

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Senior Judge Wiley Y. Daniel

Civil Action No. 18-cv-02074-WYD-STV

MASTERPIECE CAKESHOP INCORPORATED, a Colorado corporation; and
JACK PHILLIPS,

Plaintiffs,

v.

AUBREY ELENIS, Director of the Colorado Civil Rights Division, in her official and individual capacities;
ANTHONY ARAGON, as member of the Colorado Civil Rights Commission, in his official capacity;
MIGUEL "MICHAEL" RENE ELIAS, as member of the Colorado Civil Rights Commission, in his official capacity;
CAROL FABRIZIO, as member of the Colorado Civil Rights Commission, in her official capacity;
CHARLES GARCIA, as member of the Colorado Civil Rights Commission, in his official capacity;
RITA LEWIS, as member of the Colorado Civil Rights Commission, in her official capacity;
JESSICA POCOCK, as member of the Colorado Civil Rights Commission, in her official capacity;
CYNTHIA H. COFFMAN, Colorado Attorney General, in her official capacity; and
JOHN HICKENLOOPER, Colorado Governor, in his official capacity,

Defendants.

ORDER

THIS MATTER is before the Court on the National Allegiance of Black Pastor's Motion for Leave to Appear as Amicus Curiae and in Support of the Intervening Plaintiffs, (ECF No. 34), filed on September 13, 2018; the Garden State Families' Motion for Leave to Appear as Amicus Curiae and in Support of the Intervening Plaintiffs, (ECF No. 35), filed on September 13, 2018; the Coalition of Doctors Defending Reparative Therapy's Motion for Leave to Appear as Amicus Curiae and in

Support of the Intervening Plaintiffs, (ECF No. 36), filed on September 13, 2018; and American Family Association's and WW Bridal's Motion for Leave to Appear as Amici Curiae and in Support of the Intervening Plaintiffs, (ECF No. 37), filed on September 13, 2018.¹ These same pending amici mailed paper copies of the Motions, along with their attachments, which were delivered to the Court on September 5, 2018 and September 6, 2018.

Regarding the paper copies of the Motions, the United States District Court for the District of Colorado requires, with exceptions that are not relevant here, that "all documents filed in civil cases, . . . be filed electronically in a portable document format (PDF) using the Electronic Case Filing System." Electronic Case Filing Procedures for the District of Colorado (Civil Cases) § I.1.1.

Regarding the electronically filed Motions, I note that none of the Motions comply with my Practice Standards, which limit all motions to fifteen pages in length absent "extraordinary circumstances" accompanied by an appropriate motion to exceed page limits. WYD Civ. Practice Standard § II(E)(1)-(2). The Motions could be stricken without prejudice on that basis alone. However, in the interests of judicial economy, I will not strike the Motions at this time for violating my Practice Standards because I find that a response from Plaintiffs may be helpful in determining whether to grant or deny the Motions.

"While the Tenth Circuit has not specified what considerations should inform the court's discretion" in allowing the participation of amici curiae, several factors are useful to consider, including

¹ Collectively, I will refer to these filings as the Motions.

(1) whether the proposed amicus is a disinterested entity; (2) whether there is opposition to the entry of the amicus; (3) whether counsel is capable of making arguments without the assistance of an amicus; (4) the strength of the information and argument presented by the potential amicus curiae's interests; and, perhaps most importantly (5) the usefulness of information and argument presented by the potential amicus curiae to the court.

Medina v. Catholic Health Initiatives, 2015 WL 13683647 at *1 (D. Colo. Oct. 7, 2015) (quoting *Wildearth Guardians v. Lane*, 2012 WL 10028647 at *2 (D.N.M. June 20, 2012)).

I find that Plaintiffs are in the best position to address the second and third factors: whether they oppose the entry of these pending amici and whether Plaintiffs' counsel are capable of making arguments without the assistance of these pending amici.

Accordingly, it is

ORDERED that Plaintiffs shall file a response to the Motions by **Friday, October 5, 2018**. It is

FURTHER ORDERED that all of the materials mailed to the Court by the pending amici are **STRICKEN** for failure to comply with the Electronic Case Filing Procedures for the District of Colorado.

Dated: September 26, 2018

BY THE COURT:

s/ Wiley Y. Daniel
Wiley Y. Daniel
Senior United States District Judge