

IN THE IOWA DISTRICT COURT IN AND FOR POLK COUNTY

<p>AICHERIA BELL and ACHAN AGIT,</p> <p>Plaintiffs,</p> <p>v.</p> <p>IOWA BOARD OF COSMETOLOGY ARTS AND SCIENCES, JACQUELYN HEIN, JEFF PORTER, DON NGUYEN, RICHARD SHERIFF, MARY CLAUSEN, NICOLE SCHULTZ, LOIS LEYTEM, in their official capacities as members of the board.</p> <p>Defendants.</p>	<p>Case No. _____</p> <p>PETITION FOR DECLARATORY AND INJUNCTIVE RELIEF</p>
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INTRODUCTION

This civil rights lawsuit seeks to vindicate the right of African-style hair braiders to earn a living free from arbitrary government regulation. Plaintiffs, Aicheria Bell and Achan Agit, seek to provide African-style hair braiding services for compensation in Iowa. They are unable to lawfully provide these services because of Iowa's burdensome and arbitrary occupational licensing laws. Iowa requires African-style braiders to obtain a cosmetology license, which necessitates graduating from high school or its equivalent, completing 2,100 hours at a licensed cosmetology school and passing a cosmetology exam. The state forces African-style hair braiders to satisfy these requirements even though these requirements are unrelated to the practice of African-style hair braiding. These laws deprive Plaintiffs and other African-style hair braiders of their constitutional right to

economic liberty, a right protected by Article I, Sections 1, 6 and 9 of the Iowa Constitution, and the Fourteenth Amendment to the U.S. Constitution.

JURISDICTION AND VENUE

1. Plaintiffs seek to vindicate their rights under Article I, Sections 1, 6 and 9 of the Iowa Constitution and the Fourteenth Amendment to the U.S. Constitution.

2. Plaintiffs seek declaratory and injunctive relief, and nominal damages, as alleged pursuant to Iowa Rules of Civil Procedure 1.1101 and 1.1106, and pursuant to any implied remedies under Article I, Sections 1, 6 and 9 of the Iowa Constitution. Plaintiffs also bring this action under the Civil Rights Act of 1871, 42 U.S.C. § 1983.

3. This Court has jurisdiction over Defendants pursuant to Iowa Code Ann. § 602.6101.

4. Venue is proper in Polk County pursuant to Iowa Code Ann. § 616.3(2).

THE PARTIES

5. Plaintiff Aicheria Bell is a United States citizen and a resident of the City of Des Moines, County of Polk, Iowa.

6. Plaintiff Achan Agit is a lawful permanent resident of the United States and a resident of the City of Des Moines, County of Polk, Iowa.

7. Defendant Iowa Board of Cosmetology Arts and Sciences (“the Board”) is a state board located at 321 E. 12th Street, City of Des Moines, County of Polk, Iowa. The Board is authorized by Iowa law to regulate the practice of cosmetology

and to administer the state's cosmetology licensing laws, including issuing the state's cosmetology licenses, prescribing the state's cosmetology licensing application and examination, and disciplining individuals deemed to be in violation of the state's cosmetology licensing laws. Iowa Code Ann. §§ 157.3, 157.13, 157.14.

8. Plaintiffs also sue the members of the Board, in their official capacities, as the agents ultimately responsible for carrying out enforcement of the cosmetology licensing regime. At the present time, Defendant Board members are: Jacquelyn Hein, Jeff Porter, Don Nguyen, Richard Sheriff, Mary Clausen, Nicole Schultz, and Lois Leytem.

STATEMENT OF FACTS

Plaintiff Aicheria Bell

9. Aicheria is an African-style hair braider. She has braided hair professionally in several states for the past 15 years, including Minnesota, Georgia and Iowa.

10. She has been braiding hair since age three. She first learned to braid hair from her mother, who was also a professional hair braider.

11. Aicheria is a single mother. In 2014, she moved to Des Moines because she had relatives in the area and wanted to raise her daughter near family.

12. Aicheria is passionate about natural hair care and enjoys sharing her passion with others. She believes hair braiding is an important part of her culture and teaches African-style hair braiding to her daughter and nieces.

13. Aicheria began braiding hair professionally in Minneapolis, Minnesota while in college. A salon owner invited her to braid hair in the salon for compensation.

14. While working in this salon, she saw the opportunity to earn a living braiding hair. She sought training at a cosmetology school in Minnetonka, Minnesota. She completed 918 out of 1,550 hours at this school but grew frustrated with the curriculum because she was not learning anything relevant to African-style hair braiding. She dropped out after spending \$18,000 in tuition because she needed an income to support her family and did not want to waste time or even more money receiving irrelevant training.

15. Aicheria voluntarily pursued additional training. She trained under African-style hair braiding instructors in Georgia and Texas to further develop her skills. None of this training satisfies Iowa's cosmetology licensing requirements.

16. When Aicheria first moved to Iowa, she considered attending cosmetology school to obtain a cosmetology license. She soon realized that the cosmetology schools in Iowa also did not teach African-style hair braiding. As a single mother in need of supporting herself and her daughter, she did not have the time or resources to pay thousands of dollars in tuition to again pursue irrelevant training.

17. She instead sought work and met a salon owner who was willing to rent a chair to her in a salon subject to certain conditions.

18. Prior to renting a chair to Aicheria, the salon owner called the Board and inquired about whether an unlicensed hair braider could work in her salon. Although state law requires African-style braiders to obtain a cosmetology license, an unknown individual at the Board informed the salon owner that an unlicensed hair braider could work in the salon so long as she only uses a comb. After this conversation, the salon owner felt comfortable renting the chair to Aicheria subject to this comb-only restriction.

19. Aicheria complies with this comb-only restriction. This restriction nevertheless limits the types of services she can provide to her customers. If she could use other braiding tools, such as threading instruments to attach weaves, she could better serve her customers' needs and enjoy increased financial stability and security.

20. Although Aicheria currently works in a salon, she fears the Board will take action against her. She is particularly concerned that she will one day lose the ability to pursue her passion and calling. She wishes to continue braiding without fear of criminal prosecution and fines.

21. If Aicheria could lawfully braid hair for compensation in Iowa, she would open her own business and provide her services to the public. She has assessed the local market and believes there is ample opportunity to open and grow her own business. Aicheria would also offer instruction and training in African-style hair braiding services, empowering others in her community to pursue employment and entrepreneurial opportunities braiding hair.

Plaintiff Achan Agit

22. Achan is an African-style hair braider living in Des Moines, Iowa. She first learned to braid hair as a child in Africa when she was five years old.

23. Achan was born in Sudan, now South Sudan. Her father passed away when she was a child. After he passed away, her mother could not afford to continue sending her to school, and she consequently received just four years of formal education. In 2001, she fled Sudan to escape civil war. She first went to Egypt, and in September 2004 came to America.

24. After arriving in America, Achan briefly lived in Lincoln, Nebraska and then moved to Kansas City, Missouri. In Kansas City, she learned to speak English while braiding hair in a salon. She saw potential to support her family as an African-style hair braider and decided to braid hair for a living.

25. In December 2008, Achan moved to Des Moines because she had extended family in the area and wanted to open her own braiding salon. She saved money and after a few months decided to open her own salon in Des Moines called African Dream. She planned to braid hair in the salon and to sell clothing and accessories.

26. When Achan sought a business license for her salon from the City of Des Moines, she learned it was illegal to braid hair in the state without a cosmetology license. Achan was unable to apply for a cosmetology license because she had not graduated from high school or its equivalent and could not attend cosmetology school. She nevertheless needed income to support her family and knew

braiding was her only reliable source of income. She operated African Dream as a retail store and braided hair until she became ill while pregnant. When she became ill, she did not want to risk hiring unlicensed braiders to work in her store. She feared the Board would discover she was breaking the law, and she would no longer be able to earn any income braiding hair. She closed her business in 2009.

27. Since 2009, Achan has braided hair out of her home in Des Moines, which she shares with her husband and children. She provides her services to neighbors and friends in exchange for compensation and goods such as diapers and food. She does not openly advertise her services out of fear that the Board will take action against her. She also works fewer hours than she would like to avoid drawing attention to herself.

28. Achan remains unable to apply for a cosmetology license because of her educational background. She also lacks the time and resources required to satisfy the state's cosmetology licensing requirements.

29. Achan wants to open her own braiding salon and braid hair at her salon without the threat of criminal prosecution and civil fines. She believes that owning her own braiding salon would provide her with more reliable and steady work. She could also advertise her services and grow her business, which would help her family have greater financial security and stability.

African-Style Hair Braiding

30. As used in this Complaint, “African-style hair braiding” refers to braiding, locking twisting, and weaving, or otherwise physically manipulating hair without the use of chemicals that alter the hair’s physical characteristics.

31. It is a method of natural hair care that employs both traditional and modern styling techniques.

32. African-style hair braiding is so called because it has distinct geographic, cultural, historical and racial roots. The practice originated many centuries ago in Africa and was later brought by Africans to this country, where the practice has endured and has grown into a unique and popular form of natural hair styling primarily done by and for people of African descent.

33. The practice of African-style hair braiding differs from other hair styling practices in the United States. African-style braiding is a labor-intensive process, usually taking one braider several hours to complete.

34. African-style hair braiding is typically performed on hair with unique physical characteristics—sometimes described as “tightly textured” or “coily hair.” This physical characteristic is genetically determined and closely correlated with race. In the United States, African-style hair braiding is most popular among men and women of African descent, who tend to have more textured hair. For many, the choice of African-style hair braiding (rather than conventional styles taught in cosmetology schools) is as much a cultural statement and an expression of self-identity as it is a matter of aesthetic preference.

35. African-style braiding is a cultural practice passed between generations. Often, persons of African descent learn to braid textured hair as children or teens from relatives and friends.

36. The concept of natural hair care is particularly meaningful for many African-Americans because for decades Western culture pressured African-Americans to use chemicals or heat to straighten their hair to imitate Western standards of beauty. These “corrective” methods continue to be prevalent and taught in American cosmetology schools. African-style braiding provides a natural alternative to these methods.

37. African-style hair braiding techniques are safe for braiders and customers. The practice of African-style hair braiding is completely natural. It involves no heat, chemicals, dyes, scissors or glue. Indeed, for many people with textured hair, African-style hair braiding offers relief from harsh chemical treatment of the hair. For example, sodium hydroxide, the active ingredient in many hair straighteners, has a high incidence of chemical burns because it is highly caustic and capable of burning human hair and skin.

38. While African-style hair braiding uses no chemicals to physically alter textured hair, the use of hair extensions can change the appearance of hair. They can be used to increase the versatility of natural hair, to make hair appear straight or curly, long or short, differently textured or colored, all without permanently altering or damaging the person’s hair.

39. African-style braiders do not use any chemicals or glues to attach hair extensions. Hair extensions are completely safe when they are attached by braiding, twisting, sewing and locking the extensions with the customer's natural hair.

40. Aicheria, Achan and other African-style hair braiders rely on their experience, skill and common tools that people use to beautify their own hair to create diverse, intricate and expressive hair styles.

Iowa's Cosmetology Licensing Laws

41. Iowa's cosmetology licensing laws are found at Iowa Code Ann. §§ 157.1 *et seq.*

42. Under Iowa Code Ann. § 157.2, "it is unlawful to practice cosmetology arts and sciences with or without compensation unless the person possesses a license."

43. Iowa Code Ann. § 157.1(5)(a) defines cosmetology to include the practice of "braiding."

44. As such, state law prohibits African-style hair braiding for compensation without a cosmetology license.

45. However, those who perform cosmetology services without compensation on an emergency or casual basis are excluded from the state's prohibition. Iowa Code Ann. § 157.2.

46. Iowa Code Ann. § 157.3(1)(a)-(c) requires applicants for a cosmetology license to satisfy all of the following requirements before they may obtain a license:

- a. Graduate from high school or its equivalent;

- b. Present a diploma, or similar evidence, issued by a licensed cosmetology school indicating completion of a course of study for a cosmetology license;
- c. Complete the application form prescribed by the Board;
- d. Pass an examination prescribed by the Board, which may include “both practical demonstrations and written or oral tests” and which are “not [to] be confined to any specific system or method.”

47. In addition, Iowa Code Ann. § 157.10(1) mandates the length of the course of study required for a cosmetology license: 2,100 clock hours, 70 semester credit hours, or the equivalent as determined pursuant to administrative rule and regulations promulgated by the United States Department of Education.

Iowa’s Mandatory Cosmetology Schooling and Curriculum

48. Iowa’s cosmetology licensing regulations are found at Iowa Admin. Code r. §§ 645.60.1 *et seq.*

49. Iowa Code Ann. § 157.10(1) and Iowa Admin. Code r. 645-61.14(1)-(3) establish the mandatory cosmetology curriculum.

50. Under Iowa Admin. Code r. 645-61.14(1)-(3), applicants for a cosmetology license must complete 2,100 hours of training, including training in the following areas for the following durations:

- a. Core Life Sciences 150 hours
 - (1) Human anatomy and physiology,
Cell metabolism and body systems,

- Human anatomy;
- (2) Bacteriology;
- (3) Infection control practices;
Universal precautions, sanitation,
Sterilization, Disinfection
- (4) Basic Chemistry;
- (5) Matter;
- (6) Elements: Compounds and mixtures;
- (7) Basic electricity;
- (8) Electrical measurements: Reproduction
of light rays, infrared rays, ultraviolet rays,
Visible rays/ spectrum;
- (9) Safety;
- (10) Hygiene and grooming:
Personal and professional health;
- (11) Professional ethics;
- (12) Public relations; and
- (13) State and federal law, administrative
rules and standards.

b.	Cosmetology Theory (including business and management related to the practice of cosmetology)	615 hours
c.	Applied practical instruction	<u>1335 hours</u>
	Total Course of Study:	2100 hours (70 semester hours)

51. All course subjects must relate to the discipline of cosmetology. Iowa Admin. Code r. 645-61.14(2)(b).

52. Iowa Admin. Code r. 645-61.14(2)(a) requires theory instruction to be taught from a “standard approved textbook.” Theory instruction may also be supplemented by other related textbooks. Iowa Admin. Code r. 645-61.14(2)(a).

53. The Board maintains a list of licensed cosmetology schools on its website. See Iowa Board of Cosmetology Arts & Sciences Cosmetology Schools,

available at

<https://ibpllicense.iowa.gov/PublicPortal/Iowa/IBPL/publicsearch/publicsearch.jsp>.

54. The Board's list of cosmetology schools includes 27 cosmetology schools and one public community college, which offers a Board-approved cosmetology curriculum.

55. Tuition to attend cosmetology school can cost as much as \$22,000, which is the approximate cost of tuition and mandatory school supplies at the Aveda Institute Des Moines, 6905 Mills Civic Pkwy, #120 West Des Moines, Iowa 50266.

56. Although state law requires African-style hair braiders to complete this schooling, state law does not require cosmetology schools to teach African-style hair braiding.

57. The majority of instruction does not relate to the practice of African-style hair braiding. The state therefore requires braiders to complete hundreds of hours that are completely irrelevant to African-style hair braiding.

58. To the extent the licensed cosmetology schools provide instruction regarding the treatment of textured hair, this instruction primarily relates to the use of heat or chemicals to relax, soften, straighten or otherwise alter textured hair from its natural state.

Iowa's Cosmetology Licensing Exam

59. After completing an approved cosmetology course of study, applicants are required to pay an examination fee of \$58 and pass a computer-based state

licensing examination. See Iowa Board of Cosmetology Arts and Sciences, Written Examination Information, *available at* https://candidate.psiexams.com/bulletin/display_bulletin.jsp?ro=yes&actionname=83&bulletinid=475&bulletinurl=.pdf. The state exclusively uses an examination created by the National-Interstate Council of State Boards of Cosmetology to test applicants. *Id.*

60. The subject matter tested by this examination is largely irrelevant to African-style hair braiding.

Enforcement of the State's Cosmetology Licensing Requirements

61. Under state law, Defendants are tasked with enforcing the state's cosmetology licensing laws.

62. Defendants require African-style hair braiders who wish to braid hair for compensation to obtain a cosmetology license pursuant to state law.

63. Under Iowa Code Ann. § 157.13(4), unlicensed African-style hair braiders who provide their services to the public for compensation risk harsh penalties. If the Board has reasonable grounds to believe an individual has practiced or is practicing cosmetology without a license, he or she can be ordered to obtain a cosmetology license and fined up to \$1,000 for each violation and a maximum of \$10,000. Iowa Code Ann. § 157.13(4). A person can also be convicted of a serious misdemeanor. Iowa Code. Ann. § 157.15.

64. The threat of punishment has the effect of chilling many African-style hair braiders from pursuing their calling and from providing their services to consumers.

Harmful Effects of Licensing African-Style Hair Braiders as Cosmetologists

65. Although the state requires African-style hair braiders to obtain a cosmetology license, the state's cosmetology licensing requirements are not devised for African-style hair braiders.

66. Under the state's cosmetology licensing regime, African-style hair braiders are required to obtain a cosmetology license even though the state's licensing requirements have nothing to do with African-style hair braiding.

67. Defendants' application of Iowa's cosmetology licensing regime to African-style hair braiders limits the lawful provision of African-style hair braiding only to those who are not required to learn anything about African-style hair braiding and precludes those who are specifically skilled in these techniques from lawfully offering their services to the public.

68. Iowa's cosmetology licensing laws create a barrier for African-style hair braiders to offer their services to the public. These laws particularly burden low-income individuals in African-American and African immigrant communities.

69. African-style hair braiders who are unable to satisfy the state's cosmetology licensing requirements are driven "underground" and forced into undesirable working arrangements.

70. Those braiders who work “underground” live in fear that the Board will enforce the state’s cosmetology licensing laws against them. As a result, they do not advertise their services to the public, expand their businesses or hire employees.

71. Iowa’s cosmetology licensing regime arbitrarily limits the availability of African-style hair braiding services to the general public, reducing options for consumers who wish to purchase these services. The practical consequences are:

- a. The vast majority of licensed cosmetologists do not offer African-style hair braiding services, and those few who are licensed charge high fees because of the lack of lawful competition.
- b. Some consumers choose to support unlicensed braiders, who may charge less than a licensed cosmetologist. But once these unlicensed braiders receive payment, they are violating Iowa law and exposing themselves to fines and criminal penalties.
- c. Some consumers rely on friends and family to braid their hair without compensation. These braiders may work long hours free of charge, which deters them from providing future services.
- d. Skilled braiders are prevented from advertising their services and growing their businesses, reducing the availability of services and styles available to consumers.

72. Absent the state’s licensing barrier to entry, African-style hair braiding would offer entrepreneurial, employment and training opportunities for economically disadvantaged individuals and others. The state’s barrier limits entry

to only those who have the educational background and ability to waste thousands of dollars and hours on irrelevant cosmetology training.

Harm to Plaintiff Aicheria Bell

73. The state's cosmetology licensing laws have caused and will continue to cause real and substantial harm to Aicheria.

74. Aicheria possesses extensive experience and training in African-style hair braiding. She provides professional, high-quality services. She also relies on braiding to support herself and her daughter. But to lawfully braid hair for compensation, Aicheria must spend thousands of dollars and complete 2,100 hours at an Iowa cosmetology school. If she attended cosmetology school, she would also be forced to handle chemicals that are repugnant to her commitment to natural hair care.

75. To lawfully provide her services for compensation, she would additionally need to prepare for and pass the state's licensing exam, even though this exam does not relate to African-style hair braiding. As a single, working mother, Aicheria cannot afford the expense or to take time away from her daughter in order to satisfy the state's irrelevant requirements.

76. Although Aicheria works in a salon, she is unable to offer her customers the full array of braiding services they desire because she is obligated to comply with the comb-only restriction. Her lack of a license also affects her goodwill with customers, who may be led to believe there is something unsafe or illegal about the services she provides.

77. Aicheria lives in fear that Defendants will take action against her. Each day she works in the salon without a license, she risks punishment, if Defendants decide she is prohibited from providing her services using only a comb. In particular, Aicheria fears civil fines of up to \$10,000 and being convicted of a serious misdemeanor. She also fears she will one day lose the ability to braid hair for a living.

78. But for the state's requirement that African-style hair braiders obtain a cosmetology license, Aicheria would provide more natural braiding styles to her customers, grow her business and enjoy increased financial stability and security. In particular, she would open her own salon and would lawfully provide her services and techniques to the public. She would also train and educate others to provide hair braiding services to the public, creating employment and entrepreneurial opportunities in her community.

79. The ongoing existence of Iowa's licensing requirements prevents Aicheria and other African-style hair braiders in Iowa from earning an honest living and from opening and expanding their businesses, causing great and irreparable harm.

Harm to Plaintiff Achan Agit

80. The state's cosmetology licensing laws have caused and will continue to cause real and substantial harm to Achan.

81. Although Achan is highly skilled and experienced in providing African-style hair braiding services, she is required to obtain a cosmetology license to legally braid hair for compensation.

82. Achan is unable to apply for a cosmetology license because of her educational background. To obtain a high school education or its equivalent, Achan would have to spend several years in school above and beyond cosmetology school. She cannot afford to take time away from work and her family to receive this additional education.

83. She is also unable to expend thousands of dollars to attend a cosmetology school to learn skills that are irrelevant to the practice of African-style hair braiding. As a working mother, she cannot afford to waste these resources to receive training that has nothing to do with her occupation.

84. Achan lives and works in fear that the Board will take action against her. Fear of enforcement forced Achan to close her store, African Dream, and instead work out of her home. If she could have lawfully operated her business, she would have hired employees and grown her business instead of shutting it down.

85. Because Achan works out of her home, she charges less for her services than she would charge in a salon and also offers her services in exchange for goods such as diapers and food. She does not advertise her services to avoid drawing

attention to herself. If Achan could advertise her services and work in a salon, she could grow her business, better support her family and enjoy increased financial stability and security.

86. Because Achan provides African-style hair braiding services for compensation, she reasonably fears punishment, including being ordered to obtain a license, incurring fines of up to \$10,000 and being convicted of a serious misdemeanor.

87. But for Defendants' application of the state's cosmetology licensing laws against African-style hair braiders, Achan would re-open her braiding salon, advertise her services and provide more braiding services to the public.

88. The state's cosmetology licensing requirements deprive Achan and other African-style hair braiders in Iowa from lawfully opening and expanding their businesses, causing great and irreparable harm.

**COUNT I: VIOLATION OF ARTICLE I, SECTION 1 OF
THE IOWA CONSTITUTION**

89. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 88.

90. Article I, Section 1 of the Iowa Constitution protects the right to earn a living in the occupation of one's choice subject only to reasonable regulation.

91. This guarantee is in part assured by Article I, Section 1 of the Iowa Constitution, which states:

“All men and women are, by nature, free and equal, and have certain inalienable rights—among which are those of enjoying and defending life and liberty, acquiring,

possessing and protecting property, and pursuing and obtaining safety and happiness.”

92. Article I, Section 1 protects the right to be free from oppressive regulation that unreasonably burdens the free pursuit of harmless economic activity.

93. African-style hair braiding is a harmless economic activity.

94. Iowa’s cosmetology licensing laws and regulations as applied to Plaintiffs by Defendants, their agents and employees, arbitrarily prohibit Plaintiffs from providing African-style hair braiding services for compensation to the public without a license, even though these services are safe.

95. The state’s regulatory requirements, as applied to Plaintiffs and other African-style hair braiders, unreasonably burden the free pursuit of lawful and harmless economic activity in violation of Article I, Section 1.

**COUNT II: VIOLATION OF ARTICLE I, SECTION 9
OF THE IOWA CONSTITUTION—SUBSTANTIVE
DUE PROCESS**

96. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 95.

97. Article I, Section 9 of the Iowa Constitution protects the right to earn a living in the occupation of one’s choice subject only to reasonable regulation.

98. Article I, Section 9 of the Iowa Constitution ensures “no person shall be deprived of life, liberty or property, without due process of law.”

99. Under Article I, Section 9 of the Iowa Constitution, a law that impairs an individual's economic liberty must be rationally related to a legitimate government interest.

100. Iowa's cosmetology licensing laws as applied to Plaintiffs and other African-style hair braiders by Defendants fail to advance a legitimate government interest.

101. Requiring African-style hair braiders to undergo 2,100 hours of largely irrelevant cosmetology training, which does not teach or involve African-style hair braiding, is not rationally related to a legitimate government interest.

102. Mandating African-style hair braiders graduate from high school or its equivalent when this education does not relate to African-style hair braiding is not rationally related to a legitimate government interest.

103. Requiring African-style hair braiders to pass a cosmetology licensing examination that does not test African-style hair braiding is not rationally related to a legitimate government interest.

104. Iowa's cosmetology licensing laws and regulations as applied to Plaintiffs by Defendants, their agents and employees, arbitrarily and unreasonably prohibit Plaintiffs from pursuing their chosen livelihood by forcing them to obtain a license that is irrelevant to their occupation and subjecting them to fines and criminal penalties for braiding hair without a license. This regulatory scheme threatens the existence and growth of Plaintiffs' businesses. These laws and

regulations arbitrarily deprive Plaintiffs of their right to economic liberty and due process of law.

105. As a direct and proximate result of Defendants' application of the state's cosmetology licensing laws and rules to African-style hair braiding, Plaintiffs and other African-style hair braiders 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 I, Section 9 of the Iowa Constitution, Plaintiffs and other African-style hair braiders will continue to suffer great and irreparable harm.

**COUNT III: VIOLATION OF ARTICLE I, SECTION 6
OF THE IOWA CONSTITUTION—EQUAL PROTECTION**

106. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 105.

107. Requiring African-style hair braiders to attend cosmetology school, while neglecting instruction or training on the natural hair care needs of persons with textured hair, is not rationally related to public health or safety. By failing to provide an equal opportunity for individuals trained in the practice of African-style hair braiding to lawfully offer their services to meet public demand, Defendants, their agents, and employees violate Plaintiffs' right to equal protection of the laws as guaranteed by Article I, Section 6 of the Iowa Constitution.

108. Under Article I, Section 6 of the Iowa Constitution, the right to equal protection protects not just similarly-situated people from being treated differently,

but also differently-situated people from being treated similarly. In particular, Article I, Section 6 of the Iowa Constitution protects against regulatory classifications that involve extreme degrees of underinclusion and overinclusion in relation to any particular regulatory goal. African-style hair braiders do not provide cosmetology services and do not hold themselves out to be cosmetologists. Therefore, under the right to equal protection, Plaintiffs cannot be subject to the same regulations and licensing requirements as cosmetologists.

109. There is no rational basis for regulating African-style hair braiders as cosmetologists.

110. As a direct and proximate result of Defendants' application of Iowa's cosmetology licensing laws against African-style hair braiders, including Plaintiffs, African-style hair braiders 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 violations of Article I, Section 6 of the Iowa Constitution, African-style hair braiders, including Plaintiffs, will continue to suffer great and irreparable harm.

**COUNT IV: VIOLATION OF THE DUE PROCESS CLAUSE
OF THE FOURTEENTH AMENDMENT—SUBSTANTIVE
DUE PROCESS**

111. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 110.

112. The Due Process Clause of the Fourteenth Amendment protects the right to earn a living in the occupation of one's choice subject only to rational regulation.

113. Iowa's cosmetology licensing laws and regulations as applied to Plaintiffs by Defendant Board members, their agents and employees, acting under the color of state law, arbitrarily and unreasonably prohibit Plaintiffs from pursuing their chosen livelihood by forcing them to obtain a license that is irrelevant to their profession and subjecting them to fines and criminal penalties for braiding hair without a license. This regulatory scheme threatens the existence and growth of Plaintiffs' businesses. These regulations arbitrarily diminish Plaintiffs' right to economic liberty, depriving them of due process of law as guaranteed by the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983.

114. The application of the state's cosmetology licensing requirements to African-style hair braiders, including Plaintiffs, is not rationally related to any legitimate government interest.

115. As a direct and proximate result of Defendant Board members' application of the cosmetology regime to African-style hair braiding, including Plaintiffs, African-style hair braiders have no other adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights. Unless Defendant Board members are enjoined from committing the above-described constitutional violations, Plaintiffs and other African-style hair braiders will continue to suffer great and irreparable harm.

**COUNT V: VIOLATION OF THE EQUAL PROTECTION
CLAUSE OF THE FOURTEENTH AMENDMENT**

116. Plaintiffs incorporate herein by reference the allegations made in ¶¶ 1 through 115.

117. Requiring African-style hair braiders to attend cosmetology school, which mandates irrelevant training, while neglecting instruction or training on the natural hair care needs of persons with textured hair, is not rationally related to public health or safety. By not providing an equal opportunity for individuals trained in the practice of African-style hair braiding to lawfully offer their services to meet public demand, Defendant Board members, their agents, and employees, acting under color of state law, violate Plaintiffs' right to equal protection of the laws as guaranteed by the Equal Protection Clause of the U.S. Constitution and 42 U.S.C. § 1983.

118. Under the Equal Protection Clause of the U.S. Constitution, the right to equal protection protects not just similarly-situated people from being treated differently, but also differently-situated people from being treated similarly. African-style hair braiders do not provide cosmetology services and do not hold themselves out to be cosmetologists. There is no rational basis for treating African-style hair braiders the same as cosmetologists. Therefore, under the right to equal protection, it is irrational to subject Plaintiffs to the same regulations and licensing requirements as cosmetologists.

119. As a direct and proximate result of Defendant Board members' application of Iowa's cosmetology licensing laws against African-style hair braiders,

including Plaintiffs, African style hair braiders have no other adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights. Unless Defendant Board members are enjoined from committing the above-described violations of the U.S. Constitution, African-style hair braiders, including Plaintiffs, will continue to suffer great and irreparable harm.

**COUNT VI: VIOLATION OF THE PRIVILEGES
OR IMMUNITIES CLAUSE OF THE
FOURTEENTH AMENDMENT**

120. Plaintiffs incorporate and reallege the allegations contained in ¶¶ 1 through 119.

121. The Privileges or Immunities Clause of the Fourteenth Amendment protects the right to earn a living in the occupation of a person's choice subject only to reasonable government regulation.

122. Defendant Board members' application of Iowa's cosmetology laws and regulations arbitrarily and unreasonably impairs Plaintiffs' ability to pursue their chosen livelihood by forcing them to obtain a license that is irrelevant to their occupation and subjecting them to criminal penalties and fines for braiding hair without a license. This regulatory scheme threatens their ability to earn a living in their chosen occupation in violation of the privileges or immunities guarantee of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983.

123. As a direct and proximate result of Defendant Board members' application of Iowa's cosmetology licensing laws and regulations against African-

style hair braiders, including Plaintiffs, African-style hair braiders have no other adequate legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights. Unless Defendant Board members are enjoined from committing the above-described constitutional violations of the Privileges or Immunities Clause of the Fourteenth Amendment, African-style hair braiders, including Plaintiffs, will continue to suffer great and irreparable harm.

RELIEF SOUGHT

WHEREFORE, Plaintiffs request that this Court:

A. Enter a judgment declaring that the state's cosmetology licensing regime—Iowa Code Ann. §§ 157.1 through 157.15 and the implementing rules and regulations, Iowa Admin. Code r. 645-60.1 *et seq.*—is unconstitutional when applied to African-style hair braiders in general and to Plaintiffs specifically;

B. Enter an order permanently enjoining Defendants from enforcing Iowa Code Ann. §§ 157.1 through 157.15 and the implementing rules and regulations, Iowa Admin. Code r. 645-60.1 *et seq.*, against African-style hair braiders generally and to Plaintiffs specifically.

C. Award Plaintiffs nominal damages in the amount of one dollar under state and federal law for violations of the Iowa and U.S. Constitutions;

D. Award Plaintiffs attorneys' fees and costs, and expenses in this action pursuant to 42 U.S.C. § 1988 and state law.

E. All further legal and equitable relief as the Court may deem just and proper.

Dated this 27th day of October, 2015.

/s/ Ryan G. Koopmans
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*Application for admission *pro hac vice* to be filed.