



# STATE OF MINNESOTA

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October 11, 2018

**VIA CM/ECF**

Mr. Michael E. Gans  
Clerk, Eighth Circuit Court of Appeals  
Thomas F. Eagleton Courthouse  
Room 24.329  
111 South Tenth Street  
St. Louis, MO 63102

**Re: *Telescope Media Group, et al v. Lindsey, et al*  
Eighth Circuit Court File No. 17-3352**

Dear Mr. Gans:

Pursuant to Fed. R. App. P. 28(j), I write to notify the Court of supplemental authority issued by the Arizona Court of Appeals, on June 7, 2018. In *Brush & Nib Studio, LC v. City of Phoenix*, 244 Ariz. 59, 418 P.3d 426 (Ct. App. 2018), *petition for review filed*, the owners of an artwork business claimed that because the City of Phoenix's anti-discrimination ordinance outlawed its ability to decline to sell custom invitation services for same-sex weddings, the law violated its free speech rights, among others. *Id.* at 432-33. Although the free-speech claims arose under the Arizona Constitution, the court applied federal law. *Id.* at 437.

Quoting *Masterpiece*, the court observed, "while [] religious and philosophical objections are protected, it is a general rule that such objections do not allow business owners and other actors in the economy and in society to deny protected persons equal access to goods and services under a neutral and generally applicable public accommodations law." *Id.* at 433 (quoting *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Comm'n*, 138 S. Ct. 1719, 1727 (2018)). Applying federal precedent, the court concluded *Brush & Nib's* constitutional rights were not violated.

The Court found that "the primary purpose of Section 18-4(B) is to prohibit places of public accommodation from discriminating based on certain protected classes, i.e., sexual orientation, not to compel speech." *Id.* at 438. The court further observed that permitting *Brush & Nib* to refuse to serve same-sex weddings would result in "a community-wide stigma inconsistent with the history and dynamics of civil rights laws that ensure equal access to goods, services, and public accommodations." *Id.* at 438 (quoting *Masterpiece*, 138 S. Ct. at 1727).

Sincerely,

s/ **Janine Kimble**

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JANINE KIMBLE

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*Attorney for Appellees*

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**Certificate of Service**

I hereby certify that on October 11, 2018, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ **Janine Kimble**  
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JANINE KIMBLE