

## Institute for Justice

# Georgia Lactation Consultants Score Major Win at Georgia Supreme Court



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**ATLANTA**—In a major victory for economic freedom in the Peach State, the Georgia Supreme Court this morning ruled that a constitutional challenge to the state’s new lactation consultant license will go forward. This decision gives hope to Georgians who want to teach women how to breastfeed without an expensive, difficult to obtain license and protects the right to challenge economic liberty restrictions of all kinds.

Reversing a trial court decision that had dismissed the case in 2019, the Georgia Supreme Court unanimously affirmed that it has “long interpreted the Georgia Constitution as protecting a right to work in one’s chosen profession free from unreasonable government interference.”

Although lactation consultants have worked safely throughout Georgia and the United States for decades, in 2018, the General Assembly adopted a first-of-its-kind law requiring that consultants obtain the equivalent of an advanced degree before continuing to work in the field. The law would force some 800 professionals to quit their jobs and spend several years and thousands of dollars earning a state-issued license. If a consultant works without a license, she would be subject to fines of up to \$500 per day.

“This decision is a watershed,” said Renée Flaherty, the IJ attorney representing the plaintiffs. “The court made crystal clear that the Georgia Constitution protects the right to earn an honest living free from unreasonable restrictions, putting every government official in Georgia on notice that they must respect people’s rights to provide for themselves, particularly in these difficult economic times.”

The lawsuit began in June 2018, when Mary Jackson—a lactation counselor at Grady Memorial Hospital—and Reaching Our Sisters Everywhere (ROSE), the nonprofit Mary helped found to educate families of color about breastfeeding, challenged Georgia’s licensing law. Mary and ROSE help new mothers and babies learn how to breastfeed, but the new law would prevent them from doing so without obtaining the equivalent of an advanced degree. The state has agreed not to enforce the law against unlicensed lactation consultants during the litigation.

“Women have been helping other women learn how to breastfeed for millennia,” said IJ attorney Jaimie Cavanaugh. “The state cannot constitutionally require a license this onerous for an occupation this straightforward.”

“All we want is to continue doing our jobs,” said Mary Jackson. “I have been helping new mothers and babies learn to breastfeed for more than 30 years. Georgia has some of the worst rates of breastfeeding in the nation. The government should be encouraging us, not putting us out of the job.”



The case now returns to the Fulton County Superior Court to reconsider the state's motion to dismiss.

IJ Attorney Renée Flaherty and Mary Jackson are available for interviews via teleconference. Contact Andrew Wimer, IJ Assistant Communications Director, at [awimer@ij.org](mailto:awimer@ij.org) or (703) 298-5938 to arrange.