

IN THE DISTRICT COURT OF OKLAHOMA COUNTY
STATE OF OKLAHOMA

FEB - 3 2021

RICK WARREN
COURT CLERK

112 _____

SHAZIA ITTIQ and SEEMA PANJWANI,

Plaintiffs,

v.

OKLAHOMA STATE BOARD OF
COSMETOLOGY AND BARBERING;
SHERRY LEWELLING, in her official
capacity as Executive Director of the Board;
JEFFREY SELLS, in his official capacity as
Chair of the Board; MACHELE
CALLICOAT, in her official capacity as Vice
Chair of the Board; PEGGY AVERY,
ANTHONY BALDINI, BILL HELTON,
CHRISTIE LUTHER, CHRISTY MATHER,
GREG MITCHELL, THAO NGUYEN-
PHAM, ERIN PIERCE, and BRUCE
WAIGHT, in their official capacities as
members of the Board; and DONNA
GLASPER, in her official capacity as an
inspector for the Board,

Defendants.

CV-2021-242
CV-2021-242

Case No. _____

Judge _____

VERIFIED PETITION

Plaintiffs Shazia Ittiq and Seema Panjwani (collectively, "Plaintiffs") hereby assert the following claims against the Oklahoma State Board of Cosmetology and Barbering; Sherry Lewelling, in her official capacity as Executive Director of the Board; Jeffrey Sells, in his official capacity as Chair of the Board; Machele Calliccoat, in her official capacity as Vice Chair of the Board; Peggy Avery, Anthony Baldini, Bill Helton, Christie Luther, Christy Mather, Greg Mitchell, Thao Nguyen-Pham, Erin Pierce, and Bruce Waight, in their official capacities as members of the Board; and Donna Glasper, in her official capacity as an inspector for the Board (collectively, "Defendants").

INTRODUCTION

1. This is a civil rights lawsuit to prevent the state from forcing two small business owners to fire their employees and shut their doors, and to vindicate the right to conduct business free from unreasonable governmental restraints. The Oklahoma Constitution guarantees this right and prohibits the government from imposing unreasonable restrictions on Plaintiffs and their businesses unless those restrictions have a real and substantial relationship to a legitimate governmental objective.

2. Plaintiffs are in the business of threading. Threading is a simple grooming technique that uses a single strand of cotton thread—and nothing else—to remove unwanted hairs, usually from eyebrows.

3. Threaders form a loop in the thread by twisting the strand around itself. They tighten the loop while brushing the thread across a person's skin. In this process, hairs are trapped in the loop and lifted from their follicles.

4. Threading has been practiced for centuries. It is simple, safe, and sanitary.

5. Many states require no license for threading—including Texas, Arizona, California, Connecticut, Maryland, Utah, and Wisconsin. Others, like Alabama, Louisiana, and Nevada, impose modest requirements specific to threading, such as registration and passing a test about sanitation.

6. To practice threading in Oklahoma, however, threaders are required by the State Board of Cosmetology and Barbering to obtain a facialist/esthetician license, a cosmetology license, or a barber license. Of these three, a facialist/esthetician license is the least onerous to obtain, meaning threaders must—at minimum—complete 600 hours of esthetician coursework in cosmetology school and pass two esthetician licensing exams. Not a minute of the required curriculum addresses threading, and it is not tested on either exam.

7. As a result, threaders are required to endure hundreds of hours of training irrelevant to their jobs (costing between \$1,100 and \$11,700 for the minimum-required courses) and pass two irrelevant exams before Defendants will license them to work as threaders.

8. Another result is that threading business owners are required to hire only employees who hold a license that reflects no training, experience, or skills in threading. At the same time, they are prohibited from hiring knowledgeable, skilled, and experienced threaders who have not obtained an irrelevant license to provide services the business does not provide.

9. Shortly before the filing of this petition, a Board inspector and Defendant Donna Glasper verbally demanded that Plaintiff Shazia Ittiq immediately cease employing unlicensed threaders and shut down her business, breaking her commercial lease.

10. These overly burdensome, senseless license requirements deprive Plaintiffs, and others who support themselves through threading, of their constitutional right to earn an honest living free from government regulations. This right is protected by Article II, Sections 2 and 7 of the Oklahoma Constitution.

11. The licensing requirements and the Board's enforcement of them also threaten Plaintiffs' immediate ability to keep their businesses in operation, their commercial leases intact, and their threaders employed.

12. For these reasons and others set forth below, Plaintiffs bring this action seeking declaratory and injunctive relief and nominal damages.

PARTIES

Plaintiffs

13. Plaintiff Shazia Ittiq is a citizen of the United States and a resident of Oklahoma County. She is an Oklahoma-licensed cosmetologist who owns Ibrows

LLC, and Zaymaya LLC. She operates two licensed threading businesses, one (Ibrows LLC) located in Penn Square Mall, at 1901 NW Expressway, Oklahoma City, OK 73118, and the other (Zaymaya LLC) located in Quail Springs Mall, at 2501 West Memorial Rd., Oklahoma City, OK 73134. She employs skilled threaders who lack a facialist/esthetician license, cosmetology license, or barber license. On January 28, 2021, a Board inspector—Defendant Donna Glasper—verbally demanded that Shazia immediately close her business at Penn Square Mall.

14. Plaintiff Seema Panjwani is a citizen of the United States and a resident of Oklahoma County. She is an Oklahoma-licensed esthetician who owns Seema's Beauty Saloon, LLC.¹ She operates three licensed threading and beauty salon establishments, the first located at 5820 N. May Ave., Oklahoma City, OK 73112; the second located at 8944 S. Western Ave., Oklahoma City, OK 73139; and the third located at 11631 S. Western Ave., Oklahoma City, OK 73170. She employs skilled threaders who lack a facialist/esthetician license, cosmetology license, or barber license. She operates her business under the constant threat of Board action against her for employing unlicensed threaders.

Defendants

15. Defendant Oklahoma State Board of Cosmetology and Barbering is a state agency created under the laws of Oklahoma and domiciled in Oklahoma County. 59 Okla. Stat. § 199.2. The Board is required by Oklahoma law to administer the state's cosmetology and barbering licensing laws and regulate the practice of cosmetology and barbering. State law authorizes and requires the Board to promulgate rules for specialty licenses, including reduced curriculum

¹ Seema operates three salons, despite the use of "saloon" in the business name.

requirements, to further the purposes of the state's cosmetology and barbering laws. 59 Okla. Stat. § 199.3.

16. The Board is located at 2401 NW 23rd St., Suite 84, Oklahoma City, OK 73107.

17. Plaintiffs sue the Board's Executive Director, Sherry Lewelling, in her official capacity, as she is charged with issuing licenses, certificates of registration, permits, orders, and notices; to collect all fees and penalties; and to perform any duties directed by the Board. 59 Okla. Stat. § 199.4. Her office is in Oklahoma County.

18. Plaintiffs also sue the Board's Chair, Jeffrey Sells, and the Board's Vice Chair, Machele Calliccoat, in their respective official capacities, and the members of the Board—Peggy Avery, Anthony Baldini, Bill Helton, Christie Luther, Christy Mather, Greg Mitchell, Thao Nguyen-Pham, Erin Pierce, and Bruce Waight—each in their official capacities as the people responsible for administering and enforcing the state's cosmetology laws and the Board's rules. 59 Okla. Stat. § 199.3. Their offices are in Oklahoma County.

19. The Oklahoma Attorney General will be served with a copy of this petition as required under 12 Okla. Stat. § 1653.C.

JURISDICTION AND VENUE

20. Plaintiffs seek to vindicate their rights under Article II, Sections 2 and 7 of the Oklahoma Constitution.

21. Plaintiffs seek declaratory and injunctive relief and nominal damages under 12 Okla. Stat. § 1651 and under Article II, Sections 2 and 7 of the Oklahoma Constitution. This Court has jurisdiction under these provisions and under Article VII, Sections 1 and 7 of the Oklahoma Constitution.

22. Plaintiffs ask this Court to declare that the application of 59 Okla. Stat. §§ 199.6.C, .D, 199.11.A.7–10 and Okla. Admin. Code §§ 175:10-5-2(d), -7-17(a), -

9-55(a) to threading is unconstitutional. Plaintiffs also ask this Court to enjoin Defendants from enforcing those laws and regulations against threaders and the practice of threading, and to award nominal damages.

23. Venue is proper in this Court under 12 Okla. Stat. § 133.

FACTS

The Simple Skill of Eyebrow Threading

24. Plaintiffs incorporate and reallege the allegations in paragraphs 1 through 23, above.

25. Eyebrow threading is a simple, all-natural grooming technique to remove hairs with a single strand of cotton thread.

26. Threading is safe and non-invasive.

27. Threading does not involve the use of heat, chemicals, light treatments, razors, needles, or other sharp or reusable objects.

28. Threading does not require skin-to-skin contact between the threader and the customer.

29. Threaders can wear gloves and masks while performing threading.

30. Each customer is serviced using a fresh, sanitary piece of thread.

31. Each salon establishment must perform sanitary and disinfection procedures. Okla. Admin. Code §§ 175:10-5-2, -7-18, -7-32.

32. Threading is gentler than other hair-removal techniques. It does not irritate the skin like waxing and does not risk chemical burns.

33. While threading can induce a momentary and minor stinging sensation, it is painless relative to other forms of hair removal.

34. Threading is commonly practiced around the eyebrows because it is a precise way to remove unwanted hairs and lines of hairs.

35. Threading is inexpensive and faster than other forms of hair removal. Eyebrow threading rarely costs more than \$10 and rarely takes longer than ten

minutes.

36. Americans have become increasingly aware of threading's benefits as a gentle, fast, simple, precise, and inexpensive way to remove unwanted hair.

37. Threading has long been a common practice in the South Asian communities to which Plaintiffs belong. In those communities, threaders frequently learn the technique at a young age from family or friends.

38. Threaders make a loop in the thread by twisting the strand around itself multiple times. By pulling on the untwisted parts of the thread, the twisted portion slides back and forth, tightening and opening the loop. When a threader tightens the loop while sliding the twisted part across a person's skin, the targeted hairs are trapped in the loop and lifted from their follicles.

39. The fundamentals of threading are easy to learn, but the skill takes years of practice to hone and master—somewhat like knitting, fishing, drawing, or throwing a baseball. For this reason, threading establishments cannot provide high-quality threading services through licensees who lack years of experience mastering the skill, safe as it is for novices to perform. The quality of a threader's service, in its precision and swiftness, can only be accomplished through painstaking repetition and practice over years.

40. So, providing threading services of sufficient quality to compete with other forms of hair removal requires highly experienced threaders.

41. At the same time, threaders do not need cosmetology school training to be safe and skilled in the practice. The practice itself is safe; it does not create health hazards. Indeed, there is hardly anything safer one person can physically do to another than threading; even clipping nails or face painting is less safe. And although the basics of threading can be taught in a class, it is only through repetitious practice that competitive commercial quality is achieved.

42. Threaders gain this repetition and experience by practicing on

themselves, each other, family, and friends—usually starting at a young age.

43. Threaders who lack an esthetician license are no less qualified to perform safe, skilled threading than licensed estheticians. In fact, experienced threaders are better qualified to provide threading services that please customers. Experienced threaders develop a keen eye for selecting which hairs to remove for the customer's desired look. Experienced threaders can also produce more consistent results than licensed estheticians who are new to the practice. Unlicensed threaders who have been working in salons learn their customers' specific preferences and can reliably provide the sought-after result. This is valuable to threading business owners, threaders, and customers alike, with customers often returning to specific threaders again and again when they receive satisfying threading services.

44. The training licensed estheticians receive in school does not teach them how to safely and skillfully provide threading services; it doesn't even teach them the basics of threading. Nor are licensees required to demonstrate skill in threading to obtain an esthetician license. As a result, the prerequisites for obtaining an esthetician license do not make licensees better equipped than unlicensed threaders to provide safe, skilled threading services.

45. Even without a license, threaders have to follow safety and sanitation procedures required of all salon establishments.

46. Completing the requirements for an esthetician license does not make a threader's services safer.

47. The simplicity and low cost of threading—for both businesses and their customers—creates vibrant competition with other hair removal services and keeps prices low for all forms of commercial eyebrow shaping.

Shazia Ittiq

48. Plaintiff Shazia Ittiq is originally from Rawalpindi, Pakistan. In 1987,

she came to the United States to pursue a better life for herself. In 2000, she moved from New York to Oklahoma, where she has lived ever since and raised her four children. She became a U.S. citizen in 2015.

49. Shazia first learned how to thread when she was 14 years old. She learned from a friend, who had learned the technique from her older sister.

50. Shazia is passionate about threading. She started a business to provide threading services, and she taught other Oklahomans how to thread.

51. Shazia started her threading career in Oklahoma City in 2001.

52. In 2013, she started operating threading establishments in Oklahoma City, where she has operated them since. These were some of the first establishments to provide threading services in Oklahoma City.

53. Shazia holds a cosmetology license, and her threading businesses are licensed salon establishments.

54. To provide quality threading services to customers, she relies on unlicensed threaders who are skilled in threading.

55. Unlicensed threaders have been providing safe threading services for years, and no one has ever been injured by threading at Shazia's salons.

56. Employing unlicensed threaders became a problem starting in 2012, when the Board promulgated a rule prohibiting anyone from providing commercial threading services without a facialist/esthetician or cosmetology license. This was a problem because, in Shazia's experience, licensed estheticians, cosmetologists, and barbers in Oklahoma either do not know how to thread or do not want to perform only threading services. And to operate her business, she needs employees who are experts in threading and willing to work only as threaders, without providing other grooming or beauty services, like facials and haircuts.

57. When Shazia has hired licensed estheticians to work as threaders, they

have required training in threading, and they have never been as skilled in the technique as her unlicensed employees. This is because providing precise, swift threading services isn't just a matter of grasping the basics; it takes years of practice to hone the skill to a level where the threader provides consistent results that please customers. Like throwing a baseball or drawing, even a child can do it safely, but achieving consistency and precision can only be mastered through years of practice.

58. Shazia's threading businesses are Ibrows, LLC and Zaymaya, LLC. She both owns the companies and manages their day-to-day operations.

59. Ibrows, LLC does business as Brows & More, out of the licensed establishment Shazia operates in Penn Square Mall

60. Zaymaya, LLC does business as Brow Art 23, out of the licensed establishment Shazia operates in Quail Springs Mall.

61. Shazia would not be able to sustain the business if the unlicensed employees took time away from work to obtain irrelevant cosmetology training and pass two irrelevant exams.

62. Likewise, the unlicensed threading employees could not afford to stop working for four months, spend thousands of dollars for esthetician schooling, and pass exams that test every cosmetology technique except threading.

63. In 2012, the Board promulgated a rule (amended in 2014) requiring, for the first time, that threaders obtain a facialist/esthetician, cosmetology, or barber license before providing threading services to the public.

64. Thereafter, the Board started enforcing the rule. Inspectors witnessed unlicensed threaders performing threading services at Shazia's threading kiosks, where unlicensed threaders had been providing threading services for years without harming or endangering the public.

65. Inspectors issued to Shazia and her business (then called Perfect Brow

Art, Inc.) “unsatisfactory” inspection reports in 2015, 2018, 2019, and on January 28, 2021. The inspection reports cited Shazia and her business for unlicensed threaders providing threading services.

66. In 2019, one inspector from the Board threatened to interfere with Shazia’s lease at the mall, demanding that the landlord shut down the threading business and revoke Shazia’s lease because unlicensed threaders work there.

67. When the Board has issued “unsatisfactory” reports and cited Shazia’s business for providing unlicensed threading services, Shazia has sent the unlicensed employees home, disrupting the business, reducing the number of customers served, and sacrificing income the employees and the business would have received.

68. On January 28, 2021, an inspector from the Board, Defendant Donna Glasper, verbally demanded that Shazia immediately shut the business down. This would require Shazia to break her commercial lease, which requires the business to remain open. It would also put her company out of business altogether and her employees out of work.

69. Defendants’ enforcement of the state’s cosmetology laws and the Board’s regulations has caused the business to suffer substantial and irreparable harm. Defendants’ insistence that threading services be provided only by licensed estheticians, cosmetologists, or barbers prevents Shazia from hiring and retaining competent threaders. That’s because the requirements to obtain an esthetician, cosmetology, or barber license are prohibitively burdensome for low-income, already skilled workers and do not involve the practice of threading. Although skilled, unlicensed threaders want to work, they want to work legally, without the threat of the Board’s enforcement and penalties.

70. Without unlicensed threaders, Shazia and her business would be unable to reliably serve its customers, function smoothly, sustain business, and grow.

71. If Shazia were legally permitted to employ unlicensed threaders, she would employ more expert threaders who seek to support themselves by providing threading services, without providing other services that require an esthetician, cosmetology, or barber license.

Seema Panjwani

72. Plaintiff Seema Panjwani is originally from Karachi, Pakistan. In December 2000, she came to the United States to pursue a better life for herself. She lived in Milwaukee, Minnesota, and Atlanta before settling in Oklahoma in 2009 with her husband and son. She has lived in Oklahoma ever since, and she became a U.S. citizen in 2015.

73. Seema first learned to thread when she was 17 years old, at a beauty school in Pakistan.

74. Seema, like Shazia, was one of the first commercial threaders in Oklahoma City. She first worked as a threader in Penn Square Mall. Then, in 2013, she opened a salon (called BrowzArt) with a partner.

75. In 2016, Seema terminated her interest in BrowzArt and opened her own salon: Eyebrow Threading and Beauty Salon No. 1, in Oklahoma City.

76. Three years later, in May 2019, Seema expanded to a second establishment, Eyebrow Threading and Beauty Salon No. 2, also in Oklahoma City.

77. Five months after that, she expanded the business to a third establishment in Oklahoma City, Eyebrow Threading and Beauty Salon No. 3.

78. All three salons provide threading services.

79. Seema holds an esthetician license, and her establishments are licensed salons. However, she relies on unlicensed, skilled threaders to perform threading services.

80. Although other services are provided at her salons, the unlicensed

threaders perform only threading. Licensed estheticians or cosmetologists exclusively provide the other beauty services.

81. Without unlicensed threaders providing threading services at her salons, Seema could not sustain her business. Threading is one of the most popular services, and Seema has tried, unsuccessfully, to find licensed estheticians, cosmetologists, or barbers who are experts in threading.

82. In her experience, unlicensed threading employees have demonstrated skill of the highest quality. By contrast, licensed estheticians, cosmetologists, and barbers have needed to be trained, by Seema, in the practice of threading. Despite her instruction, these employees have not achieved the same skill and quality that her unlicensed threading employees have because they lack the years of experience honing their threading skills.

83. No one has ever been injured by threading at Seema's salons.

84. Seema prides herself, and her business relies on, providing high-quality threading services to customers. The way to do that is to employ expert threaders, and the expert threaders she has found are unlicensed. Licensed estheticians and cosmetologists don't have the necessary training and experience in threading.

85. Because Seema cannot find licensed estheticians who are experts in threading, her business's current and future success depends on its ability to employ unlicensed threaders.

86. Seema, her business, and her unlicensed employees cannot afford for the threaders to take 15 weeks off work and spend thousands of dollars to take irrelevant courses and pass two irrelevant exams—all to do the job they have been doing for years without harming or endangering anyone.

87. To avoid "unsatisfactory" inspection reports from the Board for providing unlicensed threading services, Seema has had unlicensed employees stop coming to work, either temporarily or permanently. This disrupts business

and sacrifices income the employee and the business would have received. Indeed, customers often make appointments at specific salons and with specific threaders because they are pleased with the services that threader provides. When an unlicensed, expert threader is not able to provide that service because the employee is no longer working, Seema's business suffers.

88. Defendants' enforcement of the state's cosmetology laws has caused the business to suffer substantial and irreparable harm. Defendants' insistence that threading services be provided only by licensed estheticians, cosmetologists, or barbers prevents Seema from hiring and retaining competent threaders and providing high-quality, affordable services.

89. Without unlicensed threaders, Seema's Beauty Saloon would be unable to reliably serve its customers, function smoothly, sustain business, and grow.

90. If Seema were legally permitted to employ unlicensed threaders, she would employ more people who seek to support themselves by threading.

Oklahoma's Cosmetology Licensing Statutes and Regulations

91. Oklahoma's cosmetology laws are found at 59 Okla. Stat. §§ 199 *et seq.*

92. The Board's cosmetology regulations are found at Okla. Admin. Code §§ 175:1-1-1 *et seq.*

93. The Oklahoma Cosmetology and Barbering Act defines "Cosmetology" to include "removing . . . the hair of any person by any means." 59 Okla. Stat. § 199.1.9.

94. The Act also requires the Board to "promulgate rules for special licenses, including but not limited to reduced curriculum requirements, as the Board may deem appropriate and necessary to further the purposes of the Oklahoma Cosmetology and Barbering Act." 59 Okla. Stat. § 199.3.B.5.

95. The purpose of the Oklahoma Cosmetology and Barbering Act is "to safeguard and protect the health and general welfare of the people of the State of

Oklahoma.” 50 Okla. Stat. § 199.3.A.

96. In 2012, the Board promulgated a rule prohibiting anyone from providing threading services to the public without a facialist/esthetician license or a cosmetology license. 29 Okla. Reg. 963 (June 15, 2012).

97. In 2014, the Board amended that rule to permit licensed barbers to perform threading services. 31 Okla. Reg. 1107 (Sept. 2, 2014).

98. Now, the rule provides that no person may practice threading without a facialist/esthetics license, a cosmetology license, or a barber license. Okla. Admin. Code § 175:10-9-55(a).

99. Of these three licenses, an esthetician license involves the fewest requirements.

100. To obtain an esthetician license, a person must complete 600 hours of required coursework, pass two exams, and pay corresponding fees, unless she:

- a. qualifies for a reciprocity license; or
- b. completes 1,200 hours of an apprenticeship under a licensed instructor and passes the required exams.

Okla. Admin. Code §§ 175:10-9-1, -2, -7; 175:10-13-1.

101. A person qualifies for a reciprocity license if she has “met the requirements for the same licensure in another state”; holds a current license from another state; and passed Oklahoma’s state rules, regulations, and law test administered by the Board. A person also qualifies for reciprocity if she has undergone the “required occupational training” in a foreign country; practiced continuously for three years immediately prior to applying for a reciprocity license; has at least an eighth-grade education; and has passed Oklahoma’s state rules, regulations, and law test administered by the Board. 59 Okla. Stat. § 199.13; Okla. Admin. Code § 175:10-13-1.

102. Apart from the reciprocity process, an applicant for an esthetician

license must satisfy the following requirements:

- a. Be at least 16 years old before starting coursework, and at least 17 years old before taking the Board-issued exams;
- b. Complete the eighth grade or its equivalent;
- c. Register with the Board and pay a \$5 application fee before attending cosmetology school;
- d. Attend a cosmetology school licensed by the Board;
- e. Complete and pass a 600-hour esthetician course;
- f. Pass two exams conducted by the Board to determine fitness for licensure: a written exam and a practical exam;
- g. Apply for a license after passing the exams; and
- h. Pay fees for the exams and license application: \$35.00 for the exams, and \$25.00 for the license application.

59 Okla. Stat. §§ 199.7, 199.14; Okla. Admin. Code § 175:10-3-16, -39.

The Cosmetology Curriculum

103. Defendants are responsible for “promulgat[ing] rules for special licenses, including but not limited to reduced curriculum requirements, as the Board may deem appropriate and necessary to further the purposes of the Oklahoma Cosmetology and Barbering Act.” 59 Okla. Stat. § 199.3.B.5.

104. Defendants have determined that to perform threading—even if a threader will perform no other services—a person must pass, at a licensed cosmetology school, at least a 600-hour facialist/esthetician course in the following areas, not one of which requires threading instruction:

- a. Bacteriology, disinfection, sanitation, and safety (80 hours);
- b. Sciences (180 hours):
 - i. Histology;
 - ii. Dermatology and physiology of the skin

- c. Facials (200 hours):
 - i. Draping;
 - ii. Manipulations;
 - iii. Cleaning and toning;
 - iv. Chemistry and light therapy;
 - v. Make-up;
- d. Non-permanent hair removal (40 hours)
- e. Salon development (60 hours):
 - i. Business administration and law;
 - ii. Insurance;
 - iii. Professional ethics;
 - iv. Record keeping;
 - v. Business telephone techniques;
 - vi. Salesmanship;
 - vii. Displays and advertising;
 - viii. Hygiene and public health; and
- f. Board rules, regulations, and statutes (40 hours).

Okla. Admin. Code § 175:10-3-39.

105. Defendants maintain on their website a list of all licensed cosmetology schools. See Oklahoma State Board of Cosmetology and Barbering, Cosmetology Schools, <https://bit.ly/3anOTep>.

106. Defendants' list of cosmetology schools indicates that 25 cosmetology schools offer a Board-approved esthetics program, though three of those schools appear to have closed (CC's Cosmetology College Antlers, CC's Cosmetology College II, and CC's Cosmetology College III).

107. The Defendants' rules require threaders to attend cosmetology school, but they do not require cosmetology schools to teach threading.

108. Not a minute of required instruction in cosmetology school addresses the practice of threading. And because no threading instruction is required, the license requirements do not safeguard and protect the health and general welfare of the people of the State of Oklahoma from any dangers that could come from unskilled threading. Indeed, a person does not need to know anything about how to thread to obtain an esthetician license.

109. To the extent any licensed cosmetology schools provide instruction arguably related to threading—such as sanitation training—that instruction makes up only a small fraction of the 600 hours required, and students do not learn threading in the process.

110. Although none of the Board’s requirements ensure that licensees are competent in threading, even experienced threaders are required to spend 15 weeks, 40 hours per week, completing the irrelevant coursework.

111. The tuition for the esthetics courses is prohibitively expensive for most threaders, who are often of modest means and dependent on working continuously to support themselves. Tuition for Board-approved esthetics courses ranges from \$1,000 to \$12,000, depending on which school a threader attends.

The Licensing Exams

112. After completing an approved esthetics course, applicants are required to pass two licensing exams: one written, and one practical. Okla. Admin. Code § 175:10-9-25(c).

113. Defendants are responsible for promulgating rules governing licensing exams and for administering the exams. 59 Okla. Stat. §§ 199.3.B.2, 199.6.A.

114. Just as Defendants do not require the state’s cosmetology schools to teach threading, the esthetician licensing exams do not test threading.

115. Defendants administer—as the state’s written exam—the National-Interstate Council of State Boards of Cosmetology (NIC) “National Esthetics

Theory Examination.” The state exclusively uses this exam for its written exam.

116. The “National Esthetics Theory Examination” does not test threading. See National Esthetics Theory Examination, Candidate Information Bulletin, <https://bit.ly/2MGatmh>.

117. The state’s practical esthetician exam likewise does not test threading.

118. Thus, to obtain a license to thread legally, a person must show knowledge and competency in various skills and subjects, but not threading.

Defendants’ Heavy-Handed Enforcement

119. Defendants are responsible for issuing all licenses, permits, certificates of registration, notices, and orders; making inspections of all cosmetology establishments licensed to operate in Oklahoma; and investigating and making reports on all violations of the Oklahoma Cosmetology and Barbering Act. 59 Okla. Stat. §§ 199.3.B, 199.6.B.

120. Defendants are authorized to enforce the provisions of the Oklahoma Cosmetology and Barbering Act and the Board’s promulgated rules. 50 Okla. Stat. §§ 199.3, 199.6.B.

121. Defendants have sent inspectors to check for unlicensed threaders in threading salons. Defendants inspect cosmetology establishments at least twice a year to ensure safety and sanitation compliance and to ensure all persons providing cosmetology or barbering services hold a valid license or permit. See Oklahoma State Board of Cosmetology and Barbering, Consumer Information, <https://bit.ly/3j76eMC>.

122. Defendants issue inspection reports and instructions to cease providing threading services through unlicensed threaders.

123. Salon employers may hire employees without a license, to assist with business operations, so long as those employees do not perform threading or provide other services requiring an esthetician, cosmetology, or barber license. For

example, unlicensed employees may—under the establishment owner’s supervision—sweep floors, clean windows, organize paperwork, answer phones, schedule appointments, clean countertops, take out trash, do laundry, and disinfect supplies. *See Okla. Admin. Code § 175:10-5-2(d)*.

124. Defendants have regularly inspected Shazia’s and Seema’s salons for safety and sanitation compliance and to ensure all persons providing cosmetology services hold valid licenses.

125. Defendants have issued “unsatisfactory” inspection reports to Shazia for employing unlicensed threaders at her establishment in Penn Square Mall, including in 2015, 2018, 2019, and on January 28, 2021. During the January 28, 2021 inspection, inspector and Defendant Donna Glasper verbally demanded that Shazia immediately shut down the business.

126. Defendants regularly inspect Seema’s salons for unlicensed employees providing threading services. These inspections have scared away some of Seema’s skilled, experienced threaders, who do not want to face potential discipline for practicing threading without a license. They have left work in Seema’s employ, either temporarily or permanently, to avoid Defendant’s citations, fines, and other means of enforcement.

127. Defendants are authorized to impose administrative fines up to \$500 for persons practicing cosmetology or barbering without a license, and for owners of licensed establishments who allow unlicensed individuals to practice cosmetology or barbering in their establishments. 59 Okla. Stat. § 199.6.D.

128. Defendants may file a lawsuit against an unlicensed individual to enforce the state’s cosmetology licensing laws and regulations, and seek an injunction. 59 Okla. Stat. § 199.3.B.11.

129. Defendants have threatened to punish threading businesses for employing unlicensed threaders.

130. The Defendants' enforcement of the Board's licensing requirements against threading businesses and unlicensed threaders threatens the current and future success of these businesses and employees.

131. Business owners who permit unlicensed threaders to provide threading services in their establishments, and unlicensed threaders who do so, also risk conviction of a misdemeanor, along with fines up to \$150 per day or jailtime. 59 Okla. Stat. § 199.6.C.

132. The threat of punishment has the effect of chilling many businesses from hiring or retaining unlicensed threaders, preventing threaders from earning a living and providing their services to customers.

INJURY TO PLAINTIFFS

133. Plaintiffs incorporate and reallege the allegations in paragraphs 1 through 132, above.

134. Defendants' actions threaten Plaintiffs' right to earn a living and conduct business free from unreasonable government interference.

Injury to Shazia

135. Defendants' actions have caused Shazia and her business real, substantial, and irreparable harm. They also threaten more immediate, irreparable harm.

136. Defendant's threat to shut Shazia's business down places her business at immediate risk of permanent inoperability. It also would require her to break her commercial lease, lose her rental space, damage her goodwill with her landlord and customers, and lose her employees.

137. Even if Shazia were not required to immediately close her business's doors, Defendants' enforcement of the state's cosmetology laws and the Board's licensing regulations against her and her business prevents the boutique threading business from employing more competent, experienced threaders.

138. Because of Defendants' actions, Shazia has spent considerable resources searching for licensed estheticians who are skilled in threading, to no avail. When she has hired licensed estheticians, she has had to spend considerable resources teaching them how to thread. None of these individuals has reached the level of expertise that her unlicensed, experienced threading employees have.

139. Defendants' actions threaten the business's ability to survive and prosper. Because of Defendants' actions, Shazia cannot effectively operate its business. It cannot reliably offer threading services to its customers without employing unlicensed threaders. Although Shazia would like to expand the business, she cannot because qualified licensed estheticians already cannot meet the demand for skilled threading services.

140. Defendants' actions have threatened to harm Shazia's relationship with her landlord. Defendants have told Shazia that they will demand her business's lease be revoked if unlicensed threaders continue providing threading services at the Ibrows LLC kiosk.

141. Defendants' actions have disrupted Ibrows LLC's operations and its relationship with its customers. When Defendants have inspected Ibrows LLC, issued citations, and insisted the business and employees not provide unlicensed threading services, the employees have closed up the business to customers and gone home. This led to loss of appointments, disappointed customers, and employees' inability to work by remaining open to customers without disruption.

142. Defendants' actions have harmed Shazia's goodwill with her customers. When Defendants have issued citations and insisted unlicensed threading services cease, Ibrows LLC has temporarily closed its doors to customers, making the business's hours of operation inconsistent and unreliable. Customers who routinely receive threading services at Ibrows LLC cannot count on the business being open during normal business hours.

143. But for Defendants' actions, Shazia would hire new unlicensed, highly skilled threaders, and would be able to reliably offer threading services to her customers. Shazia knows enough unlicensed, highly skilled threaders that, but for Defendants' actions, she could expand Ibrows LLC and increase the business's stability and security. She could also provide employment and entrepreneurial opportunities for others.

144. Each day Ibrows LLC and Zaymaya LLC rely on and allow unlicensed threaders to provide threading services, Shazia and her employees are under threat of:

- a. criminal prosecution that could include hefty fines and even imprisonment, because violation of the Board's rule requiring providers of threading services to hold an esthetician, cosmetology, or barber license constitutes a misdemeanor, 59 Okla. Stat. § 199.6.C.3;
- b. Board-instituted action in a court to have the unlicensed threaders' employment enjoined, 59 Okla. Stat. § 199.3.B.11;
- c. administrative fines, 59 Okla. Stat. § 199.6.A;
- d. administrative refusal, revocation, or suspension of Board-issued licenses, forcing the business to shut down or preventing the employees from obtaining licenses, 59 Okla. Stat. § 199.3.B.9; and
- e. other enforcement actions taken under contracts the Board may enter to implement or enforce the provisions of the state's cosmetology laws and the Board's promulgated rules. 59 Okla. Stat. § 199.3.B.10.

Injury to Seema

145. Defendants' actions have caused Seema and her business real, substantial, and irreparable harm.

146. Defendants' enforcement of the state's cosmetology laws and the Board's licensing regulations prevents the threading business from employing more competent, experienced threaders.

147. Because of Defendants' actions, Seema has spent considerable resources searching for licensed estheticians who are skilled in threading, to no avail. When she has hired licensed estheticians, she has had to spend considerable resources teaching them how to thread. None of these individuals as reached the level of expertise that her unlicensed, experienced threading employees have.

148. Defendants' actions threaten the business's ability to survive and prosper. Because of Defendants' actions, Seema's Beauty Saloon LLC cannot effectively operate its business. It cannot reliably offer threading services to its customers without employing unlicensed threaders. It would like to expand, but it cannot because qualified licensed estheticians already cannot meet the demand for skilled threading services.

149. Defendants' actions have disrupted Seema's Beauty Saloon's operations and its relationship with its customers. Because Defendants inspect and issue citations for the unlicensed practice of threading, Seema—to avoid the Board's enforcement of the licensing regulation against her and her employees—has fired some unlicensed employees or not hired them because they lack an esthetician license. As a result, customers cannot count on the same threader being available at Seema's salons. Many customers develop a relationship with a specific threader and have a routine for receiving threading services from that threader. When Seema has to let an employee go to avoid the Board's enforcement of unlicensed threading services, customers are denied reliable, consistent service. This harms

the goodwill between the business and its customers. It also has prevented the business and employees from serving more customers through consistent services and more threading employees.

150. But for Defendants' actions, Seema's Beauty Saloon LLC would hire additional unlicensed, highly skilled threaders, and it would be able to reliably offer threading services to its customers. Seema knows enough unlicensed, highly skilled threaders that, but for Defendants' actions, she could expand her business and increase its financial stability and security. She could also provide employment and entrepreneurial opportunities for others.

151. Each day Seema's Beauty Saloon LLC relies on and allows unlicensed threaders to provide threading services, Seema and her employees are under threat of:

- a. criminal prosecution that could include hefty fines and even imprisonment, because violation of the Board's rule requiring providers of threading services to hold an esthetician, cosmetology, or barber license constitutes a misdemeanor, 59 Okla. Stat. § 199.6.C.3;
- b. Board-instituted action in a court to have the unlicensed threaders' employment enjoined, 59 Okla. Stat. § 199.3.B.11;
- c. administrative fines, 59 Okla. Stat. § 199.6.A;
- d. administrative refusal, revocation, or suspension of Board-issued licenses, forcing the business to shut down and preventing the employees from obtaining licenses, 59 Okla. Stat. § 199.3.B.9; and
- e. other enforcement actions taken under contracts the Board may enter to implement or enforce the provisions of the state's cosmetology laws and the Board's promulgated rules. 59 Okla. Stat. § 199.3.B.10.

CAUSES OF ACTION

Count 1

Violation of Article II, Sections 2 and 7 of the Oklahoma Constitution— Inherent Rights and Substantive Due Process

152. Plaintiffs incorporate and reallege the allegations in paragraphs 1 through 151, above.

153. Article II, Section 2 of the Oklahoma Constitution recognizes, “All persons have the inherent right to life, liberty, the pursuit of happiness, and the enjoyment of the gains of their own industry.”

154. Article II, Section 7 of the Oklahoma Constitution guarantees, “No person shall be deprived of life, liberty, or property, without due process of law.”

155. Among the rights secured by these provisions is the right to earn an honest living in the occupation of one’s choice, and to conduct business, free from unreasonable government interference.

156. Under Article II, Sections 2 and 7, a law that restricts a person’s right to earn an honest living and conduct business must have a real and substantial relationship to public health, safety, or welfare.

157. Under Article II, Sections 2 and 7, a law that impairs an individual’s right to earn an honest living and conduct business must be rationally related to a legitimate governmental interest.

158. Under Article II, Sections 2 and 7, a law that impairs an individual’s right to earn an honest living and conduct business must not be arbitrary or capricious.

159. Oklahoma’s cosmetology laws and the Board’s rules, as applied to Plaintiffs and others who provide commercial threading services, have no real and substantial relationship to public health, safety, or welfare.

160. Oklahoma’s cosmetology laws and the Board’s rules, as applied to

Plaintiffs and others who provide commercial threading services, do not advance any legitimate governmental interest.

161. Oklahoma's cosmetology laws and the Board's rules, as applied to Plaintiffs and others who provide commercial threading services, are arbitrary and capricious.

162. The state's police power does not permit the regulation of threading in this manner.

163. Plaintiffs do not object to any legitimate regulation of threading that is rationally, reasonably, and substantially related to public health and safety objectives. Plaintiffs strive to satisfy the highest standards for health, safety, and professionalism. But the state's cosmetology laws and the Board's rules do not serve legitimate public health and safety objectives; in fact, they undermine them.

164. For each of these reasons, Oklahoma's cosmetology laws and the Board's rules as applied to Plaintiffs by Defendants, their agents, and their employees, unconstitutionally deprive Plaintiffs of their right to liberty, the enjoyment of the gains of their own industry, and due process of law protected by Article II, Sections 2 and 7 of the Oklahoma Constitution.

165. Plaintiffs have no other legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights that is a direct and proximate result of Defendants' application of Oklahoma's laws and the Board's regulations to threading businesses and threaders, including Plaintiffs. Unless Defendants are enjoined from continuing the above-described violations of Article II, Sections 2 and 7 of the Oklahoma Constitution, Plaintiffs and other threading businesses and threaders will continue to suffer great and irreparable harm.

Count 2
Violation of Article II, Section 7 of the Oklahoma Constitution—
Equal Protection

166. Plaintiffs incorporate and reallege the allegations in paragraphs 1 through 151, above.

167. Article II, Section 7 of the Oklahoma Constitution guarantees, “No person shall be deprived of life, liberty, or property, without due process of law.”

168. Under Article II, Section 7, persons are entitled to equal protection of the laws.

169. Under Article II, Section 7, regulatory classifications must have a real and substantial relationship to public health, safety, or welfare.

170. Under Article II, Section 7, regulatory classifications must be rationally related to a legitimate governmental interest.

171. Under Article II, Section 7, regulatory classifications must not be arbitrary and capricious.

172. Under Article II, Section 7, the right to equal protection of the laws protects both similarly situated people from being treated differently and differently situated people from being treated similarly.

173. Requiring threaders to attend cosmetology school and obtain an esthetician’s license, while not requiring instruction or training in threading, has no real and substantial relationship to public health, safety, or welfare.

174. Requiring threaders to attend cosmetology school and obtain an esthetician’s license, while not requiring instruction or training in threading, is arbitrary and capricious.

175. Defendants’ regulations treat threaders—who perform only threading—identically to estheticians, cosmetologists, and barbers—who perform many other services.

176. Defendants’ regulations treat threaders differently from salon

assistants, who are not required to hold an esthetician license but perform similar tasks as threaders, such as cleaning the salon and equipment, organizing supplies, and scheduling appointments.

177. The state's police power does not extend to the regulation of threading in this manner.

178. For each of these reasons, Oklahoma's cosmetology licensing laws and regulations as applied to Plaintiffs by Defendants, their agents and employees, unconstitutionally deprive Plaintiffs of equal protection of the laws.

179. Plaintiffs have no other legal, administrative, or other remedy by which to prevent or minimize the continuing irreparable harm to their constitutional rights that is a direct and proximate result of Defendants' application of Oklahoma's laws and regulations to threading businesses and threaders, including Plaintiffs. Unless Defendants are enjoined from committing the above-described violations of Article II, Section 7 of the Oklahoma Constitution, Plaintiffs and other threading businesses and threaders will continue to suffer great and irreparable harm.

PRAYER

WHEREFORE, Plaintiffs respectfully request the following relief:

A. Entry of judgment declaring that 59 Okla. Stat. §§ 199.6.C, .D, 199.11.A.7-10 and Okla. Admin. Code §§ 175:10-5-2(d), -7-17(a), -9-55(a) are unconstitutional when applied to Plaintiffs' practice of threading and to the practice of threading generally;

B. An order temporarily enjoining Defendants from enforcing Oklahoma's cosmetology laws and regulations to Plaintiffs' practice of threading specifically;

C. An order permanently enjoining Defendants from enforcing Oklahoma's cosmetology laws and regulations to Plaintiffs' practice of threading specifically and to the practice of threading generally;

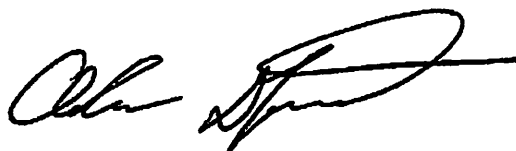
D. An award of nominal damages in the amount of \$1 for violations of the Oklahoma Constitution;

E. Any attorneys' fees to which Plaintiffs may show themselves entitled; and

F. All other relief to which Plaintiffs may show themselves entitled.

Dated: February 3, 2021

Respectfully submitted,



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Counsel for Plaintiffs

* Applications for admission *pro hac vice*
pending

VERIFICATION

STATE OF OKLAHOMA)

) ss.

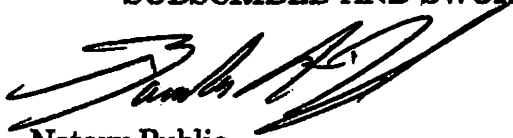
COUNTY OF OKLAHOMA)

Shazia Ittiq, of lawful age, being first duly sworn upon oath, states that she has personal knowledge of the allegations set forth in paragraphs 2-4, 6-9, 10-13, 24-71, 107-11, 116-18, 121-25, 129, 132-44 of the foregoing Verified Petition, and she has read the foregoing Verified Petition and the matters stated in the cited paragraphs are correct to the best of her knowledge, information, and belief.

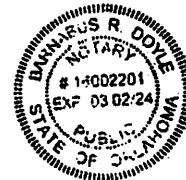


Shazia Ittiq

SUBSCRIBED AND SWORN to before me February 2ND, 2021, 2021.



Notary Public
My commission expires: 3.2.24
My commission number: 16002201



VERIFICATION

STATE OF OKLAHOMA)

) ss.

COUNTY OF OKLAHOMA)

Seema Panjwani, of lawful age, being first duly sworn upon oath, states that she has personal knowledge of the allegations set forth in paragraphs 2-4, 6-8, 10-12, 14, 24-47, 72-90, 107-11, 116-18, 121-24, 126, 129, 132-34, 146-51 of the foregoing Verified Petition, and she has read the foregoing Verified Petition and the matters stated in the cited paragraphs are correct to the best of her knowledge, information, and belief.



Seema Panjwani,

February 2nd, 2021

SUBSCRIBED AND SWORN to before me _____, 2021.



Notary Public

My commission expires: 3-2-24

My commission number: 16002201

