

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

THOMAS J. HOLMES, Individually and d/b/a Park 6 Bar, LLC, OTHA KEITH FAIR, Individually and d/b/a The Place on 6th, LLC, PYTHAPHONE KHAMPAANE, Individually and d/b/a Ginger's Lounge, OMJAI NUEAKEAW, Individually and d/b/a Ginger's Lounge, WILBUR JONES, Individually and d/b/a Viper's Lounge, CERAFIN C. DAVALOS, Individually and d/b/a Cera's Tequila Bar, JOSE MALDONADO, Individually and d/b/a The Cruise Inn, and MARIA E. MALDONADO, Individually and d/b/a The Cruise Inn,

Plaintiffs,

v.

Case No.: 14-CV-208

JOHN DICKERT, Individually and in his official capacity as Mayor of the City of Racine, CITY OF RACINE, a municipal corporation, GARY E. BECKER, Individually and in his official capacity as Mayor of the City of Racine, DOWNTOWN RACINE CORPORATION, a nonstock corporation, RACINE CITY TAVERN LEAGUE, INC., a nonstock corporation, KURT S. WAHLEN, Individually and in his official capacity as Chief of Police of the Racine Police Department, JEFFREY A. COE, Individually and in his official capacity as Alderman and Member of the Racine Common Council, JAMES KAPLAN, Individually and in his official capacity as Alderman and Member of the Racine Common Council, RAYMOND DEHAHN, Individually and in his official capacity as Alderman and Member of the Racine Common Council, GREGORY T. HELDING, Individually and in his official capacity as Alderman and Member of the Racine Common Council, DAVID L. MAACK II, Individually and in his official capacity as Alderman and Member of the Racine Common Council, ARON M. WISNESKI, Individually and in his official capacity as Alderman and Member of the Racine Common Council, ROBERT E. MOZOL, Individually and in

his official capacity as Alderman and Member of the Racine Common Council, DEVIN P. SUTHERLAND, Individually and as Executive Director of the Downtown Racine Corporation and Manager of the Downtown Business Improvement District #1, MARK L. LEVINE, Individually and as Chairman of the Downtown Business Improvement District #1, JOSEPH G. LEGATH, Individually and as Member of the Racine City Tavern League, Inc. and Board Member of the Downtown Business Improvement District #1, DOUGLAS E. NICHOLSON, Individually and as Member of the Racine City Tavern League, Inc., MONTE G. OSTERMAN, Individually, MARY OSTERMAN, Individually and in her official capacity as Treasurer of Mayor John Dickert's election campaign, GREGORY S. BACH, Individually and in his official capacity as Assistant to Mayor John Dickert,

Defendants.

COMPLAINT

NOW COME the Plaintiffs, Thomas J. Holmes, Individually and d/b/a Park 6 Bar, LLC ("Holmes"), Otha Keith Fair ("Fair"), Individually and d/b/a The Place on 6th, LLC, Pythaphone Khampane ("Khampane"), Individually and d/b/a Ginger's Lounge, Omjai Nueakeaw ("Nueakeaw"), Individually and d/b/a Ginger's Lounge, Wilbur Jones ("Jones"), Individually and d/b/a Viper's Lounge, Cerafin C. Davalos ("Davalos"), Individually and d/b/a Cera's Tequila Bar, Jose Maldonado, Individually and d/b/a The Cruise Inn, and Maria E. Maldonado, Individually and d/b/a The Cruise Inn, by their attorneys, Kohler and Hart, S.C. and Segal McCambridge Singer & Mahoney, Ltd, and allege the following:

I. INTRODUCTION

1. Until recently, the central business district within the City of Racine, Wisconsin, exemplified the city's diverse, multicultural population. Minority-owned establishments catering to minority and non-minority patrons were commonplace in downtown Racine until a pervasive policy designed to eradicate these businesses resulted in a dramatic change.

2. The Defendants, including the City of Racine and several powerful individuals, both within and outside of the municipal government, have conspired to drive local minority-owned establishments—specifically, bars and taverns—out of Racine. To that end, the Defendants instituted a policy wherein, through discriminatory practices, minority bar owners have been forced to close their doors. Similarly situated white-owned establishments frequented by white patrons were not subjected to the same scrutiny during the same time period.

3. The Defendants' discriminatory actions are driven by multiple factors. First, the Defendants' scheme to eliminate minority-owned bars within Racine promotes white-owned establishments, which, in turn, financially support the governmental figures within the conspiracy. Second, the Defendants' scheme to eliminate minority-owned bars is also motivated by simple racism—specifically, a desire to “rehabilitate” and “clean up” the downtown area which, in the Defendants' minds, requires fewer or no minority-owned establishments and their minority patrons.

4. The Defendants' targeting of minority-owned establishments and their minority patrons through a pattern and practice of discriminatory treatment on the basis of race has deprived the Plaintiffs of their right to equal protection under the law and their right to equal privileges and immunities under the law. Furthermore, the Defendants' scheme to eliminate minority-owned bars and their minority patrons from Racine and/or their deliberate indifference toward these discriminatory policies violated the substantive due process protections of the

Fourteenth Amendment and resulted in an unconstitutional deprivation of the Plaintiffs' liberty and property interests.

5. The Plaintiffs bring this action to recover for injuries caused by the Defendants' conduct and seek injunctive relief, treble damages, costs of suit and reasonable attorneys' fees arising from the Defendants' violation of the Civil Rights Act (42 U.S.C. §§ 1983, 1985(3)) and the Racketeer Influenced and Corrupt Organizations Act (18 U.S.C. § 1962(b)–(d)).

II. JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to Title 28, United States Code, Sections 1331 and 1343(3).

7. Venue is proper in this District pursuant to Title 28, United States Code, Section 1391 because all of the acts committed by the Defendants for which the Plaintiffs claim relief occurred within the Eastern District of Wisconsin.

8. This Court has personal jurisdiction over each Defendant because each Defendant: (a) is a citizen of this District; (b) transacted business in this District; (c) had substantial contacts with this District; and/or (d) engaged in a conspiracy that was directed at and had a direct, foreseeable, and intended effect of causing injury to the business or property of persons residing or doing business in this District.

III. PARTIES

A. PLAINTIFFS

9. Plaintiff Thomas J. Holmes ("Holmes"), Individually and d/b/a Park 6 Bar, LLC, resides in the County of Milwaukee, State of Wisconsin. Holmes owned and operated the Park 6 Bar in Racine, Wisconsin, from 2008 to 2012. Holmes is black.

10. Plaintiff Otha Keith Fair (“Fair”), Individually and d/b/a The Place On 6th, LLC, resides in Jacksonville, State of Florida. Fair owned and operated The Place On 6th in Racine, Wisconsin, from 2009 to 2012. Fair is black.

11. Plaintiff Pythaphone Khampane (“Khampane”), Individually and d/b/a Ginger’s Lounge, resides in the County of Milwaukee, State of Wisconsin. Khampane owned and operated Ginger’s Lounge in Racine, Wisconsin, from 2008 to 2011. Khampane is a Thai-American.

12. Plaintiff Omjai Nueakeaw (“Nueakeaw”), Individually and d/b/a Ginger’s Lounge, resides in Racine, State of Wisconsin. Nueakeaw owned and operated Ginger’s Lounge in Racine, Wisconsin, with Khampane from 2008 to 2011. Nueakeaw is a Thai citizen.

13. Plaintiff Wilbur Jones (“Jones”), Individually and d/b/a Viper’s Lounge, resides in Racine, State of Wisconsin. Jones owned and operated Viper’s Lounge in Racine, Wisconsin, from 1998 to 2008. Jones is black.

14. Plaintiff Cerafin C. Davalos (“Davalos”), Individually and d/b/a Cera’s Tequila Bar, resides in Racine, State of Wisconsin. Davalos owned and operated Cera’s Tequila Bar in Racine, Wisconsin, from 2006 to 2008. Davalos is Hispanic.

15. Plaintiffs Jose and Maria E. Maldonado (“the Maldonados”), Individually and d/b/a The Cruise Inn, reside in Racine, State of Wisconsin. Plaintiffs Maldonados owned and operated The Cruise Inn in Racine, Wisconsin, from 2001 to 2006. The Maldonados are Hispanic.

B. DEFENDANTS

16. Defendant City of Racine (the “City”) is a municipality duly organized and existing under and pursuant to the laws of the State of Wisconsin. The government of the City of

Racine is divided into executive and legislative branches. The following entities have been instrumental in targeting minority-owned establishments and their minority patrons through a pattern and practice of discriminatory treatment on the basis of race:

- a. The Mayor, in his/her capacity as chief executive, appoints commissioners and other officials who oversee various departments, committees, and commissions. These appointments must be approved by the Racine Common Council (“Common Council”).
- b. The Common Council, the City’s legislative branch, is comprised of fifteen alderpersons who represent the City’s fifteen districts. The Common Council enacts local ordinances and approves the City’s budget.
- c. The Public Safety and Licensing Committee (“Licensing Committee”) hears all alcohol licensing matters for the Common Council, including applications, renewals, suspensions, and revocation proceedings. The Licensing Committee is made up of Common Council members.
- d. The Downtown Business Improvement District #1 (“BID #1”) was created and approved by the Common Council on October 16, 2001. The stated objective of BID #1 is to preserve and improve the social and economic conditions within the district by bringing together appropriate partnerships of people, organizations, and funds to evaluate, facilitate or implement downtown development projects. BID #1 expenditures are funded through special assessments levied against each tax parcel of property within BID #1, as well as additional funds received by BID #1 through gifts, grants, government programs, and other sources. BID #1 is governed by a Board of Directors made up of eight members, including a

Chairman, Treasurer, and Secretary. The members are the 1st District Alderperson and property and business owners within BID #1. The Mayor appoints members to the BID #1 Board. The appointments made by the Mayor must be confirmed by the Common Council.

- e. The Racine Police Department (“Police Department”) enforces municipal and state laws in the City of Racine.

17. Defendant Gary E. Becker (“Becker”) was the Mayor of the City of Racine from April 2003 until his resignation on January 20, 2009, and, at all times herein, was acting in his individual and official capacity under the color of state law and title.

18. Defendant John Dickert (“Dickert”) has been the Mayor of the City of Racine from May 2009 to present, and, at all times herein was acting in his individual and official capacity under the color of state law and title. Dickert’s 2009 mayoral campaign platform was largely based on his promise to “revitalize” and “clean up” downtown Racine.

19. Defendant Downtown Racine Corporation (“Downtown Racine Corporation”) is a private, non-profit corporation dedicated to enhancing the image and functionality of downtown Racine by attracting new businesses, residents, and visitors. The Downtown Racine Corporation contracts with the City to manage BID #1. The Downtown Racine Corporation’s day-to-day operations are managed by an Executive Director, who also acts as the manager for BID #1. The Downtown Racine Corporation is governed by a Board of Directors made up of 15 to 20 members like downtown property owners, professionals, retailers, corporate sponsors, and members at large. The Executive Committee of the Downtown Racine Corporation Board of Directors consists of a Chairman, Immediate Past Chairman, Vice Chairman, Treasurer, Secretary, the Mayor, and the Racine County Executive. The Downtown Racine Corporation has

a website, which it shares with BID #1, and a publication featuring downtown events, shopping, dining, arts, attractions, and advertising for downtown businesses.

20. Defendant Racine City Tavern League, Inc. (“Tavern League”) is a non-profit corporation established to serve alcoholic retailers in Racine, Wisconsin. The Tavern League has approximately 83 active members and is governed by a Board of Directors that includes a President, Vice President, Membership Chair, Treasurer, and Secretary. The Tavern League notifies its members of upcoming license renewals, Common Council committee meetings, fundraisers, and monthly Tavern League membership meetings. During the relevant time period, the Tavern League was made up of dozens of members, the vast majority of which were white. Very few minority bar owners were ever admitted as a member of the Tavern League during the relevant time period.

21. Defendant Kurt S. Wahlen (“Wahlen”) was the Police Chief of the Racine Police Department from 2007 to April 2012, and, at all times herein, was acting in his individual and official capacity under the color of state law and title.

22. Defendant Jeffrey A. Coe (“Coe”) is a member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Coe was initially elected as the Alderman for the 1st District in April 2001. Coe lost the position to Plaintiff Keith Fair in the April 2005 election. Coe was then re-elected in April 2007 and served again as Alderman until April 2011, and again from April 2013 to the present. At times relevant to this action, Coe served on the Licensing Committee. Coe is also a board member of BID #1 and a board member of the Downtown Racine Corporation.

23. Defendant James Kaplan (“Kaplan”) is a member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Kaplan was elected as the Alderman for the 4th District in April 2006, a position he still holds. Kaplan also sits on the City’s Board of Health. At times relevant to this action, Kaplan served on the Licensing Committee.

24. Defendant Raymond DeHahn (“DeHahn”) is a member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. DeHahn was elected as Alderman for the 7th District in April 2005 and served as such until April 2011. At times relevant to this action, DeHahn served on the Licensing Committee.

25. Defendant Gregory T. Holding (“Holding”) is a member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Holding was elected as Alderman for the 11th District in April 2005 and currently serves as such. At times relevant to this action, Holding served on the Licensing Committee.

26. Defendant David L. Maack II (“Maack”) is a former member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Maack was elected as an Alderman in April 2000 and served as such until April 2010. At times relevant to this action, Maack served on the Licensing Committee.

27. Defendant Aron M. Wisneski (“Wisneski”) is a former member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Wisneski was elected as an Alderman in April

2006 and served as such until April 2012. At times relevant to this action, Wisneski served on the Licensing Committee.

28. Defendant Robert E. Mozol (“Mozol”) is a former member of the Common Council, a policymaking body, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Mozol was elected as an Alderman in April 2007 and served as such until April 2013. At times relevant to this action, Mozol served on the Licensing Committee.

29. Defendant Devin P. Sutherland (“Sutherland”) is the Executive Director of the Downtown Racine Corporation and the Manager for the BID #1. Sutherland was hired as the Executive Director in September of 2003.

30. Defendant Mark L. Levine (“Levine”) is the Chairman of the BID #1 and owns property within BID #1.

31. Defendant Joseph G. LeGath (“LeGath”) is a member of the Tavern League and serves as its Director. He is also a member of the BID #1 board, and the owner and operator of various taverns in Racine, including Joey’s On Lathrop, Joey’s On Taylor, and Joey’s On 6th. LeGath is on the City’s Board of Parks, Recreation and Cultural Services and is a Board member on the BID #1.

32. Defendant Douglas E. Nicholson (“Nicholson”) is a member of the Tavern League and the owner and operator of Ivanhoe’s Pub & Eatery, Envi, and Hiram’s Place, all of which are bars located within the BID #1. Nicholson is on the City’s Board of Ethics.

33. Defendant Monte G. Osterman (“Osterman”) is the owner and operator of Osterman Granite and Marble, a business located within the BID #1. Osterman is currently the

District #3 Racine County Supervisor. Osterman assisted Dickert during his 2009 and 2011 mayoral campaigns.

34. Defendant Mary (nee Jerger) Osterman (“Jerger”) is the wife of Monte Osterman and the owner and operator of Copacetic, a business located within BID #1. Jerger served as Dickert’s campaign treasurer for his 2009 and 2011 mayoral campaigns.

35. Defendant Gregory S. Bach (“Bach”) has been the Assistant to Mayor Dickert from May 2009 to present, and, at all times herein, was acting in his individual and official capacity under the color of state law and title. Bach was also a campaign worker for Dickert in 2009 and 2011.

IV. FACTUAL BACKGROUND

36. Approximately 38% of the residents of Racine, Wisconsin are racial minorities.

37. At one time, downtown Racine was reflective of the City’s racially diverse population. For example, prior to 2006, there were numerous minority-owned bars in the downtown Racine area and many others throughout the City of Racine.

38. Beginning in 2006 during the mayoral term of Gary Becker, the Defendants began a discriminatory process to disparately treat, restrict and/or remove minority-owned bars from the City of Racine. The Defendants used the municipal and state liquor licensing ordinances, regulations, and statutes to deny issuance of licenses, deny renewal of licenses, or suspend and/or revoke licenses associated with minority-owned bars located in areas where the City planned development and/or areas where the predominately minority patrons of the minority-owned bars were not welcome by businesses, property owners, and/or residents.

A. The Conspiracy—Members and Motivation

39. On January 20, 2009, Mayor Becker resigned from office due to criminal conduct. In late January 2009, long-time friend and associate of Becker, John Dickert—a local business man and realtor specializing in redevelopment—declared his intention to run in the special election for Mayor of Racine held in April 2009.

40. During his 2009 mayoral campaign, Dickert ran on the platform that, as Mayor, he would bring new development, “revitalize”, and “clean up” the downtown Racine area. Dickert told his campaign staff and volunteers he would focus on Park 6 and other “bad businesses” west of Main Street downtown. Dickert said other bar owners and businesses in the area of Park 6 want Park 6 and similar bars shut down because of their “undesirable patrons” and “problem patrons.”

41. Members of the Tavern League, including Defendants LeGath and Nicholson, were instrumental in raising money for Dickert’s campaign. Several Tavern League members, including LeGath and Nicholson, contributed large amounts of money to the campaign. The money was collected from the Tavern League members by Dickert’s campaign staff and volunteers, including Defendants Osterman and Bach. The cash amounts routinely exceeded the cash limits for individuals, as well as the total contribution limits for individuals. With the full knowledge and consent of Dickert, the Tavern League money was fraudulently reported in campaign finance reports by Dickert’s campaign staff, including his treasurer, Defendant Jerger. The fraudulent reporting was known to the core members of the campaign, including Defendants Osterman and Bach. The bribe monies were deposited in the bank account of Dickert’s campaign organization, “The Friends of Dickert.” In exchange for their financial support, Dickert appointed many of the Tavern League contributors to powerful positions within the municipal government and awarded other contributors with City-funded business.

42. Dickert also received thousands of dollars in personal loans that were deposited into his personal bank account. The personal loans, which came from sources including a family member living outside the State of Wisconsin and a member of Dickert's campaign staff, were elicited for the purpose of circumventing the maximum allowable campaign contributions. Dickert then used the proceeds to write checks to his campaign under the guise that they were coming from a personal loan Dickert made to his own campaign fund. With the full knowledge and consent of Dickert, the loans were then fraudulently reported by Dickert's campaign staff on campaign finance reports, as the true identities of the donors were never revealed. The fraudulent loan monies were deposited in the bank account of Dickert's campaign organization, "The Friends of Dickert."

43. After becoming Mayor in 2009, Dickert, and other Defendants on his behalf, continued to accept bribes from Tavern League members and other businesses in Racine. Dickert and other Defendants continued to fraudulently report the monies on campaign finance reports and then deposit the monies into the campaign's bank account. These practices continued up to and after the 2011 re-election campaign for Dickert, and likely continue to date.

44. In return for the Tavern League's legal and illegal financial contributions, Dickert conspired with Alderpersons, Police Department officials, the Downtown Racine Corporation, BID #1 Board members, and business and property owners to prevent minority bar owners from obtaining and/or maintaining their liquor licenses and to ensure white Tavern League members kept their respective liquor licenses. Once these licenses were revoked or surrendered by the minority bar owners, the licenses became available to the white members of the Tavern League. This *quid pro quo* relationship between Dickert and the Tavern League benefited Dickert in that it furthered his campaign promise of "revitalizing" and "cleaning up" the downtown area and

secured him financial support. Meanwhile, the white Tavern League members were not only protected from Police Department and Licensing Committee scrutiny, but also gained access to the limited number of liquor licenses available in Racine. The Defendant Aldermen, in turn, claimed a “tough on crime” stance with their respective constituents, and the white-owned business and property owners represented by the Downtown Racine Corporation financially benefited by maintaining control of what businesses could or could not operate in downtown Racine.

45. Simultaneously, Dickert became an early proponent of the redevelopment of Porters of Racine Furniture store, located at 301 6th Street. The white owners of the building proposed to turn the location into non-subsidized apartments and retail space. In attempts to make good on his campaign promise to revitalize the downtown area of Racine, Dickert promoted this condominium project. This support, in turn, reinforced Dickert’s participation in the conspiracy to systematically force minority-owned bars out of downtown Racine.

B. Disparate Treatment Along Racial Lines

46. To effectuate the Defendants’ scheme to eliminate minority-owned bars out of Racine, the Defendants systematically imposed heightened burdens on minority-owned bars through administrative agencies, the Police Department, and by other means, making it difficult for them to obtain or maintain a liquor license. When minority bar owners applied for a liquor license, their applications were often denied by the Licensing Committee because the liquor license was, ostensibly, contrary to the health, safety, or welfare of the public or any regulation, law, or ordinance applicable to the liquor license. However, white bar owners have rarely been denied a requested liquor license since 2006.

i. The Due Process Procedure

47. In the event minority bar owners received liquor licenses, they were regularly ordered to appear before the Licensing Committee for so-called “direct referrals” from citizens, the Police Department, or an Alderperson regarding incidents occurring at the minority-owned bars. At the initial Licensing Committee hearing, the minority bar owner is expected to explain the referred conduct to the Licensing Committee and offer what voluntary steps it will take to address the issue(s). If satisfied with the explanation and offered solution, the Licensing Committee may “receive and file” the matter with no further action. This “receive and file” procedure was rarely implemented concerning minority-owned bars. It was, however, the usual procedure when white-owned bars were at issue. Many times the Licensing Committee would “defer” the matter to another date to determine if the minority bar owner followed through with the offered solution and/or to determine if incidents at the bar continued.

48. In fear of non-renewal, suspension and/or revocation, many minority bar owners unwillingly entered into “side agreements” with the City—requiring them to endure significant costs—rather than participate in a due process hearing. White-owned bars at which nearly identical incidents of severity and frequency occurred were rarely forced into due process hearings or costly “side agreements” with the City. In fact, only those white-owned bars that have minority patrons have ever gone through a due process hearing.

49. Side agreements forced upon minority bar owners to obtain and/or maintain a license included, but were not limited to, the following additional requirements: hiring off-duty Police Department officers or private security; installing and/or updating security video systems inside and outside the bar; instituting dress codes, age restrictions (no patrons under the age of 25 years old), capacity restrictions, noise restrictions, music restrictions along racial lines (no hip-hop); limiting the hours of operation; purchasing ID scanners; sound proofing; installing metal

detectors; re-surfacing parking lots; installing outdoor lights; and even donating to local charitable groups.

50. Rarely has the Licensing Committee required white bar owners to enter into side agreements that included any of these above additional requirements. On the rare occasions when the Licensing Committee confronted white bar owners with a potential side agreement, white bar owners advised that they could not afford the additional requirements and no further action would be taken.

51. If the Licensing Committee was not satisfied with a minority owner's offered solution to issues raised, or if the minority bar owner did not comply with a "side agreement" entered into with the City, the Licensing Committee recommended to the Common Council that the bar owner proceed to a due process hearing. The Common Council must approve the recommendation of the Licensing Committee to begin a due process hearing before a hearing is scheduled by the Licensing Committee. In almost all instances, the Common Council approved the Licensing Committee's recommendation to hold a due process hearing against minority bar owners.

52. The due process hearing was then formally initiated by filing a sworn complaint alleging a specific violation of municipal ordinances and/or state statutes. Written notice of the alleged causes for suspension or revocation was to be provided to the licensee at least 10 days before such hearing was held before the Licensing Committee.

53. At the due process hearing, the licensee may be represented by counsel and produce witnesses. Testimony at the Licensing Committee due process hearing was under oath, subject to the right of cross-examination, and recorded. After the due process hearing, the Licensing Committee submitted a report to the Common Council that included findings of fact,

conclusions of law, and a recommendation as to what action, if any, the Common Council should take with respect to the license. The Licensing Committee provided the complainant and licensee with a copy of the report. The complainant and licensee may file an objection to the report and have the opportunity to present arguments supporting the objection to the Common Council. The Common Council determined whether the arguments would be presented orally or in writing. If the Common Council, after considering the report and any arguments presented, found the complaint to be true, or if there was no objection to the report recommending suspension or revocation, the license would be suspended or revoked.

54. Few minority-owned bars have undergone a due process hearing before the Licensing Committee without having their license recommended for suspension and/or revocation to the Common Council. Likewise, the Common Council almost always followed the Licensing Committee recommendation for suspension and/or revocation of a minority bar owner's license.

55. Between 2006 and June 2013, it was almost exclusively minority bar owners and/or white bar owners with minority patrons who were forced to sign side agreements with the City in order to avoid a due process hearing, retain their licenses, and stay in business.

56. Between 2006 and June 2013, it was almost exclusively minority bar owners and/or white bar owners with minority patrons who were taken to due process hearings, surrendered their licenses, or had their licenses suspended, not renewed, and/or revoked by the City.

57. Between 2006 and June 2013, no white bar owners with white bar patrons surrendered their licenses or had their licenses suspended, revoked, and/or not renewed by the City.

ii. Targeting of Minority-Owned Bars

58. Between 2006 and June 2013, Police Department calls for service to minority-owned bars compared to white-owned bars were markedly lower for fights, assaults, ordinance complaints, civil trouble, weapons, and narcotics. Yet, despite fewer calls for service, minority bars owners were called before the Licensing Committee almost twice as many times as white bar owners. In almost every instance where a white bar owner was called before the Licensing Committee, the matter was received and filed with no further action taken. On only a few occasions were white bar owners forced to enter a side agreement with the City Attorney and the Licensing Committee. On no occasion did a white-owned bar with white bar patrons lose its license. Conversely, in almost every instance a minority bar owner was called before the Licensing Committee, the ultimate result was a revocation of the license. The minority-owned bars entered into many side agreements and many of their licenses were suspended, revoked, or surrendered. Unlike the normal procedure for white-owned bars, few minority-owned bar matters were received and filed with no further action at the Licensing Committee.

59. Many of the calls to the Police Department reporting incidents in or around minority-owned bars were made by “anonymous” callers and/or by tenants, business owners, and property owners in the areas around the minority-owned bars. Many of these callers were motivated by rent reductions, financial gain, and/or racism. Many of these callers were working directly with the Downtown Racine Corporation, BID #1 Board members, Aldermen, and City officials to flood the Police Department with calls concerning the minority-owned bars and their minority patrons. These often “bogus” calls provided a convenient excuse for the Police Department to respond to the minority-owned bars and to provide a paper trail for subsequent referrals, complaints, and proceedings before the Licensing Committee. The Police Department

often used the “bogus” calls to inflate and exaggerate reports of its calls for service to minority-owned bars. These reports were routinely provided to the Licensing Committee for its use in proceedings against the minority-owned bars. Conversely, in many instances the Police Department calls for service to white-owned bars for the same or similar complaints were downplayed, never reported, or never referred to the Licensing Committee.

60. The Downtown Racine Corporation would also provide reports to the Licensing Committee concerning incidents in the downtown area. Many of the reports came through Metro Security, a company under contract with the Downtown Racine Corporation to supplement security for businesses in the downtown area. The Downtown Racine Corporation would review the Metro Security reports and selectively send those that could be used against a minority-owned bar to the Licensing Committee.

61. Further, the Downtown Racine Corporation purchased surveillance cameras to be installed downtown in what the Downtown Racine Corporation, Police Department, Licensing Committee, and City officials considered to be “problem” areas. These fixed cameras were installed in the 500 Block of 6th Street so as to point directly at the areas in front of and adjacent to minority-owned bars. None were installed to view the white-owned bars on 6th Street. The installed cameras were linked directly to City Hall for easy access and viewing by City officials and the Licensing Committee.

62. The Police Department also routinely waited outside minority-owned bars around closing time to videotape patrons coming and going from the bars. The Police Department reported the hours that police resources were used in the vicinity of the minority-owned bars. The Police Department provided the video and reported hours to the Licensing Committee for use in proceedings against the minority-owned bars to claim that an excessive amount of police

resources were being used to maintain peace in the areas around the bars. Rarely did the Police Department provide such attention to white-owned bars and their predominately white patrons. Moreover, the Police Department's portrayal of these so-called "problem" areas was often contradicted by the more objective Metro Security reports and testimony at Licensing Committee proceedings.

63. Off-duty police officers who worked security at white-owned bars routinely deflected the Police Department from responding to incidents at the white-owned bars. However, off-duty police officers working security at minority-owned bars (as required by side agreements between the City and the minority-owned bars) routinely called the Police Department for assistance for incidents at minority-owned bars. These "extra" calls for service were reported to the Licensing Committee.

C. Defendants' Plan to Rid Racine of Minority-Owned Bars Was Successful

64. Defendants' scheme of (1) imposing barriers on minority-owned bars to obtaining or maintaining liquor licenses; and (2) targeting minority-owned bars utilizing the Police Department was successful.

65. Today, there are no minority-owned bars in the downtown area.

66. As of December 2013 there were 128 Class B liquor licenses in Racine. The overwhelming majority of these licenses held by bar and tavern owners are currently held by the Tavern League, who are nearly all white.

67. The conspiracy to rid downtown Racine of minority-owned bars is ongoing.

Treatment of White-Owned Bars

68. On August 12, 2005, a fight broke out in Ricky's Place located at 236 Main Street in the City of Racine. The fight eventually spilled outside to the front of the bar. A suspect shot

the white bar owner and a bartender. The white bar owner is the brother of a then-Police Department Deputy Chief. The suspect was caught and prosecuted. The white bar owner is a member of the Tavern League. The bar was, and still is, predominantly frequented by white patrons. Although the due process procedure had not yet been implemented, the bar was never called before the Common Council for violations of any municipal ordinances and/or state statutes and its license was renewed in mid-2006 by the Common Council without reference to the August 2005 shooting incident.

69. On October 5, 2006, the Police Department responded to a complaint at the City Hall Lounge, located at 835 Washington Avenue. Twenty-one people were arrested for underage drinking. Three guns were confiscated and seven other criminal arrests were made. The owner of the bar is white and his patrons were predominately white. The owner was subsequently called before the Licensing Committee. He blamed the incident on security guards who let the minors into the tavern. When asked for their names, the owner could not provide the information. The matter was not sent to a due process hearing. Instead, negotiations with the City Attorney ensued. The matter was received and filed by the Licensing Committee and no further action was taken.

70. On February 18, 2007, the Police Department responded to a fight at Ricky's Place. Six police squads responded. There is no record that the matter was ever brought before the Licensing Committee. On June 30, 2007, and again in July, 2008, Ricky's Class B liquor license was renewed.

71. On August 31, 2007—approximately six weeks after obtaining a Class B Liquor license—a fight broke out inside Kenny's, a bar located at 1300 N. Main Street. The owner is white and a member of the Tavern League. The bar was, and still is, predominantly frequented

by white patrons. After being thrown out because of the fight, a patron came back to the bar with a gun and shot two persons inside the bar and one person outside the bar. Kenny's was called before the Licensing Committee on October 22, 2007. The owner told the Licensing Committee he fired three bartenders and promised to be more observant. The report was received and filed by the Licensing Committee and no further action was taken.

72. On August 31, 2007, one person was shot multiple times in the parking lot of George's Tavern located at 1201 N. Main Street. The owner is white and member of the Tavern League. The bar was, and still is, predominantly frequented by white patrons. On October 22, 2007, the owner was called before the Licensing Committee. He told the Licensing Committee that he would institute a dress code and require two types of identification. The owner also told the Licensing Committee he fired three bartenders and hired a bar manager. The owner commented that the shooting could have happened anywhere due to bad blood between patrons. The report was received and filed by the Licensing Committee and no further action was taken.

73. On February 5, 2009, a person was shot four times while entering TBG's Bar & Grill located at 1814 Taylor Avenue. The owner of TBG's is white and a member of the Tavern League. TBG's was, and still is, predominantly frequented by white patrons. The Police Department found the victim inside of the bar. The exterior and interior door of the bar was shattered due to gunfire. The bar was never called before the Licensing Committee for the incident.

74. On January 9, 2010, a fight inside Joey's On Lathrop located at 2054 Lathrop Avenue spilled outside. The owner of Joey's, Defendant LeGath, is white and member of the Tavern League. The bar was, and still is, predominantly frequented by white patrons. Multiple

gun shots were fired. A nearby McDonald's Restaurant, an office building, and Family Video were hit with bullets. The bar was never called before the Licensing Committee for the incident.

75. On July 10, 2010, as a patron left Pepi's Bar located at 618 6th Street, two gun shots were fired in the front of the bar. A patron of Pepi's was hit by the gun shots in an arm and stomach. The Police Department called the shooting an accident and the incident was not reflected on the bar's history report. The owner of Pepi's is white and a member of the Tavern League. The patrons of the bar were, and still are, predominantly white. Pepi's was not called to appear before the Licensing Committee.

76. On February 25, 2011, Metro Security responded to crowd incidents and an assault at Ivanhoe's Pub & Eatery. The owner of Ivanhoe's, Defendant Nicholson is white and a member of the Tavern League. The bar was, and still is, predominantly frequented by white patrons. Ivanhoe's was never brought to the Licensing Committee for the incident.

77. On May 5, 2011, a fight that began inside Peg & Lou's Bar located at 3113 Douglas Avenue spilled outside and resulted in a homicide. The victim's body was found at closing time. The suspects returned to the bar and confessed to a bartender. The owners of Peg & Lou's are white and members of the Tavern League. The patrons of the bar were, and still are, predominantly white. Peg & Lou's was called before the Licensing Committee on September 26, 2011. The owners said they would be more diligent watching customers. The owners also said the bar has an old camera system and cannot afford to replace the system. The matter was received and filed and no further action was taken by the Licensing Committee.

78. On August 6, 2011, at 2:12 a.m., the Police Department responded to a fight inside and outside of Kenny's. Upon arrival, officers saw that the front window of the bar was broken. Several people in the street began throwing punches. Several people ignored commands

by officers to stop fighting and were taken into custody at Taser point. In all, four people were arrested and eight officers were required to manage the incident. The incident tied up officers for over three hours. The matter was received and filed by the Licensing Committee and no further action was taken.

79. On April 19, 2012, at 1:05 a.m., Metro Security reported that the Police Department was called to Envi at 316 Main St. for a fight involving five to six people. The owner of Envi, Defendant Nicholson, is white and member of the Tavern League. The bar was, and still is, predominantly frequented by white patrons. Five police squads reported to the area to look for a suspect. After ten to fifteen minutes, the police left the area. Metro officers heard a police officer advise dispatch that the location of the call should be referred to generically as the “300 block of Main Street” as to avoid having it linked directly to Envi. The matter was never brought before the Licensing Committee.

80. On August 11, 2012, at approximately 12:30 a.m., multiple gun shots were fired in the direction of Kenny’s. Multiple cars were hit by gunfire and one person was shot in the arm. Witnesses in the bar said they saw and heard “shots flying.” The shooting does not appear on police reports or on the bar’s history report. The incident was never referred to the Licensing Committee.

81. On May 11, 2013, at 1:00 a.m., the Police Department responded to another shooting at Kenny’s. Upon arrival, officers spoke to bar security and learned that a fight had occurred inside Kenny’s between several patrons. As the bar was emptying, two people fired numerous shots. The Police Department noted that the investigation was ongoing. The Licensing Committee took no action on this incident.

82. On June 9, 2013, at 1:34 a.m., the Police Department responded to Ricky's Place due to a large fight reported outside the bar. When officers arrived on scene, they observed a large crowd, but no fighting. The officers did, however, observe an intoxicated patron with a head injury. Officers warned the bartender about dispersing such large crowds at closing time. The matter was never brought before the Licensing Committee. On June 30, 2013, the Class B Liquor license of Ricky's Place was renewed.

83. On June 23, 2013, at 1:05 a.m., the Police Department responded to another shooting incident at Kenny's and found that the suspects fired several rounds at the rear smoking patio area. A patron was struck in the left buttock by a bullet. Despite several shootings in just a few years, on June 30, 2013, Kenny's Class B liquor license was renewed.

84. On July 13, 2013, as a crowd left Pepi's Bar at 618 6th Street, fights broke out on the sidewalk. People were milling about the sidewalk and in the middle of street, impeding traffic and being loud. No police officers arrived on the scene. The matter was never referred to the Licensing Committee.

85. On July 15, 2013, at 12:40 a.m., the Police Department responded to a call for a fight in front of Kenny's. Upon arrival, officers saw a large group of individuals separating. Two intoxicated people were identified as being involved in a fight and one of them was visibly injured. Officers also saw a large number of beer bottles located outside of the bar. The matter was never referred to the Licensing Committee.

86. After a string of incidents involving Kenny's, the Licensing Committee asked its white owner to appear before it for an informal meeting on July 22, 2013. One of the committee members said that the conference was intended for information gathering only. The white owner told the Licensing Committee that the bar would voluntarily close at midnight on the weekends

in light of recent events. The owner told the Licensing Committee that he and his staff also met with the Police Department on June 28 to discuss crime prevention strategies. Police Department Chief Howell requested the Licensing Committee treat the recent shooting at Kenny's as a homicide. The Licensing Committee asked for a side agreement and ordered Kenny's to return to the Licensing Committee on August 12, 2013.

87. On August 12, 2013, Kenny's was not required to sign a side agreement before the Licensing Committee. In fact, Kenny's was not even on the Licensing Committee's agenda. Chief Howell reported to the Licensing Committee that Kenny's was closing early until things quieted down. Apparently to alleviate any of the Licensing Committee's apprehension concerning Kenny's, Chief Howell assured the Licensing Committee that he had spoken to Joey LeGath of the Tavern League.

88. Once all of the minority-owned bars in downtown Racine lost their Class B liquor licenses and went out of business, minority patrons began frequenting white-owned bars in the downtown area. The City is now targeting those bars, such as Bar 525 and Blue Rock. On several recent occasions, Defendant Nicholson has gone into Bar 525 to tell the owners how to discourage minorities from coming to the bar. Bar 525 and Blue Rock are both within a block from the newly announced multi-million dollar Porter's of Racine development.

89. On September 9, 2013, Police Department Sergeant Rivers informed the Licensing Committee that there are concerns with Bar 525 and that the Police Department will be paying extra attention to the area during the third shift to monitor overcrowding issues that have occurred during the prior weeks. John McAuliffe, Vice President of the Tavern League, told the Licensing Committee he is acquainted with the owner and has spoken with the owner on ways to resolve the issues. The Licensing Committee voted to call Bar 525 before the Licensing

Committee at the next meeting. At the September 23rd Licensing Committee meeting, the owner of Bar 525 told the committee that the bar had changed its entertainment style to include more “Top 40” music, which had changed the racial makeup of the patrons. The matter was then received and filed by the Licensing Committee.

Discriminatory Conduct Directed to Plaintiffs

90. Starting in approximately 2006, a plan was implemented to rid downtown Racine of minority bars. Plaintiffs constitute a group of minority-bar owners who were targeted during this conspiracy.

Plaintiffs Jose and Maria Maldonado and the Cruise Inn

91. The Maldonados, both of whom are Hispanic, opened The Cruise Inn in 2001. The property was located at 1423 State Street in Racine, and was predominantly frequented by minority patrons. The Maldonados also owned 1402 Liberty Street, which sat directly behind their bar property. Racine’s Historic Train Station building and platform was partially situated on the Maldonado’s Liberty Street property.

92. Starting in 2006, investors began developing the area surrounding the Maldonados’ two parcels of property and the Maldonados’ land quickly became valuable. The City grew interested in purchasing the Maldonados’ property contemporaneously with this development, and began to target the property to force the Maldonados off the property.

93. On July 3, 2006, the Police Department responded to a call at The Cruise Inn concerning a non-life threatening altercation. Prior to July 3, 2006, The Cruise Inn had very few incidents per Police Department reports. Despite the relative lack of activity at The Cruise Inn, the Common Council voted unanimously to take The Cruise Inn to a due process hearing for revocation of their liquor license the following month.

94. Subsequently, Mayor Becker and other City officials frequently visited the property. Mayor Becker threatened the owners and told Jose Maldonado that both he and his wife were in trouble. On at least one occasion, Mayor Becker directed Jose Maldonado to sell his property, advising him that the City would revoke his liquor license and the property would soon be worthless. Other City employees threatened Maria Maldonado and told her she was in “deep trouble.” At the same time, the City began fining the Maldonados for so-called “offenses” like weeds and chipped paint.

95. The fines, threats, calls, and visits took a toll on the family and the business. Eventually, the Maldonados were forced to accede to the City’s demands. On December 5, 2006, Jose and Maria Maldonado, not having an attorney for the upcoming due process hearing or an appraisal for their properties, listed The Cruise Inn for sale at \$225,000.

96. Having forced the Maldonados off their land under the threat of a due process hearing, the City then announced its intentions to purchase both pieces of property owned by the Maldonados for a combined purchase price of \$260,000.

Plaintiff Davalos and Cera’s Tequila Bar

97. In December 2006, after receiving a Class B liquor license, Plaintiff Cerafin Davalos, who is Hispanic, opened Cera’s Tequila Bar at 607 6th Street. Cera’s Tequila Bar was predominantly frequented by minority patrons.

98. From approximately November to December 2007, a number of minor incidents occurring at Cera’s were reported to the Police Department. Indeed, Cera’s itself notified the Police Department about these minor incidents. In addition to these minor incidents, Cera’s was reported as the site of a homicide on December 2007 by the Police Department, although the incident occurred about a half block away from Cera’s.

99. In response to these incidents, Cera's was called before the Licensing Committee for a due process hearing. The Licensing Committee recommended that Cera's license be revoked.

100. On May 6, 2008, Davalos and his attorney appeared before the Common Council and objected to the Licensing Committee recommendation based on same or similar conduct occurring at white bars. The Common Council nonetheless accepted the Licensing Committee's recommendation and revoked Cera's liquor license.

Plaintiff Wilber Jones and Viper's Lounge

101. Wilber Jones, who is black, was the owner of Viper's Lounge located at 501 High Street. Viper's had been in business for approximately 10 years, opening in 1998.

102. The vast majority of incidents at Viper's Lounge during its years of operation involved nuisances, such as noise complaints, traffic, and crowd control. Additionally, most of these incidents occurred outside the bar itself. Indeed, Viper's Lounge never had any shootings or violent crimes associated with the business. Nevertheless, during his time in business, Jones was required by the City to hire off-duty Police Department officers as a condition to obtaining and maintaining his liquor license. This requirement was enforced despite the fact that Jones took it upon himself to hire his own private security for the bar.

103. Throughout its operation, Viper's Lounge was the victim of several racially-motivated incidents, damage to property, harassment of minority patrons, and racial slurs being painted on the building. Jones reported these incidents to the Police Department, which made no effort to take action against the perpetrators.

104. Starting in 2006 and continuing throughout its years of operation, Viper's was called before the Licensing Committee on at least 10 occasions to answer for incidents that

allegedly occurred on-site. Jones made every effort to appease the Licensing Committee and repeatedly insisted that he hired security to maintain the interior of the bar as well as the immediate outside area.

105. On August 25, 2008, Viper's was called before the Licensing Committee for its renewal of its liquor license. The Licensing Committee referred Viper's renewal application to a due process hearing for non-renewal or suspension. Ultimately, the Licensing Committee recommended to the Common Council that Viper's Class B license not be renewed. At the time, Alderman Kaplan – the alderman of the district in which Viper's Lounge sat – sat on the Common Council. Kaplan campaigned on a promise to remove Viper's and other bars from his district in the spring of 2006. Jones objected to Kaplan's involvement with the renewal decision, to no avail. Following the hearing, the Common Council accepted the Licensing Committee's recommendation and voted to not renew the license for Viper's Lounge in November 2008.

Plaintiffs Pythanphone Khampane and Omjai Nueakeaw and Ginger's Lounge

106. Pythanphone Khampane, Thai-American, and Omjai Nueakeaw, a Thai citizen, were the owners of Ginger's Lounge located at 337 Main Street. Ginger's patrons were predominantly minorities.

107. During its years of operation from 2008 to 2011, the number of police calls and incidents attributed to Ginger's were fewer than other bars in and around the area. Allegedly as a result of the volume of these incidents—the majority of which were minor and non-violent—Ginger's was called before the Licensing Committee.

108. In order to keep its liquor license under threat of revocation by the Licensing Committee, Ginger's entered into a side agreement with the City in September 2009. This agreement required Ginger's to expend enormous costs by requiring, for instance, that Ginger's

employ additional security guards, limit capacity, purchase surveillance cameras, maintain surveillance tapes, procure identification scanners, limit operation times, and post notices concerning “gang clothing.”

109. In 2010, Ginger’s was called to appear before the Licensing Committee regarding an extension of the side agreement. At this meeting, Khampane represented that he had spent over \$10,000 to comply with the side agreement. The Licensing Committee referred Ginger’s to a due process hearing to determine whether its license should be revoked or suspended.

110. Ginger’s due process hearing before the Licensing Committee was held on March 30, 2011. Prior to the hearing, the owners and their attorney were told in a private meeting with Alderman Wisneski and the City’s attorneys that if it would quit playing “hip-hop” music and change the patrons, it could maintain its Class B license. At the due process hearing, Khampane addressed the Licensing Committee and stated that Ginger’s has zero tolerance for violent and disruptive behavior. He went on to state the policies and procedures Ginger’s had implemented to remain in business and the large amount of money Ginger’s was spending to appease the Licensing Committee. At the conclusion of the hearing, the Licensing Committee made a recommendation to the Common Council to revoke the Class B license for Ginger’s.

111. Rather than have its license inevitably revoked by the Common Council, Ginger’s surrendered its liquor license following the Licensing Committee hearing.

Plaintiff Keith Fair and The Place On 6th

112. Plaintiff Keith Fair, a black man, served a term as the 1st District Alderman from April 2005 to April 2007 and then again from April 2011 to 2013. In August 2009, Fair took over a bar located at 509 6th Street, and inherited the Class B liquor license for the location. In September 2009, Fair opened The Place On 6th.

113. Throughout its operation, Fair and The Place on 6th were repeatedly—on a total of 19 occasions—called before the Licensing Committee for largely minor incidents, almost none of which involved violence of any kind. Many of these so-called incidents were falsely reported to the Police Department by neighbors under the influence of the City. For instance, in 2011, Mark Levine posted a Craigslist advertisement for an apartment for rent at 507 6th Street, next door to The Place On 6th and across the street from Park 6. The ad stated “special discount available – discuss after showing.” In August 2011, Georgia Davis and Linda Davis met with Levine to discuss renting his advertised apartment. Levine told the Davises that the discount was contingent on the Davises agreeing to complain about Park 6 and The Place On 6th.

114. On the numerous occasions Fair was called before the Licensing Committee, he attempted to address the Licensing Committee’s concerns, including installing cameras and hiring extra staff to work the door.

115. On July 11, 2011, the Licensing Committee voted to begin a due process hearing to suspend or revoke The Place On 6th’s liquor license. To avoid the due process hearing, The Place On 6th entered into a side agreement requiring it to double the number of security cameras, allow no one under the age of 25 into the bar, maintain a list of “trouble” patrons, and suspend its operations for 15 days.

116. On March 26, 2012, Fair again was called before the Licensing Committee regarding a fight that had occurred at The Place On 6th. In fact, following the incident, Fair provided the Police Department with the names of those involved in the fight, but the Police Department made no arrests. The Licensing Committee recommended that The Place On 6th be referred to a due process hearing based on the continuous police calls, fights, and large crowds.

117. On October 15, 2012, Fair appeared before the Licensing Committee for the due process hearing. The Licensing Committee voted to recommend to the Common Council that the license for The Place On 6th be revoked, which the Common Council adopted.

Plaintiff Thomas Holmes and Park 6

118. Thomas Holmes, a black man, owned and operated Park 6, previously located at 500 6th Street, from July 2008 to its closing on December 15, 2012. During this time, Defendants unfairly and arbitrarily targeted Holmes because he and his patrons are black.

119. Ostensibly in response to incidents at Park 6, Holmes and Park 6 were repeatedly called before the Licensing Committee and Common Council, were forced to enter into numerous side agreements, and were subject to three due process hearings. Yet, none of the “incidents” that occurred at Park 6 during the 3½ years it was open were unusual, distinguishable, or more frequent from incidents at white-owned bars.

120. One side agreement effected on August 10, 2009, required Park 6 to implement a number of unprecedented requirements to keep its license. Specifically, Park 6 was required to (1) update, install, and maintain video surveillance and retain the videos for two weeks; (2) close Park 6 at 1:30am on Thursdays, Fridays, and Saturdays until the end of September 2009; (3) monitor the decibel level of its live or recorded music; (4) have all future advertisements reviewed for undesirable content; (5) provide adequate parking; (6) clean a 100-foot radius from the building after closing each night; (7) allow no more than two employees to stay past close to clean and close down the building; and (8) provide security with a wide area network, a mobile identification card scanner, an age verifier, and a fake identification scanner. These unprecedented requirements caused Holmes to incur significant costs to continue operating.

121. As an example of just one of the so-called “incidents” precipitating the Licensing Committee’s investigation into Park 6, on May 20, 2010, a Park 6 security guard was hit in the ankle by a stray bullet shot from down 6th Street at closing time. Sometime after the shooting, Holmes learned who shot the stray bullet, which he told to 1st District Alderman Jeff Coe, who then contacted Chief Wahlen of the Police Department. Wahlen, however, declined to investigate the matter further. The case remains unsolved to date; yet, Park 6 was blamed for the incident at subsequent due process hearings.

122. Meanwhile, the Racine Journal Times reported on July 21, 2010 that security cameras were placed by the City on the corner of Sixth Street and Park Avenue. Alderman Wisneski publicly stated, “Sixth Street is one of the city’s entertainment districts, and the city has seen an increase in the number of police related incidents and complaints about large crowds.” However, the cameras were specifically and exclusively aimed at Park 6, one at the front door, the second at the backdoor. No other bars had City of Racine security cameras monitoring their activity. The cameras were purchased by the Police Department and the Downtown Racine Corporation. The two cameras cost about \$10,000.00.

123. The Licensing Committee first referred Park 6 to a due process hearing that was held on August 26, 2010. At the hearing, the Licensing Committee suspended Park 6’s liquor license for 45 days. Pursuant to yet another side agreement, in addition to the unprecedented requirements imposed on Park 6 in August 2009, Holmes and Park 6 were required to install a roped-off area at the entrance and implement procedures to minimize disorderly incidents at and adjacent to Park 6 following the suspension.

124. Thereafter, on December 8, 2010, Wahlen—as a resident of Racine and not in his capacity as police chief—filed a complaint with the Licensing Committee requesting a due

process hearing and ultimate revocation of Park 6's license. Park 6 was ordered to appear before the Licensing Committee on December 20, 2010, for a due process hearing.

125. At the December 20, 2010 due process hearing, Wahlen admitted he did not properly swear to the complaint filed on December 8, 2010. The Licensing Committee nevertheless voted to recommend revocation of Park 6's license to the Common Council. On January 4, 2011, based on the recommendation of the Licensing Committee, the Common Council voted to revoke Park 6's Class B liquor license, effective January 11, 2011.

126. On January 11, 2011, Holmes appealed to the Racine County Circuit Court and sought the entry of a temporary injunction. On March 25, 2011, the Circuit Court judge issued an injunction, enjoining the City from enforcing the revocation. In June 2011, the Circuit Court ruled that the City's revocation was invalid.

127. After the City's first effort to revoke Park 6's license failed, the Licensing Committee held a special meeting on or about June 20, 2011, at which it recommended that Park 6's licenses not be renewed. Holmes' attorney was not available for the "special meeting," so he requested that it be adjourned. Holmes' request was denied and the Common Council approved a motion to adopt the Licensing Committee's recommendation to not renew Park 6's licenses.

128. Having no other choice, Holmes entered into yet another side agreement with the City to continue operating.

129. At around the same time, the City appealed the Circuit Court's ruling invalidating the earlier revocation of Park 6's license, which created additional significant expense to Holmes in order to keep Park 6 operating.

130. By December 2012, faced with continuing harassment and having to defend repeated efforts by the City to revoke Park 6's licenses—both in the Court and through the Licensing Committee, Holmes vacated the premises and later closed Park 6.

Further Discriminatory Conduct Directed Toward Other Minority-Owned Bars

131. Other minority-owned bars in the City of Racine have received significantly different treatment under substantially similar circumstances as compared to white-owned bars.

132. On May 19, 2006, a homicide occurred in the bathroom of 262 Lounge located at 1843 Mead Street. The bar owner was black and the bar was predominantly frequented by minority patrons. The suspect was caught and prosecuted. On October 9, 2006, the Licensing Committee passed a motion to take 262 Lounge to a due process hearing. On December 14, 2006, the Class B liquor license for 262 Lounge was revoked by the Common Council upon the recommendation of the Licensing Committee.

133. On February 25, 2007, several patrons were ejected after a fight broke out in Mr. Kool's Bar located at 1330 Washington Avenue. The owner of Mr. Kool's was black and the bar was predominantly frequented by minority patrons. A suspect came back to the bar and shot the front door twice. There were no injuries reported. At the Licensing Committee meeting on May 7, 2007, a motion was made to take Mr. Kool's to a due process hearing and a potential side agreement was discussed. On June 6, 2007, the Licensing Committee held the license for non-renewal. On July 9, 2007, Mr. Kool's entered into a side agreement in order to maintain its Class B liquor license.

134. On June 4, 2007, a suspect shot the owner in the hand and the owner's son in the stomach while they were removing bar patrons at closing time from Rosie's Bar located at 1313 Douglas Avenue. The son returned fire and shot the suspect. The suspect was caught and

prosecuted. The owner of Rosie's Bar was black and the bar was predominantly frequented by minority patrons. On June 11, 2007, Rosie's was called before the Licensing Committee for non-renewal of its Class B liquor license for the June 4th shooting. On July 23, 2007, the Licensing Committee granted a license extension. The Licensing Committee demanded that Rosie's install a security camera and hire off-duty Police Department officers, but Rosie's could not afford the associated costs. On December 1, 2008, the Licensing Committee began a due process hearing on Rosie's. On July 15, 2008, Rosie's Class B liquor license was revoked by the Common Council upon the recommendation of the Licensing Committee.

135. On September 24, 2007, the Licensing Committee deferred a request from Tina Elmergreen, a Hispanic, for the second time to open a salsa-themed dance club at 500 6th Street called Tinita's. The Licensing Committee requested that Tinita's provide a more detailed business plan prior to the Licensing Committee considering the issuance of a Class B liquor license. Alderman Maack proposed that the plan should include a dress code, security, video surveillance, monitoring of noise levels outside the building, and a promise to clean around the building at closing. Maack said such conditions are not typical, but have been required in some cases. A letter was submitted by the President of the Hispanic Chamber of Commerce that criticized the Licensing Committee's heightened requirements imposed on Tinita's and suggested that the Licensing Committee's denial of Tinita's license would confirm the Licensing Committee's perception of Latinos "coming Downtown to be rowdy and fight." Alderman Kaplan, who sat on the Licensing Committee at the time, openly took offense at the letter. On June 4, 2008, a side agreement was entered into between Tinita's and the City for a Class B liquor license. This agreement imposed heightened costs and burdens on Tinita's, including the

requirement that it hire at least one off-duty law enforcement officer from the City or County of Racine to work security between 10:00 p.m. and closing.

136. On September 13, 2010, the white owner of the Blue Rock Lounge & Eatery located at 306 6th Street, was called before the Licensing Committee and forced to enter into a side agreement due to inadequate security cameras. Blue Rock served minority customers when it first opened. The owner was later told to join Tavern League and attract different patrons to eliminate licensing problems.

137. In September 2012, Ray Bueno and Brenda Torres, both Hispanic, applied for a Class B liquor license to open a bar at 1600 Douglas Avenue. In response, the Licensing Committee—and specifically Alderman Kaplan—created a number of obstacles in order to deter Bueno’s and Torres’ attempts to obtain a liquor license. Bueno requested membership in the Tavern League to gain assistance in obtaining a license, but was told by the Tavern League president Lou Larson, “[I]t would hurt our reputation if you joined.” However, Bueno and Torres were diligent and eventually obtained a liquor license around February or March of 2013. In April 2013, Bueno’s brother, Oscar Bueno, filed for the recall of Kaplan, citing abuse of power and discriminatory practices. When Bueno opened the bar—R&B Latin Club in May 2013—the Police Department immediately came to the bar and advised Bueno that the bar was not permitted to open. When Bueno inquired as to why the Police Department called on the bar immediately after its opening, the officer advised that Kaplan and Dickert sent the Police Department to “shut down the bar.” When Bueno called the City to question the officer’s assertion, he was advised that his permit was conditional and that he and Torres must report to the Licensing Committee. Bueno was told through intermediaries that if his brother backed down from his recall efforts, the bar could open. Bueno’s brother thereafter dropped the recall

effort. Only then, after 10 months of opposition to the R&B Latin Club opening, the Common Council subsequently approved its permit by a unanimous vote.

138. Approximately two weeks after a license was awarded to the R&B Latin Club, The Double D Bar, located at 1200 Douglas Avenue (four blocks from the R&B Latin Club) requested a Class B license from the Licensing Committee under new (white) ownership. Joey LeGath, the Director of the Tavern League, as well as other Tavern League members, appeared before the Licensing Committee in support of the request and told the Licensing Committee that no one has their liquor license revoked when they are a member of the Tavern League. One month later, the Double D Bar was opened with a Class B license.

V. CLAIM FOR VIOLATIONS OF 42 U.S.C. § 1985(3)

139. The Plaintiffs incorporate and adopt by reference each and every allegation contained in Paragraphs 9 through and including 138 as though fully set forth herein as this Paragraph 139.

140. Beginning as early as 2006, the Defendants and their co-conspirators entered into a continuing agreement and conspiracy to eradicate minority-owned bars with minority patrons from downtown Racine, thereby depriving the Plaintiffs of equal protection of the law and equal privileges and immunities under the law as guaranteed to them by the Fourteenth Amendment to the United States Constitution (42 U.S.C. § 1985(3)).

141. The Defendants agreed to target, unjustly scrutinize, discriminate, and unfairly burden the Plaintiffs' establishments with the goal of provoking their closure or forcing the revocation of their liquor licenses solely because of their race and the race of their patrons.

142. For purposes of formulating and effectuating their conspiracy, the Defendants and their co-conspirators:

- a. held conversations and participated in meetings to discuss the perceived harm that existing minority-owned bars with minority patrons would have on downtown Racine's redevelopment plan;
- b. communicated in writing and orally to institute an official policy, which resulted in increased monitoring and scrutiny of minority-owned bars with minority patrons in downtown Racine, while failing to apply the same monitoring and scrutiny to white owned bars;
- c. prevented the minority bar owners from invoking their rights and privileges as a citizen of the United States by intimidation and threats made through their administrative roles,;
- d. provoked or caused the closure of minority-owned bars with minority patrons;
- e. facilitated an increase in the number of minority-owned bars subjected to "due process hearings" before a biased tribunal, which consistently revoked liquor licenses;
- f. unjustly procured minority-owned bar liquor licenses for the purposes of distributing those liquor licenses to white bar owners with white patrons; and
- g. otherwise conspired to interfere with the civil rights of minority bar owners with minority patrons.

143. Similarly situated white-owned bars were exempted from persecution. Race was and continues to be a driving factor behind the Defendants' disparate treatment of bar owners in downtown Racine.

144. Because of the collective acts and conduct of the Defendants in furtherance of such conspiracy, the Plaintiffs have been injured in person and/or property, denied equal

protection of the laws and equal privileges and immunities under the laws because of their race in violation of the Fourteenth Amendment.

145. Wherefore, the unreasonable and discriminatory actions of the Defendants are violative of the substantive due process protections of the Fourteenth Amendment as they demonstrate a discriminatory intent and an unconstitutional deprivation of the Plaintiffs' liberty and property interests.

VI. CLAIM FOR VIOLATIONS OF 42 U.S.C. § 1983

146. The Plaintiffs incorporate and adopt by reference each and every allegation contained in the Paragraphs 9 through and including 145 as though fully set forth herein as this Paragraph 146.

147. The Defendants, acting under color of state law, deprived the Plaintiffs of their right to equal protection under the laws and equal privileges and immunities under the laws in that they were discriminated against solely because of their race and the race of their patrons.

148. The Defendants, in their capacity as officials of the City of Racine and acting under the color of state and municipal law, knowingly and deliberately utilized municipal authority and administrative tribunals to invoke customs and policies to unfairly target, harass, and discriminate against the Plaintiffs including but not limited to the following ways:

- a. targeted the Plaintiffs' establishments by increased monitoring and scrutiny solely because of their race and the race of their patrons while similarly situated white-owned bars frequented by whites were exempted from the same scrutiny during the relevant time period;

- b. encouraged discriminatory activities such as routinely focusing excessive police resources on minority-owned bars while failing to similarly use police resources against white-owned bars with similar reports of incidents;
- c. exaggerated or inflated reports of violence involving minority-owned bars while downplaying, deflecting and neglecting similar reports of violence in white owned bars, especially those bars associated with the Tavern League;
- d. encouraged “anonymous” callers to report incidents at minority-owned bars rather than both white-owned and minority-owned bars alike;
- e. used the off-duty Police Department officers hired for security, as imposed upon minority-owned bars through “side agreements,” to routinely call incidents into the Police Department while off-duty Police Department officers failed to called incidents into Police Department for similar incidents at white owned bars;
- f. deliberately failed to investigate reports of incidents at white-owned bars while unjustly portraying minority-owned bars as the origin of violent acts that occurred nowhere near minority-owned bars’ premises;
- g. manipulated and selectively chose information from Metro Security reports to assert against minority-owned bars while failing to similarly use Metro reports against white-owned bars;
- h. recruited individuals to appear before the Licensing Committee to testify against the minority-owned bars in support of their suspension and/or revocation, while failing to recruit individuals to testify against white owned bars;

- i. disparately disciplined minority-owned bar owners' licenses for claims of underage alcohol consumption while failing to impose discipline against white-owned bars for similar offenses;
- j. facilitated the denial and revocation of liquor licenses for minority-owned bars for the personal interests of white bar owners;
- k. used "side agreements" and similar intimidating and threatening tactics to prevent minority-owned bars from asserting their statutory due process rights for liquor license hearings, while failing to assert and enforce similar "side agreements" against white owned bars for similar offenses;
- l. unfairly and arbitrarily denied liquor licenses to minority-owned bar applicants, while failing to deny liquor licenses for white owned bars for similar applications;
- m. during due process hearings, routinely recommended discipline against minority bar owners' licenses, while disparately failing to subject white bar owners to such scrutiny for similar offenses;
- n. disparately and unjustly issued citations for violations of minor City ordinances along with threats and intimidation to force minority property owners near the desired redevelopment land to sell their property and abandon their business; and
- o. otherwise, through their actions and/or inactions, invoked a policy or custom of deliberate indifference toward the Plaintiffs' rights.

149. The Defendants' discriminatory actions were callously indifferent to the federally protected rights of others and designed to bring about the closure of Plaintiffs' establishments and/or revocation of their liquor licenses, thereby depriving the Plaintiffs of their constitutional right to equal protection under the law and equal privileges and immunities under the law.

150. As a result of the Defendants' discriminatory actions, the Plaintiffs are entitled to compensation, in law and in equity, as victims of official misconduct and discrimination.

VII. CLAIM FOR VIOLATIONS OF 18 U.S.C. § 1962(b)

151. The Plaintiffs incorporate and adopt by reference each and every allegation contained in Paragraphs 9 through and including 150 as though fully set forth herein as this Paragraph 151.

152. The Tavern League, an association which is primarily comprised of and represents the interests of a white bar owners with white patrons in Racine, carries substantial clout that it used and continues to use as leverage to influence Racine politics.

153. Beginning as early as 2006, the Tavern League utilized its political influence to earn favor with Racine political figures, including Dickert, through the payment of earmarked campaign contributions and other means.

154. The Tavern League and its members pledged and provided significant financial contributions to Dickert and other Racine officials with the express intent to buy official acts. Subsequent payments were made under the guise of donations and campaign contributions and additional payments likely continue to be made to this day.

155. The money contributed by members of the Tavern League was in excess of campaign contribution limits as set forth by WI Stat. 11 and other laws.

156. The money contributed by members of the Tavern League in excess of limits set forth by WI Stat. 11 and other laws was in fact bribe money intended to purchase the political favor of the mayoral office through Dickert in violation of WI Stat. 946, 18 U.S.C. § 1951 and other laws. Dickert accepted the bribe monies from the Tavern League and thus allowed it to have substantial control of the Racine mayoral office, Dickert's official actions and, upon

information and belief, certain Defendants who acted at the behest of Dickert with knowledge of or in agreement with the goals and the effects of their actions.

157. The monies contributed by members of the Tavern League to Dickert's mayoral campaigns and to other Racine officials was routinely collected and, upon information and belief, laundered by certain Defendants outside the Tavern League and within Dickert's inner circle for the express purpose of knowingly continuing and concealing the nature, use, source and effect of these bribes in order to avoid public scrutiny and circumvent campaign finance laws.

158. With full knowledge of the illegal nature of these payments and in exchange for their continued financial contributions, Dickert and those acting on his behalf awarded a number of his Tavern League supporters with city-funded business and appointed others to influential and powerful positions within the city government, thereby expanding the political influence of the Tavern League and providing it with significant control over the BID #1 board, the Downtown Racine Corporation board, and Racine commerce as a whole.

159. Dickert and other Racine officials knowingly continued to act in furtherance of the conspiracy and its goals and effects when they accepted and as they continue to accept these bribes in exchange for official acts, including but not limited to protection for Tavern League members from the Police Department, the Licensing Committee, and the Downtown Racine Corporation, as well as the first opportunity to obtain newly available liquor licenses extorted from minority bar owners.

160. This pattern and practice of circumventing the provisions of WI Stat. 11, WI Stat. 946, 18 U.S.C. § 1951, 18 U.S.C. § 1956 and other laws continued throughout Dickert's mayoral

campaigns as a continuing enterprise designed to benefit the Defendants to the detriment of the Plaintiffs.

161. WI Stat. 11, WI Stat. 946, 18 U.S.C. § 1951, 18 U.S.C. § 1956 and other laws were designed to prevent *quid pro quo* corruption in Wisconsin municipal governments.

162. The Defendants' unlawful conduct directly affected the exchange of interstate commerce as predicate acts committed by the Defendants were conducted through mail and wire transmissions, including but not limited to U.S. Postal Mail exchanges, e-mail exchanges, and telephonic communications used continuously throughout the alleged time period.

163. The Defendants' unlawful activities further impacted interstate commerce in that, although Plaintiffs' businesses are primarily local, the revocation of their liquor licenses and/or cessation of their businesses resulting from the wrongful acts of the Defendants reduced the demand for and amount of beer and liquor moving into Racine and the State of Wisconsin.

164. The Plaintiffs were the intended target of the Defendants' conduct because they held interests in Racine that were protected by their right to due process and equal protection.

165. By reason of the Defendants' commission of the aforementioned acts, a continuing and direct relationship exists between the Defendants' intentional acts and the injury caused to the Plaintiffs. Further, the Defendants' acts constitute a threat of continuing activity in violation of Section 1962.

166. The Plaintiffs were foreseeably injured by the intentional acts of the Defendants in that they were deprived of property and their right to equal protection under the laws and equal privileges and immunities under the laws.

VIII. CLAIM FOR VIOLATIONS OF 18 U.S.C. § 1962(c)

167. The Plaintiffs incorporate and adopt by reference each and every allegation contained in Paragraphs 9 through and including 166 as though fully set forth herein as this Paragraph 167.

168. Through its members serving on the BID #1, the Tavern League and its members conspired and colluded with Dickert and the other Defendants named herein to eradicate downtown Racine of minority-owned bars frequented by minority patrons—a class of individuals who the Defendants perceived as a threat to their ability to attract development projects and the financing necessary to revitalize downtown Racine.

169. The Tavern League and its members pledged legal and illegal financial contributions to facilitate Dickert's winning of the mayoral race, and in return Dickert colluded with Aldermen, Police Department officials, the Downtown Racine Corporation, BID #1 Board members, and business and property owners to unjustly burden minority bar owners for the purpose of extorting their liquor licenses. These licenses were then made available to white Tavern League members in exchange for their continued public and financial support. Dickert further ensured that white Tavern League members were protected from Police Department, Downtown Racine Corporation, and Licensing Committee scrutiny.

170. Through its members, the Tavern League, with Dickert and the other named Defendants, knowingly and intentionally interfered with interstate commerce in that they utilized available municipal and administrative resources to target minority-owned bars, resulting in the imposition of significant burdens on a disproportionately high number of minority-owned bars, often culminating in the revocation of their liquor licenses or the closure of their businesses.

171. The aforementioned Defendants, in their operation and management of the illegal enterprise, were integral in carrying out said enterprise's affairs in violation of Section 1962.

172. The Plaintiffs were the intended target of the Defendants' conduct because they held interests in Racine that were protected by their right to due process and equal protection.

173. By reason of the Defendants' commission of the aforementioned acts, a continuing and direct relationship exists between the Defendants' intentional acts and the injury caused to the Plaintiffs. Further, the Defendants' acts constitute a threat of continuing activity in violation of Section 1962.

174. The Plaintiffs were foreseeably injured by the intentional acts of the Defendants in that they were deprived of property and their right to equal protection under the laws and equal privileges and immunities under the laws.

IX. CLAIM FOR VIOLATIONS OF 18 U.S.C. § 1962(d)

175. The Plaintiffs incorporate and adopt by reference each and every allegation contained in Paragraphs 9 through and including 174 as though fully set forth herein as this Paragraph 175.

176. Defendants knowingly agreed or conspired to facilitate the unlawful payment of bribe monies to Dickert and other Racine officials.

177. Defendants acquiesced to or knowingly promoted the carrying on of the unlawful activity of bribing public officials by intentionally concealing or disguising the nature or source of such contributions, or by failing to properly account for loans or other monetary contributions in campaign finance reports.

178. Defendants knowingly agreed or conspired to subject minority-owned bars frequented by minority patrons to increased scrutiny.

179. These Defendants had knowledge of and were complicit with a plan to unfairly and unjustly harass minority bar owners through the imposition of administrative and financial burdens, or intended that their actions would result in the revocation of their liquor licenses and/or the removal of these individuals' businesses from downtown Racine.

180. The acts of these Defendants supported and were instrumental in the perpetuation of numerous unlawful acts and directly led to the elimination of minority-owned bars frequented by minority patrons from downtown Racine, which had a notable impact on interstate commerce.

181. The Defendants agreed to conspire and commit the aforementioned acts and they knew that those continuing acts would injure the Plaintiffs to the Defendants' benefit, as part of a plan to deprive the Plaintiffs of their conditional rights and property.

182. The Plaintiffs were the intended target of the Defendants' conduct because they held interests in Racine that were protected by their right to due process and equal protection.

183. By the reason of the Defendants' commission of the aforementioned acts, a continuing and direct relationship exists between the Defendants' intentional acts and the injury caused to the Plaintiffs. Further, the Defendants' acts constitute a threat of continuing activity in violation of Sections 1962(b)–(d).

184. The Plaintiffs were foreseeably injured by the intentional acts of the Defendants in that they were deprived of property and their right to equal protection under the laws and equal privileges and immunities under the laws.

X. PRAYER FOR RELIEF

The Plaintiffs hereby demand the following:

- A. Unspecified compensatory damages;
- B. Declaratory and injunctive relief;

C. Reasonable attorney fees and costs; and

D. Such other relief that the Court may deem just and proper.

XI. JURY TRIAL DEMANDED

Pursuant to Federal Rule of Civil Procedure 38(b), the Plaintiff demands a trial by jury of all of the claims asserted in this Complaint so triable.

Dated February 25th, 2014

Respectfully submitted,

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