

STATE OF RHODE ISLAND
PROVIDENCE, SC.

SUPERIOR COURT

FREEDOM FROM RELIGION
FOUNDATION, INC.,

Plaintiff,

v.

MARINA PLOWMAN, d/b/a
TWINS FLORIST,
Defendant.

C.A. No.

PC-13- 376

VERIFIED COMPLAINT

The Plaintiff, Freedom From Religion Foundation, Inc., as its Complaint against the Defendant, Marina Plowman, doing business as Twins Florist, alleges as follows:

Parties

1. Plaintiff Freedom From Religion Foundation ("FFRF") is a Wisconsin non-stock corporation, whose principal office is located in Madison, Wisconsin. FFRF is a national organization whose dual purposes are to protect and promote the constitutional principle of separation between state and church and to educate the public about matters relating to nontheism. FFRF represents more than 19,000 members nationwide, including members in Rhode Island. FFRF's membership consists primarily of atheists, agnostics, skeptics and other freethinkers.

2. FFRF advocates for and represents members over various violations of the separation between state and church. FFRF also educates the public about matters relating to nontheism through its newspaper, Freethought Today, annual conventions, online forum for members, broadcasts on Freethought Radio, freethought billboards and

bus signs placed throughout the country, and providing speakers for speeches and debates.

3. FFRF additionally awards activism and achievement through awards, usually given at its conventions, including Freethought Heroine, Freethinker of the Year, and the Emperor Has No Clothes Award. One student activist award, the Thomas Jefferson Youth Activist Award, was given both in 2011 and in 2012 to Ms. Jessica Ahlquist, only age 16, a high school student in Cranston, Rhode Island, who was a litigant in a major, high-profile federal lawsuit against her high school over an unconstitutional prayer banner.

4. Plaintiff is a “person” within the meaning of Rhode Island General Laws § 11-24-1 and entitled to the protections of the Rhode Island Hotels and Public Places Act, Rhode Island General Laws §§ 11-24-1 *et seq.*

5. Defendant Marina Plowman, at all times relevant to this action, is/was the owner and operator of Twins Florist (also known as Twins Florist and Gifts), located at 1083 Park Avenue, Cranston, RI 02910. Twins Florist is a “place of public accommodation, resort, or amusement,” as defined in Rhode Island General Laws § 11-24-3, and within the meaning used throughout Rhode Island General Laws §§ 11-24-1 *et seq.* As the owner and operator of Twins Florist, a place of public accommodation in Rhode Island, Defendant Plowman is a “person” within the meaning of Rhode Island General Laws § 11-24-2 and is prohibited from any of the discriminatory practices outlined in § 11-24-2.

Jurisdiction and Venue

6. This Court has jurisdiction pursuant to the provisions of Rhode Island General Laws §§ 8-2-14, 11-24-1 *et seq.* and 28-5-24.1.

7. Declaratory judgment jurisdiction is based upon Rhode Island General Laws § 9-30-1.

8. Venue is proper in the Superior Court in Providence County under Rhode Island General Laws § 28-5-28, which allows an action to be brought in the Superior Court of the County in which the unlawful practices subject to the Rhode Island Commission for Human Rights' ("RICHR") authority and findings were committed. The actions complained of herein occurred in Cranston, Rhode Island.

9. Personal jurisdiction exists over the Defendant, in that she has maintained sufficient minimal contacts in the State of Rhode Island. Specifically, the Defendant engages in systematic and continuous activity in the State of Rhode Island. Moreover, the actions complained of herein occurred in the State of Rhode Island.

Administrative Procedures

10. On or about January 31, 2012, Plaintiff filed a Charge of Discrimination with the Rhode Island Commission for Human Rights ("RICHR") for violation of the Rhode Island Hotels and Public Places Act, Rhode Island General Laws §§ 11-24-1 *et seq.* On or about April 23, 2012, Plaintiff filed an Amended Charge with the RICHR, in order to properly and accurately reflect the legal name of the Defendant. The Amended Charge alleged the same act(s) of discrimination.

11. On or about October 2, 2012, RICHR notified the parties that a Preliminary Investigating Commissioner had determined that "probable cause" existed to believe that the Defendant violated the Rhode Island Hotels and Public Places Act. A copy of said notice is

attached hereto and referred to hereafter as “Exhibit A.” The RICHR also notified the parties of their right to terminate proceedings before the RICHR and have the matter heard in Superior Court, pursuant to Rhode Island General Laws § 28-5-24.1(c). See Exhibit A.

12. The Defendant elected to have the matter heard in Superior Court.

13. On or about November 16, 2012, RICHR issued to the parties a Notice of Right to Sue Letter, a copy of which is attached hereto as “Exhibit B.”

Factual Allegations

14. FFRF had been closely monitoring the federal lawsuit against the Cranston School District over a prayer banner at Cranston West High School and since its filing has been actively supportive of Ms. Ahlquist’s efforts to keep state and church separate.

15. When a federal judge on January 11, 2012, ordered removal of the prayer banner at the high school, FFRF Co-President Annie Laurie Gaylor decided to send congratulatory flowers to Ms. Ahlquist to celebrate her major court victory to keep religious divisiveness out of public schools and as a showing of solidarity. FFRF issued a press release, congratulating Ms. Ahlquist as follows: “Jessica, with sweet determination, stood up for the First Amendment and its precious principle of separation between church and state, she persevered under acutely difficult circumstances, and she has prevailed.”

16. On January 17, 2012, Annie Laurie Gaylor contacted Felly’s Flowers, a Madison-based flower shop, to assist in delivery of these flowers to Ms. Ahlquist. Ms. Gaylor asked for the following message to be delivered with a dozen red roses on January 18, 2012: “Congratulations, and hang in there. With admiration from FFRF.”

17. In placing the order with Felly's Flowers, Ms. Gaylor explained to the customer service representative that the recipient was a high school student, so the delivery would have to occur after school. Ms. Gaylor further instructed that the delivery person should call the residence before delivery to ensure someone would be home. Ms. Gaylor also mentioned, almost as an afterthought, that the recipient was in the public eye due to a court case and had been receiving threats, so the delivery person might need to identify himself or herself when phoning.

18. While placing the order, Ms. Gaylor never requested or instructed the delivery person to obtain police escort for this delivery. Upon information and belief, Felly's Flowers never told any of the florists it contacted that the delivery person would need a police escort.

19. Upon information and belief, on or about January 17, 2012, Felly's Flowers contacted Floral Express, a flower shop located at 30 Phenix Avenue, Cranston, RI 02920, regarding the order. On or about January 18, 2012, Floral Express notified Felly's Flowers that Floral Express was "not able to fill this," and was "closed on the requested delivery day."

20. Upon information and belief, following Floral Express's response, Felly's Flowers next contacted the Defendant at Twins Florist. The instructions sent to the Defendant through an electronic order service, The Dove Network, read as follows:

SENDER BELIEVES RECIP IS UNDER PUBLIC EYE, DUE TO
COURT CASE INVOLVING HER SCHOOL WHICH SHE
WON...PLEASE BE PREPARED TO SHOW ID TO VERIFY THEM
SELVES...ALSO SUGGESTED TO CALL FIRST

21. Upon information and belief, at approximately 2:12 p.m. on January 18, 2012, Felly's Flowers received a message from the Defendant through an electronic order service, The Dove Network, stating: "I will not deliver to this person."

22. Upon information and belief, following the Defendant's refusal to fulfill the order, Felly's Flowers then contacted two other flower shops in Rhode Island, who also refused to fulfill the order.

23. On January 19, 2012, FFRF found a flower shop in Connecticut, Glimpse of Gaia, which agreed to fulfill the order. FFRF did not originally (prior to the Defendant's refusal) plan to use Glimpse of Gaia to effectuate its flower order.

24. FFRF did not originally (prior to the Defendant's refusal) plan or intend to publicize its flower order for Ms. Ahlquist. However, after being refused by four different flower shops in Rhode Island, Ms. Gaylor and the other employees of FFRF were shocked and saddened by the series of events. Moreover, FFRF felt responsible to expose the perceived discrimination by notifying the media of the Defendant's refusal, as well as the refusal of the other flower shops, in order to educate the public on matters related to nontheism and to defend the civil rights of nonbelievers.

25. Upon information and belief, following the Defendant's refusal, Defendant Plowman made the following statement to ABC 6 reporter Alexandra Cowley: "It's my freedom of speech I refuse orders when I want and I take orders when I want."

26. Upon information and belief, the Defendant also made the following statement when asked about her refusal: "I just chose not to do it. Nothing personal, it was a choice that I made. It was my right, so I did that. I'm an independent owner and I can choose whoever I want, whenever I want."

COUNT I
**VIOLATION OF THE RHODE ISLAND PUBLIC ACCOMMODATION
STATUTE, RHODE ISLAND GENERAL LAWS §§ 11-24-1 *ET SEQ.*
DENIAL OF EQUAL ACCESS TO PUBLIC ACCOMMODATIONS
BASED ON RELIGION (NON-BELIEF)**

27. Plaintiff incorporates by reference the allegations contained in paragraphs 1 through 26 of this Complaint as if fully set forth herein.

28. The Defendant unlawfully denied Plaintiff full and equal access to public accommodations by refusing to fulfill a flower order on the basis of religion (non-belief), in violation of Rhode Island General Laws §§ 11-24-1 *et seq.*

29. Plaintiff seeks a declaratory judgment from this Court finding the Defendant in violation of Rhode Island General Laws §§ 11-24-1 *et seq.*, and finding the Defendant jointly and severally liable to Plaintiff for the damages set forth in this Complaint.

Prayer for Relief

WHEREFORE, Plaintiff Freedom From Religion Foundation, Inc., respectfully request that this Court enter judgment in their favor and against the Defendant as follows:

- (1) A finding that the Defendant is liable to make the Plaintiff whole for all damages suffered as a result of the wrongful acts and omissions alleged in Count One, including, inter alia, pecuniary damages;
- (2) A declaratory judgment that the acts and practices of the Defendant, as complained of herein, are in violation of the Rhode Island Public Accommodation Statute, Rhode Island General Laws §§ 11-24-1 *et seq.*;

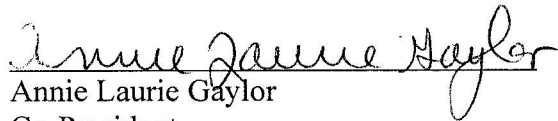
- (3) A permanent injunction against the Defendant, prohibiting future acts of discrimination and/or any potential acts of retaliation against Plaintiff or any similarly-situated customer;
- (4) An order enjoining and permanently restraining the Defendant from further violations of the Rhode Island Public Accommodation Statute, Rhode Island General Laws §§ 11-24-1 *et seq.*;
- (5) An order directing the Defendant to take such affirmative action as is necessary to ensure that the effects of these unlawful and discriminatory practices are eliminated and do not continue;
- (6) A finding that the Defendant stands liable to Plaintiff for an award of its reasonable attorneys' fees, litigation costs and other costs of this action, together with a post-trial hearing to determine the amount of Plaintiff's reasonable attorney's fees taxable to the Defendant, along with a determination of the Plaintiff's litigation costs and expenses taxable to the Defendant;
- (7) An appropriate award of pre-judgment interest on all sums recovered;
- (8) Such other and further relief as the Court deems just and proper.

JURY TRIAL DEMAND

Plaintiff claims trial by jury on all issues so triable.

Verification Statement

I, the undersigned, hereby state, under the pains and penalty of perjury, that the above statements and facts are true and correct, to the best of my knowledge and recollection.



Annie Laurie Gaylor

Co-President

Freedom From Religion Foundation

PO Box 750

Madison, WI 53701

Tel: (608) 256-8900

Fax: (608) 204-0422

State of Wisconsin
County of Dane

Signed and sworn to before me on January 18, 2013, by Annie Laurie Gaylor.

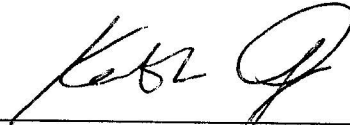


Rebecca Markert

Notary Public
My commission is permanent.

Dated: January 25, 2013

FREEDOM FROM RELIGION FOUNDATION
Through Its Counsel,



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CERTIFICATION

I hereby certify that on this 25th day of January, 2013, I caused to be served a true copy of the within Complaint by hand-delivery upon:

Christopher Orton, Esq.
Daley Orton, LLC
300 Jefferson Blvd., Suite 105
Warwick, RI 02888
corton@daleyorton.com

