



Will the Supreme Court Tackle Businesses that Refuse to Serve Homosexuals?

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The controversy over legalized discrimination against homosexuals is over in Arizona, but the debate is still alive in Washington D.C., where the [U.S. Supreme Court](#) is set to hear a similar case.

The court will decide whether the owner of a photography business in New Mexico was within her constitutional right to refuse to take photos of a lesbian couple's commitment ceremony.

Elaine and Jonathan Huguenin, owners of Elane Photography, were approached in 2007 by Vanessa Willock and Misti Collinsworth who wanted to hire them for their unofficial marriage ceremony.

The Huguenins declined the business because they did not want to send a message that Willock and Collinsworth's gay commitment ceremony is acceptable.

That decision landed the Huguenins in trouble with the state's human rights commission, which ruled they had violated the state's public accommodations law, the [New Mexico Human Rights Act](#) (pdf).

They appealed to the [New Mexico Supreme Court](#), which unanimously upheld the decision, leading the Huguenins to petition the nation's highest court.

The Huguenins have largely based their case on the First Amendment, while also mentioning the importance of religious freedom.

Elaine Huguenin says her work involves the creation of images and picture books that represent her artistic expressions, which is a form of protected free speech. Having to photograph gay weddings would force her to communicate messages "antithetical [sic] to her religious beliefs," her petition states.

Her attorney, Jordan W. Lorence of the [Alliance Defending Freedom](#), likened his client's position to that of a Jewish tattoo artist who doesn't want to tattoo a swastika on someone's arm.

Although religious conservatives support the Huguenins, other groups who have endorsed same-sex marriages have also backed their case. Those include, according to *The Washington Post*, Ilya Shapiro of the libertarian [Cato Institute](#); Eugene Volokh, a First Amendment scholar and

law professor of [UCLA](#); and Dale Carpenter, a [University of Minnesota](#) law professor who has written extensively about the same-sex-marriage movement..

“Photographers, writers, singers, actors, painters and others who create First Amendment-protected speech must have the right to decide which commissions to take and which to reject,” the three individuals wrote in an amicus brief.

But law professor Tobias Wolff at the [University of Pennsylvania](#), who is representing Willock, disagrees.

“Whatever service you provide, you must not discriminate against customers when you engage in public commerce,” Wolff says.

The New Mexico Supreme Court took the same position when it ruled against the Huguenins.

-Noel Brinkerhoff