

UNITED STATES DISTRICT COURT  
DISTRICT OF CONNECTICUT

JASON L. CUTLER	:	
	:	
VS.	:	NO. 3:11cv662(WWE)
	:	
CITY OF NEW HAVEN and	:	
JOHN DeSTEFANO	:	OCTOBER 9, 2011

**AMENDED COMPLAINT**

1. This is an action to redress the deprivation of rights secured to the plaintiff by the Constitution and laws of the United States and the State of Connecticut.

2. Jurisdiction of this court is invoked under the provisions of Sections 1331, 1343(3) and 1367(a) of Title 28 and Sections 1983 and 1988 of Title 42 of the United States Code.

3. The plaintiff is an adult citizen of the United States who resides in North Haven, Connecticut. He is or at all relevant times was the owner and operator of two bars in downtown New Haven, one known as Center Street Lounge and one known as Club Pulse.

4. The defendant City of New Haven is a municipal corporation in Connecticut which at all times and in all the ways hereinafter delineated acted

through its highest policy-setting officials for the matters in question. The defendant John DeStefano is the Mayor of New Haven.

5. During all times mentioned in this Complaint, the defendants were acting under color of law, that is, under color of the constitution, statutes, laws, rules, regulations, customs and usages of the State of Connecticut.

6. At all times mentioned in this Complaint, the defendants acted jointly and in concert with each other.

7. Beginning not later than May 23, 2010, and continuing without respite until the present day, the defendants have targeted the plaintiff and his places of business aforesaid for disparate treatment including but not limited to the disparate enforcement of laws relating to the operation of bars in the City of New Haven. They have done so for the specific purpose of driving the plaintiff out of business, inflicting economic injury upon the plaintiff, and forcing him to cease doing business in the City of New Haven. Such disparate treatment and unequal enforcement have included the following:

- A. On May 23, 2010, Officer T. Robinson of the New Haven Police Department, acting under the direction of the defendant DeStefano, who had ordered enhanced enforcement activity focused on the Center Street Lounge, entered the said establishment, handcuffed the plaintiff,

removed him from the premises and charged him with reckless driving, wrong way on one way, and unsafe movement. When the plaintiff appeared in court to answer to the said false charges on June 4, 2010, the prosecuting attorney immediately nolleed all charges because the plaintiff was innocent. Officer Robinson knew the plaintiff was innocent when he arrested him, but arrested him despite that fact because of the demands of the defendants that the plaintiff be harassed.

- B. On March 4, 2011, defendant DeStefano staged and conducted a press conference at Temple Plaza, directly in front of the Club Pulse, in which he cited the plaintiff as an example of “irresponsibility” and “problem bars,” although in fact he knew that the plaintiff was not irresponsible and that his establishments were not the source of any alleged “problems” in downtown New Haven, whereas some of the plaintiff’s competitors were in fact, to the defendants’ knowledge, both irresponsible and “problem bars.”
- C. At 2:00 p.m. on March 18, 2011, Rob Smutts, the defendants’ Chief Administrative Officer, conducted an

emergency meeting concerning the plaintiff's businesses for the purpose of finding ways to deny him liquor permits. No such meeting was conducted with respect to any of the businesses or business owners identically situated to the plaintiff but who or which – unlike the plaintiff and his businesses – actually were the source of problems in downtown New Haven.

- D. At 2:00 p.m. on March 25, 2011, Mr. Smutts conducted another emergency meeting the subject of which was finding ways to put the plaintiff out of business. No such meeting was conducted with respect to any of the businesses or business owners identically situated to the plaintiff but who or which – unlike the plaintiff and his businesses – actually were the source of problems in downtown New Haven.
- E. The defendants have attempted on many occasions during the spring of 2011 to prevent Club Pulse from utilizing its patio adjoining the Temple Street Plaza and from advertising in that area. At least two other restaurants, the Temple Street Grill and Zinc Restaurant, also have patios adjoining the Temple Street Plaza. They have been permitted free

use and access, and have not been subjected to any of the harassment regarding such use that has been inflicted upon the plaintiff. Many other businesses in the area have been permitted to post advertising in the area of the Plaza, but the plaintiff has been forbidden to do so. Such restrictions have not been placed upon any of the businesses or business owners identically situated to the plaintiff but who or which – unlike the plaintiff and his businesses – actually were the source of problems in downtown New Haven.

- F. The defendants have interceded with the Connecticut Department of Consumer Protection to attempt to deny the plaintiff liquor permits at his clubs, but have not done so with respect to other similar establishments in New Haven, which have experienced law enforcement problems far greater than any ever associated with the plaintiff's businesses.
- G. The defendants have repeatedly threatened to require the plaintiff to obtain permits not required of other comparable establishments and to deny such permits or make them impossible to obtain. No such threats have been made, and no such action taken, regarding any of the businesses or

business owners identically situated to the plaintiff but who or which – unlike the plaintiff and his businesses – actually were the source of problems in downtown New Haven.

8. The defendants have consistently subjected the plaintiff's two businesses to disparate treatment in comparison to other identically-situated establishments in the City of New Haven, such as Club Vandome, Toad's Place, Gotham Citi Café and Humphrey's East, all of which – unlike the plaintiff and his businesses – actually are the source of problems in downtown New Haven..

9. The disparate treatment to which the defendants have been subjecting the plaintiff is intentional, it is malicious and it is irrational. Upon information and belief, defendant DeStefano has a personal and business relationship, through his driver, with Gotham Citi Café as a consequence of which he is attempting in the manner described above to further the business interests of the Gotham Citi Café at the expense of the plaintiff, who is a direct competitor of the said Gotham Citi Café.

10. As a result, the plaintiff has suffered and continues to suffer substantial economic losses and severe emotional distress.

11. In the manner described above, the defendants have deprived the plaintiff of equal protection of the laws in violation of the Fourteenth Amendment to the United States Constitution as enforced through Sections 1983 and 1988 of

