

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

**Emilee Carpenter, LLC d/b/a  
Emilee Carpenter Photography, and  
Emilee Carpenter,**

Plaintiffs,

v.

**Letitia James**, in her official capacity  
as Attorney General of New York;  
**Jonathan J. Smith**, in his official  
capacity as Interim Commissioner of  
the New York State Division of Human  
Rights; and **Weeden Wetmore**, in his  
official capacity as District Attorney of  
Chemung County,

Defendants.

Case No. \_\_\_\_\_

**Verified Complaint**

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## Introduction

Plaintiff Emilee Carpenter (“Emilee”) is a photographer, natural person, and storyteller who crafts visual narratives through photography. Through her business, Emilee offers several types of photography, but wedding photography is her bread and butter. Emilee is also a Christian. Her faith and eye for beauty shape her photography—from first click to final edit. And just like other artists, Emilee decides whether to create based on *what* her artwork conveys, not *who* asks for it. That means Emilee cannot create some artwork for anyone—like photographs that flout her artistic style, celebrate obscenity, or demean others. She likewise cannot promote certain views on marriage.

New York finds this last type of editorial freedom too close-minded. So New York makes it illegal through its public accommodations laws which ban sexual-orientation discrimination. N.Y. Exec. Law § 296.2(a); N.Y. Civ. Rts. Law § 40-c. As applied to Emilee though, these laws do not simply dictate what she *does*; they dictate what she *says*. Emilee is already willing to work with clients no matter who they are, including those in the LGBT community. But not satisfied with equal treatment, New York officials demand ideological purity—that Emilee violate her conscience by professing the state’s approved view about marriage.

Specifically, New York laws require Emilee to create photographs and blogs celebrating same-sex marriage because she creates photographs and blogs celebrating opposite-sex marriage. The laws also prohibit Emilee from adopting an editorial policy consistent with her beliefs about marriage. And the laws even make it illegal for Emilee to post statements on her business’s own website explaining her religious views on marriage or her reasons for only creating this wedding content. N.Y. Exec. Law § 296.2(a) (forbidding statements that someone’s “patronage” is “unwelcome, objectionable or not accepted, desired, or solicited”).

If Emilee does any of this and speaks consistent with her faith, New York officials can force her business *and her personally* to pay limitless damages and a \$100,000 fine, require her to create artwork against her beliefs via court order, revoke her business license, and lock her in jail for up to a year. N.Y. Exec. Law §§ 297(4)(c), 299; N.Y. Civ. Rts. Law § 40-d; N.Y. Exec. Law § 63(12). These severe penalties threaten Emilee’s liberty, her livelihood, and her very way of life.

Emilee faces these risks each day she runs her company. She has already declined to respond to several requests to photograph same-sex weddings. And New York has already punished other business owners for holding Emilee’s beliefs about marriage. In the end, New York’s laws give Emilee a multiple-choice test with only bad answers: (a) violate the law; (b) ignore her faith; or (c) end her business.

But the First and Fourteenth Amendments give Emilee another option: (d) none of the above. These constitutional provisions ensure that Emilee—and all Americans—can choose what we say and what we celebrate. Just as the government cannot compel a lesbian baker to create a cake condemning same-sex marriage or an atheist playwright to wax positively about God, New York cannot force Emilee to convey messages she objects to. Emilee brings this lawsuit to protect her right and everyone’s freedom (even those who disagree with her) to speak and live out their core convictions. Because in our diverse and pluralistic country, the solution to disagreement is more speech by diverse speakers, not compelled ideological uniformity by government bureaucrats.

### **Jurisdiction and Venue**

1. This civil-rights action raises federal questions under the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.
2. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343.

3. This Court has authority to award the requested declaratory relief under 28 U.S.C. §§ 2201–02 and Fed. R. Civ. P. 57; the requested injunctive relief under 28 U.S.C. § 1343 and Fed. R. Civ. P. 65; and the requested costs and attorney fees under 42 U.S.C. § 1988 and Fed. R. Civ. P. 54.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b) because a substantial part of the events and omissions giving rise to the claims occur within the Western District of New York; the effects of the challenged statute are felt in this District; and Defendants can and do perform official duties in this District.

### **Plaintiffs**

5. Emilee is a United States Citizen and resides in Chemung County, New York.

6. Emilee Carpenter, LLC is a for-profit limited liability company organized under New York law with its principal place of business also in Chemung County.

7. Emilee is the sole owner, member, and employee of Emilee Carpenter, LLC.

### **Defendants**

8. New York State Attorney General James has the duty to enforce the laws of New York throughout the state of New York (N.Y. Exec. Law § 63), including the laws challenged in this lawsuit—New York State’s Human Rights Law and New York State’s Civil Rights Law (collectively “New York’s laws” or “the laws”).<sup>1</sup>

9. Attorney General Letitia James is the head of the Department of Law, which includes the Civil Rights Bureau. *See* N.Y. Exec. Law § 60.

10. Attorney General James accepts, files, and receives notice of complaints alleging violations of New York’s laws, and administers, enforces, and prosecutes

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<sup>1</sup> Unless context indicates otherwise, the remainder of this complaint refers to New York State’s Human Rights Law (N.Y. Exec. Law §§ 290-301) and its related regulations as the “human rights law” and New York State’s Civil Rights Law (N.Y. Civ. Rts. Law §§ 40-c-40-d) as the “civil rights law.”

New York’s laws, including the laws’ criminal provisions. *See, e.g.*, N.Y. Exec. Law §§ 63(9), (10), (12), 297(1), 299; N.Y. Civ. Rts. Law § 40-d; N.Y. Exec. App. § 465.3(a)(2); <https://ag.ny.gov/civil-rights/complaint-forms>.

11. Attorney General James may also intervene in any hearing before the Division involving a complaint filed under the human rights law. *See* N.Y. Exec. Law § 297.4(4)(a); N.Y. Exec. App. § 465.12(c)(1).

12. Attorney General James has regional offices in Rochester and Buffalo, New York. *See* <https://ag.ny.gov/regional-office-contact-information>.

13. Johnathan J. Smith is the Commissioner and head of the New York State Division of Human Rights (“Division”). N.Y. Exec. Law § 293(1).

14. Commissioner Smith receives complaints alleging violations of the human rights law; tests, investigates, and files complaints alleging violations of that law; and administers, enforces, and prosecutes that law. *See, e.g.*, N.Y. Exec. Law §§ 295.6-.7, 297.4(c); N.Y. Exec. App. §§ 465.3(3), 465.13(a).

15. The Division has regional offices located in Rochester and Buffalo, New York. *See* <https://dhr.ny.gov/contact-us>.

16. Weeden Wetmore is the District Attorney of Chemung County, New York.

17. District Attorney Wetmore has authority to administer, enforce, and prosecute New York’s laws’ criminal provisions, including the civil rights law. *See* N.Y. County Law § 700; N.Y. Exec. Law § 299; N.Y. Civ. Rts. Law § 40-d.

18. All defendants are named in their official capacities.<sup>2</sup>

## **Factual Background**

### Emilee’s Christian beliefs motivate everything she does.

19. Emilee is a Christian.

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<sup>2</sup> Unless context indicates otherwise, the remainder of the complaint refers to all defendants collectively as “New York.”

20. Emilee tries to live by this verse: “So, whether you eat or drink, or whatever you do, do it all for the glory of God.” 1 Cor. 10:31 (ESV).

21. This means Emilee’s religious beliefs shape every aspect of her life, including her identity, her relationships with others, and her understanding of creation, truth, morality, purity, beauty, and excellence.

22. Emilee believes that God gives people gifts and passions and commands them to steward these in a way that honors Him, including by sharing God’s intent for His creation and promoting the Gospel—the belief that everyone needs forgiveness offered through God’s son, Jesus.

23. Emilee believes that God creates, calls, and equips some people to magnify God’s goodness by creating aesthetically pleasing art that reflects God’s beauty, artistry, and truth.

24. Emilee believes that God has called her to use her creative talents to honor and glorify God through photography.

Emilee operates a photography business, Emilee Carpenter, LLC.

25. Emilee became a commissioned photographer in 2012 when she began photographing engagements and weddings for a profit.

26. Emilee initially operated her photography business as a sole proprietorship.

27. In November 2019, Emilee reorganized her business to gain the benefits of a corporate form, incorporated her business as a limited liability company, and renamed her company Emilee Carpenter, LLC.

28. Emilee Carpenter, LLC’s presumed name is Emilee Carpenter Photography.<sup>3</sup>

29. Emilee also transitioned her social media sites to promote Emilee Carpenter Photography.

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<sup>3</sup> Unless context indicates otherwise, the complaint below refers to Emilee Carpenter, LLC as Emilee Carpenter Photography and refers to all plaintiffs collectively as “Emilee.”

30. In June 2020, Emilee launched a website for Emilee Carpenter Photography (<https://www.emileecarpenter.com/>).

31. This website hosts a blog controlled by Emilee.

32. Emilee offers, solicits, and receives inquiries for engagement and wedding-photography services from the general public and provides these services to the general public.

33. Whenever Emilee offers to photograph an engagement session for a couple, she also always offers to photograph the couple's wedding.

34. Emilee offers two types of wedding-photography services: elopement weddings and traditional weddings (including micro-weddings attended by small groups of people).

35. Whenever Emilee is hired by a couple to photograph their engagement or wedding, she always includes a complimentary blog post for the client.

36. Emilee also offers, solicits, and receives inquiries for branding-photography services from the general public and provides these services to the general public.

37. Emilee's branding-photography services depict and promote businesses and their services for business owners and businesses.

38. For example, Emilee has photographed candid and choreographed images of business owners and their unique tools-of-the-trade for use in their LinkedIn profiles, websites, business cards, and other marketing.

39. Emilee has provided branding-photography services for other photographers, dieticians, marketing professionals, worship leaders, authors, and others.

40. Emilee's faith animates why and how she operates her business, what she creates, and her vision for her artwork.

41. For this reason, in everything Emilee creates, she seeks to honor God's glory in His creation and display God's beauty, artistry and truth to others.



42. For example, all of Emilee's photographs portray the subject(s) or content of the photograph in a positive, appealing, and uplifting manner.

43. Emilee's faith also shapes how she treats others.

44. Emilee believes that she must honor God in how she interacts with others, including current and potential clients and members of the public.

45. Emilee seeks to obey the biblical command to love others by being honest with current and prospective clients and the public, by not lying or giving a false impression about what she will and will not create, and by treating them with love, honesty, fairness, and excellence.

Emilee tells a visual narrative about God's design for marriage through her photography and blogging.

46. Emilee believes that God designed marriage as a gift for people of all faiths, races, and backgrounds, to reflect the unity and diversity seen in the Trinity (Father, Son, and Holy Spirit), and to point people to Jesus' sacrificial and redemptive love for His Church.

47. Emilee celebrates engagements and marriages between one man and one woman through what she photographs, participates in, and posts about in order to share God's design for marriage with her clients and the public consistent with her beliefs.

48. Emilee has always desired to use her business to focus on crafting visual narratives celebrating marriages between one man and one woman because she believes marriage is a gift from God that should be treasured and celebrated.

49. To do this, Emilee evaluates every engagement and wedding photography request she receives to determine whether she can fulfill the request consistent with her artistic judgment and religious beliefs.

50. When Emilee receives a request, she researches that request online or through her personal and professional network to determine if she can potentially fulfill the request. *See infra*, ¶¶ 238-45, 312.

51. If Emilee decides she can potentially fulfill the request, she sends the prospective client an informational email with follow up questions and always offers to connect with the prospective client over coffee or through a videoconference.

52. If Emilee and the prospective client agree to move forward, the prospective client must agree in form or in substance to Emilee Carpenter Photography's service agreement.

53. The form service agreement states that Emilee has "full artistic license and total editorial discretion over all aspects of" her photography.

54. Emilee takes all engagement and wedding photographs according to her artistic judgment.

55. In all of her photography, Emilee seeks to create photographs that evoke joyful emotions and tell a compelling story of the couple's union through thoughtful and detail-driven photographs and to positively portray the couple, their wedding (or engagement), and God's design for marriage.

56. To this end, Emilee combines warm and earthy color tones with playful and moody subject matters.

57. When Emilee photographs an engagement session, she always portrays the couple in positive and romantic ways to create beautiful photographs telling a visual narrative which communicates the love, intimacy, and sacrifice of God's design for marriage.

58. She does this by capturing the couple interacting with each other in a playful, loving manner to celebrate their excitement and joy for their coming marriage.

59. For example, Emilee prompts the couple to laugh and smile with each other, encourages them to act spontaneously, and directs the couple on how to pose, when to hold hands, when to embrace, and when to kiss.

60. When Emilee photographs a wedding, she always portrays the couple in positive and romantic ways to create beautiful photographs telling a visual narrative which communicates the love, intimacy, and sacrifice of God's design for marriage.

61. For example, at the wedding ceremony, Emilee always photographs the officiant delivering the homily, the couple exchanging vows, the couple kissing and embracing before the attendees, and the officiant announcing the couple as husband and wife to commemorate the bride and groom being joined together in marriage.

62. For traditional weddings, Emilee typically photographs the bride getting dressed, portraits of the couple and their families, the bridal party, and the bride walking down the aisle.

63. Emilee always personally attends and photographs the entire wedding ceremony.

64. Emilee would not provide wedding photography if requested to photograph only a part of the wedding ceremony or everything but the wedding ceremony.

65. When Emilee photographs a wedding, she is always personally excited for the couple and the marriage she is about to witness because of her beliefs about God's design for marriage.

66. Emilee expresses her approval of the marriage and shares her excitement with the bride and groom and their family members and guests by interacting with them throughout the day, verbally encouraging them, reminding them to enjoy the special day, and congratulating the bride and groom in particular.

67. Emilee uses her excitement and energy to effectively choreograph and pose the bride and groom and their family and guests during photographs and to maintain a lighthearted environment to capture her desired images.

68. Emilee could not effectively provide her wedding photography if she did not personally and joyfully interact with the couple, the wedding party, and the wedding guests in these ways.

69. Emilee also believes that every wedding is inherently religious because the wedding solemnizes and initiates a sacred institution (marriage) created by God.

70. Many of the weddings Emilee has photographed have involved overtly religious elements like religious music, religious readings, communion, prayer, and a religious message by the pastor.

71. When Emilee photographs a ceremony with overtly religious elements, she has always sung along with the music, listened to and affirmed the religious message, and engaged with the prayers.

72. At every wedding Emilee has photographed, there has been an exchange of vows, an officiant, instructions to the wedding participants and/or guests, and a pronouncement of marriage.

73. The officiants' instructions and pronouncement of marriage have been directed at the couple getting married and members of the audience, including Emilee.

74. In these ways, Emilee acts as a witness before God and those assembled as bride and groom commit their lives to each other, exchange rings, are pronounced man and wife, and share their first kiss as a married couple.

75. When the wedding includes a reception, Emilee always attends all or most of the wedding reception to photograph its special moments.

76. Emilee always directs the bride and groom and their wedding party, the bride and groom's family, and the wedding guests, if any, before, during, and after the ceremony on how to pose for choreographed photographs.

77. With each photograph she takes, Emilee uses her artistic discretion and technical proficiency with cameras to create her desired image consistent with her artistic style and religious beliefs.

78. After the engagement session or wedding, Emilee edits the engagement or wedding photographs.

79. Emilee first culls through thousands of images to reduce the total number of images to between 50 and 1,000, depending on the number of images purchased by the client.

80. During this review, Emilee discards images that do not meet her artistic and moral standards, such as blurry photographs or photographs of persons blinking.

81. After the culling process, Emilee edits the remaining photographs.

82. For example, Emilee adjusts the image's tone by narrowing or expanding the range between the image's darkest and brightest areas to make the image more emotive.

83. Emilee uses these and other techniques to create an image consistent with her artistic style.

84. Once Emilee has edited at least some of the photographs, she emails 10-20 images to her client as a "sneak peak" via an online gallery.

85. After editing all of the photographs, Emilee sends her clients a link to view the photographs on an online gallery.

86. Emilee Carpenter Photography's logo appears throughout the online gallery.

87. From the online gallery, Emilee's clients can download their desired images and share their images with friends and family.

88. Emilee then posts a sampling of the photographs on her blog.

89. Emilee selects which edited photographs to post on her blog and writes a post to celebrate the engagement or wedding, encourage the couple, and communicate her views on marriage to the couple and to the general public.

90. Posting engagement and wedding photographs alongside text on her blog allows her to publicly tell uplifting stories about the couple and the beauty of marriage between a man and a woman in ways more powerful than through photography or words alone.

91. Emilee's blog is an integral part of her business and wedding photography services.

92. Emilee's website and blog allow her to publicly celebrate each couple; to publicly associate herself with her engagement and wedding photography; and to promote her business, artistic style, and approach to photography.

93. Emilee's website and blog also allow her to publicly advocate for marriage as between one man and one woman consistent with her religious beliefs by depicting celebratory photographs and text of opposite-sex weddings.

94. In this way, Emilee is like the many other commissioned photographers who post engagement and wedding photographs on their website, blogs, or social media sites to celebrate the couples, to associate their business with their photographs and photographic style, to allow the couple to associate with their business, and promote their views on topics including marriage.

95. Emilee also selects and posts some of the photographs on her social media pages with commentary where Emilee's name, picture, and Emilee Carpenter Photography's logo appear sporadically.

96. In these ways and more, Emilee associates herself with her wedding photography.

97. Emilee’s blog also allows her to proclaim her religious beliefs about marriage by publicly conveying the beauty and sacrificial nature of marriage between a man and a woman to her clients, their friends, and the public.

98. For Emilee’s engagement and wedding photography, Emilee’s clients rely on her aesthetic vision and ability to celebrate their engagement and wedding in a meaningful way.

99. Emilee makes most of her editorial decisions without any input from clients.

100. When clients do offer suggestions, Emilee tries to blend their suggestions into her own aesthetic vision so that the final product effectively celebrates the couple’s wedding and God’s design for marriage.

101. Clients usually defer to Emilee’s suggestions and rely heavily on her artistic and editorial judgments.

102. For all of her engagement and wedding photography, Emilee reserves the right to reject any objectionable requests, and retains full editorial control over what to photograph, how to photograph and edit, which photographs to upload to the online gallery, and which photographs to display and what to write on her blog.

103. Emilee does not offer and would not accept any request for wedding or engagement photography that portrayed the couple, their marriage, or their wedding in a negative way.

104. In all of the ways described above, Emilee makes numerous artistic and editorial decisions for her photography, editing, and blogging to positively portray the love, intimacy, and sacrifice of marriage between one man and one woman and to create visual narratives that celebrate the couple and promote God’s design for marriage.

105. Each component of Emilee’s wedding photography services—her photography, edits, and blog—separately and in combination, is expressive in nature, as it involves images, symbols, or other modes of expression.

106. Emilee believes that by capturing and conveying engagements, weddings, and marriages between one man and one woman, and by displaying them on her website and social media sites in an appealing way, she can persuade viewers that this type of marriage should be pursued and valued.

107. Emilee's desire to convey this message has increased as she has seen the growing promotion of views of marriage that are inconsistent with lifelong unions between one man and one woman.

108. Emilee hopes to counteract this cultural narrative by creating visual narratives telling a positive message about marriage as God intended it.

Emilee cannot create photographs, write blogs, or participate in ceremonies contrary to her religious beliefs.

109. Not only do Emilee's religious and artistic beliefs inspire what she photographs, writes about, and participates in, these beliefs also dictate what she cannot create, say, or do.

110. Emilee can only accept requests for her photography which are consistent with her editorial, artistic, and religious judgment.

111. For example, Emilee does not provide photography in a "light, bright, and airy" style (a style emphasizing soft, pastel colors and natural light) because of her stylistic preference and artistic judgment to photograph in a style emphasizing warm, earthy, and moody tones.

112. Likewise, Emilee only creates photographs and blogs and participates in ceremonies consistent with her understanding of the Bible's teachings.

113. For Emilee, this means she cannot provide any photography services that require her to use her photography skills to celebrate anything immoral, dishonorable to God, or contrary to her religious beliefs or artistic judgment, or to participate in anything contrary to her religious beliefs.



114. Emilee also does not provide photography services that demean others, devalue God's creation, condone racism, celebrate obscenity, promote violence, praise vulgarity, or otherwise contradict biblical principles.

115. For example, Emilee would not provide branding photography for a business or non-profit that promotes abortion (like Planned Parenthood) or encourages drug use (like a marijuana dispensary).

116. Emilee would not provide wedding photography for certain types of irreverent themed weddings—such as Halloween or Vampire-themed weddings—because Emilee believes that all wedding ceremonies are inherently religious and solemn events.

117. Also, because Emilee believes that God created marriage to be a joyful, exclusive union between one man and one woman, she cannot provide wedding photography which depicts engaged or married couples, marriages, or weddings in a negative way or promotes or celebrates any engagements, weddings, or marriages not between one man and one woman, such as same-sex or polygamous engagements or marriages.

118. Emilee cannot create the wedding photography described in paragraphs 116-117 because she always creates photography that positively portrays marriage, and creating wedding photography positively portraying same-sex, or polygamous weddings or weddings with irreverent themes, would promote activities contrary to her beliefs, express messages contradicting her beliefs, and express messages contradicting messages that Emilee wants to and does promote elsewhere.

119. Emilee also cannot create the wedding photography described above because she always actively participates in the wedding ceremonies she photographs.

120. If Emilee were compelled to photograph the ceremonies described above, she would feel coerced to remain silent and respectful during the ceremony and to

express her approval of the wedding by rejoicing with and congratulating the couple and their family on the new union.

121. Emilee therefore cannot provide photography services for same-sex or polygamous engagements or weddings because photographing these events would force Emilee to participate in ceremonies that violate her religious beliefs.

122. It is standard industry practice for commissioned photographers to decline to create content that violates or compromises their beliefs or editorial discretion.

123. For these reasons, it is Emilee's policy and practice to offer and provide wedding photography services only celebrating weddings between one man and woman and to decline any photography requests celebrating any other weddings—including those for same-sex engagements or weddings—no matter who asks her to do so.

124. Emilee also wants to legally bind Emilee Carpenter Photography and any future persons who become members of Emilee Carpenter Photography to maintain the same policy of only celebrating engagements and weddings between one man and one by adopting this policy into Emilee Carpenter Photography's operating agreement. *See infra*, ¶¶ 229-31.

125. Emilee also desires to be honest and transparent with current and prospective clients about her desire to only photograph engagements and weddings between one man and one woman by posting a statement on her website or social media sites explaining the types of engagements and weddings she can and cannot celebrate. *See infra*, ¶¶ 246-51.

126. Whenever Emilee receives a request she cannot fulfill because of a conflict with her artistic judgment, she generally tries to refer that request to another photographer who can do so.

127. Emilee would like to adopt this same referral policy for requests she receives that conflict with her beliefs (like requests for same-sex marriage photography), but

has refrained from doing so because she does not respond to same-sex engagement or wedding requests for fear of being sued under New York's laws. *Infra*, ¶¶ 266-68.

128. Emilee's policy of offering and providing wedding photography services celebrating weddings only between a man and a woman and of declining requests for photography services celebrating same-sex or polygamous engagements or weddings are never about the person requesting these services.

129. Instead, Emilee's policy of not offering to photograph these ceremonies is an objection to promoting and participating in an event that violates her religious beliefs.

130. For example, Emilee will create branding photographs for individuals who identify as LGBT or create branding photographs for a business owned and operated by LGBT individuals.

131. Emilee will create wedding photographs depicting a wedding between a man and a woman when requested and paid to do so by an LGBT parent or friend of those getting married.

132. Emilee will create wedding photographs depicting a wedding between a man and a woman when requested and paid to do so by an LGBT wedding planner or wedding vendor.

133. Emilee would also photograph a staged wedding shoot for a bridal magazine or other business depicting and promoting a wedding using a male model as the groom and a female model as the bride, whether those models identify as LGBT or not.

134. Emilee will create wedding photographs for the union of one man and one woman where one or both of the individuals identify as gay, lesbian, or bisexual, so long as the wedding ceremony reflects a genuine intent that the marriage be a lifelong union between one man and one woman.

135. Several research institutes estimate that between thirteen and eighteen percent of adults who identify as gay or lesbian are married to members of the opposite sex.

136. Emilee will create photographs described in paragraphs 130-134 so long as the photographs themselves do not require Emilee to participate in a ceremony or express a message that violates her religious beliefs or artistic judgment.

137. On the other hand, because it is Emilee's policy to decline requests to create photographs that violate her religious beliefs or are conflict with her artistic judgment, Emilee does not accept every request to photograph an engagement or wedding between a heterosexual man and a heterosexual woman. *See supra*, ¶ 116.

138. For example, Emilee would not photograph a staged wedding shoot for a bridal magazine or other business depicting and promoting a wedding using two male models as the grooms or two female models as the brides, whether those models identify as LGBT or not.

139. Emilee would also not photograph an engagement or wedding between one man and one woman if requested to do so in a "light, bright, and airy" style.

140. When evaluating whether any photography request is consistent with Emilee's religious beliefs and artistic judgment, Emilee considers, and it is her pattern and practice to consider, the message conveyed by the requested services and whether these services require her to create a message she opposes or participate in a ceremony she objects to, not the identity of who requests these services.

New York's laws threaten Emilee's wedding photography and business.

141. Emilee desires to operate her business consistent with her religious beliefs and to express some of her religiously motivated beliefs.

142. As Emilee was getting Emilee Carpenter, LLC started, she sought legal advice from a friend who is an attorney about her desire to promote marriages consistent with her religious beliefs.

143. Emilee's friend made her aware of the human rights law.

144. As Emilee researched more about that law, she realized that it threatened her ability to operate her business according to her faith, and restricted what she could post on her studio's website and social media sites and what she could say to prospective clients.

145. Emilee also read news reports about other artists, like photographers, and other business owners in New York and elsewhere who were being sued and threatened with severe penalties for declining to celebrate or participate in same-sex wedding ceremonies.

146. Among other things, the human rights law prohibits "unlawful discriminatory practices ... because of" sexual orientation in "any place of public accommodation." N.Y. Exec. Law § 296.2(a).

147. The human rights law defines a place of public accommodation as including "retail ... establishments dealing with goods or services of any kind." N.Y. Exec. Law § 292.9.

148. The term "place of public accommodation" is "construed liberally" and is not limited to public accommodations that are specifically defined in the law or that operate out of a physical space. N.Y. Exec. Law § 300.

149. For example, the human rights law includes retailer's websites, commodity trading floors, and dating services as public accommodations. *See Andrews v. Blick Art Materials, LLC*, 268 F. Supp. 3d 381 (E.D.N.Y. 2017); *D'Amico v. Commodities Exch. Inc.*, 652 N.Y.S.2d 294 (N.Y. App. Div. 1997); *Battaglia v. Buffalo Niagara*

*Introductions, Inc.*, No. 10138581, at 5 (N.Y. State Div. of Hum. Rights Jan. 28, 2014).<sup>4</sup>

150. Emilee Carpenter Photography is a for-profit business offering goods, services, advantages, and privileges to the public.

151. Emilee Carpenter Photography also promotes its goods, services, advantages, and privileges to the public on its website and social media sites, on an online wedding vendor directory, and through word-of-mouth from clients and personal and professional networks.

152. Emilee Carpenter Photography's website, and the online wedding vendor directory she advertises on, have contact forms where anyone from the public can submit a request for Emilee's services.

153. Emilee Carpenter Photography is therefore a place of public accommodation under and subject to the human rights law.

154. Likewise, Emilee Carpenter Photography promotes its website (<https://www.emileecarpenter.com/>) and allows members of the public to contact Emilee through this website.

155. Emilee Carpenter Photography's website also offers distinct goods, services, advantages, and privileges.

156. For example, Emilee Carpenter Photography's website contains Emilee's blog which allows her to post photographs and write text publicly celebrating each couple she photographs and to showcase their engagement or wedding to a broader audience than they would otherwise be able to if Emilee did not have a website. *See supra*, ¶¶ 88-93.

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<sup>4</sup> All Division orders cited in this complaint are available on the Division's website. *See Orders*, New York Division of Human Rights, <https://dhr.ny.gov/orders> (last visited Apr. 5, 2021).

157. Emilee Carpenter Photography’s website (<https://www.emileecarpenter.com/>) is therefore also a place of public accommodation under and subject to the human rights law.

158. The human rights law prohibits “unlawful discriminatory practice[s]” in public accommodations (§ 296.2(a)) through two clauses: the “Accommodations Clause” and the “Publication Clause.”

159. The Accommodations Clause (§ 296.2(a)) makes it unlawful “for any person ... to refuse, withhold from or deny” any “person any of the ... advantages, ... or privileges” of a place of public accommodation “because of” sexual orientation.

160. As interpreted by New York, the Accommodations Clause prohibits Emilee from

- asking prospective clients whether they want her to photograph a same-sex engagement or wedding;
- exclusively offering photography services that promote and celebrate engagements and weddings between one man and one woman;
- declining requests for photography services that promote and celebrate same-sex engagements and weddings if she offers these services when they promote and celebrate opposite-sex engagements and weddings;
- maintaining a written policy or unwritten practice or binding her company to a policy of offering or providing photography services only for engagements and weddings celebrating marriage between one man and one woman;
- maintaining a written policy or unwritten practice or binding her company to a policy of uniformly declining requests to create photographs celebrating same-sex engagements and weddings while accepting requests to create photographs celebrating opposite-sex engagements and weddings;

- displaying only photographs and blog posts celebrating marriages between one man and one woman on Emilee Carpenter Photography’s website while declining to display any photographs or blog posts celebrating same-sex marriages; and
- providing any unequal treatment when providing photography services celebrating same-sex engagements and weddings compared to requests celebrating opposite-sex engagements and weddings.

161. As to the last point, the Accommodations Clause also makes it unlawful for Emilee to treat photography requests for same-sex engagements and weddings different from photography requests for opposite-sex weddings—whether by responding to the former more slowly, by always referring the former to another photographer, or by offering any part of her services to the latter but not the former, such as posting wedding photographs or blogs for opposite-sex weddings on her website but not posting wedding photographs or blogs for same-sex weddings.

162. In short, the Accommodations Clause forces Emilee to celebrate same-sex engagements or weddings and would require her to promote messages that violate her religious beliefs or require her to participate in religious ceremonies that violate her religious beliefs, something she cannot do. *See supra*, ¶¶ 109-23.

163. This undercuts Emilee’s message (expressed elsewhere in her photographs, website, blog, and social media sites) celebrating marriage between one man and one woman; harms Emilee’s reputation among her past and prospective clients; and adversely affects Emilee’s ability to share biblical truths about marriage with others.

164. The Publication Clause also hinders Emilee’s ability to explain on her own company’s website, social media sites, or directly to prospective clients her religious beliefs about marriage and what services her company provides.



165. Likewise, the Publication Clause prohibits Emilee from asking prospective clients questions sufficient for her to learn whether they are seeking photography services celebrating same-sex engagements or weddings so that she can be honest with them about the photographs she does and does not create.

166. The Publication Clause does these things through two sub-clauses: the “Denial Clause” and the “Unwelcome Clause.”

167. The Denial Clause (§ 296.2(a)) makes it unlawful “to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that any of the ... advantages, ... and privileges of any” public accommodation “shall be refused, withheld from or denied to any person on account of ... sexual orientation.”

168. The Unwelcome Clause (§ 296.2(a)) makes it unlawful “to publish, circulate, issue, display, post or mail any written or printed communication, notice or advertisement to the effect that ... the patronage or custom” at a public accommodation “of any person of or purporting to be of any particular ... sexual orientation ... is unwelcome, objectionable or not acceptable, desired, or solicited.”

169. The Publication Clause prohibits Emilee from explaining on her website and social media sites and directly to prospective clients, her religious beliefs about marriage and what types of engagement or wedding photography she provides.

170. Likewise, the civil rights law contains a “Discrimination Clause” which prohibits “any ... person” or “any firm, corporation or institution” from “discriminat[ing]” against any other person “because of ... sexual orientation.” N.Y. Civ. Rts. Law § 40-c(2).

171. Emilee is a person and Emilee Carpenter Photography is a “firm, corporation or institution” subject to the civil rights law.

172. The civil rights law operates identically to the Accommodations Clause and the Publication Clause’s Denial Clause as to Emilee, Emilee Carpenter Photography, and Emilee Carpenter Photography’s website.

173. Therefore, the civil rights law prohibits Emilee and her company from engaging in the same activities as the Accommodations Clause and the Publication Clause’s Denial Clause. *See supra*, ¶¶ 160-69.

Attorney General James independently enforces New York’s law with serious consequences.

174. New York is authorized to enforce the laws against Emilee in numerous ways.

175. Attorney General James accepts complaints alleging violations of New York’s laws “to address patterns, practices and policies of discrimination.” *See* <https://ag.ny.gov/civil-rights/complaint-forms>.

176. Attorney General James may file a civil action against public accommodations for alleged “repeated ... illegal acts” or the “persistent ... illegality in the carrying on, conducting or transaction of business” under the human rights law and civil rights law. N.Y. Exec. Law § 63(12). *See People v. Hamilton*, 125 A.D.2d 1000, 1001–02 (1986).

177. The New York Attorney General’s office has exercised its authority under Executive Law § 63(12) to investigate public accommodations for violating the human rights law and the civil rights law.

178. Attorney General James has exercised her authority under Executive Law § 63(12) to prosecute businesses for violating anti-discrimination laws.

179. Attorney General James considers a public accommodation’s policy of offering expressive services (like photography) celebrating opposite-sex weddings but not same-sex weddings or declining these services for same-sex weddings while offering

them for opposite-sex weddings to be a “pattern[], practice[] and polic[y] of discrimination” and a “repeated ... illegal act[]” or “persistent ... illegality” under New York’s law. *See* Br. for Mass. et al. as Amici Curiae in Support of Defs. at 10-14, 26-27, *303 Creative LLC v. Elenis*, No. 19-1413 (10th Cir. Apr. 29, 2020) (joined by Attorney General James).

180. In civil actions filed by Attorney General James, the court may impose penalties including injunctions, damages, and cancellations of certificates for limited liability companies. N.Y. Exec. Law § 63(12).

New York enforces the laws through aggressive enforcement mechanisms and paralyzing penalties.

181. The Division also accepts complaints against public accommodations from any “person or organization claiming to be aggrieved by an alleged unlawful discriminatory practice.” N.Y. Exec. App. § 465.3(a)(1); N.Y. Exec. Law § 297.1.

182. Advocacy organizations whose members are injured by an alleged discriminatory practice are an “aggrieved person” under the human rights law.

183. The human rights law authorizes “[a]ny person claiming to be aggrieved by an unlawful discriminatory practice” based on their “known relationship or association with” a member of a protected category to file a complaint against public accommodations with the Division. N.Y. Exec. App. § 466.14.

184. The Division accepts complaints against public accommodations from persons who reside outside of the state of New York. *See Keimel v. Manchester Newspapers*, No. 10102907, at 5 (N.Y. State Div. of Hum. Rights May 1, 2007).

185. Attorney General James may file a complaint alleging an unlawful discriminatory practice with the Division. N.Y. Exec. Law §§ 297.1; N.Y. Exec. App. § 465.3(a)(2).

186. The Division also has authority to file a complaint alleging an unlawful discriminatory practice on its own motion. N.Y. Exec. Law §§ 295.6(b), 297.1; N.Y. Exec. App. § 465.3(a)(3).

187. The Division describes its Division-initiated complaints as an “aggressive approach to fighting discrimination” in that the Division uses “vigorous prosecution of ... discriminatory practices through investigations and/or complaints initiated by the Division itself.” New York State Division of Hum. Rights, *2006/2007 Annual Report* 3 (2007), [https://dhr.ny.gov/sites/default/files/pdf/annualreport\\_2006-07.pdf](https://dhr.ny.gov/sites/default/files/pdf/annualreport_2006-07.pdf).

188. The Division has an entire unit dedicated to initiating complaints. *See* <https://dhr.ny.gov/agency-overview>.

189. The Division also has authority to use “testers” to investigate charges of discrimination. N.Y. Exec. Law § 295.6(b).

190. As a Division representative stated during a Division-sponsored webinar, the Division “can also initiate what’s called a Division initiated investigation. So, if we don’t have a claimant ... but ... there’s some suspicion of systemic pattern, then we can send in testers, we can send in investigators, and identify if there’s a systemic pattern of discrimination.” New York State Division of Human Rights, *GENDA & LGBTQ Rights Under the Human Rights Law-June 20, 2019 Webinar*, at 53:23-49, YouTube (June 24, 2019), [https://www.youtube.com/watch?v=UEk\\_uf1gDkI&t=3224s](https://www.youtube.com/watch?v=UEk_uf1gDkI&t=3224s).

191. The Division has used this authority to investigate public accommodations by reviewing their websites and initiating over 100 “test calls” to determine if the public accommodations complied with the human rights law. *See* <https://dhr.ny.gov/banking-services-improvements-2014>.

192. After settling these Division-initiated complaints, a Division representative claimed “these complaints should serve as a reminder that the Division’s authority is not limited to handling complaints from members of the public and that we can

and we will take action to identify and remedy Human Rights Law violations on our own initiative.” See <https://dhr.ny.gov/banking-services-improvements-2014>.

193. Overall, the Division has initiated complaints and/or used testers to investigate alleged discrimination more than one hundred times since 2015.

194. After the Division receives or files a complaint against a public accommodation, the Division shall “make prompt investigation” of the complaint to determine if there is probable cause to believe that an unlawful discriminatory practice occurred. N.Y. Exec. Law § 297.2(a).

195. During this investigation, Attorney General James and Commissioner Smith have significant authority.

196. Attorney General James “is authorized to take proof, issue subpoenas and administer oaths.” N.Y. Exec. Law § 297.1.

197. Likewise, the Division can subpoena witnesses, administer oaths, compel the production of documents, conduct “written or oral inquir[ies],” hold conferences, seek injunctions, or perform “any other method or combination thereof deemed suitable” for the investigation. N.Y. Exec. Law §§ 296.7, 297.3(a); N.Y. Exec. App. §§ 465.6(b), 465.9(a).

198. The investigatory process imposes a significant burden on the party opposing the complaint (the “respondent”).

199. For one thing, the Division must complete its investigation within 180 days of receiving the complaint and respondents must therefore respond to the Division’s inquiries within a limited timeframe. N.Y. Exec. Law § 297.2(a).

200. This investigation occurs in an adversarial process because the Division investigates the respondent on the complaining party’s behalf. N.Y. Exec. App. § 465.4(a), (d).

201. Once the Division completes its investigation it issues a probable-cause report. N.Y. Exec. Law § 297.2(a); N.Y. Exec. App. § 465.8.

202. During the investigation and after a probable-cause finding, the Division may attempt to settle the complaint with the respondent. N.Y. Exec. App. §§ 465.7(a)(1), 465.15.

203. Settlement agreements require respondents “to refrain or cease and desist from the commission of unlawful discriminatory practices in the future” and may contain other terms. N.Y. Exec. App. §§ 465.7(b), 465.16(b)(2).

204. Also after a probable-cause finding and if the complaint is not settled, the respondent must submit a sworn answer to the “complaint and appear at a public hearing.” N.Y. Exec. Law § 297.4(a); N.Y. Exec. App. § 465.11(a), (c).

205. The Division assigns a hearing examiner to conduct the hearing. N.Y. Exec. App. § 465.12(d)(1).

206. If the respondent refuses to answer the complaint, the hearing examiner may enter a default judgment against the respondent. N.Y. Exec. Law § 297.4(b); N.Y. Exec. App. § 465.11(e).

207. The complaint is supported by the Division’s attorneys, by the Division’s attorneys and the complainant’s attorneys, or by the complainant’s attorneys with the Division’s approval. N.Y. Exec. Law § 297.4(a); N.Y. Exec. App. § 465.13(g), (h).

208. At the Division’s request, Attorney General James may also prosecute the human rights law in any civil action. N.Y. Exec. Law §§ 63(9).

209. Before the hearing, Commissioner Smith and the Division may issue subpoenas to compel witnesses to appear and testify and to require the production of documents. N.Y. Exec. App. § 465.14(a).

210. During the hearing, the hearing examiner has significant authority, including receiving and excluding evidence, examining witnesses, and permitting oral arguments and briefs. *See* N.Y. Exec. App. § 465.12(e), (o).

211. After the hearing, the hearing examiner prepares a proposed order for the Commissioner’s approval. N.Y. Exec. App. § 465.17(c).

212. If Commissioner Smith finds that a respondent has engaged in an unlawful discriminatory practice, he can award significant remedies such as:

- requiring respondent “to cease and desist from” the unlawful practice;
- requiring a public accommodation to provide the “advantage[],” or “privilege[]” which was the subject of the complaint;
- awarding compensatory damages;
- assessing civil fines up to fifty thousand dollars for unlawful discriminatory acts and up to one hundred thousand dollars for unlawful discriminatory acts which are “willful, wanton or malicious”; and
- mandating compliance reports. N.Y. Exec. Law § 297.4(c), (e).

213. The Division has also required places of public accommodations to establish “anti-discrimination training and procedures.” *McCarthy v. Liberty Ridge Farm, LLC*, Nos. 10157952 & 10157963, at 23 (N.Y. State Div. of Hum. Rights July 2, 2014); *Scipio v. Wal-Mart Stores East, L.P.*, No. 10114171, at 13 (N.Y. State Div. of Hum. Rights Mar. 31, 2009).

214. The Division has also fined owners or agents of public accommodations in their personal capacity. *McCarthy v. Liberty Ridge Farm, LLC*, Nos. 10157952 & 10157963, at 20-21 (N.Y. State Div. of Hum. Rights July 2, 2014).

215. If a public accommodation violates any order of the Division, the owner of the public accommodation “shall be guilty of a misdemeanor” and may be fined five hundred dollars and be imprisoned for not more than one year. N.Y. Exec. Law § 299.

216. Attorney General James has authority to criminally prosecute public accommodations who violate a Division order. *See* N.Y. Exec. Law 63(10).

217. District Attorney Wetmore also has authority to criminally prosecute public accommodations who violate a Division order. *See* N.Y. County Law § 700.

218. The Division actively receives and initiates complaints for alleged violations of New York’s human rights law, including those that allege discrimination because of sexual orientation in violation of the Accommodations and Publication Clauses.

219. Between fiscal years 2012 and 2018, the Division received, investigated, and processed approximately 1,740 complaints against places of public accommodation under New York’s law, including many complaints alleging sexual orientation discrimination.

220. The human rights law also permits “[a]ny person claiming to be aggrieved by an unlawful discriminatory practice” to file a civil action directly “in any court of appropriate jurisdiction” where he or she can recover the same relief as if the complaint were filed with the Division. N.Y. Exec. Law. § 297.9.

221. Likewise, the civil rights law authorizes any “person aggrieved” by an act of discrimination to file suit “in any court of competent jurisdiction in the county in which the defendant shall reside.” N.Y. Civ. Rts. Law § 40-d.

222. Prior to filing suit, the aggrieved person must provide notice of suit to the Attorney General. N.Y. Civ. Rts. Law § 40-d.

223. The purpose of this notice is to supply the Attorney General with sufficient information to administer, enforce, and prosecute the civil rights law.

224. If any person is found to have discriminated against any other person because of sexual orientation, that person shall “be liable to a penalty of not less than one hundred dollars nor more than five hundred dollars” and “shall be deemed guilty of a class A misdemeanor.” N.Y. Civ. Rts. Law § 40-d.

225. Attorney General James has authority to criminally prosecute any person who violates the civil rights law. *See* N.Y. Exec. Law 63(10).

226. District Attorney Wetmore also has authority to criminally prosecute any person who violates the civil rights law. *See* N.Y. County Law § 700.



227. District Attorney Wetmore may commence a criminal action against a person under the civil rights law without notifying Attorney General James.

New York's law imposes overwhelming burdens on Emilee's wedding photography.

228. New York's laws have imposed and continue to impose significant pressures and burdens on Emilee and on how she operates and communicates about Emilee Carpenter Photography.

229. For example, Emilee wants to amend her company's operating agreement to include a "Beliefs and Practices" policy statement that explains her artistic and religious beliefs for choosing to promote certain ideas but not others.

230. A true and correct copy of the "Beliefs and Practices" policy statement Emilee desires to adopt is attached to this complaint as Exhibit 1.

231. Emilee wants to adopt this editorial policy as an addendum to Emilee Carpenter Photography's operating agreement because it provides a policy that constrains Emilee Carpenter Photography's operations and ensures that its work is consistent with her artistic and religious beliefs; specifies the policies and editorial decisions that Emilee Carpenter Photography must follow when determining whether to provide requested services; ensures that the policies and editorial decisions indicated in the "Beliefs and Practices" policy will be applied consistently; and effectively and thoroughly explains her editorial decisions for not creating certain types of photography.

232. But the Accommodations and Discrimination Clauses prohibit Emilee from adopting Emilee Carpenter Photography's desired "Beliefs and Practices" policy because the policy binds Emilee Carpenter Photography to not photograph same-sex weddings, which New York equates to refusing or withholding goods, services, advantages, or privileges from a person because of their sexual orientation. *See, e.g., infra*, ¶¶ 262, 285-99.

233. Because of the Accommodations and Discrimination Clauses, Emilee Carpenter Photography has not and will not formally amend its operating agreement to include its desired “Beliefs and Practices” policy (Exhibit 1).

234. By forbidding Emilee from adopting her desired written editorial policy, the Accommodations and Discrimination Clauses have and continue to undercut Emilee’s ability to exercise editorial judgment over her wedding photography and photography business, hinders her ability to bind future owners and employees to promote messages Emilee agrees with, hinders her ability to plan her business, and effectively requires Emilee to accept projects promoting messages contrary to her beliefs.

235. The Accommodations, Publication, and Discrimination Clauses have and continue to hinder Emilee’s ability to operate her business as efficiently as possible in other ways as well.

236. For example, Emilee wants to ask prospective clients questions sufficient for her to learn whether they are seeking photography services celebrating same-sex engagements or weddings so that she can be transparent with them and let them know she does not create these photographs.

237. But the Accommodations, Publication, and Discrimination Clauses forbid Emilee from asking this question.

238. In turn, Emilee has had to research and continues to research every wedding photography request she receives to determine if the request seeks services that violate her beliefs.

239. Doing this research takes time and effort and reduces the amount of time and effort Emilee can spend operating her business.

240. Likewise, this process has and continues to cause Emilee to lose business opportunities because Emilee does not respond to requests if she cannot confirm that the request is for an engagement or wedding between one man and one woman.

241. Emilee has and continues to ignore many requests because she could not confirm through research whether the request was for an engagement or wedding between one man and one woman or a same-sex engagement or wedding.

242. In the past year, Emilee has ignored more than ten requests because she could not confirm through research whether the request was for an engagement or wedding between one man and one woman or a same-sex engagement or wedding.

243. On average, more than ten percent of prospective clients who contact Emilee to make a request become actual clients of Emilee's for whom she provides photography services.

244. Therefore, Emilee has lost revenue from photographing at least one engagement or wedding because of the Accommodations, Publication, and Discrimination Clauses.

245. Emilee has photographed at least one less engagement or wedding than she otherwise would have because of the Accommodations, Publication, and Discrimination Clauses.

246. The Accommodations, Publication, and Discrimination Clauses also have prohibited and continue to prohibit Emilee from posting on her business website a statement explaining her religious reasons for why she only promotes marriages between one man and one woman.

247. A true and correct copy of this statement is attached to the complaint as Exhibit 2.

248. Emilee wants to post this statement to briefly explain her services and beliefs to the public and to prospective clients because Emilee is religiously motivated to be transparent and honest with clients, potential clients, and the public. *Supra*, ¶ 45.

249. By posting this statement, Emilee will be able to explain why she can only promote and celebrate marriages between one man and one woman and will avoid giving any false impression about what she will and will not create.

250. Emilee also hopes that by posting this statement explaining her religious beliefs, prospective clients and the public will come to appreciate her point of view even if they disagree with it.

251. Emilee also wants to make statements materially similar to Exhibit 2 directly to prospective clients when asked to explain her services.

252. If Emilee posted her desired statement (Exhibit 2), or materially similar statements on her website or made materially similar statements directly to prospective clients, she would violate the Accommodations, Publication, and Discrimination Clauses.

253. Because of the Accommodations, Publication, and Discrimination Clauses, Emilee has not and will not post her desired statement (Exhibit 2), or materially similar statements, on her website or make materially similar statements directly to prospective clients.

254. By preventing Emilee from effectively communicating the photography services she can and cannot provide, the Accommodations, Publication, and Discrimination Clauses have required and continue to require Emilee to spend additional time and effort researching the requests she receives, reduces the amount of time and effort she spends on operating her business, and causes her to lose out on business opportunities and profit.

255. By preventing Emilee from effectively communicating the photography services she can and cannot provide, the Accommodations, Publication, and Discrimination Clauses also have caused and continue to cause Emilee reputational harm by preventing her from clearly and honestly communicating her religious and artistic beliefs to prospective clients and the public.

256. If not for the Accommodations, Publication, and Discrimination Clauses, Emilee would immediately initiate activities motivated by her religious beliefs.

257. For example, if not for the Accommodations and Discrimination Clauses, Emilee would immediately sign and formally adopt her desired “Beliefs and Practices” policy (Exhibit 1) to bind her company to promote messages consistent with Emilee’s religious beliefs.

258. If not for the Accommodations, Publication, and Discrimination Clauses, Emilee would immediately begin asking prospective clients questions sufficient for her to determine whether they are seeking photography services celebrating a same-sex engagement or wedding.

259. If not for the Accommodations, Publication, and Discrimination Clauses, Emilee would immediately post the statement in Exhibit 2 or materially similar statements on her business website and directly to prospective clients.

260. Because of the severely intrusive nature of New York laws’ investigative process (including the process described in paragraphs 194 to 211), the fear of going through this process has forced Emilee to refrain from the activities described above (including the activities described in paragraphs 229 to 258).

261. Likewise, Emilee has and continues to refrain from the activities described above because she faces a credible threat and substantial risk that she will be investigated or prosecuted under New York’s laws for engaging in these activities.

262. For example, Attorney General James and the Division have taken the formal position that public accommodations discriminate on the basis of sexual orientation if they (A) have a religiously-based policy and practice of offering services celebrating opposite-sex weddings but not same-sex weddings or (B) have a religiously-based policy and practice of declining to provide services celebrating same-sex weddings while offering them for opposite-sex weddings. *See Br. for Mass. et al. as Amici Curiae in Support of Defs. at 10-14, 26-27, 303 Creative LLC v. Elenis*, No. 19-1413 (10th Cir. Apr. 29, 2020) (joined by Attorney General James);

*McCarthy v. Liberty Ridge Farm, LLC*, Nos. 10157952 & 10157963, at 17-19 (N.Y. State Div. of Hum. Rights July 2, 2014).

263. In fact, the Division has already investigated and prosecuted business owners who declined to host a same-sex wedding because of the owners' religious beliefs about marriage. *See infra*, ¶¶ 287-92.

264. The Division has also prosecuted, punished, and fined a public accommodation for having a "policy of accepting only opposite sex personal ads." *See Keimel v. Manchester Newspapers*, No. 10102907, at 5 (N.Y. State Div. of Hum. Rights May 1, 2007).

265. Likewise, Emilee is refraining from the activities described above because she has already received several requests to provide photography services for same-sex weddings, which expose her to being investigated or prosecuted under New York's laws.

266. In fact, Emilee has determined she has already received at least seven requests to provide photography celebrating same-sex weddings in the last year.

267. Emilee has declined these requests by not responding to them.

268. Emilee is also refraining from the activities described above (including the activities described in paragraphs 229 to 258) because she faces a credible threat and substantial risk that she will receive more requests to provide photography services for same-sex engagements or weddings, thereby further increasing her chances of being investigated or prosecuted under New York's laws because Emilee will always decline these requests.

269. Emilee's desire to incorporate a "Beliefs and Practices" policy (Exhibit 1) in her operating agreement and post Exhibit 2 on her website has only increased because she has received so many recent requests to photograph same-sex weddings and each request subjects her business to lawsuits.

270. Faced with this reality, Emilee realized that she needs to be clearer and more transparent with the public about what artwork she can and cannot create and that she needs to formalize her policies and practices to better explain and protect her artistic and religious freedom.

271. Likewise, Emilee is refraining from posting Exhibit 2 or making materially similar statements on her business website or social media sites and directly to prospective clients because she faces a credible threat and substantial risk that she will be investigated or prosecuted under New York's laws for making these statements even if she does not receive a request to provide photography services for same-sex engagements or weddings.

272. For example, Attorney General James has taken the formal position that public accommodations discriminate on the basis of sexual orientation if they publish communications with the effect of declining expressive services celebrating same-sex weddings but not opposite-sex weddings. *See* Br. for Mass. et al. as Amici Curiae in Support of Defs. at 13--4, *303 Creative LLC v. Elenis*, No. 19-1413 (10th Cir. Apr. 29, 2020) (joined by Attorney General James).

273. The Division has investigated and prosecuted a complaint for an employment advertisement that violated New York's employment law (§ 296.1(d)) after the complainant viewed the advertisement and had "negative feelings" but did not apply for the advertised job. *Sullivan v. Animal Fair Media, Inc.*, No. 10122835, at 4-6 (N.Y. State Div. of Hum. Rights Feb. 18, 2011).

274. Indeed, to file a complaint based on an advertisement, a complainant need only see the advertisement and claim to be personally aggrieved by it.

275. The Division has also initiated on its own motion a complaint for an employment advertisement that violated New York's employment law (§ 296.1(d)) even without identifying a person aggrieved by the advertisement. *N.Y. State Div. of*

*Human Rights v. Golden Mine 2000*, No. 10169517, at 3-7 (N.Y. State Div. of Hum. Rights Apr. 28, 2016).

276. Since launching her business’s website, Emilee’s website has received almost 3,000 unique views.

277. Therefore, Emilee faces a credible threat and substantial risk that a person will view her desired statement (if posted) and file a complaint with the Division.

278. Likewise, Emilee faces a credible threat and substantial risk that the Division would learn of her business, submit a “tester,” and initiate a complaint against her if she posted her desired statement. *See, e.g., supra*, ¶¶ 189-93.

279. Emilee also faces a credible threat and substantial risk of being investigated or prosecuted under New York’s law by declining additional requests to provide photography services celebrating same-sex engagements or weddings because of New York’s demographics.

280. For example, as of 2019, almost sixty-five thousand same-sex couples live in New York. *See* <https://www.census.gov/data/tables/time-series/demo/same-sex-couples/ssc-house-characteristics.html>.

281. Between 2012 and 2017, almost 16,000 same-sex couples married in the state of New York, excluding same-sex marriages in New York City. *See* [https://www.health.ny.gov/statistics/vital\\_statistics/2012/table47a.htm](https://www.health.ny.gov/statistics/vital_statistics/2012/table47a.htm); [https://www.health.ny.gov/statistics/vital\\_statistics/2013/table47a.htm](https://www.health.ny.gov/statistics/vital_statistics/2013/table47a.htm); [https://www.health.ny.gov/statistics/vital\\_statistics/2014/table47a.htm](https://www.health.ny.gov/statistics/vital_statistics/2014/table47a.htm); [https://www.health.ny.gov/statistics/vital\\_statistics/2015/table47a.htm](https://www.health.ny.gov/statistics/vital_statistics/2015/table47a.htm); [https://www.health.ny.gov/statistics/vital\\_statistics/2016/table47a.htm](https://www.health.ny.gov/statistics/vital_statistics/2016/table47a.htm); [https://www.health.ny.gov/statistics/vital\\_statistics/2017/table47a.htm](https://www.health.ny.gov/statistics/vital_statistics/2017/table47a.htm).

282. Upon information and belief, statistics for same-sex marriages within New York City are separately maintained.



283. As of 2016, there were a total of approximately 16,000 married same-sex couples in New York City and more than 33,000 married same-sex couples in New York State. See <https://comptroller.nyc.gov/reports/same-sex-marriage-new-insights-from-the-2016-american-community-survey/>.

284. Overall, New York has the second highest LGBT population in the United States with over 700,000 people who identify as lesbian, gay, or bisexual. See <https://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Adult-US-Pop-Jul-2020.pdf>.

New York only prosecutes its laws against views the government disfavors.

285. New York interprets its laws' prohibition on sexual-orientation discrimination as prohibiting businesses from declining to offer or provide services celebrating same-sex marriage because of the business owner's religious objections to same-sex marriage.

286. For example, Attorney General James equates a public accommodation's decision to only celebrate marriages between a man and a woman to be sexual orientation discrimination "[n]o matter the sincerity of a business owner's religious beliefs or other deeply held views." Br. for Mass. et al. as Amici Curiae in Support of Defs. at 10, *303 Creative LLC v. Elenis*, No. 19-1413 (10th Cir. Apr. 29, 2020) (joined by Attorney General James).

287. Attorney General James adopts the former Attorney General of New York's view that public accommodations violate New York's laws if they decline to celebrate a same-sex marriage even based on "[r]eligious objections to same-sex marriage." Br. for the Att'y Gen. of New York as Amicus Curiae in Support of Resp't at \*18, *Gifford v. McCarthy*, 137 A.D.3d 30 (N.Y. App. Div. 2016), 2015 WL 13813477.

288. Likewise, the Division considers it to be sexual-orientation discrimination if a public accommodation declines to celebrate a same-sex wedding “even if the [public accommodation’s] action reflected its owners’ sincere religious beliefs.” Br. and App. on Behalf of Resp’t State Div. of Hum. Rights at 32, *Gifford v. McCarthy*, 137 A.D.3d 30 (N.Y. App. Div. 2016).

289. The Division, with the New York State Attorney General’s Office’s support, recently prosecuted and fined a wedding venue and its owners for maintaining a policy of only hosting marriages between one man and one woman. *See McCarthy v. Liberty Ridge Farm, LLC*, Nos. 10157952 & 10157963, at 17-22 (N.Y. State Div. of Hum. Rights July 2, 2014).

290. The Division punished the wedding venue and its owners even though the policy was a result of the owners’ “specific religious belief regarding marriage’, i.e. that it should be between a man and a woman.” *See McCarthy v. Liberty Ridge Farm, LLC*, Nos. 10157952 & 10157963, at 10 (N.Y. State Div. of Hum. Rights July 2, 2014).

291. Yet the Division dismisses complaints against public accommodations when they articulate a non-religious legitimate and nondiscriminatory reason for declining a request. *See Battaglia v. Buffalo Niagara Intro., Inc.*, No. 10138581, at 5-6 (N.Y. State Div. of Hum. Rights Jan. 28, 2012); *Morgan v. Zaharo Cab Corp.*, No. 10117888, at 4-5 (N.Y. State Div. of Hum. Rights Nov. 14, 2008).

292. By punishing the wedding venue and its owners, the Division manifests hostility towards religious beliefs like Emilee’s.

293. The Division manifests hostility towards religious beliefs like Emilee’s by treating religious objections to celebrating same-sex marriage worse than other public accommodations’ non-religious legitimate and nondiscriminatory reasons for declining to provide other services.

294. The Division also manifests hostility towards religious beliefs like Emilee’s by concluding that such religious beliefs are themselves illegitimate and discriminatory.

295. Attorney General James has manifested hostility towards religious beliefs like Emilee’s by concluding “[a]n objection to two people of the same sex marrying” regardless of “the sincerity of a business owner’s religious beliefs” is equivalent to sexual orientation discrimination. Br. for Mass. et al. as Amici Curiae in Support of Defs. at 9-10, *303 Creative LLC v. Elenis*, No. 19-1413 (10th Cir. Apr. 29, 2020) (joined by Attorney General James).

296. For example, Attorney General James also called the United States Supreme Court’s decision in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 138 S.Ct. 1719 (2018), condemning a state’s hostility towards religious beliefs like Emilee’s, “a setback for all of us committed to moving our country forward.” <https://twitter.com/TishJames/status/1003779868465786880>.

297. As applied to Emilee, New York’s laws prohibit her from promoting and celebrating her religious views about marriage by providing wedding photography services exclusively for engagements and weddings celebrating one man and one woman, but this law allows other wedding photographers to promote and celebrate their views supporting same-sex marriage.

298. Also as applied to Emilee, New York’s laws prohibit Emilee Carpenter Photography’s website from only offering to display and promote engagements and weddings between one man and one woman and from declining to display or promote same-sex engagements and weddings, but this law allows other wedding photographers to display, promote, and celebrate their views supporting same-sex marriage on their websites.

299. This distinction in treatment is based on the particular view that a photographer holds about marriage and the content that photographer expresses, both through the photographer's services and on the photographer's website.

300. Many photographers in New York offer to photograph opposite-sex and same-sex engagements and weddings.

301. For example, Wedding Wire is an online service that allows individuals to search for wedding vendors (including wedding photographers), and it lists over 2,300 wedding photographers in New York. See <https://www.weddingwire.com/c/ny-new-york/wedding-photographers/10-sca.html>.

302. Wedding Wire's Nondiscrimination Policy prohibits its vendors—including wedding photographers—from "refusing to provide or accept services" based on sexual orientation. See <https://www.weddingwire.com/corp/legal/terms-of-use>.

303. Upon information and belief, there are at least 2,300 photographers in New York who will photograph same-sex and opposite-sex weddings.

304. Many New York-based photographers who photograph opposite-sex weddings also promote and celebrate same-sex marriage on their social media sites, blogs, and websites.

305. For example, many New York-based photographers write statements on their websites or social media sites expressing their support for same-sex marriage, their willingness to photograph same-sex weddings, and their celebration of same-sex marriage, and they display photographs of same-sex weddings on their websites, blogs, and social media sites that positively depict same-sex weddings.

306. Emilee is in direct competition with the photographers identified above and personally competes in the same arena in terms of competing for clients seeking a photographer for opposite-sex engagement sessions or weddings.

307. But New York's laws illegally impose increased burdens on Emilee that it does not impose on these other New York businesses, which gives her competitors a competitive advantage.

308. For example, to avoid being harmed by New York's laws, Emilee has and continues to refrain from adopting her desired policy into her company's operating agreement (Exhibit 1), publishing her desired statement (Exhibit 2), and tailoring her services, website, and operating her business in certain ways, while these other New York photography businesses do not face these obstacles because they willingly promote opposite-sex and same-sex weddings.

309. Emilee is religiously motivated to share her beliefs that God designed marriage to be between one man and one woman with her clients and with the public in an effort to persuade her clients and the public that this design for marriage should be celebrated. *See supra*, ¶¶ 19-24, 46-49, 104-08.

310. But New York's laws create an uneven playing field upon which Emilee has not and still cannot advocate for her views on marriage in the public arena on equal terms with New York photography businesses that promote opposite-sex and same-sex weddings.

311. Emilee also cannot direct her marketing to business opportunities consistent with her artistic and religious beliefs, bind her company to follow her artistic and religious beliefs about marriage, or tailor her services or operate her business in certain ways, while New York photography businesses that promote opposite-sex and same-sex weddings face no such restrictions.

312. Emilee has expended and continues to expend resources to research every engagement and wedding request she receives before responding to the request and loses business opportunities when she cannot confirm the request is consistent with her religious views, while other New York photography businesses that promote

opposite-sex and same-sex weddings need not engage in this research or lose these opportunities.

313. These differences have made and continue to make it harder for Emilee to compete and intensify the competition in the wedding photography market, have made and will make it easier for her competition to compete against her, have lowered and will lower the costs and effort other businesses exert when offering wedding photography, illegally structure a competitive environment, have made and will make it harder for Emilee to promote or market her business and views on marriage in comparison to these other businesses, and have imposed and will impose a reputational harm on her business that these other businesses do not suffer.

314. Additionally, although New York's laws restrict Emilee's desired activities, they make several exemptions from its discrimination provisions for public accommodations, employers, and landlords. *See, e.g.*, N.Y. Exec. Law § 292.9 (excluding certain public and private accommodations from New York's law); § 296.1(d) (allowing employers to state preferences in postings for bona fide occupational qualifications); § 296.2(b) (exempting public accommodations on case-by-case basis from law as to sex when "based on bona fide considerations of public policy"); § 296.3(b) (allowing employers to discriminate based on disability if accommodating employee's disability would cause an "undue hardship"); § 296.5(a) (allowing landlords to restrict rental of all rooms in a housing accommodation to individuals of the same sex); § 296.10(a) (allowing employers to discriminate based on religion if accommodating employee's religious beliefs would cause an "undue hardship").

315. New York laws also allow medical offices to refer certain classes of patients to other offices if the referral is based on sound medical judgment without violating its laws.

316. New York also exempts religious entities from providing “services, accommodations, advantages, facilities, goods, or privileges for the solemnization or celebration of a marriage.” N.Y. Dom. Rel. Law § 10-b

317. These exemptions undermine any basis for compelling Emilee to create wedding photography or write blogs celebrating same-sex weddings.

### **Legal Allegations**

318. Plaintiffs and Plaintiffs’ website are subject to and must comply with New York’s Accommodations, Publication, and Discrimination Clauses.

319. These clauses violate Plaintiffs’ constitutional rights, and chill and deter Plaintiffs from exercising their constitutional rights.

320. As a direct and proximate result of Defendants’ violations of Plaintiffs’ constitutional rights, Plaintiffs have suffered and will suffer ongoing irreparable harm and economic injury (including lost business), entitling Plaintiffs to declaratory and injunctive relief.

321. Plaintiffs do not have an adequate monetary or legal remedy for the loss of their constitutional rights.

322. Unless Defendants are enjoined, Plaintiffs will continue to suffer irreparable harm and economic injury.

### First Cause of Action

#### First Amendment: Freedom of Speech, Association, and Press

323. Plaintiffs repeat and reallege each allegation contained in paragraphs 1-322 of this complaint.

324. The First Amendment’s Free Speech and Press Clauses protect Plaintiffs’ ability to speak; to create, publish, sell, and distribute speech; to associate with others for expressive purposes; and to associate with messages of Plaintiffs’ choosing.

325. The First Amendment also protects Plaintiffs' ability not to speak; to exercise editorial control over their speech; to operate their expressive business to express their views; to decline to create, publish, sell, or distribute speech; and to decline to associate with others and with other messages for expressive purposes.

326. The First Amendment also protects Plaintiffs' right to be free from content, viewpoint, and speaker-based discrimination, overbroad restrictions on speech, and vague laws allowing unbridled discretion by enforcement officials.

327. The First Amendment also prohibits the government from conditioning a benefit on the relinquishment of any First Amendment right.

328. Plaintiffs' wedding photography, and all activities associated with this service, are forms of protected speech and expressive association, and Plaintiffs publish their speech to the public.

329. As applied to Plaintiffs, the Accommodations and Discrimination Clauses compel speech Plaintiffs object to, interfere with their editorial judgment, compel them to sell, publish, and disseminate speech they object to, compel them to engage in expressive associations they deem objectionable, forbid them from tailoring their business, exercising their editorial discretion in their business, and from adopting certain policies, and regulate speech, association, and publication based on content, viewpoint, and speaker identity.

330. As applied to Plaintiffs, the Accommodations and Discrimination Clauses condition their ability to participate in the wedding industry and to create wedding photography promoting marriage between one man and one woman on the requirement that Plaintiffs also create wedding photography promoting marriages other than those between one man and one woman.

331. As applied to Plaintiffs, the Accommodations, Publication, and Discrimination Clauses are content, viewpoint, and speaker-based regulations that ban, chill, and burden Plaintiffs' desired speech (and publication of that speech) on



Emilee Carpenter Photography's website and directly to prospective clients, and that inhibits Plaintiffs from forming expressive associations they desire to form and from avoiding expressive associations they want to avoid.

332. As applied to Plaintiffs, the Publication Clauses' Unwelcome Clause and the Discrimination Clause is vague and allows Defendants unbridled discretion to evaluate speech and then discriminate based on content and viewpoint in determining whether to apply the Unwelcome and Discrimination Clauses.

333. The Publication Clause's Unwelcome Clause is also facially unconstitutional because it is vague, overbroad, allows unbridled discretion, and is a content-based and viewpoint-based regulation that bans, chills, and burdens speech, association, and publication of speech.

334. Plaintiffs have not and will not engage in certain protected speech because of the Accommodations, Publication, and Discrimination Clauses.

335. If not for the Accommodations, Publication, and Discrimination Clauses, Plaintiffs would immediately begin to engage in this protected speech.

336. Defendants do not serve any compelling or even valid interest in a narrowly tailored way by infringing on Plaintiffs' free-speech, free-association, and free-press rights.

337. Accordingly, as applied to Plaintiffs, the Accommodations, Publication, and Discrimination Clauses violate the First Amendment's protections for free speech, free association, and free press.

338. Accordingly, the Publication Clause's Unwelcome Clause facially violates the First Amendment's protections for free speech, free association, and free press.

Second Cause of Action

First Amendment: Free Exercise of Religion

339. Plaintiffs repeat and reallege each allegation contained in paragraphs 1–322 of this complaint.

340. The First Amendment’s Free Exercise Clause protects Plaintiffs’ right to operate their business, to create expression, to not create expression, to participate in religious exercises, to not participate in religious exercises, to speak, to not speak, to associate, and to not associate in accordance with their religious beliefs.

341. The First Amendment also protects Plaintiffs from having special disabilities imposed on the basis of stating disfavored religious views, being subject to individualized assessments, being subject to laws that lack neutrality and general application, being targeted for their religious beliefs, and being punished for exercising their religious beliefs.

342. Plaintiffs exercise their religion under the First Amendment when they operate their business, adopt policies consistent with their religious beliefs, exercise their editorial judgment consistent with their religious beliefs, honestly communicate with clients and prospective clients about the photography they can and cannot create, participate in wedding ceremonies, and celebrate marriages between one man and one woman.

343. As applied to Plaintiffs, the Accommodations, Publication, and Discrimination Clauses substantially burden Plaintiffs’ sincerely held religious beliefs by requiring them either to operate their expressive business in ways that violate their religious beliefs or to close their business, by preventing them from maintaining policies consistent with their religious views on marriage, by stopping them from being honest with prospective clients by barring them from stating what messages they will not express due to their religious beliefs, by preventing their religiously motivated speech, by compelling speech that they are religiously

obligated to avoid, and by forcing their participation in activities prohibited by their religious beliefs.

344. The Accommodations, Publication, and Discrimination Clauses do not force nonreligious persons and businesses, or persons and business with favored religious views, to choose between these same options when faced with requests to promote messages they disagree with or when they must decide how to explain why they decline to promote certain messages.

345. The Accommodations, Publication, and Discrimination Clauses impermissibly prefer secular views over religious views, and certain religious views over others, by allowing those who own and operate public accommodations to express beliefs (religious or otherwise) in favor of same-sex marriage but not allowing them to express religious beliefs against same-sex marriage.

346. The Accommodations, Publication, and Discrimination Clauses are not facially or operationally neutral or generally applicable, are hostile towards religion, target and show favoritism towards certain religious beliefs, and impose special disabilities on Plaintiffs due to their religious beliefs.

347. The Accommodations, Publication, and Discrimination Clauses are not neutral or generally applicable because New York's laws and other laws and regulations adopted by New York contain several categorical exemptions, yet Defendants refuse to grant a religious exemption to Plaintiffs.

348. The Accommodations, Publication, and Discrimination Clauses also violate Plaintiffs' free-exercise rights under the hybrid-rights doctrine because they implicate free-exercise rights in conjunction with other constitutional protections, like the rights to free speech, association, and press.

349. The Accommodations, Publication, and Discrimination Clauses impose severe coercive pressure on Plaintiffs to change or violate their religious beliefs and to stop operating their business according to their religious beliefs.

350. Plaintiffs have not and will not engage in certain religiously motivated conduct because of the Accommodations, Publication, and Discrimination Clauses.

351. If not for the Accommodations, Publication, and Discrimination Clauses, Plaintiffs would immediately begin to act in ways motivated by their religious beliefs.

352. Defendants do not serve any compelling or even valid interest in a narrowly tailored way by infringing the rights to freely exercise their religion.

353. Accordingly, as applied to Plaintiffs, the Accommodations, Publication, and Discrimination Clauses violate the First Amendment's protections to freely exercise religion.

Third Cause of Action  
First Amendment: Establishment Clause

354. Plaintiffs repeat and reallege each allegation contained in paragraphs 1–322 of this complaint.

355. The First Amendment's Establishment Clause protects Plaintiffs' right to participate and to not participate in religious exercises in ways consistent with their religious beliefs.

356. The Accommodations and Discrimination Clauses force Plaintiffs to participate in religious exercises contrary to their sincere religious beliefs.

357. Defendants do not serve any compelling or even valid interest in a narrowly tailored way by compelling Plaintiffs to participate in religious exercises contrary to their sincerely held religious beliefs.

358. Accordingly, as applied to Plaintiffs, the Accommodations and Discrimination Clauses violate the First Amendment's protections to be free from the establishment of religion.

Fourth Cause of Action  
Fourteenth Amendment: Due Process

359. Plaintiffs repeat and reallege each allegation contained in paragraphs 1-322 of this complaint.

360. The Fourteenth Amendment's Due Process Clause prohibits the government from censoring speech using vague standards that grant unbridled discretion to government officials to arbitrarily prohibit some speech and that fail to give speakers sufficient notice regarding whether their desired speech violate New York's law.

361. The Publication Clause's Unwelcome Clause prohibits any place of public accommodation from making "written or printed communication, notice or advertisement, to the effect that" a person's "patronage or custom" at the place of public accommodation is "unwelcome, objectionable or not acceptable, desired, or solicited" because of the person's sexual orientation.

362. New York's law nowhere defines "unwelcome, objectionable or not acceptable, desired, or solicited."

363. Plaintiffs, Defendants, and third parties of ordinary intelligence cannot know what communications made on a public accommodation's website, made on a public accommodation's social media sites, or made directly to prospective clients indicate a person's "patronage or custom" at a place of public accommodation is "unwelcome, objectionable or not acceptable, desired, or solicited" and therefore cannot know what is prohibited by the Unwelcome Clause.

364. Defendants can use this vagueness, and the unbridled discretion it provides, to apply the Unwelcome Clause in a way that discriminates against content, viewpoints, and actions Defendants disfavor.

365. Accordingly, facially and as applied to Plaintiffs, the Publication Clause's Unwelcome Clause violates the Fourteenth Amendment's Due Process Clause.

### **Prayer for Relief**

Plaintiffs respectfully ask this Court to enter judgment against Defendants and provide the following relief:

1. A preliminary and permanent injunction to stop Defendants and any person acting in concert with them from:
  - a. enforcing the Accommodations, Publication, and Discrimination Clauses as applied to Plaintiffs' constitutionally protected speech, association, free press, religious exercise rights, and their right to be free from religious establishments; and
  - b. enforcing the Publication Clause's Unwelcome Clause facially.
2. A declaration that the Accommodations, Publication, and Discrimination Clauses has violated and continues to violate Plaintiffs' First Amendment rights under the United States Constitution to engage in speech, association, press, free exercise of religion, and to be free from the establishment of religion as applied to Plaintiffs' constitutionally protected activities;
3. A declaration that the Publication Clause's Unwelcome Clause facially violates the United States Constitution's First Amendment protections for speech and press and the Fourteenth Amendment protections for due process;
4. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy so that these declarations shall have the force and effect of a final judgment;
5. That this Court retain jurisdiction of this matter for the purpose of enforcing its orders;
6. That this Court award Plaintiffs' costs and expenses in this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988;
7. That this Court issue the requested injunctive relief without a condition of bond or other security required of Plaintiffs; and

8. That this Court grant any other relief that it deems equitable and just in the circumstances.

Respectfully submitted this 6th day of April, 2021.

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*\*Pro Hac Vice Admission Forthcoming*



**DECLARATION UNDER PENALTY OF PERJURY**

I, Emilee Carpenter, a citizen of the United States and a resident of the State of New York, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 5th day of April 2021 at Chemung County, New York.

  
\_\_\_\_\_  
Emilee Carpenter

# EXHIBIT 1

## ARTICLE II

### PURPOSE

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**2.6 Additional Purpose.** The Company is a for-profit limited liability company that tells love stories in a meaningful way, inspiring people to cherish life, love, beauty, and the source of those things: God. The Company is owned solely by the initial Member, who is a Christian. The Company finds guidance from 1 Corinthians 10:31 and operates as a means to glorify God according to the initial Member's religious and artistic beliefs.

**2.7 Beliefs and Practices.** The Company affirms the following Beliefs and Practices:

(a) God created and redeemed the world through His Son, Jesus, and called the Member to be His disciple. The Member seeks to glorify God with her thoughts, words, actions, interactions, business, imaginations, talents, creativity, and photography.

(b) To this end, the Company tries to love God and love its neighbor in how it operates.

(c) As a Christian artist, the Member believes that God artistically created the world and then declared his original design for creation to be good. The Member seeks to reflect this goodness by telling visual stories that celebrate God's design and creation. Specifically, she seeks to depict beauty, love, and truth in a way that echoes the perfect beauty, love, and truth found only in God.

(d) These beliefs direct the Company to tell visual stories to the public in a way that honors the Member's artistic and religious beliefs as well as her understanding of beauty, morality, or purity.

(e) Based on these beliefs, the Company's policy and established practice is to only offer and create artwork consistent with its artistic and religious beliefs and to decline any requests that would force the Company to create anything that violates these beliefs. The Company acts on this policy and practice regardless of any characteristics of the person seeking the Company's services. For example, the Company will not create visual stories or blogs that promote messages, ideas, views, goods, causes, or organizations that contradict biblical principles. This would include requests for visual stories or blogs that demean other people, devalue God's creation, condone racism, promote abortion, praise vulgarity, endorse drug use, condone abuse, or promote any marriage besides marriage between one man and one woman (such as same-sex or polyamorous marriages).

(f) The Company will adhere to and prioritize the above artistic and religious principles, beliefs, purposes, and practices, regardless of the impact on the Company's profit.

# EXHIBIT 2

## MY PHILOSOPHY

I believe that marriage is a picture of the gospel and demonstrates the redemptive love of Jesus Christ, who willingly gave Himself up for us by going to the cross, paying the debt for our sins, and paving a way for us to be united with Him. He died to His own interests, looking to our own needs, and painted a picture of sacrificial love in action.

The experience of marriage will unveil the beauty and depths of the gospel; it shows that, though we are more sinful and flawed in ourselves than we ever dared believe, we at the very same time are more loved and accepted in Jesus Christ more than we ever dared hope. The gospel can fill our hearts with God's love so that we can handle it when our spouse fails to love us as he or she should, and it frees us to see our spouse's sins and flaws to the bottom – and yet still love and accept our spouse fully.

I believe that the essence of marriage is that it's a covenant, a commitment, a promise of future love.

And though passion may lead you to make a wedding promise, I believe it's the promise itself that makes your passion wiser, richer, and deeper over the years.

## MY VISION

As a self-identified creative, my ultimate goal in life is to glorify the one true Creator – God. The One who paints His glories in the contours of the Grand Canyon, announces His mystery in the brilliance of the universe, and etches His majesty in the vastness of the night sky. "It's as if the stars and the skies are saying simply by their being, 'Don't stay too long staring at us: look at Him. We are but creatures, He is the Creator. We are but lights, He is the Light. We are beautiful, but He is Beauty.'" (Melvin Tinker)

God is self-existent. Infinite. Eternal. And the evidence of Him is all around us – the regularity of nature, the vastness of the cosmos, the miracle of human life – they're all traces of His divine fingerprints.

Put by John Piper, "The created universe is all about glory. The deepest longing of the human heart and the deepest meaning of heaven and earth are summed up in this: the glory of God. The universe was made to show it, and we were made to see it and savour it."

That is what I seek to do with my photography – savour God's glory, point to it, and put it on display for all to see. My ultimate aim is that the stories I capture and messages I create will be to the praise of His glorious name. And it's this same conviction that guides what I cannot create as well. For example, I can't use my artistic voice to create content that demeans anyone, beautifies violence, promotes racism, or celebrates any type of marriage outside of God's design for this sacred institution. For me, that means that I can't photograph a same-sex or polyamorous wedding.

I know that many people look at this differently, and I totally understand that. But my beliefs and my artistry are core to who I am. I believe that God defines and embodies what is pure, moral, beautiful, and excellent. And whether I'm capturing a beautiful sunset or celebrating the union of husband and wife, I want to use my voice and art to honor and point to the ultimate Artist, the very first and greatest Storyteller – God.

"So whether you eat or drink or whatever you do, do it all for the glory of god." 1 Corinthians 10:31"

“And whatever you do, in word or deed, do everything in the name of the Lord Jesus, giving thanks to God the Father through him.” Colossians 3:17

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

**Emilee Carpenter, LLC d/b/a  
Emilee Carpenter Photography and  
Emilee Carpenter,**

Plaintiffs,

v.

**Letitia James**, in her official capacity  
as Attorney General of New York;  
**Johnathan J. Smith**, in his official  
capacity as Interim Commissioner of  
the New York State Division of Human  
Rights; and **Weeden Wetmore**, in his  
official capacity as District Attorney of  
Chemung County,

Defendants.

**Case No. 6:21-cv-06303**

**Plaintiffs' Notice of Preliminary  
Injunction Motion**

Please take notice that Plaintiffs, Emilee Carpenter, LLC and Emilee Carpenter, will move this Court on a date, time, and/or oral argument to be set by the Court, and at a location to be determined, for an Order under Federal Rules of Civil Procedure 65 enjoining Defendants from enforcing:

- New York's Accommodations (N.Y. Exec. Law § 296.2(a)) and Discrimination (N.Y. Civ. Rts. Law § 40-c(2)) Clauses to compel Plaintiffs to offer or provide their wedding photography services (photographing, editing, and blogging) for same-sex weddings or engagements;
- New York's Accommodations (N.Y. Exec. Law § 296.2(a)) and Discrimination (N.Y. Civ. Rts. Law § 40-c(2)) Clauses to compel

Plaintiffs to provide wedding photography services by participating in events inconsistent with Plaintiffs' beliefs in marriage between one man and one woman, such as participating in same-sex wedding ceremonies;

- New York's Accommodations (N.Y. Exec. Law § 296.2(a)) and Discrimination (N.Y. Civ. Rts. Law § 40-c(2)) Clauses to prevent Plaintiffs from adopting their desired Beliefs and Practices policy (Verified Complaint Exhibit 1);
- New York's Accommodations (N.Y. Exec. Law § 296.2(a)), Discrimination (N.Y. Civ. Rts. Law § 40-c(2)), and Publication (N.Y. Exec. Law § 296.2(a)) Clauses to prevent Plaintiffs from asking prospective clients questions sufficient to determine whether they seek photography services celebrating a same-sex wedding or engagement or from asking materially similar questions; and
- New York's Accommodations (N.Y. Exec. Law § 296.2(a)), Discrimination (N.Y. Civ. Rts. Law § 40-c(2)), and Publication (N.Y. Exec. Law § 296.2(a)) Clauses to prevent Plaintiffs from posting their desired statement (Verified Complaint Exhibit 2) on their website or from making materially similar statements on their website, social media sites, or directly to prospective clients.

Plaintiffs will move the Court for a preliminary injunction based on Plaintiffs' Verified Complaint. Plaintiffs will also move for a preliminary injunction based on the following contemporaneously filed and to-be-filed documents: Memorandum of Law in Support of Plaintiffs' Preliminary Injunction Motion; Emilee Carpenter's Declaration in Support of Plaintiffs' Preliminary Injunction Motion, dated April 5, 2021; Appendix to Emilee Carpenter's Declaration in Support of Plaintiffs'



Preliminary Injunction Motion; and any supplemental declaration in support of Plaintiffs' preliminary injunction motion and related documents.

Plaintiffs intend to file and serve a reply and request oral arguments of this preliminary injunction motion.

Respectfully submitted this 6th day of April 2021.

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*\*Pro Hac Vice* Admission Forthcoming

**Certificate of Service**

I hereby certify that on the 6th day of April, 2021, I electronically filed the foregoing document with the Clerk of Court using the ECF system. The foregoing document will be served via private process server with the Summons and Complaint to all defendants.

s/Jonathan A. Scruggs

Jonathan A. Scruggs

*Attorney for Plaintiffs*

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

**Emilee Carpenter, LLC d/b/a  
Emilee Carpenter Photography and  
Emilee Carpenter,**

Plaintiffs,

v.

**Letitia James**, in her official capacity  
as Attorney General of New York;  
**Johnathan J. Smith**, in his official  
capacity as Interim Commissioner of  
the New York State Division of Human  
Rights; and **Weeden Wetmore**, in his  
official capacity as District Attorney of  
Chemung County,

Defendants.

**Case No. 6:21-cv-06303**

**Plaintiffs' List of Witnesses and  
Exhibits to be Presented at  
Hearing on the Preliminary  
Injunction Motion**

Plaintiffs Emilee Carpenter, LLC and Emilee Carpenter submit this list of witnesses and exhibits to be presented at a preliminary-injunction hearing, if any, under United States District Court for the Western District of New York Local Rule of Civil Procedure 65(a)(5).

Witnesses

Plaintiffs do not intend to call witnesses at this time. Plaintiffs' position is that their Preliminary Injunction Motion can be decided based on the submitted evidence detailed below. Plaintiffs nonetheless reserve their right to call witnesses.

Evidence and Supporting Documents

1. Plaintiffs' Verified Complaint;

2. Memorandum of Law in Support of Plaintiffs' Preliminary Injunction Motion;
3. Emilee Carpenter's Declaration in Support of Plaintiffs' Preliminary Injunction Motion;
4. Appendix to Emilee Carpenter's Declaration in Support of Plaintiffs' Preliminary Injunction Motion; and
5. Any supplemental declaration in support of Plaintiffs' preliminary injunction motion and related documents.

Plaintiffs will submit an updated list to this Court after consultation with opposing counsel and before any hearing if Plaintiffs intend to call any witnesses or present other evidence not listed.

Respectfully submitted this 6th day of April 2021.

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ATTORNEYS FOR PLAINTIFFS

*\*Pro Hac Vice Admission Forthcoming*

**Certificate of Service**

I hereby certify that on the 6th day of April, 2021, I electronically filed the foregoing document with the Clerk of Court using the ECF system. The foregoing document will be served via private process server with the Summons and Complaint to all defendants.

s/Jonathan A. Scruggs

Jonathan A. Scruggs

*Attorney for Plaintiffs*

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

**Emilee Carpenter, LLC d/b/a  
Emilee Carpenter Photography and  
Emilee Carpenter,**

Plaintiffs,

v.

**Letitia James**, in her official capacity  
as Attorney General of New York;  
**Jonathan J. Smith**, in his official  
capacity as Interim Commissioner of  
the New York State Division of Human  
Rights; and **Weeden Wetmore**, in his  
official capacity as District Attorney of  
Chemung County,

Defendants.

Case No. 6:21-cv-06303

**Declaration of Emilee Carpenter in  
Support of Plaintiffs' Preliminary  
Injunction Motion**

I, Emilee Carpenter, declare as follows:

1. I am over the age of eighteen and competent to testify, and I make this declaration based on my personal knowledge.

I am a Christian who loves to tell stories about people.

2. I am a Christian.

3. I grew up in a Christian family, and I became a Christian at a very young age.

4. As a Christian, I believe in the Gospel—that God created humankind, that humankind sinned against God, that humankind needs forgiveness to be reconciled to God, and that forgiveness and redemption is available to all who accept and believe in God's son, Jesus. Genesis 1:27; John 3:16; Romans 6:23.<sup>1</sup>

5. I believe that as a Christian I am called to love others and to share the Gospel with them. Matthew 28:16-20; John 15:12-17.

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<sup>1</sup> All Bible citations reference the English Standard Version.

6. I believe that God desires that everyone should know the truth of the Gospel and come to Him. 1 Timothy 2:4.

7. I believe that God calls all Christians to serve as witnesses and promote the salvation that God offers humankind through Jesus Christ. Matthew 28:18-20.

8. I also believe that God created the world from nothing, and that God's creation reflects His beauty, majesty, and artistry. Genesis 1:31; Psalm 19:1.

9. I believe that God created humans to work, that our work reflects God's work in creation, and that Christians must honor God in their work. Genesis 1:26-28; Genesis 2:15; 1 Corinthians 10:31.

10. I believe that God gives people gifts and passions and calls them to steward these gifts and passions in a way that glorifies and honors Him, including by promoting the Gospel. Matthew 28:16-20; Colossians 3:17; 1 Peter 4:10-11.

11. I believe that God has called and equipped me to use my creative talents to create beautiful artwork that reflects God's artistry, promotes God's design for humanity, and celebrates the Gospel.

12. I believe that my God-given creative talents include photography.

13. I purchased my first camera when I was a senior in high school.

14. During the summer in between my senior year of high school and my freshman year of college, I interned as a freelance photographer at a local newspaper.

15. In college, I worked as a sports photographer for the university I attended where I photographed collegiate sports such as basketball, sprint football, baseball, and track and field.

16. I attended the events, documented the events through photography, and created online galleries to view the events.

17. I enjoyed sports photography because I found I could form personal connections with school administrators, athletes, and other photographers.

18. As a senior in college, I produced my first photography exhibition entitled “Memoirs” as an independent study for my major.
  19. The exhibition showcased portrait-styled photographs of more than twenty elderly individuals from my community.
  20. I chose this subject matter because I wanted to bring awareness to the importance and the beauty of elderly lives.
  21. As I photographed the individuals, I had conversations with them about their personal history and their lives and learned from them what it was like to have been born during the Great Depression and to have served in World War II.
  22. At the exhibition, I displayed the individuals’ stories next to their photographs.
  23. I promoted the exhibition by designing and distributing postcards, news releases, and posters.
  24. Many of the individuals’ family members came to the exhibit and were able to celebrate the individuals’ lives and honor their history.
  25. Through producing the exhibition, I realized that photography and public storytelling tapped into my God-given skill set and naturally fit with my desires to meet people, connect with them, and communicate a story.
  26. Afterwards, I knew that I wanted to work in photojournalism where I could continue to pursue my passion for photography and form relationships with people.
- I started my own photography business because of my love for storytelling and the Gospel.
27. I first began photographing weddings for friends when I was in college.
  28. To fulfill requests for my wedding photography services, I eventually launched Earthly Bliss Photos in 2012.
  29. I operated Earthly Bliss Photos as a sole proprietorship.
  30. I was the sole owner and employed photographer for Earthly Bliss Photos.



31. After I graduated college, I worked full-time at a large company as a marketing communications specialist where I organized tradeshow and events, managed the company's brand, and worked on digital communications.

32. I worked at this company for just over three years.

33. Even as I worked full-time, I continued to hone my photography skills by photographing weddings, creative portfolios, and other content.

34. Eventually, I decided to leave the company to pursue my photography business wholeheartedly.

35. This transition allowed me to prioritize creating photography that told stories that matter to me and to use my artistic talents to create photographs that honor God.

36. After I left the company, I organized Earthly Bliss Photos as a limited liability company to gain the benefits of a limited liability company form.

37. In October 2019, I organized my company under the name Emilee Carpenter, LLC and filed its Articles of Organization.

38. A true and correct redacted screenshot of Emilee Carpenter, LLC's registration status with the New York State Department of State as of March 29, 2021 is in the Appendix at pages 1-2.

39. I operate Emilee Carpenter, LLC under the assumed name of Emilee Carpenter Photography.<sup>2</sup>

40. I am the sole owner, member, and employee of Emilee Carpenter Photography.

41. Emilee Carpenter Photography is a for-profit company.

42. Emilee Carpenter Photography has its principal place of business located in Chemung County, New York.

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<sup>2</sup> Unless context requires otherwise, I refer to Earthly Bliss Photos and Emilee Carpenter, LLC as Emilee Carpenter Photography throughout this Declaration.

43. Emilee Carpenter Photography has adopted an Operating Agreement.

44. A true and correct copy of Emilee Carpenter Photography's Operating Agreement is in the Appendix at pages 3-25.

45. I created a website for Emilee Carpenter Photography to promote my photography, my artistic style, and my religious beliefs to the public and prospective clients.

46. Emilee Carpenter Photography's website has sections labeled "Home," "About," "Experience," "Portfolio," "Blog," and "Contact."

47. True and correct screenshots of the relevant portions of the "Home," "About," "Experience," "Portfolio," "Blog," and "Contact" from Emilee Carpenter Photography's website are in the Appendix at pages 26-47.

48. Emilee Carpenter Photography's website is viewable here:

<https://www.emileecarpenter.com/>.

49. I also created a blog for Emilee Carpenter Photography to promote my photography and artistic style, as well as my views on faith and marriage to the public and prospective clients.

50. Emilee Carpenter Photography's blog is viewable here:

<https://www.emileecarpenter.com/blog>.

51. I created all written content on Emilee Carpenter Photography's website and blog that is attributed to Emilee Carpenter Photography.

52. I created every photograph published on Emilee Carpenter Photography's blog.

53. I created and edited every photograph on Emilee Carpenter Photography's website unless otherwise noted on the website.

54. In addition to its website, Emilee Carpenter Photography has two social media accounts.

55. In 2019, I transitioned Earthly Bliss Photos' Instagram page into an Instagram page for Emilee Carpenter Photography.

56. I control all of the content posted on this Instagram account that is attributed to and posted by Emilee Carpenter Photography.

57. This Instagram account is viewable here:

<https://www.instagram.com/emileecarpenterllc/>.

58. True and correct screenshots of some of Emilee Carpenter Photography's Instagram pages are in the Appendix at pages 48-51.

59. Also in 2019, I transitioned Earthly Bliss Photos' Facebook page into a Facebook page for Emilee Carpenter Photography.

60. I control all of the content posted on this Facebook page that is attributed to and posted by Emilee Carpenter Photography.

61. This Facebook page is viewable here:

<https://www.facebook.com/emileecarpenterllc/>.

62. True and correct screenshots of some of Emilee Carpenter Photography's Facebook pages are in the Appendix at pages 52-57.

63. Emilee Carpenter LLC offers, solicits, and receives inquiries from the public for photography including engagement and wedding photography and branding-photography.

I create wedding photographs to demonstrate the redemptive love of Jesus Christ.

64. When I started Emilee Carpenter Photography, I gravitated towards wedding photography because I loved photographing weddings in college—working with couples by posing them, laughing with them, explaining their connection and chemistry through visual narratives.

65. I also realized that wedding photography provided me with an opportunity to share the Gospel with others.

66. I believe that part of loving God and serving others involves proclaiming the truth about God's design for humanity. Matthew 28:16-20.
67. I believe that promoting these truths means promoting views that are often unpopular or counter cultural. John 15:18-25.
68. These truths include that God designed marriage to be between one man and one woman to reflect the unity and diversity seen in the Trinity—the belief that there is one God composed of three persons, Father, Son, and Holy Spirit. Genesis 2:23-24; Matthew 3:16-17; Ephesians 5:22-33.
69. I also believe that God designed marriage to be between one man and one woman to reflect Jesus Christ's sacrificial and covenant relationship with His church. Genesis 1:27-31, 2:18-24; Ephesians 5:22-33.
70. My beliefs about marriage come from my interpretation of the Bible.
71. My beliefs about marriage are also informed by the teachings of my church, Emmanuel Community Church.
72. Emmanuel Community Church has a Statement of Faith which outlines the church's beliefs.
73. That statement is viewable here: <https://eccelmira.org/statement-of-faith>.
74. Emmanuel Community Church's Statement of Faith explains that "the term 'marriage' has only one meaning: the uniting of one man and one woman in a single, exclusive union, as delineated in Scripture. We believe that God intends sexual intimacy to occur only between a man and a woman who are married to each other."
75. Emmanuel Community Church's Statement of Faith also explains that the church and professing Christians are to "proclaim[] the gospel, make[] disciples of all men from all nations, and prefigure[] Christ's kingdom by the quality of their life together and their love for one another."
76. A true and correct copy of Emmanuel Community Church's Statement of Faith is in the Appendix at pages 58-65.

77. Because of my religious beliefs about marriage and sharing the Gospel, I desire to create wedding photography (including engagement photographs) that honors and glorifies God by promoting God's design for marriage.

78. Whenever I receive an inquiry to provide engagement or wedding photography, I research the prospective request online or through my personal and professional network to determine if I can potentially fulfill the request.

79. I evaluate every inquiry to determine whether providing the requested photography is consistent with my artistic and religious beliefs. *Infra*, ¶¶ 147-92.

80. If I decide that I can potentially fulfill the request, I aim to respond to the inquiry via email within 24 hours.

81. In my initial response email, I include my pricing guide, a questionnaire, and my availability for an initial consultation.

82. My 2021 pricing guide explains the costs and services for the engagement and wedding photography services I offer.

83. Whenever I am asked to photograph an engagement session, I always offer to photograph the couple's wedding too.

84. Depending on the wedding package the client selects, I typically charge between \$2,000 and \$4,200.

85. The price fluctuates depending on a number of factors, including the length of coverage time, the number of finalized photographs I provide to the client, and whether the client chooses other add-ons (such as a fine art album).

86. The questionnaire asks the prospective client questions about the scope of the services requested, logistical information, and personal information to help me learn more about the wedding and to determine if I would match well as the photographer for the wedding.

87. Once I have scheduled a time to speak with the prospective client, I always offer to have coffee with the client or meet over videoconference.

88. During this meeting, I review the prospective client's questionnaire and talk with them to get to know them better.

89. If the prospective client and I agree to move forward, the prospective client must sign a customized version of Emilee Carpenter Photography's form Wedding Contract.

90. I take this form Wedding Contract and customize it to reflect the specific services to be provided.

91. A true and correct copy of the 2020 form Wedding Contract (which I currently use) is in the Appendix at pages 66-75.

92. Approximately two months before the couple's wedding, I send another questionnaire to the marrying couple.

93. This questionnaire asks the couple about in-depth wedding-day logistical details, the names of members of the wedding party and vendors, whether the couple has any requests for specific photographs, and more information about the couple's history together.

94. This information helps me capture the moments that are especially meaningful to the couple and to better serve them on their wedding day.

95. On the scheduled day of the engagement session or the wedding, I photograph the couple's engagement or wedding.

96. During engagement sessions, I try capture playful, interactive, and candid photographs of the couple.

97. I also prompt the couple to interact with each other and choreograph specific formal poses.

98. I also photograph special details, including the engagement ring.

99. On the day of the wedding, I am personally excited for the couple and the marriage I am about to witness because of my beliefs about God's design for marriage.

100. During the wedding, I typically photograph wedding details including the couples' rings, the bride's wedding dress, flower bouquets, and other unique features of the wedding.

101. For traditional weddings, I also typically photograph the bride and her wedding party as they prepare for the ceremony.

102. I sometimes take a "first look" photograph of the couple where they see each other for the first time on their wedding day.

103. I always photograph the wedding ceremony, including the officiant delivering the homily, the couple exchanging vows, the couple kissing and embracing before the attendees, and the officiant announcing the couple as husband and wife to commemorate the bride and groom being joined together in marriage as well as other details.

104. After the ceremony, I typically take choreographed photographs of the bride and groom, their families, and their wedding parties.

105. If the wedding has a reception, I typically photograph special moments from the reception such as the father-daughter dance, the mother-son dance, toasts, and the couple cutting their wedding cake.

106. After the engagement or wedding, I edit the photographs.

107. Editing is a two-step process.

108. First, typically within 48 hours of the engagement or wedding, I cull through all of the photographs I have taken during the engagement or wedding to reduce the total number of images to between 50 and 1,000.

109. The number of final images depends on the package the couple purchased.

110. During the culling process, I discard images that at first glance do not meet my artistic and/or moral standards.

111. Then I select 10-20 of my favorite photographs, edit those images, and send them to the couple as a "sneak peek."

112. After editing the “sneak peek” photographs, I edit the remaining photographs. *See infra*, ¶¶ 176-81.

113. I upload all final photographs onto an online gallery and provide the couple with a link to the gallery where the couple can download their desired images.

114. I follow the process described in paragraphs 107 to 113 for engagement photographs as well.

115. In addition to posting couples’ photographs to the online gallery, beginning in 2020, I also choose my favorite photographs of the engagement or wedding and post them on Emilee Carpenter Photography’s website’s blog.

116. I intend to post a blog post about each wedding that I photograph in the future since I offer post a complimentary blog post as part of the services I provide as indicated in my Wedding Contract on page 67 of the Appendix.

117. With each blog post, I write comments to accompany the photographs and celebrate the couple’s engagement or wedding, encourage the couple, and share stories to promote marriages between a man and a woman.

118. My website’s blog is an integral part of Emilee Carpenter Photography’s business and my wedding photography for many reasons.

119. Many wedding industry experts advise wedding photographers to include blogging in their services.

120. For example, Laura Lee Creative posted an article entitled “4 Reasons Why You Should be Blogging Every Wedding You Photograph[]” and explains: “[w]riting the wedding blog is an opportunity to speak to an audience who is excited about the work you do and story you tell,” the blog helps with referrals when a couple sees their wedding “portrayed beautifully through your photos AND your words,” and the blog is “FREE marketing for your business.”

121. The above article is viewable here:

<https://lauraleecreative.com/2018/07/blogging-tips-for-wedding-photographers/>.



122. A true and correct screenshot of the relevant portion of the above Laura Lee Creative article is in the Appendix at pages 76-78.

123. Likewise, SLR Lounge posted an article entitled “Six Reasons Why ALL Photographers Should Blog in 2019” by Sean Lewis.

124. The article explains that wedding blogs aid with marketing by “target[ing] the long tail keywords in your search engine optimization (SEO) strategy,” helps communicate a message because “adding text alongside your images in a blog allows you to expand your vision and give special insight on the significance of the locations and wardrobe choices or highlight the personalities of the clients,” help photographers “stand out and let potential clients see a more personable side of you and your business,” and “make your clients feel special and important.”

125. The above article is viewable here: <https://www.slrlounge.com/six-reasons-why-all-photographers-should-blog/>.

126. A true and correct screenshot of the relevant portion of the above SLR Lounge article is in the Appendix at pages 79-87.

127. And Photography Concentrate posted an article entitled “The Secrets of Successful Photography Blogging: How to Make It Worth Your Time” by Lauren Lim.

128. The article explains blogging is important for wedding photographers because “[i]t gives you the opportunity to show who you are, why you are a photographer, and what value you can provide to a prospective client” and gives clients “a really great way ... to share the images you took of them!” and concludes that “[i]f you’re a professional photographer, you should absolutely definitely have a blog.”

129. The above article is viewable here: <https://photographyconcentrate.com/secrets-successful-photography-blogging-how-make-it-worth-your-time/>.

130. A true and correct copy of the above Photography Concentrate article is in the Appendix at pages 88-99.

131. In addition to creating posts for Emilee Carpenter Photography's blog, I often create posts for Emilee Carpenter Photography's Instagram and Facebook pages of engagement and wedding photographs that I have taken alongside celebratory text.

132. I believe that my blog and social media sites allow me to publicly celebrate each couple and to promote my photography business, my artistic style, my approach to photography, and my personality to my clients and the general public.

133. These forms of media also allow me to publicly advocate for a view of marriage that is consistent with my religious beliefs that marriage is the union of one man and one woman.

134. I am religiously motivated to publicly advocate for this view about marriage because I believe that part of loving God and serving others involves proclaiming the truth about God's design for humanity even if those views are unpopular or counter cultural. *See supra*, ¶¶ 2-12, 64-69.

135. Other photographers use their online presence to strengthen their brand, to publicly advertise their artistic style, and to publicly share their beliefs like I do.

136. For example, the New York Times ran an article entitled "Some Wedding Vendors Face Fallout After Speaking Up on Social Issues."

137. The article highlighted how many wedding vendors—wedding photographers included—use their social media platforms to advocate for topics including topics about Black Lives Matter, same-sex marriage, and COVID-19.

138. One wedding industry brand strategist was quoted as saying "Life happens offline, but your brand is what other people say it is.... A lot of that is online. Having an online presence is a social responsibility. You simply cannot have a business today without showcasing diversity and inclusivity."

139. The above article is viewable here:

<https://www.nytimes.com/2020/08/06/fashion/weddings/wedding-vendors-social-issues.html>.

140. A true and correct copy of the above New York Times article is in the Appendix at pages 100-104.

141. I use Emilee Carpenter Photography's website, blog, and social media sites to set myself apart from these photographers, to convey a particular message about marriage, and to provide a distinct value to my business and to my clients.

142. For example, I also use Emilee Carpenter Photography's website, blog, and social media sites to publicly celebrate God's design for His creation and marriage.

143. True and correct screenshots of the relevant portions of the "About" section on Emilee Carpenter Photography's website explaining some of my religious beliefs about marriage and creation are in the Appendix at pages 29-34.

144. True and correct screenshots of the relevant portions of some of my blog posts celebrating engagements and marriages are in the Appendix at pages 105-122.

145. True and correct screenshots of some of my Instagram posts to Emilee Carpenter Photography's Instagram celebrating God's design for marriage and creation are in the Appendix at pages 48-51.

146. True and correct screenshots of some of my Facebook posts to Emilee Carpenter Photography's Facebook page celebrating God's design for marriage and creation are in the Appendix at pages 52-57.

My faith guides my editorial and artistic judgments.

147. My highest aim with my photography is to create aesthetically beautiful visual narratives that ultimately honor and glorify God and promote His design for humanity.

148. I achieve this goal in my branding photography by promoting small businesses and individuals, celebrating their entrepreneurial passion, and depicting them in a positive way.

149. I achieve this goal in engagement and wedding photography by photographing, editing, and writing about engagements and weddings that positively depict the beauty, commitment, intimacy, and love embodied in engagements, weddings, and marriages between one man and one woman.

150. This helps me to promote the message that God designed marriage to be a lifelong union between one man and one woman and that this union is meant to symbolize Jesus' redemptive and sacrificial love for his bride, the Church. Genesis 1:27-28, 2:24 Ephesians 5:22-33.

151. In this way, my religious motivation to promote God's design for marriage is inextricably intertwined with my creative and artistic judgment to create aesthetically appealing and compelling artwork. 1 Corinthians 10:31.

152. I believe that by connecting my business to my religious beliefs, I can honor and glorify God by promoting His design for marriage to my clients, their friends and family, and the public.

153. For these reasons, I only offer and provide wedding photography services that are consistent with my artistic and religious judgments.

154. To that end, I require complete editorial control over my wedding photography so that I can freely express my creativity according to my artistic judgments and religious beliefs.

155. For example, as indicated on page 68 of the Appendix, my Wedding Contract states that I have "full artistic license and total editorial discretion over all aspects" over the services I provide to clients.

156. I require full editorial control because, throughout the engagement session or wedding day, I am regularly making artistic and editorial decisions about what and

how to photograph and about what to instruct the couple to do so that I can effectively celebrate the couple.

157. This control and discretion allow me to create aesthetically beautiful photographs that communicate the love, intimacy, and sacrifice of God's design for marriage.

158. When I create engagement photography, for example, I sometimes suggest locations for the engagement session, what style or color of clothes the couple should wear, and what time of day to conduct the session to create the most aesthetically appealing photographs.

159. I also advise the couple on where to stand, how to pose, when to hold hands, when to embrace, and when to kiss in order to elicit a romantic moment that reflects the intimacy of marriage as God designed it.

160. I also try to photograph unplanned moments of the couple smiling, looking at each other, or laughing with each other to capture the couple's spontaneous and genuine love for one another, which is symbolic of Jesus' love for the Church.

161. By way of example, I photographed and edited the following engagement photographs:





162. True and correct copies of the photographs described above, as well as some of my other engagement photographs I have taken and edited, are in the Appendix at pages 123-125.

163. When I photograph engagement sessions, the photographs I create are materially similar to those photographs cited immediately above.

164. When I create wedding photography, I regularly make the same type of artistic and editorial decisions to effectively celebrate the couple and to create aesthetically beautiful photographs that communicate the love, intimacy, and sacrifice of God's design for marriage.

165. By way of example, I photographed and edited the following wedding photographs:



166. True and correct copies of the photographs described above, as well as additional wedding photographs I have taken and edited, are in the Appendix at pages 126-150.

167. Another way I utilize my artistic judgment is by strategically timing my movement and placement during the ceremony and throughout the wedding day to maximize my ability to capture important moments and content, such as the bride walking down the aisle, the officiant delivering the homily, the couple exchanging their vows, the couple kissing before the attendees, the officiant announcing the couple as husband and wife, the couple walking together from the altar, and other romantic and intimate moments between the couple.

168. I also use my artistic judgment to make technical decisions when taking a photograph, including exposure (amount of light recorded), aperture (the size of the opening in the lens), ISO number (measure of light sensitivity), color temperature and white balance (the color created by particular lighting and its effect on a photograph), camera flash, depth of field (measure of how much of a scene will be in focus), focus, shutter speed (how long the shutter remains open), ambient light, perspective (the spatial relationships between objects in the frame), and composition (the organizational structure of objects in a scene).

169. I try to create photographs in a “moody” style.

170. “Moody” is a photography term used to describe combining the light and composition with the subject to create an image that generates an emotional response from the viewer.

171. To create this style, I consider the factors listed in paragraph 168 and more.

172. For example, I try to take my photographs in low lighting areas or times of day when the light is fading (like when the sun is setting) rather than in high light areas with bright light or times of day when the light is strongest (like the middle of the day).



173. I also emphasize the relationship between the background and the subject of the photograph either by using a wide aperture to throw the background out of focus or using a narrow aperture to dial the background into focus.

174. I also regularly adjust the shutter speed to control how long the film is exposed to the scene I am photographing with the result that the slower the shutter speed, the more the subject matter blurs creating a sense of movement.

175. When I photograph engagements and weddings, the photographs I create are materially similar to those photographs cited in paragraphs 161-162 and 165-166.

176. After I photograph an engagement or a wedding, I also edit the photographs so that I can effectively celebrate the couple and create an aesthetically compelling visual narrative that communicates the love, intimacy, and sacrifice of God's design for marriage.

177. I consider a variety of factors and tools to edit photographs.

178. My editing judgments include adjusting the white balance to alter a photograph's tint, tone, exposure, contrast, highlights, shadows, whites, blacks, clarity, vibrance, and saturation; adjusting the color of the image to alter the hue, saturation, and luminance (which, for example, could eliminate shadows of color on the image's subjects); adjusting the photograph in the split toning panel to bring strategic warmth to a photograph; sharpening the details in the photograph or implementing noise reduction to improve an image's detail, contrast, color, and smoothness; and cropping and straightening an image or constraining an image to particular dimensions.

179. I make each editing decision with the goal of creating an aesthetically beautiful moody photograph that portrays the subject matter in way that communicates the love, intimacy, and sacrifice of God's design for marriage.

180. By way of example, I edited the original photographs (left) to create a final image (right):



181. True and correct copies of the photographs described above, as well as additional photographs I have taken and edited, are in the Appendix at pages 151-153.

182. I use mostly the same process and the same artistic judgments described in paragraphs 176-181 to edit engagement photographs.

183. When I am commissioned to provide branding photography for clients, I photograph and edit the photographs to communicate a positive message about the business and evoke a sense of entrepreneurial passion.

184. When I provide branding photography, I make the similar artistic judgments as described in paragraphs 168-174 and 178.

185. By way of example, I photographed and edited the following brand photographs:



186. True and correct copies of the immediately above photographs and additional branding photographs I have taken and edited are in the Appendix at pages 154-156.

187. By utilizing my artistic license in the ways described above, I can create aesthetically beautiful photography that portrays the love, intimacy, and sacrifice embodied in engagements and weddings to effectively promote God's design for marriage to my clients, their friends, and the public.

188. I make most of my editorial decisions without any input from clients, including how to take individual photographs, how to edit individual photographs, and what to include in the galleries on my website.

189. Clients sometimes give me suggestions or general ideas about some of the photographs they want or the types of poses they want depicted.

190. I take these suggestions into consideration, offer my advice, and blend my clients' suggestions into my own aesthetic vision so that the final product effectively celebrates the couple according to my artistic and religious beliefs.

191. But even when my clients make suggestions, they rely heavily on my artistic and editorial judgments about what to photograph, how to photograph in a compelling and appealing way, and how to edit the photographs.

192. Clients typically defer to my suggestions and I always retain ultimate editorial judgment and control over all the photographs I create, and I retain discretion to reject any client suggestion that I think is improper.

I decline to create photographs that violate my artistic judgments and religious beliefs.

193. Just as my Christian faith motivates me to create wedding photography that honors and glorifies God, it also motivates me to not create photography that celebrates or promotes ideas dishonorable to God or contrary to my religious and moral beliefs.

194. For example, I believe that God created humankind in His image, so I would not create photography that demeans, ridicules, or belittles others. Genesis 1:26-27.

195. For example, I believe that human life begins at the moment of conception, so I would not create branding photography for organizations that promote abortion, like Planned Parenthood. Psalm 139:13-14.

196. I would also decline to create wedding photography that celebrates or promotes weddings or engagements that are dishonorable to God or contrary to my religious and moral beliefs.

197. For example, I believe that weddings are meant to be a joyful occasion, so I would decline to create photography portraying marriage in a negative light.

198. For example, I believe that weddings are inherently religious and solemn events that should be revered as initiating an institution created by God, so I would decline to photograph certain themed weddings, like satanic or vampire-themed weddings, that celebrate sacrilegious ideas.

199. For example, I believe that God created marriage to be a sacred union between one biological man and one biological woman, so I would decline to photograph polygamous or same-sex weddings.

200. I would decline to photograph weddings celebrating polygamous or same-sex weddings because I do not want to promote ideas contrary to my beliefs and I do not want to participate in events that violate my beliefs.

201. I believe that all those who attend a wedding necessarily participate in the ceremony by acting as a witness before God and before those assembled as the bride and groom exchange vows, commit their lives to each other, are pronounced man and wife, and share their first kiss as a married couple.

202. I believe that, as a wedding photographer, I necessarily participate in the wedding ceremonies I photograph by personally interacting with and verbally encouraging the betrothed couple, the officiant, family, and friends, by directing members of the wedding party and the bride and groom's family on how to stand, where to position themselves, and what demeanor to display.

203. I believe that, as a wedding photographer, I necessarily express my approval of the wedding ceremonies I photograph by always creating photography that positively portrays the wedding and by appearing joyful and congratulating the couple, their family, and friends on the new marriage.

204. I could not effectively provide wedding photography without positively portraying the marriage and personally participating in the ceremony in the ways described above.

205. My beliefs described above are shaped by my own interpretation of the Bible.

206. My beliefs described above are also shaped by other Christian pastors and leaders.

207. For example, Sam Allberry, a pastor, author, and speaker, wrote a book entitled “Is God anti-gay? And other questions about homosexuality, the Bible and same-sex attraction.”

208. In his book, Sam Allberry writes “we want to be careful as Christians not to appear to endorse something we understand to be a sin in God’s eyes. Attending a gay wedding could easily look as if we are commending and celebrating gay marriage. It would be difficult to see how believers could attend without sending that kind of message.”

209. A true and correct copy of the relevant excerpts from Sam Allberry’s book is in the Appendix at pages 157-160.

210. Albert Mohler, a theologian, ordained minister, and president of the Southern Baptist Theological Seminary writes in an article entitled “Would You Attend a Same-Sex Wedding?” wrote

To put the matter straightforwardly, any Christian who knows that same-sex marriage violates God's Law and purpose for marriage knows -- and cannot act as if he or she does not know -- that a same-sex couple should not be joined in holy matrimony. To remain silent at that point is to abdicate theological and biblical responsibility. Even if the question is not formally asked in the ceremony, the issue remains. We cannot celebrate what we know to be wrong.

211. The above article is viewable here:

<https://albertmohler.com/2011/10/18/would-you-attend-a-same-sex-wedding>.

212. A true and correct copy of Albert Mohler’s statement is in the Appendix at page 161.

213. Kevin DeYoung, a pastor, theologian, and author, writes in an article entitled “Should I attend a Homosexual Wedding If the Service Is Completely Secular?” that “those who believe marriage is between a man and a woman should not attend a ceremony that purports to be the marrying of a man and a man or a woman and a woman, even if that ceremony is completely secular in nature” because (1) “The

purpose of a wedding ceremony is to celebrate and solemnize.” (2) “Wedding ceremonies are almost always public in nature.” And (3) “The stark either/or options are not of our making.”

214. The above article is viewable here:

<https://www.thegospelcoalition.org/blogs/kevin-deyoung/should-i-attend-a-homosexual-wedding-if-the-service-is-completely-secular/>.

215. A true and correct screenshot of Kevin DeYoung’s article is in the Appendix at pages 162-167.

Other commissioned photographers regularly exercise editorial discretion to create photographs that are consistent with and promote their views.

216. It is standard practice for commissioned photographers to only create content that promotes their editorial and artistic judgment or to decline to create content that violates or compromises their editorial and artistic judgment.

217. Many commissioned photographers also limit their photographs based on their artistic vision and values regarding subject matter and style.

218. For example, the website Engaged Legal Collective contains an article entitled “6.5 Must-Have Wedding Photography Contract Terms.”

219. “Artistic Discretion” is the second must-have term. The article says this discretion is necessary because:

You’re an **artist**, not a dancing monkey.

You’ve been hired to use **your discretion** to produce images in your own style, with your own eye, and with your own editing techniques.

Make sure you defend your right to take certain photos— and, almost more importantly, the right to *not take certain photos*— by reserving “artistic discretion” and promising “no specific images.” Also reserve the right to edit photographs in the styles you choose, so long as they are reflective of your portfolio as a whole. This way, you won’t have people demanding for “more white in this photo” or “can you make this photo brighter?!”

*Semi-related side note:* Make sure you're including a statement about **RAW image files** as well. Tell the couple something along the lines that "under no circumstances shall RAW images be released or delivered to the couple." Why? It's like giving someone a painting when the ink isn't even dry! Don't feel guilty about protecting your art— and your brand!

220. The above statement is viewable here:

<https://blog.engagedlegal.com/blog/wedding-photographer-contract>.

221. A true and correct copy of the statement described above is in the Appendix at pages 168-175.

222. Jeffrey House Photography, a wedding photography business in New York, contains the following term in its wedding photography contract: "The final post-production and editing style(s), effects, and overall look of the images are left to the professional discretion of the COMPANY."

223. The above statement is viewable here:

<https://www.jeffreyhousephotography.com/photography-wedding-contract>.

224. A true and correct copy of the relevant portions of the statement described above is in the Appendix at pages 176-179.

225. Many photographers' editorial and artistic judgments are embodied in their photography style.

226. Susan Stripling, a wedding photographer who operates a photography business based in New York describes her photography style as follows:

While my style is mostly photojournalistic, I do appreciate and admire the technical artistry of a traditional approach. When I take a wedding couple out for portraits, we do a mix of documentary style images of the couple walking, talking, and naturally interacting. We also make sure that we take a few well-posed traditional images.

227. The above statement is viewable here:

<https://www.susanstripling.com/info-faq/wedding-photography/about-my-style>.



228. She further describes her style as “a very journalistic style” and responds to the question “Can you take fewer photos that have dark shadows and bright highlights?” as follows:

If what you’re looking for is a more evenly lit style of photography then I might not be the photographer for you. I use a great deal of shadow and light in my natural light images as well as my flash/lit images during the receptions. Please make sure that you look through all of my sample galleries provided when you inquire with me to make sure that the style you see in the galleries reflects the style that you want for your wedding day photography.

229. The above statement is viewable here: <https://www.susanstripling.com/info-faq/wedding-photography/frequent-questions>.

230. True and correct copies of the relevant portions of the Susan Stripling statements described above are in the Appendix at page 180-197.

231. Wedding photographer Amanda Summerlin describes her editing style as follows:

I prefer a classic fine art film look to my wedding photos, so I keep the colors clean and the skin tones natural. If you have a blemish, my magic wand makes it disappear. If there’s a spot on your suit, I use a spot treatment to remove it. If there’s a random street sign in an otherwise perfect photo, I chop it out. There’s lots of little remodels that I do to make your images just right.

232. The statement described above is viewable here:

<https://amandasummerlin.com/wedding-photography-fuqs/>.

233. A true and correct copy of the relevant portions of the Amanda Summerlin statement described above is in the Appendix at pages 198-203.

234. Some wedding photographers create photographs using a “light and airy” style, a contra-distinct style from my moody style. *See infra*, ¶¶ 169-79.

235. Jenna Bechtholt Photography wrote a blog post entitled “My Process for a Light + Airy Aesthetic” where she explains her “process in creating a light and airy

look, which includes an editing element” and “what goes into how I create photographs before I start editing!”

236. Jenna Bechtholt Photography’s wedding photographs include the following:



237. The above statement and photographs are viewable here:

<https://www.jennabechtholt.com/light-airy-photography-aesthetic/> and  
<https://www.jennabechtholt.com/wedding-portfolio/>.

238. True and correct screenshots of the relevant portions of Jenna Bechtholt Photography’s website, including the above statements and photographs, are in the Appendix at pages 204-211.

239. I describe my own style as “moody” and I strive to have all of my photographs reflect this style. *See infra*, ¶¶ 169-79.

240. There are significant stylistic differences between “moody” photographs and “light and airy” photographs.

241. For example, compare a copy of my photograph (left) with a photography by Jenna Bechtholt Photography (right):



242. For that reason, I would decline to create “light and airy” engagement and wedding photographs similar to those described in paragraphs 235-238, no matter who requested the photography, because that photography style conflicts with my moody style.

243. For example, when a prospective heterosexual couple asked if I could offer “a brighter and more colorful look” to my engagement and wedding photographs, I replied that my “editing process is really integral to the stories I’m able to create, I don’t think it’d be in either of our best interest for me to create a different style/deviate from my current workflow” and offered to make a referral rather than fulfill the request.

244. A true and correct copy of a redacted version of the above statements are in the Appendix at pages 212-213.

245. Other wedding photographers are also willing to photograph engagements and weddings that I am unable to photograph because of my religious beliefs about marriage, such as engagements and weddings other than those between one man and one woman or engagements and weddings with themes I object to.

246. For example, Creatrix Photography photographer Jenna explained that Jenna’s “long term goal is being a renowned polyamory portrait photographer.”

247. Creatrix Photography photographed “triad portraits” and wrote a blog post entitled “Polyamory Triad Portraits.”

248. The blog post explains:

It’s been an honor to help serve the polyamory community. In an industry still adjusting to LGBT couples, adding a third or fourth or fifth really throws people for a loop. However, I have a decent amount of experience at this point and frankly, I’d love more! I think all forms of relationships, commitments and orientations deserve beautiful moments in life and of course, deserve those moments to be documented.

Speaking of, here are these amazing Polyamory Triad Portraits. What is a triad? It’s when there are three people in a relationship. Sometimes, all three people date. Other times, like the one I’m about to show you, is a V, meaning two people date the same person but are just friends with one another. Harley and Sara are best of friends, which absolutely shows. Nate is a lucky dude and he knows it.

249. Creatrix Photography’s “triad portraits” include the following:



250. The above statements and photographs are viewable here:

<https://creatrixphotography.com/polyamory-portrait-photographer/> and  
<https://www.creatrixphotography.com/polyamory-triad-portraits/>.

251. Creatrix Photography also photographed a polygamous marriage and wrote a blog post about the wedding and polygamy: “There is no right way to relationship. Polyamory simply isn’t a threat to monogamy. Monogamy is often its own worst enemy, with or without outside influence. Every relationship is different. I’ve seen

polyam relationships grow and fizzle just as rapid and often as monogamous relationships.”

252. Creatrix Photography’s wedding photographs include the following:



253. The above statements and photographs are viewable here:

<https://creatrixphotography.com/polyamory-wedding/>.

254. True and correct screenshots of the relevant portions of Creatrix Photography’s website, including the above statements, photographs, and additional photographs are in the Appendix at pages 214-227.

255. Several photographers also take photographs of marijuana-themed weddings.

256. For example, the website Love and Marij describes several photographers across the country as “Cannabis Friendly Wedding Photographers.”

257. The above statement is viewable here:

<http://loveandmarij.com/vendors/wedding-photo-video-photobooth/>.

258. A true and correct copy of the above statement is in the Appendix at pages 228-230.

259. Wedding photographer Rachel Artime is listed on Love and Marij’s website and states her cannabis policy is that she is “open to all things cannabis!”

260. Rachel Artime’s Love and Marij listing includes the following photograph:



261. The above statement and photograph are viewable here:

<https://loveandmarij.com/vendor/rachel-artime-photo/>.

262. True and correct screenshots of Rachel Artime’s Love and Marij listing, including the above statement and photograph, are in the Appendix at page 231.

263. Other photographers take photographs of “satanic” and “voodoo” weddings.

264. The website Misfit Weddings posted an article entitled “Ralis and Katie’s Satanic Wedding” featuring a “traditional Satanic wedding, officiated by the Church of Satan.”

265. The above article includes the following photographs:



266. The above article and photographs are viewable here:

<https://www.misfitwedding.com/blog/ralis-and-katies-satanic-wedding>.

267. True and correct screenshots of the relevant portions of Misfit’s Weddings website, including the above statement, photographs, and additional photographs are in the Appendix at pages 232-237.

268. Other photographs have photographed movie-themed cosplay weddings.

269. For example, Delirious Weddings posted a blog post entitled “Lee and Charley’s Amazing Movie-Themed Cosplay Wedding, Hockley.”

270. The above blog post includes the following photographs:



271. The above blog post and photographs are viewable here:

<https://www.deliriousweddings.com/blog/2016/10/16/lee-and-charlies-amazing-movie-themed-cosplay-wedding-hockley>.

272. True and correct screenshots of the relevant portions of Delirious Weddings’ website, including the above blog post, photographs, and additional photographs are in the Appendix at pages 238-241.

273. I would decline to photograph engagements and weddings similar to those in paragraphs 255-272, no matter who requested the photography, because of my religious beliefs that marijuana-themed, satanic, and superhero-themed ceremonies are profane or trivialize the sacred nature of the wedding ceremony and I cannot tell stories promoting or celebrating a ceremony contrary to my religious beliefs.

274. I would also decline to photograph a same-sex engagement session or wedding, no matter who requested the photography, because of my religious beliefs that God created marriage to be an exclusive covenant between one man and one woman and I cannot tell stories promoting or celebrating a ceremony contrary to my religious beliefs. Genesis 1:27, 2:24; Hebrews 13:4.

275. My decision not to photograph weddings like those described in paragraphs 234-274 is always because of the message being celebrated, not the status of the client or the couple getting married.

276. I would decline a request to create engagement or wedding photography celebrating ideas that violate my beliefs no matter who asked me.

277. For example, some wedding photographers create photographs of “styled” same-sex engagements and weddings.

278. “Styled” means the event is staged with models often acting as the marrying couple.

279. “Styled” photoshoots are designed to inspire creativity in the photographers who participate, create, and build networks with other photographers and create and build a portfolio.

280. Equally Wed, for example, describes itself as “an international online LGBTQ+ wedding magazine” and lists several posts on “styled” same-sex weddings.

281. The above statement and posts are viewable here:

<https://equallywed.com/tag/styled-shoot/>.

282. A true and correct copy of the relevant portions of Equally Wed’s website is in the Appendix at pages 242-249.

283. For example, Equally Wed featured a blog post for a styled-shoot entitled “Historic mansion Winter Wedding Inspiration.”

284. The styled shoot included two female models, Sarah Shellhorn and Emily Boyd.

285. The styled photoshoot included the following photographs:





286. The above blog post and photographs are viewable here:

<https://equallywed.com/historic-mansion-winter-wedding-inspiration/>.

287. True and correct copies of the relevant portions of the above website, photographs, and additional photographs are in the Appendix at pages 250-255.

288. I would not photograph a “styled” engagement or wedding celebrating a polygamous marriage, even if the models were all heterosexual.

289. I would not photograph a “styled” engagement or wedding celebrating a same-sex wedding depicting two men or two women, even if both of the models were heterosexual.

290. But I will create photographs for anyone, so long as the message is consistent with my artistic and religious beliefs.

291. For example, I would photograph a “styled” engagement or wedding celebrating an opposite-sex wedding depicting one man and one woman even if the models were homosexual or bisexual.

292. I will also create photographs for gay or lesbian clients, such as LGBT business owners seeking branding photography.

293. I will create photographs for the wedding of one man and one woman if I were hired by the future bride’s gay father or by the future groom’s lesbian mother.

294. I will create photographs for the wedding of one man and one woman if I were hired by the couple's gay or lesbian wedding planner.

295. I will also create photographs for a wedding between a bisexual woman and a heterosexual man so long as the couple intends the marriage to be a lifelong union between that one man and one woman.

296. I will also create photographs for a wedding between a homosexual man and a heterosexual woman so long as the couple intends the marriage to be a lifelong union between that one man and one woman.

297. As for paragraph 296, of adults who identify as gay or lesbian and currently raise children, about 18% have "a different-sex married spouse" according to a report by the Williams Institute.

298. A true and correct excerpt from the relevant portions of the above Williams Institute report are in the Appendix at pages 256-258.

299. Similarly, according to a Gallup report, 13.1% of LGBT persons are married to members of the opposite-sex.

300. A true and correct copy of the above report is in the Appendix at pages 259-263.

Many commissioned photographers and businesses promote same-sex weddings.

301. Many photographers use their artistic discretion to create images of same-sex weddings.

302. There are many photographers in or close to New York who freely express their beliefs in favor of same-sex marriage by posting statements supporting same-sex marriage, posting photographs of same-sex marriage on their websites and social media sites, posting statements describing the photographers' beliefs in favor of same-sex engagements and weddings, and acknowledging the photographers' willingness to photograph same-sex weddings.

303. For example, Nicki at De Nueva Photography, a New York photographer, states on her website, “I fully support marriage equality and am an LGBTQ+ advocate and ally. I strive to have as inclusive a business as possible. All of my client material is gender neutral and I always ask for pronouns before a session.”

304. She adds that “I donate monthly to social justice organizations such as the ACLU, Planned Parenthood, Emily's List, Equal Justice Initiative, and the International Rescue Committee and make an extra donation for each wedding booked.”

305. The above statements are viewable here: <https://denuevaphoto.com/about/>.

306. De Nueva’s website also features photographs of same-sex engagements and weddings viewable here:

- <https://denuevaphoto.com/weddings/>;
- <https://denuevaphoto.com/nycproposals-engagement-photos/>;
- [https://denuevaphoto.com/pp\\_gallery/udson-valley-wedding-jalynn-tiffany/](https://denuevaphoto.com/pp_gallery/udson-valley-wedding-jalynn-tiffany/);
- <https://denuevaphoto.com/blog/page/2/>; and
- [https://denuevaphoto.com/pp\\_gallery/new-york-botanical-garden-wedding/](https://denuevaphoto.com/pp_gallery/new-york-botanical-garden-wedding/).

307. A true and correct copy of the websites, statements, and true and correct copies of some of the same-sex engagement and wedding photographs described above are in the Appendix at pages 264-275.

308. Natura Collective Photography states on its website: “If it isn’t obvious enough on our about page, we are super gay [and gay friendly]. You just found your Brooklyn gay wedding photographer, so start the party now.” It also explains

TO MAKE OUR STANCE + VALUES EXTREMELY CLEAR We will absolutely not tolerate racism, homophobia, sexism, or discrimination of any kind. We are an inclusive wedding vendor and it brings us joy to capture weddings for all of our couples, no matter their religious beliefs, size, sexuality, or skin color. We strive to be actively anti-racist and are dedicated to the Black Lives Matter movement. As part of the LGBTQ+ community and

being in an interracial relationship we understand that representation matters.

309. Natura Collective Photography's website also features photographs of same-sex engagements and weddings viewable here:

- <https://naturacollective.com/your-favorite-nyc-destination-wedding-photographers/>;
- <https://naturacollective.com/brooklyn-gay-wedding-photographer/>;
- <https://naturacollective.com/photos/>;
- <https://naturacollective.com/disney-wonder-bahamas-wedding/>;
- <https://naturacollective.com/dumbo-surprise-proposal-photos/>;
- <https://naturacollective.com/brooklyn-engagement-photographer/>;
- <https://naturacollective.com/new-england-wedding-photographer/>; and
- <https://naturacollective.com/nyc-lgbt-elopement-photographer/>.

310. A true and correct screenshot of the relevant portions of the statement, websites, and true and correct copies of some of the same-sex engagement and wedding photographs described above are in the Appendix at pages 276-282.

311. Le Image, another New York photography company, posts photographs of same-sex weddings on its website and states, "Our photography and video studio have been honored to capture beautiful same sex weddings at the top venues in NYC. Huge supporters of the LGBT community and equal marriage laws, our photographers and videographers provide stunning wedding photo and video for you and your partner to cherish for a lifetime!"

312. The above statements and photographs are viewable here:

- <https://www.leimageinc.com/weddings/same-sex-weddings/>;
- <https://www.leimageinc.com/weddings/same-sex-weddings/brookside-banquets-wedding/>;
- <https://www.leimageinc.com/weddings/same-sex-weddings/26-bridge/>;

- <https://www.leimageinc.com/weddings/same-sex-weddings/central-park-wedding/>;
- <https://www.leimageinc.com/weddings/same-sex-weddings/green-building-wedding/>;
- <https://www.leimageinc.com/weddings/same-sex-weddings/same-sex-nyc-central-park-elopement/>;
- <https://www.leimageinc.com/weddings/same-sex-weddings/deity-brooklyn-wedding/>; and
- <https://www.leimageinc.com/weddings/same-sex-weddings/maison-may-dekalb-wedding/>.

313. A true and correct screenshot of the relevant portions of the blog, websites, and true and correct copies of some of the same-sex wedding photographs described above are in the Appendix at pages 283-293.

314. Studio A Images photographs same-sex weddings in New York and New Jersey. The company's website states, "My business has always been firmly rooted in inclusivity and equality." In its "Summer of Love" project, Studio A Images highlighted several same-sex weddings, explaining, "To start things off and celebrate Pride Month, I'll be showcasing some of my favorite same-sex weddings and engagement sessions."

315. The above statements and blogs and photographs of same-sex weddings are viewable here:

- <http://studioaimages.com/blog/about/>;
- <http://studioaimages.com/blog/category/lgbtq/page/2/>;
- <http://studioaimages.com/blog/2019/05/01/hotel-du-village-wedding-photos-bucks-county-wedding-photographer-don-ryan/>;
- <http://studioaimages.com/blog/2015/11/11/harvest-on-hudson-wedding-photos-nyc-wedding-photographer/>;

- <http://studioaimages.com/blog/2015/06/11/liberty-house-wedding-nyc-wedding-photographer/>;
- <http://studioaimages.com/blog/2015/09/28/nyc-wedding-photos-nyc-wedding-photographer/>;
- <http://studioaimages.com/blog/2019/06/05/kolo-klub-wedding-photos-hoboken-wedding-photographer-kate-laura/>;
- <http://studioaimages.com/blog/2018/06/25/metropolitan-building-wedding-photos-nyc-wedding-photographer-emily-julia/>;
- <http://studioaimages.com/blog/2019/06/10/epic-liberty-house-wedding-photos-jersey-city-wedding-photographer-yani-divinity/>;
- <http://studioaimages.com/blog/2015/06/01/gay-friendly-wedding-photographer-nyc-wedding-photographer/>.

316. A true and correct screenshot of the relevant portions of the blog and websites and true and correct copies of some of the same-sex wedding photographs described above are in the Appendix at pages 294-310.

317. Susan Stripling, a New York-based photographer, wrote on her website, “I celebrate love. I celebrate marriage equality. I embrace, welcome, and wholeheartedly celebrate same sex marriage. I am honored to document LGBTQ+ weddings.”

318. The above statements and examples of same-sex engagement and wedding photographs are viewable here:

- <https://www.susanstripling.com/>;
- <https://www.susanstripling.com/same-sex-wedding-photography-new-york>;
- <https://www.susanstripling.com/engagements>;
- <https://susanstripling.com/blog/wedding-at-shadowbrook-at-shrewsbury/>; and
- <https://www.susanstripling.com/weddings/nyc-gay-wedding-photography>.

319. A true and correct screenshot of the relevant portions of the blog and true and true and correct copies of some of the same-sex engagement and wedding photographs described above are in the Appendix at pages 311-319.

320. And there are many other photographers in or close to New York who support and celebrate same-sex weddings, as seen on statements or blogs on their business and social media sites:

- <https://www.laurierhodes.com/gay-wedding-photography-new-york/>;
- <https://www.hudsonriverphotographer.com/lgbq-wedding-photography-new-york/>;
- <https://www.instagram.com/hudsonriverphotographer/>;
- <https://www.hudsonriverphotographer.com/wedding-at-red-maple-vineyard/>;
- <https://www.hudsonriverphotographer.com/wedding-at-deer-mountain-inn/>;
- <https://angelacappetta.com/love-is-love/>;
- <https://www.parkavestudio.com/galleries/lgbt-wedding-photography-and-videos/>;
- <http://kellyprizel.com/about-kelly/>;
- <https://www.instagram.com/kellyprizelphoto/>;
- <https://www.katealisonphoto.com/about>;
- <http://ciaobella-studios.com/a-little-magic-two-gorgeous-people-and-so-much-love-same-sex-backyard-diy-wedding-in-rochester-ny/>;
- <http://ciaobella-studios.com/about/>;
- <https://ambermarlow.com/blog/tag/same-sex+wedding>;
- <https://ambermarlow.com/blog/northfork-vineyard-gay-wedding>;
- <https://ericacamilleproductions.com/>;
- <https://www.stevenrosenphotography.com/me>;
- <https://www.stevenrosenphotography.com/the-ceremony>; and
- <https://www.stevenrosenphotography.com/couples-portraits>.

321. True and correct copies of the relevant portions of the above statements and blogs and some of the same-sex engagement and wedding photographs from the photographers' websites and social media sites described above are in the Appendix at pages 320-366.

My photographs are unique because they reflect my religious beliefs.

322. I take and edit each engagement and wedding photograph with the goal of promoting and celebrating engagements and marriages between one man and one woman.

323. My artistic and editorial judgments about how to create photographs produce a message promoting and celebrating marriages between a man and a woman.

324. Photographs promoting same-sex marriage require different photography techniques and promote different ideas.

325. The book entitled "The New Art of Capturing Love: The Essential Guide to Lesbian and Gay Wedding Photography" by Kathryn Hamm and Thea Dodds provide examples for photographers desiring to photograph same-sex weddings.

326. For example, Hamm and Dodds explain differences in posing necessary to create photographs for opposite-sex and same-sex weddings:

Traditional wedding photography relies on basic assumptions built around a white gown and a tux (or dark suit), masculine and feminine gender roles, and expectations of the physical differences between a man and a woman. Generally speaking, these assumptions do not translate well to most same-sex couples. For example, while a dip pose (a wedding-playbook standard) might easily translate to the average straight couple, the pose could fall flat—literally and figuratively—for a same-sex couple.

327. At the same time, Hamm and Dodds recommend to not "presume that in every couple there is a 'masculine one' and a 'feminine one' and that, as such, they should be assigned to the standard male-female poses."



328. Hamm and Dodds recommend poses for “two grooms in matching black attire” and poses featuring two brides with two gowns.

329. Hamm and Dodds also recommend showcasing details of a same-sex wedding differently, noting that “[a]n isolated cufflink, ring, or pair of men’s shoes could be at any wedding; these images shine because it’s clear that those items belong to *two* grooms” and “[y]ou can also play on the grooms’ pairing of ties, shoes, pocket squares, and doting mothers, or on the brides’ pairing of sashes, shoes, hair accessories, or proud grandmothers.”

330. Hamm and Dodds also recommend taking the preparation photographs differently for same-sex weddings, explaining

Generally, at a heterosexual wedding, the primary photographer stays with the bride while she gets ready, and the second photographer (if there is one) covers the groom and his attendants. In the two-brides or two-grooms scenarios, you must consider how to best serve your clients. If the brides (or grooms) will be getting ready together, then it’s much easier to work the event alone as a primary photographer.

331. A true and correct copy of the above statements and other relevant portions of “The New Art of Capturing Love: The Essential Guide to Lesbian and Gay Wedding Photography” are in the Appendix at pages 367-380.

332. In an article on Equally Wed entitled “How to Hire a Wedding Photographer for Your Gay Wedding,” the author writes

It’s a rough lesson to learn after you have hired someone who takes exceptional photos but is suddenly putting you and your partner into over-the-top heteronormative poses. Many of the world’s leading photographers are nervous doing their first same-sex wedding because of one simple fact: They’ve built their entire career on pigeon-holing their couples into gender-specific heterosexual ideals of what’s the ‘norm.’

333. The above article is viewable here: <https://equallywed.com/hire-wedding-photographer-gay-wedding/>.

334. A true and correct copy of the relevant portions of the above article are in the Appendix at pages 381-387.

335. Casey Fatchett, a New York-based wedding photographer according to his social media account, notes, “You can rest assured that not only do I support your union, but that I have the experience photographing them to know how to work with you without simply placing you in the same scenarios someone would do with a straight couple. That’s not how it works.”

336. The above statements and examples of same-sex wedding photographs are viewable here: <https://fatchett.com/same-sex-wedding-photographer/>.

337. A true and correct screenshot of the relevant portions of the blog and true and correct copies of some of the same-sex engagement photographs described above are in the Appendix at pages 388-389.

338. My photographs celebrating engagements and weddings between one man and one woman promote different images than photographs depicting same-sex engagements and weddings.

339. But other wedding photographers exercise their editorial and artistic judgment about the types of art they create differently than I do.

340. For example, compare my photograph of an engagement (left) with a photograph of a same-sex engagement by another photographer (right):



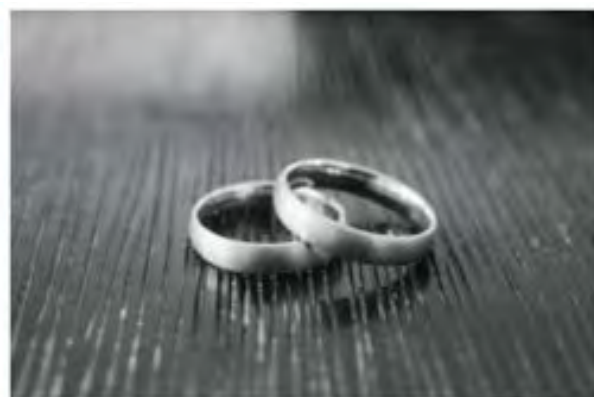
341. Compare also my photograph of an engagement (top) with a photograph of a same-sex engagement by another photographer (bottom):



342. True and correct copies of my photographs above (left and top) are in the Appendix at page 123, and true and correct copies of other photographers' photographs above (right) are in the Appendix at pages 280 and 319.

343. For additional illustrative comparisons, compare and correct copies of my engagement photographs in the Appendix at pages 123-125 with true and correct copies of other photographers' engagement photographs in the Appendix at pages 271, 280, and 298.

344. Also compare my photographs of weddings (left) below with photographs of same-sex weddings by other photographers (right):











345. True and correct copies of my wedding photographs above (left) are in the Appendix at pages 129, 131-132, 135-136, 140-141, and 144-147, and true and correct copies of other photographers' wedding photographs above (right) are in the Appendix at pages 273, 282, 291, 309, 318, 332-334, 357, and 366.

346. For additional illustrative comparisons, compare true and correct copies of my wedding photographs in the Appendix at pages 126-150 with true and correct copies of other photographers' wedding photographs in the Appendix at pages 220, 222-227, 231-232, 273-275, 280-282, 284-287, 290-293, 297-298, 300-301, 308-310, 318, 320, 332-324, 330-334, 339, 346-350, 353-358, 360, and 366.

347. Along with my photography, like other photographers, I express my beliefs about marriage on my blog when I post my photographs.



348. For example, compare my blog posts, celebrating the sanctity of marriage between one man and one woman, in the left column below with blog posts by other photographers, celebrating same-sex weddings, in the right column:

<p>“It was such a beautiful thing to witness, God joining them together as husband and wife, and I can’t wait to see how their love story grows! &lt;3”</p>	<p>“Love is love is love is love. However, sometimes words fail me. When attempting to describe how incredibly important I believe it is for people to be able to love the one they love the most, I cannot find the words. It is such a simple thing, to be able to marry your soulmate. It should be such a simple thing. It should always be a glorious celebration, a beautiful thing to be treasured, and a right that we should all celebrate equally.”</p>
<p>“And that day, before God, they became one. It truly was <b>such</b> an incredible testament to the beauty of marriage in it of itself. No bells and whistles... just one man and one woman making a vow to love, to serve, and to cherish one another for a lifetime. &lt;3”</p>	<p>“Their wedding celebration was full of emotions AND singing. Friends sang their first dance and Julia surprised Emily with a song later in the reception. This wedding was full of love and joy (and song) and I was honored to be a part of their celebration.”</p>

349. True and correct copies of my blog posts above (left) are in the Appendix at pages 105 and 110, and true and correct copies of other photographers’ blog posts above (right) are in the Appendix at pages 316 and 304-305.

350. I have personally visited and viewed each of the websites referred to in this Declaration on April 5, 2021.


351. None of the statements found on any of the websites referred to in this Declaration were taken from a comment section or other forum for public comment.

352. I have personally viewed every document and other materials referred to in this Declaration and in the Appendix on April 5, 2021.

**DECLARATION UNDER PENALTY OF PERJURY**

I, Emilee Carpenter, a citizen of the United States and a resident of the State of New York, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 5th day of April 2021 at Chemung County, New York.

  
\_\_\_\_\_  
Emilee Carpenter