

COLORADO CIVIL RIGHTS COMMISSION  
DEPARTMENT OF REGULATORY AGENCIES  
1560 Broadway, Suite 1050  
Denver, CO 80202

**CHARLIE CRAIG and DAVID MULLINS ,**

**Complainants,**

v.

**MASTERPIECE CAKESHOP, INC., and any  
successor entity, and JACK C. PHILLIPS,**

**Respondents.**

▲ COURT USE ONLY ▲

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Case Number: 2013-0008

**NOTICE OF APPEAL AND PETITION FOR REVIEW  
BY COLORADO CIVIL RIGHTS COMMISSION**

RESPONDENTS, by and through their undersigned counsel, pursuant to COLO. REV. STAT. § 24-4-105(14)(a)(II) and Commission Rule 10.13(A), hereby petition the Colorado Civil Rights Commission (“Commission”) to review the Initial Decision of the Administrative Law Judge issued on December 6, 2013. In support hereof, Respondents assert the following exceptions and will fully brief these exceptions in compliance with the briefing schedule that the Commission issues:

1. The Administrative Law Judge erroneously denied Respondents' Motion to Dismiss Jack Phillips Pursuant to C.R.C.P. 12(b)(1),(2), and (5).
2. The Administrative Law Judge erroneously denied Respondents' Motion to Dismiss Pursuant to C.R.C.P. 12(b)(5).
3. The Administrative Law Judge erroneously granted Complainants' Motion for Protective Order and erroneously struck portions of Respondents' discovery requests thereby limiting Respondents' discovery.
4. The Administrative Law Judge erred in the Initial Decision in Granting Complainants' Motion for Summary Judgment and in Denying Respondents' Motion for Summary Judgment. Contrary to the findings in the Initial Decision:
  - a. Respondents did not discriminate “because of” sexual orientation.
  - b. Respondents acted in accordance with the provisions of Colo. Const. art. II, § 31 and COLO. REV. STAT. § 14-2-104, and the public policy of Colorado.
  - c. Respondents' conduct and expressions in declining to design and create a wedding cake are protected by the Free Speech Clause of the First Amendment of the United States Constitution and by Article II, Section 10 of the Colorado Constitution in that:
    - i. This case involves both actual and symbolic speech.
    - ii. Respondents cannot be forced to create and convey a message with which they disagree.
  - d. Respondents are protected by the Free Exercise Clause of First Amendment of the U.S. Constitution and Article II, Section 4 of the Colorado Constitution.

- e. The ALJ's recommendation that Respondents "[c]ease and desist from discriminating against Complainants and other same-sex couples by refusing to sell them wedding cakes or any other product Respondents would provide to heterosexual couples" is overbroad and exceeds the scope of relief authorized pursuant to COLO. REV. STAT. §§ 24-34-306(9) and 24-34-605.

Respectfully submitted this 3<sup>rd</sup> day of January, 2014.

Attorneys for Respondents Jack C. Phillips and  
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## CERTIFICATE OF SERVICE

I certify that on this 3<sup>rd</sup> day of January, 2014, a true and correct copy of the foregoing was filed with the Colorado Civil Rights Commission and served on the parties or their counsel as follows:

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