



TO: Members of the Troy City Council
FROM: Lori Grigg Bluhm, City Attorney
Christopher J. Forsyth, Assistant City Attorney
DATE: November 2, 2006
SUBJECT: Hooters of Troy Inc. v City of Troy

Attached please find a copy of a second lawsuit filed by Hooters of Troy against the City of Troy. This lawsuit was filed on November 2, 2006 in Federal District Court and was assigned to Judge Julian A. Cook. In the first case, Hooters has appealed the state court decision of Oakland County Circuit Court Judge John McDonald. The appellate briefs have been filed, and the parties are waiting for the Court of Appeals to set a date for oral argument. It is likely that appellate oral argument will not be scheduled for some time, since Hooters' motion for immediate relief was denied by the Court of Appeals. Absent such extraordinary relief, most appellate cases take several months to conclude.

In the interim, Hooters has filed this federal court action, again alleging that the Troy City Council acted arbitrarily and capriciously in denying the requested transfer of the Class C liquor license and entertainment permit from the Sign of the Beefcarver (The Wagon Wheel) to Hooters of Troy, Inc.. Hooters also repeats the argument already raised in the state court lawsuit that Troy has allegedly violated their equal protection and due process rights that are guaranteed by the United States Constitution. Hooters has also added one additional claim to their new federal court lawsuit. They argue in Count I that the Troy City Council has violated their guaranteed First Amendment right of free expression. Hooters has requested damages in the amount of one million dollars. These damages, according to allegations in the new lawsuit, were incurred by the delay in moving their operations from the John R location to the new location on Rochester Road, and also include attorney fees and costs.

Absent objections, the City Attorney's Office will represent the City's interest in this case. If you have any questions concerning the above, please let us know.

CIVIL COVER SHEET

COUNTY IN WHICH ACTION AROSE OAKLAND

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

<p>I. (a) PLAINTIFFS</p> <p style="text-align: center;">Hooters of Troy, Inc.</p> <p>(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>Oakland</u> (EXCEPT IN U.S. PLAINTIFF CASES)</p>	<p>DEFENDANTS</p> <p style="text-align: center;">City of Troy</p> <p>COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>Oakland</u> (IN U.S. PLAINTIFF CASES ONLY)</p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p>
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<p>(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)</p> <p>Edward G. Lennon (P42278) 322 N. Old Woodward Birmingham, MI 48009 (248) 723-1276</p>	<p>ATTORNEYS (IF KNOWN)</p> <p>Lori Grigg Bluhm (P46908) 500 W. Big Beaver Road Troy, MI 48084 (248) 524-3320</p>
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II. BASIS OF JURISDICTION (PLACE AN "X" IN ONE BOX ONLY)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN "X" IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF DEF		PTF DEF
Citizen of This State	<input checked="" type="checkbox"/> 1 <input checked="" type="checkbox"/> 1	Incorporated or Principal Place of Business in This State	<input type="checkbox"/> 4 <input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2 <input type="checkbox"/> 2	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/> 5 <input type="checkbox"/> 5
Citizen or Subject of a Foreign Nation	<input type="checkbox"/> 3 <input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6 <input type="checkbox"/> 6

VI. ORIGIN (PLACE AN "X" IN ONE BOX)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened
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Case: 2:06-cv-14945
Assigned To: Cook, Julian Abele
Referral Judge: Whalen, R. Steven
Filed: 11-02-2006 At 11:20 AM
CMP HOOTERS OF TROY, INC V. CITY OF TROY (TAM)

V. NATURE OF SUIT (PLACE AN "X" IN ONE BOX ONLY)

CONTRACT	PERSONAL INJURY	PERSONAL INJURY	FO
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 6
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 6
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 6
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	PERSONAL PROPERTY	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	
<input type="checkbox"/> 190 Other Contract			
<input type="checkbox"/> 195 Contract Product Liability			
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	HABEAS CORPUS:	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 530 General	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	
<input type="checkbox"/> 245 Tort Product Liability	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 540 Mandamus & Other	
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights	
		<input type="checkbox"/> 555 Prison Condition	

LABOR	PROPERTY RIGHTS	SOCIAL SECURITY
<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 861 HIA (1395f)
<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 862 Black Lung (923)
<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 863 DIWC/DIWW (405(g))
<input type="checkbox"/> 660 Occupational Safety/Health		<input type="checkbox"/> 864 SSID Title XVI
<input type="checkbox"/> 690 Other		<input type="checkbox"/> 865 RSI (405(g))
<input type="checkbox"/> 710 Fair Labor Standards Act		FEDERAL TAX SUITS
<input type="checkbox"/> 720 Labor/Mgmt. Relations		<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)
<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act		<input type="checkbox"/> 871 IRS - Third Party 26 USC 7609
<input type="checkbox"/> 740 Railway Labor Act		
<input type="checkbox"/> 790 Other Labor Litigation		
<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act		
	<input type="checkbox"/> 460 Deportation	
	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	
	<input type="checkbox"/> 810 Selective Service	
	<input type="checkbox"/> 850 Securities/Commodities/Exchange	
	<input type="checkbox"/> 875 Customer Challenge 12 USC 3410	
	<input type="checkbox"/> 891 Agricultural Acts	
	<input type="checkbox"/> 892 Economic Stabilization Act	
	<input type="checkbox"/> 893 Environmental Matters	
	<input type="checkbox"/> 894 Energy Allocation Act	
	<input type="checkbox"/> 895 Freedom of Information Act	
	<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice	
	<input type="checkbox"/> 950 Constitutionality of State Statutes	
	<input type="checkbox"/> 890 Other Statutory Actions	

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL UNLESS DIVERSITY.)

Violating Plaintiff's federal constitutional rights, Defendant refused to recommend/approve Plaintiff's request to transfer a liquor license.

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ 1,000,000 CHECK YES only if demanded in complaint: JURY DEMAND: YES NO

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 11/2/06 SIGNATURE OF ATTORNEY OF RECORD Edward G. Lennon

United States District Court Eastern District of Michigan



Summons in a Civil Action and Return of Service Form

06 - 14945

Case Number and Judge Assignment (to be supplied by the Court)

Plaintiff(s) Name

Hooters of Troy, Inc.

Defendant(s) Name

City of Troy **JULIAN ABELE COOK, JR.**

vs.

Plaintiff's attorney, address and telephone:

Edward G. Lennon (P42278)
322 N. Old Woodward
Birmingham, MI 48009
(248) 723-1276

Name and address of defendant being served:

Lori Grigg Bluhm (P46908)
500 W. Big Beaver Road
Troy, MI 48084
(248) 524-3320

To the defendant

This summons is notification that YOU ARE BEING SUED by the above named plaintiff(s).

1. You are required to serve upon the plaintiff's attorney, name and address above, an answer to the complaint within 20 days after receiving this summons, or take other actions that are permitted by the Federal Rules of Civil Procedure.
2. You must file the original and one copy of your answer within the time limits specified above with the Clerk of Court.
3. Failure to answer or take other action permitted by the Federal Rules of Civil Procedure may result in the issuance of a judgment by default against you for the relief demanded in the complaint.

David J. Weaver
Clerk of the Court

By:  Deputy Clerk

NOV - 2 2005

Date of issuance

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HOOTERS OF TROY, INC.,

Plaintiff

v.

CITY OF TROY,

Defendant.

Case: 2:06-cv-14945

Assigned To: Cook, Julian Abele

Referral Judge: Whalen, R. Steven

Filed: 11-02-2006 At 11:20 AM

CMP HOOTERS OF TROY, INC V. CITY OF
TROY (TAM)

EDWARD G. LENNON PLLC
Edward G. Lennon (P42278)
322 N. Old Woodward Ave.
Birmingham, MI 48009
Phone: (248) 723-6270
Fax: (248) 646-2920
Attorneys for Plaintiff

HYMAN LIPPITT, P.C.
Stephen T. McKenney (P65673)
322 N. Old Woodward Ave.
Birmingham, MI 48009
Phone: (248) 646-8292
Fax: (248) 646-8375
Co-counsel for Plaintiff

COMPLAINT AND JURY DEMAND

Plaintiff Hooters of Troy, Inc. ("Hooters" or "Plaintiff"), for its complaint against defendant City of Troy (the "City" or "Defendant"), states:

NATURE OF THE CLAIM

1. Hooters brings this claim against the City because of the City's unconstitutional attempts to decimate Hooters' business. Specifically, the City has intentionally and purposefully discriminated against Hooters – refusing to grant Hooters' application for a liquor license transfer – on the

sole grounds that the City does not approve of Hooters' "image" and "aesthetics."

2. The City's violation of Hooters' constitutional rights to free expression, equal protection and due process has caused significant and tangible economic harm to Hooters. Consequently, Hooters makes this claim against the City, pursuant to 42 U.S.C. § 1983, for damages arising out of the City's action and for recovery of its attorneys' fees and costs.

PARTIES, JURISDICTION AND VENUE

3. Plaintiff, Hooters of Troy, Inc., is a Georgia Corporation authorized to conduct business in the State of Michigan and which conducts business in Oakland County, Michigan.
4. Defendant City of Troy is a municipal entity located in Oakland County, Michigan.
5. Hooters' claims arise under the United States Constitution and federal laws. Therefore, this Court has jurisdiction over this claim pursuant to 28 U.S.C. § 1331.
6. Defendant is located within Oakland County, Michigan and the acts and omissions giving rise to this claim occurred in Oakland County, Michigan. Therefore, Hooters properly lays venue in this Court, consistent with 28 U.S.C. § 1391(b).

GENERAL ALLEGATIONS

7. Hooters is a subsidiary corporation of Hooters of America, Inc., an Atlanta based operator and franchiser of over 430 Hooters restaurants located in

46 states, and 20 foreign countries. Hooters of America, Inc. and its related and/or affiliated entities have been conducting business since 1983 and there are eleven Hooters restaurants in Michigan. The Hooters of America, Inc. entities operate entertainment-related businesses, including a golf tour, an auto racing series, a magazine and a casino.

8. Hooters currently operates a restaurant with a Class C Liquor License at 1686 John R Road in Troy (the "John R Restaurant"). The John R Restaurant abuts a residential neighborhood.
9. At all times pertinent to this complaint, Hooters held a valid Class C liquor license.
10. On January 6, 2006, Hooters entered into an agreement with Sign of the Beefcarver, Inc. to purchase Sign of the Beefcarver, Inc.'s 2005 Class C Liquor License and SDM License ("Liquor License"). Sign of the Beefcarver, Inc. had operated a restaurant under the name of Wagon Wheel Saloon at 2950 Rochester Road, Troy, MI. (Sign of the Beefcarver, Inc. will be referred to as "Wagon Wheel".)
11. In addition to agreeing to purchase the Wagon Wheel Liquor License, Hooters also agreed to lease the property at which Wagon Wheel operated its restaurant, 2950 Rochester Road, Troy, MI (the "Rochester Road Restaurant"). The Rochester Road Restaurant was, and is, located in an area occupied exclusively by other commercial businesses.

12. Consistent with the terms of the lease signed between Hooters and Wagon Wheel, Hooters began paying rent to Wagon Wheel for use of the Rochester Road Restaurant in August 2006.
13. Among other things, the sale of the Liquor License is contingent upon approval of the transfer of the Liquor License by the Michigan Liquor Control Commission ("MLCC") and local authority (i.e., the City). Michigan law and the MLCC require the City's approval of the Liquor License transfer request.
14. On January 17, 2006, Hooters submitted a request to the MLCC to transfer the Liquor License from Wagon Wheel to Hooters.
15. Pursuant to Hooters' request to transfer the Wagon Wheel Liquor License to Hooters, on March 14, 2006, the MLCC issued a Notice of Impending Investigation.
16. Pursuant to the request to transfer the Liquor License from Wagon Wheel to Hooters, the City also began an investigation. Hooters provided all information and documents requested by the City during its investigation.
17. The City's police officials found no reason to deny the request to transfer the Liquor License.
18. The City's building officials found only minor conditions that needed to be corrected prior to approving the transfer of the Liquor License.
19. Several other employees and staff members of the City have recommended that the City approve the Liquor License transfer request.
20. On May 8, 2006, Hooters' representatives met with the City's Liquor

License Advisory Committee (the "Advisory Committee"). After discussing the merits of approving the transfer of the Liquor License, effectively moving Hooters from a location adjacent to a residential neighborhood to an area surrounded by solely commercial businesses, the Advisory Committee unanimously recommended that the City Council approve the Liquor License transfer.

21. Hooters' representatives then appeared at a June 19, 2006 City Council meeting. At that meeting, the City Council, by a 4 to 3 vote, denied the request for a Liquor License transfer.
22. The City Council presented no legitimate reasons for its decision to deny the Liquor License transfer request.
23. Instead, the City brazenly stated that it was denying the Liquor License transfer request because its perception of Hooters' "image" was inconsistent with the City's self-image.
24. In subsequent litigation based on the City's denial of Hooters' request to transfer the Liquor License (In re Hooters of Troy, Inc., Oakland County Circuit Court Case No. 06-075618-AS), the City has taken the position that its sole reason for denying the Liquor License transfer request was "aesthetics."
25. The City's action, through its City Council, in denying the Liquor License transfer request, was arbitrary and capricious in that:
 - a. no legitimate reasons were given for the decision to deny the Liquor License transfer;
 - b. the governing considerations (under established

Michigan law) for granting the request to transfer were wholly ignored;

- c. the decision is contrary to the fact that for many years other businesses similar to Hooters conducted operations at the location to which Hooters seeks to transfer its business;
 - d. the decision was not authorized by law and not supported by competent, material and substantial evidence; and
 - e. the City's decision was based solely on a misconception of Hooters' image and expression.
26. Hooters' equal protection rights guaranteed under the United States Constitution have been violated as a result of the arbitrary and capricious denial of the Liquor License transfer request.
27. Hooters' due process rights guaranteed under the United States Constitution have been violated as a result of the arbitrary and capricious denial of the Liquor License transfer request.
28. After Hooters responded to inconsistent mandates from City's building officials, on October 31, 2006, the City issued a temporary Certificate of Occupancy for the Rochester Road Restaurant to Hooters.
29. As a result of the City's action in denying the request to transfer the Liquor License, Hooters has incurred significant damages. Specifically:
- a. The City's failure to timely approve the Liquor License transfer caused Hooters to incur substantial delays in transferring its operations from the John R Road Restaurant to the Rochester Road Restaurant. Consequently, for many months Hooters has paid Wagon Wheel rent for the Rochester Road Restaurant for which it received no benefit because it was, and is, unable to transfer its operations to that restaurant.

- b. The City's failure to timely approve the Liquor License transfer caused Hooters to lose significant profits because, although it was ready and willing to continue its well-reputed service of alcoholic beverages to its customers at the Rochester Road Restaurant, the City's denial meant that it could not legally provide that service.
- c. The City's failure to timely approve the liquor license transfer has caused Hooters to employ attorneys and counselors to remedy the transgression of its constitutional rights by the City.
- d. The City's false impugnation of Hooters' image and business practices has driven away Hooters' potential clients and caused Hooters to forego increased revenue and profits.

COUNT I
VIOLATION OF 42 U.S.C. § 1983
(DEFENDANT'S VIOLATION OF PLAINTIFF'S FIRST AMENDMENT RIGHTS)

- 30. Plaintiff incorporates all previous paragraphs herein by reference.
- 31. Defendant is a municipality cloaked with the authority of state law.
- 32. Defendant is a municipality that, by denying the Liquor License transfer request, implemented and executed a regulation or decision officially adopted and promulgated by Defendant's officers as the municipality's custom or policy.
- 33. Plaintiff is a "person" entitled to all of the protections of the Fourteenth Amendment to the United States Constitution.
- 34. Defendant's denial of Plaintiff's Liquor License transfer request was a state action.

35. Defendant violated Plaintiff's First Amendment right to free expression, made applicable to Defendant by operation of the Fourteenth Amendment, by denying the Liquor License transfer request on the sole ground that Defendant did not approve of Plaintiff's "image" or "aesthetics."
36. Defendant restricted Plaintiff's expression based on the content of that expression.
37. Defendant's actions caused Plaintiff significant and tangible damages in the form of lost rent, lost profit, loss of customer base, loss of economic opportunity, and attorneys fees and costs.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court: (1) enter judgment in favor of Plaintiff and against Defendant; (2) award Plaintiff damages arising out of the arbitrary and capricious violation of Plaintiff's First Amendment rights pursuant to a policy of Defendant; (3) award Plaintiff its attorneys' fees, costs and interest as provided by statute; and (4) award any other relief that this Court deems appropriate, just and equitable.

COUNT II
VIOLATION OF 42 U.S.C. § 1983
(DEFENDANT'S VIOLATION OF PLAINTIFF'S FOURTEENTH AMENDMENT
EQUAL PROTECTION RIGHTS)

38. Plaintiff incorporates all previous paragraphs herein by reference.
39. Defendant is a municipality cloaked with the authority of state law.
40. Defendant is a municipality that, by denying the Liquor License transfer request, implemented and executed a regulation or decision officially adopted and promulgated by Defendant's officers as the municipality's custom or policy.

41. Plaintiff is a "person" entitled to all of the protections of the Fourteenth Amendment to the United States Constitution.
42. Defendant's denial of Plaintiff's Liquor License transfer request was a state action.
43. At all times pertinent to this Complaint, Plaintiff possessed a valid Michigan Class C Liquor License.
44. Plaintiff's possession of a Class C Liquor License grants Plaintiff a property right recognized and protected by the Fourteenth Amendment.
45. Defendant violated Plaintiff's Fourteenth Amendment right to equal protection by denying the Liquor License transfer request.
46. Specifically, by denying Plaintiff's Liquor License transfer request on the sole ground that Defendant did not approve of Plaintiff's "image" or "aesthetics," Defendant treated Plaintiff differently from all other entities seeking liquor license transfers.
47. Defendant's disparate treatment of Plaintiff was not based on any rational or permissible state objective.
48. Defendant's actions caused Plaintiff significant and tangible damages in the form of lost rent, lost profit, loss of customer base, loss of economic opportunity, and attorneys fees and costs.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court:

- (1) enter judgment in favor of Plaintiff and against Defendant;
- (2) award Plaintiff damages arising out of the arbitrary and capricious violation of Plaintiff's Fourteenth Amendment rights pursuant to a policy of Defendant;
- (3) award

Plaintiff its attorneys' fees, costs and interest as provided by statute; and (4) award any other relief that this Court deems appropriate, just and equitable.

**COUNT III
VIOLATION OF 42 U.S.C. § 1983
(DEFENDANT'S VIOLATION OF PLAINTIFF'S FOURTEENTH AMENDMENT
DUE PROCESS RIGHTS)**

49. Plaintiff incorporates all previous paragraphs herein by reference.
50. Defendant is a municipality cloaked with the authority of state law.
51. Defendant is a municipality that, by denying the Liquor License transfer request, implemented and executed a regulation or decision officially adopted and promulgated by Defendant's officers as the municipality's custom or policy.
52. Plaintiff is a "person" entitled to all of the protections of the Fourteenth Amendment to the United States Constitution.
53. Defendant's denial of Plaintiff's Liquor License transfer request was a state action.
54. At all times pertinent to this Complaint, Plaintiff possessed a valid Michigan Class C Liquor License.
55. Plaintiff's possession of a Class C Liquor License grants Plaintiff a property right recognized and protected by the Fourteenth Amendment.
56. Defendant violated Plaintiff's Fourteenth Amendment right to due process, by denying the Liquor License transfer request on the sole ground that Defendant did not approve of Plaintiff's "image" or "aesthetics."
57. Defendant's rationale for denying the Liquor License transfer request is not rationally related to any legitimate state objective.

58. Defendant's actions caused Plaintiff significant and tangible damages in the form of lost rent, lost profit, loss of customer base, loss of economic opportunity, and attorneys fees and costs.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court: (1) enter judgment in favor of Plaintiff and against Defendant; (2) award Plaintiff damages arising out of the arbitrary and capricious violation of Plaintiff's Fourteenth Amendment rights pursuant to a policy of Defendant; (3) award Plaintiff its attorneys' fees, costs and interest as provided by statute; and (4) award any other relief that this Court deems appropriate, just and equitable.

Dated: November 1, 2006

Respectfully submitted,

EDWARD G LENNON PLLC

HYMAN LIPPITT, P.C.



Edward G. Lennon (P42278)
Stephen T. McKenney (P65673)
Attorneys for Plaintiff

JURY DEMAND

Plaintiff demands a trial by jury on all issues so triable.

Dated: November 1, 2006

Respectfully submitted,

EDWARD G LENNON PLLC

HYMAN LIPPITT, P.C.



Edward G. Lennon (P42278)
Stephen T. McKenney (P65673)
Attorneys for Plaintiff