

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

ANGELE MIXSON;	)	
	)	
Plaintiff,	)	
	)	Civil Action No. 3:24-cv-106
v.	)	
	)	<b>COMPLAINT FOR DECLARATORY,</b>
LOUISIANA HORTICULTURE	)	<b>INJUNCTIVE, AND OTHER RELIEF</b>
COMMISSION; ROB BARRY, III;	)	
GEORGE BOFINGER; GARY	)	
BULLOCK; CHAD DANOS; RICHARD	)	
HILL; DAN JOHNSON; DR. MATTHEW	)	
LEE; MITCH MAYES; REBEKAH	)	
O’QUIN; DR. ANSEL T. RANKINS SR.;	)	
RUSTY RUCKSTUHL; COLE SIMS;	)	
MIKE STRAIN, DVM;	)	
	)	
Defendants.	)	

Angele Mixson simply wants to be able to arrange and sell flowers. Following the heartbreaking loss of her 26-year-old daughter to fentanyl poisoning, Angele found solace and a sense of purpose in arranging flowers for her daughter’s gravesite. This became both a passion and a necessity considering the cost of flower arrangements, leading Angele to teach herself the art of floristry. Now, she simply wishes to be able to share that skill with the world. But in the state of Louisiana, alone among the states, to do so without a license is a civil violation.

Here, the Louisiana Horticulture Commission (the “Board”) enforces an elaborate florist licensing law that arbitrarily and unjustly bars hundreds of potential florists from a legitimate route to financial stability. It restricts this inherently harmless occupation to those deemed “qualified” by the Board, thereby impeding the right of individuals to earn a living honestly. The Board upholds its requirements through a series of laws dictating an application process, an examination

process, and fees all for the simple act of arranging flowers (the “Retail Florist Licensing Regime”).

This practice stands in clear violation of the Due Process, Equal Protection, and Privileges or Immunities Clauses of the Fourteenth Amendment to the U.S. Constitution. Angele seeks recourse in this Court to vindicate her constitutional rights and permit her to practice the profession of floristry free from arbitrary and capricious constraints.

### **JURISDICTION AND VENUE**

1. Angele Mixson, the plaintiff, commences this civil rights lawsuit under the Fourteenth Amendment to the U.S. Constitution; the Civil Rights Act of 1871; 42 U.S.C. § 1983; and the Declaratory Judgment Act, 28 U.S.C. § 2201. She seeks declaratory and injunctive relief to prevent the enforcement of Louisiana’s unique and obstructive florist licensing laws and associated regulations. As these laws interfere with her ability to earn a living by arranging and selling flowers, the plaintiff also seeks nominal damages of \$1 for the violation of her constitutional rights.

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 and 1343. because this action arises under the Constitution of the United States and federal law.

3. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because a substantial part of the events or omissions giving rise to the claims occurred within this district and this is the district in which Plaintiff resides.

### **PARTIES**

4. Plaintiff Angele Mixson is a United States citizen and a resident of Denham Springs, Louisiana. Following the tragic loss of her daughter several years ago, she found both a therapeutic and practical interest in arranging flowers for her gravesite. To save on costs and to

keep the gravesite maintained, she taught herself the craft of flower arranging through resources such as YouTube tutorials, spending a fraction of the cost compared to purchasing arrangements.

5. Ms. Mixson attempted to purchase flowers wholesale to continue this practice but was denied access due to lack of a license. Upon reaching out to the state, she was informed of the state's stringent and unique requirements to obtain such a license, including paying \$114 and taking a licensing exam. Ms. Mixson is challenging these burdensome and exclusionary requirements, asserting they violate her constitutional rights and unfairly restrict her, and others like her, from carrying out a harmless and therapeutic occupation.

6. Defendants are the Louisiana State Horticulture Commission and Rob Barry, III, George Bofinger, Gary Bullock, Chad Danos, Richard Hill, Dan Johnson, Dr. Matthew Lee, Mitch Mayes, Rebekah O'Quin, Dr. Ansel T. Rankins, Sr., Rusty Ruckstuhl, Cole Sims, and Mike Strain, who serve as members of the Louisiana State Horticulture Commission. Defendant Board is a state board created under the laws of Louisiana and domiciled in East Baton Rouge Parish, Louisiana. This body is responsible for both the enforcement of Louisiana's unique florist licensing laws and for administering the state-mandated florist licensing exam which is contested in this lawsuit. The members of the Horticulture Commission are being sued in their official capacities.

## **FACTUAL BACKGROUND**

### **The Retail Florist Licensing Regime**

7. Pursuant to Louisiana statutes Title 3, §§ 3804-3808, anyone who wishes to arrange and sell floral designs that include living or freshly cut plant materials is required to apply for and obtain a retail florist's license, marking Louisiana as the only state in the United States with such a requirement. While other states may require some form of registration of a floral business,

Louisiana alone requires an individual florist to pass an exam to presumably demonstrate competence in order to practice.<sup>1</sup> Specifically:

No person shall receive fees, whether directly or indirectly, for engaging in a regulated profession, or advertise as engaged in a regulated profession, or solicit business in a regulated profession, unless the person holds a valid appropriate license issued by the commissioner, or has a regular employee who holds a valid appropriate license issued by the commissioner, or is employed by or is working under the direct supervision of a person who holds a valid appropriate license issued by the commissioner.

§ 3804(C).

8. The licensing process is governed by the Louisiana Horticulture Commission which administers the retail florist examination. The examination is created from a list of questions submitted by the Louisiana State Florists Association, Louisiana State University Agricultural Center, and the Louisiana Department of Agriculture and Forestry.

9. With the exception of statutory, ex officio members, all of the members of the Commission are active market participants in different parts of the regulated profession.

10. The examination is offered by appointment and costs \$114. Questions span from True/False and Multiple Choice to Matching, with a variety of subject matters represented.

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<sup>1</sup> Louisiana's restrictive system has been the subject of multiple prior Constitutional lawsuits. In 2003, the Institute for Justice challenged the retail florist licensing regime. *Meadows v. Odom*, No. 03-960, Complaint for Declaratory and Injunctive Relief (M.D. La. Dec. 18, 2003). Due to Hurricane Katrina, the plaintiffs were lost or moved and the case was ruled moot. *Meadows v. Odom*, 198 F. App'x 348 (5th Cir. 2006). In 2010, the Institute for Justice brought a new challenge to the licensing regime. *Chauvin v. Strain*, No. 2:10-cv-00729, Complaint for Declaratory and Injunctive Relief (E.D. La. Mar. 2, 2010). After the passage of a bill entitled H.B. 1407 that removed part of the examination, a subjective floral arrangement demonstration test, the plaintiffs voluntarily dismissed their case without prejudice. *Chauvin v. Strain*, No. 2:10-cv-00729, Notice of Stipulated Voluntary Dismissal (E.D. La. July 28, 2010). Even after this legislative change, Louisiana remains the only state in the nation to require a written competency test for individual retail florists.

11. The fee for issuance or renewal of a retail or wholesale florist license is \$100. Title 7, Part XXIX, Chapter 1. § 109A.B.2. The license “authorizes the holder . . . to arrange or supervise the arrangement of floral designs which include living or freshly cut plant materials and to sell at retail floral designs, cut flowers, and ornamental plants in pots normally and customarily sold by florists.” § 3808B(1). “Each person who engages in the profession of retail floristry shall have a regular employee at each place of business who is a licensed retail florist and whose license shall be on display at all times during the hours business is conducted in that profession.” § 3808B(3).

12. Meanwhile, “[a] wholesale florist’s license authorizes the holder thereof to prepare and sell cut flowers, plant materials, and ornamental plants in pots normally and customarily used by retail florists to persons who hold a retail florist’s license and to prepare and sell cut flowers to persons who hold a cut flower dealer’s permit. A wholesale florist’s license shall not authorize the holder thereof to arrange or sell floral designs.” § 3808B(4).

13. In contrast, an individual can sell “cut flowers” by obtaining a cut flower dealer permit that requires an application and a fee but not a test. Such sellers “[c]annot arrange flowers in any fashion.” Louisiana Department of Agriculture and Forestry, Cut Flower Dealer Permits, Florist and Flower Dealer Licensing, <https://www.ldaf.la.gov/plants/florists#cut-flower-dealer-permits> (last visited Jan. 2, 2024). They may “[s]ell cut flowers either singly or in bunches, or both. However, the holder of a cut flower permit may not sell cut flowers within three hundred feet of the place of business of a person engaged in the profession of retail florist.” § 3808I(1).

14. Retail florists are also entitled to operate vending machines at remote locations “for the sale of cut flowers and floral designs.” § 3808B(3). However, “[i]ndividuals licensed to operate vending machines shall not operate them outside of the parish more than twenty-five miles beyond their place of business.” § 3808B(6).

15. Angele Mixson is a resident of Louisiana who dreams of opening her own flower arranging business after learning this skill following her daughter's untimely death. To honor her daughter, Angele arranged flowers at her gravesite. *See* Photographs of Flower Arrangements, attached hereto as Exhibit 1.

16. Angele designed complex, beautiful, and masterfully crafted floral arrangements. One such arrangement consisted of rich red roses and white calla lilies. The red roses were fully bloomed, showcasing their fine petals, while the incorporated calla lilies had a sleek, trumpet-like shape with a smooth gradient of white and soft pink. They were complemented by clusters of white hydrangeas, green leaves and white alstroemeria flowers interspersed throughout. The arrangement exuded elegance and dignity befitting their purpose.



Ex. 1 at 6.



17. Another floral arrangement Angele arranged was a bouquet with an assortment of flowers including light yellow roses, and large white lilies with prominent stamens that provided a contrast to the rose's coloration. Angele interspersed among these pink flowers and smaller white flowers with a star-like shape and soft pink centers. Green leaves complemented the background green foliage of their intended setting. This composition evoked a sense of peace and dignity in memory of her loss.



Ex. 1 at 15.

18. Angele desires to use her hard-earned skills to provide flower arrangements for others. However, Angele's dream has been denied because of the state's licensing laws which require her to pass a difficult and costly examination before she can legally arrange and sell flowers in Louisiana.

19. Despite having the knowledge and skill to arrange flowers, Angele is being forced to apply for and take an unnecessary examination to pursue this calling in Louisiana.

20. Angele took the retail florist examination in the fall of 2023. On November 2, 2023, the Board wrote her to say: “We regret to inform you that you failed to make a passing score on the Retail Florist exam with a score of 25%.” *See* Letter from Tina Peltier, Director, Horticulture and Quarantine Programs, Louisiana Horticulture Commission, to Angele L. Mixson (Nov. 2, 2023), attached hereto as Exhibit 2. Angele was surprised, discouraged, and humiliated by her score considering her love for and knowledge of flower arrangement.

21. The licensure requirements that stand in the way of Angele’s dreams does not advance any discernible public health or safety interests, as indicated by the fact that there is no evidence of harm coming from unlicensed flower arranging in the other 49 states, nor during the 90-day grace period Louisiana allows for shops that lose their full-time state-licensed florist. *See* § 117A.2.a.

22. Angele Mixson, and many other aspiring florists in Louisiana, are inhibited by licensing laws that do nothing to protect the public welfare or advance any legitimate government interest but instead impose arbitrary barriers to entry into the floral business.

### **Impact on Plaintiff**

23. As interpreted and enforced by Defendants, Louisiana’s Retail Florist Licensing Regime requires anyone who wishes to arrange and sell flowers in Louisiana to have a retail florist’s license, which necessitates passing a state-administered examination. Angele Mixson, a mother who lost her daughter and found solace and purpose in arranging flowers for her gravesite, is prohibited from sharing these skills with others for compensation due to her inability to meet the stringent requirements for licensure.



24. Ms. Mixson has invested significant amounts of time and money, more than \$30,000 on flowers alone, to create graceful, heartfelt floral arrangements for her late daughter's gravesite. She would like to use this investment to provide flowers retail to others.

25. This requirement places an undue burden on Ms. Mixson, as it deprives her of the opportunity to work in flower arranging, further straining her finances.

26. The licensing regime thus presents an arbitrary and unnecessary barrier to Ms. Mixson's ability to engage in a meaningful and economically beneficial activity, impacting not only her emotional well-being but also her financial stability.

27. Louisiana's florist licensing requirements infringe upon Ms. Mixson's right to engage in her chosen form of expression and remembrance, free from arbitrary or unreasonable government interference.

### **FIRST CAUSE OF ACTION**

#### **Violation of Plaintiff's Rights under the Due Process Clause of the Constitution**

28. Plaintiff Angele Mixson incorporates and realleges each and every allegation contained in this Complaint as if set forth fully herein.

29. As a free citizen, Angele Mixson has a fundamental right to engage in lawful occupation and express personal creativity, subject only to regulations that are rationally related to a legitimate government purpose. This right is safeguarded by the Due Process Clause of the Fourteenth Amendment to the U.S. Constitution.

30. By imposing burdensome prerequisites and denying her constitutional right to engage in the meaningful act of creating floral arrangements, Louisiana's florist licensing law, as

interpreted and applied by the Defendants, has caused, and will continue to cause irreparable harm to Angele Mixson.

31. The requirement that anyone who wishes to purchase flowers wholesale in the State of Louisiana must first acquire a retail florist license, which includes passing a state-administered examination, violates Angele Mixson's Fourteenth Amendment right to due process of law under the Fourteenth Amendment and 42 U.S.C. § 1983.

32. The mandated licensing process is not rationally related to a legitimate government purpose. The examination requirement does not demonstrably ensure a florist's competency or skill and blocks skilled flower arrangers like Angele from gainful employment.

33. Therefore, the Defendants' enforcement of the florist licensing law is causing a deprivation of Angele Mixson's constitutionally protected liberty and property interests without due process of law, in violation of the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983.

34. Unless enjoined, Defendants will continue to enforce the Retail Florist Licensing Regime, causing Angele Mixson ongoing irreparable injury for which there is no adequate remedy at law. Angele Mixson is entitled to declaratory and injunctive relief invalidating and restraining enforcement of the florist licensing law.

## **SECOND CAUSE OF ACTION**

### **Violation of Plaintiff's Rights under the Equal Protection Clause of the Constitution**

35. Plaintiff Angele Mixson incorporates each and every allegation set forth in foregoing paragraphs of this Complaint, as though fully set forth herein.

36. The State of Louisiana, its agents, and employees, including the Defendants herein, acting under color of state law, have imposed a burdensome licensing requirement on those who wish to arrange and sell flowers while exempting many other occupations, similarly harmless and requiring equal if not greater levels of skill and responsibility, from such licensing prerequisites.

37. The defendants' implementation and enforcement of the florist licensing law, which includes passing a state-administered examination, disproportionately impacts Angele Mixson and others who engage in the harmless occupation of floral arrangement for sale.

38. Meanwhile, cut flower dealers may sell single or bunched cut flowers without a state administered test – so long as the bunches are of the same type of flower. There is absolutely no conceivable rationale in public health, safety, welfare, or morals for distinguishing between bunches of one kind of flower and bunches of two kinds of flowers and requiring a test for one and not the other.

39. This selective enforcement of onerous licensing requirements lacks rational basis and serves no legitimate government interest, and it thereby infringes upon Angele Mixson's right to equal protection of the laws, as secured by the Fourteenth Amendment of the United States Constitution and 42 U.S.C. § 1983.

40. As a result of these violations, Angele Mixson has suffered and will continue to suffer irreparable harm, for which there is no adequate remedy at law.

41. Therefore, Angele Mixson is entitled to declaratory and injunctive relief against enforcement of the florist licensing law, in order to protect her constitutional right to engage in the lawful occupation of her choice on an equal footing with other citizens.

### **THIRD CAUSE OF ACTION**

#### **Violation of Plaintiff's Rights under the**

#### **First Amendment Right to Free Speech**

42. Plaintiff Angele Mixson incorporates each and every allegation set forth in the foregoing paragraphs of this Complaint, as though fully set forth herein.

43. The First Amendment to the U.S. Constitution protects an individual's right to express oneself freely, including through artistic and expressive conduct. Angele Mixson's creation and sale of floral arrangements is a form of artistic expression that falls within the ambit of such protected speech.

44. The florist licensing law, as enforced by the Defendants, suppresses Angele Mixson's expressive speech by imposing burdensome and arbitrary requirements on her ability to create and sell floral arrangements. This enforcement acts as a prior restraint on her artistic expression, which is protected by the First Amendment to the U.S. Constitution and 42 U.S.C. § 1983.

45. This restriction on Angele Mixson's artistic expression, especially considering its role in the memorialization of her deceased daughter, has caused and continues to cause substantial harm to her.

46. Angele Mixson is entitled to a declaration that the enforcement of the florist licensing law, as it applies to her, is an unconstitutional violation of her First Amendment rights. She seeks injunctive relief preventing further enforcement of these licensing requirements in her case.

**FOURTH CAUSE OF ACTION**

**Violation of Plaintiff's Rights under the**

**Privileges and Immunities Clause**

1. Plaintiff Angele Mixson incorporates each and every allegation set forth in the foregoing paragraphs of this Complaint, as though fully set forth herein.

2. By enforcing the mandatory state-administered florist licensing exam, the Defendants arbitrarily and unreasonably interfere with Angele Mixson's constitutional right to earn an honest living in her chosen occupation. The profession of arranging and selling flowers, which is inherently harmless, should not be subject to such stringent regulations.

3. Such enforcement of the florist licensing law infringes upon Angele Mixson's right to engage in her chosen profession, violating the privileges or immunities guarantee of the Fourteenth Amendment to the United States Constitution and 42 U.S.C. §1983.

4. This undue interference has caused and continues to cause Angele Mixson substantial harm, increasing the cost for her to mourn her deceased daughter in the way she has chosen, and limiting her ability to express her creativity for the benefit of others for financial gain.

5. Therefore, Angele Mixson is entitled to a declaration that the state-mandated licensing exam is unconstitutional, and she seeks injunctive relief preventing the further enforcement of the licensing requirements in her case.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests that the Court provide her with the following relief:

- (A) A judgment invalidating and setting aside the Retail Florist Licensing Regime as a violation of the Constitution of the United States;
- (B) A declaratory judgment that the Retail Florist Licensing Regime, facially and as applied, violates Plaintiff's Fourteenth Amendment right to due process of law under the U.S. Constitution and 42 U.S.C. § 1983;
- (C) A declaratory judgment that the Retail Florist Licensing Regime, facially and as applied, violates Plaintiff's Fourteenth Amendment right to equal protection of the laws under the U.S. Constitution and 42 U.S.C. § 1983;
- (D) A declaratory judgment that the Retail Florist Licensing Regime, facially and as applied, violates her First Amendment right to free speech under the U.S. Constitution and 42 U.S.C. § 1983;
- (E) A declaratory judgment that the Retail Florist Licensing Regime, facially and as applied, violates Plaintiff's privileges or immunities guarantee under the Fourteenth Amendment to the U.S. Constitution and 42 U.S.C. § 1983;
- (F) A preliminary and permanent injunction prohibiting the Defendants, their agents, officials, servants, employees, and any other persons acting on their behalf from enforcing the Retail Florist Licensing Regime;
- (G) Plaintiff's reasonable attorneys' fees, costs, and other costs and disbursements in this action pursuant to 42 U.S.C. § 1988; and
- (I) All other further relief to which Plaintiff may be entitled.

Respectfully submitted this 14th day of February 2024.

/s/ 

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