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## **LDF Condemns Supreme Court Ruling Allowing Certain Commercial Businesses to Discriminate Against Same-Sex Couples**

Today, on the final day of Pride month, the United States Supreme Court issued an opinion in *303 Creative LLC v. Elenis*, ruling that the Petitioner, the owner of a website design studio, has a First Amendment right to deny services for weddings involving same-sex couples despite the state of Colorado's Anti-Discrimination law. The ruling allows for violations of state public accommodation laws and provides cover for those who seek to curb any group of people's right to access services due to their identity. Last year, the Legal Defense Fund (LDF), filed an [amicus brief](#) arguing that the proprietor of *303 Creative LLC* should not be allowed to violate Colorado's anti-discrimination and public accommodation laws by refusing services to certain people due to a religiously grounded objection to same-sex marriage.

LDF's brief outlined how the Supreme Court's own precedent precluded the petitioner's First Amendment arguments; for example, in a 1968 case litigated by LDF, the Court refused to create a First Amendment exception to public accommodation laws based on religious belief in a case involving discrimination against Black patrons. Today's ruling erodes hard-won protections for Americans who have been historically marginalized because of their identities. By creating a First Amendment right to discriminate, the Supreme Court has ignored the broad and intersectional harm to minority communities that LDF's amicus brief sought to prevent.

"In holding that businesses have a First Amendment right to deny them public services, the Supreme Court has communicated to members of the LGBTQ+ community that it deems them unworthy of the fundamental legal protections that have been established by states to shield people from discrimination on the basis of their sexual orientation and gender identities. That message is abominable, invites hate, and is wholly inconsistent with Constitutional principles," said LDF President & Director-Counsel Janai S. Nelson. "This case is part of a broad and dangerous effort being undertaken by conservative extremists to exclude LGBTQ+ people from public spaces more broadly and to erase their visibility. In the face of this devastating setback, we are further committed to working across intersectional lines to fight attacks that affect our communities and stand up for the dignity and civil rights of all people."

"Despite the court's First Amendment-based ruling, discrimination against same-sex marriage is inextricable from discrimination on the basis of sexual orientation. And no one deserves to be discriminated against because of who they are and who they love," said Antonio L. Ingram II, LDF Assistant Counsel. "This ruling unquestionably opens the door for Black LGBTQ+ people to experience additional and unique harms because of the compounded discrimination they face based on both their race and their sexual orientation. In today's environment of amplified hostility, bigotry, and threats of violence against Black and LGBTQ+ people, the

highest court in the land has narrowed the protections afforded under anti-discrimination laws based on a person's sexual orientation. This is an egregious outcome.”

In her dissent, Justice Sotomayor cites LDF's amicus brief in *Katzenbach v. McClung*, 379 U. S. 294 (1964) and *Loving v. Virginia*, 388 U. S. 1, 3 (1967) to underscore how this Court previously and historically rejected attempts to use First Amendment justifications to discriminate against protected classes, namely Black Americans. However, as confirmed by the dissent, today's broad decision based on the First Amendment's Free Speech Clause now erodes anti-discrimination laws designed to protect Black people. Justice Sotomayor goes on to cite several heartland public accommodations cases litigated by LDF, *Newman v. Piggie Park Enterprises, Inc.*, 390 U. S. 400 (1968) (per curiam) to underscore the well-settled principle that there is no religious exemption in public accommodations for invidious discrimination like that sanctioned by the Court's majority.

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*Founded in 1940, the Legal Defense Fund (LDF) is the nation's first civil rights law organization. LDF's Thurgood Marshall Institute is a multi-disciplinary and collaborative hub within LDF that launches targeted campaigns and undertakes innovative research to shape the civil rights narrative. In media attributions, please refer to us as the Legal Defense Fund or LDF. Please note that LDF has been completely separate from the National Association for the Advancement of Colored People (NAACP) since 1957—although LDF was originally founded by the NAACP and shares its commitment to equal rights.*