

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. _____

DOXA ENTERPRISE, LTD d/b/a BORN AGAIN USED BOOKS,

Plaintiff,

vs.

AUBREY C. SULLIVAN, Director of the Colorado Civil Rights
Division, in her official capacity;
SERGIO RAUDEL CORDOVA, GETA ASFAW, MAYUKO
FIEWEGER, DANIEL S. WARD, JADE ROSE KELLY, and
ERIC ARTIS, as members of the Colorado Civil Rights
Commission, in their official capacities; and
PHIL WEISER, Colorado Attorney General, in his official
capacity;

Defendants.

**VERIFIED COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF**

I. INTRODUCTION

1. As Pulitzer Prize winning author Richard Russo once said, bookstores are “the physical manifestation of the wide world’s longest, most thrilling conversation.” With constant pressure to distinguish themselves from big chains, independent bookstores tirelessly curate their shelves and ambiance to strike just the right theme—whether it’s religion, thrillers, local-interest, or LGBTQ. The government has no business infringing that editorial discretion or telling bookstores what to say, what views to affirm, or what sides to pick in ideological debates.

2. But Colorado has done precisely that. Colorado recently passed HB25-1312 (the “Act”) and amended the Colorado Anti-Discrimination Act (“CADA”) to define “gender expression” to include “chosen name” and “how an individual chooses to be addressed.” The Act then declares that Coloradans have a right to access “public accommodations[] and advertising” free of discrimination on that basis—except if the requested language is “offensive” or made for “frivolous purposes.” Under this revised CADA language, it is now illegal for public accommodations like independent bookstores to refer to transgender-identifying individuals with biologically accurate language in their publications and customer interactions.

3. This puts CADA on a collision course with the First Amendment rights of Plaintiff Doxa Enterprise, Ltd (“Born Again Used Books” or the “Bookstore”), a Christian bookstore in Colorado Springs that sells Christian literature, homeschool curricula, and classics. The Bookstore also publishes a website and social media accounts to promote its Christian faith and products.

4. As a Christian bookstore, Born Again Used Books follows Christian teachings—including the belief that God created everyone in His image, male or female, worthy of dignity and respect. The store serves everyone regardless of gender identity. That includes customers who present as transgender. These customers, like anyone else, are welcome to patronize the Bookstore and purchase anything it offers for sale. But the Bookstore cannot *speak* contrary to its beliefs. So the store cannot use pronouns, titles, or any other language contrary to a person’s biological sex. To do so would be to affirm the view that a person’s sex can and sometimes should be changed—a view that contradicts the Bookstore’s Christian beliefs. Born Again Used Books wants to put this policy in writing, publish it, and explain its Christian views on gender identity to customers.

5. But because CADA now makes all this illegal, Born Again Used Books must instead profess an ideological view it opposes, contradict the message espoused in the very books it sells, and avoid explaining its Christian beliefs about human sexuality in store and online. In effect, the law requires this Christian bookstore to abandon its core religious beliefs. If it refuses, the store faces cease-and-desist orders, expensive investigations, hearings, and hefty fines.

6. This puts Born Again Used Books under immediate threat. Every day customers visit the store. Every day, Born Again Used Books must refrain from formalizing and distributing its pronoun policy and explaining its beliefs about gender identity. Every day, Born Again Used Books faces liability for following its religious beliefs. And every day, Born Again Used Books chills its expression to avoid violating the law.

7. The government has no need or right to force Americans to profess ideological views they oppose. Our pluralistic country is big enough and sturdy enough to allow people of good faith to express different views, even when the government disagrees. The Constitution demands it. And Colorado is better for it.

II. JURISDICTION AND VENUE

8. This civil-rights action raises federal questions under the United States Constitution, particularly the First and Fourteenth Amendments, under 42 U.S.C. § 1983.

9. This Court has original jurisdiction under 28 U.S.C. §§ 1331 and 1343.

10. This Court has authority to award declaratory relief under 28 U.S.C. §§ 2201-02 and Federal Rule of Civil Procedure 57; injunctive relief under 28 U.S.C. § 1343 and Federal Rule of Civil Procedure 65; and costs and attorneys' fees under 42 U.S.C. § 1988.

11. Venue is proper in this Court under 28 U.S.C. § 1391(b) because all events giving rise to the claims herein occurred within the District of Colorado, and all Defendants reside in the District of Colorado.

III. IDENTIFICATION OF PLAINTIFF

12. Doxa Enterprise, Ltd is a limited liability company organized under Colorado law.

13. Doxa Enterprise, Ltd. does business under the name Born Again Used Books, which is its trade name filed with the Colorado Secretary of State.

14. Born Again Used Books' principal place of business is in Colorado Springs, Colorado.

15. Born Again Used Books' primary business is selling used books for a profit.

16. Born Again Used Books is a member-managed limited liability company, and Eric Smith, a resident of Colorado Springs, Colorado, is the sole member.

17. Eric Smith's wife, Sara Smith, is an employee of the Bookstore and co-manages it with Eric.

18. Born Again Used Books is not the corporate parent, subsidiary, or affiliate of a church, religious non-profit organization, or any other entity.

IV. IDENTIFICATION OF DEFENDANTS

19. Aubrey C. Sullivan is Director of the relevant division of Colorado state government known as the Colorado Civil Rights Division ("Director"), Colo. Rev. Stat. § 24-34-302, and has authority to enforce the law at issue. *See* Colo. Rev. Stat. §§ 24-34-302, 24-34-306. She is named as a defendant in her official capacity.

20. Commissioners Sergio Raudel Cordova, Geta Asfaw, Mayuko Fieweger, Daniel S. Ward, Jade Rose Kelly, and Eric Artis are members of the Colorado Civil Rights Commission (the “Commission”) and have authority to enforce the law at issue. *See* Colo. Rev. Stat. §§ 24-34-305, 24-34-306, 24-34-605, 24-34-707. They are named as defendants in their official capacities.

21. Colorado Attorney General Phil Weiser has authority to enforce the law at issue. *See* Colo. Rev. Stat. § 24-34-306. He is named as a defendant in his official capacity.

22. All Defendants reside in the District of Colorado.

V. STATEMENT OF FACTS

Born Again Used Books is a distinctly Christian bookstore.

23. Born Again Used Books operates a brick-and-mortar Christian bookstore in Colorado Springs, Colorado.

24. Eric and Sara Smith purchased the Bookstore in 2020. Eric Smith is a pastor at a local church, and the Smiths operate Born Again Used Books consistent with their religious beliefs.

25. Born Again Used Books is a key provider of Christian literature and homeschool curricula in the Colorado Springs area and currently carries around 50,000 titles.

26. While the Bookstore sells some new materials, Born Again Used Books’ offerings consist mostly of used books. Members of the public supply the store with used books through donations or for store credit, and the Bookstore resells them.

27. The Bookstore’s offerings primarily consist of Christian books, homeschool materials, and classics.

28. Christian books make up the bulk of the Bookstore's offerings, including Bibles in numerous translations, daily devotionals, children's Bible stories, counseling and recovery resources, Christian novels and inspirational stories, study and educational materials, and theological and apologetical works.

29. The Bookstore also serves the local homeschool community with a wide range of used homeschool curricula. This includes textbooks and workbooks, teaching manuals, and supplemental materials like flashcards and maps.

30. To support the homeschool community, Born Again Used Books hosts an annual parking lot sale where families can set up tents and booths and sell materials for the upcoming school year. The Bookstore does not charge for this event.

31. Born Again Used Books also sells classic literature of social and cultural importance, with titles like *Animal Farm* by George Orwell, *Of Mice and Men* by John Steinbeck, and *Wuthering Heights* by Emily Brontë.

32. Along with its primary offerings, the Bookstore also sells secular nonfiction titles, like biographies and history books, and children's literature.

33. In addition to literature, Born Again Used Books displays and sells artwork for local artists, receiving a twenty percent commission on sales. The Bookstore normally carries around fifty pieces, and it hosts an annual gala for artists to sell their work. The Bookstore handpicks the artists to whom it offers this service.

34. Born Again Used Books operates a website at <https://bornagainusedbooks.com>. The website provides information about the Bookstore, contains links to the store's social media accounts, displays customer reviews, and hosts a blog.

35. Born Again Used Books also has Facebook and Instagram accounts. The Bookstore uses these accounts to interact with customers and share store news.

36. The Smiths operate Born Again Used Books as an expression of their Christian faith. Their Christian beliefs shape every aspect of their business, from the products they sell to the content on their website and social media, and their interactions with customers and the public.

37. Indeed, even the Bookstore's name reflects the Christian faith. "Born Again" carries a double meaning, referring to the store's resale approach and to biblical terminology: "Jesus replied, 'Very truly I tell you, no one can see the kingdom of God unless they are born again.'" *John 3:3* (New International Version).

38. The Bookstore's mission is to provide literature that supports customers in their relationships with God and others.

39. The Bookstore limits its offerings primarily to Christian books, homeschool materials, and classics in accordance with this mission.

40. As a used book seller, Born Again Used Books receives books from the community for resale. But it does not sell every book it receives.

41. The Bookstore curates its selection in accordance with its Christian faith. That is, the store will not sell books with a message that it believes contradicts its mission of providing uplifting Christian support. And it seeks out books for sale that advance this mission.

42. For example, Born Again Used Books sells numerous books that promote the Christian faith and its teaching, including theological works like *Mere Christianity* and *The Screwtape Letters* by C.S. Lewis, *Knowing God* by J.I. Packer, and *Pilgrim's Progress* by John Bunyon.

43. But the Bookstore will not sell titles of certain bestselling authors who identify as Christians but do not promote Born Again Used Books' understanding of the Christian faith, such as Joel Osteen, Rob Bell, and many others.

44. It also limits offerings from Christian authors whose beliefs mostly align with Born Again Used Books but who have had serious moral failures that diminish their Christian witness and credibility, such as Ravi Zacharias and Mark Driscoll.

45. The Bookstore's beliefs also inform how it curates its homeschool curriculum offerings. For example, Born Again Used Books offers homeschool materials on biblical studies, but it will not sell materials that reject the existence of God or promote lifestyles inconsistent with Christian teaching.

46. Along with Christian books, the Bookstore also sells classic literature that, while not explicitly Christian, promotes virtue or good morals, or reveals important truths about the world. Examples include *The Lord of the Rings* by J.R.R. Tolkien, *The Chronicles of Narnia* by C.S. Lewis, and *The Scarlet Letter* by Nathaniel Hawthorne.

47. But Born Again Used Books will not sell books that explicitly reject Christian teaching or promote lifestyles inconsistent with the Christian faith, like *The God Delusion* by Richard Dawkins, *The Da Vinci Code* by Dan Brown, *The Dark Materials* trilogy by Philip Pullman, and *God and the Gay Christian* by Matthew Vines.

Born Again Used Books expresses its faith through community interactions.

48. Based on its Christian beliefs, Born Again Used Books seeks to care for and support the Colorado Springs community through all of its services and customer interactions.

49. And the Bookstore encourages its employees to take part in this Christian mission.

50. Along with its owner, Eric Smith, Born Again Used Books has five employees, including Sara Smith, who co-manages the store. While not a requirement for employment, all of the Bookstore's employees are Christians.

51. Through its events and daily interactions, Born Again Used Books' owner and employees interact weekly with hundreds of people from diverse backgrounds.

52. Some visitors to Born Again Used Books seek out the Bookstore for its Christian mission, while others are unaware or uninterested.

53. The Bookstore encourages its employees to express Christian virtue and kindness to all customers, regardless of the reasons for their visit.

54. Customers frequently seek literature to provide spiritual guidance through challenging times. Employees often discuss with customers the reasons they seek books on certain topics and provide Christian titles tailored to support the customers' unique circumstances.

55. During these conversations, employees frequently discuss matters of faith with the customers, striving to provide spiritual support and a faithful perspective.

56. Employees also offer prayer to customers, and employees often pray with customers in the store.

57. Many customers come to Born Again Used Books because they appreciate its religious mission, supportive environment, and Christian curation of materials.

58. But some individuals visit the Bookstore unaware of its Christian mission, and some of these individuals depart upset upon learning of the Bookstore’s religious beliefs and practices.

59. Born Again Used Books hosts a blog on its website. Sara Smith operates the blog, and the Smiths have ultimate control over what is posted on the blog.

60. The Bookstore uses the blog to share news about the store, personal reflections from the Smiths, and explanations of the Bookstore’s Christian faith with customers and potential customers.

61. For example, in one blog post titled “The Body of Christ at Work,” the Bookstore describes the support it received from the local Christian community during its transition to a new storefront. The post describes “God’s faithful provision” during the move and how “the Body of Christ has stepped up.”

62. In another blog post titled “Grief,” Born Again Used Books described the Smiths’ journey through a tragic family loss, quoting scripture that provided support: “Your dead shall live; their bodies shall rise. You who dwell in the dust, awake and sing for joy! For your dew is a dew of light, and the earth will give birth to the dead.” *Isaiah* 26:19 (English Standard Version).

Born Again Used Books serves all in accordance with its Christian faith.

63. Born Again Used Books “believe[s] that the gospel compels [it] to accept and welcome everyone with respect and warm hospitality, regardless of their gender identification.”¹

¹*Alliance Statements and Perspectives*, The Christian and Missionary Alliance, <https://bit.ly/4kKc2Lg> (last visited July 16, 2025).

64. The Bookstore believes that every person is created in God’s image and is, therefore, entitled to dignity and respect.

65. Accordingly, Born Again Used Books serves everyone regardless of race, religion, sex, sexual orientation, gender expression, or any other status.

66. Born Again Used Books treats every person, including those who disagree with its Christian beliefs and practices, with respect.

67. But the Bookstore cannot deny or contradict Christian doctrine when speaking to or serving the public.

68. Born Again Used Books believes that it must honor God in how it interacts with others, including current and prospective customers and members of the public.

69. In keeping with Christian teaching, Born Again Used Books believes “that God created people as male and female” and “that God’s design is that our created biological sex determines whether we are male or female.”²

70. While Born Again Used Books, compelled by its Christian faith, welcomes everyone with respect and hospitality, affirming “gender choices” inconsistent with God’s design would “lead [the Bookstore] to honor something not honored by God.”³

71. And Born Again Used Books believes that speaking in a way that affirms identification with the opposite sex would contradict the “grace and truth of Jesus Christ.”⁴

² *Id.*

³ *Id.*

⁴ *Id.*

72. Thus, the Bookstore believes that referring to a biological male as “she” or “Ms.” or as a “woman,” or a biological female as “he” or “Mr.” or a “man,” would be untruthful, misleading, and would violate the divine commandment not to bear false witness.

73. Likewise, it believes that referring to any individual as “they,” “ze,” “ey,” “Mx.,” “non-binary,” or any other pronoun, title, or neologism that is not consonant with the individual’s biological sex would be untruthful, misleading, and would violate the divine command against bearing false witness.

74. The Bookstore believes that doing so would also promote the idea that sex is mutable rather than biologically fixed, which contradicts its Christian faith and beliefs and is not an idea that the Bookstore can promote in good conscience.

75. Thus, Born Again Used Books cannot use pronouns, titles, or other language that does not align with an individual’s biological sex.

76. But the Bookstore can and regularly does use pronouns, titles, and language that align with the person’s biological sex.

77. When asked to use pronouns, titles, or language that does not align with a customer’s biological sex, Born Again Used Books employees would respectfully decline and instead intentionally, respectfully, and consistently use a form of address that does not contradict the customer’s sex, such as the customer’s first or last name.

78. Born Again Used Books has served customers who present as transgender, and it is always at risk of receiving a request to use pronouns or titles that would violate the store’s religious faith.

Born Again Used Books desires to formalize its pronoun policy in writing and publish content explaining its policy and its Christian beliefs.

79. Born Again Used Books believes that Christian teaching on sex and gender is life-giving, consonant with the will of God, and leads to human flourishing.

80. The Bookstore also believes that many Christians and others in the wider community misunderstand orthodox Christian doctrine on the issues of sex and gender.

81. Born Again Used Books has recognized the recent spike in the number of Americans identifying as transgender, especially those in Generation Z, and the widespread debate occurring in Colorado over the propriety of using preferred pronouns, fueled by news coverage of the Act. Thus, the Bookstore believes it is important to be honest and transparent with its potential customers and the community about its beliefs to avoid the potential for misunderstanding.

82. Likewise, Born Again Used Books wishes to be honest and transparent with current and prospective employees about its policy on pronouns and titles.

83. Born Again Used Books seeks to obey the Biblical command to love others by being honest with current and prospective clients, current and prospective employees, and the public, by not lying or giving a false impression about what it will and will not provide the customers, and by treating them with love, honesty, fairness, and excellence.

84. Thus, Born Again Used Books wishes to adopt its current pronoun and title practice into a formal, written policy binding the company, a copy of which is attached hereto as Exhibit A (the “pronoun policy”), and to circulate that policy to current and future employees.

85. Born Again Used Books also desires to post an explanation on its blog about this pronoun policy and the Christian beliefs behind it.

86. The discussion that Born Again Used Books would like to post is attached hereto as Exhibit B (the “pronoun blog post”) and will link to the pronoun policy.

87. In addition, Born Again Used Books would like to create and publish other blog posts and social media content that do not mention the store’s pronoun policy but that discuss Christian teaching about human sexuality, the creation of human beings as male and female, the immutability of biological sex, and God’s design for people to live consistent with their God-given sex.

88. Posting about these issues is motivated by the store’s Christian beliefs and is part and parcel of Born Again Used Books’ religious exercise and expression.

Colorado law threatens Born Again Used Books’ ability to speak and operate consistently with its Christian beliefs.

89. CADA bans discrimination in places of public accommodation that occurs “because of” disability, race, creed, color, sex, sexual orientation, gender identity, gender expression, marital status, national origin, or ancestry.

90. CADA’s Public Accommodation Clauses define several unlawful discriminatory practices by places of public accommodation.

91. Under the Denial Clause, it is an unlawful discriminatory practice under CADA for anyone “directly or indirectly, to refuse, withhold from, or deny to an individual or a group ... the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation ... because of ... gender expression.” Colo. Rev. Stat. § 24-34-601(2)(a).

92. Under the Publication Clause, it is an unlawful discriminatory practice under CADA for anyone “directly or indirectly, to publish, circulate, issue, display, post, or mail any written, electronic, or printed communication, notice, or advertisement that indicates that the full and equal enjoyment of the goods, services, facilities, privileges, advantages, or accommodations of a place of public accommodation will be refused, withheld from, or denied an individual ... because of ... gender expression.” *Id.*

93. And the Unwelcome Clause makes it an unlawful discriminatory practice under CADA for anyone to circulate the same types of communications that indicate “that an individual’s patronage or presence at a place of public accommodation is unwelcome, objectionable, unacceptable, or undesirable because of ... gender expression.” *Id.*

94. As to the Public Accommodation Clauses, a “place of public accommodation” refers to “any place of business engaged in any sales to the public and any place offering services, facilities, privileges, advantages, or accommodations to the public, including but not limited to any business offering wholesale or retail sales to the public.” *Id.* § 24-34-601(1).

95. As a Colorado place of business engaged in sales to the public, Born Again Used Books is a “place of public accommodation” subject to the Public Accommodation Clauses. *Id.* §§ 24-34-601(1), (2)(a).

96. CADA’s Advertisement Clauses also prohibit public accommodations from publishing certain statements that it deems discriminatory.

97. For example, the Discriminatory Advertisement Clause makes it unlawful for any owner, employee, or agent of a place of public accommodation to “directly or indirectly, publish, issue, circulate, send, distribute, give away, or

display in any way, manner, or shape or by any means or method ... any communication, paper, poster, folder, manuscript, book, pamphlet, writing, print, letter, notice, or advertisement of any kind, nature, or description that ... [i]s intended or calculated to discriminate or actually discriminates against any person or class of persons on account of ... gender expression ... in the matter of furnishing or neglecting or refusing to furnish ... any ... accommodation, right, privilege, advantage, or convenience offered to or enjoyed by the general public.” Colo. Rev. Stat. §§ 24-34-701 (1)(a).

98. The Denial Advertisement Clause makes it unlawful for any owner, employee, or agent of a place of public accommodation to “directly or indirectly” “publish” any such communication that “[s]tates that any of the accommodations, rights, privileges, advantages, or conveniences of the place shall or will be refused, withheld from, or denied to any person or class of persons on account of” gender expression. *Id.* §§ 24-34-701(1)(b).

99. And the Unwelcome Advertisement Clause makes it unlawful for any owner, employee, or agent of a place of public accommodation to “directly or indirectly” “publish” any such communication that States that “the patronage, custom, presence, frequenting, dwelling, staying, or lodging at the place by any person or class of persons belonging to or purporting to be of any particular ... gender expression ... is unwelcome or objectionable or not acceptable, desired, or solicited.” *Id.* §§ 24-34-701(1)(c).

100. As to the Advertisement Clauses, a “place of public accommodation” “has the same meaning as set forth in Title III of the federal ‘Americans with Disabilities Act of 1990’, 42 U.S.C. sec. 12181(7), and its related amendments and implementing regulations.” *Id.* § 24-34-301(16).

101. Born Again Used Books is a place of public accommodation under the Americans with Disabilities Act because it is a “sales or rental establishment” that “affect[s] commerce” by selling books to the public. 42 U.S.C. § 12181(7)(e). That means it is subject to CADA’s Advertisement Clauses.

102. On May 16, 2025, Governor Jared Polis signed the Act into law.

103. The Act amends CADA’s definition for “gender expression,” which it treats as a protected class, to encompass the use of a “chosen name” and how an individual “chooses to be addressed.”

104. The Act defines “gender expression” under CADA to mean “an individual’s way of reflecting and expressing the individual’s gender to the outside world, typically demonstrated through appearance, dress, behavior, chosen name, and how the individual chooses to be addressed.” Colo. Rev. Stat. § 24-34-301(9).

105. The Act defines “chosen name” under CADA to mean “a name that an individual requests to be known as in connection to the individual’s disability, race, creed, color, religion, sex, sexual orientation, gender identity, gender expression, marital status, familial status, national origin, or ancestry, so long as the name does not contain offensive language and the individual is not requesting the name for frivolous purposes.” *Id.* § 24-34-301(3.5).

106. The Act states, “[t]he general assembly finds and declares that each Coloradan has the right to access ... public accommodations, and advertising that is free from discrimination regardless of their membership in a protected class.” *Id.* § 24-34-300.7(1).

107. In Colorado’s view, the Act effectively codifies Rule 81.6(A)(4) of the Commission’s Rules and Regulations, which states that “[d]eliberately misusing an individual’s preferred name, form of address, or gender-related pronoun” can,

depending on the circumstances, amount to unlawful harassment based on sexual orientation. 3 Colo. Code Regs. § 81.6(a)(4).

108. Born Again Used Books happily sells its products to anyone, regardless of any protected characteristics, including gender expression.

109. But the Bookstore will not knowingly refer to anyone using pronouns, honorifics, or titles that are inconsistent with that person's biological sex. It is the policy of the store to politely refuse if a customer, prospective customer, or anyone else requests that an employee of Born Again Used Books use pronouns, honorifics, titles, or other language inconsistent with an individual's biological sex.

110. By refusing to refer to individuals by how they "choose[] to be addressed" when that address is not consonant with their biological sex, the Bookstore refers to these individuals in a manner inconsistent with their "gender expression," as defined by the Act. *Id.* § 24-34-301(9).

111. In Colorado's view, by referring to transgender-identifying individuals exclusively with biologically accurate pronouns, titles, and language, Born Again Used Books denies them the "full and equal enjoyment" of the "service" and "privilege" of referring to individuals consistent with how they "choose[] to be addressed" based on their "gender expression" in violation of the Denial Clause. *Id.* § 24-34-601(2)(a).

112. Thus, CADA compels Born Again Used Books to refrain from using certain language—such as biologically accurate pronouns and titles—and to use other language—such as biologically inaccurate pronouns and titles—or violate the Denial Clause.

113. Born Again Used Books also seeks to publish its pronoun policy in its employee handbook and distribute the handbook to its employees.

114. It also seeks to publish its pronoun blog post on its blog.

115. But the Bookstore has refrained from publishing either the pronoun policy or the pronoun blog post because it fears that doing so would violate the Public Accommodations and Advertisement Clauses.

116. Born Again Used Books would immediately publish its pronoun policy, pronoun blog post, or some materially similar statements, but for its reasonable fear that it will face prosecution under CADA if it does so.

117. Both the pronoun policy and the pronoun blog post explain that the Bookstore will not knowingly refer to anyone using pronouns, honorifics, or titles that are inconsistent with a person's biological sex. They also explain that it is the policy of the store to politely refuse if a customer, prospective customer, or anyone else requests that an employee of Born Again Used Books use pronouns, honorifics, or titles inconsistent with an individual's biological sex.

118. In Colorado's view, the Bookstore's pronoun policy violates the Denial Clause because referring to individuals exclusively with biologically accurate pronouns and titles denies transgender-identifying individuals the "full and equal enjoyment" of the "service" and "privilege" of referring to individuals consistent with how they "choose[] to be addressed" based on their "gender expression." *Id.*

119. In Colorado's view, publishing the pronoun policy or pronoun blog post would violate the Publication Clause because, by stating Born Again Used Books will refer to individuals exclusively with biologically accurate pronouns and titles, the pronoun policy and pronoun blog post "indicate[]" to transgender-identifying individuals "directly or indirectly" that the "full and equal enjoyment" of the "service" and "privilege" of referring to individuals consistent with how they "choose[] to be addressed" "will be refused" based on their "gender expression." *Id.*

120. In Colorado’s view, publishing the pronoun policy or pronoun blog post would violate the Unwelcome Clause because, by stating Born Again Used Books will refer to individuals exclusively with biologically accurate pronouns and titles, the pronoun policy and pronoun blog post “indicate[]” to transgender-identifying individuals “directly or indirectly” that their “patronage or presence” at Born Again Used Books is “unwelcome, objectionable, unacceptable, or undesirable” because of their “gender expression.” *Id.*

121. In Colorado’s view, publishing the pronoun policy or pronoun blog post would violate the Discriminatory Advertisement Clause because, by stating Born Again Used Books will refer to individuals exclusively with biologically accurate pronouns and titles, the pronoun policy and pronoun blog post are “intended or calculated to discriminate” or “actually discriminate[]” against a person “or class of persons” on account of “gender expression” in the matter of furnishing to them the “right,” “privilege,” or “convenience” of referring to individuals consistent with how they “choose[] to be addressed.” *Id.* § 24-34-701(a).

122. In Colorado’s view, publishing the pronoun policy or pronoun blog post would violate the Denial Advertisement Clause because, by stating Born Again Used Books will refer to individuals exclusively with biologically accurate pronouns and titles, the pronoun policy and pronoun blog post state that the “right[],” “privilege[],” or “convenience[]” of referring to individuals consistent with how they “choose[] to be addressed” “will be refused” to a “person or class of persons” based on “gender expression.” *Id.* § 24-34-701(b).

123. In Colorado’s view, publishing the pronoun policy or pronoun blog post would violate the Unwelcome Advertisement Clause because, by stating Born Again Used Books will refer to individuals exclusively with biologically accurate pronouns

and titles, the pronoun policy and pronoun blog post state that the “patronage” or “presence” of transgender-identifying individuals is “unwelcome or objectionable or not acceptable, desired, or solicited” based on their “gender expression.” *Id.* § 24-34-701(c).

124. Thus, CADA prohibits Born Again Used Books from publishing its pronoun policy in its employee handbook and circulating it to its employees.

125. And CADA prohibits Born Again Used Books from publishing its pronoun blog post on its blog.

126. Neither the Act nor CADA defines the terms “unwelcome,” “objectionable,” “unacceptable,” “undesirable,” or “not acceptable, desired, or solicited”—terms that appear in the Unwelcome Clause and Unwelcome Advertisement Clause. *Id.* §§ 24-34-601(2)(a), 701(1)(a).

127. This vague language grants Defendants unbridled discretion to enforce CADA against businesses like Born Again Used Books based on their viewpoint, and it prevents businesses like Born Again Used Books from knowing whether their speech violates the law.

128. Indeed, in the nationwide debate over pronoun usage, proponents of preferred pronouns and titles often claim that declining to use them is tantamount to denying a person’s existence.⁵

129. So posting or distributing the pronoun policy or pronoun blog post would possibly make someone feel unwelcome, objectionable, or unacceptable. And

⁵ See, e.g., Sabra L. Katz-Wise, Ph.D., *Misgendering: What it is and why it matters* (2021), <http://bit.ly/40mx20u> (claiming that declining to use preferred pronouns makes people “feel invalidated and unseen”).

Colorado could use that ambiguity to punish businesses that hold views with which it disagrees.

130. Additionally, neither the Act nor CADA defines the terms “offensive language” or “frivolous purposes” as used in the chosen name definition. *Id.* § 24-34-301(3.5).

131. For the same reasons that the Public Accommodation and Advertisement Clauses require Born Again Used Books to refer to someone based on “how the individual chooses to be addressed,” they also require the Bookstore to refer to individuals by their “chosen name”—in both cases, doing otherwise would amount to an address inconsistent with a person’s “gender expression.” *Id.* § 24-34-301(9).

132. But Born Again Used Books does not know which names requested by customers they need not use for containing “offensive language” or for being requested for “frivolous purposes.” *Id.* § 24-34-301(3.5).

133. This vague language grants Defendants unbridled discretion to enforce CADA against businesses like Born Again Used Books based on their viewpoint, and it prevents businesses like Born Again Used Books from knowing whether their speech violates the law.

CADA uses aggressive enforcement mechanisms and penalties that burden Born Again Used Books’ ability to speak and operate.

134. Any person “claiming to be aggrieved by a discriminatory or an unfair practice” may file a charge of discrimination with the Commission. Colo. Rev. Stat. § 24-34-306(1)(a)(I). The Attorney General and the Commission may also, on their own, file a charge of discrimination if they believe a discriminatory practice “imposes a significant societal or community impact.” *Id.* § 24-34-306 (1)(b).

135. What’s more, a person alleging violations of the Public Accommodation Clauses doesn’t have to go through the Commission at all. Instead, that person may file suit directly in a Colorado district court for violations of the provisions. *See id.* § 24-34-306(14).

136. Colorado regulations define “discriminatory or unfair practice” to include “practices” and “omissions” prohibited by CADA. 3 Colo. Code Regs. § 708-1:10.2(K). So simply having what Colorado considers a discriminatory policy is sufficient to trigger an enforcement action. *See id.*

137. The definition of “person” includes “the State of Colorado and all of its political subdivisions and agencies,” Colo. Rev. Stat. § 24-34-301(15)(a), so any city, county, or state agency may file a complaint.

138. Colorado regulations provide that “[t]he basis of belief for initiating a charge is information from any source sufficient to suggest that a discriminatory or unfair practice has been or is being committed.” 3 Colo. Code Regs. § 708–1:10.11(C). So simply reading the pronoun blog post on the internet, if the post is published, would be sufficient to commence an enforcement action.

139. Once a charge is filed, a burdensome investigatory and administrative process begins in which the Director has broad authority to order discovery and mediation and file a report with the Commission. Colo. Rev. Stat. § 24-34-306(2), (4).

140. Upon receipt of such report, the Commission may order the respondent to answer the charge at a formal hearing before the Commission or an administrative law judge, and it may permit full discovery, the submission of evidence, and the taking of testimony. *Id.* § 24-34-306(4)–(5), (8); *see id.* § 24-4-105(4)(a).

141. If the Commission or administrative law judge determines at the conclusion of the hearing that the respondent engaged in a discriminatory practice, the Commission may issue a cease-and-desist order to the respondent or issue an order demanding that the respondent “take such action” as the Commission deems fit. *Id.* § 24-34-306(9).

142. Any time before receiving a notice from the Director, a charging party may request from the Director a right-to-sue letter, which the Director shall grant if she believes that she will not complete her investigation of the charge within 180 days of its filing. *Id.* § 24-34-306(15). If the charging party receives such a letter, it may bring an action in a Colorado district court based on the allegations in the charge. *See id.*

143. A party can also appeal a final order from the Commission to the Colorado Court of Appeals. *Id.* § 24-34-307(1).

144. If a court finds that a place of public accommodation violated the Public Accommodation Clauses, it may fine the party \$3,500 for *each* violation. *Id.* § 24-34-602.

145. The Colorado Court of Appeals has also held that damages, injunctions, and other remedies are also available for violations of the CADA provisions related to places of public accommodation. *See Arnold v. Anton Co-op. Ass’n*, 293 P.3d 99, 104 (Colo. App. 2011).

146. And if a court finds that a place of public accommodation violated the Advertisement Clauses, it may find the party guilty of a class two misdemeanor. Colo. Rev. Stat. § 24-34-705.

147. Penalties for a class two misdemeanor include “120 days imprisonment, not more than a seven hundred fifty dollar fine, or both.” *Id.* § 18-1.3-501.

148. In addition to the penalties available for violations of CADA, the prospect of undergoing CADA’s lengthy, broad, and intrusive investigatory process burdens Born Again Used Books’ speech.

149. Once an investigation begins, the Director has broad authority to initiate and maintain proceedings that would force Born Again Used Books—a business with one owner and a few employees—to expend substantial time, money, and other resources responding to subpoenas, document requests, interrogatories, and sitting for investigative interviews, as well as hiring and paying legal counsel to protect its interests.

150. At the conclusion of an investigation, CADA permits the Director to drag Born Again Used Books into an expensive and time-consuming mediation process, then submit to full discovery and go through a live hearing if the Commission reaches a conclusion adverse to the company, all of which would require the company to expend more resources.

151. And the law allows a complainant to bring a civil action in certain circumstances with all of the time and expenses that motion practice, discovery, trial, and appeals entail.

152. At the end of all of these processes, Born Again Used Books is subject to significant civil and criminal penalties or damages if an adverse decision is reached.

153. Born Again Used Books intends to continue to abide by its pronoun policy and refer to customers with pronouns and titles that match their biological

sex. In doing so, the Bookstore faces the imminent risk of an enforcement proceeding, prosecution, or civil lawsuit under CADA and severe penalties for noncompliance.

154. Because Colorado passed the Act, Born Again Used Books has had to spend time explaining its meaning and its consequences to its employees. It has also had to explain to them that it will nevertheless continue to abide by its pronoun policy, which could place it in legal jeopardy.

155. Colorado has aggressively enforced and defended CADA in ways that violated the First Amendment regarding topics related to sexual orientation and gender expression.

156. For example, Colorado has enforced CADA against the bakery Masterpiece Cakeshop for its refusal on religious grounds to create a custom wedding cake celebrating a gay wedding. The Supreme Court held that Colorado's prosecution violated the bakery owner's religious freedom under the First Amendment. *Masterpiece Cakeshop, Ltd. v. Colo. C.R. Comm'n*, 584 U.S. 617, 640 (2018).

157. Undeterred, Colorado again prosecuted Masterpiece Cakeshop for its refusal on religious grounds to create a custom wedding cake celebrating a person's "gender transition." *Masterpiece Cakeshop, Inc. v. Scardina*, 556 P.3d 1238, 1242 (Colo. 2024).

158. Colorado also defended CADA's application against 303 Creative LLC, a graphic design business whose owner refused to create custom wedding websites celebrating a view of marriage contrary to her religious beliefs. The Supreme Court held that Colorado's application of CADA violated the business owner's right to free

speech under the First Amendment. *303 Creative LLC v. Elenis*, 600 U.S. 570, 602 (2023).

159. Colorado also believes that declining to use preferred names and pronouns can violate anti-discrimination laws and has enforced them accordingly.

160. Darren Patterson Academy, a private Christian school, recently sought legal protection because, according to Colorado, the school’s policy of using biologically accurate pronouns and language violated a Colorado funding condition that it “provide eligible children an equal opportunity to enroll and receive preschool services regardless of ... gender identity.” *Darren Patterson Christian Acad. v. Roy*, 765 F. Supp. 3d 1194, 1197 (D. Colo. 2025). Colorado didn’t disavow this interpretation. *Darren Patterson Christian Acad. v. Roy*, 699 F. Supp. 3d 1163, 1179 (D. Colo. 2023). And Colorado is now appealing a permanent injunction that precludes the state from defunding the school on free-exercise grounds. Civil Appeal, *Darren Patterson Christian Academy v. Roy*, No. 25-1187 (10th Cir. May 8, 2025).

161. Similarly, St. Mary Catholic Parish and St. Bernadette Catholic Parish also sought relief in part because, according to Colorado, their preschools’ pronoun policies, like Darren Patterson’s, violated Colorado’s funding condition. *St. Mary Cath. Par. in Littleton v. Roy*, 736 F. Supp. 3d 956, 1019 (D. Colo. 2024). After the court afforded the schools partial relief on religious exercise grounds, Colorado continues to argue on appeal it may exclude the Parish schools from universal pre-k because of their religiously motivated policies. Br. of Defendants-Appellees, *St. Mary Cath. Par. in Littleton v. Roy*, No. 24-1267 (10th Cir. Oct. 16, 2024).

162. The Commission has promulgated regulations stating that “deliberately misusing an individual’s preferred name, form of address, or gender-

related pronoun” can amount to “[u]nlawful harassment ... on the basis of sexual orientation.” 3 Colo. Code Regs. § 81.6(a)(4).

163. And as amicus curiae, Colorado has asserted that harms from “pronoun misuse” are “cognizable under well-established anti-discrimination case law,” namely Title VII of the Civil Rights Act of 1964 and Title IX of the Education Amendments of 1972. Br. of Cal. et al as Amici Curiae in Supp. of Neither Party, *Tennessee v. Dep’t of Educ.*, No. 22-5807 (6th Cir. Dec. 22, 2022), 2022 WL 18027407 at *2.

164. Born Again Used Books has not abandoned its pronoun policy and intends to politely refuse any request that it use biologically inaccurate pronouns or titles. That speech is at least arguably proscribed by CADA, particularly as the new gender-expression definition operates through the Denial Clause. And Colorado’s aggressive enforcement history paired with the ability of anyone to start the enforcement process based solely on what they read online makes the threat of enforcement credible, substantial, and imminent. *See Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 161–65 (2014).

CADA disproportionately burdens Born Again Used Books compared to businesses expressing different views.

165. Although CADA prohibits Born Again Used Books from speaking and operating its business consistent with its religious belief that sex is immutable, the law allows other businesses that also qualify as public accommodations to speak and operate according to their view that sex can be changed.

166. This distinction in treatment is based on a particular view that the business holds about sex and gender.

167. Several bookstores that operate in Colorado Springs promote the view that sex can be changed and that businesses should use preferred pronouns and titles.

168. For example, the Colorado Springs bookstore Westside Stories, which labels itself a “LGBTQIA+ safe space,” uses a rainbow-colored logo “and always will, since #Pride is 365 and not just in June.”⁶

169. Westside Stories has promoted teen novels conveying themes that encourage the use of preferred pronouns for transgender-identifying individuals.⁷

170. The owner of Poor Richard’s, another bookstore in Colorado Springs, “is a staunch advocate for LGBTQ+ rights and representation,” engaging in “LGBTQ+ advocacy work” while on the Colorado Springs City council.⁸

171. In 2022, half of Poor Richard’s employees were “LGBTQ+”,⁹ and the store advertises that it celebrates LGBT pride “with thoughtful, colorful, and meaningful gifts from [a] curated collection.”¹⁰

⁶ Westside Stories (@WestsideStoriesBookstore), FACEBOOK (July 2, 2023), <https://bit.ly/4e01dBS>.

⁷ Westside Stories (@WestsideStoriesBookstore), FACEBOOK (Oct. 1, 2022), <https://bit.ly/4jP7pye>.

⁸ Grace Gassel, *Richard Skorman, Poor Richard’s Owner and Colorado College Graduate on the Importance of Community*, The Catalyst (Feb. 20, 2025), <https://bit.ly/3HDYJNw>.

⁹ Brynn Carman, *Poor Richard’s promises to stay inclusive and supportive while looking back on a divisive anti-gay past in Colorado Springs*, KRDO (Nov. 23, 2022), <https://bit.ly/4e0Bdq1>.

¹⁰ Poor Richard’s Downtown (@PoorRichardsDowntown), FACEBOOK (Jun. 4, 2025) <https://bit.ly/3Hx1pwC>.

172. Barnes & Noble, a nationwide bookstore chain that has two retail locations in the Colorado Springs area, also openly promotes the view that sex can be changed.¹¹

173. Born Again Used Books is in direct competition with these bookstores and competes in the same general bookstore market in terms of competing for clients seeking to buy books.

174. But CADA imposes increased burdens on Born Again Used Books that it does not on these other Colorado Springs businesses (such as hindering Born Again Used Books from formally adopting certain policies, addressing customers in certain ways, and publishing certain content), which gives Born Again Used Books' competitors an advantage and makes it easier for them to adopt policies, promote ideas, and tailor their websites consistent with their beliefs and to attract their desired customers.

175. Born Again Used Books supports the right of these businesses to promote their views and operate their businesses in accordance with their views.

176. Born Again Used Books simply wants the same freedom.

VI. ALLEGATIONS OF LAW

177. Born Again Used Books is subject to and must comply with CADA.

178. CADA violates Born Again Used Books' constitutional rights, chills and deters the Bookstore from exercising its constitutional rights, and places the Bookstore at substantial and imminent risk of enforcement and punishment simply for exercising its constitutional rights.

¹¹ See, e.g., Barnes and Noble (@BNBuzz), X (Jun. 17, 2020), <https://bit.ly/3wRgLmI>.

179. As a direct and proximate result of Defendants' violations of Born Again Used Books' constitutional rights, Born Again Used Books has suffered and will suffer ongoing irreparable harm, entitling the company to declaratory and injunctive relief.

180. Born Again Used Books does not have an adequate monetary or legal remedy for the loss of its constitutional rights.

181. Unless Defendants are enjoined from enforcing CADA, Born Again Used Books will continue to suffer irreparable harm.

VII. CAUSES OF ACTION

First Cause of Action: Violation of First Amendment's Free Speech, Press, and Assembly Clauses

182. Born Again Used Books repeats and realleges each allegation contained in paragraphs 1 through 181 of this complaint.

183. The First Amendment's Free Speech, Press, and Assembly Clauses protect Born Again Used Books' ability to speak, create, publish, sell, and distribute speech; to associate with others and with their messages for expressive purposes; to adopt and act on certain speech-related policies; to decline to associate with others and their message for expressive purposes; to decline to create, publish, sell, and distribute speech; to be free from content-based and viewpoint-based discrimination; and to be free from overbroad and vague restrictions on speech that give enforcement officials unbridled discretion.

184. Born Again Used Books' desired activities are forms of protected speech and expressive association.

185. As applied to Born Again Used Books, CADA impermissibly compels the company to speak messages with which it disagrees—or stay silent—by requiring it to refer to individuals by their preferred pronouns and titles.

186. As applied to Born Again Used Books, CADA impermissibly discriminates against the company's speech based on content and viewpoint by prohibiting it from referring to individuals with pronouns and titles consistent with their biological sex.

187. As applied to Born Again Used Books, CADA impermissibly inhibits the company's ability to form expressive associations it desires to form and to avoid expressive associations it desires to avoid by requiring the company to refer to individuals with their preferred pronouns and titles and prohibiting the company from referring to individuals with pronouns and titles consistent with their biological sex.

188. As applied to Born Again Used Books, CADA is vague and allows Defendants unbridled discretion to evaluate the company's speech and then discriminate against it based on content and viewpoint in determining whether to apply CADA.

189. And CADA's definition of gender expression—as it is incorporated into the Public Accommodation Clauses and Advertisement Clauses—is facially content and viewpoint-based and overbroad because it prohibits speech based on “how [an] individual chooses to be addressed” unless that requested language is “offensive” or done for a “frivolous purpose.”

190. The Unwelcome Clause, Unwelcome Advertisement Clause, and definition of gender expression (as that definition applies through the Public Accommodation Clauses and Advertisement Clauses) are facially overbroad because

they prohibit a wide swath of constitutionally protected speech. This includes speech using biologically accurate language (e.g., referring to a transgender-identifying biological male as “he,” “Mr.,” or a “man”) or explaining the Bookstore’s religious views concerning sex and gender, any of which may lead a transgender-identifying person to feel subjectively unwelcome.

191. These clauses prohibit far more speech than is necessary to accomplish any legitimate government objective and reach protected statements that oppose or criticize someone’s ideas, beliefs, actions, or speech, or that exclusively favor someone’s ideas, beliefs, actions, or speech, or that use biological pronouns or declines to use inaccurate pronouns to convey a constitutionally protected message.

192. Born Again Used Books has not and will not engage in certain protected speech because of CADA, including but not limited to the pronoun policy, the pronoun blog post, and materially similar statements.

193. Accordingly, as applied to Born Again Used Books, CADA violates the First Amendment’s protection for free speech, free association, assembly, and press.

194. And the Unwelcome Clause, Unwelcome Advertisement Clause, and gender-expression definition (as that definition applies through the Public Accommodation Clauses and Advertisement Clauses) facially violate the First Amendment’s protection for free speech, free association, assembly, and press.

195. Along with Born Again Used Books, the Unwelcome Clause, Unwelcome Advertisement Clause, and gender-expression definition (as that definition applies through the Public Accommodation Clauses and Advertisement Clauses) burden the protected speech of other places of public accommodation regulated by CADA.

196. Born Again Used Books has standing to facially challenge the Unwelcome Clause, Unwelcome Advertisement Clause, and gender-expression definition (as that definition applies through the Public Accommodation Clauses and Advertisement Clauses) on behalf of these third parties, and Born Again Used Books asserts the rights of these third parties to facially challenge these provisions.

Second Cause of Action: Free Exercise of Religion

197. Born Again Used Books repeats and realleges each allegation contained in paragraphs 1 through 181 of this complaint.

198. The First Amendment's Free Exercise Clause protects Born Again Used Books' right to own and operate its business, to create or not create expression, to participate or not participate in religious exercises, to speak or not to speak, and to associate or not to associate in accordance with their religious beliefs.

199. The First Amendment doubly protects religious speech under the hybrid rights doctrine—the free exercise of religion in conjunction with other rights, namely the right to free speech.

200. As set forth more fully in ¶¶ 47–78 of this Verified Complaint, which are hereby incorporated by reference, in an effort to be transparent about its religious faith and to promote Christian teaching, Born Again Used Books desires to engage in certain activities, such as formally adopting a pronoun policy in writing and communicating about that policy. These activities constitute the exercise of Born Again Used Books' religious faith.

201. As applied to Born Again Used Books, CADA substantially burdens the Bookstore's sincerely held religious beliefs by preventing it from formally adopting and communicating policies consistent with its religious views on human sexuality and gender identity, and by preventing its religiously motivated speech.

202. Born Again Used Books credibly fears prosecution under CADA for the reasons outlined in ¶¶ 89–133 of this Verified Complaint, which are hereby incorporated by reference.

203. Enforcement of CADA would place a substantial burden on Born Again Used Books, as set forth in ¶¶ 134–164 of the Verified Complaint, which are hereby incorporated by reference.

204. As set forth more fully in ¶¶ 165–176 of the Verified Complaint, which are incorporated by reference, CADA impermissibly prefers secular views over religious views, and certain religious views over others, by allowing those who own and operate public accommodations to express beliefs in favor of gender transition but not allowing them to express religious beliefs about the immutability of biological sex, and by burdening the speech of business with certain religious views while declining to burden the speech of businesses with secular or preferred religious views.

205. CADA is not neutral or generally applicable because it contains several exemptions.

206. For example, the Public Accommodation Clauses exempt religious organizations and entities providing single-sex spaces. Colo. Rev. Stat. §§ 24-34-601(2)(a), (3).

207. The Advertisement Clauses exempt private communications sent over mail in response to an inquiry. *Id.* § 24-34-704.

208. CADA's housing provisions exempt individuals who rent out space from their own dwelling, *id.* § 24-34-302, and it exempts religious organizations from its ban on religious discrimination, *id.* § 24-34-502(3).

209. And CADA bans discriminatory advertisements for employment “unless based on a bona fide occupational qualification or required by and given to an agency of government for security reasons.” *Id.* § 24-34-402(1)(c).

210. Despite these exemptions available for various parties under CADA, Defendants will not grant a religious exemption to Born Again Used Books.

Third Cause of Action: Vagueness Under Fourteenth Amendment’s Due Process Clause

211. Born Again Used Books repeats and realleges each allegation contained in paragraphs 1 through 181 of this complaint.

212. The Fourteenth Amendment’s Due Process Clause prohibits the government from censoring speech using vague standards that grant unbridled discretion to government officials to arbitrarily prohibit some speech and that fail to give speakers sufficient notice regarding whether their desired speech violates CADA.

213. The Unwelcome Clause prohibits any place of public accommodation from “directly or indirectly” publishing, circulating, issuing, displaying, posting, or mailing any communication, notice, or advertisement that “indicates” that an individual’s patronage or presence is “unwelcome, unacceptable, or undesirable” because of gender expression.

214. Born Again Used Books, Defendants, and third parties of ordinary intelligence cannot know what communications made on a public accommodation’s website, made on a public accommodation’s social media sites, made through mail, or made directly to the public “indicates” “directly or indirectly” that an individual’s patronage or presence is “unwelcome, unacceptable, or undesirable” because of gender expression.

215. These terms are also overbroad because they prohibit speech that may cause a person to feel unwelcome, unacceptable, or undesirable but is constitutionally protected because the government lacks a sufficient interest in restricting it, and the restriction is not properly tailored.

216. The Unwelcome Advertisement Clause prohibits any place of public accommodation from “directly or indirectly” publishing, issuing, circulating, sending, distributing, giving away, or displaying any communication that “[s]tates that the patronage, custom, presence, frequenting, dwelling, staying, or lodging at the place by any person or class of persons belonging to” any gender expression “is unwelcome or objectionable or not acceptable, desired, or solicited.”

217. Born Again Used Books, Defendants, and third parties of ordinary intelligence cannot know what communications made on a public accommodation’s website, made on a public accommodation’s social media sites, made through mail, or made directly to the public states “directly or indirectly” that a person’s patronage or presence is “unwelcome or objectionable or not acceptable, desired, or solicited” because of gender expression.

218. These terms are also overbroad and vague because they prohibit speech that may cause a person to feel unwelcome, unacceptable, undesirable, or unsolicited but is constitutionally protected because the government lacks a compelling interest in restricting it, and the restriction is not narrowly tailored.

219. CADA’s definition of “chosen name”—as it is incorporated into the Public Accommodation Clauses and Advertisement Clauses—is also unconstitutionally vague.

220. The definition requires Born Again Used Books to use an individual's "chosen name" unless the name "contain[s] offensive language" or the individual is requesting the chosen name "for frivolous purposes."

221. Born Again Used Books, Defendants, and third parties of reasonable intelligence cannot know what communications are required or prohibited due to the offensiveness and frivolity exceptions.

222. Born Again Used Books, Defendants, and third parties of reasonable intelligence, therefore, cannot know what is prohibited by CADA.

223. Defendants can use this vagueness, overbreadth, and accompanying unbridled discretion to apply the Unwelcome Clause, the Unwelcome Advertisement Clause, and the gender expression definition in a way that discriminates against content, viewpoints, and actions Defendants disfavor.

224. Accordingly, facially and as applied to Born Again Used Books, the Unwelcome Clause, the Unwelcome Advertisement Clause, and the gender expression definition violate the Fourteenth Amendment's Due Process Clause.

Fourth Cause of Action: Violation of the Fourteenth Amendment's Equal Protection Clause

225. Born Again Used Books repeats and realleges each allegation contained in paragraphs 1 through 181 of this complaint.

226. The Fourteenth Amendment's "Equal Protection Clause requires that statutes affecting First Amendment interests be narrowly tailored to their legitimate objectives." *Police Dep't of the City of Chi. v. Mosley*, 408 U.S. 92, 101 (1972).

227. CADA impermissibly infringes on the fundamental right to speak freely.

228. CADA affects First Amendment interests by compelling and restricting speech about sex and gender—prohibiting public accommodations from using biologically accurate names, pronouns, titles, and similar language and compelling the use of inaccurate names, pronouns, titles, and similar language.

229. CADA discriminates based on the content and viewpoint of speech because it prohibits biologically accurate speech affirming that sex is biological and immutable, while permitting biologically inaccurate speech affirming that sex can be changed. The law is therefore subject to strict scrutiny.

230. CADA fails to satisfy rational basis or strict scrutiny review because it is not narrowly tailored to any legitimate government objective—indeed, it is both overinclusive and underinclusive—and thus violates the Equal Protection Clause.

231. CADA also violates the Equal Protection Clause by burdening public accommodations' free-speech rights, permitting and compelling speech espousing certain viewpoints (using biologically inaccurate language) while prohibiting speech espousing other viewpoints (using biologically accurate language), and excluding and punishing speech that the government disfavors while allowing speech the government favors on that same topic.

232. CADA also violates the Equal Protection Clause by discriminating against religious entities like Born Again Used Books that cannot use biologically inaccurate language because of their religious beliefs.

233. Religion is a suspect class under the Equal Protection Clause, and laws that discriminate between religion and non-religion are subject to strict scrutiny.

234. While secular entities like the bookstores described in ¶¶ 166–172 of this Verified Complaint are free to use the biologically inaccurate language they

prefer, religious entities like Born Again Used Books cannot use the biologically accurate language their faith requires.

235. For example, the secular Colorado Springs Bookstore Westside Stories can brand itself as an “LGBTQIA+ safe space,” *supra* ¶ 167, referring to transgender-identifying customers using preferred names, pronouns, and titles to foster this environment.

236. But Born Again Used Books cannot foster the Christ-honoring environment it desires to offer customers by exclusively using the biologically accurate names, titles, and pronouns that the store’s faith demands.

237. Accordingly, as applied to Born Again Used Books, CADA violates the Equal Protection Clause.

WHEREFORE, Born Again Used Books respectfully prays that the Court grant the equitable and legal relief set forth hereinafter in the Prayer for Relief.

VIII. PRAYER FOR RELIEF

Born Again Used Books respectfully requests that this Court enter judgment against Defendants and provide the following relief:

1. A preliminary and permanent injunction to stop Defendants and any person acting in concert with them from:
 - a. Enforcing CADA as applied to Born Again Used Books’ constitutionally protected speech, association, assembly, due process, free press, religious exercise, and equal protection rights;
 - b. Enforcing CADA as applied to third-party speakers similarly situated to Born Again Used Books;
 - c. Enforcing the Unwelcome Clause and Unwelcome Advertisement Clause facially; and

d. Enforcing the gender-expression and chosen-name definitions as they are incorporated into the Public Accommodation Clauses and Advertisement Clauses facially.

2. A declaration that CADA has violated and continues to violate Born Again Used Books' constitutional rights to engage in free speech, association, assembly, press, and free exercise of religion and to the equal protection of the laws as applied to Born Again Used Books' constitutionally protected expression and activities;

3. A declaration that the Unwelcome Clause, Unwelcome Advertisement Clause, gender-expression definition, and chosen-name definition, as it is incorporated into the Public Accommodation Clauses and Advertisement Clauses, facially violate the First Amendment's protections for speech and press, and that the Unwelcome Clause and Unwelcome Advertisement Clause facially violate the Fourteenth Amendment's protections for due process;

4. That this Court adjudge, decree, and declare the rights and other legal relations of the parties to the subject matter here in controversy so that these declarations have the force and effect of a final judgment;

5. That this Court retain jurisdiction of this matter for the purpose of enforcing its orders;

6. That this Court award Born Again Used Books' costs and expenses in this action, including reasonable attorneys' fees, in accordance with 42 U.S.C. § 1988;

7. That this Court issue the requested injunctive relief without a condition of bond or other security required of Born Again Used Books; and

8. That this Court grant any other relief that it deems equitable and just in the circumstances.

Respectfully submitted this 16th day of July, 2025.

s/ Henry W. Frampton, IV
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DECLARATION UNDER PENALTY OF PERJURY

I, Eric Smith, a citizen of the United States and a resident of the State of Colorado, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct to the best of my knowledge.

Executed this 15th day of July, 2025, at Colorado Springs,
Colorado.

A handwritten signature in black ink, appearing to read "Eric Smith", written over a horizontal line.

Eric Smith