

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

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

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

Plaintiffs,

vs.

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

Defendants.

NOTICE TO THE COURT REGARDING PLAINTIFFS’ DESIRE TO PROCEED

Pursuant to this Court’s September 1, 2017 ruling, ECF No. 52, and Plaintiffs’ June 15, 2018 Notice to the court, ECF No. 61, Plaintiffs hereby give the Court the following notice as to how Plaintiffs desire to proceed in the above captioned case: Plaintiffs respectfully ask the Court to permit the parties to each submit supplemental briefing on the U.S. Supreme Court’s recent decisions in *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm’n*, 138 S. Ct. 1719 (2018), *Nat’l Inst. of Family Life Advocates v. Becerra*, (“NIFLA”) No. 16-1140, 2018 WL 3116336 (U.S. June 26, 2018), and *Janus v. Am. Fed’n of State, Cty., & Mun. Emps., Council 31*, No. 16-

1466, 2018 WL 3129785 (U.S. June 27, 2018), and also renew and ask this Court to rule on Plaintiffs' Motion for Preliminary Injunction, ECF No. 6, and Motion for Summary Judgment, ECF No. 48.

The Supreme Court's October 2017 term ended on June 27, 2018. In the last weeks of its term, the Supreme Court issued decisions in *Masterpiece Cakeshop*, *NIFLA*, and *Janus*. Each of these decisions addressed constitutional claims that are also at issue in Plaintiffs' case. In *Masterpiece*, the U.S. Supreme Court ruled on free speech and free exercise claims. In *NIFLA*, the U.S. Supreme Court ruled on compelled speech claims, and in *Janus* it ruled on compelled expressive association and speech claims. All three decisions provide significant guidance for this Court in deciding Plaintiffs' free speech and free exercise claims in the present case.

Accordingly, Plaintiffs request that both parties be permitted to submit supplemental briefing (no longer than 2,500 words) regarding *Masterpiece*, *NIFLA*, and *Janus*, and their impact on Plaintiffs' case within 21 days from the date this Court orders supplemental briefing.

Plaintiffs further request that after supplemental briefing is submitted, this Court rule on Plaintiffs' Motion for Preliminary Injunction and Motion for Summary Judgment. Both motions were previously briefed in full, with the exception of the three recent U.S. Supreme Court cases, and denied with leave to renew after a final ruling issued in *Masterpiece*. Plaintiffs ask that both motions be renewed and ruled upon after supplemental briefing is submitted.

Respectfully submitted this 3rd day of July, 2018.

s/ Jonathan A. Scruggs

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CERTIFICATE OF SERVICE

I hereby certify that on July 3, 2018, the foregoing was filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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