ARIZONA SUPREME COURT

BRUSH & NIB STUDIO, LC, a limited liability company; BREANNA KOSKI; and JOANNA DUKA,

Petitioners/Plaintiffs/Appellants/
Cross-Appellees,

v.

CITY OF PHOENIX,

Respondent/Defendant/Appellee/
Cross-Appellant.

Supreme Court
No. CV-18-0176-PR

Court of Appeal
Division One
No. 1 CA-CV 16-0602

Maricopa County
Superior Court
No. CV2016-052251

BRIEF FOR *AMICI CURIAE* LAW AND ECONOMICS SCHOLARS IN SUPPORT OF PETITIONERS

WRITTEN CONSENT OF PARTIES OBTAINED

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INTEREST OF AMICI CURIAE

The *amici* listed in the Appendix are scholars in law, economics, and philosophy who study, teach, and have published on the application of economic principles to the law and to public policy. *Amici* submit this brief to bring to the Court's attention critical economic analyses that bear on the issues in this case. In particular, *amici* show that proper economic analyses demonstrate that application of antidiscrimination laws in cases such as this diminishes social welfare. In addition, *amici* address common arguments that any accommodation of religious persons under the antidiscrimination laws would cause dignitary harm and reduce diversity.

INTRODUCTION

The Court of Appeal held that a city ordinance requires Brush & Nib Studio, and its owners, Breanna Koski and Joanna Duka ("Petitioners") to provide custom-made art and calligraphy products that celebrate and promote same-sex marriage, despite their sincerely held religious beliefs that preclude them from doing so. This ruling means that the government may coerce Petitioners (and every other person engaged in any form of commerce) to either provide products and services that promote ceremonies contrary to their religious convictions or abandon the marketplace. 418 P.3d 426, 444 ¶ 49.

This absolutist position is entirely without support in logic, policy, or precedent. Basic economic principles demonstrate that application of

antidiscrimination laws to coerce those with sincere religious objections is unnecessary to ensure access to goods and services to same-sex couples. That point is even more true when the only exception sought by Petitioners is limited to that tiny sliver of the market where a customer requests custom-made art that conflicts with the artist's religious beliefs.

There is, moreover, no social reason to force such merchants to conform to the dominant social consensus. Artists such as Petitioners are typically small businesses consisting of one or two individuals with no market power. Due to a plethora of online vendors, competition among such businesses is national in scope. Competitive market forces have produced, and will continue to produce, providers willing and eager to provide products and services for same-sex weddings (as revealed by a simple internet search for "gay friendly" wedding vendors). Indeed, the ordinary give-and-take of the market will lead to better provider-consumer matches, lower prices, and greater market coverage than any coercion regime.

Market forces also ensure that exceptions are narrow and limited. It is not in the interest of any vendor to separate itself from its customer base. It is therefore no surprise that Petitioners and those like them only seek to decline requests to create art that conflicts with their religious scruples. As Petitioners' behavior demonstrates, they neither seek nor want a blanket exception to providing products to a class of persons. Petitioners simply seek

to avoid being coerced to produce artwork for same-sex weddings in violation of their religious beliefs.

At the same time, Petitioners and others like them are all too aware that in today's world of social media they will face inspired boycotts and social pressure, including insults and threats of violence from groups with political power and influence far greater than their own. Under Phoenix's antidiscrimination ordinance, consumers, gay rights organizations, and other businesses may freely discriminate against merchants such as Petitioners, explicitly based on a dislike for their religious beliefs. Thus, the fear that allowing religious-based exceptions will "fatally undermine" the goals of anti-discrimination laws (*State v. Arlene's Flowers, Inc.*, 389 P.3d 543, 559 (2017)) is entirely unfounded.

In contrast, enforcing Phoenix's antidiscrimination law against isolated religious believers like Petitioners will diminish social welfare in two ways. It will either force unwilling associations or force the exit of a class of market participants. The former market distortion results in poorly matched providers and consumers. The latter reduces social welfare by removing from the market merchants that some consumers may prefer (with or without regard to the merchant's religious views). A smaller marketplace is necessarily *less diverse* and *less competitive* than a larger market with a diverse set of providers.

Enforcement is also not justifiable on the ground that it is necessary to prevent negative externalities, including preserving diversity and affronts to personal dignity. The key mistake in these claims is that they look only at one side. The argument is that any exceptions for sincere religious objectors will decrease diversity based on sexual-orientation. But, by this logic, allowing for no religious-based exceptions will decrease diversity based on religion. With regard to personal dignity, both sides suffer dignitary losses. Any individual merchant coerced to violate his or her religious conscience or to exit the market certainly has at least an equal claim to dignitary harm. But, as the U.S. Supreme Court has affirmed, the fact that some take personal offense at the conduct of others cannot justify state intrusion into the exercise of First Amendment rights. *Matal v. Tam*, 137 S. Ct. 1744, 1767 (2017).

Accordingly, in the absence of monopoly, there is no economic basis to rule out the granting of exceptions from antidiscrimination laws to those limited by religious convictions. Refusing to do so reduces social welfare.

ARGUMENT

Our country has a long tradition of accommodating diverse viewpoints, especially those motivated by religion. Such accommodations are of critical importance given the explosive growth of regulation in an increasingly religiously diverse and pluralistic society. *See, e.g.*, STEPHEN L. CARTER, THE CULTURE OF DISBELIEF 124-144 (1993) (showing that accommodations are

necessary to avoid tyranny, and debunking argument that religious persons can simply avoid regulatory conflicts by changing their conduct).

In this case, an accommodation of Petitioners' religious convictions would enhance social welfare, increase freedom, and constrain no one's opportunities. Conversely, allowing the state to coerce religiously motivated merchants into violating their religion would diminish social welfare, reduce freedom, and harm not only Petitioners but other market participants.

I. Markets Enhance Social Welfare by Matching Provider and Consumer Preferences and Mitigating Discrimination.

It is now beyond debate that markets premised on voluntary exchange serve as bulwarks that protect freedom, advance innovation, and enhance social welfare. *See, e.g.*, MILTON FRIEDMAN, CAPITALISM AND FREEDOM 8-21 (2002). "Underlying most arguments against the free market is a lack of belief in freedom itself." *Id.* at 15.

Because both sides gain from any voluntary transactions, competitive market dynamics lead to the most efficient allocation of goods and services. While economists typically focus on product, price, terms, and quality, markets match providers and consumers based on a wider spectrum of preferences. Examples abound. Merchants who prefer to engage in "socially responsible" business practices will be matched with consumers who prefer to deal with such providers. Merchants who deal in only "Made in America" products will be matched with consumers who prefer such wares. At the same

time, other merchants aim for a larger audience and systematically avoid adopting any idiosyncratic practices that might offend certain political, ethnic, or religious groups.

Markets thus allow merchants who decide to cater to the particular tastes of their chosen customer base. Merchants may, and frequently do, cater to certain ethnicities, religious groups, age groups, occupations, economic groups, etc. Consumers are free to choose the merchants who best suit their preferences.

The central insight is that neither providers nor consumers are homogeneous. There is great variety beyond simply product differentiation. This variety and diversity is a social good because it expands opportunities for producers and consumers alike.

In the absence of monopoly, therefore, consumers benefit from being able to choose among those providers who most closely serve their tastes. In the context of artists and calligraphers, for instance, consumers may choose to purchase from a particular artist for numerous reasons other than the price and quality of the product, such as seeking to support members of a particular race or ethnicity, a preference for artists of a particular political persuasion, a like-mindedness with regard to theological issues, etc. By facilitating the accurate matching of consumer and merchant preferences, markets enhance social welfare.

As the U.S. Supreme Court has long recognized, the right of providers and consumers to choose their trading partners is a bulwark that underlies this country's market-based system. The common law guaranteed the right to engage in voluntary trade by protecting the "long recognized" right of a merchant "freely to exercise his own independent discretion as to parties with whom he will deal." *United States v. Colgate & Co.*, 250 U.S. 300, 307 (1919). This right is part and parcel of the right to pursue an ordinary calling or trade, which is the "very essence of the personal freedom" protected by the Fourteenth Amendment. *Truax v. Raich*, 239 U.S. 33, 41 (1915); *see also Takiguchi v. State,* 47 Ariz. 302, 305, 55 P.2d 802, 803 (1936) (noting that *Traux* "had its origin in Arizona").

These rights cover not only economic issues but religious ones. Thus, in *Meyer v. Nebraska*, 262 U.S. 390 (1923), the U.S. Supreme Court struck down a law prohibiting the instruction of children in a foreign language. The Court held the right of the instructor in a parochial school to teach a foreign language "as part of his occupation" and "the right of parents to engage him so to instruct their children" to be "within the liberty of the [Fourteenth] Amendment." *Id.* at 400. And in *Pierce v. Society of Sisters*, 268 U.S. 510, 534-35 (1925), the Court struck down an Oregon law that prohibited all persons, including those with religious beliefs, from attending private schools.

These rights should be understood as part of a broader framework that embraces freedom of contract and voluntary association in religious and economic life. As Thomas Jefferson wrote, "the first principle of association" is "'the guarantee to every one of a free exercise of his industry, and the fruits acquired by it.'" *Letter to Albert Gallatin (Oct. 16, 1815), in* THE WRITINGS OF THOMAS JEFFERSON (Andrew A. Lipscomb, Albert E. Bergh, & Richard H. Johnston, eds., 1903).

The only exception to this principle is a monopoly situation, in which consumers are faced with a sole supplier who could decide for all sorts of reasons, including invidious motives, to refuse to deal with a group of potential consumers. Long before the rise of modern antidiscrimination laws, common law judges held that all common carriers and public utilities—the two main classes of providers that held monopoly powers—were obligated to supply services to all comers at fair, reasonable, and nondiscriminatory rates. The doctrine was explicitly incorporated into English law in *Allnut v. Inglis*, 104 Eng. Rep. 206 (K.B. 1810). It was carried into American constitutional law dealing with rate regulation in *Munn v. Illinois*, 94 U.S. 113, 126-28 (1876). *See* RICHARD A. EPSTEIN, PRINCIPLES FOR A FREE SOCIETY: RECONCILING INDIVIDUAL LIBERTY AND THE COMMON GOOD 279-86 (1998). The key rationale behind these decisions is that in the presence of a monopoly no consumer can find any close substitute for the needed good or service.

Those conditions do not hold in the absence of a monopoly; the presence of multiple alternatives greatly mitigates, if not eliminates, the effects of discrimination on any consumer and renders the complex structure of rate regulation superfluous. *See* FRIEDMAN, *supra*, at 108-115; RICHARD A. EPSTEIN, FORBIDDEN GROUNDS: THE CASE AGAINST EMPLOYMENT DISCRIMINATION LAWS 15-58 (1992); GARY S. BECKER, THE ECONOMICS OF DISCRIMINATION 39-47 (2d ed. 1971). Markets ensure that consumers who face potential discrimination can find other, better suited merchants from which to obtain services. Markets punish merchants who choose not to serve certain persons, limiting the prevalence of discrimination. In contrast, imposing antidiscrimination laws on merchants with conscience-based objections undermines the workings of the market. And those merchants do not have any easy way to avoid the imposition. They must either go out of business or face ruinous fines and other sanctions.

II. Protecting Merchants Like Petitioners Will Not Undermine the Goals of the Antidiscrimination Laws.

These economic principles give ample basis for protecting merchants like Petitioners and others who have conscience-based objections.

A. Market Forces Prevent the Exclusion of Those Seeking Products for Same-Sex Weddings.

A ruling for the City cannot be justified on the ground that consumers will be unable to obtain products for same-sex weddings. Such a result is

precluded by powerful market forces.

Those who contend that people like Petitioners must be punished invariably cite Title II of the 1964 Civil Rights Act. *See, e.g.*, *Elane Photography, LLC v. Willock*, 309 P.3d 53, 79 (N.M. 2013) (Bosson, J., concurring). But the analogy is inapt. The social conditions under segregation that led to the enactment of that law attacked public institutions that actively supported private aggression and backstopped pervasive private discrimination. At the time, therefore, the "best practical argument for Title II was that it functioned as a corrective against private force and public abuse in government." Richard A. Epstein, *Public Accommodations Under the Civil Rights Act of 1964: Why Freedom of Association Counts as a Human Rig*ht, 66 STAN. L. REV. 1241, 1254-61 (2014). Such conditions do not exist today.

There also is no monopoly here. The custom-made wedding invitation business is highly fragmented and competitive. Barriers to entry are virtually non-existent, ensuring rapid response to any exclusion.

What is more, a legion of well-structured intermediaries reduces search costs as multiple sites cater to same-sex weddings so that the typical consumer need only turn on his or her computer to gain full access to a rich array of services from *willing* merchants actively seeking their business.[1]

[1] *See, e.g.*, Equally Wed (https://equallywed.com/), MyGayWedding.com (https://my-gay-wedding.com/), MiLGBTWedding.com

Coercing the tiny fraction of the market that seeks a religious-based exception cannot be justified by a threat of market exclusion:

> Because antidiscrimination laws' economic purposes are a response to pervasive discrimination, they are not frustrated by discrimination that is unusual. If the law requires religious objectors to identify themselves to the public in order to be accommodated, few are likely to take advantage of that. If gay people are generally protected against discrimination, then a few outliers won't make any difference.

Andrew Koppelman, *Gay Rights, Religious Accommodations, and the Purposes of Antidiscrimination Law*, 88 S. CAL. L. REV. 619, 627-28 (2015); *see also* Thomas C. Berg, *Symposium: Religious Accommodation and The Welfare State*, 38 HARV. J.L. & GENDER 103, 138 (2015) (when balancing interests, if "the patrons have access, without hardship, to another provider, then the legal burden on the provider is the more serious one").

In competitive markets, protecting merchants like Petitioners does not present "a threat to meaningful participation in commercial life." Nathan B. Oman, *Doux Commerce, Religion, and the Limits of Antidiscrimination Law*,

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(http://milgbtwedding.com/the-expo/), LGBTWeddings.com (http://www.lgbtweddings.com/about-us.html), My-Gay-Wedding.com (https://my-gay-wedding.com), Purple Unions (https://www.purpleunions.com), Here Comes the Guide (https://www.herecomestheguide.com/best/lgbtq-weddings), and RainbowWeddingNetwork.com (http://www.rainbowweddingnetwork.com). *See also* Q-approved wedding guide, Q Saltlake Magazine (listing providers), *available at* https://qsaltlake.com/news/2013/03/22/q-approved-wedding-guide/.

92 IND. L.J. 693, 719 (2017). Nor will it lead to economic balkanization. Indeed, if these fears were warranted, no merchant could ever refuse service to any potential customer for any reason, including their political orientation or other social beliefs. Yet the same law that makes it impossible for religious individuals like Petitioners to honor their own beliefs allows other merchants to express their political beliefs by refusing, for example, to provide wares that support President Trump. *See, e.g.*, Herb Scribner, *This 9-year-old boy can't find anyone to bake him a pro-Donald Trump cake*, THE DAILY AMERICAN (Somerset, Pennsylvania), August 9, 2017. It is the redundancy in a competitive market that prevents these individual preferences from dominating social norms.

The prospect of market exclusion is nothing short of fanciful.

B. Market Forces Ensure That Only Those with Sincerely Held Beliefs Will Seek an Exception to the City Ordinance.

Not only does the market ensure that those seeking services will find well-matched providers, the market also limits the number of people who will seek an exception to Phoenix's ordinance. *See* BECKER, *supra*, at 39-45 (2d ed. 1971) (showing that competitive forces drive out most forms of market discrimination). Artists who decline requests to create products for same-sex weddings face a number of costs, which will winnow out the insincere, leaving only those whose consciences would force them to leave the marketplace in the face of coercive antidiscrimination law.

First, such merchants bear the cost of lost sales, not only from the declined orders but also from many others who disagree with that provider's stance. For instance, merchants who have declined to provide services for same-sex weddings have faced social-media-led boycotts and a flood of negative reviews on sites such as Yelp.[2]

Potential losses include corporate accounts that fear retribution for doing business with such providers. Indeed, merchants such as Petitioners have experienced the loss of large corporate accounts. And others face the same risk. Consider that the Human Rights Campaign, which rates workplaces on "LGBT equality" and boasts that "199 of the Fortune 500-ranked businesses achieved a 100 percent rating," penalizes companies "found to have a connection with an anti-LGBT organization or activity."[3] The consequences in individual cases can be disastrous, sometimes forcing

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[2] *See* Amelia Irvine, *How technology and the free market can eliminate discrimination*, THE EXAMINER (Washington D.C.), July 13, 2017; Chris Taylor, *Anti-equality Indiana pizza joint gets seriously trolled, shuts up shop*, MASHABLE.COM, Apr. 2, 2015; Emily Pfund, *Walkerton police still investigating threats to 'burn down' Memories Pizza, prosecutors say*, THE ELKHART TRUTH (Indiana), Apr. 3, 2015; Steve Mocarsky, *Venue reportedly receives threats after refusing to host gay wedding receptions*, THE TIMES LEADER (Wilkes-Barre, Pennsylvania), July 11, 2014.

[3] Human Rights Campaign, Corporate Quality Index at 6, 9 (2017), http://www.hrc.org/campaigns/corporate-equality18index.

businesses to close.[4]

Second, merchants who decline requests to create products for same-sex weddings also face *illegitimate* forms of aggressive behaviors, including death threats, abusive phone calls, and a torrent of vitriolic hate mail.[5]

Third, merchants like Petitioners must defend against legal challenges. Even if this Court rules in favor of Petitioners, businesses seeking protection from antidiscrimination laws will likely still be forced to litigate. After all, a number of legal organizations are eager to challenge such positions.

These huge economic and social costs, some legitimate, but many not, ensure that the goals of antidiscrimination laws are not undermined by protecting the few whose convictions would lead them to endure the consequent losses and abuse.

C. Coercing Petitioners to Produce Artwork Over Their Religious Objections Diminishes Social Welfare.

By compelling Petitioners and similar merchants to create artwork that violates their religious beliefs, the application of antidiscrimination laws in cases like this undermines the workings of market mechanisms. Those

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[4] *See, e.g.*, George Brown, *Bakery Forced To Close Over Gay Wedding Denial*, CBS-3 WREG (Memphis, Tennessee), Sept. 4, 2013.

[5] *See, e.g.*, Nikki Krize, *Bridal Shop Owners Get Death Threats Over Same-Sex Policy*, ABC-16 WNEP (Wilkes Barre, Scranton, Pennsylvania), Aug. 2, 2017; Warren Richey, *For those on front lines of religious liberty battle, a very human cost,* THE CHRISTIAN SCIENCE MONITOR, July 16, 2016.

merchants forced to violate their beliefs would likely do so reluctantly, decreasing their incentives to do their best work. Moreover, given the threat of legal retaliation, such providers would likely hide their lack of motivation. Consumer search costs are thus increased, and they are less able to find the best provider to match their preferences. In turn, social welfare is diminished by the resulting poor match of provider with consumer.

Alternatively, providers with conscience-based objections will exit the market. This will reduce the variety of providers, diminishing consumer choice. Consumers may prefer such excluded providers for a number of reasons. For instance, some may respect or value the provider's commitment to his or her religious convictions, even if they do not agree with those convictions. Others may hold values that are closely aligned with the provider's religious or moral convictions. Or another group of consumers, not caring about the merchant's convictions, might simply like the style or quality of the provider's services.

By forcing such merchants out of the market, application of the antidiscrimination law not only harms the providers, it also harms other market participants, diminishing social welfare.

D. Purported Economic Reports Used to Justify Punishment for Merchants Like Petitioners Are Inapposite and Faulty.

A case relied on by the Court of Appeal cites a one-sided report purporting to demonstrate that discrimination based on sexual orientation "in

places of public accommodation has measurable adverse economic effects." *Mullins v. Masterpiece Cakeshop, Inc.*, 370 P.3d 272, 293 (Colo. App. 2015) (citing Mich. Dep't of Civil Rights, *Report on LGBT Inclusion Under Michigan Law with Recommendations for Action* 74-90 (Jan. 28, 2013) ["*Michigan Report*"])). But the report does not support that court's claim.

First, the report (much like similar ones) is irrelevant. It seeks to show economic harm flowing from the failure to enact an antidiscrimination law protecting sexual orientation. *Michigan Report* 74-90. But the issue before this Court concerns only protection for that tiny subset of merchants who, like Petitioners, are asked to produce artistic products that conflict with their sincerely held religious beliefs. Whether sexual orientation antidiscrimination laws are desirous does not speak to that narrower issue.

Second, the report is fundamentally flawed on methodological grounds. Its data largely consists of anecdotes and anonymous statements. And the report does not even address, let alone quantify, the losses to companies like Petitioners and their customers in its economic calculations. Nor does the report try to explain or quantify the damage that violent and abusive protestors can do to religious merchants like Petitioners and their customers. It is, therefore, wildly speculative to attribute any positive economic effect to government-imposed punishment against a merchant's decision not to produce art for same-sex weddings. By imposing heavy administrative

burdens and disrupting voluntary markets, it is far more likely that such punishment will have an adverse effect on economic growth.

Third, the report claims to find support in the fact that most major Fortune 50, 100 and 500 companies have adopted policies that forbid discrimination based on sexual orientation. Rather than justifying the need to apply antidiscrimination laws here, the voluntary and widespread adoption of these policies by major corporations gives assurance that LGBT customers will find merchants willing to serve them.

In sum, state coercion against small businesses like Petitioners will undercut market choices, not improve them.

III. No Negative Externalities Justify a Refusal to Protect Petitioners.

Finally, using government power to coerce religiously motivated merchants into violating their consciences cannot be justified on notions of protecting "dignity." 418 P.3d at 434, ¶ 11. Each side has claims to violations of their "dignity." *See* Oman, *supra*, at 701. The "indignity" of being forced to provide services in violation of one's conscience or to exit one's profession cannot be easily dismissed. *See* Thomas C. Berg, *What Same-Sex-Marriage and Religious-Liberty Claims Have in Common*, 5 N.W. J.L. & SOC. POL'Y 206, 207-08 (2010).

Moreover, the government seeks to regulate only one side of these voluntary transactions. Its antidiscrimination law (and all others that we are

aware of) applies only to providers. Consumers are free (consistent with basic notions of liberty) to refuse to deal with any provider for any reason. The government would thus condemn the same discrimination by one set of market participants but not the other. There is no basis for doing so. The enforcement of antidiscrimination laws against those with conscience-based objections causes the same negative outcomes that these laws aim to prevent.

The lack of coherent justification is demonstrated by the reasoning of one state supreme court justice who sought to defend such government prejudice. In the end, he simply waved his hands and said that enduring such state coercion in violation of one's conscience or being forced out of the market is simply "the price of citizenship." *Elane Photography*, 309 P.3d at 80 (Bosson, J., concurring). Why being turned down by certain establishments is not a price of citizenship is never explained.

Nor can laws like Phoenix's antidiscrimination ordinance be justified simply by insisting that declining to create art to celebrate and promote a same-sex wedding is offensive to some segments of the community. Standard economic theory takes into account only those externalities whose harm to a stated victim correlates positively with the overall reduction in social welfare. It is for that reason that the standard set of *actionable* externalities, while including aggression, nuisances, and monopolies, do not embrace the offense that some individuals take at the activities of other persons.

That is for good reason. A broad definition of externality that covers any and all offense taken by others systematically reduces overall social welfare. It would lead to a situation in which every person could veto the activities of others based on a subjective offense. To allow such offense to restrict the activities of other individuals creates a perverse incentive to become ever angrier and more restive in order to gain a leg up on rivals. Let everyone adopt this strategy, and widespread offense by this or that segment of the community will necessarily pit every group in society against others. It is this fundamental point that drove the U.S. Supreme Court's recent and emphatic rejection of any government efforts to restrict "offensive" speech. *See Matal*, 137 S. Ct. at 1767.

Finally, permitting no exceptions cannot be justified by notions of protecting diversity. According to this logic, refusing to grant any religious-based exceptions would *reduce* diversity by driving away religious adherents. Polls already show that the Phoenix area is well-below the national average in the percentage of those who are religious.[6] Indeed, in 2015 Phoenix was listed

[6] *See* Gallup, *Provo-Orem, Utah, Is Most Religious U.S. Metro Area* (Mar. 29, 2013), *available at* http://news.gallup.com/poll/161543/provo-orem-utah-religious-metro-area.aspx. Phoenix's 35.6% "very religious" results is several percentage points lower than the 40% national average. Similarly, Phoenix's 36.4% "not religious" result is several percentage points higher than the 31% national average.

as one of the 30 least religious cities in the country.[7]

The no-exceptions-for-the-sake-of-diversity logic thus favors diversity based on LGBT persons over diversity based on religious adherence. But such discriminatory favoritism is not only unfounded, it is entirely unnecessary. Economic principles demonstrate that religious-based exceptions would increase diversity while ensuring that all are served.

CONCLUSION

The decision below is socially harmful. In the absence of monopoly, markets ensure that all are served and none are coerced—that same-sex couples can obtain hand-painted invitations for their wedding, and that religiously motivated artists can follow their conscience without being forced to abandon their profession. Imposing antidiscrimination laws to force merchants to violate their religious convictions or to leave the market undermines freedom and diminishes social welfare. The Court should hold that the government cannot coerce such undesirable and oppressive outcomes. Respectfully submitted this 17th day of December 2018,

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[7] *See* Antonia Blumberg, *The 30 Least Religious Cities In The United States*, HuffPost (Aug. 8, 2015), *available at* https://tinyurl.com/yd8oeh4b.

APPENDIX

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