Ladies' Nights Press Releases

(Chronological order)

June 21, 2007

Civil Rights Federal Lawsuit on Behalf of Men

A lawsuit in Federal court charges that New York City nightclubs invidiously discriminate against men. The five defendants, as do most clubs, charge males more for admission than females or give females more time to enter a club for free or at a reduced price.

The lawsuit, brought by attorney-plaintiff Roy Den Hollander, argues the clubs violate the 14th Amendment Constitutional rights of men, which requires equal protection under the law for similarly situated persons. The clubs have no legitimate reason for treating males and females differently in their admission policies.

The two substantive issues are: (1) whether regulation of the clubs by the New York State Division of Alcoholic Beverage Control amounts to "state action"; that is, the state government is so entwined with the clubs, the clubs are de facto government agents; and (2) whether there exists a substantial or compelling justification for such discrimination against men.

In 1970, the U.S. District Court for the Southern District of New York held that "state action" existed when McSorleys' Old Ale House refused to serve two female members of N.O.W. Seidenberg and DeCrow v. McSorleys' Old Ale House, Inc., 317 F.Supp. 593 (SDNY 1970). Because "state action" existed, McSorleys' had violated the "equal protection" provision of the Constitution's 14th Amendment. Twenty-three years later, the U.S. Court of Appeals for the Eighth Circuit, while strictly interpreting U.S. Supreme Court cases, ruled that regulation of a Missouri nightclub by the state liquor authority was not enough to find "state action." Comiskey v. JFTJ Corporation, 989 F.2d 1007 (8th Cir. 1993). That case was nearly identical to

McSorleys' except that a man was discriminated against. Since then, the U.S. Supreme Court has not drawn a clear line as to what constitutes "state action" for public bars and nightclubs.

The second issue faces an uphill battle against the Supreme Court's controversial rulings that females deserve preferential treatment for past invidious, economic discrimination. Such a rationale no longer makes sense, if it ever did. Today, females comprise over 45% of the work force and over 45% of the millionaires, and each statistic is increasing. Besides, the U.S. Supreme Court erred in its past reliance on economic disparities by failing to take into account the invidious discriminations that have always existed in this society against men. For example, 58,209 American men died fighting in Viet Nam but only eight (8) American females.[1] It's rather difficult to pursue economic well-being when one is psychologically traumatized, physically maimed or dead.

This lawsuit is a class action brought on behalf of all men discriminated against by the defendant clubs over the past three years. The case asks for an injunction to end the discriminatory admission policies of the defendants. Although the defendants consist of only six clubs, other clubs will in reality have to abide by the outcome, if successful, or face lawsuits.

The case is in the U.S. Southern District Court of New York and before Judge Miriam Goldman Cedarbaum, docket number 07 CV 5873.

October 14, 2007

Motion for Recusal of Judge for Appearance of Sexual Bias in Ladies Nights Lawsuit[2]

In the Federal class action case to abolish Ladies' Nights in NYC clubs for violating the 14th Amendment rights of men, plaintiff-attorney Roy Den Hollander brought a motion for the

[1] 59 civilian American females also died in Viet Nam.
[2] Hollander v. Copacabana Nightclub et al. *(Class Action)* S.D.N.Y. 07 Cv 5873 (MGC)

recusal of Judge Miriam G. Cedarbaum for the appearance of sexual bias against the class of men on whose behalf the suit was started.

The events at a forty-minute conference before Judge Cedarbaum on October 3rd created the appearance of sexual bias. With disdainful disregard, Judge Cedarbaum repeatedly interrupted and cut off the plaintiff-attorney's answers to her questions in the manner of a modern day talk show host—at one point even insulting the plaintiff-attorney by mockingly calling into question whether he was an attorney at all.

The palpable antagonism toward the class of thousands of men creates a picture of sexual bias when considered in the light of the following factors:

the unpopularity of the suit, which the Judge pointed out;

the plaintiff-attorney had only one day's notice of the conference and no notice that the Judge would argue in favor of a defendant's motion to dismiss that was filed only five days earlier and not scheduled to be argued until three weeks after the conference;

the suit would end guys subsidizing ladies' partying at nightclubs, which means costing females money;

the past 40 years of giving females preferential treatment based on the evolutionarily incorrect belief that they deserve it. Under the law, only an appearance of bias is required for a judge's recusal; and.

Judge Cedarbaum, contrary to the law, turned the class action on behalf of thousands of men into a lawsuit by one lone guy fighting for his rights.

If there is any doubt that the Court conference created an appearance of sexual bias—just switch the sexes. Consider how the plaintiff-attorney would have been treated had an accident of

nature made him a female, and she was suing on behalf of thousands of other females because the defendant nightclubs charged ladies more for admission than guys on "Men's Nights.

Following the conference, attorney Den Hollander said, "I feel like I've been in an argument with a girl that I went out for too long."

October 30, 2007

Defendant in Ladies Nights Lawsuit Asks Federal Court to Punish Attorney-Plaintiff Over Writings Critical of Feminists and Their Supporters.

Deborah Swindells Donovan, attorney for defendant Lotus, has asked the U.S. Southern District Court of N.Y. to sanction the attorney-plaintiff, Roy Den Hollander, and deny his motion for recusal of Judge Cedarbaum because of his writings that criticize females in the same manner that feminist zealots[3] have been criticizing guys for decades.

Swindells Donovan claims the writings are guilty of "misogyny" and negatively stereotyping females. Swindells Donovan, therefore, wants Den Hollander punished for what he wrote outside of court by having the Judge sanction him, usually a fine, and deny his motion for recusal.

Let's assume Swindells Donovan's description of the writings is correct. She's asking the Court, a part of the government, to punish Den Hollander for the content of what he stated in non-court writings. Sounds like a violation of the First Amendment that prohibits the government from "abridging the freedom of speech" of the people, assuming Den Hollander is a person.

[3] Den Hollander personally uses the term "feminazi", although not in court, to refer to self-righteous feminists or feminist zealots. The on-line version of the Merriam-Webster dictionary defines feminazi as "an extreme or militant feminist." Russ Limbaugh is often credited with inventing the term in 1992. Den Hollander disagrees, since he's been using the term since 1991. At the very least, he should be credited as a co-author.

There are two key reasons the Founding Fathers included "freedom of speech" in the First Amendment: (1) to keep government from preventing speech before it is made, and (2) to keep government from punishing speech after it is made, except in a few very restrictive instances. As Justice Brandies said, the Founding Fathers "believed that freedom to think as you will and to speak as you think are means indispensable to the discovery and spread of political truth; that without free speech … discussion would be futile; …. Whitey v. California, 274 U.S. 357, 375-76 (Brandeis, J. concurring). But today in America, whenever dissent rears up to threaten the growing conformity of belief in feminism and the pedestal on which it has placed females, the intolerant feminists try to crush that dissent with a choir of vituperation and demands for punishment of any person who raises an alternate view.

The writings are meant to agitate by using the same strategy that Feminazis have used for the past 40 years in depicting men as evil and the sole source of all the world's ills. If one Feminazi can advocate reducing the male population to 25%, then Den Hollander can exercise his freedom of speech to illustrate the capacity for harm that females and especially Feminazis possess. Den Hollander, however, does not "hate" all females as Swindells Donovan claims—"can't hate that which you lust after, especially pretty young ladies."

[The Judge did not recuse herself from the case.]

November 28, 2007

Ladies Nights Whine for Second Bite at the Apple, Blame Male Attorney

The defendant nightclubs in the "Ladies' Nights" lawsuit want to re-do their Motions to Dismiss the case after they have already filed them and before Judge Cedarbaum makes a decision.

The defendants' attorneys goofed by using the wrong legal standard in requesting that Judge Cedarbaum throw the case out of court. The U.S. Supreme Court made a fundamental change in the law in May 2007 for deciding motions to dismiss. The defense attorneys missed it, even though the change would have benefited their clients. Having damaged their credibility, they now wish to rehabilitate themselves by redoing their Motions to Dismiss.

The nightclubs' attorneys blame Roy Den Hollander with throwing them a curve—as in baseball, not ladies—by filing a detailed Amended Complaint with his opposition papers to the Motions to Dismiss.[4] Although the defense attorneys had more than six days—consistent with Judge Cedarbaum's rules—to file a Reply, the six days were over the Thanksgiving weekend. That timing didn't sit well with the defense attorneys. So now they cry "foul" and whine like little girls for a "do over"—the proverbial second bite at the apple.

The defense attorneys, not Den Hollander, were responsible for the scheduling of their Motions to Dismiss. Also, there is nothing in the Amended Complaint the defense attorneys didn't already know or should have known about their clients. The defense attorneys just want another shot to assure the institutionalization of invidious discrimination against men in NYC nightclubs while ladies are protected from such under the prior Court's decision in Seidenberg v. McSorleys' Old Ale House, Inc., 317 F. Supp. 593 (1970).

December 3, 2007

Judge Gives Ladies Nights a Second Round

[4] Plaintiffs may amend their complaint once without court permission, even during the pendency of a motion to dismiss, as long as the defendants have not filed any Answers. *See* Barbara v. N.Y. Stock Exch., 99 F.3d 49, 56 (2d Cir. 1996). None of the Ladies Nights' defendants had filed Answers.

In the "Ladies Nights" lawsuit[5], Judge Cedarbaum gave the defendant nightclubs an early Christmas present by allowing them to ignore the Federal Rules of Civil Procedure and the Judges own rules. Late Friday afternoon, Judge Cedarbaum pardoned the nightclubs' key attorneys for (1) using the wrong legal standard on their Motions to Dismiss; (2) filing their motions late;[6] and (3) refusing to file a reply to the plaintiffs' Amended Complaint.[7] The pardon absolves the defense attorneys for violating the rules and gives them what they begged for: a chance to re-do their bungled first set of Motions to Dismiss and Replies.

The following is the timeline of the defense attorneys' violations of the rules that prompted the Judge to give them favorable treatment at the expense of the plaintiff class of men.

The defendant nightclubs had from October 3rd to November 7th to file their Motions to Dismiss. The defense attorneys drafted statements of facts and memoranda of law and submitted two motions[8]—both of which were late with a third memorandum of law, a decoy, that was five days late.

The plaintiff class, represented by Roy Den Hollander, had from November 7th to November 21st to file an Opposition with a fact statement and memorandum of law. The defense attorneys intentionally ate into Den Hollander's time by filing late and using the diversion of a decoy memorandum of law.

The nightclub attorneys' Motions to Dismiss, including A.E.R.'s, made a crucial error by using a legal standard that the U.S. Supreme Court had overruled in May 2007. The new

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[5] Hollander v. Copacabana Nightclub et al., S.D.N.Y. 07 Cv 5873 (MGC) is a class action, civil rights case to stop nightclubs from charging guys more for admission than ladies.

[6] The defense attorneys also filed a decoy memorandum five days late meant to waste the limited time of the plaintiff class's attorney.

[7] The defense attorneys only replied to the original Complaint, which legally no longer existed because it had been replaced by the Amended Complaint, Washer v. Bullitt County, 110 U.S. 558, 562 (1884).

[8] The defendants submitted three motions in all, but A.E.R.'s was already filed.

standard actually benefited the nightclubs, but the defense attorneys still missed it, which made them look less than competent.

Den Hollander, however, had to deal with the new standard or risk an easy dismissal by Judge Cedarbaum, who has not appeared favorably disposed toward a case advocating men's rights. So he relied on the Federal Rules of Civil Procedure § 15(a) that allowed him to submit an Amended Complaint. He used the Amended Complaint as the basis for the facts in his Opposition papers. Over the 13 days allotted him, Den Hollander composed a nine page Amended Compliant and a 36 page Memorandum of Law and filed them both on time.

The defense attorneys then had from November 21st to November 27th to file their Reply under the Judges rules. But when they received Den Hollander's Opposition and Amended Complaint—they freaked, because they would have to work over the Thanksgiving holidays. Instead of knuckling down to do the inconvenient work that attorneys always do—they whined to the Judge for another chance and more time. The defense attorneys claimed that because the Amended Complaint was "substantially longer [six pages], and more detailed than the complaint, and [was] accompanied by 4 multi page exhibits" that the defense Motions to Dismiss were moot and should be done over.

The Amended Complaint simply shows how involved the State Liquor Authority is in the defendant nightclubs' operations, which illustrates the existence of "state action," required under the 14th Amendment. The defense attorneys already knew everything in the Amended Complaint about their clients, or they should have. There was no prejudice to them because the Amended Complaint concerns the same occurrences alleged in the original complaint.[9] The only prejudice they suffered was not being able to take the entire Thanksgiving weekend off.

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[9] Kreppein v. Celotex Corp., 969 F.2d 1424, 1427 (2d Cir, 1992).

As a result of the Judge's decision late Friday, the defense attorneys now have the gift of two weeks to re-do their botched Motions to Dismiss and fumbled Replies. The plaintiff class, however, ends up with a lump of coal.

Den Hollander, a card-carrying member of S.D.S.,[10] should have known that it doesn't pay to follow the establishment's rules because the establishment—now a feminist one—continues to ignore the rules when it benefits females. As the English Jurist Sir William Blackstone said in the 1700s, "Women are the favorite of the law."

Judge Cedarbaum did give Den Hollander a useless consolation prize: two weeks over the Christmas Holidays to respond to anything new in the defendants' "do-over" motions. That's worth less than a lump of coal because the defense attorneys had already struck out. They were on their way back to the dugout.

It's unfair to allow the defense attorneys another time at bat just because they cry and cheat when it's inconvenient for them to live within the rules. Had these advocates of preferential treatment for females hit a homerun with their first set of Motions to Dismiss and Replies, do you think the plaintiff class of men would have received a "do-over"?

The two attorneys requesting a "do over" are Deborah Swindells Donovan, (212) 269 5500, representing Lotus, and Robert S. Grossman, (516) 745-1700, representing Sol.

December 28, 2007

Ladies Nights Lawsuit: Court Papers Filed Opposing Dismissal

On Friday, December 28, attorney-plaintiff Roy Den Hollander filed opposition papers to the defendant nightclubs' request to dismiss the Ladies' Nights lawsuit.

[10] Students for a Democratic Society

Den Hollander relies on two decisions from the same court in which the Ladies' Nights lawsuit is now pending, the U.S. Southern District of New York. In the two McSorleys' decisions, two different judges had found sex discrimination by a tavern that was licensed by New York to serve alcohol for on-premise consumption to the public. The Ladies' Nights nightclubs are also licensed to serve alcohol for on-premise consumption and open to the public. The only difference is that McSorleys discriminated against females while the defendant nightclubs discriminate against guys. The attorneys for the nightclubs largely relied on a case from the Second Circuit about a horse racing track and a case from the Supreme Court about a private club not opened to the public.

Den Hollander responded to the defense attorneys' argument that Ladies' Nights attract females who in turn attract men. Den Hollander wrote, "The premise that money matters to ladies is correct. But the theory fails to consider that many females aren't looking for chump change, they're looking for a chump to gold-dig. In order to find that guy with a large bank account or upward mobility, ladies need to go to where the boys are, especially in New York City were the ratio of guys to females is 9 to 10. Ladies figure that more guys will go to a club where the admission price for guys is less and follow the boys there."

Replying to the defense attorneys' warning that if discrimination were found in Ladies Nights, it would put an end to restaurant specials for children and the elderly; Den Hollander informed the attorneys that prior cases had already dealt with children and senior specials and found no discrimination. Kids aren't similarly situated with adults because they can't earn a living, and seniors are not similarly situated with working people because many seniors are on fixed incomes. So giving both a break does not amount to discrimination. "The ladies who party

at nightclubs, however, are a different story. They belong to a group that controls over 50% of the nation's wealth and makes 80% of the purchases."

Responding to accusations that the case was frivolous, Den Hollander wrote, "The only matter unworthy of serious attention in this lawsuit is the defense attorneys advocating that guys should financially subsidize females to party." Den Hollander then made defendant AER a settlement offer in response to AER's assertion that the extra amount charged men was not so burdensome. "If AER reverses the price for guys and ladies—charges ladies what it does guys and guys what it charges ladies—the plaintiff class will settle. Sounds fair, after all, if the price now charged men is not so burdensome, then by charging it to females instead, it shouldn't be burdensome either."

Den Hollander closed his opposition papers with—"The question here is basic to the way of life in this country and fundamental to its constitutional scheme—is this a country ruled by law or by the ideology of a powerful special interest group."

October 2, 2008

Federal Judge Unknowingly Gives Men a Hidden Victory in Dismissing Ladies Nights Case.

Federal Judge Miriam G. Cedarbaum failed to realize that her decision allowing nightclubs to discriminate against men by charging them more for admission than ladies, also prohibits clubs from charging ladies less for drinks on Ladies' Nights. Under her decision, a nightclub charging men more for drinks than ladies would violate the 14th Amendment of the Constitution.

It was a trap unknowingly laid by the defense lawyers and Judge Cedarbaum fell into it. The trap was obvious, but the plaintiff's attorney wasn't about to call attention to it. After the

one and only conference in the case, the plaintiff's attorney knew the Judge was going to dismiss. But she had only two legal options: (1) overrule two other decisions that found the unequal treatment of the sexes by clubs selling alcohol as unconstitutional, or (2) distinguish those two cases by saying the state was not involved in admitting people to clubs but only involved in the act of serving alcohol. She chose the second but not realizing that many, if not most Ladies' Nights in New York State and the country, actually charge men more for drinks than ladies rather than charging more for admission.

According to the plaintiff's attorney, "the decision is at least a partial victory for the constitutional rights of men, but there's still next to no justice for men in this country." He asked, "What would the outcome have been if ladies were charged more than men for admission even though females in their 20s in NYC make 117% of what males in their 20s make?"

September 2, 2010

Half a Victory

The second Circuit's decision is half a victory as well. I keep telling the media this but they ignore it.

There are two types of Ladies' Nights (1) charges guys more to get into a club than it charges ladies, for example, guys pay $20 to walk through the door, ladies $0, and (2) charges guys more for drinks than ladies, for example, at the bar a guy pays $12 for a vodka gimlet and a lady $8.

The Second Circuit decision and the Southern District Court decision, which the Second Circuit agreed with, both specifically stated that it was constitutional for clubs to charge guys more for admission to a club--(1) above, because there is no "state action" at the door. However,

the legal reasoning used by both courts to reach this conclusion infers that charging guys more for drinks--(2) above, does involve state action:

These two cases infer that state action exists when a club charges guys more for a drink than ladies because it involves the selling of alcohol. Since state action is involved, treating guys differently than ladies is discrimination under the 14th Amendment. The cases can be cited as "see" in a brief for this proposition because "the proposition is not directly stated by the cited authority but obviously follows from it." The Bluebook, 17th ed.

So the Second Circuit and District Court cases can now be used as legal authority to challenge the type of Ladies Nights—(2) above, that charge guys more for drinks than ladies, which is the most common form of Ladies Nights. And the cases will have weight in any court in the country.