

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

**[Proposed] Order Granting
Plaintiffs' Preliminary Injunction
Motion**

This matter is before this Court on Plaintiffs' Preliminary Injunction Motion. In determining whether to grant the motion, this Court has considered the following factors: whether (1) the movant would suffer irreparable harm absent a preliminary injunction; (2) the movant will likely succeed on the merits; (3) granting the preliminary injunction will serve the public interest; and (4) the balance of equities tips in favor of the movant. *Yang v. Kosinski*, 960 F.3d 119, 127 (2d Cir. 2020). This Court, having reviewed the motion and being otherwise sufficiently advised, finds as follows:

1. Plaintiffs have established that their First Amendment rights would be irreparably harmed absent a preliminary injunction. *See Tunick v. Safir*, 209

F.3d 67, 70 (2d Cir. 2000) (“[V]iolations of First Amendment rights are presumed irreparable.”).

2. Plaintiffs have established a strong likelihood of success on the merits of their First Amendment free speech, free exercise, and freedom from the establishment of religion claims.

3. Plaintiffs have established that entry of a preliminary injunction is in the public interest because “securing First Amendment rights is in the public interest.” *New York Progress and Prot. PAC v. Walsh*, 733 F.3d 483, 488 (2d Cir. 2013).

4. Plaintiffs have established that the balance of equities favors them because New York does not have an interest in enforcing a law in a way that is likely unconstitutional. *Id.* And Plaintiffs have demonstrated significant hardship if the law is applied to them.

5. Because Defendants would not be harmed by the requested injunction, this Court concludes that requiring security under Fed. R. Civ. P. 65(c) is not appropriate in this case. *See Int’l Controls Corp. v. Vesco*, 490 F.2d 1334, 1356 (2d Cir. 1974) (“district court may dispense with security where there has been no proof of likelihood of harm to the party enjoined”).

Accordingly, IT IS HEREBY ORDERED as follows:

1. Plaintiffs’ Preliminary Injunction Motion is GRANTED against Defendants.

2. Defendants and all those acting in concert with them are ENJOINED from enforcing the following:

- 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.
- 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.

3. The requirement of security under Fed. R. Civ. P. 65(c) is waived due to the lack of harm to Defendants.

Done this _____ day of _____, 2021.

UNITED STATES DISTRICT JUDGE