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SUPERIOR COURT OF WASHINGTON
COUNTY OF BENTON

STATE OF WASHINGTON,)
)
 Plaintiffs,)

No. 13-2-00871-5
(Consolidated with 13-2-00953-3)

v.)
)
 ARLENE'S FLOWERS, INC., d/b/a)
 ARLENE'S FLOWERS AND GIFTS, and)
 BARRONELLE STUTZMAN,)
)
 Defendants.)

DECLARATION OF ALICIA BERRY IN
SUPPORT OF MOTION FOR PARTIAL
SUMMARY JUDGMENT ON CPA
CLAIM BY INGERSOLL AND FREED

_____)
)
 ROBERT INGERSOLL and CURT FREED,)
)
 Plaintiffs,)

v.)
)
 ARLENE'S FLOWERS, INC., d/b/a)
 ARLENE'S FLOWERS AND GIFTS; and)
 BARRONELLE STUTZMAN,)
)
 Defendants.)
 _____)

1. My name is Alicia Berry, and I am one of the attorneys of record for Arlene's
Flowers and Barronelle Stutzman.

COPY

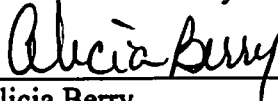
1 2. I am over the age of eighteen, competent to testify, and have personal knowledge of the
2 information contained within this affidavit.

3 3. Defendants' Exhibit 1 is an excerpt of Defendants' First Set of Discovery Requests to
4 Plaintiff Robert Ingersoll and Responses Thereto, which was produced by Plaintiffs in the
5 course of discovery in this case.

6 4. Defendants' Exhibit 2 is an excerpt of Defendants' First Set of Requests for Admission
7 to Plaintiff Robert Ingersoll and Responses Thereto, which was produced by Plaintiffs in the
8 court of discovery in this case.

9 5. Defendants' Exhibit 3 is an article from the Seattle Times, dated April 18, 2013, and
10 titled "How plan for simple gay wedding is shaking up lives, state." It was downloaded on
11 September 6, 2013, and is available at
12 http://seattletimes.com/html/localnews/2020812269_ingersollfreedxml.html.

13
14 DATED this 6th day of September, 2013.

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16 
17 Alicia Berry
18 WSBA# 28849

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IN THE SUPERIOR COURT OF WASHINGTON FOR BENTON COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

ARLENE'S FLOWERS, INC., d/b/a
ARLENE'S FLOWERS AND GIFTS; and
BARRONELLE STUTZMAN,

Defendants.

No. 13-2-00871-5

(Consolidated with No. 13-2-00953-3)

**DEFENDANTS' FIRST SET OF
DISCOVERY REQUESTS TO
PLAINTIFF ROBERT INGERSOLL AND
RESPONSES THERETO**

ROBERT INGERSOLL AND CURT FREED,

PLAINTIFFS,

V.

ARLENE'S FLOWERS, INC., D/B/A
ARLENE'S FLOWERS AND GIFTS; AND
BARRONELLE STUTZMAN,

DEFENDANTS.

To: Plaintiff Robert Ingersoll

Arlene's Flowers request that Robert Ingersoll fully answer the following
interrogatories, requests for production, and requests for admission within 30 days after
service, as required under the Civil Rules. CR 26, 33, and 34.

*Defendants' First Set of Discovery Requests to
Plaintiff Robert Ingersoll and Responses Thereto*

- 1

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2926
Telephone: (206) 623-1745
Facsimile: (206) 623-7789

EXHIBIT 1

1 **Answer:** I object to this Interrogatory to the extent it seeks attorney client
2 communications or work product, or to the extent it seeks information not required to be
3 provided under the Civil Rules, Local Rules, or case schedule. Without waiving those
4 objections, I direct you to Plaintiffs' Disclosure of Lay and Expert Witnesses, filed and served
5 today.

6
7 **Interrogatory No. 9:** Please identify each employee or former employee of Arlene's Flowers
8 that you or your attorneys have communicated with about this case, the approximate date of
9 the communication, and the contents of the communication.

10 **Answer:** I object to this Interrogatory to the extent it seeks information protected by
11 the attorney client privilege or work product. Without waiving those objections, Curt and I
12 had dinner with Eryn Hugo on March 6, 2013 and had a few preliminary exchanges to set up
13 that dinner. We had learned from news reports that Eryn quit her job at Arlene's Flowers
14 because of Arlene's Flowers' and Barronelle's refusal to sell us flowers for our wedding. At
15 dinner, we asked Eryn why she quit her job at Arlene's Flowers. We also communicated our
16 concern for her welfare and wanted to make sure she was in a good position financially (given
17 the sudden loss of her job) and emotionally. Eryn offered some observations about the work
18 environment at Arlene's Flowers and the personalities of the people who worked there. Curt
19 and I spoke with Tana Perkes three days later at an event at Columbia Basin College. I recall
20 little more than polite small talk with Tana.

21
22 **Interrogatory No. 10:** Please identify all florists and flower shops that you have requested to
23 provide floral arrangements for your wedding, including a full description of what was
24 requested, and the approximate date on which the request was made.

25 **Answer:** We ordered boutonnieres and corsages for our 11 wedding guests from our
26 friend Carol Travis, 3904 S. Vancouver St., Kennewick, WA 99337, (509) 879-9771. We
27 ordered those flowers on approximately July 14, 2013 and communicated with Carol on
28 July 18 and July 19 to confirm our order. On July 20, 2013, we purchased one floral

1 arrangement for our wedding from Lucky Flowers, 6827 West Clearwater Avenue,
2 Kennewick, WA 99336, (509) 547-6091. We purchased no other flowers for our wedding
3 and were provided no free flowers for our wedding.
4

5 **Interrogatory No. 11:** Please list all florists and flower shops that have offered to provide
6 floral arrangements for your wedding, including those referenced in the April 18, 2013 Seattle
7 Times article, "*How plan for simple gay wedding is shaking up lives, state*" ("Ingersoll said
8 the couple have since received several offers for wedding flowers and will decide in time.").
9 As part of your answer, please indicate what estimated cost of the floral arrangements was
10 given to you, what floral arrangements were included in that estimate, and approximately
11 when the offer was made. If flowers were offered for no cost by a florist or flower shop,
12 please indicate which florists or flower shops made the offer, what floral arrangements were
13 included in the offer, and approximately when the offer was made.

14 **Answer:** We received a communication through a friend on March 6, 2013 from
15 Simplified Celebrations, 4403 Segovia Dr., Pasco, WA 99301, (509) 430-8786, which offered
16 to do a complimentary consultation. No other details were provided, and Simplified did not
17 offer any flowers at no cost. Creations by Ly, 915 NW 19th Ave., Ste. F, Portland, OR 97209,
18 (503) 203-5188, offered to do our wedding flowers at cost on April 16, 2013. No other details
19 were provided, and Creations did not offer any flowers at no cost. Deborah Hawkins, (contact
20 information unknown), offered to do silk wedding floral arrangements on March 5, 2013. No
21 other details were provided, and Deborah did not offer any flowers at no cost. Ava Flowers
22 (contact information unknown), said she was employed by the floral department of the
23 Safeway located at 2825 W. Kennewick Ave., Kennewick, WA, (509) 783-9562, and offered
24 to help us with our wedding flowers on March 6, 2013. No other details were provided, and
25 Ava did not offer any flowers at no cost. 7 Degrees [floral+closet+life], 601 6th Street,
26 Prosser, WA 99350, (509) 786-4440, offered to help us with our wedding flowers on March 5,
27 2013. No other details were provided, and 7 Degrees did not offer any flowers at no cost. We
28 received a communication through a friend on March 5, 2013 from Heidi Davis Mortensen

1 (contact information unknown), who offered to do our wedding flowers for no cost. No other
2 details were provided.

3
4 **Interrogatory No.12 : Please describe why it is important to you to have flowers at your**
5 **wedding.**

6 **Answer: We wanted to order flowers from Arlene's Flowers for our wedding because**
7 **it is traditional to have flowers at a wedding, because flowers can provide a nice environment**
8 **for the people attending a wedding, and because people enjoy flowers.**

9
10 **Interrogatory No. 13: Please identify any ownership interest that you have had or currently**
11 **have in any business whatsoever.**

12 **Answer: None.**

13
14 **Interrogatory No. 14: Please list any other florists or flower shops other than Arlene's**
15 **Flowers or Barronelle Sutzman from which you have bought flowers or floral arrangements in**
16 **the last three years. As part of your answer, please identify the name and location of the florist**
17 **or flower shop, the purpose for which you bought the flowers or floral arrangements, and the**
18 **approximate date that you bought the flowers or floral arrangements.**

19 **Answer: For our house warming party in June 2012, we purchased flowers from**
20 **Shelby's Floral, 5211 W. Clearwater Suite A, Kennewick, WA 99336, (509) 735-9558. We**
21 **also purchased flowers from Lucky Flowers and Carol Travis for our wedding, as described**
22 **above. To the best of my recollection, all other flower purchases in the last three years were**
23 **from Arlene's Flowers.**

24
25 **Interrogatory No. 15: Please explain why you wanted Arlene's Flowers to create the floral**
26 **arrangements for your wedding as opposed to other florists.**

1 **Answer:** We initially chose Arlene's Flowers because we considered Arlene's to be
2 our florist. As noted above, I recall ordering flowers from only one other source in the few
3 years before the incident underlying this lawsuit occurred.

4
5 **Interrogatory No. 16:** Please list all vendors, businesses, and individuals that you have hired
6 or plan to hire for your wedding. For each vendor, business, or individual, please include the
7 approximate date you hired them, the purpose for hiring them, and the estimated cost of the
8 good or service that they are providing.

9 **Answer:** We paid a \$1,000 deposit on February 12, 2013 to secure Bella Fiori
10 Gardens, 219605 E. Perkins Rd., Kennewick, WA 99337, (509) 585-4621 as a wedding
11 venue. We made a second payment of \$3,000 on July 6, 2013. We ordered flowers from
12 Carol Travis on July 14, 2013, as described above, and paid her \$200. We ordered flowers
13 from Lucky Flowers on July 20, 2013, as described above, and paid them \$108.30. Our friend
14 Keri Lobdell, 4391 Limestone Court, Richland, WA 99352, (509) 521-2014, officiated our
15 wedding at no cost. I ordered a shirt for the wedding from the website of Paul Frederick on
16 July 14, 2013 for \$74.89. I purchased our wedding bands from JC Penney, 1321 N. Columbia
17 Blvd., #100, Kennewick, WA 99336, (509) 735-6326, on July 7, 2013 for \$125.63.

18
19 **Interrogatory No. 17:** Please describe the plans you have for your wedding, including the
20 time, location, the name and contact information of the person officiating the ceremony, and
21 the approximate number of people that will be or have been invited.

22 **Answer:** Curt and I were married on July 21, 2013, at 6:00 p.m., at our home in
23 Kennewick. We had approximately 11 guests. The officiant was our friend Keri Lobdell,
24 4391 Limestone Court, Richland, WA 99352, (509) 521-2014.

25
26 **Interrogatory No. 18:** Please describe any marriage ceremony between members of the same
27 sex that you have attended within the last ten years. For the purposes of this question,
28 marriage ceremony means a wedding, commitment ceremony, or similar event between to

1 I certify that plaintiffs' responses and objections to these discovery requests comply
2 with the requirements of Civil Rule 26(g).

3 DATED this 3rd day of September, 2013.

4 HILLIS CLARK MARTIN & PETERSON P.S.

5
6
7 By 

8 Michael R. Scott, WSBA #12822
9 Amit D. Ranade, WSBA #34878
10 Jake Ewart, WSBA #38655

11 AMERICAN CIVIL LIBERTIES UNION OF
12 WASHINGTON FOUNDATION

13 Sarah A. Dunne, WSBA #34869
14 Margaret Chen, WSBA #46156

15 AMERICAN CIVIL LIBERTIES UNION FOUNDATION

16 Elizabeth Gill (Admitted *pro hac vice*)

17 ACLU Foundation

18 LGBT & AIDS Project

19 Attorneys for Plaintiffs

20 Robert Ingersoll and Curt Freed

21
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*Defendants' First Set of Discovery Requests to
Plaintiff Robert Ingersoll and Responses Thereto*

- 17

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2825
Telephone: (206) 623-1745
Facsimile: (206) 623-7789

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Defendants' First Set of Discovery Requests to Plaintiff Robert Ingersoll and Responses Thereto

HILLS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2825
Telephone: (206) 623-1745
Facsimile: (206) 623-7788

MD: 99994.022 4825-7532-6997v1

Robert G. Ingersoll
ROBERT INGERSOLL

DATED this 3rd day of September, 2013.

I, Robert Ingersoll, certify under penalty of perjury under the laws of the State of Washington that I am the plaintiff in the above-entitled action, have reviewed the foregoing answers and responses to Defendants' First Set of Discovery Requests to Plaintiff Robert Ingersoll and swear that they are true and correct.

STATE OF WASHINGTON }
COUNTY OF BENSON }
ss.

VERIFICATION

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IN THE SUPERIOR COURT OF WASHINGTON FOR BENTON COUNTY

STATE OF WASHINGTON,

Plaintiff,

v.

ARLENE'S FLOWERS, INC., d/b/a
ARLENE'S FLOWERS AND GIFTS; and
BARONELLE STUTZMAN,

Defendants.

ROBERT INGERSOLL AND CURT FREED,

PLAINTIFFS,

v.

ARLENE'S FLOWERS, INC., D/B/A
ARLENE'S FLOWERS AND GIFTS; AND
BARONELLE STUTZMAN,

DEFENDANTS.

No. 13-2-00871-5

(Consolidated with No. 13-2-00953-3)

**DEFENDANTS' FIRST SET OF
REQUESTS OF ADMISSION TO
PLAINTIFF ROBERT INGERSOLL AND
RESPONSES THERETO**

TO: Plaintiff Robert Ingersoll and his counsel of record.

Defendants Arlene's Flowers and Baronelle Stutzman request that Robert Ingersoll
fully answer the following requests for admission within 30 days after service, as required
under the Civil Rules, CR 36.

*Defendants' First Set of Requests of Admission to
Plaintiff Robert Ingersoll and Responses Thereto*

- 1

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7769

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1 Flowers. Acting on behalf of myself and Curt, I conveyed that joint order to Arlene's Flowers
2 and Barronelle Stutzman. I otherwise deny this Request for Admission.

3
4 **Request for Admission No. 2:** Please admit that you are not aware of any personal
5 communications between Curt Freed and Barronelle Stutzman or Arlene's Flowers for any
6 good or service in relation to your wedding.

7 **Answer:** I object to this Request as vague and ambiguous. Without waiving those
8 objections, I state that Curt Freed and I jointly decided to order flowers for our wedding from
9 Arlene's Flowers. Acting on behalf of myself and Curt, I conveyed that joint order to
10 Arlene's Flowers and Barronelle Stutzman. I am not aware that Curt repeated that joint order
11 to Arlene's Flowers or Barronelle Stutzman. I otherwise deny this Request for Admission.

12
13 **Request for Admission No. 3:** Please admit that you have received offers from florists to
14 provide the floral arrangements for your wedding to Curt Freed.

15 **Answer:** Admitted.

16
17 **Request for Admission No. 4:** Referencing paragraphs 14-16 of your complaint, please
18 admit that you did not intend to simply purchase unarranged flowers from Arlene's Flowers
19 for your wedding ceremony.

20 **Answer:** Denied. Arlene's Flowers declined to sell us flowers for the wedding before
21 ordering decisions could be made.

22
23 **Request for Admission No. 5:** Referencing paragraphs 14-16 of your complaint, please admit
24 that you intended to hire Arlene's Flowers to design and create floral arrangements for your
25 wedding ceremony.

26 **Answer:** I object to this Request because it is vague and ambiguous. Without
27 waiving those objections, I state that Arlene's Flowers declined to sell us flowers for the
28

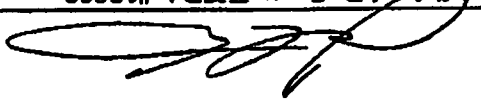
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I certify that plaintiffs' responses and objections to these discovery requests comply

with the requirements of Civil Rule 26(g).

DATED this 3rd day of September, 2013.

HILLIS CLARK MARTIN & PETERSON P.S.

By 

Michael R. Scott, WSBA #12822
Amit D. Ramade, WSBA #34878
Jake Ewart, WSBA #38655

AMERICAN CIVIL LIBERTIES UNION OF
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Sarah A. Dunne, WSBA #34869
Margaret Chen, WSBA #46156

AMERICAN CIVIL LIBERTIES UNION FOUNDATION
Elizabeth Gill (Admitted pro hac vice)

ACLU Foundation
LGBT & AIDS Project

Attorneys for Plaintiffs
Robert Ingersoll and Curt Freed

ND: 99994.022 4825-2499-5349v1

Defendants' First Set of Requests of Admission to
Plaintiff Robert Ingersoll and Responses Thereto

HILLIS CLARK MARTIN & PETERSON P.S.
1221 Second Avenue, Suite 500
Seattle, Washington 98101-2825
Telephone: (206) 623-1745
Facsimile: (206) 623-7788

The Seattle Times

Winner of Nine Pulitzer Prizes

Local News

Originally published Thursday, April 18, 2013 at 9:14 PM

How plan for simple gay wedding is shaking up lives, state

Two gay men who have led quiet lives in the Tri-Cities area are now at the center of legal actions against Arlene's Flowers, whose owner wouldn't provide a floral arrangement for their September wedding.

By Lornet Turnbull

Seattle Times staff reporter



In a part of the state where attitudes toward gay and lesbian people are seldom favorable, Robert Ingersoll and Curt Freed have lived open, but quiet lives — with a tight knot of friends they often entertain in their Kennewick home.

Occasional volunteers at a Tri-Cities youth center for gay and lesbian teens, the men are not politically active and did not take part in last year's statewide campaign on same-sex marriage.

That might help explain why what happened at a Richland flower shop March 1 has so upended their ordinary lives.

Freed and Ingersoll are now at the center of legal actions against Arlene's Flowers, where Ingersoll has been a customer for the nine years he's lived in the Tri-Cities and Freed for much of his life.

In a telephone interview Thursday, Ingersoll said he was surprised by the state attorney general's discrimination lawsuit against Arlene's owner, Barronelle Stutzman, who had told the couple that she wouldn't provide a floral arrangement for their September wedding because of her relationship with Jesus Christ.

On the advice of her attorney, Stutzman, who's been selling flowers in the Tri-Cities for 37 years, hasn't spoken publicly since the lawsuit was filed. But right after the incident she told the Tri-City Herald that she believes she should be able to choose whether to participate in a wedding between two men.

She said she has nothing against gay people but believes marriage should be between a man and a woman.

On Thursday, the ACLU of Washington filed a private suit on behalf of the two men, seeking damages from the florist and asking that the shop stop its practice of denying service based on sexual orientation.

Ingersoll said the action isn't so much about him and Freed but about ensuring the same thing doesn't happen to anyone else, including the young people they've worked with at the Vista Youth Center.

"This saddens us," said Ingersoll, an operations manager for Goodwill in Richland. "You're put into a spot where you never thought you'd be."

Low-key lives

While Freed has lived most of his life in the Tri-Cities and serves as vice president of instruction at Columbia Basin College, Ingersoll grew up in Colorado and New Mexico and served in the military before moving to Yakima after his discharge.

After the two met in 2004, they soon settled into an unassuming life in a county where nearly two-thirds of voters rejected same-sex marriage last fall.

"We live in a conservative part of the state," Ingersoll said. "But it's never been something that kept us back."

Ingersoll said he's not by nature a confrontational person and he respects other people's points of view.

He and Freed hadn't given much thought to getting married, but as they got older began to realize the importance of having legal protections as a couple in areas such as health and finance, Ingersoll said.

He said that after voters approved same-sex marriage last fall, "Curt said, 'I guess we need to start planning for a wedding.'"

Ingersoll went to the shop to talk about a floral arrangement for the simple wedding the men are planning.

"We were planning to wear linen shirts, khaki pants and flip flops," he said. "We weren't even planning a reception."

They weren't asking the florist to show up at the venue or get involved in any way other than to provide flowers, Ingersoll said.

He had gotten to know the people at Arlene's and liked them, which is why Stutzman's rejection hurt him in a way that even now he struggles to express.

At home, Ingersoll said, Freed was even more shocked when he told him what happened and later, when they told friends about it over dinner, "they were livid."

"I couldn't sleep that night," he recalls.

The men wrote about the incident on their Facebook pages the following day, "so immediate friends would know where they were spending their money and that perhaps they may want to spend it somewhere else." Ingersoll said.

On her shop's Facebook page, Stutzman wrote that before Ingersoll left that day the two of them talked and hugged, leaving her to believe everything between them was OK.

AG gets a lot of calls

While the men are likely to be witnesses in the state's case against Arlene's, they did not complain about the incident to either the attorney general or the Human Rights Commission, which enforces the

state's anti-discrimination laws.

Local news media picked up their story, which is how the Attorney General's Office learned of the incident.

In an interview Thursday, Attorney General Bob Ferguson said he gave a lot of thought to whether to file a lawsuit, which appears to be the first case of discrimination of any kind the state's Attorney General's Office has brought on its own.

His office said it has since fielded many calls, most from people who disagree with him.

"I realize a lot of people around the state have strong views about these issues, around marriage equality, around whether sexual orientation should be part of our law against discrimination," Ferguson said.

Ingersoll said the couple have since received several offers for wedding flowers and will decide in time.

They realize the sudden spotlight on their lives will likely continue, but Ingersoll said, "we are far more prepared for what happens next than perhaps we might have been 10, 20 years ago."

Seattle Times staff reporter Jim Brunner contributed to this report.

Lornet Turnbull: 206-464-2420 or lturnbull@seattletimes.com. On Twitter @turnbullL.