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SUPREME COURT
OF THE STATE OF WASHINGTON

ROBERT INGERSOLL, et al.,
Plaintiffs-Respondents,

v.

ARLENE'S FLOWERS, INC., et al.,
Defendants-Appellants.

FILED
MAY 25 2016
WASHINGTON STATE
SUPREME COURT

STATE OF WASHINGTON,
Plaintiff-Respondent,

v.

ARLENE'S FLOWERS, INC., et al.,
Defendants-Appellants.

BRIEF OF WASHINGTON BUSINESSES AS AMICI CURIAE IN
SUPPORT OF PLAINTIFFS-RESPONDENTS

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(Listed Inside Cover Page)*

 ORIGINAL

Amici

Business Associations:

Greater Seattle Business Association
Inland Northwest Business Alliance
Seattle Metropolitan Chamber of Commerce
Tabor 100

Businesses:

Amazon, Inc.
Expedia, Inc.
Group Health Cooperative
Microsoft Corporation
Recreational Equipment, Inc.
Chachalounge, LLC (dba Cha Cha Lounge)
JOWW LLC (dba Percy's Co.)
Modern Housing, LLC (dba Ace Hotel Seattle)
Molly Moon's Homemade Ice Cream, LLC
Northwest Polite Society LLC
Pike Pine Diner, LLC (dba Comet Tavern and Lost Lake Café and Lounge)
Shafty's, LLC (dba Grim's Provisions & Spirits)
Sugar Pill, Inc.
Wide Open, Inc. (dba 5-Point Café)

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I. INTRODUCTION

Amici here are fourteen Washington businesses and four Washington trade associations that believe that Washington's broad and comprehensive enforcement of anti-discrimination statutes provides significant business and economic benefits. Such enforcement makes clear to current and prospective employees, customers, and business partners that there is no place in Washington for discrimination in the provision of goods and services in the marketplace. *Amici* seek to share with the Court the natural and unacceptable business and economic harms that would be caused by permitting discrimination against same-sex couples – indeed, all protected classes – based on the actor's religious beliefs.

Appellants are asking this Court to do something that *no court* has ever done: to hold that individuals can *lawfully disobey* anti-discrimination laws simply because their religion compels such conduct. If that were the law, cab drivers in Washington could refuse to transport same-sex couples, restaurateurs in the state could refuse to serve same-sex couples, and shop owners could refuse to provide goods and services to same-sex couples – a few examples among many – so long as the conduct is religiously compelled.

Discrimination against protected classes is abhorrent in all its permutations. Here Appellants seek to discriminate against same-sex couples, a protected class under the Constitution. In *Obergefell v. Hodges*, 576 U.S. ___, 135 S. Ct. 2584, 2596, 2602 (2015), the U.S. Supreme Court recently recounted this nation’s long history of discrimination against gay men and lesbian women and proclaimed that to deny same-sex couples the “same legal treatment as opposite-sex couples ... would ... diminish their personhood.” In *Lawrence v. Texas*, 539 U.S. 558, 572, 575 (2003), the Court looked to our society’s “emerging awareness” regarding homosexuality and likewise held that “[w]hen homosexual conduct is made criminal by the law of the State, that declaration in and of itself is an invitation to subject homosexual persons to discrimination.” A holding favoring Appellants would be a holding that openly invites individuals to subject same-sex couples to discrimination in public accommodations.

Three courts have squarely addressed this issue and have rejected the arguments that Appellants are asserting here. See *Elane Photography, LLC v. Willock*, 309 P.3d 53 (N.M. 2013), *cert. denied*, 134 S. Ct. 1787 (2014); *Craig v. Masterpiece Cakeshop, Inc.*, No. 14CA1351, 2015 WL 4760453 (Colo. App. Aug. 13, 2015), *cert. denied*, 2016 WL 1645027 (Colo. Apr. 25, 2016) (No. 15SC738); *Matter of Gifford v. McCarthy*, 137

A.D.3d 30, 23 N.Y.S.3d 422 (2016). *Amici* urge this Court to follow those decisions and squarely hold that Washington law, like the laws in Colorado, New Mexico and New York, does not permit discrimination against same-sex couples based on the actor's religious beliefs. This Court should so hold not only because it is the right thing to do, but also because it yields tangible business results.

Amici are filing this brief to demonstrate how they – and many other similarly situated businesses in Washington – would be impacted by a ruling allowing for discriminatory treatment in public accommodation. Washington businesses must attract and retain the best employee talent to compete effectively in a national and global economy. That effort is significantly more challenging if, as Appellants advocate here, employees who are, or will be, in a same-sex relationship can be discriminated against based on the actor's religious beliefs. Indeed, since Appellants are seeking a religious practice exception to the Washington Law Against Discrimination (WLAD), which applies to discrimination against all protected classes, a decision for Appellants would open all other protected classes to similar discrimination when justified by faith. In addition, legalizing discrimination would harm the state's economy. For these reasons, the Court should affirm the trial court's well-reasoned decision.

II. IDENTITY AND INTEREST OF *AMICI CURIAE*

Amici are a collection of businesses and business associations in Washington State. They include very large employers, such as Microsoft Corporation, Group Health Cooperative, Recreational Equipment, Inc., Amazon, Inc. and Expedia, Inc.

In addition to these large employers, *Amici* include four business and trade associations in Washington. Established in 1981, the Greater Seattle Business Association (“GSBA”) is the largest LGBT and allied chamber of commerce in North America. It represents over 1,100 small business, corporate, and nonprofit members who share GSBA’s values of promoting equality and diversity in the workplace. The Seattle Metropolitan Chamber of Commerce is an independent organization representing 2,200 companies and a regional workforce of approximately 700,000. Inland Northwest Business Alliance (INBA) is Spokane’s LGBT Chamber of Commerce. INBA represents 225 members who are working professionals, small business, corporate and non-profit organizations that share the alliance’s values of promoting diversity and equality in business and the workforce. Lastly, Tabor 100 is an association of entrepreneurs committed to economic power, educational excellence and social equity for African-Americans and the community at large.

Additionally, a number of the *Amici* operate public accommodation businesses and are smaller employers who are positively impacted by Washington’s Law Against Discrimination in both the employment context and as businesses that benefit from lesbian, gay, bisexual, and transgender (“LGBT”) tourism to Washington. *Amici* include restaurants, bars, retail shops, hotels, and marketing companies that operate 5-Point Café, Ace Hotel, Cha Cha Lounge, Comet Tavern, Grim’s Provisions & Spirits, Lost Lake Café, Molly Moon’s Homemade Ice Cream, Oddfellows Cafe+Bar, Percy’s & Co., Northwest Polite Society, and SugarPill.

III. ISSUES OF CONCERN TO *AMICI CURIAE*

Amici address the following issue: Whether the Court should create a constitutional right to discriminate against same-sex couples in Washington based on the actor’s religious beliefs.

IV. STATEMENT OF THE CASE

Amici accept the Statement of the Case in the Brief of Respondents Ingersoll and Freed.

V. ARGUMENT

A. **The Court Should Vigorously Enforce This State’s Anti-Discrimination Statute, Just as Other Courts Have Done in Similar Circumstances.**

The WLAD states in relevant part as follows: “It shall be an unfair practice for any person or the person’s agent or employee to commit an act which directly or indirectly results in any distinction, restriction, or discrimination ... in any place of public resort, accommodation, assemblage, or amusement” based on sexual orientation or other protected classes. RCW 49.60.215(1). The legislature enacted the WLAD to eliminate and prevent discrimination in Washington and directed that the statute “shall be construed liberally for the accomplishment of the purposes thereof.” RCW 49.60.010.

Washington courts have appropriately recognized the breadth and importance of the WLAD. In *Fraternal Order of Eagles, Tenino Aerie No. 564 v. Grand Aerie of Fraternal Order of Eagles*, 148 Wn.2d 224, 246, 59 P.3d 655 (2002), for example, this Court noted: “This court has held that the purpose of the WLAD – to deter and eradicate discrimination in Washington – is a policy of the highest order.” Likewise, in *Brown v. Scott Paper Worldwide Co.*, 143 Wn.2d 349, 20 P.3d 921 (2001), the Court recognized that the WLAD “expressly mandates liberal construction

in order to accomplish the broad purposes of the law” and therefore held that courts must “view with caution any construction that would narrow the coverage of the law.” *Id.* at 357 (internal quotation marks omitted).

Appellants’ arguments not only contradict the language and purpose of the WLAD and case law applying the statute, they also contradict the opinions of the only three courts that have squarely addressed these issues in similar circumstances. The first such opinion is *Elane Photography*, where the Supreme Court of New Mexico held that a photography company violated the New Mexico Human Rights Act when it refused to photograph a same-sex commitment ceremony and rejected the company’s arguments that applying the statute in that fashion violated its free speech and free exercise of religion rights. 309 P.3d at 60-77. The second opinion is *Craig*, where the Colorado Court of Appeals expressly followed *Elane Photography*, held that a cake shop violated the Colorado Anti-Discrimination Act when it refused to sell a wedding cake to a same-sex couple, and rejected the cake shop’s free speech and free exercise of religion arguments. 2015 WL 4760453, at **4-19. In *Gifford*, the third case, owners of a farm discriminated against a couple based on sexual orientation when they refused to host a couple’s wedding. The owners’ willingness to provide some services to the couple did not cure their

refusal to provide services that were offered to the general public. 137

A.D.3d at 35.

The concurring opinion in *Elane Photography* is especially persuasive because the author explains – in powerful prose – why it is both fair and right to require businesses and their owners to comply with a state’s anti-discrimination laws notwithstanding their sincerely held religious beliefs. The concurring opinion explains:

On a larger scale, this case provokes reflection on what this nation is all about, its promise of fairness, liberty, equality of opportunity, and justice. At its heart, this case teaches that at some point in our lives all of us must compromise, if only a little, to accommodate the contrasting values of others. A multicultural, pluralistic society, one of our nation’s strengths, demands no less. The Huguenins are free to think, to say, to believe, as they wish; they may pray to the God of their choice and follow those commandments in their personal lives wherever they lead. The Constitution protects the Huguenins in that respect and much more. But there is a price, one that we all have to pay somewhere in our civic life.

In the smaller, more focused world of the marketplace, of commerce, of public accommodation, the Huguenins have to channel their conduct, not their beliefs, so as to leave space for other Americans who believe something different. That compromise is part of the glue that holds us together as a nation, the tolerance that lubricates the varied moving parts of us as a people. That sense of respect we owe others, whether or not we believe as they do, illuminates this country, setting it apart from the discord that afflicts much of the rest of the world. In short, I would say to the Huguenins, with the utmost respect: it is the price of citizenship.

309 P.3d at 79-80. Here too, the owners of Arlene's Flowers are free to think, to say, and to believe as they wish. But they have chosen to participate in the state's economy by offering goods and services to the public. *Amici* are interested in making sure that the WLAD is enforced broadly to ensure that the state's economy is as strong and vibrant as it can be, a goal that is maximized when the marketplace is free of discrimination.

B. Vigorous Enforcement of the State's Anti-Discrimination Statute Will Benefit Washington Businesses.

1. Diversity and Inclusivity Make Businesses More Productive and More Competitive.

Amici recognize that diversity and inclusivity have numerous benefits. As the Ninth Circuit stated in *Latta v. Otter*, 771 F.3d 456 (9th Cir. 2014):

The lessons of our constitutional history are clear: inclusion strengthens, rather than weakens, our most important institutions. When we integrated our schools, education improved. When we opened our juries to women, our democracy became more vital. When we allowed lesbian and gay soldiers to serve openly in uniform, it enhanced unit cohesion. When same-sex couples are married, just as when opposite-sex couples are married, they serve as models of loving commitment to all.

Id. at 476. These benefits are not limited to businesses; they impact all aspects of modern life.

The business case for a diverse and inclusive workplace is also generally accepted: among companies with more than \$10 billion in annual revenues, 56 percent strongly agreed that diversity helps drive innovation.¹ Businesses have taken note and have included sexual orientation within their diversity plans. In 1999, 72 percent of Fortune 500 companies included sexual orientation in their nondiscrimination policies. By 2009, that number reached 87 percent.² Research confirms the wisdom of that view. For instance, a 2012 research report from Deloitte showed an 80 percent improvement in business performance when a company had high levels of diversity and inclusion.³ Another study has shown that for every one percent rise in the rate of gender and ethnic diversity in a workforce, sales revenue rises three and nine percent,

¹ *Global Diversity & Inclusion: Fostering Innovation Through a Diverse Workforce*, FORBES INSIGHTS (July 2011) (hereinafter “Forbes Insights”), http://images.forbes.com/forbesinsights/StudyPDFs/Innovation_Through_Diversity.pdf, p. 5 (a comprehensive study of more than 300 senior diversity officers at companies worldwide with revenues of at least \$500 million).

² Brad Sears, Christy Mallory, *Economic Motives for Adopting LGBT-Related Workplace Policies*, THE WILLIAMS INSTITUTE, October 2011 <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corporate-Statements-Oct-20111.pdf>.

³ *Waiter, Is That Inclusion In My Soup? A New Recipe to Improve Business Performance*, DELOITTE AUSTRALIA (DELOITTE) AND THE VICTORIAN EQUAL OPPORTUNITY AND HUMAN RIGHTS COMMISSION, May 2013 available at <http://www.humanrightscommission.vic.gov.au/index.php/our-resources-and-publications/reports/item/529-waiter-is-that-inclusion-in-my-soup-a-new-recipe-to-improve-business-performance-nov-2012>.

respectively.⁴ Other sources have concluded that when gays and lesbians stop concealing their sexual orientation in the workplace, they are at least ten percent more productive.⁵

2. Discrimination Makes It Difficult for Washington Businesses to Recruit the Best Talent.

Additionally, if this Court were to sanction discrimination against same-sex couples (and other protected classes) in Washington based on the actor's religious beliefs, it would be significantly harder for *Amici* and other Washington businesses to recruit and hire diverse and talented employees. In *Grutter v. Bollinger*, 539 U.S. 306, 330 (2003), the U.S. Supreme Court recognized that “the skills needed in today’s increasingly global marketplace can only be developed through exposure to widely diverse people, cultures, ideas, and viewpoints.” *Amici* constantly strive to recruit such people. But those individuals have choices: they can choose to work in Washington or, if the Court were to accept Appellants’ arguments, they can choose instead to work in a state, like Colorado, New

⁴ Tim Smedley, *The Evidence is Growing—There Really Is a Business Case for Diversity*, THE FINANCIAL TIMES (May 15, 2015), <http://www.ft.com/intl/cms/s/0/4f4b3c8e-d521-11e3-9187-00144feabdc0.html#axzz3wK76o7uw>.

⁵ *Id.*; Sylvia Ann Hewlett, *Why LGBT Employees Need Workplace Allies*, HARVARD BUSINESS REVIEW (June 20, 2013), <https://hbr.org/2013/06/the-power-of-out>.

Mexico, and New York, where the law does not permit discrimination against same-sex couples based on the actor's religious beliefs.

This is a very real concern. In a recent study, 89 percent of survey respondents who identified as gay, lesbian, bisexual, or transgender stated that it was important to work for a company with a written nondiscrimination policy that includes sexual orientation.⁶ In addition, according to the same study, 72 percent of survey respondents who did *not* identify as gay, lesbian, bisexual, or transgender also found it important that employers treat employees equally regardless of sexual orientation. These studies show that allowing discrimination against same-sex couples could materially impact the efforts of *Amici* to hire and recruit the very best employees and foster a workforce that necessarily includes “widely diverse people, cultures, ideas, and viewpoints.” *Grutter*, 539 U.S. at 330.

3. Employee Retention Will Suffer If Discrimination Is Permitted.

Discrimination could also affect employee retention. In a 2014 poll, 73 percent of gay and lesbian respondents said they would prefer a

⁶ M.V. Lee Badgett, et. al, *The Business Impact of LGBT-Supportive Workplace Policies* (May 2013), available at <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf> (citing Out & Equal Workplace Advocates, HarrisInteractive & Witeck Combs Communications, *Majority of Americans: Companies Not Government Should Decide Benefits Offered to Same-Sex Employees* 1 (May 22, 2006)).

job with an employer in a state where same-sex marriages are recognized and 42 percent said they would consider changing jobs if their employer required them to transfer to a state where same-sex marriages were not recognized.⁷ This strongly suggests an openness to avoid states that have legal structures that discriminate.

Anecdotal evidence is similar. In a recent article, the former head of the College of William and Mary's Board of Visitors cautioned:

We already have lost valued gay and lesbian faculty to our competitors who do not discriminate. With changes in federal benefits soon available to legally married gay couples, we will lose more. Two able individuals told me that they are *leaving for another state . . .*⁸

Similarly, another college professor recently proclaimed:

While a desire to live full time with my spouse was the main motivator in my move from a college in Virginia to one in Maryland, the antigay legal environment in Virginia did play a role in my job change.⁹

⁷ See *Most Americans Say Employers Should Never Discriminate, Even on Religious Grounds, According to Latest Harris/Out & Equal Poll*, OUT & EQUAL (Oct. 30, 2014), <http://www.witeck.com/pressreleases/most-americans-say-employers-should-never-discriminate-even-on-religious-grounds/>.

⁸ Nick Anderson, *Outgoing Rector Warns Virginia May Lose Professors Because of Gay Marriage Ban*, THE WASHINGTON POST (Aug. 12, 2013) (emphasis added).

⁹ Marian Moser Jones, *Will Same-Sex-Marriage Rulings Lead to an LGBT Brain Drain in Some States?*, THE CHRONICLE OF HIGHER EDUCATION (June 27, 2013).

These articles confirm what *Amici* already know: that allowing discrimination against same-sex couples undermines retention as well as recruitment and hiring of diverse and talented employees.

4. Deployment of Employees Could Be Negatively Impacted If Discrimination Is Permitted.

For similar reasons, Appellants' arguments, if accepted, could interfere with deployment of employees. Many Washington companies, including some *Amici*, have offices and employees located outside of Washington. At times, it is necessary to ask those employees to relocate to Washington – sometimes for a few weeks, sometimes longer – to work on certain projects or accomplish certain goals. Employees who are or will be in a same-sex relationship understandably may be reluctant to relocate to a state that allows discrimination against same-sex couples. And given the prevalence of gay and lesbian employees, this means that *Amici* and other Washington businesses may be unable to effectively deploy a significant segment of their workforce.

5. The Potential Impact of Discrimination on Diverse Employees Is Significant.

Amici also recognize the personal burden that discrimination has on diverse employees. As Justice Goldberg explained over 50 years ago:

Discrimination is not simply dollars and cents, hamburgers and movies; it is the humiliation, frustration, and

embarrassment that a person must surely feel when he is told that he is unacceptable as a member of the public because of his race or color. It is equally the inability to explain to a child that regardless of education, civility, courtesy, and morality he will be denied the right to enjoy equal treatment, even though he be a citizen of the United States and may well be called upon to lay down his life to assure this Nation continues.

Heart of Atlanta Motel, Inc. v. U.S., 379 U.S. 241, 292 (1964) (Goldberg, J., concurring). In *Obergefell* and *Lawrence*, quoted on page 2 above, the U.S. Supreme Court similarly recognized the significant human cost of discrimination. Here too, if the Court were to accept Appellants' arguments, both the Court's opinion itself and the resulting discrimination could have a profound effect on employees of all protected classes in this state.

6. Permitting Discrimination Would Also Undermine the State Economy.

It has long been established that discrimination in public accommodation not only deprives persons of their individual dignity, but also "denies society the benefits of wide participation in political, economic, and cultural life." See, e.g., *Roberts v. United States Jaycees*, 468 U.S. 609, 625 (1984); *Heckler v. Mathews*, 465 U.S. 728, 744-45 (1984); *Mississippi University for Women v. Hogan*, 458 U.S. 718, 723-26 (1982); *Frontiero v. Richardson*, 411 U.S. 677, 684-87 (1973) (plurality

opinion). Discrimination can impose “an artificial restriction on the market” and interfere with the flow of merchandise. *Katzenbach v. McClung*, 379 U.S. 294, 299–300 (1964).

Anti-discrimination laws, like the WLAD, operate to prevent “economic and social balkanization prevalent when businesses decide to serve only their own ‘kind.’” *See Craig*, 2015 WL 4760453, at *19. Without anti-discrimination laws there may be measurable adverse economic effects. *Id.* (citing Mich. Dep’t of Civil Rights, Report on LGBT Inclusion Under Michigan Law with Recommendations for Action 74-90 (Jan. 28, 2013), available at <http://perma.cc/Q6ULL3JR> (detailing the negative economic effects of anti-gay, lesbian, bisexual, and transgender discrimination in places of public accommodation)). In 2012, lesbian, gay, bisexual, and transgender adults in the U.S. represented \$790 billion in total buying power – a significant force in local economies.¹⁰ If discrimination against LGBT individuals is justified by religious beliefs, as Appellants urge, LGBT individuals may leave Washington for a more

¹⁰ Sylvia Ann Hewlett, *Why LGBT Employees Need Workplace Allies*, HARVARD BUSINESS REVIEW (June 20, 2013), <https://hbr.org/2013/06/the-power-of-out>.

tolerant location.¹¹ This, too, would hurt *Amici* and other Washington businesses.

A number of *Amici* businesses rely heavily upon lesbian, gay, bisexual, and transgender tourism in Washington State. It is estimated that the annual economic impact of LGBT travelers in the U.S. is around \$70 billion a year.¹² Seattle is ranked the 9th highest travel destination for lesbian and bisexual women in the U.S. and 12th highest destination for gay and bisexual men.¹³ If Washington were to permit discrimination against these tourists in public accommodations, Washington State may have fewer tourists in the region, dramatically impacting a number of *Amici* businesses.

¹¹ Matt Motyl et al., *How Ideological Migration Geographically Segregates Groups*, 51 J. EXPERIMENTAL SOC. PSYCHOL. 1 (2014), www.researchgate.net/publication/254929982_How_IdeologicalMigration_Geographically_Segregates_and_Polarizes_Groups/file/60b7d52efea63cb4b3.pdf (perceived similarity with communities may lead people to migrate away from dissimilar communities and toward similar communities).

¹² Stephanie Rosenbloom, *The Evolving World of Gay Travel*, (May 30, 2014), NEW YORK TIMES http://www.nytimes.com/2014/06/01/travel/the-evolving-world-of-gay-travel.html?_r=0.

¹³ Community Marketing & Insights, 20th LGBT Tourism & Hospitality Survey US Overview Report, pp. 25-26, http://www.communitymarketinginc.com/documents/CMI_LGBTTravelStudy2015.pdf.

7. If The Court Were to Adopt the Position Advocated by Appellants, Washington Businesses Could Be Exposed to Employee Lawsuits.

In *Walden v. Centers for Disease Control*, 669 F.3d 1277, 1282 (11th Cir. 2012), a government contractor's employee was laid off from her counseling job after refusing to provide counseling services to a gay client. Asserting that "her religion prohibits her from encouraging or supporting same-sex relationships through counseling," the employee sued her employer, her co-employees, and the federal agency with which her employer contracted, alleging violation of her free exercise rights under the First Amendment. *Id.* at 1280. A ruling in favor of Appellants in this litigation may expose employers to such lawsuits by employees who, for religious reasons, do not support the anti-discrimination policies of an organization.

C. The Court's Opinion in This Case Will Affect Other Protected Classes, Further Exacerbating the Business Impacts.

This case also has the potential to impact more than just gay and lesbian employees. Time and time again, laws preventing discrimination based on race and gender have been upheld in the face of religious objectors. Appellants' request for a different result here puts all anti-discrimination laws in Washington at risk.

The sponsors of Bob Jones University believed their religion forbade interracial dating and marriage. *See Bob Jones Univ. v. United States*, 461 U.S. 574 (1983). Nonetheless, the U.S. Supreme Court sided with the Internal Revenue Service's determination that the University's policies requiring expulsion of any partner in an interracial marriage were discriminatory and should result in the revocation of the University's tax-exempt status. *Id.* at 580. Likewise, those whose religious beliefs are contrary to anti-discrimination laws seeking to eliminate gender discrimination in health care are not entitled to a Constitutional exception to those laws. *See Catholic Charities of Sacramento, Inc. v. Superior Court*, 32 Cal. 4th 527, 528, 85 P.3d 67 (2004).

Appellants' beliefs are not somehow entitled to greater Constitutional protection than the many religiously motivated beliefs that have been rejected by courts in the past as the basis for exceptions to anti-discrimination statutes. WLAD itself protects many classes, and does so equally. Sexual orientation is just one of those classes. As such, a ruling in Appellants' favor would call into question all anti-discrimination laws relating to public accommodation in Washington and further undermine the efforts of *Amici* and other Washington businesses to recruit and retain a diverse, inclusive, and innovative workforce. Appellants' proposed

outcome is nothing less than a “free pass” for discrimination in Washington. *Amici* urge the Court to reject such a result.

VI. CONCLUSION

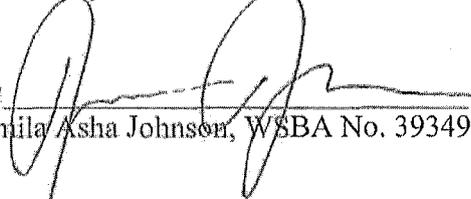
The Court should reject Appellants’ arguments and hold instead that Washington is a state where discrimination is unlawful and people of all backgrounds, faiths, and orientations are welcome in the “marketplace, of commerce, and of public accommodation.” *Elane Photography*, 309 P.3d at 79. A contrary result would not only undermine the values and corporate principles of *Amici*, it would harm the ability of *Amici* to recruit and retain the best employees, compete effectively in a national and global economy, and achieve full economic growth. The Court should affirm the trial court’s decision in its entirety.

RESPECTFULLY SUBMITTED this ___ day of May, 2016.

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