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Judge: Arlene's Flowers owner can be sued in her personal capacity

By Sara Schilling

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Baronelle Stutzman walks to the back of a Benton County Superior Courtroom during a recess at a

December hearing on some summary judgment motions in the Arlene's Flowers case.

BOB BRAWDY — Tri-City Herald [Buy Photo](#)

The owner of a Richland flower shop being sued over her refusal to provide services for a same-sex wedding can be held personally liable in the case, a Benton County Superior Court judge ruled Wednesday.

The state attorney general and the couple both filed lawsuits against Barronelle Stutzman and her Arlene's Flowers shop in 2013, after Stutzman declined to provide services for the couple's wedding.

Stutzman, a Christian, has cited her religious beliefs about marriage.

Her attorneys said the claims against her in her personal capacity should be dropped, calling them unprecedented and unjust, while attorneys for the state and the couple argued that the law is clear about personal liability.

In his decision, Judge Alex Ekstrom sided with the state and couple, writing that "the clear language" of the Consumer Protection Act and state anti-discrimination law "supports both individual and corporate liability."

Ekstrom did toss out one of the couple's claims — that Stutzman aided her business in violating the state anti-discrimination law, writing that the law's "aiding and abetting language does not apply to an individual 'acting alone.'" The couple, who are represented by attorneys working with the ACLU of Washington, have conceded that claim should be dismissed.

Kristen Waggoner, one of Stutzman's attorneys, said Wednesday that, "we're disappointed in the ruling," noting it means Stutzman would be on the hook personally for civil penalties and attorney fees should she lose.

Waggoner is senior counsel with the Alliance Defending Freedom.

In his 35-page decision, Ekstrom also upheld the Attorney General's authority to bring its suit under the Consumer Protection Act, writing that, "the court concludes that the Legislature intended to allow the (attorney general) independent unfettered authority to bring this action."

Stutzman's attorneys have argued that the state's lawsuit is based on an "unprecedented interpretation" of state law and goes against its specific terms and decades of practice by successive attorneys general.

The issues dealt with in Ekstrom's Wednesday decision were argued during a hearing in early December. In a separate hearing later that month, the state and couple argued the case should be decided in their favor without a trial because the undisputed facts show violation of the Consumer Protection Act and anti-discrimination law, and Stutzman's attorneys argued their own summary judgment motion, saying the state and the couple don't have standing to sue.

Ekstrom hasn't yet ruled on those matters.

In a statement, Attorney General Bob Ferguson said, "It's no accident that Judge Ekstrom's (Wednesday) ruling so closely mirrors our arguments, and we look forward to the decision on the remaining motions."

The ACLU of Washington said in its own statement Wednesday that the couple, Robert Ingersoll and Curt Freed, "were not treated the same as other customers" when they sought flowers for their wedding. "They were hurt and saddened by the florist's refusal to provide service. We want to ensure that other couples do not face similar discrimination in the future."

The trial is set for March.

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