

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 1:18-cv-02074-WYD-STV

MASTERPIECE CAKESHOP INCORPORATED, a Colorado corporation, *et al.*,

Plaintiffs,

v.

AUBREY ELENIS, Director of the Colorado Civil Rights Division, in her official and individual capacities, *et al.*,

Defendants.

**UNOPPOSED MOTION FOR LEAVE TO EXCEED PAGE LIMIT
IN CONNECTION WITH DEFENDANTS' MOTION TO DISMISS**

Defendants, by and through the Colorado Attorney General's Office and undersigned counsel, hereby respectfully request leave to file a motion to dismiss the Verified Complaint [Doc. 1] that exceeds the page limit set by this Court's Practice Standards, as follows.

D.C. COLO.LCivR 7.1(a) and 6.1(c) CERTIFICATION

Undersigned counsel certifies that she conferred in good faith with counsel for Plaintiffs regarding the relief requested by this Motion and is authorized to represent that the Plaintiffs do not oppose such relief provided that it is reciprocal with respect to the page limit for their response to Defendants' motion to dismiss.

MOTION

1. Plaintiffs served Defendants with their Verified Complaint [Doc. 1] on August 22, 2018, rendering an answer or other responsive pleading due on September 12, 2018.
2. After requesting and receiving an enlargement of time, Defendants' answer or responsive pleading is due on October 10, 2018.

3. Defendants are preparing to file a Fed. R. Civ. P. 12(b) motion to dismiss and, for the following reasons, believe that the complexity and numerosity of the issues compel briefs of greater length than 15-pages:

a. The Verified Complaint [Doc. 1] is 50 pages long and contains 335 paragraphs of factual allegations and legal contentions that Defendants' motion to dismiss must fully address.

b. It also asserts four causes of action, one of which has four discrete sub-claims (free speech), and all of which present complex constitutional questions. As a result, Defendants' motion to dismiss must address numerous, complex claims and defenses.

c. Indeed, in recognition of their complexity and nationwide public importance, Plaintiffs' free exercise and free speech claims were before the U.S. Supreme Court last term. *Masterpiece Cakeshop, Ltd. v. Colo. Civil Rights Comm'n*, 138 S. Ct. 1719 (2018).

d. That appeal failed to resolve the merits of those claims, which the Supreme Court acknowledged present "difficult questions." *Id.*, 1723.

4. For these reasons, the 15-page limit does not provide Defendants with adequate space in which to explain the complexities of the claims and defenses at-issue in this case.

5. Finally, with respect to the timing of this Motion, the Verified Complaint alleges that a charge of discrimination in a place of public accommodation was filed against Plaintiffs with the Colorado Civil Rights Division and is still pending [Doc. 1, ¶¶ 174-211], but does not allege that the Colorado Civil Rights Commission has taken any action on the charge under C.R.S. § 24-34-306(4).

6. Assuming without admitting that the alleged charge exists, the latest that the Commission would have done so was at its emergency meeting on October 2, 2018. As a result, undersigned counsel lacked certainty about what defenses would be asserted in Defendants' motion to dismiss until very recently and, since then, has been working to finalize the motion to dismiss, including ascertaining its final length.

WHEREFORE, Defendants respectfully request that the Court increase the page limits of the briefing in connection with their motion to dismiss the Verified Complaint as follows: the text of Defendants' motion to dismiss is limited to 30 pages; the text of Plaintiffs' response to same is limited to 30 pages; and the text of Defendants' reply is limited to 15 pages.

Respectfully submitted this 9th day of October, 2018.

CYNTHIA H. COFFMAN
Attorney General

s/ LeeAnn Morrill

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CERTIFICATE OF SERVICE

I hereby certify that on October 9, 2018, I served a true and complete copy of the foregoing **UNOPPOSED MOTION FOR LEAVE TO EXCEED PAGE LIMIT IN CONNECTION WITH DEFENDANTS' MOTION TO DISMISS** upon all counsel of record and parties who have appeared in this matter through ECF or as otherwise indicated below:

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