

# **‘Collectively Lost Their Minds’: 9th Circuit Backs Access for Biological Men at Women’s Spa**

[Fred Lucas](#) | March 13, 2026

An appeals court determined that biological men should be permitted to enter an all-female spa for ages 13 and up in Washington state—prompting a federal judge to issue a blunt dissent.

In *Olympus Spa v. Armstrong*, the 9th U.S. Circuit Court of Appeals held that Washington state can enforce an anti-discrimination law to allow a biological man to enter the spa if he identifies as a woman.

The facility in question is a Korean-inspired women’s spa that limits admission to females only, because its services involve full nudity for Korean scrubs, communal bathing, saunas, and massages, according to the Pacific Justice Institute.

The Washington State Human Rights Commission alleged the spa violated the state’s public accommodation law and the Washington Law Against Discrimination.

A three-judge panel for the 9th Circuit dismissed the spa’s First Amendment arguments for free exercise of religion and freedom of association in a May 2025 ruling. The 9th Circuit this week denied a rehearing in the case by the full bench, prompting a fiery dissent from one of the judges.

Judge Lawrence VanDyke, appointed to the 9th Circuit by President Donald Trump, used [colorful language in his dissent](#) that he acknowledged was not traditional.

“This is a case about swinging d—. The Christian owners of Olympus Spa—a traditional Korean, women-only, nude spa—understandably don’t want them in their spa,” VanDyke wrote. “Their female employees and female clients don’t want them in their spa either. But Washington State insists on them. And now so does the Ninth Circuit.”

He added, “As much as you might understandably be shocked and displeased to merely encounter that phrase in this opinion, I hope we all can agree that it is far more jarring for the unsuspecting and exposed women at Olympus Spa—some as young as thirteen—to be visually assaulted by the real thing.”

He said that “supposed adults in the room have collectively lost their minds.”

Judge Mary Margaret McKeown issued a response that was joined by 28 of the 51 judges on the circuit.

“That language makes us sound like juveniles, not judges, and it undermines public trust in the courts,” McKeown wrote. “The lead dissent’s use of such coarse language and invective may make for publicity or entertainment value, but it has no place in a judicial opinion.”

VanDyke issued a response to the critique.

“Yes, the introduction to this dissent intentionally uses indecorous language. But that is quite literally what this case is about,” he wrote in the response. “Male genitalia is precisely (and only) what the Spa, for religious reasons, objects to admitting into its female-only space. The fact that so many on our court want to pretend that this case is about anything other than swinging d— is the very reason the shocking language is necessary.”

The case could move to the Supreme Court. In *303 Creative LLC v. Elenis*, justices found in 2023 that the First Amendment protects a designer from compelled speech. Similarly, the high court ruled in the 2018 case of *Masterpiece Cakeshop v. Colorado Civil Rights Commission* that designing a cake a certain way could be compelled speech.

However, the 9th Circuit panel acknowledged those rulings but determined that a massage is not free expression.

“Women and girls are not publicly available goods or services,” Pacific Justice Institute Chief Legal Counsel Kevin T. Snider said in a statement.

“It is an abuse and perversion of public accommodation laws to give biological males access to the intimate spaces of unconsenting females when in a state of full

or partial undress. In a decent society, it is common sense that women and girls require privacy in their intimate spaces.”