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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

CV 2011-095986

JUANA GUTIERREZ; ROLANDO
MARTINEZ; FRANCISCO GARCIA;
JEHAN MAMO; and KAUKAB
SOHAIL,

Plaintiffs,

v.

DONNA AUNE, in her official capacity
as executive director of the Arizona
Board of Cosmetology; and GARY
BEGLEY; KARLA CLODFELTER;
SANDRA HECKSEL; CHERYL
CHELIUS; JOE VERDUGO; LARRY
BULECHEK; and JESSICA STALL, all
in their official capacities as members of
the Arizona Board of Cosmetology,

Defendants.

Case No. _____

COMPLAINT

(Declaratory and Injunctive Relief)

Introduction and Nature of the Suit

1. This is a civil rights lawsuit to vindicate the right of Plaintiffs Juana Gutierrez, Rolando Martinez, Francisco Garcia, Jehan Mamo, and Kaukab Sohail to work in the occupation of their choice, free from arbitrary and unreasonable government regulation. This right—the right to economic liberty—is protected by the Arizona Constitution.
2. Each Plaintiff is currently employed as a “threader.” Threaders use a single strand of cotton thread, wound tightly around their hands to form a loop, to trap and remove unwanted hair from its follicles by brushing the thread along the customers’ skin.
3. Threading is a safe and sanitary practice.
4. Threading is an ancient art that has been practiced for centuries in Asia and the Middle East.
5. The Arizona Board of Cosmetology (the “Board”) has determined that the practice of threading is within the Board’s jurisdiction. That determination means the Board now requires that: (1) any person who practices threading must first obtain an occupational license issued by the Board; (2) all threading must occur in a Board-licensed establishment; and (3) the practice of threading must comply with all of the Board’s regulations governing the practice of cosmetology.
6. In so determining, the Board has exceeded the state’s legitimate police powers. It has exceeded its powers because it is uninformed about the practice of threading and has nevertheless decided to regulate the practice in order to protect cosmetologists and aestheticians from economic competition.
7. The Arizona Board of Cosmetology’s uninformed and arbitrary application of Arizona’s cosmetology licensing laws and regulations to individual threaders and to the practice of

threading jeopardizes Plaintiffs' continued employment and, therefore, their livelihoods.

8. The Arizona Constitution's Due Process and Equal Privileges or Immunities clauses protect each Plaintiff's fundamental right to earn an honest living free from unreasonable regulation and prohibit the Board's arbitrary and unreasonable application of Arizona's cosmetology licensing laws to Plaintiffs.

Parties

9. Plaintiff Juana Gutierrez is a United States citizen and a resident of Maricopa County. She has been threading for eight years. She currently works as a threader and manages six threading kiosks in Phoenix-area malls. She does not have a license issued by the Board. The kiosks where she threads, as well as the kiosks she manages, are not licensed by the Board as salons. As a new mom, she cannot afford to stop threading. She also cannot afford beauty school or to pay a hefty fine.
10. Plaintiff Rolando Martinez is a United States citizen and a resident of Maricopa County. He has been threading for 14 years and is a threader at Phoenix-area kiosks. He is also the regional director for a national company that operates threading kiosks in seven states. He maintains a loyal clientele of nearly 600 people—including licensed cosmetologists and aestheticians. He does not have a license issued by the Board. The kiosks where he threads, as well as the kiosks he manages, are not licensed by the Board as salons.
11. Plaintiff Francisco Garcia is a United States citizen and a resident of Maricopa County. He has been threading for two years and has a loyal clientele. He does not have a license issued by the Board. The kiosk where he threads is not licensed by the Board as a salon.
12. Plaintiff Jehan Mamo is a permanent resident of the United States and a resident of

Maricopa County. She has been threading for 15 years. Prior to immigrating to the United States, she managed a salon in Iraq for seven years and held a cosmetology license there. She now practices threading at a kiosk in the Phoenix area. She is the sole breadwinner for her family. She cannot afford to stop threading. She cannot afford beauty school or to pay a hefty fine. She does not have a license issued by the Board. The kiosk where she threads is not licensed by the Board as a salon.

13. Plaintiff Kaukab Sohail is a permanent resident of the United States and is a resident of Maricopa County. She has been threading for 25 years and learned while working at a salon in Pakistan. She is currently working as a threader at a Phoenix-area kiosk. Kaukab's income helps support her family and pay for her sons' college educations. She does not have a license issued by Board. The kiosk where she threads is not licensed by the Board as a salon.
14. Defendant Donna Aune is the Executive Director of the Board and is sued in her official capacity.
15. Defendant Gary Begley owns IMAj Institute, a Board-licensed aesthetics and laser hair removal training school. Begley is a member and current chair of the Board, and is sued in his official capacity.
16. Defendant Karla Clodfelter is a Board-licensed cosmetologist, is a member and current vice-chair of the Board, and is sued in her official capacity.
17. Defendant Sandra Hecksel is the "public educator" member of the Board, is the current secretary and treasurer of the Board, and is sued in her official capacity.
18. Defendant Cheryl Chelius is a Board-licensed cosmetologist, is a member of the Board, and is sued in her official capacity.

19. Defendant Joe Verdugo is licensed by the Board to practice nail technology, is a member of the Board, and is sued in his official capacity.
20. Defendant Larry Bulechek is a Board-licensed cosmetology instructor, is a member of the Board, and is sued in his official capacity.
21. Defendant Jessica Stall is the public member of the Board and is sued in her official capacity.

Jurisdiction and Venue

22. Plaintiffs seek declaratory and injunctive relief pursuant to Ariz. Rev. Stat. Ann. (A.R.S.) §§ 12-1801 and 12-1831 *et seq.* Plaintiffs ask this Court to declare that the application of A.R.S. §§ 32-501 *et seq.* and Ariz. Admin. Code R4-10-101 *et seq.* to threaders and to the practice of threading is unconstitutional, and to enjoin Defendants from enforcing those laws and regulations against threaders and the practice of threading.
23. Plaintiffs seek to vindicate their rights pursuant to Article 2, Sections 4 and 13 of the Arizona Constitution.
24. This Court has jurisdiction pursuant to Article 6, Section 14 of the Arizona Constitution and A.R.S. § 12-123.
25. Venue is proper in Maricopa County pursuant to A.R.S. § 12-401(16).

Factual Allegations

The Art of Threading

26. Plaintiffs incorporate and re-allege all the allegations set forth above.
27. Threading is a simple, all-natural practice that involves the removal of human hair, most commonly around the eyebrows, with a single strand of cotton thread.
28. Threaders wind the cotton thread between their fingers to form a loop so that when the

- thread is brushed along the skin, the loop can be opened and closed by increasing and decreasing the tension on the thread in order to trap and remove hair from its follicles.
29. Many threaders anchor the thread around their necks or between their teeth in order to create the necessary tension.
 30. There are no health risks associated with anchoring the thread between the teeth because that portion of the thread never touches or comes close to touching the customer's skin.
 31. Threading is a non-invasive and precise method for removing narrow bands of hair, making it ideal for shaping eyebrows.
 32. Threading does not involve the use of any chemicals, heat, wax, or sharp objects.
 33. Some threaders apply over-the-counter astringents, such as witch hazel, or over-the-counter powders, such as baby powder, to soothe hair follicles before and/or after threading.
 34. Threading involves a new, sanitary piece of thread for each customer.
 35. It is customary for threaders to wash or sanitize their hands after threading each customer and before threading a new customer.
 36. It is also customary for threaders to clean the chair between customers.

The Benefits of Threading

37. Plaintiffs incorporate and re-allege all the allegations set forth above.
38. The practice of threading is distinct and different from other hair removal methods that are more common in the United States, such as waxing, tweezing, and chemical depilatories.
39. Many customers with skin too sensitive for waxing or who have been injured by waxing turn to threading.

40. Threading does not irritate the skin like other hair removal techniques, particularly those techniques that involve hot wax and chemicals.
41. Threading does not risk burning or removing a customer's skin.
42. Threading is inexpensive and faster than other forms of hair removal—it seldom costs more than ten dollars and can be performed in approximately five minutes.
43. The simplicity and low cost of threading—for both threading businesses and their customers—creates vibrant competition with other hair removal practices, thus keeping prices low for all types of commercial hair removal services.

Arizona's Regulation of Cosmetology and Aesthetics

44. Plaintiffs incorporate and re-allege all the allegations set forth above.
45. A.R.S. § 32-501(6) defines cosmetology, in relevant part, as “any one or combination of the following practices if they are performed for cosmetic purposes: . . . (d) Arching eyebrows or tinting eyebrows and eyelashes; (e) Removing superfluous hair by means other than electrolysis”
46. A.R.S. § 32-501(2) defines aesthetics, in relevant part, as “any one or a combination of the following practices if they are performed for cosmetic purposes: . . . (b) Arching eyebrows or tinting eyebrows and eyelashes; (c) Removing superfluous hair by means other than electrolysis”
47. Licensed cosmetologists are permitted to practice aesthetics.
48. No person is permitted to perform or attempt to perform cosmetology or aesthetics without a Board-issued license. No one can allow an employee or another person under the person's supervision or control to perform cosmetology or aesthetics without a Board-issued license. A.R.S. § 32-574.

49. Both cosmetology and aesthetics may only be practiced in a Board-licensed salon.
A.R.S. § 32-574(A)(6).
50. Any person who performs cosmetology or aesthetics without a license or who employs a person performing cosmetology or aesthetics without a license is guilty of a class 1 misdemeanor. A.R.S. § 32-574(C). Class 1 misdemeanors are punishable by up to \$2500.00 in fines and up to six months in jail. A.R.S. §§ 13-707, -802.
51. The Board has the power to seek an order from the superior court enjoining alleged violations of the cosmetology regulations, including the practice of cosmetology or aesthetics without a license. A.R.S. § 32-575.

The Cosmetologist's License

52. Plaintiffs incorporate and re-allege all the allegations set forth above.
53. To obtain a cosmetologist's license, A.R.S. § 32-511(3)(a) requires 1600 hours of training in a privately owned and operated school that is licensed by the Board.
54. Ariz. Admin. Code R4-10-304 sets forth the minimum required cosmetology curriculum:
1. Theory of cosmetology, infection control, anatomy, physiology and histology of the body, electricity, diseases and disorders, and Arizona cosmetology laws and rules; and
 2. Clinical and laboratory cosmetology including theory that involves nails, hair, and skin:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the hair, skin, and nails;
 - c. Morphology and treatment of hair, skin, and nails;
 - d. Interpersonal skills and professional ethics;
 - e. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - f. Cosmetology machines, tools, and instruments and their related uses;
 - g. Chemical texturizing;
 - h. Changing existing hair color;
 - i. Hair and scalp care;
 - j. Fundamentals of hairstyling including braiding and extensions;
 - k. Body, scalp, and facial massage and manipulations;

- l. Hair cutting fundamentals;
- m. Fundamental aesthetics of the body and face;
- n. Fundamentals of nail technology;
- o. Clinical and laboratory practice that includes hair, skin, and nails;
- p. Alternative hair, skin, and nail technology;
- q. Pre- and post-client consultation, documentation, and analysis;
- r. Body and facial hair removal except by electrolysis;
- s. Introduction to electricity and light therapy for cosmetic purposes including laser/Intense Pulsed Light (IPL) procedures and devices;
- t. Cosmetology technology; and
- u. Required industry standards and ecology, including monitor duties.

55. Upon information and belief, Board-approved cosmetology school can take up to 15 months of full-time study and can cost over \$18,000.
56. Board-approved cosmetology schools are not required to teach or provide training in the art of threading.
57. Upon information and belief, Board-approved cosmetology schools do not teach or provide training in the art of threading.
58. Pursuant to A.R.S. § 32-511, a person is entitled to receive a cosmetologist's license if the person:
- 1. Submits to the Board an application for a cosmetologist license on a form supplied by the Board.
 - 2. Completes and receives appropriate credits for at least two years of high school education or its equivalent as prescribed by the Board in its rules or submits satisfactory evidence that the person is at least twenty-three years of age.
 - 3. Submits to the Board satisfactory evidence of either of the following:
 - a. That the person is a graduate of a cosmetology course consisting of at least 1600 hours of training in a school licensed pursuant to this chapter.
 - b. That the person is a graduate of a cosmetology school in another state or country that had at the time of the person's graduation substantially the same requirements as this state for schools licensed pursuant to this chapter.
 - 4. Passes the examination for a cosmetologist license.
 - 5. Pays the prescribed fees.
59. Upon information and belief, the cosmetologist's licensing exam does not test knowledge of, or proficiency in, the art of threading. The exam is only offered in English.

The Aesthetician's License

60. Plaintiffs incorporate and re-allege all the allegations set forth above.
61. To obtain an aesthetician's license, A.R.S. § 32-510(3)(b) requires 600 hours of training in a privately owned and operated school that is licensed by the Board.
62. Ariz. Admin. Code R4-10-303 sets forth the minimum required aesthetics curriculum:
 1. Theory of aesthetics, infection control, anatomy, physiology and histology of the body, diseases and disorders, and Arizona cosmetology laws and rules; and
 2. Clinical and laboratory aesthetics including theory that involves all skin types:
 - a. Principles and practices of infection control and safety;
 - b. Recognition of diseases and the treatment of disorders of the skin;
 - c. Interpersonal skills and professional ethics;
 - d. Clinical and laboratory practice that includes face and body;
 - e. Morphology and treatment of skin, including face and body, by hand and machine;
 - f. Product pharmacology and chemistry interaction, formulation, composition, and hazards;
 - g. Aesthetics machines, tools, and instruments and their related uses;
 - h. Alternative skin technology;
 - i. Pre- and post-client consultation, documentation, and analysis;
 - j. Spa body modalities;
 - k. Exfoliation modalities;
 - l. Body and face massage and manipulations;
 - m. Body and facial hair removal except by electrolysis;
 - n. Introduction to electricity and light therapy for cosmetic purposes including laser/Intense Pulsed Light (IPL) procedures and devices;
 - o. Cosmetic enhancement applications; and
 - p. Required industry standards and ecology, including monitor duties.
63. Upon information and belief, Board-approved aesthetician school can take up to ten months of full-time study and can cost over \$10,000.
64. Board-approved aesthetician schools are not required to teach or provide training in the art of threading.
65. Upon information and belief, Board-approved aesthetician schools do not teach or provide training in the art of threading.
66. Pursuant to A.R.S. § 32-510, a person is entitled to receive an aesthetician's license if the

person:

1. Submits to the Board an application for an aesthetician's license on a form supplied by the Board.
 2. Completes and receives appropriate credits for at least two years of high school education or its equivalent as prescribed by the Board in its rules or submits to the Board satisfactory evidence that the person is at least twenty-three years of age.
 3. Submits to the Board satisfactory evidence of either of the following:
 - a. That the person is a graduate of an aesthetician school in another state or country that has substantially the same requirements as this state for schools licensed pursuant to this chapter.
 - b. That the person is a graduate of an aesthetician course consisting of at least 600 hours of training in a school licensed pursuant to this chapter.
 4. Passes the examination for an aesthetician's license.
 5. Pays the prescribed fees for an aesthetician's license.
67. Upon information and belief, the aesthetician license exam does not test knowledge of, or proficiency in, the art of threading. The exam is only offered in English.
68. Neither the Board-approved cosmetologist nor aesthetician curriculum includes any instruction in threading.
69. Arizona's cosmetology laws and regulations were written without ever considering the practice of threading.
70. Threaders are not required to be licensed as aestheticians or cosmetologists in many of Arizona's neighboring states including California, Utah, Colorado and Nevada. Cal. Stat. § 7316(d)(3); Utah Stat. § 58-11a-102(25)(c); Colo. Rev. Stat. § 12-8-103(9); Nev. Stat. § 644.023(2).

The Board's Actions Relating to Threaders and Threading

71. Plaintiffs incorporate and re-allege all the allegations set forth above.
72. On August 14, 2009, during a regularly scheduled meeting, the Board decided that the practice of threading falls within its jurisdiction because both cosmetology and aesthetics include the "removal of superfluous hair by means other than electrolysis."

73. The Board's decision means that all individuals must obtain a Board-issued license in order to work as a threader and they must work only in a Board-licensed salon.
74. The Board's decision requires threaders, at a minimum, to attend a Board-licensed, but privately owned, beauty school for 600 hours of training as an aesthetician and to pass the Board's aesthetician's licensing exam.
75. At the August 14, 2009 Board meeting, the Board also approved the text of a letter, which was subsequently signed by Defendant Donna Aune and mailed to threading businesses and to individual malls informing them about the Board's decision.
76. The Board-approved letter from Defendant Aune asserts and states that:

By performing threading in an unlicensed establishment by unlicensed and untrained individuals you are putting the public at risk for infections and/or injuries. YOU MUST CEASE THE PRACTICE OF THREADING IN AN UNLICENSED ESTABLISHMENT BY UNLICENSED INDIVIDUALS IMMEDIATELY.

The practice of cosmetology without a license is a criminal misdemeanor. See A.R.S. § 32-574(C). If you do not immediately cease this practice the Board has directed [sic] staff to refer this matter to the city in which you are practicing threading for criminal prosecution.

77. Defendant Aune has signed and mailed at least 10 of these Board-approved letters to individual businesses and various mall's management. Upon information and belief, the first of these letters were mailed on or about August 17, 2009. Identical letters have been mailed as recently as January 19, 2010.
78. The company where Plaintiffs work received one of Defendant Aune's letters.
79. The Board revisited the issue of threading at its June 18, 2010 meeting and decided to send a letter to licensed cosmetology and aesthetician schools regarding threading. The result of the Board's decision was an e-mail to the various beauty schools from Pamela

Hranac, the Board's Supervisor of Examinations, stating:

At its June 18, 2010 Board meeting, the Board considered the issue of threading which is the process of removing facial hair with the use of threads. The Board made its position clear that because it has jurisdiction over the removal of hair by any means other than electrolysis, it has jurisdiction over threading pursuant to A.R.S. § 32-501. Therefore, threading should be performed by licensed individuals in licensed establishments.

80. Neither this e-mail nor any other Board action requires beauty schools to include threading in its curriculum or teach threading as part of their classes.
81. Board investigators routinely issue inspection reports regarding unlicensed threading establishments and investigate complaints regarding businesses employing unlicensed threaders.
82. Upon information and belief, the Board has considered at least 18 complaints against unlicensed threading establishments, including complaints against the company where Plaintiffs work, between January 2009 and June 2011. All of these complaints were referred to city prosecutors for possible criminal prosecution.
83. Upon information and belief, the Board has considered at least three complaints of unlicensed threaders working in a licensed salon between January 2009 and June 2011. The complaints involving unlicensed threaders working in a licensed salon resulted in Board-imposed fines ranging from \$500 to \$1000 and probation of up to six months.

Plaintiffs' Injuries

84. Plaintiffs incorporate and re-allege all the allegations set forth above.
85. Each day Plaintiffs go to work as unlicensed threaders at unlicensed establishments, they are under threat of losing their jobs because of the Board's decision that threading falls

within its jurisdiction and can only be performed by Board-licensed individuals in a Board-licensed establishment.

86. Each day Plaintiffs go to work as unlicensed threaders at unlicensed establishments, they are under the threat of criminal prosecution that could include the payment of hefty fines and even imprisonment because of the Board's decision to refer all complaints regarding unlicensed threaders and unlicensed threading establishments to city prosecutors for criminal prosecution.
87. Each day Plaintiffs go to work as unlicensed threaders at unlicensed establishments, they are under the threat of a Board-instituted action in the Superior Court to have their employment enjoined because of the Board's statutory power to apply to the Superior Court for an injunction against violations of the state's cosmetology laws and regulations.
88. Plaintiffs pursue an honest living in their chosen field by offering their skills as threaders to individuals who are willing to pay for a safe, reasonably priced grooming service.
89. Plaintiffs only wish to thread. They do not desire to perform any of the services performed by aestheticians and/or cosmetologists.
90. The Board's required curricula and exams teach a host of irrelevant practices including but not limited to hairstyling, dying, nail care, makeup, massage, and facial treatments.
91. The Board does not require threading in any of its curricula; Board-licensed schools do not teach threading; and the Board does not test competency in threading prior to issuing any of its licenses.
92. The current regulatory scheme, as interpreted by the Board and applied to threaders and the practice of threading, limits entry into the threading occupation to those who can spare months of their time and thousands of their dollars on classes and exams that do not

teach or test threading. Threaders are thus forced to take classes in procedures they do not wish to learn in order to employ a skill they already know.

93. There is no Arizona license rationally related to the specialized work done by threaders.
94. Plaintiffs do not object to any legitimate regulation of threading that is rationally related to public health and safety objectives. In fact, Plaintiffs strive to satisfy the highest standards for health, safety, and professionalism.
95. Sadly, it appears that the Board is reacting to a practice that it does not understand—which is no way for the government to act.
96. At a recent oral argument in the Arizona Court of Appeals, in *Vong v. Aune*, No. 1 CA-CV 10-0587A—a case involving spa fish—the Board’s attorney demonstrated a severe lack of knowledge and understanding of threading. In response to a question about whether she would agree that regulating a practice the Board has never considered, nor written regulations to address, at least raises a legitimate constitutional issue, the Board’s lawyer stated:

No, I would not agree with that. I think it would be virtually impossible to come up with every possible scenario that individuals could come up with to cleanse. Now at the malls you’ll see these people with dental floss removing eyebrows; who would think to put that in a regulation or a statute? But that’s clearly something that’s the removal of hair. That’s an issue before the board. That’s not in a regulation.

97. Numerous states have managed to address threading in their regulations and statutes and many of those states, including Arizona’s neighboring states, have decided that threading is a safe and sanitary practice and that requiring threaders to obtain a license does not further the government’s legitimate interest in protecting the public’s health or safety.

98. The primary effect of applying Arizona's cosmetology licensing laws and regulations to threaders is to arbitrarily restrict entry into a harmless occupation and thereby fence out competition based only on the fact that threaders use a hair removal technique that differs from conventional cosmetology.

Count I

(Arizona Constitution Article 2, Section 4—Due Process)

99. Plaintiffs incorporate and re-allege all the allegations set forth above.
100. Article 2, Section 4 of the Arizona Constitution provides, "No person shall be deprived of life, liberty, or property without due process of law." Among the liberties secured by this provision is the right to earn an honest living in the occupation of one's choice free from unreasonable government regulation.
101. Defendants are subjecting Plaintiffs, who only engage in threading services, to laws and regulations that do not rationally pertain to threading.
102. The laws and regulations governing cosmetology and aesthetics far exceed any legitimate and rational public health and safety concerns about threaders and threading.
103. Requiring threaders to attend a privately owned and operated beauty school and enroll in irrelevant classes in order to obtain a Board-issued license, while failing to include instruction or training in the art of threading, is not rationally related to any public health or safety concerns.
104. Arizona's cosmetology laws and regulations as applied to Plaintiffs by Defendants, their agents and employees, acting under color of state law, unreasonably and arbitrarily restrict Plaintiffs' ability to pursue their chosen occupation. Thus, Defendants have violated the due process guarantee of the Arizona Constitution by applying Arizona's

cosmetology regulatory scheme to Plaintiffs and other threaders.

105. Plaintiffs have no adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights. Unless Defendants are enjoined from committing the above-described constitutional violations of Article 2, Section 4 of the Arizona Constitution, Plaintiffs and other threaders will continue to suffer great and irreparable harm.

Count II

(Arizona Constitution Article 2, Section 13—Equal Privileges or Immunities)

106. Plaintiffs incorporate and re-allege all the allegations set forth above.
107. By unreasonably and arbitrarily applying Arizona's cosmetology and aesthetics laws and regulations to threading, Defendants do not provide an equal opportunity for threaders to lawfully offer their services. Thus, Defendants, their agents and employees, acting under color of state law, violate Plaintiffs' economic liberty and their right to equal protection of the laws as guaranteed by Article 2, Section 13 of the Arizona Constitution, which states, "No law shall be enacted granting to any citizen, class of citizens, or corporations other than municipal, privileges or immunities which, upon the same terms, shall not equally belong to all citizens or corporations."
108. Among the privileges or immunities secured by the Arizona Constitution is the right to earn an honest living in the occupation of one's choice free from unreasonable government regulation.
109. Defendants' application of Arizona's cosmetology and aesthetics laws and regulations treats threading like any other hair removal practice, when threading is in fact a distinct and altogether different form of hair removal.

110. Application of Arizona's cosmetology laws and regulations to threading arbitrarily and unreasonably impairs Plaintiffs' ability to pursue their chosen livelihood by forcing Plaintiffs to obtain a license that is unrelated to their profession and subjecting them to fines and criminal penalties that threaten the existence of their jobs.
111. Defendants, as well as their agents and employees, acting under color of state law, have violated the equal privileges or immunities guarantee of Article 2, Section 13 of the Arizona Constitution by unreasonably applying Arizona's cosmetology regulatory framework to Plaintiffs and other threaders.
112. Plaintiffs have no other adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights. Unless Defendants are enjoined from committing the above-described constitutional violations of Article 2, Section 13 of the Arizona Constitution, Plaintiffs and other threaders will continue to suffer great and irreparable harm.

Request for Relief


To further the interests of equity and justice, Plaintiffs request this Court to award the following relief:

- A. Enter a judgment declaring that the application of A.R.S. §§ 32-501, *et seq.* and Ariz. Admin. Code R4-10-101, *et seq.*, to persons, including Plaintiffs, desiring to work or be employed solely as threaders, is unconstitutional in violation of Article 2, Sections 4 and 13 of the Arizona Constitution;
- B. Permanently enjoin Defendants and their agents and employees from enforcing A.R.S. §§ 32-501, *et seq.* and Ariz. Admin. Code R4-10-101, *et seq.* against threaders, including Plaintiffs, in a manner that impairs the opportunity to operate legitimate threading

- businesses and to engage in legitimate employment as threaders; and
- C. Permanently enjoin Defendants and their agents and employees from imposing fines, pursuing criminal penalties, pursuing injunctions, mailing letters to malls, unlicensed threading establishments, and unlicensed threaders threatening fines and/or criminal penalties, or otherwise subjecting threaders, including Plaintiffs, to harassment;
 - D. Award nominal damages in the amount of \$1.00;
 - E. Award attorneys' fees and costs in this action pursuant to A.R.S. §§ 12-341, 12-348, and the private attorney general doctrine.
 - F. Such additional relief as the Court deems just, equitable, and proper.

RESPECTFULLY SUBMITTED this 29th day of June, 2011.

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