

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
SPRINGFIELD DIVISION**

HENRY’S ON MAIN, LLC,)	
Plaintiff)	
)	
vs.)	No.:
)	
VILLAGE OF ROCHESTER and)	
JOSEPH SUERDIECK,)	
Defendants)	

COMPLAINT

Now comes Plaintiff, Henry’s on Main, LLC, and for its complaint pursuant to 42 U.S.C 1983 against Joseph Suerdieck and the Village of Rochester, states as follows:

1. Plaintiff is an Illinois LLC in good standing, and applied for a liquor license from the Village of Rochester in April, 2023.
2. Defendant, Village of Rochester, is an Illinois municipality, located in Sangamon County, Illinois.
3. Defendant, Joseph Suerdieck, is the elected Village President of the Village of Rochester and serves as the Liquor Commissioner for the Village.
4. As Liquor Commissioner, Suerdieck has the responsibility to review application submitted for liquor licenses in the Village, and to grant or deny those licenses.
5. Henry’s filed an application for a Rochester Class R-G liquor license on or about April 11, 2023.
6. Henry’s filed supplementary documentation related to the review of the application between April 11, 2023, and May 22, 2023.

7. Village President and Local Liquor Control Commissioner, Joseph Suerdieck, assigned Rochester legal counsel to communicate with Henry's to collect application materials throughout the application process.
8. President Suerdieck assigned legal counsel to collect the application materials because the principal of Henry's (Mark Clemens) was engaged in the eviction of the current license holder at the Applicant Address, the son of President Suerdieck.
9. President Suerdieck stated that he assigned the "fact-finding" of the Henry's application to legal counsel to avoid the "perception of impropriety." in accordance with state law and local ordinances.
10. Village Attorney Hedinger, upon receipt of the supplementary materials from Henry's on Main, advised the applicant that nothing further was needed to complete the application process.
11. At the June 12 Village Board meeting, Clemens addressed the Board concerning this application. Clemens stated:

I would like to bring up to the Board and the [Village], this process has been corrupt from the beginning and the rules and the hooks that you're allowing others to bypass and because the situation with the President's son being kicked out for not paying his bills, now all of a sudden we are following every letter of the law all the way through the point you keep tabling it two months in a row.
12. Suerdieck characterized Clemens statements as "disparaging," "rotten," and "not very factual".
13. On June 13, Ben Suerdieck, the Village President's son, was evicted from the Applicant address, and ordered to pay nearly \$8,000 in damages to the owner.
14. President Suerdieck confirmed Ben Suerdieck forfeited possession of the Applicant Address on June 13, 2023.

15. President Suerdieck confirmed Ben Suerdieck was required to pay damages to Clemens because of the June 13, 2023, hearing.
16. On June 16, 2023, Clemens and President Suerdieck spoke about the Henry's application at President Suerdieck's place of business. Suerdieck described that conversation as polite and calm.
17. On June 20, 2023, President Suerdieck drafted a letter to Henry's denying the application for the Class R-G liquor license stating:

The application you have submitted on behalf of Henry's on Main LLC for an R-G Liquor License at 320 E Main St, Rochester, IL 62563 has been reviewed. I have determined that your application has been denied.
18. The letter provided no explanation or basis for the denial. Henry's appealed that denial to the Illinois Liquor Control commission.
19. During those proceedings, President Suerdieck testified that, in May of 2023, after Ben Suerdieck's business at the Applicant Address had been closed for more than 90 days, a liquor license was available in Rochester.
20. Suerdieck denied the Application for a liquor license, claiming that a principal of Henry's, Mark Clemens, did not possess the requisite 'good character' to be issued a license.
21. The State Liquor Commission unanimously reversed the denial of the license by Suerdieck, finding that the evidence presented by Suerdieck did not meet the standards for denial of license. The Final Administrative Decision of the commission is attached hereto as Exhibit A.

Count 1
Violation of Right of Free Speech

- 1-21 Plaintiff restates and incorporates herein Paragraphs 1-21 of this Complaint.

22. The denial of the application for a liquor license is a violation of Plaintiff's rights of free speech guaranteed by the First Amendment of the U.S. constitution, Article 1 Section 4 of the Illinois constitution and Illinois state law.
23. Plaintiff, through its principal, Mark Clemens, appeared at a Village Board meeting to discuss the application for a liquor license.
24. Defendants retaliated against Plaintiff, because of that presentation to the Village Board.
25. Plaintiff has suffered lost profits, lost gaming revenues, and incurred substantial attorneys fees resulting from Defendants' unlawful conduct.

WHEREFORE, Plaintiff prays for judgment against the Defendants in an amount in excess of \$50,000.

Count 2
Violation of Plaintiff's Right to Petition for the Redress of Grievances

- 1-21 Plaintiff restates and incorporates herein Paragraphs 1-21 of this Complaint.
26. The denial of the application for a liquor license is a violation of Plaintiff's right to petition his government for redress of grievances guaranteed by the First Amendment of the U.S. constitution.
27. Plaintiff, through its principal, Mark Clemens, appeared at a Village Board meeting to discuss the application for a liquor license, and to petition for redress of his grievance relating to the handling of that application.
28. Defendants retaliated against Plaintiff, because of that presentation to the Village Board.
29. Plaintiff has suffered lost profits, lost gaming revenues, and incurred substantial attorneys fees resulting from Defendants' unlawful conduct.

WHEREFORE, Plaintiff prays for judgment against the Defendants in an amount in excess of \$50,000.

Count 3
Denial of Equal Protection

- 1-22 Plaintiff restates and incorporates herein Paragraphs 1-22 of this Complaint.
30. The denial of the application for a liquor license is a violation of Plaintiff's right to equal protection of the laws guaranteed by the of the U.S. constitution.
31. Defendants imposed different standards on Plaintiff, in the consideration of this application for a liquor license than these same defendants imposed on other applicants and holders of liquor licenses.
32. Defendants denied Plaintiff's application for a liquor license based on some unsubstantiated conclusion that Clemens lacked the requisite 'character' to hold such license, while at the same time taking no action against the Village President's son who failed to make tax payments to the state of Illinois, resulting in a suspension of his state license, failed to pay the Village for utilities supplied by the Village, and failed to pay rent to the landlord who owned the premises where he operated a bar.
33. Defendants subjected Plaintiff to a far different standard and a far different level of scrutiny than the applicant for a liquor license in the premises formerly operated as Public House 29.
34. Plaintiff has suffered lost profits, lost gaming revenues, and incurred substantial attorneys fees resulting from Defendants' unlawful conduct.

WHEREFORE, Plaintiff prays for judgment against the Defendants in an amount in excess of \$50,000.

Respectfully submitted,

HENRY'S ON MAIN, Plaintiff

/s/ Donald M. Craven

Mr. Donald M. Craven, #6180492
Mr. Joseph A. Craven #6340231
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CIVIL COVER SHEET

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 NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Henry's On Main, LLC

(b) County of Residence of First Listed Plaintiff Sangamon (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number) Donald M. Craven, 1005 N Seventh Street, Springfield, IL 62702, 217-544-1777 Joseph A. Craven, 1005 N Seventh Street, Springfield, IL

DEFENDANTS

Village of Rochester and Joseph Suerdieck

County of Residence of First Listed Defendant Sangamon (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Anthony D. Schuering, 205 S 5th Street, Suite 1000, Springfield, IL 62701, 217-544-8491

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 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)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

Large table with categories: CONTRACT, REAL PROPERTY, CIVIL RIGHTS, TORTS, PRISONER PETITIONS, HABEAS CORPUS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN (Place an "X" in One Box Only)

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from Another District, 6 Multidistrict Litigation - Transfer, 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 42 U.S.C 1983. Brief description of cause: violation of free speech, right to petition for the redress of grievances, denial of equal protection

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ 50,000. CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

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

DATE 02/21/2024 SIGNATURE OF ATTORNEY OF RECORD /s/ Donald M. Craven

FOR OFFICE USE ONLY: RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.