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AMY LYNN PHOTOGRAPHY  
STUDIO, LLC, and AMY  
LAWSON,

Plaintiffs,

v.

Case No. 17CV0555  
Declaratory Judgment: 30701

CITY OF MADISON; THE  
WISCONSIN  
DEPARTMENT OF  
WORKFORCE  
DEVELOPMENT; RAY  
ALLEN, in his capacity as  
Secretary for the Wisconsin  
Department of Workforce  
Development; and JIM  
CHIOLINO, in his capacity  
as Administrator for the  
Equal Rights Division of the  
Department of Workforce  
Development,

Defendants.

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**[PROPOSED] ORDER GRANTING DECLARATORY JUDGMENT**

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Plaintiff Amy Lynn Photography Studio is a Wisconsin for-profit limited liability company offering photography and blogging services to clients on a commission basis, and Plaintiff Amy Lawson is the owner of the studio. As set forth in her verified complaint, Lawson operates her photography studio out of her private apartment and promotes or desires to promote her business and

services to the general public, both at physical events and meetings in Wisconsin and on the internet, through her Studio's website and social media sites and through third parties' commercial websites. As also set forth in her verified complaint, Lawson desires to decline to create photography and blogging services that violate her artistic, religious, and political beliefs, including services that promote pro-abortion organizations and any marriage besides marriage between one man and one woman, and Lawson desires to post a statement on her website explaining her beliefs about photography, marriage, and abortion and about why the Studio cannot perform services promoting same-sex marriage and pro-abortion groups.

Plaintiffs filed a declaratory judgment action against Wisconsin's public accommodations law, Wis. Stat. § 106.52, alleging that the law could be interpreted to require Plaintiffs to engage in activity that violated their rights to freedom of speech and free exercise of religion under the Wisconsin Constitution.

The Court issued an oral ruling in this case on August 1, 2017, with the appearance of counsel for all parties listed above at a hearing on that date.

**IT IS HEREBY ORDERED AND DECLARED** that a declaratory judgment is granted, resolving all claims and with each party to bear their own costs and fees. The terms of that declaration are as follows:

Section 106.52 applies only to “public place[s] of accommodation or amusement,” which “shall be interpreted broadly to include, but not be limited to, places of business or recreation; lodging establishments; restaurants; taverns; barber, cosmetologist, aesthetician, electrologist, or manicuring establishments; nursing homes; clinics; hospitals; cemeteries; and any place where accommodations, amusement, goods, or services are available either free or for a consideration, subject to [an exception not relevant here.]” Wis. Stat. § 106.52(1)(e)1.


The Court of Appeals has developed a two-element approach to determining whether a business falls within this definition. *See Barry v. Maple Bluff Country Club*, 221 Wis. 2d 707, 716, 586 N.W.2d 182 (Ct. App. 1998); *Hatheway v. Gannett Satellite Info. Network, Inc.*, 157 Wis. 2d 395, 400–01, 459 N.W.2d 873 (Ct. App. 1990). First, the business must be a physical “place” open to the public. *Barry*, 221 Wis. 2d at 716. Second, the business must either be one of the enumerated businesses in the statute or “be comparable to or consistent with the businesses enumerated in the statute itself.” *Hatheway*, 157 Wis. 2d at 400–01.

Based upon the factual allegations in Plaintiffs’ verified complaint, including what Lawson does and desires to do, it is hereby declared that Plaintiffs’ photography studio is not a “public place[ ] of accommodation” as defined by Section 106.52 because this studio does not operate a physical

storefront open to the public, *see Barry*, 221 Wis. 2d at 716, nor is it an enumerated business or “comparable to or consistent with” the enumerated businesses in Wis. Stat. § 106.52(1)(e)1, *see Hatheway*, 157 Wis. 2d at 400–01. Accordingly, Plaintiffs do not fall within the scope of Section 106.52 and Plaintiffs are not subject to the restrictions in Section 106.52 for two independently sufficient reasons. As noted, each party is to bear their own costs and fees.

Dated this 11 day of August, 2017.

BY THE COURT:



Hon. Richard G. Niess

## STIPULATION

The foregoing Stipulated Order is hereby agreed to by the parties

RESPECTFULLY PRESENTED AND AGREED TO this 11th day of August, 2017

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