

Case No. 19-1413

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*In the*  
**United States Court of Appeals**  
*for the*  
**Tenth Circuit**

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303 CREATIVE, LLC, a limited liability company; LORIE SMITH,  
*Plaintiffs-Appellants,*

v.

AUBREY ELENIS; CHARLES GARCIA; AJAY MENON;  
MIGUEL RENE ELIAS; RICHARD LEWIS; KENDRA ANDERSON;  
SERGIO CORDOVA; JESSICA POCOCK; PHIL WEISER,  
*Defendants-Appellees.*

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*Appeal from a Decision of the United States District Court for the District of Colorado (Denver),  
Case No. 1:16-CV-02372-MSK-CBS · Honorable Marcia S. Krieger, U.S. District Judge*

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**MOTION FOR LEAVE TO FILE  
BRIEF OF *AMICI CURIAE* LAW AND ECONOMICS SCHOLARS  
IN SUPPORT OF PLAINTIFFS-APPELLANTS**

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THERESA LYNN SIDEBOTHAM  
TELIOS LAW PLLC  
19925 Monument Hill Road  
Monument, Colorado 80132  
(855) 748-4201 Telephone  
tls@telioslaw.com

*Counsel for Amici Curiae,  
Law and Economics Scholars*

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## **MOTION FOR LEAVE TO FILE BRIEF AMICUS CURIAE**

*Amici curiae* listed below respectfully move for leave of Court to file the accompanying brief. All parties have consented to the filing of this brief.

### **INTERESTS OF AMICI CURIAE**

*Amici* are the following scholars in law, economics, and philosophy who study, teach, and have published on the application of economic principles to the law and to public policy:

- Lloyd Cohen, J.D., Ph.D., is Professor of Law at the Antonin Scalia Law School, George Mason University.
- Richard A. Epstein is the Laurence A. Tisch Professor of Law at the New York University School of Law. He is also the James Parker Hall Distinguished Service Professor of Law Emeritus at the University of Chicago, and the Peter and Kirstin Bedford Senior Fellow at the Hoover Institution.
- Samuel Gregg, D.Phil. (Oxon.), is Research Director at the Acton Institute.
- Timothy R. Lickness is Professor of Law at Trinity Law School, Trinity International University

- Allen Mendenhall, M.A., J.D., LL.M., Ph.D., is Associate Dean at the Thomas Goode Jones School of Law, and Executive Director of the Blackstone & Burke Center for Law & Liberty, Faulkner University.
- Catherine R. Pakaluk, Ph.D., is Assistant Professor of Social Research and Economic Thought, The Busch School of Business and Economics, The Catholic University of America.
- Jay W. Richards, Ph.D., is Research Assistant Professor, The Busch School of Business, The Catholic University of America.
- R. Neil Rodgers is Professor of Law at Trinity Law School, Trinity International University.
- Lisa A Runquist is Adjunct Professor of Law at Trinity Law School, Trinity International University.
- Andrew Seeley is Tutor at Thomas Aquinas College and Executive Director of the Institute for Catholic Liberal Education.
- Myron Steeves is Dean and Professor of Law at Trinity Law School, Trinity International University, and Director of the Church Law Center of California.

*Amici* submit this brief to bring to the Court's attention economic analyses that bear on the issues in this case. In particular, *amici* show that proper economic analyses demonstrate that application of antidiscrimination

laws in cases such as this diminishes social welfare. In addition, *amici* address common arguments that any accommodation of religious persons under the antidiscrimination laws would cause dignitary harm and reduce diversity.

For these reasons, amici respectfully request that the Court grant leave to file the accompanying brief.

Dated: January 29, 2020

Respectfully submitted,

By: /s/ Theresa Lynn Sidebotham  
Theresa Lynn Sidebotham  
Telios Law PLLC  
Counsel for *Amici Curiae*,  
Law and Economics Scholars

## CERTIFICATE OF DIGITAL SUBMISSION

Counsel for *Amici Curiae* Law and Economics Scholars in Support of Plaintiffs-Appellants hereby certifies that all required privacy redactions have been made, which complies with the requirements of Federal Rule of Appellate Procedure 25(a)(5).

Counsel also certifies that any and all hard copies submitted to the Court are exact copies of the ECF filing from January 29, 2020.

Counsel further certifies that the ECF submission was scanned for viruses with the most recent version of a commercial virus scanning program (Vipre software version 11.0.7633; Definitions version 81128 – 7.83635 [January 28, 2020]; Vipre engine version 3.9.2671.2 – 3.0), and, according to the program, is free of viruses.

Dated: January 29, 2020

Respectfully submitted,

By: /s/ Theresa Lynn Sidebotham  
Theresa Lynn Sidebotham  
Telios Law PLLC  
Counsel for *Amici Curiae*,  
Law and Economics Scholars

### **CERTIFICATE OF SERVICE**

I hereby certify that on January 29 2020, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Tenth Circuit by using the appellate CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

By: /s/ Theresa Lynn Sidebotham  
Theresa Lynn Sidebotham  
Telios Law PLLC  
Counsel for *Amici Curiae*,  
Law and Economics Scholars