, whether he
20 might be right, he might not be right, but would
21 it matter if we took that out?

22 MR. FLETCHER: I don't -- I don't
23 think it would because what I heard Ms. Waggoner
24 to say this morning when she was asked about
25 what her client wants to do is that the services

1 she provide are not limited to the ones that are
2 described in the stipulations. She would
3 provide something that wasn't so customized as
4 long as it was to an opposite-sex couple, but
5 she wouldn't provide it to a same-sex couple.
6 That is what she is asking the courts to
7 validate.

8 And I think the Court can take that
9 claim as she presents it and say on that level
10 of generality she is not entitled to
11 pre-enforcement relief.

12 But I think it can also do to --
13 because I recognize there are harder questions
14 out there. It could and should do what it did
15 in Holder versus Humanitarian Law Project and
16 Doe versus Reed and say, in rejecting this
17 facial challenge in part -- or, I'm sorry,
18 pre-enforcement challenge in part because we
19 need more facts and we don't have them, we are
20 not foreclosing the possibility that there is
21 narrow relief in future cases with concrete
22 facts.

23 JUSTICE KAGAN: Last question. You
24 said to Justice Jackson that you didn't want to
25 belabor the point, but her hypothetical is

1 exactly the kind of hypothetical that you're
2 concerned about.

3 You must have done many moots of this
4 case and thought of many hypotheticals. What
5 are your two ones that you're like killers?

6 (Laughter).

7 JUSTICE KAGAN: If we rule for Ms.
8 Waggoner and her client, what happens? Give me
9 two hypotheticals.

10 MR. FLETCHER: That's a lot of
11 pressure on my mooters. My favorite one is this
12 Court's decision in Runyon versus McCrary, which
13 was about a school that wanted to exclude
14 children of particular races, and it said the
15 reason we want to do this is because segregation
16 is important to our beliefs and that's what we
17 want to teach. And this Court said, you are
18 free to teach segregation in your school, but
19 you can't act on that belief by excluding
20 children of particular races.

21 And I think -- this is a private
22 school obviously. And I think, if Petitioners
23 are right, that case comes out differently as
24 long as the school can come in and say, when we
25 teach, we are expressing messages and those

1 messages change when we express them to students
2 of different races.

3 I think that's very troubling. And I
4 guess I take Justice Alito's point that I do not
5 mean to equate those who have different views
6 about marriage to racists, but the reason why I
7 rely on those hypotheticals is because this
8 Court's First Amendment jurisprudence does not
9 distinguish between views we find odious and
10 those we respect. The same principles apply in
11 both cases, and if the principles lead to
12 unacceptable places when we consider them in
13 light of odious views, then I think we have to
14 reject those principles even in a case where we
15 sympathize with and respect the views.

16 JUSTICE KAGAN: Thank you.

17 CHIEF JUSTICE ROBERTS: Justice
18 Gorsuch.

19 JUSTICE GORSUCH: I think, at the end
20 of two hours -- we are now in the afternoon, by
21 the way.

22 MR. FLETCHER: Good afternoon.

23 JUSTICE GORSUCH: That there --
24 there's actually radical agreement on -- on how
25 we should analyze this case legally. Tell me if

1 I'm wrong.

2 MR. FLETCHER: I disagree, but go
3 ahead.

4 JUSTICE GORSUCH: You haven't even
5 given me a chance.

6 (Laughter.)

7 JUSTICE GORSUCH: That -- that -- that
8 what -- what would be impermissible is
9 discrimination on the basis of status, but what
10 would be permissible is -- is refusing service
11 because of a disagreement about views.

12 MR. FLETCHER: So I guess I -- what
13 I -- the reason I disagreed at first is to say I
14 think there is general agreement that that's
15 about the right outcome.

16 JUSTICE GORSUCH: That that's about
17 the right way to think about this case.

18 MR. FLETCHER: But great difference of
19 opinion about how legally you get there and that
20 leads to difference of opinion about how you
21 answer it.

22 JUSTICE GORSUCH: But -- but -- but --
23 but -- but I -- I was about -- you just steal my
24 thunder, counsel.

25 (Laughter.)

1 JUSTICE GORSUCH: You think this is a
2 status case. The other side thinks it's a -- a
3 viewpoint case. Is that fair too?

4 MR. FLETCHER: I -- I wouldn't say
5 that. I acknowledge that this is a status and a
6 message case.

7 JUSTICE GORSUCH. Okay. It's both --

8 MR. FLETCHER: Yes.

9 JUSTICE GORSUCH: -- in your view, I'm
10 sorry, whereas they would say it's a message
11 case.

12 MR. FLETCHER: Correct.

13 JUSTICE GORSUCH: But to think about
14 it, the status versus message, is -- I just want
15 to make sure we all agree that that's the right
16 way to think about this case.

17 MR. FLETCHER: Correct. And can I
18 explain why we think --

19 JUSTICE GORSUCH: Sure. Sure.

20 MR. FLETCHER: -- that's the right to
21 think about the case? Because we think the
22 first question is, is the burden that's being
23 imposed on Ms. Smith incidental to a
24 content-neutral regulation of conduct that says
25 you can't turn people away because of status.

1 JUSTICE GORSUCH: Right.

2 MR. FLETCHER: So, to us, the first
3 question is, is what she's doing status-based
4 discrimination?

5 JUSTICE GORSUCH: Right.

6 MR. FLETCHER: And if the answer is
7 yes, then the burden is incidental even if she
8 thinks it affects her --

9 JUSTICE GORSUCH: No, I -- I -- I -- I
10 -- I got that about an hour ago, but thank you.

11 MR. FLETCHER: I -- I -- I -- I
12 apologize.

13 JUSTICE GORSUCH: Now the -- the --
14 the other question I had is, in your view, this
15 is status-based, but Justice Barrett's
16 hypothetical of the inverse situation is
17 message-based.

18 MR. FLETCHER: I wouldn't describe it
19 as the inverse situation because I didn't
20 understand the hypothetical to say that the
21 campus print -- website design company was
22 turning people away because of their status. I
23 understood it to be turning them away because
24 they wanted to say things that the company would
25 not say.

1 JUSTICE GORSUCH: That's one way of
2 describing it, or one might describe it as
3 turning away those with traditionalist views of
4 marriage based on their religious beliefs,
5 conservative Christians, for example.

6 MR. FLETCHER: So I guess I just
7 disagree with that, Justice Gorsuch. I think
8 the way we answer any status-based
9 discrimination question is we change the
10 protected status, we hold everything else
11 constant, and we ask does the outcome change.

12 And in Ms. Smith's case, you change
13 the protected status, it's, you know, Jack and
14 Taylor, and you ask will she make the website --

15 JUSTICE GORSUCH: Except for that runs
16 into all of those stipulated facts in which the
17 plaintiff has said repeatedly that she will
18 serve everyone and she would deny everyone this
19 kind of website.

20 MR. FLETCHER: But denying everyone,
21 whether it -- it -- it's --

22 JUSTICE GORSUCH: Everyone, regardless
23 of status.

24 MR. FLETCHER: Right, but it's --

25 JUSTICE GORSUCH: Right?

1 MR. FLETCHER: -- race discrimination
2 to say I won't serve interracial -- I won't
3 create inter -- websites for interracial
4 marriage and I won't sell them even to a white
5 wedding planner. That's still race
6 discrimination.

7 JUSTICE GORSUCH: It can be -- it can
8 be status or it can be message and we have to
9 figure that out in this case, right?

10 MR. FLETCHER: What I -- but the way
11 you would figure it out is, does -- has Colorado
12 validly defined it as status-based
13 discrimination. And I think the answer that the
14 Court gave at pages 1727 to 1729 in Masterpiece
15 is yes.

16 JUSTICE GORSUCH: Okay, got it. Thank
17 you.

18 CHIEF JUSTICE ROBERTS: Justice
19 Kavanaugh?

20 JUSTICE KAVANAUGH: I just want to
21 follow up there and ask about one thing in your
22 brief. On page 32 of your brief, you deal with
23 a few hypotheticals. The hypotheticals you
24 dealt with were requiring Muslim filmmakers to
25 promote Scientology, compelling lesbian artists

1 to design church websites criticizing same-sex
2 marriage, or -- and the third one I really want
3 to focus on -- or forcing writers to write
4 speeches that violate their most deeply held
5 convictions.

6 So those are the three hypotheticals
7 you posit responding to the other side. And
8 then you say those hypotheticals, unlike this
9 case, involve direct burdens on speech because
10 they contemplate speakers being forced to create
11 and convey ideological messages they would not
12 create for anyone.

13 And I think the other side would say
14 that's exactly this case too to take that third
15 category. These are writers, in essence, being
16 asked to write speeches that violate their most
17 deeply held convictions.

18 So I'm trying to figure out given what
19 you say there how you would say this case does
20 not involve the same thing as a writer being
21 forced to write speeches that violate their most
22 deeply held convictions.

23 MR. FLETCHER: Because, in each of
24 those hypotheticals, you can't posit a
25 content-neutral law like a public accommodations

1 law that would validly require the writer or the
2 speaker or the filmmaker to do what the
3 hypothetical has posited.

4 It's because, in those cases, as we
5 say, it's a direct burden on speech. The
6 regulation is compelling you to write something
7 you deeply disagree with because of the message.
8 It's not incidental to a content-neutral
9 regulation of conduct like the Court confronted
10 in FAIR and like we believe it's confronted with
11 here.

12 JUSTICE KAVANAUGH: You don't think
13 applying a public accommodations law to a speech
14 writing business that offers to do speeches or
15 PR releases for anyone, but they say, oh, we're
16 not going to do this message --

17 MR. FLETCHER: That's --

18 JUSTICE KAVANAUGH: -- you don't think
19 that's this --

20 MR. FLETCHER: I -- I --

21 JUSTICE KAVANAUGH: They would say
22 that's this case, and you say it's not because?

23 MR. FLETCHER: I think they'd be
24 wrong. I -- so, first of all, at a couple of
25 levels.

1 JUSTICE KAVANAUGH: Yeah.

2 MR. FLETCHER: Speech writers aren't
3 likely to be public accommodations. Set that
4 aside.

5 JUSTICE KAVANAUGH: Yeah, but --

6 MR. FLETCHER: Suppose you have one
7 that was one, right?

8 JUSTICE KAVANAUGH: Until they are,
9 after this case if you prevail, I mean, that's
10 -- that's -- that's what states could do.

11 MR. FLETCHER: But -- but I've tried
12 to give you -- in response to Justice Alito,
13 there is I think a constitutional backstop
14 about, you know, core public accommodations laws
15 we think satisfy O'Brien scrutiny. If a state
16 wanders from that, not so -- not so much.

17 But, again, just to get to the nub of
18 your hypothetical, we think if the speech writer
19 says here's a speech that expresses views that I
20 abhor and I won't write the speech, they
21 wouldn't do that for anybody, regardless of
22 status. Now, it may be that the status of the
23 person who's asking them to write the speech is
24 somehow correlated with the message in some way,
25 but that's still not status-based discrimination

1 in the way that the law regards discrimination
2 against people who are entering into a same-sex
3 marriage as status-based discrimination.

4 JUSTICE KAVANAUGH: Okay. Thank you.

5 CHIEF JUSTICE ROBERTS: Justice
6 Barrett?

7 Justice Jackson?

8 JUSTICE JACKSON: Can I just say that
9 I'm sort of trying to think about what you've
10 just said in your exchange with Justice
11 Kavanaugh -- it's late -- by wondering whether
12 or not it has something to do with the message
13 being implicitly provided in a situation in
14 which the -- what's actually being stated is the
15 same.

16 So, you know, it -- what would you
17 think of a holding that says that the First
18 Amendment protects this designer's right to
19 provide products that explicitly express her
20 beliefs about marriage, so she absolutely has
21 the right to say one man, one woman, in every
22 website, and she has the right to refuse to say
23 gay marriage is great, in any website, but what
24 she's really asking for in this case, I think,
25 is the right to say the same thing, here's the

1 wedding, it's at this place, et cetera, et
2 cetera, but she's afraid that if she says it for
3 gay people, that that will be sort of like an
4 implicit endorsement of their wedding, and so
5 she wants to be able to protect against
6 implicitly endorsing, right, in a way that we've
7 never really recognized before in the same way,
8 when it isn't really clear that that's her
9 message, when we don't -- when an objective
10 observer would know that she was really trying
11 to do that? Am I right in trying to think about
12 explicit versus implicit in this way?

13 MR. FLETCHER: I think that basically
14 maps onto the test that we're trying to give
15 you, which is to say, if she's discriminating
16 based on status, and that includes if she's
17 defining the message or the product based on the
18 status, defining the what by the who, that's not
19 okay. But other than that, she has the freedom
20 to define her own product. And I think I'd
21 agree with you entirely that the Court has never
22 recognized that sort of implicit problem as
23 being sufficient. And, in fact, I would say in
24 FAIR, the Court squarely rejected it, where the
25 law schools had a claim that was very, very

1 similar in structure, to say we don't want to
2 implicitly support these policies we deeply,
3 deeply oppose. No one doubted there was
4 implicit support, and no one doubt it was
5 speech, but because it was incidental, the Court
6 upheld it.

7 JUSTICE JACKSON: Thank you.

8 CHIEF JUSTICE ROBERTS: Thank you,
9 counsel.

10 Rebuttal, Ms. Waggoner?

11 REBUTTAL ARGUMENT OF KRISTEN K. WAGGONER

12 ON BEHALF OF THE PETITIONERS

13 MS. WAGGONER: Mr. Chief Justice, the
14 United States says that you can refuse to
15 express messages unless those messages are about
16 marriage and unless those views on marriage have
17 to do with believing that marriage is between a
18 man and a woman. That's a significant
19 concession that the government has made.

20 In terms of this issue of categorical
21 denial, the only categorical denial that Ms.
22 Smith seeks or a categorical request she seeks
23 is to have message-based protection that the
24 First Amendment already provides. It's based on
25 the message. And in that way, this Court

1 decides every speech case based on the message.
2 We can look at FAIR. We can look at Miami
3 Herald, Tornillo. All of the Court's cases on
4 speech where compelled speech is applied, you
5 will see the "affect or alter the message" test
6 including in Hurley. And in order to rule
7 against Ms. Smith in this particular case it
8 does seem that the Court would essentially have
9 to overrule that Hurley framework.

10 Second, Chief Justice Roberts raised
11 the issue of FAIR and how FAIR applies, and the
12 United States has suggested that somehow this
13 case is closer to that. But in FAIR itself,
14 FAIR was about a duty to give access to empty
15 rooms. The logistical e-mails that were to send
16 directions to how go to those rooms was a duty
17 that was required to facilitate legal conduct.

18 This case is speech that's only
19 incidental to speech. When you have a speech
20 corrector -- creator, you're in a very different
21 space, as the Court articulated in FAIR itself.
22 Looking at Wooley and Barnette, where you are
23 intruding on the mind and the spirit to force
24 someone to create a message that violates their
25 convictions. FAIR would be a very different

1 case if the law schools were to have had
2 advocated for the "don't ask, don't tell"
3 policy.

4 In terms of whose speech it is, that's
5 come up a few times, at worst it's both.
6 Third-party perceptions cannot possibly matter
7 to this case, or we wouldn't have any of the
8 other compelled speech doctrine cases.
9 Barnette, Wooley, the newspaper cases, all of
10 those, you wouldn't have any. And the
11 government would have unfettered authority to
12 compel speech because we would all know it was
13 the government that was doing it.

14 In addition to that, the definition of
15 public accommodation, my friends on the other
16 side are playing a little fast and loose with
17 what the statute says and how they've
18 interpreted it in the past. The statute says a
19 place of public accommodation. On page 41 of
20 Colorado's brief, they say that applies to
21 virtual sales as well, meaning the soccer mom
22 earning some extra income, trying to sell her
23 handmade sign. She's a public accommodation
24 under this law. It is broad, and it would take
25 away First Amendment rights just for opening a

1 business. Certainly, Michelangelo's speech was
2 sold and commissioned, but we would all say it
3 had protection.

4 In addition, the idea that we can't
5 give a bright line, the bright line we give is
6 the line that this Court has consistently
7 followed, and I find it ironic in the United
8 States also having to concede they can't give a
9 bright line. For some reason, political speech
10 is protected but religious speech is not
11 protected under this law. The bright line is,
12 is the message affected? And, as Justice
13 Gorsuch brought up, that line is massive when it
14 comes to the distinction between pre-made
15 speech, plug-and-play, and speech that you are
16 creating in a custom way.

17 In conclusion, Ms. Smith's speech has
18 been chilled for over six years, and the record
19 demonstrates every website she would create
20 would create a custom message that is
21 celebratory. Colorado asked this Court for the
22 power to drive views like Ms. Smith's from the
23 public square, views about marriage that this
24 Court has held are honorable and decent,
25 promises that it has provided that the

1 government would not mandate orthodoxy.

2 Cultural whims may shift, but the
3 compelled speech doctrine should not. Compelled
4 speech crushes the speaker's conscience, and it
5 is the tool of authoritarianism, which is why
6 this Court has never allowed it.

7 In the end, it is not Ms. Smith who is
8 asking you to change the law, but Colorado.
9 This Court should affirm, again, that public
10 accommodation laws cannot be used to compel
11 speech, and this includes artistic expression,
12 photography, painting, calligraphy, and films,
13 forms of media that the lower courts have
14 shockingly refused -- refused -- to recognize as
15 speech when it comes to marriage. And, yes,
16 this Court should give guidance to limit the
17 cruelty that has been imposed by endless
18 litigation on artists like Jack Phillips.

19 One need not agree with a particular
20 belief to affirm that law-abiding people have a
21 right to speak their conscience, including on a
22 controversial subject like marriage. And that
23 noble principle is rooted in love of neighbor,
24 extending the same rights to others that we want
25 for ourselves. This right to be free from

1 government coercion of speech is also
2 foundational to our self-government and to the
3 free and fearless pursuit of truth.

4 Thank you. This Court should reverse.

5 CHIEF JUSTICE ROBERTS: Thank you,
6 counsel.

7 The case is submitted.

8 (Whereupon, at 12:26 p.m., the case
9 was submitted.)

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Official - Subject to Final Review

1	ability ^[3] 8:1 86:1 94:17 able ^[6] 27:9 44:25 47:23 67:22 104:6 148:5 above-entitled ^[1] 1:13 Absolutely ^[3] 104:16 105: 3 147:20 accept ^[4] 72:23 121:5 122: 16 128:25 access ^[6] 57:25 59:19 65: 7 109:19 121:16 150:14 accommodate ^[1] 117:21 accommodation ^[49] 3:16 13:23 24:5,17 32:17 34:18 41:23 42:10 51:9 54:1 60: 9,20,23 61:17 63:3,23 64:1 69:1 70:7 71:12,22 72:5 73:22 75:10 79:21 87:2,9, 23 94:22 95:1,7 99:11 101: 2,23 102:3,12,19 103:2,4, 10 105:17 121:11 128:16 131:8 132:2 151:15,19,23 153:10 accommodations ^[32] 17: 14 54:5 57:24 59:25 60:3, 18 61:8 62:1 63:1 109:2 115:2 118:14 120:13 121: 9 124:21 125:2 127:5 128: 4,5,10,13,22 129:7,8,13 130:2 131:11,15 144:25 145:13 146:3,14 acomodation ^[1] 79:20 account ^[1] 41:19 acknowledge ^[2] 134:4 140:5 acknowledges ^[1] 111:6 across ^[1] 88:5 act ^[1] 137:19 acting ^[1] 53:8 action ^[1] 45:10 activity ^[2] 85:5,16 actual ^[4] 14:23 51:20,20 116:1 actually ^[14] 7:8 10:2 11:5, 25 43:8 45:14 53:7 70:21, 25 88:10 110:18 113:19 138:24 147:14 ad ^[1] 59:12 adding ^[1] 36:16 addition ^[9] 27:12 32:15 40:2 45:1 53:24 76:20 118: 24 151:14 152:4 additions ^[2] 8:7 118:4 address ^[1] 106:21 addressed ^[1] 69:14 admit ^[1] 86:23 admitted ^[1] 54:4 admonition ^[1] 121:12 adoption ^[1] 62:18 advancing ^[2] 44:19 121:2 advantage ^[1] 68:13 adversary ^[1] 116:19 advertise ^[1] 7:6 Advising ^[2] 111:12,13 advocated ^[1] 151:2	advocates ^[1] 123:6 advocating ^[1] 20:22 affect ^[2] 30:11 150:5 affected ^[4] 3:22 10:24 24: 19 152:12 affecting ^[1] 11:2 affects ^[2] 3:24 141:8 affiliations ^[1] 130:9,12 affiliations ^[1] 130:15 affirm ^[2] 153:9,20 afraid ^[1] 148:2 afternoon ^[2] 138:20,22 agency ^[1] 59:12 aggressive ^[1] 5:17 ago ^[7] 20:5 62:3,9,10 86: 24 116:14 141:10 agree ^[14] 43:18 78:9,20 88: 5 96:24 103:3 120:16 122: 15 126:17 127:16 133:12 140:15 148:21 153:19 agreed ^[1] 14:10 agreeing ^[1] 46:19 agreement ^[5] 43:8 44:5, 18 138:24 139:14 agrees ^[3] 3:23 21:24 133: 12 ahead ^[3] 21:5 118:17 139: 3 AL ^[2] 1:3,6 ALITO ^[61] 12:5 14:9,21 15: 6 29:17,19 37:4 66:18,25 67:8,13,15 68:3,18,20 69:5, 25 71:10 72:7,9 73:9,25 74:6,13,24 75:15,21,24 79: 17,18 80:8,14 81:17,22 82: 18,24 83:5 106:11 125:22, 23 126:6,10,17,25 127:6, 20,24 128:1,14,20,24 129: 5,21 130:11,14,18,24 131: 16,24 132:3 146:12 Alito's ^[3] 37:9 70:18 138:4 allow ^[4] 32:18 59:10 81:14, 15 allowed ^[3] 58:17 81:15 153:6 allowing ^[1] 58:19 already ^[10] 8:5 9:5 45:1 47:12 48:8 53:16 90:13 97: 21 109:8 149:24 alter ^[1] 150:5 alternatives ^[1] 44:20 although ^[1] 62:12 Amber ^[5] 7:7,7,10,23 67:3 Amendment ^[21] 25:12 39: 23 43:13,20 52:22 58:4 60: 24 94:3,6,17 95:2 104:25 105:1 107:20 111:23 128: 4 130:4 138:8 147:18 149: 24 151:25 Americans ^[3] 14:4 59:19 121:16 amicus ^[6] 1:24 2:10 32:16 41:21 96:12 108:20 amount ^[2] 60:1 127:10	analogies ^[1] 56:18 analogues ^[1] 44:2 analogy ^[1] 94:7 analysis ^[7] 53:15 55:2 64: 8,23 83:21 85:10 134:12 analytically ^[1] 85:18 analyze ^[2] 86:5 138:25 anathema ^[1] 123:18 Ann ^[1] 11:8 announce ^[3] 39:3,4 58:17 announced ^[1] 71:7 announcement ^[4] 40:24 67:2 99:14 124:5 announcements ^[19] 98: 19,20 99:1,2,10 100:5,16, 20 101:8,10,17,20,24 102: 1,8 111:9,16,16,18 announcing ^[7] 9:17 39:8, 9,17 40:1 44:16,16 anonymous ^[1] 13:1 another ^[13] 6:17,18 13:7 18:23 44:9 45:20 52:1 59: 11 72:17 83:9 85:15 86:5 98:10 answer ^[21] 34:14 36:15 70:17 86:11,24 88:13,15 90:13 100:7 101:2 114:16 127:6,7,20 130:1 131:5 132:18 139:21 141:6 142: 8 143:13 answers ^[1] 105:5 anti-discrimination ^[2] 55:22 124:22 anti-vaxxer ^[1] 49:7 anybody ^[10] 26:25 69:7 76:6,13 82:9 87:25 115:16, 21 133:4 146:21 apologize ^[1] 141:12 App ^[1] 135:8 appealing ^[3] 114:11 123: 12 128:8 APPEARANCES ^[1] 1:17 Appendix ^[1] 135:12 applicability ^[1] 61:18 applicable ^[4] 63:18 81:4 109:2 125:10 application ^[1] 70:21 applied ^[8] 35:7 60:20 81:4 93:5 103:10 112:14 134:7 150:4 applies ^[7] 32:14 36:12 41: 5 80:21 100:13 150:11 151:20 apply ^[12] 4:1 32:11 50:2 59:7 61:18,24 70:25 78:19 102:23 126:12 129:14 138: 10 applying ^[7] 41:23 60:3,25 115:1 126:15 130:5 145: 13 appreciate ^[1] 34:6 approaching ^[1] 109:15 appropriate ^[1] 96:9 architects ^[1] 59:1	areas ^[1] 121:13 aren't ^[5] 17:4 53:3 70:10 77:12 146:2 argue ^[1] 4:15 arguing ^[1] 66:20 argument ^[24] 1:14 2:2,5,8, 12 3:4,7 27:8 54:2 57:19 62:20 64:22 66:19 67:9,10 71:15,16 76:3 80:9 108:19 125:25 132:15 133:24 149: 11 arguments ^[4] 63:25 121: 1 129:6,14 arm ^[1] 42:6 around ^[1] 21:15 arrangements ^[1] 6:16 art ^[3] 3:11 44:17 105:22 articulate ^[1] 57:9 articulated ^[5] 42:1 45:2 53:16 62:21 150:21 articulates ^[1] 45:17 artist ^[13] 25:9 45:3 49:22, 23 50:1,9,21 51:6 105:18, 19,23 121:23 122:11 artistic ^[2] 42:11 153:11 artists ^[8] 43:16,19,20 51:3 63:1,5 143:25 153:18 Aryan ^[1] 4:20 ashleymadison.com ^[1] 74:11 Asian ^[1] 27:25 aside ^[2] 90:24 146:4 asks ^[2] 74:1,9 asserting ^[2] 45:14 54:24 associate ^[1] 114:10 associated ^[2] 126:3 127: 18 association ^[1] 55:5 assume ^[6] 18:21 79:2 82: 17 87:4 116:9,19 assuming ^[9] 8:4 15:1 18: 16 37:21 50:5 87:10 101: 22 102:11,14 assumption ^[1] 102:22 attached ^[1] 16:6 attention ^[1] 105:11 attractive ^[2] 112:10 113: 17 attributable ^[1] 113:15 attribute ^[2] 107:12 108:6 attribution ^[1] 126:13 AUBREY ^[1] 1:6 audience ^[1] 107:25 authentic ^[3] 55:13 56:25 57:5 authoritarianism ^[1] 153: 5 authority ^[1] 151:11 authors ^[3] 17:8 95:11,22 available ^[6] 35:15 64:7 74: 19,21 111:14 113:12 avoid ^[3] 22:11 41:2 121: 14 avoiding ^[1] 41:3
2	20 ^[2] 32:15 116:4 2017 ^[1] 12:10 2022 ^[1] 1:11 21-476 ^[1] 3:4			
3	3 ^[1] 2:4 303 ^[11] 1:3 3:4 7:8 31:16 59:14 106:24 107:2 108: 10 123:14 131:17 135:11 303's ^[1] 116:15 304 ^[1] 135:11 32 ^[2] 46:20 143:22			
4	41 ^[1] 151:19			
5	5 ^[1] 1:11 51 ^[4] 12:8 16:7,23 116:3 52 ^[2] 16:8 116:6 53 ^[1] 16:8 54 ^[2] 16:8,19 55 ^[1] 16:11 56 ^[1] 16:11 57 ^[2] 2:7 116:21 572 ^[1] 114:22 573 ^[1] 114:22			
6	60 ^[1] 111:5 62 ^[1] 111:5			
7	7A ^[1] 135:8			
8	81 ^[1] 85:3 82 ^[1] 85:3 83 ^[2] 85:3 106:25			
9	99 ^[1] 127:15			
A	a.m ^[2] 1:15 3:2 abhor ^[1] 146:20 abilities ^[1] 107:21			

Official - Subject to Final Review

<p>awaits ^[1] 69:23</p> <p>away ^[23] 44:4 58:19 65:10, 16,21 67:18,21 86:1 87:10 95:8 99:1 100:21 101:19, 23 102:1 103:18 106:12 134:21 140:25 141:22,23 142:3 151:25</p> <p>awful ^[1] 28:7</p> <hr/> <p style="text-align: center;">B</p> <hr/> <p>back ^[10] 22:10 27:22 37:8 46:3,4 51:1 79:18 105:11 106:19 116:20</p> <p>backstop ^[2] 131:3 146:13</p> <p>bad ^[1] 127:17</p> <p>baker ^[2] 40:8 96:20</p> <p>band ^[1] 42:6</p> <p>banner ^[1] 103:16</p> <p>banners ^[1] 4:23</p> <p>baptism ^[1] 4:19</p> <p>Barbecue ^[2] 33:10,25</p> <p>barbers ^[1] 60:21</p> <p>barely ^[1] 84:13</p> <p>Barnette ^[2] 150:22 151:9</p> <p>BARRETT ^[37] 17:15,18 18:20 19:14,24 20:10 22:22 42:15 47:3,4 48:3 49:14 50:18 97:8,9,23 98:12 99:13 100:2,10,23 101:4,11 102:4,14,18,25 103:21 104:23 113:11 114:7 122:23 123:23 124:1 125:9,19 147:6</p> <p>Barrett's ^[1] 141:15</p> <p>based ^[31] 3:14 22:10 30:3 36:24 42:23,24 52:7 68:16 70:10 79:7 84:5 89:9 92:14 94:4 96:4 98:10 99:17 101:24 103:19 105:21 115:17,18 123:25 124:6 135:10,17 142:4 148:16,17 149:24 150:1</p> <p>basic ^[2] 43:9 112:8</p> <p>basically ^[7] 8:17 15:7 16:22 33:9 34:7 123:6 148:13</p> <p>basing ^[2] 32:25 33:1</p> <p>basis ^[13] 36:5,8 66:12 79:21 80:13 81:20 99:20 104:5,21 115:5 119:4 129:22 139:9</p> <p>beautiful ^[1] 34:3</p> <p>become ^[1] 12:23</p> <p>began ^[2] 19:2 116:13</p> <p>begin ^[2] 19:5 109:14</p> <p>beginning ^[1] 120:24</p> <p>beginnings ^[1] 41:3</p> <p>behalf ^[10] 1:19,21 2:4,7,14 3:8 57:20 86:15 111:17 149:12</p> <p>behind ^[1] 41:2</p> <p>belabor ^[2] 120:23 136:25</p> <p>belief ^[10] 23:1 27:24 31:4 55:7 90:5 92:16,19 118:5 137:19 153:20</p>	<p>beliefs ^[22] 11:14 20:17 29:14,25 51:25 53:12 59:8 86:20 89:6 90:19 91:19 92:11,23 108:12 110:19 111:25 118:22 122:9 123:13 137:16 142:4 147:20</p> <p>believe ^[23] 9:8,17 11:1 13:8,10 19:8,9 22:2 23:4,7,11,17,19 31:7 58:25 106:8 109:12 117:4 121:6 126:1,22,25 145:10</p> <p>believed ^[1] 20:13</p> <p>believes ^[7] 4:8 35:24 36:22 39:24 40:2 41:1 67:3</p> <p>believing ^[2] 30:1 149:17</p> <p>below ^[3] 111:10,19 118:3</p> <p>Beneath ^[1] 49:18</p> <p>besides ^[1] 41:17</p> <p>betray ^[1] 41:5</p> <p>between ^[22] 9:8 14:22,23 18:17 19:12 23:11 29:15 43:8 51:3 57:11 58:12 67:4,11 73:16 90:19 91:21 106:9 114:1 126:23 138:9 149:17 152:14</p> <p>beyond ^[2] 114:4 130:7</p> <p>Bible ^[2] 47:22,24</p> <p>biblical ^[2] 18:22 58:11</p> <p>Big ^[4] 72:20 77:6 103:20 122:25</p> <p>bigger ^[1] 7:8</p> <p>bigoted ^[1] 59:10</p> <p>bit ^[6] 8:14,16 41:12 59:23 78:2 134:17</p> <p>black ^[16] 4:18 14:3 23:11 27:25 31:5,5 32:24 34:5 41:7 70:15 75:3,4,7,13,16 79:18</p> <p>Blackman ^[1] 72:12</p> <p>blacks ^[1] 33:11</p> <p>blatantly ^[1] 71:18</p> <p>blends ^[1] 3:11</p> <p>bless ^[4] 12:3 49:5 105:13 106:5</p> <p>Blesses ^[4] 76:22 78:3 132:11 133:14</p> <p>blog ^[1] 116:12</p> <p>boards ^[1] 65:3</p> <p>Bob ^[1] 104:17</p> <p>body ^[1] 49:6</p> <p>bono ^[1] 53:2</p> <p>book ^[2] 13:1 17:8</p> <p>books ^[3] 94:11,13,17</p> <p>both ^[12] 6:12 18:9 19:1 28:12 45:7 61:14 108:3 121:20 128:3 138:11 140:7 151:5</p> <p>bottom ^[4] 57:3 106:8,25 123:15</p> <p>Bray ^[1] 125:13</p> <p>breadth ^[2] 53:25 71:15</p> <p>BRIAN ^[3] 1:22 2:9 108:19</p> <p>bride ^[1] 48:24</p> <p>bridesmaids ^[1] 17:4</p>	<p>brief ^[16] 32:16 41:21 43:10,16 46:12,21 59:23 62:1,11 64:12 72:11 96:13 132:8 143:22,22 151:20</p> <p>briefs ^[3] 43:7,22 44:5</p> <p>bright ^[5] 131:14 152:5,5,9,11</p> <p>bring ^[1] 116:12</p> <p>bringing ^[1] 26:14</p> <p>broad ^[6] 25:12 34:19 36:10 44:5 87:7 151:24</p> <p>broadly ^[2] 103:2 128:15</p> <p>brought ^[1] 152:13</p> <p>build ^[3] 72:14,19 108:8</p> <p>bulletin ^[1] 65:3</p> <p>bump ^[1] 130:3</p> <p>bunch ^[1] 6:14</p> <p>burden ^[11] 46:22 83:13,13,114:18 115:10,11 134:10,11 140:22 141:7 145:5</p> <p>burdens ^[1] 144:9</p> <p>burned ^[1] 47:24</p> <p>bus ^[1] 62:18</p> <p>business ^[29] 26:6,9,23 45:11 50:24 55:6,7 56:21 57:25 61:3,4 68:24 84:1,3 99:16 101:6 109:1,6 122:25 123:1,10 127:10 128:17,17 129:12 131:24 132:1 145:14 152:1</p> <p>business's ^[1] 118:11</p> <p>businesses ^[2] 58:24 59:13</p> <p>buy ^[2] 48:8 89:25</p> <hr/> <p style="text-align: center;">C</p> <hr/> <p>cabin ^[1] 105:7</p> <p>cabined ^[1] 121:14</p> <p>Cake ^[6] 22:3 30:24 40:15 46:5,5 85:12</p> <p>cakes ^[2] 21:15 22:4</p> <p>Cakeshop ^[1] 121:12</p> <p>call ^[7] 6:11 52:12 89:13,13,14,16 93:15</p> <p>called ^[2] 26:8 112:8</p> <p>calligrapher ^[1] 25:14</p> <p>calligraphy ^[1] 153:12</p> <p>calling ^[1] 93:19</p> <p>came ^[2] 1:13 64:18</p> <p>campus ^[2] 111:22 141:21</p> <p>cannot ^[8] 42:10 58:15,17 82:13,16 101:23 151:6 153:10</p> <p>capacities ^[1] 14:4</p> <p>capture ^[3] 26:16,18,18</p> <p>captures ^[1] 18:3</p> <p>card ^[1] 66:10</p> <p>care ^[2] 62:17 77:21</p> <p>career ^[2] 113:16 114:8</p> <p>careful ^[2] 17:23,23</p> <p>carefully ^[1] 121:14</p> <p>Carpenter ^[1] 96:13</p> <p>carry ^[1] 103:16</p> <p>carve-out ^[1] 125:10</p>	<p>carveouts ^[1] 121:13</p> <p>carves ^[1] 4:18</p> <p>carving ^[1] 61:17</p> <p>Case ^[98] 3:4 4:2 5:5,23 6:8,8,25 10:5 14:15,19,23 19:19 29:2,5 31:11 32:16 33:5,10 35:14,21 37:10 42:4 43:9,22 45:25 46:1 53:19 56:12 62:1,3,13,17,25 63:13,22 64:10,14 69:13 77:12 78:20 86:6 90:11 96:16,17,23 100:7,11,13 103:5,7,17 104:18 107:19 109:18 110:15 112:13,17 114:14 115:12 117:13 119:14 131:21,21 132:22 133:19,21,23 134:5,15 135:1,4 137:4,23 138:14,25 139:17 140:2,3,6,11,16,21 142:12 143:9 144:9,14,19 145:22 146:9 147:24 150:1,7,13,18 151:1,7 154:7,8</p> <p>cases ^[24] 5:10 19:20,21,22 24:17 36:13 51:14 53:4,6 61:11,23 63:10,17 90:20 91:21 109:16 110:21 113:24 136:21 138:11 145:4 150:3 151:8,9</p> <p>Categorical ^[5] 135:9,10 149:20,21,22</p> <p>categories ^[4] 18:11 20:13 24:2 80:4</p> <p>categorizations ^[1] 104:25</p> <p>category ^[1] 144:15</p> <p>cater ^[1] 125:5</p> <p>caterer ^[5] 46:1,4,11 52:24,25</p> <p>caterers ^[2] 43:11 44:12</p> <p>Catholic ^[3] 4:19 25:14 123:5</p> <p>cause ^[2] 110:3 127:9</p> <p>caveat ^[1] 46:13</p> <p>CDO ^[1] 113:12</p> <p>celebrate ^[15] 4:19 10:25 12:15 16:12 39:2 40:22 48:21 72:15,19 91:17 100:4,18 101:15,18 117:5</p> <p>celebrates ^[4] 5:14,14 91:15 120:3</p> <p>celebrating ^[2] 49:12 116:24</p> <p>celebration ^[1] 116:2</p> <p>celebratory ^[1] 152:21</p> <p>central ^[1] 57:23</p> <p>ceremony ^[1] 116:21</p> <p>certain ^[11] 26:16,18 42:17,18 44:21 49:24 52:20 56:22 63:13 104:8 125:15</p> <p>Certainly ^[9] 42:21 60:8 63:5 64:2 69:21 87:22 98:4 108:7 152:1</p> <p>certiorari ^[1] 15:22</p> <p>cetera ^[9] 17:25 60:21 61:12 65:4 69:19 98:6 101:17 148:1,2</p> <p>chairs ^[2] 40:9,13</p> <p>challenge ^[2] 136:17,18</p> <p>challenges ^[1] 5:7</p> <p>chambers ^[1] 6:7</p> <p>chance ^[1] 139:5</p> <p>change ^[17] 36:17 38:10 48:23,23,24 65:13 68:15 85:9 92:18 109:5,13 113:18 138:1 142:9,11,12 153:8</p> <p>changed ^[1] 121:7</p> <p>changes ^[4] 49:1,15 110:2 127:20</p> <p>changing ^[6] 48:24,25 49:1,10 57:9 88:24</p> <p>characteristic ^[6] 75:14 82:16 83:2 99:7,22 101:25</p> <p>characteristics ^[9] 13:13 63:13 70:11 75:9 80:3 92:24 109:12 129:22 130:6</p> <p>characterization ^[1] 33:4</p> <p>characterize ^[3] 43:23 44:7,8</p> <p>charge ^[1] 101:15</p> <p>chef ^[2] 34:2,11</p> <p>cherished ^[2] 18:3 52:7</p> <p>CHIEF ^[58] 3:3,9 21:8 34:16,22 35:2,13,18 36:1,14 37:1 41:9 43:5 47:2 50:19 57:16,21 62:6,7,8 63:8,19 64:9,25 65:19 66:4,6 79:14 83:22 84:8 93:24 97:7 103:22 108:15,18,22 109:18 110:12,20 111:1,4,12,21 117:24 118:2,9,16,19,20 125:20 132:4 138:17 143:18 147:5 149:8,13 150:10 154:5</p> <p>child ^[3] 27:21 75:6,13</p> <p>children ^[14] 4:22 26:15,19 27:7,23 28:1 54:18 55:14 63:16 75:3,16 122:12 137:14,20</p> <p>chilled ^[2] 5:19 152:18</p> <p>choice ^[3] 49:6 94:10,23</p> <p>choose ^[19] 13:11,14 58:10,13 67:22 68:2 70:11 73:19 78:22 87:13 88:10 89:11,17,20 98:7 99:16,17 100:3 131:20</p> <p>chooses ^[2] 73:17 78:22</p> <p>choosing ^[2] 67:24 99:21</p> <p>chose ^[1] 63:22</p> <p>chosen ^[2] 91:8 98:8</p> <p>Christian ^[2] 72:17 123:4</p> <p>Christians ^[3] 128:9,11 142:5</p> <p>Christmas ^[2] 58:13,16</p> <p>Christmas-related ^[1] 58:14</p> <p>Christmases ^[1] 26:10</p> <p>church ^[4] 4:20 47:25 86:</p>
---	--	---	--

Official - Subject to Final Review

<p>19 144:1 Circuit [3] 54:3 86:11,25 Circuit's [1] 113:22 circumstance [4] 85:5 88:9 99:20 124:14 circumstances [4] 66:2 80:6 98:5 103:12 cisgender [2] 18:9 20:2 cite [1] 62:10 City [1] 62:10 claim [6] 109:20 110:23 134:6 135:14 136:9 148:25 claims [1] 58:1 Clan [1] 75:12 clarify [3] 19:25 20:6 47:11 clarity [1] 28:25 class [3] 13:25 45:21 122:21 classic [2] 26:11 121:21 classification [1] 119:8 Clause [3] 59:5 105:7 132:21 clear [15] 24:7,10,12 29:4 51:5 52:10 68:23 105:5 106:3,13 107:23 119:16 121:19 134:8 148:8 clearer [1] 120:8 clearly [4] 10:20 109:24 111:10 116:15 clerks [1] 6:6 click [1] 6:14 client [18] 8:12,15,16 12:18 18:7,14 37:13,14 38:23 39:19,22 42:19 46:15 51:2,6 64:5 135:25 137:8 client's [5] 21:21 27:17 31:22 34:23 35:3 clientele [1] 70:11 clients [8] 8:17 33:6,7 34:4 68:9 82:6 118:12 119:2 closer [1] 150:13 club [4] 123:3,8,17 124:8 clubs [1] 69:15 CO [1] 116:17 coding [1] 47:17 coercion [1] 154:1 coffee [1] 116:16 colleagues [2] 84:25 115:25 college [1] 122:25 colloquy [2] 42:14 97:23 color [5] 17:25 26:24 27:1 29:23 57:6 Colorado [4] 1:20 3:15,23 4:2,6,24 5:18 21:24 22:3 35:7 41:12,17 54:3 58:5 69:13 71:8 74:17,18 86:13,25 87:12 88:9,14,17 92:17 93:8,17 96:5 112:13 115:14 116:17 119:3,6 127:3 132:9 133:12 134:6,8 143:11 152:21 153:8 Colorado's [9] 4:12,15 44:</p>	<p>19,25 50:13 65:7 71:5 94:3 151:20 come [10] 28:14 56:22 105:24 112:18 131:21 132:21 134:19,22 137:24 151:5 comes [16] 18:6,24 21:25 43:22 52:14 62:3 65:9 73:6 97:24 99:14 106:4 135:4,5 137:23 152:14 153:15 coming [5] 8:18 46:3,4 47:9 69:17 commentary [2] 47:23,24 commerce [4] 32:13 48:1,2 50:7 commercial [5] 58:6 84:3 101:7 108:25 129:18 commission [1] 85:15 commissioned [1] 152:2 common [1] 61:11 communicate [1] 100:4 community [5] 100:19 101:8,19 127:13,15 company [33] 33:11 58:1,10,14,18,22 59:6,8,11,14 63:2,22 65:13 66:1,12 68:12 78:21 85:21,25 90:23,25 91:7,23 92:1,3 97:17,20 98:1,7 103:18 106:23 141:21,24 compel [10] 4:6,16 42:10 50:17 86:13 88:14 112:14 123:19 151:12 153:10 compelled [48] 8:9 13:3 15:16 16:2 19:22 20:19 21:23 22:6 24:11,14,14 25:16 30:14,18 32:11,14 35:10 36:11 41:2,13 42:15 50:13 53:22 63:10 64:15,15,18,22 82:20 83:16 96:23,24 97:14 98:3 102:5,7 111:24 112:13 126:1,2,3,7,12 134:25 150:4 151:8 153:3,3 compelling [11] 9:19 11:2 30:20 77:11 83:12,16 110:16,18 121:15 143:25 145:6 complaint [1] 65:15 completed [1] 32:13 complicating [1] 60:14 component [1] 77:17 compulsion [4] 110:5,14,15 114:18 computer [1] 82:8 concede [1] 152:8 conceding [1] 46:21 concept [3] 11:24 40:1,25 concepts [1] 20:10 concern [2] 63:9 121:2 concerned [1] 137:2 concerns [2] 62:14 77:11 concession [1] 149:19 conclusion [1] 152:17 concrete [2] 133:22 136:21 conduct [19] 33:16 46:25</p>	<p>53:5,14,15 58:6 60:7 61:21 96:10 110:7 114:20 115:4 124:15,19 125:16 126:8 140:24 145:9 150:17 conflating [1] 34:10 confronted [2] 145:9,10 confused [1] 21:19 connect [1] 78:13 conscience [5] 3:17 9:10 41:5 153:4,21 consciences [1] 34:20 consequence [1] 81:10 conservative [1] 142:5 consider [2] 72:21 138:12 considered [6] 3:20 5:7,11 54:4 64:16 99:10 considering [1] 14:18 consistent [5] 52:21 90:6 102:9 117:14 127:4 consistently [1] 152:6 constant [1] 142:11 constitutional [7] 80:1,7,9 83:3 112:6 131:3 146:13 constitutionally [1] 35:7 consultants [1] 59:1 consulting [1] 59:13 contained [2] 22:16 27:12 content [8] 9:25 10:3,9,10 11:5 89:17 117:12 127:23 content-based [1] 9:23 content-neutral [7] 110:7 114:19 115:3 126:8 140:24 144:25 145:8 context [16] 13:23 14:2,5 15:18 39:21 49:1,14 54:22 70:24 124:13 125:11,12 126:11 128:5 134:1,4 contexts [3] 5:8 125:15 126:15 contours [4] 86:24 89:10,11 125:24 contractual [1] 50:3 contradict [1] 39:25 contradicts [1] 4:9 contrary [3] 11:14 53:11 110:19 contrast [1] 131:8 control [2] 68:15 135:18 controversial [1] 153:22 conundrum [1] 41:17 convey [5] 38:18 51:18 52:20 112:2 144:11 conveys [1] 18:3 convictions [8] 25:17 36:23,24 46:24 144:5,17,22 150:25 coordinating [1] 111:8 core [5] 25:17 53:11 129:18 130:22 146:14 corporate [1] 122:18 correct [16] 24:14 42:20 63:19 66:4,23 71:3 76:14 83:</p>	<p>25 84:6 95:2 104:16 111:5 125:8 133:18 140:12,17 corrector [1] 150:20 correlated [1] 146:24 couldn't [5] 35:25 50:6 99:22 101:25 120:8 Counsel [11] 5:3 34:23 41:11 57:17 59:22 79:15 108:16 119:5 139:24 149:9 154:6 counting [2] 116:7,8 country [1] 60:23 couple [59] 6:13 14:12 15:13,25 16:22 17:19 18:6,23 19:16 20:2 22:23 30:12,16 32:24,24,25 38:20,21 47:10 48:19,19 49:13 51:22 58:23 65:11,12,16,18 67:17 71:19 72:24 73:5 76:7,15,17,25 77:2,4,5 86:24 92:4 98:10,11 106:4 107:13,14 108:13 116:18 119:17,23 122:24 123:10,14,18 124:4,11 136:4,5 145:24 couple's [9] 16:18 21:17,22 22:6 31:20 48:25 73:24 112:11 116:10 couples [22] 7:12,24 8:1 31:5,6 33:18 35:6,16 45:9 58:15,20 59:12 65:21 67:19,21 68:9 79:9,10 126:20 127:11 133:16,17 course [6] 49:11 64:21 80:22 86:7 94:20 112:22 courses [1] 69:18 COURT [85] 1:1,14 3:10,18,20,25 5:6,10 9:5 10:19 13:24 14:18 19:19,21 22:11,13 24:17 25:17 27:13 28:7 29:10,11,12,20 30:19 31:11 33:21 36:9 41:22,25 42:6,8 45:1,3,16 53:16 55:1 56:2,3 57:22 59:17 62:13,21 64:19 66:13,17 69:20 71:7 72:5 81:1,12,13 94:24 96:8 103:11 108:23 109:23 110:4,13 111:6,10,19 115:1,6 124:14,17 125:17 134:10 136:8 137:17 143:14 145:9 148:21,24 149:5,25 150:8,21 152:6,21,24 153:6,9,16 154:4 Court's [14] 5:2 9:7 54:14 59:21 83:25 109:16 110:11 113:23 121:12 125:13 131:5 137:12 138:8 150:3 courts [4] 91:1 135:18 136:6 153:13 cover [1] 25:13 coverage [1] 36:6 covered [1] 36:4 craft [3] 101:6,7 113:13 crafts [1] 101:9 create [31] 3:12,14,16,25 4:</p>	<p>4,24 5:13 7:19 10:25 19:13 20:16,21 22:4 23:15 35:25 36:21,22 37:23 48:5,9 54:17 85:17 112:14 118:12 119:2 143:3 144:10,12 150:24 152:19,20 created [7] 7:1 22:14 35:22 47:12 48:5,8 49:22 creates [2] 3:23 34:2 creating [14] 7:14 10:17 11:22 33:24 34:7,17 40:16 44:14,15,23 47:6 48:16 53:21 152:16 creation [2] 15:11 40:15 CREATIVE [9] 1:3 3:5 29:3 59:14 106:24 107:3 108:11 123:15 131:18 creator [8] 8:6 13:24 15:17 29:3 32:7 45:14,17 150:20 creators [1] 42:11 credible [1] 110:23 credibly [1] 132:25 credit [1] 66:10 creed [1] 119:9 criticizing [1] 144:1 cross [2] 4:19 41:7 cruelty [1] 153:17 crushes [1] 153:4 crushing [1] 34:19 Cultural [1] 153:2 curated [1] 72:3 curiae [3] 1:24 2:11 108:20 curious [1] 41:16 custom [9] 13:2 4:19 40:15,16 46:5 105:20,21 152:16,20 customer [8] 25:6,11 52:14 64:4 84:5 86:2 97:18 109:5 customer's [5] 25:10 73:8,24 106:1 115:22 customers [6] 35:11 47:18 52:6 55:14 59:2 121:20 customizable [1] 91:16 customization [1] 122:7 customize [5] 17:24 47:10 51:7 52:16 85:14 customized [8] 5:13 35:23 48:5 51:9 81:24,25 85:4 136:3 customizing [3] 26:12 122:5,6 cut [1] 37:11</p>
D				
<p>d'etre [1] 123:7 D.C [3] 1:10,18,23 dance [1] 49:19 dancing [2] 116:12,23 danger [1] 126:13 date [9] 6:12 7:20 12:9,12 16:23 38:10 116:4,6,13 dating [7] 16:15,19,25 74:2,3,11 78:12</p>				

Official - Subject to Final Review

<p>day [4] 16:23 28:15 84:18 116:9</p> <p>days [2] 27:23 116:7</p> <p>deal [3] 64:13 77:6 143:22</p> <p>dealing [2] 23:2 110:13</p> <p>dealt [2] 41:17 143:24</p> <p>dearly [1] 52:9</p> <p>debate [1] 25:15</p> <p>debates [1] 123:8</p> <p>December [1] 1:11</p> <p>decent [3] 29:25 81:9 152:24</p> <p>decide [5] 8:2 47:23 70:5 100:13 104:23</p> <p>decided [2] 19:5,19</p> <p>decides [2] 98:24 150:1</p> <p>deciding [1] 3:13</p> <p>decision [4] 30:8 54:14 63:16 137:12</p> <p>decisions [1] 70:9</p> <p>declares [1] 3:15</p> <p>decline [1] 43:14</p> <p>declined [1] 42:24</p> <p>declines [1] 42:22</p> <p>declining [1] 120:9</p> <p>deeply [1] 31:4 110:3,24 112:23 113:10 144:4,17,22 145:7 149:2,3</p> <p>default [1] 78:19</p> <p>define [9] 89:10 96:3 115:18 128:15 130:2,11,14,20 148:20</p> <p>defined [1] 143:12</p> <p>defines [2] 79:19 128:16</p> <p>defining [5] 67:22 92:13 103:1 148:17,18</p> <p>definition [3] 87:7 129:13 151:14</p> <p>degree [3] 71:23 72:1,1</p> <p>demand [4] 69:9,9 70:4 131:18</p> <p>demeaning [1] 25:18</p> <p>Democrat [4] 4:13 30:17 41:6 125:1</p> <p>Democratic [1] 50:11</p> <p>demonstrates [1] 152:19</p> <p>denial [3] 129:23 149:21, 21</p> <p>denunciation [1] 66:22</p> <p>Denver [1] 1:20</p> <p>deny [2] 122:21 142:18</p> <p>denying [3] 133:1,2 142:20</p> <p>departed [1] 52:9</p> <p>Department [1] 1:23</p> <p>dependent [2] 80:10 127:12</p> <p>depending [1] 103:3</p> <p>depends [7] 61:2 74:17,23 86:6 112:3 134:17,23</p> <p>depict [2] 26:22 56:25</p> <p>depicted [5] 27:19,20 122:1,10,14</p> <p>depiction [1] 56:25</p> <p>depictions [4] 55:10,18</p>	<p>121:24 122:8</p> <p>Deputy [1] 1:22</p> <p>describe [2] 141:18 142:2</p> <p>described [5] 14:13 112:7, 17 117:17 136:2</p> <p>describes [1] 123:13</p> <p>describing [3] 58:12 119:1 142:2</p> <p>description [1] 63:24</p> <p>design [7] 7:2 45:22 47:14 59:11 122:24 141:21 144:1</p> <p>Designed [4] 106:24 108:10 123:16,16</p> <p>designer [3] 8:24 9:1 11:12 13:7 14:10 20:20 25:13 28:11 30:17,23 46:16 49:16 66:20 67:16,17 68:8 70:2 72:14,19 73:1,16,18,19 81:14 94:7 95:18,21 96:19 106:6 107:13 108:12</p> <p>designer's [3] 78:1 107:21 147:18</p> <p>designers [3] 43:24 44:7,9</p> <p>designing [1] 47:9</p> <p>designs [1] 7:18</p> <p>desire [1] 98:15</p> <p>details [2] 37:22 112:10</p> <p>determination [2] 62:17 69:22</p> <p>determinations [1] 63:15</p> <p>determinative [1] 36:9</p> <p>determine [4] 19:23 45:2 70:24 98:7</p> <p>determined [1] 118:21</p> <p>determining [1] 83:12</p> <p>developing [1] 123:1</p> <p>Development [1] 114:8</p> <p>devoid [1] 63:21</p> <p>difference [12] 23:10 38:20 67:10 68:4 90:19,21 91:6 103:20 117:10 124:3 139:18,20</p> <p>differences [2] 14:22,22</p> <p>different [57] 4:17 9:6 10:7 11:14 20:4 26:1,3 28:2,23 29:13 30:6 33:9 37:10 38:18,22 40:11 41:14 43:16, 19 44:10,11,17 46:2 48:4, 11,13 49:5,6,7 53:14 56:18 68:16 77:7,8,10 80:23 83:21 85:12,17 87:7 90:11 94:14 95:9,19 98:15 103:8 110:14 112:6,12 123:3 124:10 133:25 134:12 138:2,5 150:20,25</p> <p>differently [4] 41:14 112:18 131:22 137:23</p> <p>difficult [10] 5:16 29:1 42:3 76:2 80:1 102:21 103:7 106:15 121:4 132:12</p> <p>difficulty [2] 78:6 105:5</p> <p>dine [1] 69:19</p> <p>dinner [1] 116:22</p>	<p>direct [7] 56:11 78:16 105:11 115:10 134:11 144:9 145:5</p> <p>directions [1] 150:16</p> <p>directly [4] 61:9 63:18 111:25 127:22</p> <p>disability [4] 13:14 22:25 24:1 59:3</p> <p>disabled [10] 13:10 22:23, 24 23:4 30:11,16 31:6 32:23,24 34:6</p> <p>disagree [19] 13:12 65:25 87:20 88:4,7 89:2 90:1 92:7 93:20 97:4,5,9 109:23 110:4 119:13 125:6 139:2 142:7 145:7</p> <p>disagreed [3] 59:15 120:4 139:13</p> <p>disagreement [4] 44:6 81:9 98:14 139:11</p> <p>disagrees [3] 51:11 86:16 99:3</p> <p>discretion [2] 99:12 100:9</p> <p>discriminate [5] 58:23 79:21 81:20 115:17 125:3</p> <p>discriminating [3] 27:3 115:4 148:15</p> <p>discrimination [18] 53:20 66:9,16 80:5 83:20 104:3 120:1,11 124:18 139:9 141:4 142:9 143:1,6,13 146:25 147:1,3</p> <p>discriminatory [3] 58:6 112:22 131:12</p> <p>discussed [2] 58:20 69:20</p> <p>discussion [4] 52:17 71:4 80:21 84:22</p> <p>dislikes [1] 41:15</p> <p>disparages [1] 99:3</p> <p>display [2] 4:22 85:13</p> <p>dispute [1] 57:23</p> <p>distinction [9] 51:5 63:11 64:13 73:16 91:7,21 95:15 127:25 152:14</p> <p>distinctions [1] 79:25</p> <p>distinguish [2] 104:1 138:9</p> <p>distributing [1] 111:16</p> <p>diving [1] 116:17</p> <p>divorced [1] 19:5</p> <p>Doctrine [9] 13:3 16:2 20:20 32:11,14 36:12 41:2 151:8 153:3</p> <p>Doe [1] 136:16</p> <p>dogs [1] 116:17</p> <p>doing [9] 17:3 35:1 42:2 55:8 67:19 80:13 121:7 141:3 151:13</p> <p>done [3] 87:15 101:18 137:3</p> <p>doubt [1] 149:4</p> <p>doubted [1] 149:3</p> <p>down [9] 22:19 34:2 43:22 47:8 73:4 113:13 116:7,8</p>	<p>124:4</p> <p>draw [5] 22:12 29:1,12 114:1 126:6</p> <p>drawing [1] 73:15</p> <p>draws [2] 30:8,10</p> <p>dressed [1] 75:6</p> <p>drive [1] 152:22</p> <p>during [1] 26:7</p> <p>duty [2] 150:14,16</p> <p style="text-align: center;">E</p> <p>e-mails [4] 65:3 109:22 111:8 150:15</p> <p>each [10] 19:4,6 26:12 52:14 57:7 85:5 116:16,18 122:6 144:23</p> <p>earlier [3] 26:1 67:1 77:21</p> <p>earning [1] 151:22</p> <p>easier [2] 79:10,11</p> <p>easily [2] 3:22 58:8</p> <p>easy [1] 76:1</p> <p>eat [1] 34:2</p> <p>edge [3] 29:2,5 78:20</p> <p>editorial [2] 98:21 99:12</p> <p>editors [1] 17:9</p> <p>effect [1] 58:7</p> <p>effort [1] 45:7</p> <p>either [8] 16:1 19:13 21:16 29:6 42:20 62:3 64:23 119:23</p> <p>element [1] 77:16</p> <p>ELENIS [2] 1:6 3:5</p> <p>else's [1] 17:10</p> <p>embrace [1] 19:10</p> <p>emphasize [1] 110:22</p> <p>emphatic [1] 114:22</p> <p>empower [1] 58:24</p> <p>empty [3] 64:19 111:3 150:14</p> <p>enacted [1] 81:9</p> <p>end [6] 26:24 35:5 44:21 75:4 138:19 153:7</p> <p>endless [1] 153:17</p> <p>endorse [1] 33:13</p> <p>endorsement [3] 15:23 107:7 148:4</p> <p>endorsing [3] 11:16,21 148:6</p> <p>ends [1] 41:3</p> <p>enforcement [1] 5:18</p> <p>enforcing [2] 71:8,9</p> <p>engage [2] 69:2 110:18</p> <p>engaged [4] 6:7 61:20 72:13,18</p> <p>engagement [3] 18:1,8,24</p> <p>engages [1] 64:4</p> <p>engaging [4] 33:25 40:14 52:25 61:2</p> <p>enough [4] 25:13 34:19 73:11,12</p> <p>ensure [3] 13:3 34:19 41:4</p> <p>ensured [1] 93:10</p> <p>ensuring [2] 65:6 121:15</p> <p>enter [1] 128:12</p>	<p>entered [1] 32:12</p> <p>entering [1] 147:2</p> <p>enterprise [2] 101:7,12</p> <p>entire [2] 41:1 45:21</p> <p>entirely [2] 63:21 148:21</p> <p>entitled [4] 109:1,10 121:8 136:10</p> <p>entity [2] 86:16 131:9</p> <p>environmental [1] 123:2</p> <p>equal [5] 45:7 57:25 59:19 65:7 121:16</p> <p>equate [2] 80:17 138:5</p> <p>equivalent [2] 4:10 115:7</p> <p>era [2] 26:16,19</p> <p>ERIC [3] 1:20 2:6 57:19</p> <p>escape [1] 131:10</p> <p>espouse [2] 82:11,14</p> <p>espoused [1] 114:6</p> <p>ESQ [4] 2:3,6,9,13</p> <p>ESQUIRE [1] 1:18</p> <p>essence [1] 144:15</p> <p>essentially [8] 8:5 19:11 20:22 35:11 48:15 51:7 53:20 150:8</p> <p>establishments [1] 129:18</p> <p>ET [11] 1:3,6 17:25 60:21 61:12 65:3 69:19 98:6 101:17 148:1,1</p> <p>ethnicity [1] 24:1</p> <p>evaluate [1] 78:25</p> <p>even [36] 4:17 10:2 14:20 15:18 18:20 28:6 29:10 38:18 40:3,18,21,23 46:21 49:4 51:14 58:20 62:12 65:16 66:22 71:18 78:19 80:11 86:19 88:8 89:25 97:2 102:9 105:20 116:1,7,16 120:9 138:14 139:4 141:7 143:4</p> <p>event [2] 125:5,5</p> <p>events [1] 6:15</p> <p>Everybody [7] 55:15,16 56:22 76:5 90:9 116:9 121:25</p> <p>everyone [12] 44:24 68:14, 21 89:9,25 90:15 103:14 114:8 142:18,18,20,22</p> <p>everything [5] 11:9 76:18 103:1 123:17 142:10</p> <p>evidence [3] 107:10 108:9 113:20</p> <p>exact [5] 55:1 62:4 86:23 97:24 98:9</p> <p>exactly [15] 11:10 19:18 35:12 47:11 48:10,17 61:4 65:17 113:3 117:22 120:25 134:3,24 137:1 144:14</p> <p>example [23] 11:25 15:14 21:25,25 22:3 30:11 44:12 50:10 56:10 57:12 65:9 71:7 75:1 79:19 82:17 83:14 86:14 91:24 93:4 95:22 104:18 121:21 142:5</p> <p>examples [6] 10:6 28:13 44:14 60:20 116:2 117:11</p>
---	---	---	---	---

Official - Subject to Final Review

<p>exceeds ^[1] 69:9</p> <p>except ^[6] 35:15 51:10,22 61:20 116:8 142:15</p> <p>exchange ^[1] 147:10</p> <p>exclude ^[1] 137:13</p> <p>excludes ^[1] 96:4</p> <p>excluding ^[4] 92:13 114:23,24 137:19</p> <p>exclusion ^[1] 81:12</p> <p>exclusively ^[1] 73:12</p> <p>excused ^[1] 93:19</p> <p>exemption ^[6] 59:5 105:8 109:1 117:20 118:1 121:9</p> <p>exercise ^[2] 77:11 132:20</p> <p>Exhibit ^[2] 116:3,6</p> <p>existential ^[1] 72:21</p> <p>expanded ^[1] 129:10</p> <p>expected ^[1] 38:24</p> <p>experiencing ^[1] 32:20</p> <p>explain ^[2] 109:14 140:18</p> <p>explaining ^[1] 60:2</p> <p>explicit ^[2] 51:19 148:12</p> <p>explicitly ^[2] 73:2 147:19</p> <p>explored ^[1] 109:8</p> <p>express ^[15] 9:9 19:10,16 25:16 26:9 46:23 53:7,8 87:24 90:17 112:15 114:5 138:1 147:19 149:15</p> <p>expressed ^[3] 38:25 41:22 63:9</p> <p>expresses ^[2] 87:19 146:19</p> <p>expressing ^[8] 10:18 14:1 21:16 53:10 54:23 55:19 56:13 137:25</p> <p>expression ^[11] 4:16,17 42:11 58:3,7 85:17 106:17 108:1 121:20 124:24 153:11</p> <p>expressions ^[1] 27:18</p> <p>expressive ^[14] 26:5 52:18 53:5,15 58:25 60:6 61:20 85:4,15 109:10 120:10,17, 21 127:23</p> <p>extending ^[1] 153:24</p> <p>extent ^[5] 51:20 52:3 63:14 96:6 110:9</p> <p>extra ^[1] 151:22</p> <p>extremely ^[1] 109:8</p> <hr/> <p style="text-align: center;">F</p> <hr/> <p>face ^[2] 48:15 80:1</p> <p>facial ^[1] 136:17</p> <p>facilitate ^[2] 113:9 150:17</p> <p>fact ^[10] 9:13 29:24 42:16 60:15 73:9 79:4 81:4 111:22 119:14 148:23</p> <p>fact-specific ^[1] 69:22</p> <p>factor ^[4] 60:14 64:8 69:21 70:8</p> <p>factors ^[1] 63:21</p> <p>facts ^[14] 5:9 14:16,18 33:5 42:22 64:2 69:23 70:19 107:8 133:22 134:24 136:</p>	<p>19,22 142:16</p> <p>fair ^[19] 33:4 64:12,24 65:1 80:17 109:17 115:13 126:9 134:10 140:3 145:10 148:24 150:2,11,11,13,14, 21,25</p> <p>fairly ^[3] 43:22 96:14 104:7</p> <p>faith ^[4] 52:15 90:1,7 92:8</p> <p>faiths ^[2] 88:6 90:4</p> <p>fall ^[5] 29:6 83:5,6,8,8</p> <p>false ^[5] 9:18 11:1 35:25 40:2 41:1</p> <p>familiar ^[6] 50:1 74:7 93:10, 17 128:3 131:14</p> <p>families ^[5] 26:24 27:1,3,5 55:14</p> <p>family ^[5] 12:19,20 52:7,15 82:2</p> <p>far ^[5] 71:24 107:18 129:1, 10 134:8</p> <p>farther ^[1] 129:16</p> <p>fashion ^[1] 91:1</p> <p>fast ^[2] 34:24 151:16</p> <p>favorite ^[3] 6:17 8:21 137:11</p> <p>fearless ^[1] 154:3</p> <p>feature ^[1] 58:11</p> <p>feel ^[4] 17:24 77:18 82:3 84:15</p> <p>feelings ^[2] 26:16,18</p> <p>feels ^[1] 78:2</p> <p>felt ^[2] 31:4 96:12</p> <p>ferreted ^[1] 45:16</p> <p>few ^[5] 5:4 59:25 88:20 143:23 151:5</p> <p>Fifty ^[1] 16:17</p> <p>Fifty-eight ^[1] 116:21</p> <p>Fifty-five ^[1] 116:13</p> <p>Fifty-four ^[3] 16:14,25 116:12</p> <p>Fifty-nine ^[1] 116:23</p> <p>Fifty-three ^[3] 16:13,24 116:11</p> <p>Fifty-two ^[1] 16:23</p> <p>figure ^[5] 70:24 105:16 143:9,11 144:18</p> <p>filed ^[2] 32:16 41:20</p> <p>fill ^[1] 47:20</p> <p>filmmaker ^[1] 145:2</p> <p>filmmakers ^[1] 143:24</p> <p>films ^[1] 153:12</p> <p>final ^[3] 24:20 45:15,18</p> <p>find ^[6] 29:11 89:5 132:12, 12 138:9 152:7</p> <p>finds ^[2] 90:18 91:18</p> <p>fine ^[5] 4:25 70:12 106:7 133:16,17</p> <p>finger ^[1] 95:18</p> <p>finish ^[2] 72:10 90:12</p> <p>firm ^[2] 27:24 118:5</p> <p>firmly ^[1] 86:23</p> <p>firms ^[1] 114:9</p> <p>first ^[42] 3:4 4:2 10:19 13:23 17:8 20:1 25:12 31:11</p>	<p>39:23 43:13,19 48:14 52:22 56:1 58:4 60:24 65:1 67:14 83:25 91:24 94:3,6, 16 95:2 104:25 105:1 107:20 108:3 124:12 125:25 128:4 130:4 131:2 134:18 138:8 139:13 140:22 141:2 145:24 147:17 149:24 151:25</p> <p>fit ^[1] 62:20</p> <p>flesh ^[1] 25:24</p> <p>FLETCHER ^[79] 1:22 2:9 108:18,19,22 110:20 111:4, 15 112:3 113:3,19 114:15 117:2,7,22 118:9,25 119:10,15,20,25 120:6,18,23 122:15,23 123:21,24 124:11 125:12 126:5,14,21 127:2,19 128:1,19,23 129:15, 25 130:13,16,19 131:1,23 132:7,17 133:8,18 135:3, 10,22 137:10 138:22 139:2, 12,18 140:4,8,12,17,20 141:2,6,11,18 142:6,20,24 143:1,10 144:23 145:17,20, 23 146:2,6,11 148:13</p> <p>florist ^[1] 40:8</p> <p>focus ^[3] 56:19 89:23 144:3</p> <p>focused ^[2] 96:10 126:6</p> <p>folks ^[2] 80:22 122:8</p> <p>follow ^[3] 22:13 45:4 143:21</p> <p>followed ^[1] 152:7</p> <p>following ^[1] 41:25</p> <p>follows ^[1] 62:11</p> <p>food ^[3] 52:5,18,19</p> <p>force ^[4] 4:13,21,24 150:23</p> <p>forced ^[6] 20:21 54:17 82:10,13 144:10,21</p> <p>forces ^[2] 4:4 110:3</p> <p>forcing ^[2] 122:11 144:3</p> <p>foreclosing ^[1] 136:20</p> <p>form ^[3] 109:22 120:11 129:22</p> <p>forms ^[1] 153:13</p> <p>forth ^[6] 7:2,22 22:10,22 39:10 81:1</p> <p>forthright ^[1] 10:7</p> <p>forum ^[1] 101:15</p> <p>foster ^[1] 62:17</p> <p>found ^[4] 25:18 30:19 33:22 113:10</p> <p>foundational ^[1] 154:2</p> <p>framed ^[1] 135:14</p> <p>framework ^[5] 10:18 13:22 58:8 61:22 150:9</p> <p>free ^[12] 31:10 43:13 44:2 45:9 46:18 59:5 77:11 105:7 132:20 137:18 153:25 154:3</p> <p>freedom ^[1] 148:19</p> <p>freelance ^[7] 54:2,4 86:12, 18 87:1,22 92:9</p>	<p>freelancer ^[1] 50:22</p> <p>friend ^[8] 54:3 63:2 70:20 71:5 82:3 93:4 105:4 108:24</p> <p>friends ^[6] 12:19,20 34:21 86:11 97:25 151:15</p> <p>frustrates ^[1] 134:14</p> <p>frustrating ^[1] 133:21</p> <p>full ^[4] 33:19 34:2 59:18 87:25</p> <p>fully ^[2] 17:24 34:7</p> <p>Fulton ^[6] 62:10 69:21 72:6 81:1 94:24 131:5</p> <p>funny ^[3] 16:14,19,25</p> <p>further ^[1] 79:16</p> <p>future ^[2] 72:22 136:21</p> <hr/> <p style="text-align: center;">G</p> <hr/> <p>gallery ^[4] 16:14,16,19,24</p> <p>Gas ^[1] 19:21</p> <p>gather ^[1] 74:3</p> <p>gave ^[6] 22:1 97:25 132:19 134:19,20 143:14</p> <p>gay ^[36] 7:24 8:1 30:9 32:25 33:18 40:20 45:8 49:22 51:22 58:15,20 76:7,15,17, 25 77:5 95:10,21 98:24 100:2,5,15,16,17,23 101:8, 12,14,15 106:4 114:24 122:24 133:6,10 147:23 148:3</p> <p>gays ^[1] 124:18</p> <p>gender ^[4] 20:11 69:16 83:19 119:9</p> <p>gender-differentiated ^[1] 30:2</p> <p>General ^[13] 1:20,22 61:18 72:8 73:6 124:23 125:2 126:11 132:9,13,19 135:12 139:14</p> <p>generality ^[2] 22:9 136:10</p> <p>generally ^[10] 10:21 35:20 81:4 88:3 91:9 109:2 124:22 129:8 131:9 132:16</p> <p>gets ^[1] 90:2</p> <p>getting ^[7] 15:9 23:4 38:9 87:11 100:12 108:13 114:11</p> <p>ghostwriter ^[1] 12:25</p> <p>Ginsburg ^[1] 49:3</p> <p>give ^[25] 6:4 7:20,21 18:22 26:5 33:18 48:10 55:16 79:1 81:22 98:13 102:7 111:3 131:4,13 132:17,18 137:8 146:12 148:14 150:14 152:5,5,8 153:16</p> <p>given ^[4] 81:25 85:8 139:5 144:18</p> <p>gives ^[1] 131:6</p> <p>giving ^[2] 105:5 134:21</p> <p>gladly ^[1] 26:23</p> <p>God ^[10] 12:3 49:5 76:22 78:3 105:13 106:5 116:24 118:5 132:11 133:13</p> <p>golf ^[1] 69:15</p>	<p>goods ^[2] 120:9,10</p> <p>GORSUCH ^[92] 20:25 21:3, 6,9,11,14 41:10,11 42:13 43:1,4 51:16 62:5,7 84:9, 10,13,15,19,21 85:11,22 86:3,9 87:3,6,16 88:2,13, 16,23 89:2,5,13,19,21 90:3, 10,24 91:3,10,13,25 92:5, 15,18,22 93:6,11,15,18,21, 22 97:11,13 117:15,23 118:15,18 119:5,12,18,22 120:2,7,14,19 135:16 138:18, 19,23 139:4,7,16,22 140:1, 7,9,13,19 141:1,5,9,13 142:1,7,15,22,25 143:7,16 152:13</p> <p>Gorsuch's ^[1] 24:25</p> <p>gosh ^[1] 39:7</p> <p>got ^[5] 19:5 23:5 69:10 141:10 143:16</p> <p>gotten ^[1] 44:10</p> <p>government ^[10] 4:10,21 9:19 22:17 50:17 149:19 151:11,13 153:1 154:1</p> <p>government's ^[1] 121:15</p> <p>government-compelled ^[1] 3:19</p> <p>Grandma ^[2] 52:13 53:11</p> <p>grandmother ^[1] 52:9</p> <p>grandmother's ^[1] 52:7</p> <p>Granting ^[1] 58:23</p> <p>graphic ^[2] 30:17 49:15</p> <p>graphics ^[10] 3:13 7:1 8:13 10:11,20 37:15 45:5 47:9 48:18 123:11</p> <p>great ^[4] 39:7 100:8 139:18 147:23</p> <p>greater ^[1] 69:9</p> <p>groom ^[1] 48:25</p> <p>grooms ^[1] 17:3</p> <p>ground ^[2] 47:7 133:12</p> <p>grounds ^[2] 42:16 104:10</p> <p>group ^[3] 100:15 101:13 115:9</p> <p>guess ^[12] 7:9 21:19 36:14 101:9 104:5 105:14 114:15 133:19 134:15 138:4 139:12 142:6</p> <p>guidance ^[3] 42:9 131:6 153:16</p> <p>guy ^[1] 40:9</p> <p>guys ^[2] 9:15 39:20</p> <hr/> <p style="text-align: center;">H</p> <hr/> <p>hairstylists ^[1] 43:11</p> <p>Hamilton ^[4] 56:10,12 57:12 63:6</p> <p>hand ^[1] 61:23</p> <p>handle ^[1] 132:1</p> <p>handled ^[1] 41:13</p> <p>handmade ^[1] 151:23</p> <p>hang ^[1] 56:21</p> <p>happen ^[1] 6:6</p> <p>happens ^[1] 137:8</p>
--	---	---	---	---

Official - Subject to Final Review

<p>happy [4] 19:4 88:3 103:9 127:18 hard [7] 47:5 70:23 79:5 87:11 99:8 105:6 131:4 harder [3] 76:16 133:19 136:13 hardest [1] 103:5 harken [1] 27:22 Harry [4] 9:14 11:8,9,13 head [1] 122:19 hear [4] 3:3 11:11 43:18 52:14 heard [7] 25:25 63:24 71:4, 6 93:2 122:4 135:23 heart [1] 21:18 heavily [1] 64:11 held [11] 59:7 60:10 96:8 103:5 105:1 111:11,19 144:4,17,22 152:24 Helen's [2] 52:13 53:11 help [4] 64:24 85:18 104:6 113:13 helps [1] 25:24 Henry [2] 47:19 48:7 Herald [2] 19:21 150:3 heritage [1] 52:12 heterosexual [15] 17:19 18:6,10,23 20:2 35:6,15 36:3 42:18,19 49:21 58:22 99:2 119:23 120:3 highlight [1] 117:11 highly [2] 14:2 48:20 Hindus [2] 128:9,11 hire [4] 50:24 51:6 105:18, 23 hiring [1] 56:14 Hispanic [1] 27:25 historical [2] 61:14 87:8 historically [2] 69:14 104:8 history [8] 5:18 59:24 60:9, 22 61:16,23 71:5 83:25 hold [4] 20:23 29:25 129:18 142:10 Holder [1] 136:15 holding [4] 64:23 107:17, 19 147:17 holds [2] 20:18 131:9 holiday [1] 26:7 home [1] 76:21 honest [1] 81:8 honestly [1] 117:7 Honor [5] 13:22 66:1 80:25 97:23 108:3 honorable [5] 29:25 80:16, 22 81:19 152:24 honors [1] 4:8 hope [2] 76:1 134:20 host [2] 36:12 123:8 hosts [1] 31:25 hotel [4] 6:16 39:9 60:15 62:19 hotels [3] 7:22 10:12 37:18 hour [1] 141:10</p>	<p>hours [1] 138:20 house [6] 94:9,16,21 95:12, 19,22 houses [2] 43:17 44:2 however [2] 100:12 130:2 Humanitarian [1] 136:15 Hurley [27] 3:19 10:18 13:22 19:19 32:4,19 33:22 41:25 55:1,4 96:20 103:4,5,8, 11,14,20 108:4 114:14,17, 17,21 115:6,13 134:12 150:6,9 hypo [2] 52:2 53:9 hypothetical [39] 6:5,5,10 8:3 14:23 15:6 18:5 20:7 25:24 28:21 37:10,12 40:23 48:14 54:21 56:9 57:8 67:1 78:7 81:23 88:24 89:7 95:10 98:13 99:9,11 101:22 102:21 105:14 120:22, 25 124:7 132:11 136:25 137:1 141:16,20 145:3 146:18 hypotheticals [18] 15:1 63:4 70:18 72:11 77:21 94:19 100:12 134:16,18,20 137:4, 9 138:7 143:23,23 144:6,8, 24</p> <hr/> <p>idea [3] 77:15 82:1 152:4 identical [8] 11:7 22:21 31:15 38:7 51:21 58:21 65:10 97:18 identity [1] 98:11 ideological [2] 6:21 144:11 ideology [9] 9:3,4,6,13 50:15 79:22,25 80:6 130:18 imagine [3] 5:16 78:10 126:15 impact [2] 96:7,8 impermissible [2] 129:23 139:8 implicate [2] 61:5 104:13 implicates [1] 77:10 implication [1] 121:1 implications [1] 104:24 implicit [7] 11:15 51:17 107:6 148:4,12,22 149:4 implicitly [4] 51:23 147:13 148:6 149:2 importance [1] 108:4 important [6] 27:13 36:20 46:20 50:8 53:25 137:16 importantly [1] 103:14 imposed [2] 140:23 153:17 imposing [4] 127:21 131:11 134:9,11 impossible [1] 14:7 imprimatur [2] 81:11,13 inappropriate [1] 103:13 inauguration [1] 50:11 incidental [16] 58:7 65:5</p>	<p>83:13 96:7,8 110:6 114:19 115:2,10 126:7 134:9 140:23 141:7 145:8 149:5 150:19 inclination [1] 133:23 include [5] 4:23 42:16,17 115:8 130:15 included [1] 127:8 includes [3] 66:22 148:16 153:11 including [6] 28:5 111:9, 15,17 150:6 153:21 inclusion [1] 127:22 income [1] 151:22 inconsistent [5] 18:21 109:16 121:11 122:9,13 indication [1] 35:4 indirectly [1] 61:9 individual [5] 62:22 86:14 90:14 91:13 110:18 individualized [3] 62:15 63:15 131:7 individuals [3] 41:4 55:24 56:24 inextricably [5] 124:8,15, 20,24 125:16 inherently [1] 21:21 inimical [1] 86:21 initial [2] 46:19 53:1 injunction [2] 66:13 135:15 inside [1] 33:12 insists [1] 3:16 inspired [2] 18:1,2 instance [5] 34:11 35:24 56:4 126:22 131:2 instances [1] 104:10 instead [3] 49:15 110:5 115:6 institution [1] 86:20 integration [2] 33:14 104:9 inter [1] 143:3 interact [1] 26:14 interest [7] 30:20 83:12,16 121:15 129:3,20 130:21 interested [4] 60:17 61:7 94:1 101:14 interesting [1] 96:14 intermarriage [1] 72:21 interpretation [1] 68:22 interpreted [1] 151:18 interracial [10] 13:9 14:5 30:12,16 59:11 80:19 102:1 104:9 143:2,3 interreligious [1] 73:5 interrogation [1] 81:2 intersection [1] 60:17 intertwined [5] 124:8,16, 20,25 125:16 intrigued [1] 86:10 intro [1] 99:11 introduces [1] 99:12 intruding [1] 150:23</p>	<p>inverse [2] 141:16,19 investigation [1] 4:25 invidious [1] 80:4 invitation [5] 12:14,17 16:12 28:17,21 invitations [1] 39:13 invited [1] 123:8 invited [1] 116:5 inviting [1] 12:22 invocation [1] 36:5 invocations [1] 105:1 involve [2] 144:9,20 involved [3] 45:3 64:16 105:9 involves [5] 45:11 46:1 96:18,23,24 ironic [1] 152:7 irrelevant [2] 18:10 20:12 isn't [21] 8:6 14:18 27:8 28:25 29:9 33:15 34:11 39:7 40:13 43:2 45:19 50:21 51:4 54:21 70:16 79:12 97:14 105:15 122:5 127:24 148:8 issue [11] 3:20 44:15 54:20, 22 62:4 80:23 103:15 130:8,23 149:20 150:11 issues [2] 32:20 132:21 items [1] 58:14 iteration [1] 57:8 itself [10] 27:11 40:25 59:15 65:12 71:22 96:11 108:4 131:9 150:13,21</p> <hr/> <p>J</p> <p>Jack [4] 22:2 123:17 142:13 153:18 JACKSON [38] 11:4,18 17:13 25:21,23 27:15 28:10, 18,20 30:25 50:20,21 53:3 54:6,12,15 55:4 56:6,16 57:13 70:16 79:12 103:23, 24 104:19,22 105:10 106:22 107:15 108:14 120:20, 24 121:18 122:16 136:24 147:7,8 149:7 Jackson's [1] 75:1 Jdate [1] 74:2 Jesus [3] 116:17,19,19 jewelers [2] 43:12,25 jewelry [2] 31:1,2 Jewish [13] 72:12,13,14,17, 18 73:1,2,10 74:1,1,3,9,10 Jews [5] 58:17 72:21 73:11, 12 125:14 job [1] 114:10 join [1] 28:21 Joint [1] 135:12 Jones [1] 104:17 Josh [1] 72:12 Judaism [2] 72:22 128:8 jurisdictions [3] 4:13 50:14,15 jurisprudence [1] 138:8</p>	<p>Justice [453] 1:23 3:3,9 5:3, 24 6:2,4 7:16 8:8,10 9:2, 11,22,24 11:4,6,18 12:2,5, 6,16 13:5,6,17,19 14:6,9, 13,21 15:3,6,20 16:3,5,9, 13,18 17:13,15,18,20 18:20 19:14,24 20:10,24,25 21:2,3,5,6,7,8,8,9,11,13,14 22:18,20,22 23:9,16,24 24:4,8,10,13,21,24,25 25:3,19, 21,22,23 27:15 28:10,12, 18,20 29:5,16,17,18,19 30:7,22,25 31:1,14,23 32:2,6, 21 33:8,17 34:1,12,16,22 35:2,13,18 36:1,14 37:1,3, 4,5,6,7,9,24 38:4,19 39:4 40:4,7,18 41:8,9,9,11 42:13,14 43:1,4,5,5,7 45:6,24 46:6,10 47:1,2,2,4,5 48:3, 4 49:3,14 50:18,19,19,21 51:1,16 53:3 54:6,12,15 55:4 56:6,16 57:13,16,21 59:22 60:6,8,13 61:1,15 62:5,6,7,8,11 63:8,20 64:9 65:1,19 66:4,6,18,25 67:1, 8,13,15 68:3,18,20 69:5,25 70:16,18 71:10 72:7,8,9 73:9,25 74:4,6,7,13,24,24 75:1,11,15,19,21,22,24,25 76:12,15 77:14 78:9 79:12, 12,13,14,16,17,18 80:8,14, 15,24 81:7,17,18,22 82:18, 24 83:5,22,22,24 84:8,8,9, 10,13,15,18,21 85:11,22 86:3,9 87:3,6,16 88:2,13, 16,23 89:2,5,19,21 90:3,10, 24 91:3,10,13,25 92:5,15, 18,22 93:6,11,15,18,21,22, 24,24 94:1,25 95:4,14,17, 25 96:12 97:2,6,7,7,9,11, 10,23 98:12 99:13 100:2, 13,23 101:4,11 102:4,14, 18,25 103:21,22,22,24 104:19,22,23 105:10,11 106:11, 15,22 107:15 108:14,15,18, 23 109:18 110:12,21 111:1, 4,12,21 112:8,17,19 113:11 114:6,7 115:23,24 117:2,4,15,19,23,24,25 118:2, 10,15,16,18,20 119:5,12, 18,22 120:2,7,14,19,20,24 121:18 122:15,23 123:22, 23 124:1 125:9,19,20,20, 22,23 126:6,10,17,25 127:6,20,24 128:1,14,20,24 129:5,21 130:11,14,18,24 131:16,24 132:3,4,4,6,7 133:6,13 134:13 135:9,16, 16 136:23,24 137:7 138:4, 16,17,17,19,23 139:4,7,16, 22 140:1,7,9,13,19 141:1,5, 9,13,15 142:1,7,15,22,25 143:7,16,18,18,20 145:12, 18,21 146:1,5,8,12 147:4,5,</p>
--	---	---	---	---

Official - Subject to Final Review

5,7,8,10 149:7,8,13 150:10 152:12 154:5 justify [1] 129:3 juxtaposed [1] 29:13 <hr/> K <hr/> KAGAN [63] 5:24 6:2,4 7: 16 8:8,10 9:2,11,22,24 13: 7 14:6,13 15:3 20:24 21:2, 5,7,13 28:12 29:5,16,18 37: 6,7,24 38:4,19 39:4 40:4, 18 41:8 47:5 48:4 72:8 74: 4,7 75:11,19,22,25 76:12, 15 77:14 78:9 79:13 84:8 106:15 112:8,17,19 114:6 115:23 132:6,7 133:6,13 134:13 135:9,16 136:23 137:7 138:16 Kagan's [3] 11:6 67:1 105: 12 Kavanaugh [27] 43:6,7 45: 6,24 46:6,10 47:1 93:25 94:1,25 95:4,14,17,25 96: 12 97:2,6 143:19,20 145: 12,18,21 146:1,5,8 147:4, 11 Kavanaugh's [1] 51:1 keep [2] 16:25 44:19 Kennedy [4] 80:15,24 81:7, 18 key [1] 96:20 killers [1] 137:5 kind [23] 8:24 14:12 51:1, 14 52:10 67:9 76:4,19 77: 7,15,22,24 78:3 80:2,2 96: 8 98:16 104:1 107:22 123: 12 127:24 137:1 142:19 kinds [7] 17:9 33:7 49:24 94:17 104:14,24 121:24 Klan [3] 75:6,8,16 Klux [4] 75:6,8,12,16 knowing [1] 55:12 knowledge [1] 88:21 knowledges [1] 88:22 known [1] 64:7 knows [1] 74:14 KRISTEN [5] 1:18 2:3,13 3: 7 149:11 Ku [4] 75:6,8,12,16 <hr/> L <hr/> label [2] 4:10 36:17 landscapers [1] 43:11 lap [2] 27:21 28:1 last [6] 4:15 21:15 49:17 131:16,17 136:23 late [2] 19:2 147:11 Laughter [10] 21:10 34:25 74:5,12 84:14,17,20 137:6 139:6,25 law [68] 3:24,25 8:2 20:19 24:5 34:18 41:23 54:1,5 57:24 58:2,5 59:18 60:18, 20 61:11 65:7 67:12 71:8,	9 80:21 81:10 85:18 87:1, 12 93:8,17 95:7 96:5,9 99: 7 103:10 109:2,19,20,25 110:8,22 111:7,18,19 112: 14,23 113:7,11,21 114:9 115:2,6,7 118:14 119:3 127:3 129:8 131:2,15 134: 6,7 136:15 144:25 145:1, 13 147:1 148:25 151:1,24 152:11 153:8 law-abiding [1] 153:20 Lawrence [1] 124:16 laws [26] 32:18 42:10 55:22 59:25 60:3,10,23,25 61:8, 17,18 75:10 81:4 120:13 121:9 124:21,22 125:3 127:5 128:4,11,13 130:2 131:11 146:14 153:10 layer [1] 99:12 lead [3] 94:4,6 138:11 leaders [1] 122:20 leads [2] 109:8 139:20 leagues [1] 123:3 least [8] 4:16 43:15,21 46:1, 12 63:17 127:8 129:2 leave [2] 16:9 27:16 legal [4] 43:9 44:5 50:6 150:17 legally [2] 138:25 139:19 lending [1] 40:6 lesbian [5] 25:13 30:17 45: 8 114:24 143:25 lesbians [1] 124:19 less [3] 8:16 72:4 131:7 level [5] 22:8 64:3 83:10 94: 22 136:9 levels [1] 145:25 LGBT [4] 20:20 33:5 34:21 41:6 license [1] 58:23 licensing [2] 49:23 50:2 Life [7] 55:9,11,17,23 57:5 94:12 121:22 light [3] 80:14 97:10 138: 13 likely [7] 72:4 79:25 101:2 102:22 128:8 131:7 146:3 Lillian [1] 12:12 Lilly [11] 12:9,12,12,13,19, 22 17:2 47:19 48:6 116:4, 5 Lilly's [1] 116:14 limit [5] 50:16 83:3 128:14 129:23 153:16 limitation [3] 35:4 82:19 131:12 limitations [1] 87:12 limited [4] 33:19 69:15 82: 20 136:1 limiting [1] 13:6 limits [1] 129:1 Lin-Manuel [1] 63:5 line [36] 6:24,25 7:8 13:6, 11 23:25 24:1,6,7,11,22,25	25:14,19 29:13 30:8,10 35: 5 37:22 45:10,12 52:5 53: 6 54:24 69:10 72:10 114:1 126:5 128:24 131:14 152: 5,5,6,9,11,13 line-drawing [1] 42:3 lines [4] 24:20 29:1 78:11 94:18 list [2] 7:22 46:11 lists [1] 118:5 literal [1] 134:2 litigate [1] 63:22 litigation [1] 153:18 little [8] 8:14,16 21:19 41: 12 78:2,17 134:17 151:16 live [1] 50:10 LLC [2] 1:3 3:5 loathe [4] 82:12,15 83:1,18 location [2] 116:22,23 logistical [1] 150:15 logistics [1] 48:23 long [11] 60:2,22 66:14 76: 4,6 88:11 89:8 90:8 126:1 136:4 137:24 long-settled [1] 59:18 longer [1] 32:14 look [17] 6:19 10:19 17:24 28:13 45:10,13 65:14 74: 17 80:24 83:11 85:20 107: 11 108:5,10 123:11 150:2, 2 looked [5] 8:6 9:12 7:19 22 24:18 115:25 looking [10] 6:8 16:21 17:1 28:22 33:15 62:14 78:24 90:22 91:20 150:22 looks [6] 13:24 31:11 37: 16 74:18 88:9 134:12 loose [1] 151:16 Lorie [2] 3:11 18:3 lose [2] 68:8 127:10 lot [18] 21:18 39:6 43:8 44: 5 63:3,9,23 68:9 70:3 74: 14 75:16 82:6 84:25 100: 11 117:12 122:4 129:6 137:10 lots [2] 8:12 39:20 Love [15] 7:6,7 18:4 19:3 23:6 37:15,16 48:8 67:3 100:18 101:18 116:16,18, 20 153:23 loved [2] 38:8,11 loves [2] 116:18,25 Loving [2] 29:14 30:5 lower [1] 153:13 Luke [7] 12:9,20 17:2 47: 19 48:6 116:4,5 Luke's [1] 116:14 luncheonette [1] 33:20 lyrics [1] 49:19 <hr/> M <hr/> Made [9] 7:6,7 8:5 67:3 79: 7 85:2,13 105:13 149:19	maker [2] 30:24 31:2 maker's [1] 21:16 mall [4] 26:7,25 75:2,4 man [12] 9:9 10:3 18:17 19: 12 58:12 67:4 72:13,17 106:9 126:23 147:21 149: 18 mandate [1] 153:1 manner [3] 90:15 91:10,14 many [11] 31:12 72:20 88:4 90:4,4 98:18 99:15 104:9 115:25 137:3,4 maps [1] 148:14 march [2] 103:15,17 Mark [1] 38:7 marketplace [4] 5:20 59: 20 68:13 121:17 marriage [79] 4:8,9 5:15 8: 25 9:6,8 10:14 12:4,15 13: 9 14:5 15:24 18:17,22 19: 12 20:18,22 22:5 29:15,21 30:1,2,9 35:17,24 40:1,20, 22 42:25 44:22 49:5 58:12 66:23 67:4 77:20,23 78:14, 25 80:17,18,19 90:17 94: 13,15 98:18,25 99:1,9,14 100:5,20,20 101:15,16,20 104:12 106:9 112:15 116: 2,24 117:6 123:7 124:5,13 125:18 126:23 138:6 142: 4 143:4 144:2 147:3,20,23 149:16,16,17 152:23 153: 15,22 marriages [11] 36:3 42:18 102:2 104:9 124:18 126: 18 127:14,17 133:6,11 135: 7 married [11] 13:10 15:9 19: 1 22:24 23:5,10,12 38:9 72:14,18 108:13 marrying [1] 19:6 Mary [4] 12:13,23 37:14 38: 6 Mary's [1] 38:8 massive [1] 152:13 Masterpiece [8] 22:3 71:7 81:2 96:15 120:7 121:12 124:16 143:14 matter [14] 1:13 13 19:11 20:8, 13 36:11 66:10 68:5 82:24 92:7 127:3 131:3,4 135:21 151:6 matters [7] 19:17 20:14 23: 13 52:3 132:10 134:4,25 McCrary [1] 137:12 meal [1] 34:2 meals [1] 34:4 mean [30] 4:17 8:10,11 10: 1 11:6 27:16,16 37:24 38: 20 39:5,11,16,19 40:4 47:7 48:14 67:15 69:6,6 74:14 75:18 101:5,5 103:3 104: 17 122:6 128:21 135:19 138:5 146:9	meaning [9] 12:18 29:6 46: 9 49:2,5,15 57:5 120:1 151:21 meaningful [1] 50:25 meanings [2] 38:18,22 means [6] 49:6,7 70:1,14 109:9 122:1 media [1] 153:13 meetings [1] 111:8 meets [1] 78:12 member [3] 69:18 82:2 90: 1 membership [1] 69:16 mention [1] 74:8 mentioned [1] 109:18 mentioning [1] 8:3 menu [3] 33:19,19 116:22 message [100] 3:14,22,24 5:12,13 10:17,24,25 11:3,4, 12,15,24 12:7,11,13,23,25 17:25 18:19 19:10,15,23 22:16,21 23:3 24:19 25:9, 16 28:25 29:4,9 30:19 31: 8,19,20,22 33:1,13,16,24 36:21,23 37:22 42:23,24 45:19 46:23 51:17,19 53:7, 8,11,21 54:25 56:2,4,5,9 57:11,11 62:23 68:11 92:7 96:1,7,10 100:4 102:9 108: 5,6 109:5,13 110:2 114:25 115:8,20,21 121:6 122:20 124:6,9 133:2 134:1 140:6, 10,14 143:8 145:7,16 146: 24 147:12 148:9,17 149:25 150:1,5,24 152:12,20 message-based [4] 32:18 41:24 141:17 149:23 messages [20] 3:12,17 4: 25 14:1 41:4,14 42:23 44: 23 45:22 50:23 51:11 54: 23 112:14 115:15,15 137: 25 138:1 144:11 149:15,15 met [3] 3:22 18:13,25 Miami [2] 19:21 150:2 Michael [1] 123:17 Michelangelo's [1] 152:1 might [18] 10:6 25:10 86:4 91:5 93:18 100:10 104:6,7 112:12,18 119:3,3 132:12, 21 134:22 135:20,20 142:2 Mike [8] 9:14 10:1 37:14 38: 6,7,8 47:19 48:7 military [10] 64:17 110:2 111:13,17 112:20,24 113: 13,15,16 114:13 military's [3] 110:24 111:2, 17 mind [2] 86:23 150:23 mine [1] 90:6 minimize [1] 113:4 minority [1] 54:17 minute [1] 20:5 minutes [2] 5:4 60:1 Miranda [1] 63:6
--	--	--	---	--

Official - Subject to Final Review

<p>missing ^[1] 24:25 mockups ^[1] 17:1 mom ^[1] 151:21 moment ^[1] 18:12 Monday ^[1] 1:11 money ^[2] 69:17 101:16 month ^[6] 98:24 99:23,25 100:1,3,18 months ^[1] 19:3 mooters ^[1] 137:11 moots ^[1] 137:3 moral ^[2] 36:24 113:8 morning ^[8] 3:4 7:10 67:2 84:10,12 108:25 117:18 135:24 most ^[10] 6:19 58:7 63:1 64: 11 80:5 102:23 109:16 144:4,16,21 mostly ^[1] 73:11 motorists ^[1] 4:22 motto ^[1] 4:22 move ^[1] 19:25 movie ^[2] 55:12 121:24 Ms ^[143] 3:6,9,23 4:4,7,24 5: 6,12,18,24 6:1,3 7:14,25 8: 9 9:1,4,16,23 10:15 11:17, 20 12:3,14,24 13:16,18,21 14:8,17,25 15:3,5,10,11 16: 1,4,8,11,17 17:7,15,17,23 18:15 19:8,18,24 20:6,15 22:13,19 23:8,13,19 24:3,6, 9,12,16,23 25:2,5 27:10 28: 4,16,19,24 29:8,24 30:15 31:9,21,24 32:4,10 33:3,5, 15,15,21 34:9,14,17,20 35: 1,9,17,20,21 36:8,19 37:21 38:3,17 39:1,24 40:12,24 41:20,21 42:21 43:3 44:13 45:12 46:3,8,17 47:21 48: 13 49:25 52:23 53:13 54: 10,13,20 55:25 56:8 57:7, 15 76:7,24,25 108:24 112: 1 113:4 115:14 117:17 118:6 133:9 134:24 135:5, 23 137:7 140:23 142:12 149:10,13,21 150:7 152:17, 22 153:7 much ^[11] 41:6 47:14 80:1 85:1 112:4 130:25 131:18 134:6,21,21 146:16 multifactor ^[1] 62:16 musical ^[2] 56:10,11 Muslim ^[1] 143:24 must ^[2] 84:15 137:3 myself ^[1] 134:16</p> <hr/> <p style="text-align: center;">N</p> <p>name ^[3] 7:5 48:25 106:7 names ^[9] 6:12 11:23 15:8, 14,19 37:17 38:11 48:24 51:23 narrative ^[1] 18:21 narrow ^[2] 43:23 136:21 narrower ^[1] 43:22</p>	<p>narrowing ^[1] 44:20 narrowly ^[2] 30:20 103:2 nature ^[6] 33:1 62:22 77:20, 23 109:23 120:17 necessarily ^[4] 28:6 99:15 104:13 129:12 necessary ^[1] 81:10 need ^[10] 42:8 66:15 73:3,4, 7 85:20 87:14 89:24 136: 19 153:19 neighbor ^[1] 153:23 neutral ^[2] 81:3 107:24 never ^[5] 28:9 30:19 148:7, 21 153:6 new ^[7] 3:25 7:15 35:1 48:9 98:19 99:22 100:14 newsletter ^[1] 111:19 newsletters ^[2] 109:22 111:9 newspaper ^[7] 17:8 31:25 98:17,23 100:3,8 151:9 newspapers ^[1] 98:18 Next ^[9] 4:6 27:6 39:14 46: 1 74:8,9 81:6 99:25 100:1 nicely ^[1] 62:2 nights ^[1] 19:2 Nineteen ^[1] 50:14 noble ^[1] 153:23 non ^[1] 56:23 non-Protestants ^[1] 53: 10 nondiscriminatory ^[1] 119:4 none ^[2] 24:1 45:22 nonwhite ^[1] 55:23 normal ^[1] 98:21 normally ^[1] 99:9 nostalgia ^[1] 26:10 notable ^[1] 106:20 notably ^[1] 109:17 nothing ^[5] 9:3,25 10:3,9 42:25 notion ^[1] 86:13 nourishment ^[1] 52:11 November ^[2] 12:9 116:4 nub ^[1] 146:17 number ^[4] 14:25 50:14 109:3,4 nuptials ^[2] 72:16,20</p> <hr/> <p style="text-align: center;">O</p> <p>O'Brien ^[7] 58:9 65:5 80:12 96:9 129:4 130:5 146:15 Obergefell ^[6] 9:7 29:14, 19 76:9 80:15 81:7 object ^[5] 41:24 44:22 49: 10 80:16 115:20 objected ^[2] 18:19 112:23 objection ^[2] 18:16 22:15, 15 23:14,15,17 24:20 27: 11,17,17 28:5,11 36:6,20 45:13,18,19 54:24 57:8 104:12 113:5 objectionable ^[1] 113:10</p>	<p>objections ^[8] 29:20,22 42: 15,17 45:16 60:24 104:14 113:8 objective ^[1] 148:9 observation ^[1] 132:19 observe ^[1] 53:18 observer ^[2] 107:24 148: 10 obviously ^[5] 77:25 100:8, 13 133:9 137:22 odious ^[2] 138:9,13 off-the-shelf ^[2] 32:7,8 offends ^[3] 90:7 91:18 92: 11 offensive ^[2] 89:6 90:18 offer ^[10] 58:24 67:23,24 73:6,7,10 87:13,14,16 115: 9 offered ^[5] 11:8,13 73:11 108:24 113:21 offering ^[3] 55:9 69:3 70:2 offers ^[3] 26:7 81:24 145: 14 office ^[3] 19:2 76:8 114:8 often ^[1] 63:3 Okay ^[45] 6:2 9:11 16:9 28: 18 36:1 37:1,20 38:5 46: 10 48:3 49:14 50:5 55:9 67:5 68:18 69:5 72:12,16 73:25 74:15,24 76:10,15 83:5 86:9,9 87:5 88:16 89: 4,21 90:10 91:22,22 97:6 98:12 120:19 124:1 126: 17 129:9 130:24 131:16 140:7 143:16 147:4 148: 19 old ^[1] 27:23 Ollie's ^[2] 33:10,25 OLSON ^[115] 1:20 2:6 57: 18,19,21 60:5,8,19 61:13 62:5,24 63:19 64:25 65:25 66:5,8,24 67:6,13,20 68:6, 19 69:2,12 70:8 71:3,25 72:25 73:15 74:16 75:8 76: 11,14 77:9 78:9 79:24 80: 11,20 81:21 82:13,22,25 83:10 84:7,11,12,18 85:9, 19,24 86:5,7,22 87:5,10,21 88:8,15,17,25 89:1,4,8,16, 20,22 90:8,21 91:2,6,12,23 92:1,12,17,20 93:1,8,9,13, 16,20,23 94:20 95:3,6,16, 20 96:2 97:1,5,15 99:8,19 100:6,22,25 101:9,21 102: 11,16,20 103:7 104:16,20 105:3 106:18 108:2,17 126:18 128:6 132:9,13,19 135:12 Olson's ^[1] 127:6 once ^[3] 32:11 49:22 118: 25 one ^[63] 5:9 6:15 7:4,6 11:8, 8 15:3 16:1 18:23 21:14 24:21,21 25:15 26:13 28:</p>	<p>22 30:18 38:20,21 42:7 44: 21 45:20 48:6 50:12 52:5 58:22 64:10,11 67:4,5 69: 16 75:25 76:16 77:17 81: 23,23 91:14,21,22 92:24 98:10 106:9,9 109:3 110: 21 125:18 126:23,23 128:3, 9 133:20 134:19 137:11 142:1,2 143:21 144:2 146: 6,7 147:21,21 149:3,4 153: 19 ones ^[6] 41:18 44:23 88:4 130:22 136:1 137:5 online ^[1] 100:17 onlooker ^[2] 108:5,6 only ^[3] 14:4 19:4 26:19 27:6,23 33:11 35:4,6,11 52:10,20 55:13 56:23 58: 11,14 70:8 80:5 98:2,25 100:5,19 103:15 106:9 107:23 110:8 115:16 122: 1 126:12,23 149:21 150:18 op-ed ^[1] 31:25 open ^[9] 60:10 68:25 69:6 84:1,3,3 107:9 131:9,25 opening ^[3] 37:8 102:12 151:25 operating ^[1] 61:19 operator ^[1] 15:8 opinion ^[8] 77:19,23 105: 16 113:22 124:3 131:5 139:19,20 opinion-based ^[1] 112:16 opinion-related ^[1] 114:5 opinions ^[1] 105:22 opponent ^[1] 49:8 oppose ^[3] 81:19 110:3 149:3 opposed ^[7] 15:24 31:20 52:4 107:14 108:12 110: 24 111:2 opposes ^[1] 113:6 opposing ^[1] 70:20 opposite ^[6] 38:20 48:18 96:16 100:21 111:25 127: 13 opposite-sex ^[15] 4:8 49: 12 65:11,17 68:9 77:2,4 79:9 99:3,24 101:19 102:1, 6 127:11 136:4 opposition ^[3] 80:18,18 104:8 oral ^[8] 1:14 2:2,5,8 3:7 54: 2 57:19 108:19 order ^[2] 58:19 150:6 ordinarily ^[4] 43:12 46:13, 14 105:19 organization ^[5] 100:24 102:10 123:3,5,5 organizations ^[2] 102:23 123:2 organizers ^[1] 55:2 orientation ^[8] 20:11 59:3 84:6 104:2 105:9 119:9</p>	<p>120:5 130:8 original ^[1] 35:22 orthodoxy ^[1] 153:1 other ^[5] 6:16 14:1,4 19:1, 4,6,20 26:24 27:2,2 29:22 36:3,15 41:16 42:24 43:17 44:2,3,14 45:22 50:6 54: 23 55:21 64:10 70:20 75:4, 14 78:4 79:8 83:18 88:22 91:22 104:14,24 109:21,22 110:15,16 112:19 116:16, 18 126:15 133:17 134:22 140:2 141:14 144:7,13 148:19 151:8,15 others ^[6] 41:15 63:11 74: 21 100:13 110:10 153:24 otherwise ^[8] 9:20 13:25 50:5 51:22 54:22 55:3,3 98:14 ourselves ^[1] 153:25 out ^[40] 11:23,24 25:25 28: 12 45:16 49:20 50:9 56:21 57:2 58:8 61:17 62:2,3 68: 14 69:11 70:24 71:22 73: 13 81:5 85:18 103:1 105: 16 112:18 114:11 122:11 129:16,19 130:9 131:9,21 133:7 134:19,22 135:19,21 136:14 137:23 143:9,11 144:18 outcome ^[2] 139:15 142: 11 outfit ^[3] 75:7,12 82:5 outfits ^[2] 75:9,17 outside ^[2] 126:10 129:12 over ^[6] 60:22 68:15 87:9 93:3,3 152:18 overlap ^[2] 56:11 57:10 overlapping ^[1] 56:3 overrule ^[1] 150:9 own ^[11] 7:20 26:9 27:18 50:23 51:25 105:22 107:4, 25 111:18 118:11 148:20 owner ^[1] 59:9 owner's ^[1] 59:15</p> <hr/> <p style="text-align: center;">P</p> <p>p.m ^[1] 154:8 Pacific ^[1] 19:20 package ^[1] 55:23 PAGE ^[27] 2:2 12:8 15:23 16:6,7,19,21,23 18:1,2,9 31:16,21 43:10 46:12 76: 22 91:16 116:3 117:5 118: 4,21,24 123:12,15 135:11 143:22 151:19 pages ^[8] 15:21 16:8 31:19 46:20 111:5 114:21 118:3 143:14 paid ^[3] 53:2 101:4,5 pain ^[1] 4:25 painting ^[1] 153:12 palettes ^[1] 17:25 parade ^[9] 32:5 55:2 103:4,</p>
--	---	---	---	--

Official - Subject to Final Review

10,15,16,17 114:23 115:8 parades [1] 4:23 paragraph [1] 106:25 paragraphs [1] 85:3 park [1] 42:5 part [16] 18:24 20:7 23:2 61:2 70:16 77:10 87:11 105:15 107:16 118:7 123:1 127:7 134:14 135:19 136:17,18 partake [1] 52:20 parted [1] 132:9 participating [1] 40:5 particular [17] 12:7 14:15 32:23 35:21 52:6 55:15 65:23 91:18 109:4,11 111:14 124:24,25 137:14,20 150:7 153:19 particularly [3] 6:20,21,22 parties [3] 5:11 43:9 46:19 party [1] 33:23 pass [1] 129:4 past [5] 26:10 28:8 47:12 93:3 151:18 Pat [2] 10:1,2 pays [1] 51:10 peculiar [1] 103:12 people [60] 3:13 7:19 8:19 13:8,9,10,15 15:9 19:1 22:9,24 23:4,6,11,12 26:14 29:22,25 31:6,7 45:8,22 49:18 51:10 52:11,20 57:3,6 60:24 61:23 63:12 68:16 70:15 74:3 78:12,13 80:16,22 81:14 82:1 83:18 86:12 96:4 99:25 101:13 103:17,18 105:23 109:11,13 111:13 114:23 119:7 122:1,22 140:25 141:22 147:2 148:3 153:20 people's [1] 53:4 percent [1] 127:16 perceptions [1] 151:6 perfectly [1] 133:15 perform [2] 50:10,12 performs [1] 120:17 perhaps [2] 46:5 107:18 period [2] 66:3 95:24 permissible [4] 110:6 127:1,3 139:10 permission [1] 65:15 permitting [1] 92:4 perplexed [1] 103:25 person [25] 10:16 25:3 26:2 30:12,16 32:23,23 34:5,6 40:12 51:18 53:17 74:1,9 78:3,4,5 79:7 86:21 88:14 89:25 106:11 126:2 132:25 146:23 personal [3] 13:13 22:25 31:17 personalized [1] 85:4 perspective [1] 85:7 persuade [1] 91:4	Pet [1] 135:8 petition [2] 15:22 16:7 Petitioner [1] 84:2 Petitioners [8] 1:4,19 2:4,14 3:8 121:1 137:22 149:12 Petitioners' [1] 122:16 Phillips [2] 93:6 153:18 philosophical [2] 30:3 98:14 philosophy [2] 107:4,5 phone [1] 82:8 photo [8] 16:14,16,19,24 28:22,25 54:17 122:6 photograph [11] 27:1,11,12 28:6 29:10 45:18 74:2,10 120:21,25 121:19 photographed [1] 26:20 photographer [15] 25:7 30:25 31:2 54:8,8,16 55:7 74:1,10,19,20 81:15 121:23 122:17,18 photographers [1] 59:1 photographs [1] 27:25 photography [7] 26:5,6 54:9,11,11 56:21 153:12 photos [2] 57:4,4 pick [3] 66:25 99:16,17 picking [2] 94:2 99:21 picks [1] 98:21 picture [8] 6:13 9:14 34:3 37:18 75:3,5 79:22 122:2 pictures [9] 10:21 31:5,6 47:17 48:17 74:21 81:16 116:11 122:12 place [6] 29:13 51:2 113:1 116:6 148:1 151:19 places [2] 6:14 138:12 placing [1] 63:16 plaintiff [3] 119:7 120:17 142:17 planner [1] 143:5 plate [1] 34:3 play [3] 48:12 63:6 132:21 played [3] 49:20,21,24 playing [1] 151:16 please [8] 3:10 16:5 21:6 22:18 28:14 57:22 108:23 118:18 pledge [1] 4:23 plug [1] 48:11 plug-and-play [5] 8:4 15:13 47:13,15 152:15 plumbers [1] 43:11 point [18] 11:6 13:2 21:16,17,21,22 50:8 53:14 61:10,11 63:14 65:8,20 68:7 106:12 113:7 136:25 138:4 pointed [2] 28:12 93:4 points [1] 105:13 policies [3] 110:25 111:2 149:2 policy [4] 26:19 81:10 112:23 151:3	political [9] 4:12 50:15 79:22,25 80:6 130:9,12,15 152:9 popped [1] 22:1 portion [1] 128:18 pose [1] 107:9 posit [2] 144:7,24 posited [1] 145:3 position [8] 46:2 47:11 62:21 68:23 94:3,12,14 96:15 positions [1] 94:10 possess [1] 43:20 possibility [1] 136:20 possible [2] 57:5 77:14 possibly [1] 151:6 post [3] 5:21 113:18 135:6 posters [1] 65:3 potential [2] 64:4 68:9 potentially [1] 71:21 power [1] 152:22 powerful [1] 63:25 PR [1] 145:15 practical [1] 68:5 practice [3] 70:14 93:1,2 prayer [1] 65:14 pre-enforcement [5] 5:7,10 58:19 136:11,18 pre-made [1] 152:14 precedent [2] 4:1 96:21 precise [1] 131:4 precisely [3] 26:17 28:16 94:22 preference [1] 56:13 prefers [1] 41:15 premise [1] 128:25 premises [1] 30:4 preparing [1] 6:8 present [1] 77:12 presented [4] 14:19 62:25 69:13 70:19 presents [2] 112:10 136:9 preserved [1] 27:4 press [10] 4:14 13:1 86:15,17,18 87:17,19,24 90:4 92:9 pressing [1] 113:21 pressure [1] 137:11 presumably [1] 75:11 pretense [1] 131:12 pretextual [1] 45:16 pretty [1] 87:7 prevail [2] 45:25 146:9 pride [3] 98:24 100:2,17 principle [2] 121:5 153:23 principles [5] 43:9 44:6 138:10,11,14 print [4] 30:23 39:15 125:4 141:21 priors [1] 22:10 private [2] 55:5 137:21 Prize [1] 25:5 pro [3] 53:2 94:10,12 pro-abortion [1] 49:8 probably [1] 74:22	problem [14] 11:19 22:9 44:18 70:17 72:16,20 76:25 100:11 105:15 106:16 109:15 129:9 131:15 148:22 procedure [1] 77:13 process [3] 72:3 93:10,16 product [14] 26:8 29:9 45:15 47:18 52:21 55:15 64:7 89:11,12,14 92:3 109:3 148:17,20 products [6] 52:5,12 56:22 103:19 128:7 147:19 profess [1] 84:25 Professors [1] 96:13 profile [2] 74:2,11 program [4] 93:7,12,14,19 programming [1] 47:16 progress [1] 106:19 prohibiting [1] 127:21 prohibition [3] 82:19 126:11 130:21 prohibits [1] 79:20 Project [1] 136:15 projects [1] 42:24 promise [1] 9:7 promises [1] 152:25 promote [4] 98:15,25 99:4 143:25 promoting [1] 101:14 propagating [1] 22:25 proper [1] 94:7 properly [2] 117:13 120:12 proponent [1] 49:8 proposed [1] 12:8 protect [6] 9:7 29:12 45:7,9 92:22 148:5 protected [24] 10:22 13:25 17:12 22:16,21 24:2 28:7 36:25 47:20,21 70:10 75:9 82:16 83:1 92:24 99:6,21 101:24 115:9,19 142:10,13 152:10,11 protecting [1] 83:18 protection [4] 36:10 130:5 149:23 152:3 protections [2] 32:18 41:24 protects [5] 20:20 36:6 59:18 107:21 147:18 Protestant [1] 52:13 provide [37] 14:11 15:12 36:2 38:24 41:24 42:8 52:10 57:25 65:18,22 66:2,15 70:5 78:22,22 88:10 91:8,9,14 95:23 97:17,21 98:1,9 104:2 109:21 110:1,9 114:3 119:4,16,23 135:6 136:1,3,5 147:19 provided [5] 14:25 36:9 65:11 147:13 152:25 provider [3] 64:6,6 109:9 provides [8] 13:22 15:12 40:9 57:12 68:24 123:10	128:17 149:24 providing [10] 7:17 40:10,12,13 44:20 51:9 64:17 65:22 114:2 132:25 Provisions [1] 52:13 public [107] 3:15 13:23 17:14 24:4,17 32:17 34:18 41:23 42:9 51:9 53:25 54:5 55:5,7 57:24 59:19,24 60:3,9,11,17,19,23 61:8,16,19,25 63:1,3,23,25 64:8 68:13,25,25 69:3,6,17 70:7 71:11,22 72:4 73:7,21 74:19 75:10 79:20,20 84:1,4,4 87:2,8,23 94:21 95:1,7 99:10 101:1,22 102:2,12,13,18 103:2,4,9 105:17 109:2 115:1 118:13,23 120:12 121:9,17 124:21 125:2 127:5,16 128:3,5,10,12,15,18,21 129:7,8,13,19 130:2 131:8,10,10,15,25,25 132:2 144:25 145:13 146:3,14 151:15,19,23 152:23 153:9 publications [1] 17:10 publicist [1] 4:13 publish [13] 18:14,15,18 19:7 20:3 94:10,11,13,18 95:10,21 100:16 123:20 publishes [1] 100:19 publishing [8] 43:17 44:1 94:9,16,21 95:12,19,22 Pulitzer [2] 25:2,5 pure [1] 42:12 purporting [1] 50:24 purports [1] 51:8 purpose [3] 39:1 41:1 65:6 purposes [2] 55:20 124:5 pursuant [3] 93:7 111:23 126:7 pursuit [1] 154:3 pushes [1] 132:24 put [19] 15:8 22:22 44:9 48:1 57:1 66:20 71:17 73:17,19 78:5 81:11 82:4 85:12 90:24 95:17 106:10 109:10 122:11 132:21 puts [1] 67:17 putting [3] 15:14,18 42:5
Q				
question [40] 8:23 17:18 20:1 34:15 37:9 38:13 41:13 43:1,23 44:10 62:12 64:10,18 69:14 71:10,13 76:1,2 78:21 79:4,11 87:11 90:12 96:22,22 97:3 105:12,25 106:22 107:9 114:16 124:2 125:25 128:25 131:17 136:23 140:22 141:3,14 142:9 questions [18] 3:21 5:2 17:20 37:8 39:20 42:4 47:5 53:1 59:21 62:25 94:2 104:				

Official - Subject to Final Review

<p>1,4 105:6 109:7 110:11 122:5 136:13 quick [1] 52:1 quickly [1] 19:2 quite [3] 59:23 62:2 68:23 quote [1] 76:8 quotes [1] 58:11</p> <hr/> <p style="text-align: center;">R</p> <p>race [14] 13:13 14:2 23:25 26:2,3 56:14 59:4 81:20 84:5 104:3 119:8 130:7 143:1,5 races [3] 137:14,20 138:2 racist [1] 59:9 racists [1] 138:6 rack [1] 26:13 radical [1] 138:24 raise [2] 61:23 106:22 raised [4] 31:13 44:3 104:4 150:10 raising [1] 60:24 raison [1] 123:7 rally [1] 4:20 rare [1] 125:15 re-education [5] 5:1 93:7, 12,13,19 read [7] 43:15,21 97:13 114:17 117:11 119:13 132: 8 ready [3] 5:21,21 90:13 reaffirming [1] 42:9 real [3] 68:4,7 71:1 realized [1] 19:3 really [26] 6:5 9:24 10:3,8 21:18 23:25 26:13 51:4 70: 3,23 71:1,11 74:25 110:21, 23 111:3 114:2 121:4 130: 22 133:25 134:23 144:2 147:24 148:7,8,10 reason [12] 25:7,8 36:24, 25 96:17 98:2 105:4 115: 12 137:15 138:6 139:13 152:9 reasonable [2] 30:3 53:17 reasons [4] 36:4,16 124:12 133:20 REBUTTAL [3] 2:12 149: 10,11 rec [1] 123:3 reception [1] 116:22 recipe [1] 52:16 recipes [1] 52:8 recognition [2] 107:6 125: 13 recognize [4] 53:25 98:25 136:13 153:14 recognized [8] 9:5 65:1 72: 5 94:24 124:14 125:17 148:7,22 record [7] 61:14 63:21 70: 19 71:1 107:10,11 152:18 recruiter [1] 64:17 recruiters [5] 109:21 111:</p>	<p>13 112:21,22,24 recruiting [2] 111:22 113:9 Reed [1] 136:16 refer [1] 26:23 reference [1] 43:15 referenced [2] 113:22,23 referred [1] 135:12 referring [1] 118:10 refusal [3] 104:2 123:25 125:7 refuse [16] 9:13 14:11 31:2, 3 58:15 59:2,12,14 70:14 73:21,22 84:4 97:17 133: 11 147:22 149:14 refused [2] 153:14,14 refusing [5] 14:4 45:21 95: 21 124:17 139:10 regard [1] 63:12 regarded [1] 128:21 regardless [6] 73:8 75:12 119:8 120:5 142:22 146: 21 regards [1] 147:1 registry [3] 6:18 37:18 39: 8 regularly [1] 33:6 regulate [1] 67:25 regulated [1] 36:18 regulating [1] 61:9 regulation [8] 65:6 110:7 114:19 115:3 126:8 140: 24 145:6,9 rejection [1] 138:14 rejected [1] 148:24 rejecting [1] 136:16 rejects [1] 3:18 relabeling [1] 46:24 relate [1] 17:2 related [2] 18:23 128:7 relationship [3] 18:11 20: 12 50:3 release [8] 4:14 13:1 86:15, 17,19 87:19 90:4 92:9 releases [3] 87:17,24 145: 15 relief [13] 65:14 66:12 85: 21,25 90:22,25 91:1 117: 15 135:13,17,18 136:11,21 religion [13] 59:3,16 73:8, 24 78:15 81:5 83:19 84:6 89:9 104:5 124:25 130:8 133:7 religious [43] 4:11 6:22 23: 1,2 29:20,22 30:3 36:4,5,8, 10,13,16,25 42:16 52:12 59:7 77:16 86:15 87:19,24 88:6,19 89:6 90:1,7,18 91: 19 92:8,11,16,19,23 104: 10,12,14,21 105:1 112:15 113:5 118:22 142:4 152: 10 rely [3] 64:11 98:13 138:7 relying [1] 51:16 remember [1] 117:8</p>	<p>remind [1] 27:13 remove [1] 77:21 Reno [1] 54:14 repackaging [1] 46:25 repeatedly [1] 142:17 reply [2] 43:10 46:12 reprehensible [1] 28:8 represent [1] 16:12 representation [1] 94:5 reproducing [1] 26:10 Republican [3] 30:18 50: 12 125:1 Republican's [1] 4:14 request [2] 58:21 149:22 requests [1] 3:14 require [5] 32:19 57:25 85: 16 119:3 145:1 required [10] 38:24 39:18, 22 60:11 110:1,8 111:7 114:4 130:25 150:17 requirement [4] 63:12 80: 9,25 127:21 requirements [1] 80:7 requires [3] 87:12 90:17 91:15 requiring [3] 10:24 25:9 143:24 reservations [1] 39:10 reserve [2] 70:4,13 reserved [1] 10:13 reserving [2] 71:23 72:1 resolve [1] 42:6 resort [1] 4:15 resources [1] 99:18 respect [6] 41:14 42:17 62: 22 65:23 138:10,15 respectfully [2] 65:25 128: 2 respects [1] 119:10 Respondents [7] 1:7,21, 25 2:7,11 57:20 108:21 responding [1] 144:7 response [2] 17:19 146:12 responses [1] 64:25 restaurant [5] 33:12 52:4 53:9 60:16 69:19 restaurants [4] 43:12,25 44:12 51:3 restricting [1] 110:17 restriction [1] 126:12 results [1] 109:9 reverse [1] 154:4 review [2] 30:5 131:7 reviewed [2] 97:11 117:1 rightly [1] 125:17 rights [13] 43:20 45:8,10 50:6 83:14 100:15,16,23 101:12,14 105:2 151:25 153:24 rigorous [1] 81:2 ripe [2] 5:5,23 riverboat [2] 60:16 61:4 ROBERTS [47] 3:3 21:8 34: 16,22 35:2,13,18 36:1,14</p>	<p>37:1 41:9 43:5 47:2 50:19 57:16 62:6,8 63:8,20 64:9 65:19 66:4,6 79:14 83:22 84:8 93:24 97:7 103:22 108:15,18 110:12 111:1,12, 21 117:24 118:2,16,20 125: 20 132:4 138:17 143:18 147:5 149:8 150:10 154:5 room [3] 62:19 111:3,14 rooms [5] 64:17,19 109:19 150:15,16 rooted [1] 153:23 round [1] 100:17 routinely [2] 19:22 24:18 RSVP [2] 16:24 116:11 rule [8] 22:11,14 59:10 78: 19 135:9,10 137:7 150:6 rules [2] 42:8 50:2 Rumsfeld [5] 64:12 109:17 110:13,21 113:18 run [7] 98:24 99:13,24,25 100:1 101:13,16 running [3] 61:3 98:17 100: 5 runs [3] 98:18 122:24 142: 15 Runyon [1] 137:12</p> <hr/> <p style="text-align: center;">S</p> <p>sale [3] 4:3,3 46:25 sales [3] 58:6 69:3 151:21 same [52] 4:7,16,17 11:10 12:24 14:20 17:14 20:18 23:22 28:24 29:21 35:3,18 38:17,21 39:17 42:1 45:9 46:14 47:22 48:17,17 49:4, 12 52:11 55:1,25 56:1 62: 18 65:17 75:12 83:16 97: 17,24 98:9 110:9 111:24 114:2 121:19 124:13,18 127:13 129:14,25 132:19 134:3 138:10 144:20 147: 15,25 148:7 153:24 same-sex [55] 4:9 7:12 10: 14 14:11 22:5 29:15,21 35: 24 39:25 42:25 43:14 44: 22 45:8 48:19 49:13 65:11, 16,21 66:3,15,22 67:17,19, 21 71:19 79:10 80:16,18 81:14 86:2 92:4 94:12,14 96:14 98:25 99:1 100:20 104:12 107:22 119:17,18, 20 120:10 124:4,13,17 125: 10,18 126:20 127:14,17 135:7 136:5 144:1 147:2 sang [1] 50:11 Santa [19] 26:8,11,15,20,22, 24 27:4,6,21 54:17 75:2,4, 7 79:19 121:21,23 122:8, 12,14 Santa's [1] 28:1 satisfies [1] 58:8 satisfy [4] 80:7,8 98:21 146:15</p>	<p>Save [3] 12:9,11 116:3 saw [5] 37:15 38:8 43:8 134:10,11 saying [45] 8:18 9:12 10:8 11:11 17:2 21:21 24:13,16 27:4 30:10,13,15,23 31:9, 10,15 32:9,22 33:10,18 34: 8,10 35:5 39:15 51:16,23 53:9 78:3 95:23 109:11 113:3,5 114:22 115:7,17 120:8 122:7 126:21 130: 16,19,20 133:16,17 135:5, 6 says [57] 4:2,6 7:4,6,11 12: 9,11 16:13,14 22:14 27:6 31:16 66:13 68:1 70:2 76: 8,9,16,17,24,25 77:1,3,5 78:10,14 87:1 90:14 92:1, 8,10 94:9 95:7 97:24 98:1, 20 106:6,11,23 116:3,5 117:5 122:18 128:11 131: 6,18 132:15 133:10 135:15, 16 140:24 146:19 147:17 148:2 149:14 151:17,18 scenario [2] 5:17 51:14 scene [3] 27:20 57:1 122: 10 Scenes [8] 26:8,11,21 27:2, 2,4 55:9 121:21 schedule [1] 6:15 school [7] 4:22 81:15 111: 20 137:13,18,22,24 school's [2] 109:19 111:18 schools [13] 64:16 65:2 109:20,25 110:8,22 111:7 112:23 113:7,12,21 148:25 151:1 Scientology [2] 86:19 143: 25 scope [2] 117:15 120:12 score [1] 71:2 scratch [1] 52:6 scripture [7] 4:8 9:2 10:6 20:18 37:25 38:2 39:25 scrutiny [4] 80:1 83:11 129:4 146:15 sculptor [2] 4:18 41:7 season [1] 26:7 seat [1] 62:18 second [8] 10:23 20:7 45: 12 65:8 68:7 72:24 134:20 150:10 see [17] 14:23 31:15 48:7 60:19,22 61:16,22 66:18 75:15,16 84:21 85:12 107: 11 116:1,24 130:23 150:5 seeing [1] 57:3 seek [3] 65:16 66:17 105:8 seeking [3] 79:8 112:1 135: 13 seeks [11] 58:16,18 59:6 65:13 66:12 85:21,25 90: 23,25 149:22,22 seem [3] 30:10 47:6 150:8</p>
---	--	---	--	---

Official - Subject to Final Review

<p>seemed [3] 20:3 104:1 129:7</p> <p>seems [7] 17:22 44:24 48:20 57:7 64:12 102:25 124:7</p> <p>seen [2] 51:14 68:10</p> <p>segregation [2] 137:15,18</p> <p>select [1] 94:17</p> <p>selective [4] 72:3 73:13 131:19 132:2</p> <p>selectivity [12] 64:3 69:7, 11,20 71:23 72:2 94:23 129:11,15 130:25 131:6,13</p> <p>self-government [1] 154:2</p> <p>sell [39] 4:5 13:14 26:2 49:11 51:22 52:4 53:10 55:16, 22 56:7,23 58:2,10,14,22 68:2,14,15,21 73:21,22 89:8,12,18,20,24 90:8,14,15, 16 92:2,6,10 120:3,9 121:25 128:7 143:4 151:22</p> <p>selling [4] 48:15,19 50:23 51:24</p> <p>sells [2] 47:17 73:18</p> <p>send [9] 12:18,19,20,21 33:16 114:25 122:20 133:25 150:15</p> <p>sending [2] 11:12 111:8</p> <p>sends [1] 33:13</p> <p>sense [5] 49:9 50:25 112:6 130:1 132:8</p> <p>sentence [1] 81:6</p> <p>separate [2] 80:2 109:20</p> <p>separately [1] 86:10</p> <p>sepia [2] 26:12 27:22</p> <p>serious [3] 96:21,22 97:3</p> <p>serve [19] 13:12 23:6 31:3 32:23 33:11 34:5,5 43:14 45:21 58:15 59:14 60:11 70:15 84:5 109:11 124:17 125:5 142:18 143:2</p> <p>served [1] 59:12</p> <p>serves [3] 3:13 33:6 131:25</p> <p>service [37] 14:11 15:10 24:15 34:10,13 47:25 53:23 59:2 64:5,6 65:21,23 67:23 68:24 69:8 70:14 71:20 73:7 74:3,20 78:23,25 81:24 84:24 87:13,14 88:10, 11 92:3,13 95:23 96:3 122:21 129:23 133:1,2 139:10</p> <p>services [25] 35:5 40:7,10 58:1,25 67:23 69:3 70:3,4 74:18 78:21 98:7 104:3 109:10,21 110:1 113:20 115:18 117:17 120:9,10 128:18 131:19 132:25 135:25</p> <p>serving [12] 13:25 14:3 31:4 33:2 54:23 63:12 67:16 84:4 109:4,13 115:3 129:19</p>	<p>set [5] 58:8 81:1 134:18,20 146:3</p> <p>sets [1] 62:2</p> <p>seven [1] 116:14</p> <p>several [1] 93:3</p> <p>sex [9] 38:21,21 48:18 83:19 84:5 100:21 127:13,14 130:7</p> <p>sexist [1] 59:9</p> <p>sexual [8] 20:11 59:3 84:6 104:2 105:9 119:9 120:5 130:8</p> <p>sexuality [1] 19:15</p> <p>shape [1] 33:22</p> <p>share [1] 52:11</p> <p>She's [23] 3:24 5:20,21 7:17 11:16,20,21,21 33:22 36:21,22 37:22 39:25 49:16 52:3 135:13,14 141:3 147:24 148:2,15,16 151:23</p> <p>shelf [2] 51:8 84:24</p> <p>shift [1] 153:2</p> <p>shingle [1] 56:21</p> <p>shockingly [1] 153:14</p> <p>shoes [1] 116:13</p> <p>shop [1] 30:23</p> <p>shopping [1] 26:6</p> <p>shots [1] 122:19</p> <p>shouldn't [1] 61:24</p> <p>Show [7] 15:20,21,22 16:5 31:18 80:12 82:9</p> <p>shows [1] 60:10</p> <p>side [13] 25:15 29:6 43:18 44:3 62:1 70:21 96:16 129:6 132:22 140:2 144:7,13 151:16</p> <p>sides [1] 61:14</p> <p>sign [5] 27:5 35:11 109:10 135:6 151:23</p> <p>signature [1] 57:2</p> <p>significant [9] 127:10 128:18 149:18</p> <p>significantly [1] 110:14</p> <p>silly [1] 127:25</p> <p>similar [5] 3:20 8:12 65:7 112:25 149:1</p> <p>similarly [1] 60:2</p> <p>simply [9] 4:4 36:5,16 46:24 53:23 64:1 71:23 110:17 124:5</p> <p>since [1] 71:7</p> <p>sincere [2] 113:5,8</p> <p>sincerely [1] 59:7</p> <p>single [3] 42:7 81:5 86:1</p> <p>sit [3] 34:1 52:14 113:13</p> <p>site [9] 18:14,16 37:17 38:5, 8,8,16 39:6 40:18</p> <p>sitting [3] 47:8 82:7,7</p> <p>situation [9] 11:7 28:3 51:5 52:24 104:13 106:13 141:16,19 147:13</p> <p>situations [3] 31:12 36:12 104:15</p> <p>six [3] 5:19 19:3 152:18</p>	<p>sleeping [1] 42:5</p> <p>slide [2] 22:10,19</p> <p>slipping [1] 56:17</p> <p>sliver [2] 67:9 71:16</p> <p>Smith [24] 3:11,23 4:4,7,24 5:12 15:11 17:23 33:5,15 34:20 41:21 76:24,25 112:1 115:14 118:6 133:9 134:24 135:5 140:23 149:22 150:7 153:7</p> <p>Smith's [7] 5:18 35:21 76:8 113:5 142:12 152:17,22</p> <p>soccer [1] 151:21</p> <p>sold [2] 47:22 152:2</p> <p>sole [2] 66:11 99:20</p> <p>solely [7] 73:23 79:7 97:18 98:10 103:19 114:24 128:7</p> <p>Solicitor [2] 1:20,22</p> <p>Solomon [1] 111:23</p> <p>solve [1] 106:14</p> <p>solving [1] 106:19</p> <p>somebody [1] 82:9</p> <p>somehow [3] 58:2 146:24 150:12</p> <p>someone [16] 17:10 26:2 31:25 73:23 81:23 85:16 87:14 92:13 93:18 95:8,24 97:24 114:3 121:7 125:4 150:24</p> <p>someplace [1] 37:15</p> <p>sometimes [3] 21:20,24 65:12</p> <p>song [4] 49:17,23 50:4,10</p> <p>songwriter [1] 49:16</p> <p>sorry [15] 5:25 8:24 15:20 21:4,12 25:22 27:16 29:18 62:7 64:5 66:7 118:17 127:14 136:17 140:10</p> <p>sort [21] 6:25 25:24 37:11 50:22 51:15 56:17 62:11 71:5 72:3 83:15 110:13 112:7 114:5 120:25 129:17 131:3 134:9,11 147:9 148:3,22</p> <p>sorts [3] 59:9 113:20 121:13</p> <p>SOTOMAYOR [48] 12:2,6, 16 13:5,17,19 15:20 16:3,5, 9,13,18 22:18,20 23:9,16, 24 24:4,8,10,13,21,24 25:3, 19,22 30:7,22 31:1,14,23 32:2,6,21 33:8,17 34:1,12 37:5 40:8 83:23,24 115:24 117:3,4,19,25 132:5</p> <p>Sotomayor's [2] 17:20 28:12</p> <p>soulmates [1] 18:12</p> <p>souls [1] 20:14</p> <p>sounds [1] 40:5</p> <p>space [2] 102:8 150:21</p> <p>sparse [1] 61:14</p> <p>speaker [7] 8:1 10:25 23:14 46:22 52:4 121:6 145:2</p>	<p>speaker's [2] 10:23 153:4</p> <p>speakers [2] 123:9 144:10</p> <p>speakers' [1] 62:23</p> <p>speaking [11] 11:22 31:8, 16 32:8 35:20 52:19 53:13 54:8,16 61:25 88:3</p> <p>special [2] 16:23 116:8</p> <p>specialized [1] 34:4</p> <p>specific [7] 28:4 65:14 71:6 85:21,25 90:22,25</p> <p>specifically [3] 101:18 113:23 128:24</p> <p>speech [185] 3:15,19,21,23 4:4,7,10,11 5:19 8:6 9:16, 25 10:4,9,17,19,21 11:2,22 13:2,3,20,24 15:11,16,16 16:2 17:11 19:13,22 20:19 22:6,7,14,16,21 24:14,18, 20,25 28:8 29:3,12 30:14 31:11,12,13 32:11,12,13, 14 33:23 34:11,18 35:9,25 36:10,12 38:23 39:11,18, 21 40:13,14,17 41:2,13 42:4,10,12,15 43:13 44:2,14, 15,15 45:2,5,9,11,17 46:18, 25 52:25 53:1,2 54:11,12, 21 55:20,21 56:20,24 59:5 60:4,18,21,24 61:3,5,9,17 62:13 63:10 64:14,16,19, 22 65:2,4,12 78:17 82:20 84:23 86:14 88:18 89:14, 17 91:24 92:8,10 96:18,23, 25 97:12,14,18,21 98:3,15, 16 105:7 107:12 108:12 109:3,25 110:6,9,16,17,19 111:10,24 112:4,7 114:2, 18 115:10,11 121:5 123:20 126:1,2,4,12 132:22 144:9 145:5,13 146:2,18,19,20, 23 149:5 150:1,4,4,18,19, 19 151:4,8,12 152:1,9,10, 15,15,17 153:3,4,11,15 154:1</p> <p>speech-based [1] 117:25</p> <p>speeches [9] 81:25 82:11, 14 88:19,21 144:4,16,21 145:14</p> <p>Spence [1] 108:3</p> <p>spend [2] 5:4 59:25</p> <p>spent [1] 59:22</p> <p>spirit [1] 150:23</p> <p>spirits [1] 116:22</p> <p>spoke [1] 22:4</p> <p>spoken [1] 41:12</p> <p>square [1] 152:23</p> <p>squarely [1] 148:24</p> <p>stand [1] 117:8</p> <p>standard [12] 6:11 8:19 37:17 38:5 39:5 67:2 76:18, 19 107:16 113:2 123:9 130:5</p> <p>standardized [1] 66:21</p> <p>standards [1] 98:22</p> <p>standing [1] 84:16</p>	<p>stands [1] 123:6</p> <p>start [3] 16:7 124:12 132:18</p> <p>started [2] 54:1 114:21</p> <p>starting [1] 82:6</p> <p>starts [2] 113:25 130:3</p> <p>state [15] 4:3 67:25 68:1 71:8 79:19 81:11 83:15 128:15,16 129:1,17,20 130:1 131:2 146:15</p> <p>state's [1] 83:11</p> <p>stated [2] 118:4 147:14</p> <p>statement [14] 5:22 20:8 46:19 54:1 77:19,22 78:10 79:6 105:16 106:1,2,4,14 113:14</p> <p>statements [4] 53:1 112:16 113:9 114:6</p> <p>STATES [14] 1:1,15,24 2:10 32:15 41:16,20 49:4 108:20 121:3 146:10 149:14 150:12 152:8</p> <p>States' [1] 46:21</p> <p>station [1] 39:15</p> <p>stationer [1] 39:14</p> <p>stationery [1] 39:16</p> <p>status [32] 53:20 56:2 57:11 68:16 79:7 115:5,17,19, 22 123:25 124:6,8,15,19 125:15 133:1,3 135:11 139:9 140:2,5,14,25 141:22 142:10,13,23 143:8 146:22,22 148:16,18</p> <p>status-based [11] 66:9,16 117:20 120:11 125:7 141:3,15 142:8 143:12 146:25 147:3</p> <p>statute [12] 35:8 36:7 68:22 70:1,22,25 83:7,8,9 92:23 151:17,18</p> <p>stay [1] 8:20</p> <p>steal [1] 139:23</p> <p>step [1] 55:21</p> <p>Steve [2] 11:9,13</p> <p>still [12] 13:1 17:11,12 29:11 78:19 84:12 91:20 95:1 119:25 132:2 143:5 146:25</p> <p>stip [1] 119:12</p> <p>stipulated [13] 5:12 14:15 33:4 42:22 63:2 70:19,21 71:13 91:17 107:8 119:14, 15 142:16</p> <p>stipulation [2] 118:3,22</p> <p>stipulations [15] 85:2,20, 23,24 86:6 97:10,12,16 106:20,21 107:1 117:14 118:8 119:6 136:2</p> <p>stock [1] 47:17</p> <p>stop [3] 65:20 74:25 87:25</p> <p>store [4] 58:13,16 128:6,10</p> <p>story [27] 15:24 16:15,15, 19,20,20,22,25 17:5,6,11 18:1,7,8,24,25 19:5 23:5,</p>
--	---	---	---	---

Official - Subject to Final Review

18,20,21 35:23 77:24,25 78:1 98:6 101:17 storybook [1] 18:4 straightforward [1] 61:6 stream [4] 32:12 47:25 48: 1 50:7 strong [1] 133:24 stronger [1] 134:6 strongest [2] 5:9 47:7 strongly [2] 93:20 104:25 structure [1] 149:1 struggling [1] 90:20 student [1] 123:2 students [1] 138:1 stuff [1] 91:17 subject [3] 25:6 118:13 153:22 subjective [2] 62:16 63:14 submitted [3] 72:12 154:7, 9 subscribed [1] 118:6 substantial [1] 129:3 substitute [1] 7:5 subtly [1] 71:18 successfully [1] 42:2 sufficient [1] 148:23 sufficiently [2] 73:13 129: 3 suggest [2] 25:25 53:4 suggested [3] 40:8 104:23 150:12 suggesting [4] 35:10 74: 13,15 107:18 supply [2] 69:10 70:10 support [8] 41:21 78:15 94: 10,11,12 110:3 149:2,4 supported [2] 96:14 130: 21 supporting [4] 1:24 2:11 51:18 108:21 suppose [13] 7:10 12:5 14: 9,9 26:4 70:1 75:18 79:19 81:23 128:16 131:16,17 146:6 supposed [1] 133:14 SUPREME [2] 1:1,14 sweeping [3] 59:6 109:9 121:10 switch [1] 11:23 switching [1] 11:24 symbolic [3] 40:14 45:5 46: 8 symbols [1] 42:12 sympathize [1] 138:15 systems [1] 90:5	T tag [4] 6:24,25 7:8 35:4 tailor [1] 126:19 tailored [1] 30:21 tailors [3] 43:12,25 60:21 takeout [1] 33:12 talked [4] 72:25 81:7 102: 24 108:4	T target [1] 57:24 targeting [1] 127:22 targets [2] 58:3,5 tax [2] 125:14,14 Taylor [1] 142:14 teach [3] 137:17,18,25 tech [1] 59:13 technology [1] 3:11 tells [1] 8:19 templates [1] 7:17 Tenth [3] 54:3 86:11,25 terms [18] 7:14 15:1 29:14 42:22 46:18 48:22 50:3,4 52:24,25 53:15 56:14 63:8, 9 70:17 92:2 149:20 151:4 test [9] 3:22 42:1 53:16 57: 9 108:25 129:4 134:2 148: 14 150:5 tests [2] 45:4 53:17 text [4] 10:20 48:17,23 49: 11 theme [1] 17:24 themes [1] 73:2 themselves [4] 47:20 60: 10 102:12 129:19 theories [1] 44:19 theory [7] 4:12 44:25 50:13 92:25 94:5 121:8 122:17 there's [46] 6:24 9:2,3,3,13, 14 10:3 18:1,18 22:15 24: 7,18 25:7 26:1 30:1,5 39:6 45:7 50:5,16 51:19 53:21 56:11 57:10 63:14 69:8,11 75:3 77:15,18,22 78:12 80: 12,12 96:6 97:3 105:25 107:6,9 108:8 117:5 124:3 129:9 131:18 133:2 138: 24 therefore [2] 58:3 96:20 they've [2] 42:2 151:17 thinking [3] 94:6,8 105:15 thinks [3] 128:9 140:2 141: 8 third [6] 33:23 78:3,4 113: 22 144:2,14 Third-party [1] 151:6 THOMAS [10] 5:3 37:3 59: 22 60:6,9,13 61:1,15 79:16 125:21 Thomas's [1] 62:12 though [10] 18:20 20:19 40: 18 53:24 78:2,20 86:20 97: 2 102:9 105:20 thoughts [1] 26:6 thousand [1] 56:18 threat [1] 72:22 three [1] 144:6 thumbs-down [3] 79:1,2,9 thumbs-up [3] 79:1,3,8 thunder [1] 139:24 tied [2] 115:21 133:3 tiny [1] 71:16 today [10] 5:21,22 19:5 42: 1 60:21 63:24 109:7,14	117:8 132:18 together [2] 9:15 78:6 tomorrow [1] 7:10 tone [2] 26:12 27:22 took [4] 17:20 44:4 77:21 135:21 tool [1] 153:5 topic [1] 4:7 Tornillo [1] 150:3 total [1] 65:15 totally [1] 107:9 touch [2] 88:20,22 tougher [1] 134:22 toward [1] 42:20 towards [1] 106:19 town [3] 6:17 116:6 122:25 trade [1] 61:19 tradition [3] 59:24 60:3 61: 10 traditional [3] 123:6 129: 17 130:7 traditionalist [1] 142:3 traditions [1] 88:20 train [2] 60:16 61:3 training [1] 93:7 transaction [1] 66:11 transcends [1] 18:11 transformed [2] 81:8,9 travel [2] 6:16 8:20 treatises [1] 61:11 trickier [1] 78:17 tried [1] 146:11 troubling [1] 138:3 true [1] 45:23 truly [1] 114:18 truth [1] 154:3 try [1] 100:3 trying [19] 26:15,17,22 27: 22 52:2,19 56:24 70:17 71: 14 99:4 105:15 122:3 134: 16 144:18 147:9 148:10,11, 14 151:22 turn [11] 12:8 58:19 65:15, 21 86:1 95:8 101:19,23,25, 25 140:25 turn-down [1] 124:6 turned [2] 19:3 65:10 turning [7] 67:18,21 103: 18 124:4 141:22,23 142:3 turns [2] 99:1 100:21 Twenty [1] 41:20 two [17] 3:21 6:6 9:15 15:9 23:4 61:15 64:25 67:13 85: 17 90:19 91:21 92:21 108: 2 109:4 137:5,9 138:20 two-part [1] 108:25 type [3] 65:23 112:4 117:16 typefaces [4] 7:2,18 8:13 10:11 typically [2] 50:22 100:8	138:12 uncertain [1] 92:2 unconstitutional [1] 82: 21 undeniably [1] 3:24 Under [23] 4:12 8:2 18:8 35: 7 36:7 44:25 50:12 54:5, 14 66:1 75:9 80:11 83:10, 10 87:6 92:23 99:7 105:7 106:7 121:8 129:4 151:24 152:11 undermining [1] 121:14 understand [29] 9:12 17:5 21:20 36:15 46:6 52:2 57: 1 60:13,14 61:6 66:19,19 68:3,20 70:1 71:12,14 76: 3 90:20 96:2 106:7 107:3, 5,5 118:7 120:15 125:24 127:2 141:20 understanding [1] 87:8 understood [2] 42:14 141: 23 unfettered [1] 151:11 union [9] 20:14 67:4 76:22 78:4 105:14 106:5 120:4 132:11 133:14 unions [3] 42:19 99:3 102: 6 unique [1] 5:13 UNITED [11] 1:1,15,24 2:10 46:21 49:4 108:20 121:2 149:14 150:12 152:7 University [1] 104:17 unless [4] 5:24 128:11 149: 15,16 unlike [5] 77:24 78:1 91:24 96:19 144:8 unlikely [3] 14:3 48:20 101: 1 unmarried [1] 73:25 unmistakable [1] 118:23 Until [1] 146:8 unusual [3] 100:7,11 101: 21 up [22] 7:10,23 22:1,19 24: 20 37:22 38:14 39:14 47:9 54:25 62:11 67:1 75:6 82: 6,9 91:1 94:2 109:10 130: 3 143:21 151:5 152:13 upcoming [2] 39:2 72:15 upend [1] 59:17 upheld [2] 110:16 149:6 upshot [1] 122:17 using [5] 3:12 15:15 32:17 95:22 112:22	136:15,16 137:12 140:14 148:12 video [1] 55:10 videos [3] 10:20 45:5 48: 18 view [19] 9:9 20:22 21:14, 16,17,22,22 26:9,21 27:19 90:17 109:5 115:12 122: 13 127:16 129:7 134:15 140:9 141:14 viewer [1] 107:2 viewing [2] 25:4 118:23 viewpoint [1] 140:3 views [22] 9:6 18:22 27:18 59:10 80:23 87:19,24 105: 22 112:15 123:7 124:24 127:12 138:5,9,13,15 139: 11 142:3 146:19 149:16 152:22,23 vile [1] 28:7 violate [7] 3:17 20:17 27: 18 39:22 144:4,16,21 violates [8] 9:10 16:2 25: 16 36:23 46:23 58:3 96:5 150:24 violating [3] 51:25 128:10, 12 violation [1] 67:11 violent [1] 28:8 virtual [1] 151:21 Volokh [1] 96:13 vow [1] 83:14 vows [3] 81:25 82:11,14	W WAGGONER [118] 1:18 2: 3,13 3:6,7,9 5:6,24 6:1,3 7: 14,25 8:9 9:1,4,16,23 10: 15 11:17,20 12:3,14,24 13: 16,18,21 14:8,17,25 15:4,5, 10 16:1,4,8,11,17 17:7,15, 17 18:15 19:8,18,24 20:6, 15 22:13,19 23:8,13,19 24: 3,6,9,12,16,23 25:2,5 27: 10 28:4,16,19,24 29:8,24 30:15 31:9,21,24 32:4,10 33:3,15,21 34:9,14,17 35:1, 9,17,20 36:8,19 37:21 38:3, 17 39:1,24 40:12,24 41:20 42:21 43:3 44:13 45:12 46: 3,8,17 47:21 48:13 49:25 52:23 53:13 54:10,13,20 55:25 56:8 57:7,15 108:24 117:17 135:23 137:8 149: 10,11,13 wait [1] 69:10 waiting [1] 82:8 wake [1] 7:23 wakes [1] 7:10 walk [1] 106:11 walks [3] 76:7,16,17 wanders [2] 129:17 146:16 wanted [6] 37:7 52:10 103:
--	--	---	--	--	---	--

Official - Subject to Final Review

25 115:9 137:13 141:24 wants ^[16] 26:9 58:2 66:21 68:12 69:7 89:25 98:8 100: 16,18 121:23,25 123:17 130:3 135:14,25 148:5 wares ^[1] 68:14 Washington ^[3] 1:10,18, 23 wavered ^[1] 20:4 way ^[48] 12:24 17:14 20:18 23:22 26:20 33:9,19 35:1 37:11 38:25 44:9 45:20 47: 22 50:10 53:8,22 55:25 56: 1 62:4 64:3 69:13 80:25 81:5 96:3 105:6 109:15 112:10 114:16,16 124:23 126:19 127:4 130:20 134: 19,22 138:21 139:17 140: 16 142:1,8 143:10 146:24 147:1 148:6,7,12 149:25 152:16 ways ^[1] 132:9 weaker ^[2] 129:19 130:22 web ^[11] 28:11 30:23 48:16 59:11 81:14 102:8 106:6 107:21 118:4,24 122:24 website ^[137] 5:22 6:11 7:1, 3,20 8:4,5,19,24 9:1 11:5, 7,10,13,25 12:8,17,21 13:7, 17 14:10,12,20 15:5,7,8,13, 15,21,23 16:6 17:21,22 20: 16,20,21 25:13 31:15,17, 18 32:7,8 34:23 35:3 40: 16 43:24 44:7,8 46:16 47: 14 48:16 49:12 58:21 65: 10,17 66:3,20,21 67:7,16, 17,18 68:8 70:2,5 71:11,17, 17,21 72:14,15,19,19,23 73:1,4,16,17,18,18,19,23 74:8 76:18,19,22 78:5,12 79:3,4,8 85:14 90:16 94:7 95:18,20 96:19 97:22,25 98:9 106:6,8,10,24 107:2,4, 13,23,25 108:10 112:9,9 116:1 117:1 118:10,11 119:1,17 120:3 123:9 125: 4 126:18,19,20,22 127:7,8, 10,22,23 133:10 141:21 142:14,19 147:22,23 152: 19 websites ^[33] 6:9,19 7:12, 15 21:15 35:14,14,22 36:2 39:2,12 48:5 54:13 58:2, 11 73:20 74:22 84:23 90: 15 91:9,11,14 107:11 113: 2 117:12,13 118:11,13 119: 1 123:1 135:7 143:3 144:1 wedding ^[58] 5:14 6:13 9: 17,18 10:13 11:16 12:17, 22 17:21 18:7 28:14,17 31: 18 39:2,3,5,9,17 40:6,7,10, 15,16,25 43:14 44:16 46:5 48:21 49:12,19,21,22 50:4 58:21 65:24 66:2,3,15 73:	3 81:24 82:1 91:8 107:2,7, 13,23 108:10 112:11 113:1, 6 119:17,19,20 120:11 133: 10 143:5 148:1,4 weddings ^[5] 39:25 49:24 99:24 100:1 105:8 welcome ^[3] 5:2 59:21 110: 11 whatever ^[9] 10:11 38:11 60:1 62:16 68:1 73:20 104: 22 107:7 123:4 whatsoever ^[3] 69:7 107: 10 108:9 whenever ^[1] 109:12 where's ^[1] 13:11 whereas ^[1] 140:10 Whereupon ^[1] 154:8 whether ^[36] 4:11 5:4 10:2 11:21 17:8 19:11 23:15 24: 18,19,19 36:17,23 40:14 42:5,11 45:2,10 47:24 53: 2 54:21 56:19 60:2 61:2 71:11 75:13 77:8 84:23,23 105:25 107:11 117:8 124: 4 125:25 135:19 142:21 147:11 whims ^[1] 153:2 white ^[12] 23:12 26:19 27:5, 6,23 31:5 32:24 55:13 56: 23 75:13 99:25 143:4 who's ^[8] 17:4 46:15 75:6 78:5 106:16,16 132:25 146:23 whole ^[5] 13:2 39:6 53:6 64:21 78:5 whom ^[3] 13:12 86:16 88:7 wide ^[2] 88:5 107:9 will ^[48] 22:9 26:23,25 27:1 34:5 46:4 47:24,25 65:18 66:2 68:8 70:5,6,15 71:18 74:7,25 82:9 86:25 90:3,3, 14 91:9,13 92:2,6,10 94:18 95:10,12,12,23 98:1,9 106: 11,12 107:3,4 114:9 118: 23 119:16 128:24 133:9 135:6 142:14,17 148:3 150:5 William ^[1] 22:2 willing ^[4] 27:24 37:23 119: 7 133:4 win ^[2] 45:24 57:11 Wind ^[1] 49:17 window ^[1] 33:12 Wings ^[1] 49:18 wins ^[1] 56:4 wish ^[1] 77:16 within ^[7] 83:6,7,8,8 117: 13 120:1,12 without ^[2] 63:12 135:1 woman ^[12] 9:9 10:2 18:17 19:12 58:13 67:5 72:13,18 106:9 126:24 147:21 149: 18 woman's ^[1] 7:5	women ^[2] 122:19,20 women-led ^[1] 59:13 wonderful ^[11] 40:20,22 55:8,11,17,23 57:4 78:14 121:22 133:7,11 wondering ^[4] 77:7 78:7 132:13 147:11 Wooley ^[2] 150:22 151:9 words ^[15] 3:12 10:20 36: 15 38:18 45:4 49:4,10 79: 8 82:4,4 91:16 96:22 110: 17 112:19 134:2 work ^[10] 19:1 25:10 51:20, 20,21 91:4 119:7 120:16 124:22 127:5 worked ^[1] 24:7 workplace ^[1] 122:21 world ^[4] 57:2 68:4,7 122: 12 worst ^[1] 151:5 wow ^[1] 40:20 writ ^[1] 15:22 write ^[23] 4:14 17:9 18:8 30: 8 82:10,14 86:14,18 87:16, 18,23,25 88:19,20,21 90:4 91:15 144:3,16,21 145:6 146:20,23 writer ^[12] 86:18,18 87:1,22 88:18 91:24 92:8,9,9 144: 20 145:1 146:18 writer's ^[2] 13:2 83:14 writers ^[6] 54:2,4 86:12 144:3,15 146:2 writes ^[3] 12:25 18:25 49: 16 writing ^[4] 17:10 63:6 81: 24 145:14 written ^[2] 18:2 31:25 wrote ^[1] 80:15 <hr/> Y <hr/> yarmulkes ^[1] 125:14 Yates ^[1] 49:3 year ^[2] 6:7 100:17 years ^[8] 5:19 62:3,9,10 86: 24 93:3 116:14 152:18 York ^[3] 98:19 99:22 100: 14 yourself ^[1] 85:14
---	--	---