

**IN THE IOWA DISTRICT COURT
FOR POLK COUNTY IOWA**

BETTY ANN ODGAARD and RICHARD ODGAARD, <i>Plaintiffs,</i> v. IOWA CIVIL RIGHTS COMMISSION, <i>et al.</i> , <i>Defendants.</i>	Civil Action No. _____ VERIFIED PETITION Jury Demanded
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INTRODUCTION

1. Betty Ann and Richard Odgaard are Mennonites.
2. Since 2002, they have run The Görtz Haus Gallery, which is an art gallery in a church building that they purchased to display and sell Betty's and others' art. The name of the Gallery references Betty Ann's family name ("Görtz") and her German-Mennonite ancestry ("haus" is German for "house").
3. The Odgaards also host other activities at the Gallery, such as a lunch bistro, a flower shop, a gift shop, and a framing shop. But the primary thing that they do is plan, facilitate, and host wedding ceremonies in the former sanctuary of the church building.
4. The Odgaards consistently strive to operate the Gallery in a manner consistent with their faith.
5. Indeed, as an expression of their faith, they have intentionally maintained and enhanced the church building's religious character.
6. Almost all of the original stained glass windows remain in place, depicting the Gospels and various religious symbols. Latin crosses and memorial plaques adorn the walls inside and

outside the church building. The Odgaards have had a scriptural verse painted in a prominent location across the back of the old sanctuary. Many of the artworks in the Gallery also express the Odgaards' faith.

7. The Odgaards welcome all customers into the Gallery, regardless of their race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability.

8. The Odgaards cannot, however, host activities or display art that would violate their religious beliefs.

9. The Iowa Civil Rights Commission ("ICRC") is now seeking to force the Odgaards to plan, facilitate, and host same-sex wedding ceremonies at the Gallery.

10. But although the Odgaards have willingly hired and served gays and lesbians throughout the Gallery's history, their religious beliefs prevent them from planning, facilitating, or hosting same-sex wedding ceremonies at the Gallery.

11. The Odgaards may be exposed to financial punishment and other forms of official coercion for refusing to abandon their religious convictions to comply with the ICRC's dictates. The ICRC's attempt to force the Odgaards to host events in violation of their religious beliefs is a violation of the Iowa Civil Rights Act and infringes rights protected by Free Exercise, Free Speech, and Equal Protection provisions of the Iowa and United States Constitutions.

12. Accordingly, the Odgaards seek a declaratory judgment that the ICRC lacks authority to force them to plan, facilitate, or host wedding ceremonies that violate their religious beliefs.

IDENTIFICATION OF PARTIES

13. Plaintiffs Betty Ann ("Betty") and Richard Odgaard are the sole proprietors of The Görtz Haus Gallery, an unincorporated business.

14. Defendant Iowa Civil Rights Commission is an agency of the State of Iowa charged with enforcing the Iowa Civil Rights Act, Iowa Code Ann. § 216.1, *et seq.*

15. Defendant Angela Williams is the Chair of the Iowa Civil Rights Commission and is sued in her official capacity only.

16. Defendant Patricia Lipski is the Vice Chair of the Iowa Civil Rights Commission and is sued in her official capacity only.

17. Defendants Mary Ann Spicer, Tom Conley, Douglas Oelschlaeger, Lily Lijun Hou, and Lawrence Cunningham are each members of the Iowa Civil Rights Commission and are sued in their official capacities only.

18. All of the Defendants are persons acting under color of state law within the meaning of 42 U.S.C. § 1983.

FACTUAL ALLEGATIONS

The Odgaards and their Mennonite Faith

19. Betty Odgaard is a Mennonite. Both of her parents were Mennonites, and her father was an ordained Mennonite Brethren minister. She spent much of her childhood at church or otherwise engaged in religious activity.

20. Betty is also an artist. Her art, which comprises primarily oil paintings, is inspired in significant part by her religious beliefs.

21. Richard Odgaard was baptized a Lutheran, but has attended the Mennonite Church with his wife from the time they were married.

22. The Odgaards' church is part of the Mennonite Church USA, which is one of several Mennonite denominations in the United States.

23. The Odgaards' faith permeates their life, and, consistent with Mennonite teaching, they strive to be faithful to it both privately and publicly, both at home and at work. *See, e.g.*, Mennonite Church USA Confession of Faith, Art. 17, *Discipleship and the Christian Life*, available at <http://www.mennoniteusa.org/about/confession-of-faith-in-a-mennonite-perspective-1995/article-17-discipleship/> (last visited Sept. 28, 2013) ("In all areas of life, we are called to be Jesus' disciples"); *see also* U.S. Mennonite Brethren Confession of Faith, Art. 6, *Nature of the Church*, available at [http://www.usmb.org/confession-of-faith---detailed-version#Article 11](http://www.usmb.org/confession-of-faith---detailed-version#Article%2011) (last visited Sept. 28, 2013) (Mennonites "commit themselves to follow Christ in a life of discipleship and witness as empowered by the Holy Spirit").

24. Obeying their Mennonite beliefs is a necessary part of their faith and of growing closer to God. *See* Mennonite Church USA Confession of Faith, Art. 17, *supra* ("True faith in Christ means willingness to do the will of God . . . [A]s we follow Christ in our lives, we are brought into closer relationship with God, and Christ dwells in us.").

25. Mennonites have a long history of being persecuted by the government for their faith—many of their founders were beheaded or burned at the stake for their beliefs, and they have often suffered official persecution through the centuries for remaining true to the traditional Mennonite practices of pacifism and refusal to take oaths. Mennonite theology thus emphasizes the need to firmly adhere to Mennonite beliefs despite government coercion. *See, e.g.*, Mennonite Church USA Confession of Faith, Art. 23, *The Church's Relation to Government and Society* ("[W]e are to respect those in authority and to pray for all people, including those in government We may participate in government and other institutions of society only in ways that do not violate the love and holiness taught by Christ and do not compromise our loyalty to Christ."). Indeed,

the Mennonite church that the Odgaards attend was founded by young men who were doing alternative service due to their pacifism-based conscientious objector status.

The Görtz Haus Gallery

26. The Odgaards are sole proprietors of The Görtz Haus Gallery, an unincorporated business. The name of the Gallery is derived from Betty's family name, Görtz, combined with the German word for house.

27. The Odgaards live next door to the Gallery and spend much of their time there. With a staff of fewer than four full-time employees, they are directly responsible for and involved in all the day-to-day operations of the Gallery.

28. The Gallery is housed entirely in an old stone Lutheran church building. A picture of the Gallery is attached as Exhibit A.

29. From 1937, when it was built, until 2001, the building served as the home of St. Peter Lutheran Church.

30. The building was put up for sale after St. Peter's outgrew it and moved to a new location.

31. A corporation originally sought to purchase the church to replace it with a gas station, but the plan fell through because of strong community support for the Odgaards' offer to purchase and maintain the building.

32. Long drawn to the building's religious and physical aesthetics, the Odgaards purchased it in 2002 for use as an art gallery.

33. The art is displayed primarily in the old sanctuary—the building’s largest space, where worship services had previously been held. *See* Exhibits B-1, B-2, and B-3 (photographs of the sanctuary). Much of the art displayed in the Gallery is Betty’s own work.

34. Almost all of the events and activities that the Odgaards host, including all of the wedding ceremonies, are held in the old sanctuary. *See id.* (depicting sanctuary arranged to host wedding ceremonies).

35. Wedding ceremonies are the primary event hosted at the Gallery and the leading source of the Odgaards’ income from the Gallery.

36. The bistro, framing shop, and gift shop are found in the former foyer and in the back of the sanctuary. The flower shop is in the basement. The old Sunday School rooms, hallways, and stairwells are also full of art and gift shop items.

37. While updating the old church building to accommodate the Gallery, the Odgaards have deliberately retained the religious symbolism that was in the church when they purchased it. They have also added some of their own religious imagery.

38. Almost all of the original stained glass windows remain in the sanctuary. Each of the eight remaining stained glass windows has three distinct panels, and each panel contains a religious image, such as a Latin cross, an icon symbolizing a Gospel writer, or a statement about Christian doctrine. *See* Exhibits C-1, C-2, and C-3. There is a small seating area in the old choir loft at the back of sanctuary. The railing in that area is decorated with Latin crosses. *See* Exhibit D. The basic structure of the sanctuary also retains the characteristics of a church, including the cathedral ceiling. *See* Exhibit B-2 (depicting sanctuary).

39. When St. Peter Lutheran Church sold the building to the Odgaards, the congregation removed the stained glass windows that were at the front of the church sanctuary. To retain the religious reverence that those windows helped convey, Betty created faux stained glass windows as replacements. *See, e.g.,* Exhibit B-1.

40. The outside of the building is also visibly religious. There are Latin crosses carved into the building's external stonework, displayed at the highest point of the building, which is directly above the entrance. *See* Exhibit E. There is also a Latin cross in the stained glass of one of the exterior doors near the entrance. *See* Exhibit F.

41. The Odgaards have placed a large wrought-iron Latin cross against the outside wall near the Gallery's entrance.

42. The Odgaards display religious art in the Gallery. Some art is by local artists and depicts, among other things, Bible verses superimposed on images of everyday tools and tasks. Other art includes classic religious images, like Celtic crosses and a print of Leonardo da Vinci's *The Virgin Child with Saint Anne and St. John the Baptist*. Smaller pieces are available in the gift shop, including ornaments and plaques decorated with Bible verses and religious images on cards and coffee cups.

43. The Odgaards had the text of Psalm 1:19 prominently painted across the wall in the sanctuary: "The heavens declare the glory of God: the skies proclaim the work of his hands." *See* Exhibit G. The Odgaards added that verse to publicly express that they are people of faith and that the Gallery is an important part of how they express their faith.

44. That the building itself is identifiably a church building is a fact frequently noted by, and discussed with, visitors.

45. People often visit the church to reminisce about childhood experiences or family events that took place at the church, to find the names of loved ones on the memorial plaques that still adorn the walls, or to see their old Sunday School room or other aspects of the church.

46. Many local families have chosen to have family pictures taken at the Gallery because they wanted to have the church building's religious symbols as the backdrop. Some couples have selected the Gallery for their wedding ceremony specifically because of the building's religious significance and appearance.

47. Indeed, the congregation of St. Peter's held a worship service at the Gallery in 2009 as part of their celebration of St. Peter's 125th anniversary.

48. The Odgaards intentionally seek to preserve the church's religious character as a deliberate expression of their personal faith.

49. Because the Odgaards seek to consistently manifest both their artistic views and religious beliefs through the Gallery, they have never hosted an event or accepted art for display that conflicts with their religious beliefs.

Wedding Ceremonies

50. The Odgaards are intimately involved in the day-to-day operations of their business, particularly the wedding ceremonies they host.

51. Either Betty or Richard personally meets with every couple that wishes to have a wedding at the Gallery, sitting down with the couple to plan their event—the schedule, flowers, decor, food, and activities that will best express how the couple wishes to celebrate their wedding.

52. On the day of the wedding, the Odgaards walk over from their house early in the morning to personally set up the sanctuary for the ceremony.

53. They witness and participate in the entire ceremony in a number of different ways. Betty helps plan and provide the food and wedding decor. Richard typically oversees the entire ceremony while running the sound system. They both clean up the sanctuary after each ceremony.

54. On a number of occasions they have recommended a pastor to officiate at weddings performed at the Gallery.

55. The Odgaards view wedding ceremonies as religiously significant events that by their very nature communicate specific messages about the meaning of marriage.

56. The Odgaards' religious beliefs place great emphasis on the inherent religious significance of marriage and, thus, wedding ceremonies.

57. The Odgaards' religious beliefs require them to maintain this respect for wedding ceremonies as religiously significant events, regardless of what the law might recognize as a civil marriage.

58. Thus, the Odgaards' religious beliefs forbid them from planning, facilitating, or hosting wedding ceremonies that contradict their religious understanding of marriage. They cannot personally plan, facilitate, or host such a ceremony.

59. Further, the Odgaards believe that wedding ceremonies are inherently expressive events as public celebrations that symbolically unite two people, with witnesses and officiants both to observe and publicly affirm what the couples are communicating to each other and to the community.

60. As the Iowa Supreme Court recognized in *Varnum v. Brien*, wedding ceremonies communicate “to society,” and call upon society to provide “public affirmation” of the parties’ “mutual commitment.” 763 N.W.2d 862, 872-73 (2009).

61. Iowa law regulates certain aspects of wedding ceremonies. For instance, Iowa law punishes attempts to solemnize a marriage without a public license, whether by the parties to the wedding or any persons aiding them. *See* Iowa Stat. Ann. §§ 595.3, 595.9.

62. Because the Odgaards believe that marriage ceremonies communicate a powerful social, religious, and legal message, they sincerely believe it would be sinful for them to personally plan, facilitate, or host a wedding ceremony that contradicts their religious beliefs. *See, e.g.*, Mennonite Church USA Confession of Faith, Art. 23, *The Church’s Relation to Government and Society* (“We may participate in . . . society only in ways that do not violate the love and holiness taught by Christ and do not compromise our loyalty to Christ.”).

63. Further, publicly associating with a wedding ceremony that violates their beliefs would send a message to others who share their beliefs, including some of their employees, that those beliefs are untrue or unworthy of devotion, and thereby cause those others to sin. *Id.* (noting that Mennonites are called to “witness” to others by being a “city on a hill” which demonstrates the way of Christ.”); *see also* Romans 14:13 (“[M]ake up your mind not to put any stumbling block or obstacle in the way of a brother or sister” and thus cause them to sin.).

64. The Odgaards adhere to the traditional Mennonite belief that marriage is a religious covenant ordained by God that can only exist between a man and a woman. *See, e.g.*, Mennonite Church USA, Confession of Faith, Article 19, *Family, Singleness, and Marriage*, available at <http://www.mennoniteusa.org/about/confession-of-faith-in-a-mennonite-perspective->

1995/article-19-marriage/ (last visited Sept. 28, 2013) (“We believe that God intends marriage to be a covenant between one man and one woman for life.”); *see also* U.S. Mennonite Brethren Confessions of Faith, Article 11, *Marriage, Singleness, and Family*, available at [http://www.usmb.org/confession-of-faith---detailed-version#Article 11](http://www.usmb.org/confession-of-faith---detailed-version#Article%2011) (last visited Sept. 28, 2013) (“Marriage is a covenant relationship intended to unite a man and a woman for life.”).

65. The Odgaards have always intended to use the Gallery consistent with their religious beliefs. They would sooner shut down the Gallery than violate those beliefs. They had no concern that they would not be able to operate the Gallery according to their religious beliefs when they purchased it in 2002.

The Iowa Civil Rights Act

66. The Iowa Civil Rights Act prohibits certain forms of discrimination in places of public accommodation, in employment, housing, and education, and in the provision of credit. Iowa Code § 216.1, *et seq.*

67. With respect to places of public accommodation, the law provides that “[i]t shall be an unfair or discriminatory practice for any . . . proprietor . . . of any public accommodation or any agent or employee thereof: (a) [t]o refuse or deny to any person because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability the accommodations, advantages, facilities, services, or privileges thereof, or otherwise to discriminate against any person because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability in the furnishing of such accommodations, advantages, facilities, services, or privileges.” § 216.7(1)(a).

68. The law further provides that it shall also be an “unfair or discriminatory practice” to “directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability is unwelcome, objectionable, not acceptable, or not solicited.” § 216.7(1)(b).

69. These prohibitions under the law are not generally applicable to all persons in Iowa.

70. The public accommodations provisions do not apply to “[a]ny bona fide religious institution with respect to any qualifications the institution may impose based upon religion, sexual orientation, or gender identity when such qualifications are related to a bona fide religious purpose.” § 216.7(2)(a).

71. They also do not apply to “[t]he rental or leasing to transient individuals of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of that person’s family reside therein.” § 216.7(2)(b).

72. The Act includes similar exemptions in the contexts of employment, education, and housing. *See, e.g.*, § 216.12(1) (permitting housing discrimination by religious institutions in certain circumstances, and by landlords who live with or near their renters).

73. None of the prohibitions against discrimination apply to employers who “regularly employ[] less than four individuals,” excluding family members. § 216.6(6)(a).

74. None of the prohibitions apply to employers who employ individuals to work inside the employer’s family residence or to provide personal services to the employer’s family. § 216.6(6)(b)-(c).

75. “Bona fide” religious institutions and their associated educational facilities are exempt from the prohibitions against discrimination in employment or education on grounds of religion, sexual orientation, or gender identity, as long as they have a “bona fide religious purpose” for such discrimination. §§ 216.6(6)(d), 216.9(2).

76. “Bona fide” religious institutions are also exempt from prohibitions against discrimination in housing on the basis of religion, sexual orientation, or gender identity, unless the housing at issue is a commercial property or the religion restricts membership on the basis of race, color, or national origin. § 216.12(1)(a).

77. The Iowa Civil Rights Act expressly provides that it “shall not be construed to allow marriage between persons of the same sex, in accordance with chapter 595.” § 216.18.

78. Chapter 595 provides that “[o]nly a marriage between a male and female is valid.” § 595.2(1).

79. This limitation on construing the Iowa Civil Rights Act was added by amendment in 2007 at the same time the prohibition against sexual orientation discrimination was added.

80. Thus, the Legislature clearly expressed its intent, through the express terms of the Iowa Civil Rights Act, that refusal to participate in or accommodate a same-sex marriage cannot on its own be considered sexual orientation discrimination.

81. The Iowa Civil Rights Act’s exemptions for “bona fide” religious institutions expressly acknowledge there are “bona fide religious purpose[s]” for making certain decisions on the basis of religion, sexual orientation, and gender identity.

82. In light of these qualifications and exemptions, the Act's prohibition against sexual orientation discrimination cannot be construed to reach actions taken to avoid personally planning, facilitating, or hosting a same-sex wedding ceremony for reasons of conscience.

83. Although Iowa's statutory definition of marriage has been held unconstitutional by the Iowa Supreme Court in *Varnum*, 763 N.W.2d at 872, the Iowa Civil Rights Act has not been amended to require private citizens and businesses to participate in or otherwise facilitate same-sex wedding ceremonies.

84. In fact, since the *Varnum* decision, the Legislature has passed legislation regarding § 216.18, but has never called into question § 216.18's validity. *See* Acts 2009 (83 G.A.) ch. 133, S.F. 449, § 192, subsec.2 (redesignating § 216.18A as § 216.18(2)) (effective July 1, 2009); *compare to Varnum*, 763 N.W.2d 862 (issued on April 3, 2009).

The ICRC's Attempt to Force the Odgaards to Violate Their Beliefs

85. On or about August 3, 2013, a same-sex couple from Des Moines requested that the Odgaards to host their wedding ceremony at the Gallery.

86. The Odgaards declined the request.

87. They did so because their religion forbids them from personally planning, facilitating, or hosting wedding ceremonies not between one man and one woman.

88. Their decision was also based on their desire not to use the Gallery to host a wedding ceremony that conflicts with the religious message they seek to convey through the Gallery, a message which includes the importance of living one's faith in all aspects of life.

89. The Odgaards also did not wish to require the Gallery staff—some of whom are members of the Brethren faith and almost all whom the Odgaards believed would have religious objections—to participate in a same-sex wedding ceremony against their consciences.

90. After the Odgaards declined to host the same-sex wedding ceremony, the couple continued to look for another venue and found an alternative location within days.

91. On information and belief, there are well over fifty locations in Polk County that advertise that they host weddings.

92. At least two websites focus solely on supporting same-sex weddings in Iowa, advertising for venues, caterers, and other entities that want to plan, facilitate, or host same-sex weddings: <http://www.iowasgayweddingplanner.com/services/?regionID=1> (last visited October 1, 2013), and <http://www.engaygedweddings.com/ia/ia-gay-ceremony-sites.html> (lasted visited October 1, 2013). The two sites list at least nine venues in Des Moines, Iowa, that specifically advertise willingness to host same-sex weddings and that are closer to the same-sex couple's residence than the Gallery.

93. The Odgaards have never discriminated against anyone at the Gallery because of his or her sexual orientation.

94. The Odgaards have hired gays and lesbians at the Gallery without regard to their sexual orientation.

95. The Odgaards have provided goods and services to gays and lesbians at the Gallery without regard to their sexual orientation.

96. The Odgaards' decision not to plan, facilitate, or host wedding ceremonies that violate their religious beliefs is an action taken without regard to the sexual orientation of any potential

customers. Their decision is instead based on a religious conviction against personally and publicly promoting activities that violate their religious beliefs.

97. On August 4, 2013, the day after the Odgaards declined to host the same-sex wedding ceremony at the Gallery, the couple filed a complaint against the Odgaards with the Iowa Civil Rights Commission.

98. The Odgaards were served with the complaint via U.S. mail on August 24, 2013.

99. The complaint had been originally mailed to the wrong address on August 9, and was resent to the correct address on August 23.

100. The complaint alleges that the Odgaards discriminated against the couple based on the couple's sexual orientation.

101. The Odgaards have been targeted with hateful and threatening email messages, Internet postings, and phone calls because of their decision on religious grounds not to host same-sex weddings. *See, e.g.*, Exhibit H at 1 (“Betty, you’re very old and almost dead. How do you both feel, knowing that America, and the world, will be a better place without you?”); *id.* at 2 (“You are mean, rude, selfish, mother f***er racist sons of b*****es from hell . . . f**k your God f**k your religion . . . You are so lucky you did not do that to me cause if you did, I would blast you big time and sue you’re a** in court . . . Soon very bad things will happen to you. . . . You are finished[.] You are doomed[.] I warned you.”); *id.* at 3 (“No, you don’t get to have your beliefs, not if you’re going to run a business that is open to the public. And that’s what you do—hello, lawsuit!”); *id.* at 5 (“You, Ms. Betty Odgaard, owner of Gortz Haus are now known to be the Bigot that you are. . . I’m a Christian and I’m ashamed of you . . . I know [who] Christ is . . . he ate with prostitutes . . . you just prostitute his word to promote your Bigotry.”); *id.* at 6 (“I have

no doubt you hate gay people . . . I don't envy you the hell that you're going to have to pay for what you've done here."); *id.* at 9 ("I just read about your disgraceful practice of discrimination against gay couples. If you are opposed to same sex marriage, don't have one. . . . How would you feel if I decided to discriminate against Mennonites because they offend my religious convictions?"); *id.* at 10 ("You people and people like you make me so mad. But there will come a time when you have to answer for your hate.").

102. Income from hosting wedding ceremonies is vital to the economic survival of the Gallery.

103. Despite the devastating impact it would have on their business, the Odgaards' religious convictions would require them to stop hosting any wedding ceremonies rather than knowingly host wedding ceremonies that violate their religious beliefs.

104. The Odgaards currently have a reasonable expectation that the legal action filed against them will force them to either stop hosting weddings or violate their religious convictions.

105. On information and belief, the Iowa Civil Rights Commission interprets the sexual orientation non-discrimination law to ban their religious decision not to host same-sex wedding ceremonies.

106. The Odgaards are already experiencing a chill on their private religious speech and expressive conduct.

107. For instance, to avoid similar situations in the future, the Odgaards want to make positive statements on the Gallery website, on the Gallery's Facebook page, and by means of the art in the Gallery that affirm and celebrate their religious belief that marriage is a union between

a man and a woman. But they reasonably fear that such statements may be deemed a violation of the Iowa Civil Rights Act.

108. Also, the Odgaards have suffered significantly because of their religious and expressive decision not to host same-sex weddings. The threat of legal action and the derogatory messages directed toward the Odgaards because of their decision have been hurtful and demoralizing on a personal level.

109. This coercion and chill violates the Odgaards' rights protected under the Iowa Constitution, Iowa statutes, and First and Fourteenth Amendments to the United States Constitution.

COUNT I

Violation of the Iowa Civil Rights Act Statutory Construction

110. The Iowa Civil Rights Act expressly provides that it does not prohibit decisions not to facilitate same-sex marriage.

111. The Iowa Civil Rights Act was specifically intended to preserve the right not to facilitate same-sex wedding ceremonies on religious grounds.

112. Construing the Iowa Civil Rights Act to authorize legal action against persons for refusing on religious grounds to plan, facilitate, host, or otherwise personally participate in a same-sex wedding ceremony would violate the plain terms of the Iowa Civil Rights Act.

113. Absent injunctive and declaratory relief on the grounds that the Iowa Civil Rights Act cannot be construed to authorize legal action against persons refusing to plan, facilitate, or host a same-sex wedding ceremony, the Odgaards have been and will continue to be harmed.

COUNT II

Violation of the Iowa Civil Rights Act Statutory Elements Not Met

114. The Iowa Civil Rights Act prohibits places of public accommodation from discriminating on the basis of sexual orientation.

115. Declining to plan, facilitate, or host a same-sex wedding ceremony does not, by itself, constitute discrimination on the basis of sexual orientation.

116. The Odgaards have never discriminated against their customers or employees on the basis of sexual orientation.

117. The Odgaards have made all employment decisions regarding all job applicants and employees without regard to sexual orientation.

118. The Odgaards have served all customers without regard to sexual orientation.

119. The Odgaards' decision not to host same-sex wedding ceremonies is based solely on their sincerely held religious beliefs that do not permit them to personally plan, facilitate, sponsor, or host a wedding ceremony between any persons other than one man and one woman.

120. The Odgaards have made this decision without regard to sexual orientation.

121. Absent injunctive and declaratory relief on the grounds that the Odgaards have not engaged in sexual orientation discrimination, the Odgaards have been and will continue to be harmed.

COUNT III

Violation of Iowa Constitution Article I, § 3 Free Exercise of Religion

122. Article I, § 3 of the Iowa Constitution provides that “[t]he general assembly shall make no law . . . prohibiting the free exercise [of religion]”

123. The Odgaard’s religious beliefs forbid them from personally helping plan, facilitating, or hosting a wedding ceremony that violates their religious beliefs.

124. The Odgaard’s refusal to host same-sex wedding ceremonies is an exercise of religion.

125. Forcing the Odgaards to host a same-sex wedding ceremony or face substantial government coercion would substantially burden their free exercise of religion.

126. A decree forcing the Odgaards to host a same-sex wedding ceremony would not be narrowly tailored to accomplishing a compelling government interest.

127. Forcing the Odgaards to host a same-sex wedding ceremony would violate the rights secured to them by Article I, § 3 of the Iowa Constitution.

128. Absent injunctive and declaratory relief against Defendants’ threatened enforcement of the Iowa Civil Rights Act, the Odgaards have been and will continue to be harmed.

COUNT IV

Violation of Iowa Constitution Article I, § 4 No Punishment for Religious Beliefs

129. Article I, § 4 of the Iowa Constitution provides that “no person shall be deprived of any of his rights, privileges, or capacities, or disqualified from the performance of any of his public or private duties . . . in consequence of his opinions on the subject of religion[.]”

130. It is the Odgaards’ religious opinion that it would be morally wrong for them to personally plan, facilitate, or host any wedding ceremony not between a man and a woman.

131. Applying the Iowa Civil Rights Act against the Odgaards for refusing to host a same-sex wedding ceremony would punish them for their religious opinions concerning marriage in violation of the rights secured to them by Article I, § 4 of the Iowa Constitution.

132. Absent injunctive and declaratory relief against Defendants' threatened enforcement of the Iowa Civil Rights Act, the Odgaards have been and will continue to be harmed.

COUNT V

Violation of Iowa Constitution Article I, § 7 Free Speech

133. Applying the Iowa Civil Rights Act to the Odgaards would compel them to personally plan, facilitate, and host a ceremony that is a violation of their religious beliefs.

134. The Odgaards believe that wedding ceremonies are inherently expressive and have religious significance.

135. Through their business activities, the Odgaards seek to consistently express both their artistic and religious values to their visitors.

136. Forcing the Odgaards to personally plan, facilitate, and host a same-sex wedding ceremony would force the Odgaards to convey and promote to their customers and to the public a message with which they disagree.

137. Defendants' actions thus would violate the Odgaards' right to be free from compelled speech as secured to them by Article I, § 7 of the Iowa Constitution.

138. Defendants' compelled speech requirement is not narrowly tailored to accomplish a compelling governmental interest.

139. Absent injunctive and declaratory relief against such compelled speech, the Odgaards have been and will continue to be harmed.

COUNT VI

**Violation of Iowa Constitution Article 1, § 7
Expressive Association**

140. Applying the Iowa Civil Rights Act to the Odgaards would compel them to personally plan, facilitate, and host an expressive event that they believe violates the religious covenant of marriage.

141. Through their activities at the Gallery, the Odgaards seek to express both their artistic and religious views to their visitors.

142. The Odgaards believe that wedding ceremonies are inherently expressive and have inescapable religious significance.

143. Forcing the Odgaards to personally plan, facilitate, and host a same-sex wedding ceremony would force the Odgaards to associate themselves with and promote a message with which they disagree and which runs contrary to the expressive purposes for which they operate the Gallery.

144. Defendants' actions thus would violate the Odgaards' right of expressive association as secured to them by Article 1, § 7 of the Iowa Constitution.

145. Absent injunctive and declaratory relief against the Iowa Civil Rights Act, the Odgaards have been and will continue to be harmed.

COUNT VII

**Violation of Iowa Constitution Article I, § 7
Chilled Speech**

146. The Odgaards wish to publicly express their religious beliefs on what marriage is.

147. The Odgaards want to express these beliefs by stating them on the Gallery website and Facebook page, and through appropriate artwork and Scripture references on the walls of the sanctuary in the Gallery.

148. The Iowa Civil Rights Act states that it is an “unfair or discriminatory practice” to “directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability is unwelcome, objectionable, not acceptable, or not solicited.”

149. The Odgaards reasonably fear that any statements of their religious beliefs that affirms their religious view of marriage would be understood by Defendants as “directly or indirectly” advertising, indicating, or publicizing that they object to the patronage of some persons based on their sexual orientation, even though that is not true. The Odgaards are thus chilled from exercising their right to free speech as guaranteed to them by Article I, § 7 of the Iowa Constitution.

150. Absent injunctive and declaratory relief against such compelled speech, the Odgaards have been and will continue to be harmed.

COUNT VIII

Violation of the First Amendment to the United States Constitution Free Exercise Clause

151. The Odgaards’ sincerely held religious beliefs prohibit them from facilitating, supporting, profiting from, or personally participating in a wedding ceremony between anyone other than one man and one woman.

152. The Odgaards’ sincerely held religious beliefs thus prohibit them from personally helping plan, facilitating, or hosting a same-sex wedding ceremony.

153. The Odgaards' compliance with these religious beliefs constitutes a religious exercise.

154. The Iowa Civil Rights Act, facially and as applied by Defendants, is not generally applicable.

155. The Iowa Civil Rights Act as applied by the Defendants is not facially or operationally neutral.

156. The Iowa Civil Rights Act includes categorical exemptions to its prohibition against discrimination on the basis of sexual orientation.

157. The Defendants have no compelling interest in forcing the Odgaards to host same-sex wedding ceremonies.

158. Forcing the Odgaards to host same-sex wedding ceremonies in violation of their religious beliefs would not actually further any interests Defendants might assert.

159. Forcing the Odgaards to host same-sex wedding ceremonies in violation of their religious beliefs would not be the least restrictive means available to Defendants of furthering any interests Defendants might assert.

160. Construing the Iowa Civil Rights Act to force the Odgaards to host same-sex weddings would create government-imposed coercive pressure on the Odgaards to change or violate their religious beliefs.

161. Construing the Iowa Civil Rights Act to force the Odgaards to host same-sex weddings would chill the Odgaards religious exercise.

162. Construing the Iowa Civil Rights Act to force the Odgaards to host same-sex weddings would violate the Odgaards' rights secured to them by the Free Exercise Clause of the First Amendment of the United States Constitution.

163. Absent injunctive and declaratory relief against such a construction of the Iowa Civil Rights Act, the Odgaards have been and will continue to be harmed.

COUNT IX

Violation of the First Amendment to the United States Constitution Free Speech Clause Compelled Speech

164. Applying the Iowa Civil Rights Act to the Odgaards would compel them to personally plan, facilitate, sponsor, and host a ceremony that they believe violates a religious covenant.

165. The Odgaards believe that wedding ceremonies are inherently expressive and have religious significance.

166. Through their activities at the Gallery, the Odgaards seek to express both their artistic and religious values to their visitors.

167. Forcing the Odgaards to personally plan, facilitate, and host a same-sex wedding ceremony would force them to convey and promote to their customers and to the public a message with which they disagree.

168. Defendants' actions thus would violate the Odgaards' right to be free from compelled speech as secured to them by the First Amendment of the United States Constitution.

169. Compelling the Odgaards to convey messages that they disagree with is not narrowly tailored to a compelling governmental interest.

170. Absent injunctive and declaratory relief against such compelled speech, the Odgaards have been and will continue to be harmed.

COUNT X

Violation of the First Amendment to the United States Constitution Freedom of Speech Expressive Association

171. Applying the Iowa Civil Rights Act to the Odgaards would compel them to personally plan, facilitate, and host an expressive event that they believe violates a religious covenant.

172. Through their business activities, the Odgaards seek to express both their artistic and religious views to their customers.

173. The Odgaards believe that wedding ceremonies are inherently expressive and have inescapable religious significance.

174. Causing the Odgaards to personally plan, facilitate, sponsor, and host same-sex wedding ceremonies would force them to associate with and promote a message with which they disagree and which runs contrary to the expressive purposes for which they operate the Gallery.

175. Defendants' actions thus would violate the Odgaards' right of expressive association as secured to them by the First Amendment of the United States Constitution.

176. Absent injunctive and declaratory relief against the Iowa Civil Rights Act, the Odgaards have been and will continue to be harmed.

COUNT XI

Violation of the First Amendment to the United States Constitution Free Speech Clause Chilled Speech

177. The Odgaards wish to publicly express their religious beliefs on what marriage is.

178. The Odgaards want to express this belief by stating it on the Gallery website and Facebook page, and through appropriate artwork and Scripture references on the walls of the sanctuary in the Görtz Haus Gallery.

179. The Iowa Civil Rights Act states that it is an “unfair or discriminatory practice” to “directly or indirectly advertise or in any other manner indicate or publicize that the patronage of persons of any particular race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability is unwelcome, objectionable, not acceptable, or not solicited.”

180. The Odgaards reasonably fear that any statements of their religious beliefs affirming marriage as between one man and one woman, including artistic expressions thereof, would be viewed by Defendants as “directly or indirectly” advertising, indicating, or publicizing that they object to the patronage of some persons based on their sexual orientation, even though that is not true.

181. The Odgaards are thus chilled in exercising their right to free speech as guaranteed by the First Amendment to the United States Constitution.

182. Absent injunctive and declaratory relief against such compelled speech, the Odgaards have been and will continue to be harmed.

PRAYER FOR RELIEF

Wherefore, the Odgaards respectfully request that the Court:

- a. Declare that the Odgaards’ religious decision not to host same-sex wedding ceremonies does not constitute a violation of the Iowa Civil Rights Act.
- b. Declare that the Odgaards have not engaged in discrimination on the basis of sexual orientation because they decline to personally plan, facilitate, sponsor, or host same-sex wedding ceremonies.
- c. In the alternative, declare that the Iowa Civil Rights Act, as applied by the Defendants against the Odgaards, violates the Iowa and United States Constitutions.

- d. Issue a permanent injunction prohibiting enforcement of the Iowa Civil Rights Act against the Odgaards based on their decision not to host same-sex wedding ceremonies.
- e. Award the Odgaards nominal damages for the loss of their free speech and free exercise rights, as protected by the Iowa and U.S. Constitutions.
- f. Award the Odgaards the costs of this action and reasonable attorney's fees; and
- g. Award such other and further relief as it deems equitable and just.

JURY DEMAND

Plaintiffs request a trial by jury on all issues so triable.

Respectfully submitted this 7th day of October, 2013.

/s/ Frank Harty

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Attorneys for Plaintiffs

VERIFICATION OF COMPLAINT ACCORDING TO 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 7, 2013


Betty Ann Odgaard*

**I certify that I have the signed original of this document, which is available for inspection at any time by the Court or a party to this action.*

VERIFICATION OF COMPLAINT ACCORDING TO 28 U.S.C. § 1746

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on October 7, 2013


Richard Odgaard*

**I certify that I have the signed original of this document, which is available for inspection at any time by the Court or a party to this action.*



EXHIBIT A



EXHIBIT B-1



EXHIBIT B-2



EXHIBIT B-3

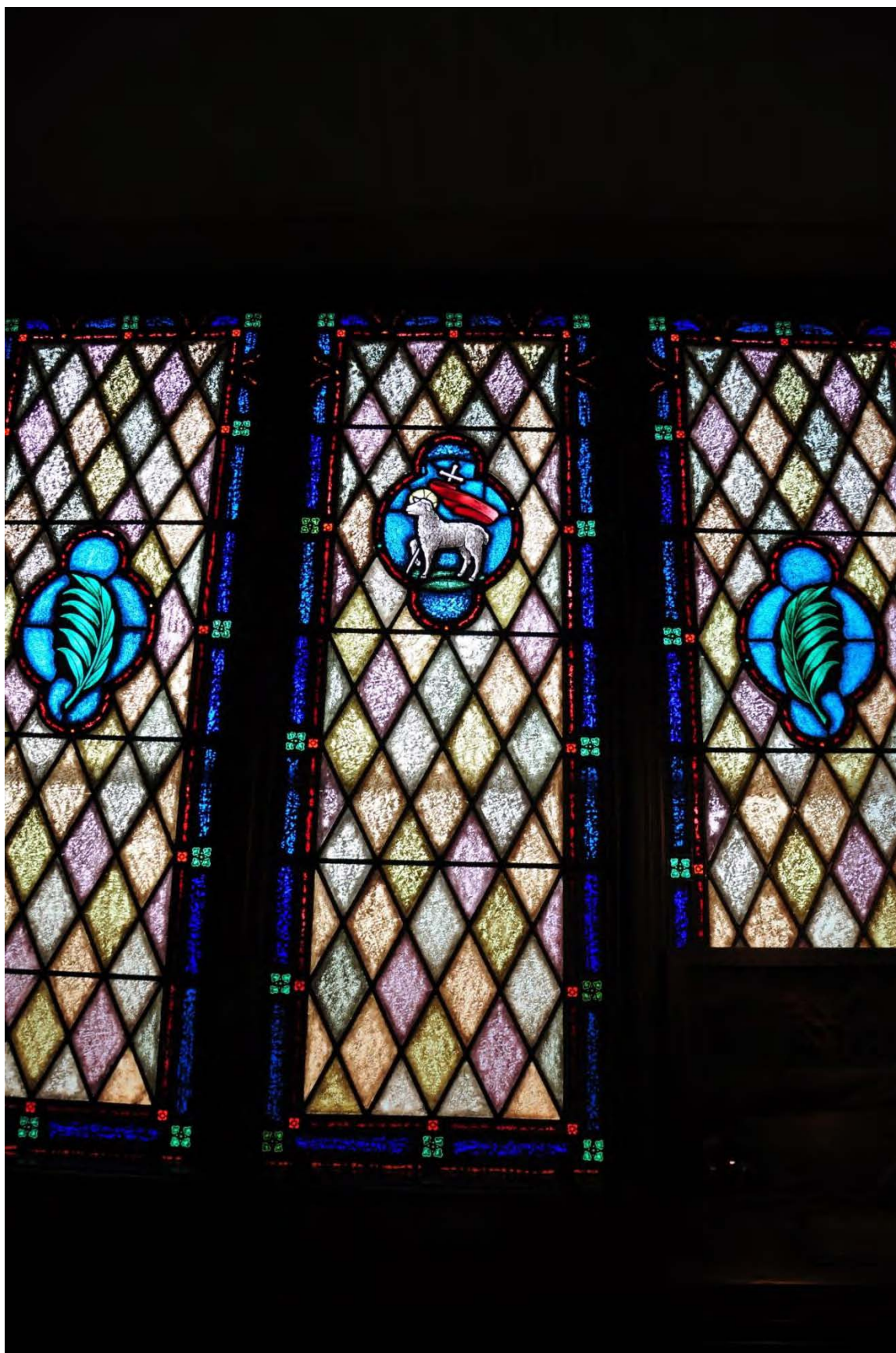


EXHIBIT C-1

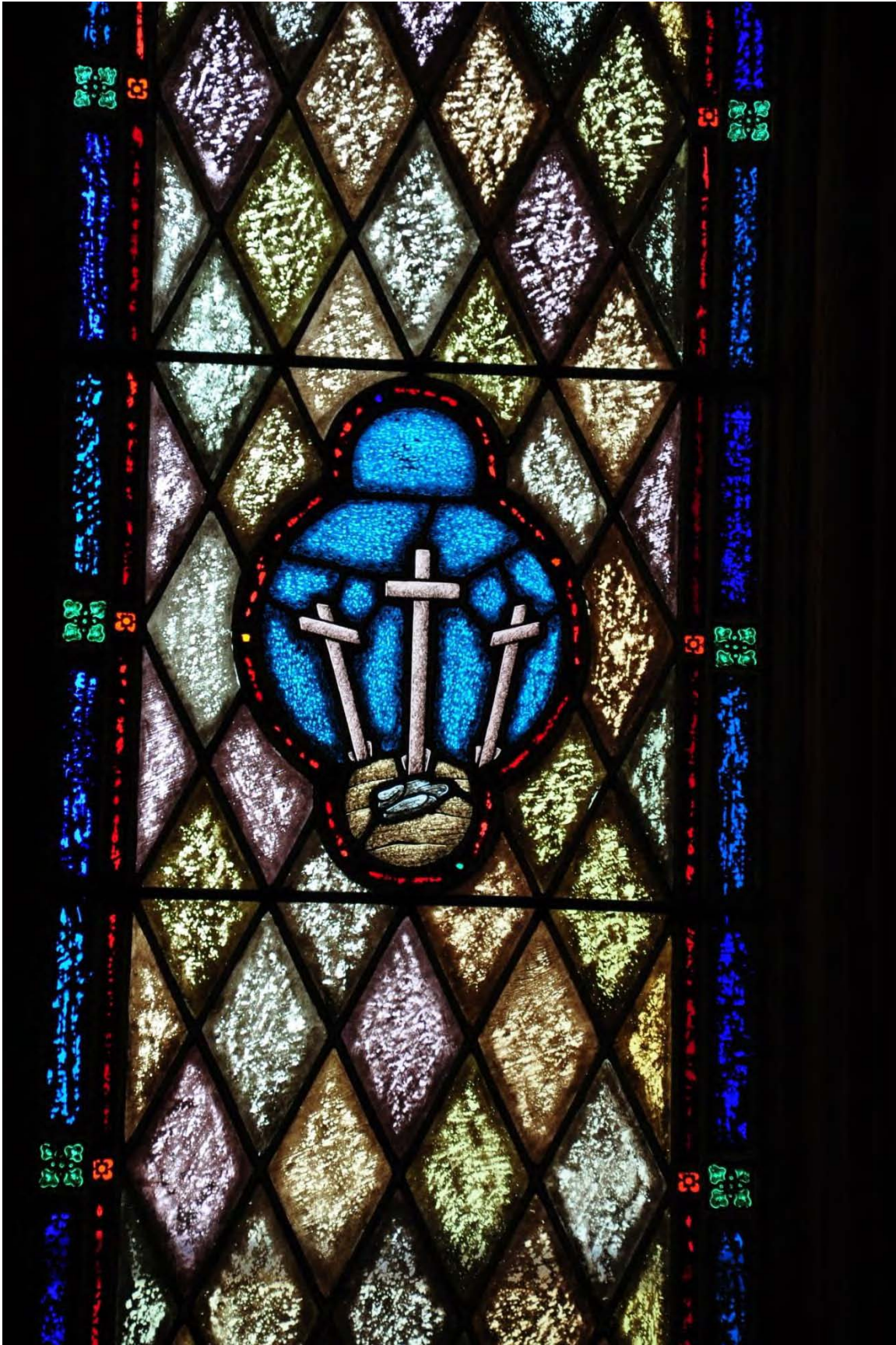


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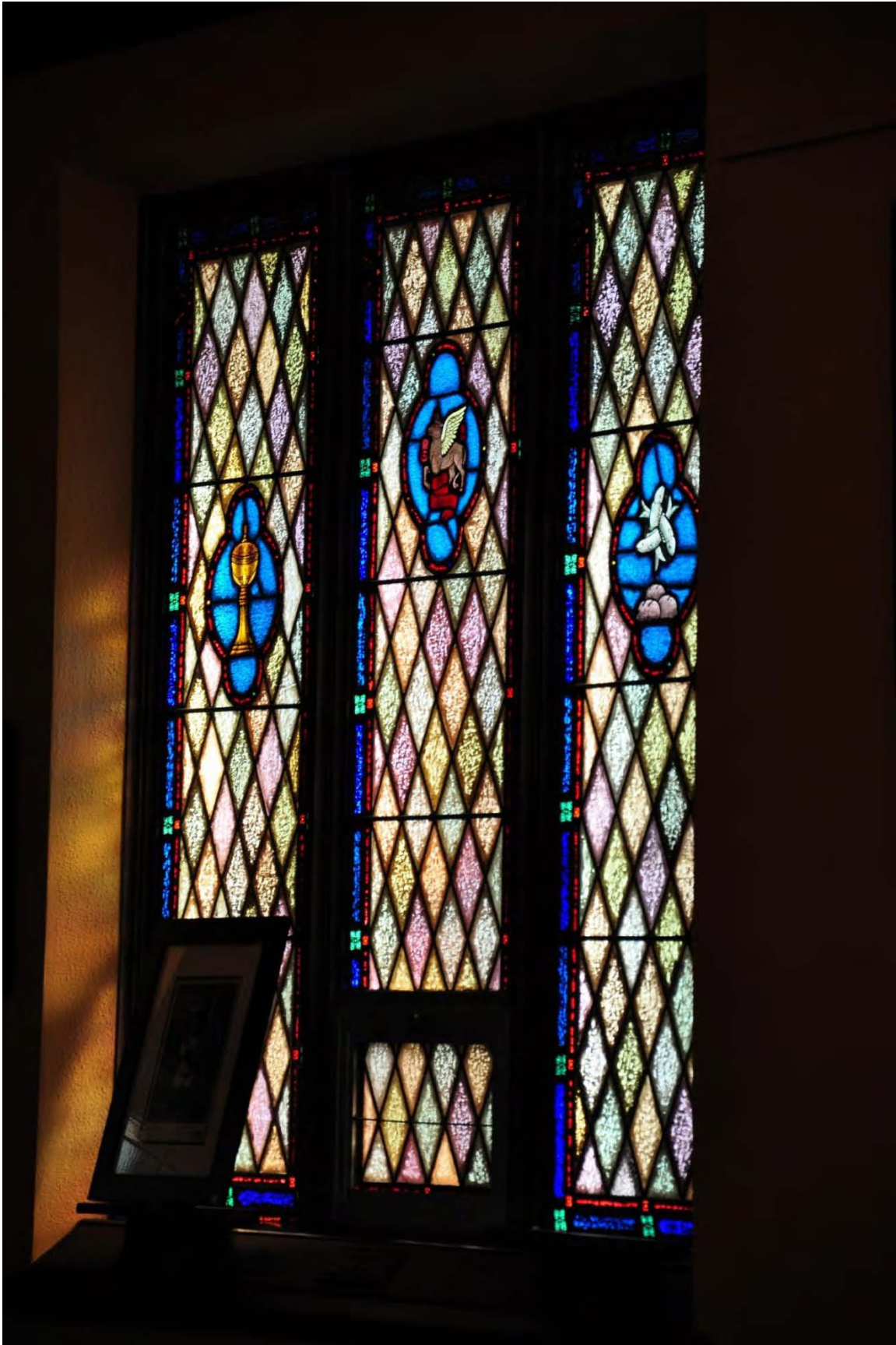


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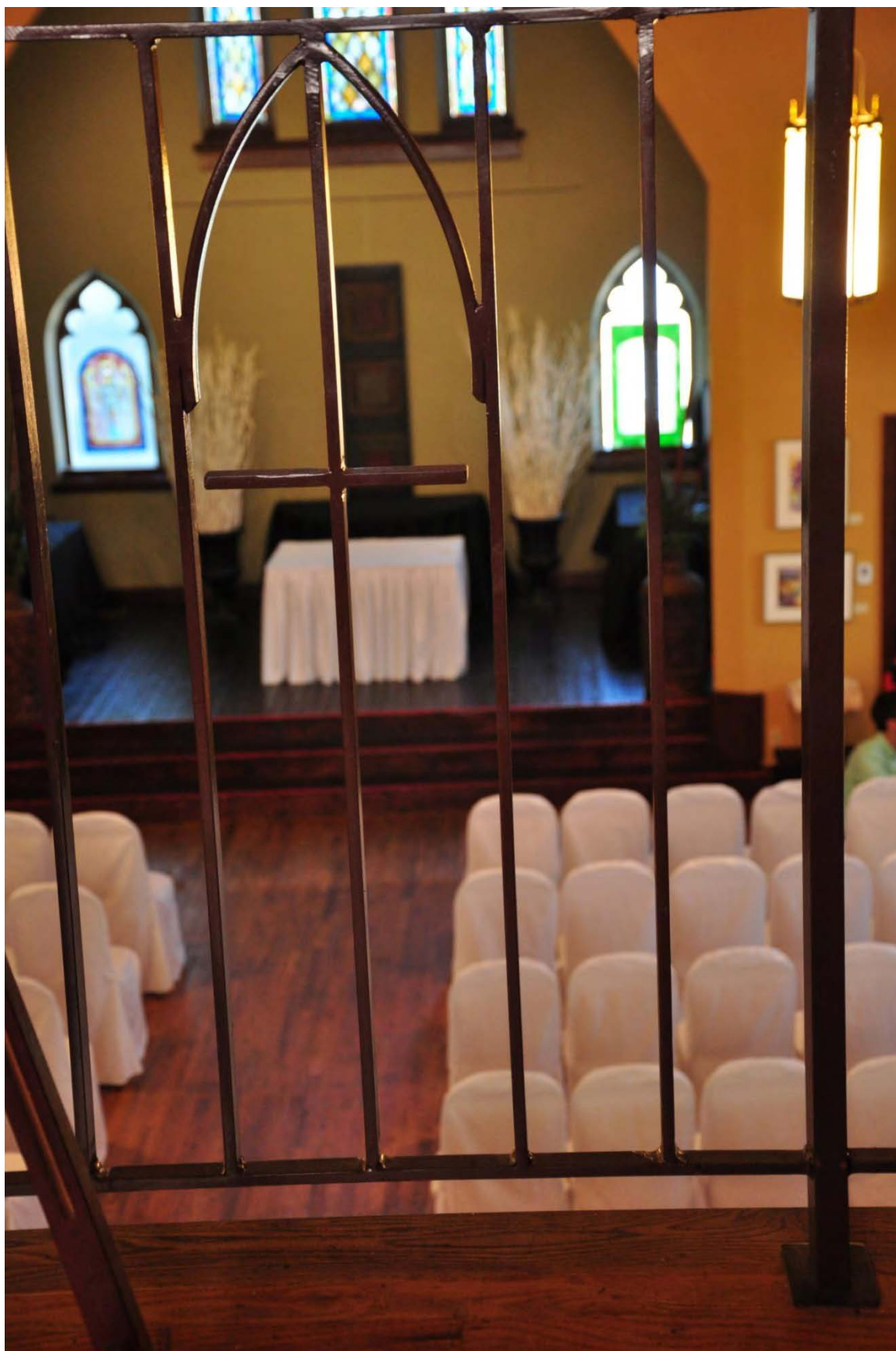


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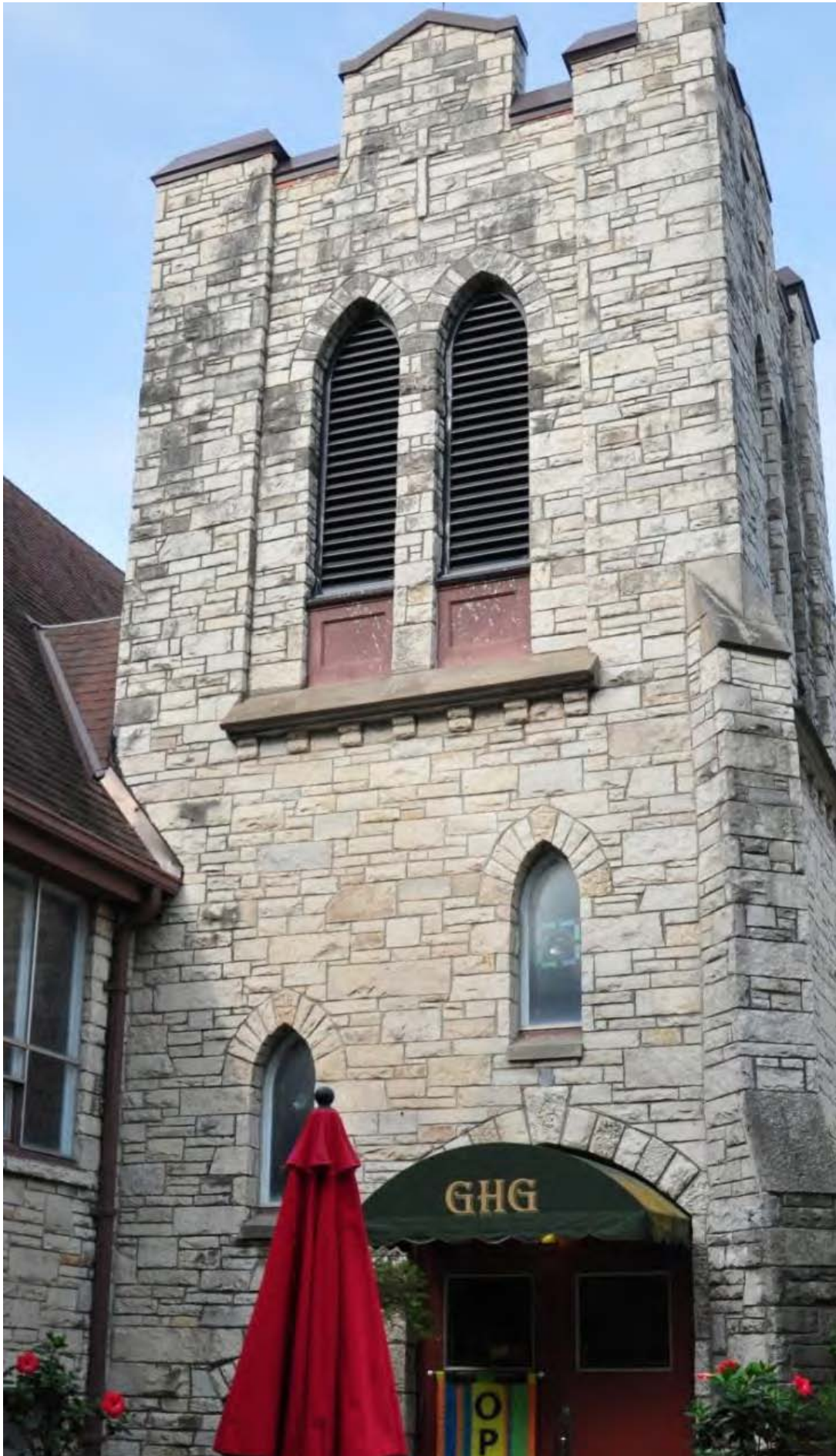


EXHIBIT E



EXHIBIT F

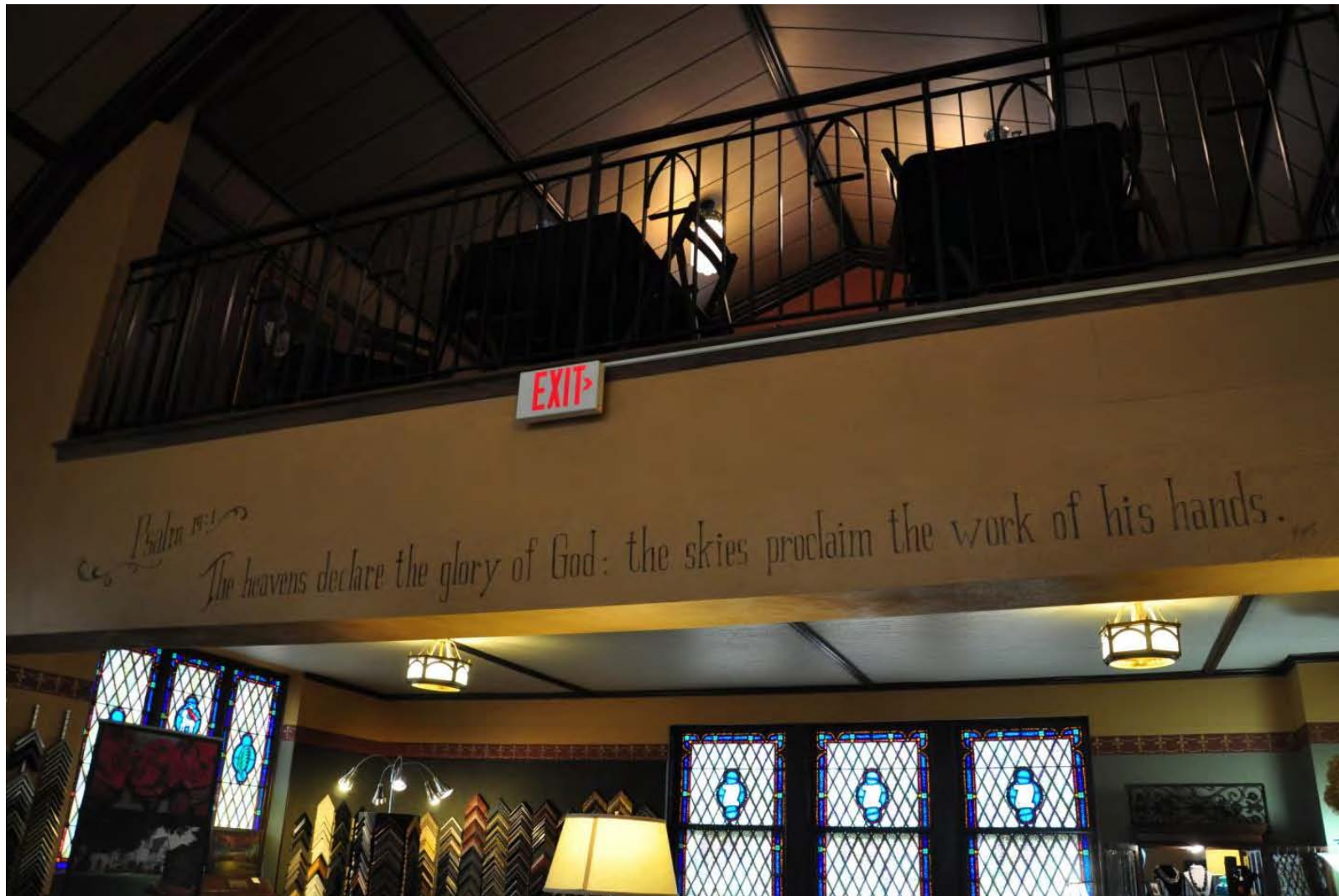


EXHIBIT G

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

Bookings

Thursday, August 08, 2013 1:09:29 PM

From: [REDACTED]

To: info@gortzhausgallery.com

Good afternoon,

I just saw the news. Betty, you're very old and almost dead. How do you both feel, knowing that America, and the world, will be a better place without you?

- [REDACTED]

gortzhausgallery@mchsi.com

Thursday, August 08, 2013 7:21:01 PM

From: [REDACTED]
To: INFO@GORTZHAUSGALLERY.COM
Reply To: [REDACTED]

YOU ARE MEAN, RUDE, SELFISH, MOTHER FUCKER RACIST SONS OF BITCHES FROM HELL*****

FUCK UUU

MOTHER FUCKERSS

YOU WILL BE SUED GOOD FOR DISCRIMINATION...

FUCK YOU
FUCK YOUR GOD
FUCK YOUR RELIGION

I AM A JEW AND I BELIEVE IN GOD AND I AM A RELIGIOUS GAY JEW AND

I SAY FUCK YOUUUUUUUUUUUUUUUUUUUUUUUUUUUUUUU

YOUR BUSINESS SHALL GO DOWN THE FUCKIN DRAIN

YOU WILL SEE

YOU ARE SO LUCKY YOU DID NOT DO THAT TO ME CAUSE IF YOU DID, I WOULD BLAST YOU BIG TIME AND SUE YOUR ASS IN COURT*****

YOU SHALL GO TO FUCKIN HELL AND DROP DEAD

AND I AM SENDING YOU ALL AN EVIL BLACK MAGIC WITCH'S CURSE AGAINST YOU.....

SOON VERY BAD THINGS WILL HAPPEN TO YOU.

GOD BLESS THY HOLY SANTERIA.

PLEASE REMOVE THY EVIL, RACIST, PREJUDICE, SELFISH BEINGS FROM THY PRECIOUS MOTHER EARTH!

AMEN!

YOU ARE FINISHED
YOU ARE DOOMED

I WARNED YOU..

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

Thursday, August 08, 2013 9:46:55 AM

From: [REDACTED]

To: info@gortzhausgallery.com

No, you don't get to have your beliefs, not if you're going to run a business that is open to the public. And that's what you do - hello, lawsuit!

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

standing up for principles

Thursday, August 08, 2013 10:14:27 AM

From: [REDACTED]

To: info@gortzhausgallery.com

Reply To: [REDACTED]

Mr. and Mrs. Odgaard:

I saw your story on KCCI, and wanted to congratulate you. In our politically correct times, few people are willing to publicly affirm, as Governor Wallace did in the 1960s, "Segregation now, segregation forever!" I don't suppose you deny service to interracial couples and Jews as well? Think of the marketing possibilities to "traditional values" folks.

I was a little surprised to see no mention of your policies on your website. I suppose it must give you great personal joy to tell your gay or lesbian fellow citizens, to their face, that you will not serve them. But wouldn't it be more efficient to specify on your website which specific groups you discriminate against?

[REDACTED]

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

congratulations, and my best wishes

Thursday, August 08, 2013 10:24:35 AM

From: [REDACTED]

To: info@gortzhausgallery.com

Thanks to the internet, <http://www.towleroad.com/2013/08/grimes.html>

You Ms. Betty Odgaard, owner of Gortz Haus are now known to be the Bigot that you are. Not only a Bigot, but a woman who breaks the law of the state of Iowa which says it has non-discrimination laws for public accommodation that covers sexual orientation. I'm a Christian and I'm ashamed of you...I know Christ is...he ate with prostitutes...you just prostitute his word to promote your Bigotry.

I hope your new International, worldwide fame, and the state of Iowa, give you all the rewards you deserve in this world...and provides you with a very warm greeting in the afterlife.

Most Sincerely

[REDACTED]

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

bigotry is alive and well in Iowa

Thursday, August 08, 2013 10:37:38 AM

From: [REDACTED]

To: info@gortzhausgallery.com

Hello Betty Odgaard

It's my understanding that you turned away a gay couple, for religious reasons, when they came to your establishment with hopes of holding their wedding there.

First, as you no doubt know, you broke the law of Iowa when you did this. Iowa has public accommodation anti-discrimination laws that cover sexual orientation. I have donated to the couple that you ostracized, I hope that they are able to find a lawyer that shuts your business down for the law that you broke.

Secondly, and possibly more importantly, I'd like to know your feelings about accommodating people who are divorced or people who eat shell fish or people that wear polyester and cotton at the same time. For, you no doubt know this as well, the same scripture that you're leaning on to justify your bigotry also says that you must hate people for those reasons.

You are quoted in the article that I read as saying "Can't I have my beliefs without being ostracized for that?" I will answer that question for you. Yes, you can have your beliefs without being ostracized for that, as long as you keep your personal beliefs to yourself and follow the law of the state in which you hold a business license.

I have no doubt that you hate gay people, that is self evident. I doubt that there is much love lost there though. There are now hundreds of thousands of gay people that don't like you anymore either, and their straight allies are feeling the same way.

I don't envy you the hell that you're going to have to pay for what you've done here. Let me make myself very clear. You are, in no way, shape, form or fashion, showing the love that the supreme being you pretend to worship showed to people when he walked the earth.

Shame on you.

[REDACTED]

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

Your business reviews on Yelp don't look very good Thursday, August 08, 2013 12:03:33 PM

From: [REDACTED]

To: info@gortzhausgallery.com

Your bigoted actions are going to drive your business into the ground.

Check out what people are saying about you here:

http://www.yelp.com/biz/gortz-haus-gallery-grimes?sort_by=date_desc

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

Hello!

Thursday, August 08, 2013 12:23:45 PM

From:



To: info@gortzhausgallery.com

Thank you for standing up for your beliefs by being a bigot who breaks the law by failing to allow a same-sex couple to use your public accommodation (as defined by federal and Iowa law) place for the most important day of their lives. People like you lead to gay people being embraced by others who feel their pain, unlike yourself.

I bet you'd have taken their money for lunch, or flowers, or a picture frame, wouldn't you? In fact, I'm gay, and you've taken mine. Would you like to give it back? I'll bring back the things I've bought there if you will. Let me add up the receipts, how about it?

Shame on you for making Iowa look ugly.

I will never spend another dime at Gortz Haus, and had I know how you feel about certain people, I never would have set foot in your business. I give my business to people who embrace everyone. You don't.

So much for love thy neighbor and the Golden Rule but I respect your right to believe what you believe. That's what religious freedom is all about, even if it leads you to believe you should discriminate against some of God's children. However, you aren't a church, and you broke the law, and I hope you get the pants sued off of you and lose your business for the vile stance you too--maybe THAT will be God's will for humiliating two individuals who have committed to one another and love one another and did you no harm.

You've wasted your life believing that other people aren't good enough and not treating them the same as you would anyone else who is like you or has the same beliefs as you.

Yours is a completely wasted life because, after all, isn't what you've just done exactly what causes people to be left out of heaven?

May the love of God find you and heal you.

Signed,

One of God's children who happens to be a Christian.

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

Discrimination

Thursday, August 08, 2013 12:39:06 PM

From [REDACTED]

To: info@gortzhausgallery.com

I just read about your disgraceful practice of discrimination against gay couples. If you are opposed to same-sex marriage, don't have one. However, if you operate a public accommodation, you cannot discriminate on the basis of sexual orientation.

How would you feel if I decided to discriminate against Mennonites because they offend my religious convictions?

--

[REDACTED]
General Editor, [REDACTED]

Mediacom Mediacom High Speed Internet Webmail

gortzhausgallery@mchsi.com

Yes you can have your beliefs!

Thursday, August 08, 2013 4:09:05 PM

From: [REDACTED]

To: info@gortzhausgallery.com

But don't go crying about it when we, the LGBT community, have out beliefs that you and your husband are bigots and although you sound so lovely and sad and tell everyone that it is not from an angry place, you in fact are an angry place.

You

Hate!

Live with it. man up and tell the world that you do see us not as your equals. You people and people like you make me so mad. But there will come a time when you have to answer for your hate.