

IN THE TWENTY-FIRST CIRCUIT COURT OF MISSOURI
ST. LOUIS COUNTY, MISSOURI

SWIISH, a Missouri Limited)
Liability Corporation,)
COREY NICKSON-CLARK, and)
CHANTELLE NICKSON-CLARK, and)
Plaintiffs,)

vs.)

Case No.)
Jury Trial Demanded)

GOVERNOR JAY NIXON, in his)
official capacity)
Serve At:)
Governor Jay Nixon)
Office of Governor Jay Nixon)
P.O. Box 720)
Jefferson City, MO 65102)

SUPERINTENDENT COLONEL)
RONALD K. REPLOGLE, of the)
Missouri State Highway Patrol, in his)
official capacity)
Serve At:)
Superintendent Ronald Replogle)
Missouri State Highway Patrol)
General Headquarters)
1510 East Elm Street)
Jefferson City, MO 65101)

THE MISSOURI STATE HIGHWAY)
PATROL,)
Serve At:)
Superintendent Ronald Replogle)
Missouri State Highway Patrol)
General Headquarters)
1510 East Elm Street)
Jefferson City, MO 65101)

THE CITY OF JENNINGS,)
a City of the Third Class,)
Serve At:)
Mayor Benjamin Sutphin)
2120 Hord Ave.)
St. Louis, MO 63136)

THE CITY OF FERGUSON,)

a Charter City,)
Serve At:)
 Mayor James Knowles)
 110 Church St.)
 Ferguson, MO 63135)
)
 ST. LOUIS COUNTY,)
Serve At:)
 County Executive Charlie Dooley)
 41 S. Central Ave.)
 Clayton, MO 63105)
)
 Defendants.)

PETITION FOR DAMAGES

For Unconstitutional Taking of Property and for Inverse Condemnation

COME NOW Plaintiffs Corey Nickson-Clark, Chantelle Nickson-Clark, and Swiish, LLC (“Swiish”), and state for their cause of action against defendants Governor Nixon, Superintendent Replogle, the Missouri State Highway Patrol, the City of Jennings, the City of Ferguson, and St. Louis County as follows:

1. Plaintiffs Corey Nickson-Clark and Chantelle Nickson Clark own and operate the bar and grill doing business as “Swiish Bar and Grill”, which is a Missouri limited liability company in good standing, doing business at 8021 West Florissant Ave. Suite H in St. Louis County, with its principal place of business located in St. Louis County.
2. Plaintiffs demand a jury trial.
3. All events and actions referred to herein took place within St. Louis County, Missouri.
4. Governor Nixon (“Governor”) is the Governor of Missouri and is named solely in his official capacity as Governor of Missouri.
5. Superintendent Ronald K. Replogle (“Superintendent”) is the Superintendent of the Missouri State Highway Patrol (“MSHP”) and is named solely in his official capacity as the Superintendent of the MSHP.

6. Missouri State Highway Patrol is an agency within the Missouri Department of Public Safety and exercises the authority of the state of Missouri.
7. Defendant City of Jennings, St. Louis County, Missouri (“Jennings”) operates the Jennings Police Department and is a third class city under the laws of Missouri.
8. Defendant City of Ferguson, St. Louis County, Missouri (“Ferguson”) operates the Ferguson Police Department and is a charter city under the laws of Missouri.
9. Defendant St. Louis County (“County”) is a home rule county under the laws of Missouri and has authority and direction of the St. Louis County Police Department.
10. Plaintiffs Corey and Chantelle Nickson-Clark lease from Sansone Plaza on the Boulevard, LLC the following described property located within Jennings for the purpose of operating Swiish Bar & Grill at 8021 West Florissant Ave, Suite H, Jennings, Missouri 63136.
11. At 6 P.M. on August 10, 2014, Defendants ordered Plaintiffs to close Swiish Bar and Grill.
12. On or about August 10, 2014, defendants established a police command center at 8021 West Florissant Ave, Jennings Missouri, occupying the space immediately in front of Swiish Bar & Grill and the entirety of its dedicated parking lot.
13. The police command center blocked access to Swiish Bar and Grill from August 10, 2014 until August 27, 2014, causing the business to close, to wit:
 - a. The County and MSHP mobile command centers were parked directly in front of Swiish;
 - b. Portable toilets were placed directly in front of Swiish;
 - c. At various times, the following items were placed directly in front of the front door of Swiish Bar and Grill:
 - i. Pallets of water;
 - ii. Pallets of foldable chairs;

- iii. A police tent and eating area;
 - d. Access to the back entrance of the bar was roped off.
14. When plaintiff Corey Nickson-Clark attempted to gain access to Swiish Bar and Grill he was detained for questioning and threatened with arrest.
 15. The defendants' actions as described herein caused Swiish to cease operations of Swiish Bar & Grill for the term described herein, thereby depriving plaintiffs of the economic value of the operations of Swiish Bar and Grill.
 16. The defendants' actions as described took Swiish's property for a public use or purpose.
 17. Plaintiffs suffered damages as a direct and proximate result of the loss of their property; to wit, lost income and damage to their food stock through rotting and spoilation.
 18. The reasonable and fair value of of Swiish's economic loss as a result of defendant's taking Swiish's property for a public use or purpose is in excess of \$25,000.
 19. Defendants' actions constitute a taking of plaintiffs' property pursuant to the Missouri and United States Constitutions.
 20. Defendants took plaintiffs' property without their consent and without compensation.
 21. Defendants have failed to provide any notice or follow any procedure prior to the taking of plaintiffs' property.
 22. Taking of plaintiffs' property without compensation violates the Missouri and United States Constitutions, pursuant to Missouri common law and 42 U.S.C. § 1983. *See Heuer v. City of Cape Girardeau*, 370 S.W.3d 903, 907 (Mo. Ct. App. 2012).

WHEREFORE, plaintiffs pray for judgment against all defendants, jointly and severally, for damages in an amount exceeding \$25,000 pursuant to Missouri Common Law and 42 U.S.C. § 1983; for costs and attorney's fees pursuant to 42 U.S.C. § 1988; and for other such relief as the Court sees fit.

Respectfully submitted,

SCHWARTZ, HERMAN & DAVIDSON

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