

NEWS RELEASES

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Georgia Supreme Court Strikes Down Occupational Licensing Law

HUSCH BLACKWELL PREPARED AND FILED AN AMICUS CURIAE BRIEF ON BEHALF OF THREE LEADING OCCUPATIONAL LICENSING SCHOLARS URGING THE SUPREME COURT OF GEORGIA TO DECLARE A RESTRICTIVE LICENSING LAW UNCONSTITUTIONAL.

The Supreme Court of Georgia declared that the Georgia Lactation Consultant Practice Act “violates Plaintiffs’ due process rights under the Georgia Constitution to practice [their] chosen profession.” The decision clears the way for lactation consultants to provide care to Georgians without having to obtain a costly and burdensome license from the state first. The landmark ruling also signals broad protection for individuals against burdensome licensing laws in all fields.

Husch Blackwell prepared and filed an amicus curiae brief on behalf of Dr. Morris M. Kleiner, Dr. Alicia Plemmons, and Dr. Edward J. Timmons—three of the leading scholars studying occupational licensing—challenging the constitutionality of the Act on grounds that were largely maintained by the Supreme Court in its decision. The case, *Jackson v. Raffensperger*, was initially brought in 2018 by the Institute for Justice, a nonprofit, public interest law firm, and Reaching Our Sisters Everywhere, a grassroots nonprofit dedicated to providing breastfeeding support to minority communities.

The Supreme Court’s decision rested on the due process guarantee of the Georgia Constitution, which protects an individual’s right to “pursue a lawful occupation of their choosing free from unreasonable government interference.” The Act in question required anyone who wanted to work as a lactation consultant to first take college-level courses, complete 300 supervised clinical hours, pass a written exam, and pay the state a substantial

sum of money for a license. The Court held that the Act's requirements were unreasonable and that the state had failed to put forth a sufficient interest in enforcing them. Importantly, the Court made clear that the state cannot restrict a person's ability to practice a lawful occupation based on "protectionis[t]" interests or mere "generic interests of quality or honesty of goods and services."

In reaching its conclusion, the Court found that "there is nothing inherently harmful in the practice of lactation care, and there is no evidence of harm to the public from the provision of lactation care and services by individuals who" lack a license under the Act. This conclusion echoes the Husch Blackwell-authored amicus brief, which argued that "[c]ontrary to oft-asserted rationales, empirical evidence shows that occupational licensing regimes ... provide little or no public benefit while imposing significant costs and causing harm."

"Our clients' basic contention—that there is no evidence that these costly licensure standards provide a measurable public benefit—featured heavily in the court's decision in this case," said Husch Blackwell's Joseph Diedrich. "We are very pleased that the Plaintiffs and others will be able to work without having to bear the cost of complying with the Act, which always seemed to us like a solution in search of a problem. The Court's decision also provides a roadmap for workers in other occupations and other states to fight against restrictive licensing laws."

The Husch Blackwell team included Joseph Diedrich, Rebecca Furdek, and James Spung.