

# HIGH COURT WEIGHS KEY CASE; WE FILED AN AMICUS BRIEF

In December, the U.S. Supreme Court heard oral arguments in a case in which the Catholic League filed an amicus brief. We are supporting the First Amendment rights of web designer Lorie Smith.

At issue is the judicial merits of the Colorado Anti-Discrimination Act. It would compel Smith to design a website that celebrates same-sex marriage. Smith has never refused to service anyone on the basis of sexual orientation, or any other demographic factor. But she draws the line at forcing her to express a message that runs counter to her Christian beliefs.

Smith is pointed in her position. “As a Christian who believes that God gave me the creative gifts that are expressed through this business, I have always strived to honor him in how I operate. Because of my faith, however, I am selective about the messages that I create or promote.”

The Catholic League amicus brief, prepared by Kathleen A. Gallagher and Russell D. Giancola of Gallagher Giancola LLC, a Pittsburgh-based law firm, argues that “it is clear that the First Amendment provides dual protections for religious expression (or non-expression) in its guarantees of free speech and free religious exercise. This reality compels the conclusion that religious speech enjoys the highest constitutional protection.”

Critics of Lorie Smith maintain that the real issue is not the First Amendment. One of the most prominent persons to take this position is Father James Martin.

“Let’s call it what it is: homophobia,” Martin says. Now if this were true, Smith would have a record of refusing to serve

homosexuals, but this is manifestly not the case.

Would Martin also call the United States Conference of Catholic Bishops “homophobes”? The USCCB filed an amicus brief in support of Smith. It would be great to hear from him about this issue.

“In the guise of ‘religious liberty,’ Catholic business owners could deny services to Protestants and, more broadly, Christians could deny services to Jews, Muslims, Hindus, Buddhists, atheists, agnostics, and so on,” says Martin.

Father Martin is wrong. Indeed, he misses the point completely.

There is a profound difference between refusing to serve someone because of his demographic characteristics, and refusing to affirm a message that runs counter to one’s sincerely held religious beliefs.

For example, if a Jewish artist refuses to draw a swastika on a picture of a synagogue, is he exercising his First Amendment right to freedom of speech, or does he harbor a phobia about Nazis and should be forced to accede to the request?

The high court will not rule on this key religious liberty case until the spring. Stay tuned.