

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X  
MUCHMORE'S CAFE, LLC,

Civil Action No. 14-cv-5668 RRM-RER

Plaintiff,

-against-

**AFFIDAVIT OF  
ALAN SUGARMAN**

CITY OF NEW YORK,

Defendant.

-----X

**ALAN SUGARMAN**, being duly sworn, states the following under penalty of perjury:

1. I am not a party to this action. I reside in the City of New York.
2. I submit this Affidavit in support of the motion of Muchmore's Cafe, LLC ("Muchmore's") for a judgment declaring the New York City Cabaret Law to be unconstitutional under the First and Fourteenth Amendments.
3. I have danced socially since 1996. Since then, I have attended hundreds of social dance events at all kinds of venues in New York City (the "City") and elsewhere. I have myself produced two major dance events in the City and have assisted in the organization of social dance events produced by others. I have also produced two CD albums of Lindy Hop big band dance music.
4. In my experience, the Cabaret Law is enforced in a completely arbitrary and selective manner. The City makes no attempt, which I am aware of, to clearly communicate its enforcement policies concerning the Cabaret Law. For instance, the City's website does not state that the three-musician limitation in the Cabaret Law has been invalidated by the New York courts. The website also does not relate the City's purported position that the Cabaret Law does not apply to dance performance or musical performance. Instead, it invites the reader to hire a lawyer to make sense of the law, stating, "Please note that businesses are responsible for knowing and complying with the most current laws, including any City Council amendments. The Department of Consumer Affairs ("DCA") is not responsible for errors or omissions in the handout. The information is not legal advice. You can only

obtain legal advice from a lawyer." See <http://www.nyc.gov/html/dca/html/licenses/073.shtml>.

5. In 1999, I was the producer of Frankie Manning's 85th Birthday Celebration at Roseland Ballroom, which attracted 1,800 dancers. Frankie Manning was a leading dancer at Harlem's legendary Savoy Ballroom where, in the mid-1930s, he revolutionized the course of the Lindy Hop with his Lindy Air Step. As reported in the New York Times, at the event, Mr. Manning danced with 85 successive partners. I found the event to be particularly satisfying since in 1936 Mr. Manning had been excluded from the hall because he was African-American, for which Roseland apologized at the event. Oddly, at least in the recent years prior to its closing in 2014, Roseland Ballroom did not have a Cabaret License.

6 More recently, I was also the producer of Frankie Manning's Centennial Savoy Ball on May 23, 2014, at the Edison Ballroom. Oddly, the Edison Ballroom does not have a Cabaret License as other dance venues do not as well on the same block. In my experience, most of the establishments that host social dancing events do not have Cabaret Licenses, but manage to operate without such licenses indefinitely without being targeted for enforcement. However, I am also aware of establishments that were shut down, or threatened, in prior years due to alleged violations of the Cabaret Law. It appears that the City has used the Cabaret Law as a tool that, while often disregarded, allows it to shut down or harass any specific establishment it or any of its representatives desire.


7. The Cabaret Law has hindered the development and expression of social dancing as an art form and form of expression in the City. For example, the quintessential American dance originating in Harlem, the Lindy Hop, with a few exceptions, cannot be legally danced anywhere in the City due to the restrictions on appropriate venues where it can be danced socially. (The now unconstitutional prohibition against live jazz music nearly ended Lindy Hop dancing in the City.) Jazz musicians and performing dancers have similarly been negatively affected. Similarly, Salsa music and dancing, the development of which owes much to the City, has been similarly limited and there are few licensed venues for Salsa dancing in this heavily Latin City. As a result, forms of music that are most

closely associated with dancing and this City have be thwarted and restricted.

8. I recently obtained a list of Cabaret Licenses from the DCA. From the list of 126 licenses it appears that the only two establishments that have Cabaret Licenses in Harlem are Yatenga French Bistro & Bar (Burkinabé Entertainment LLC) and the Cotton Club, and none appear to exist in East Harlem / El Barrio.

9. I would like to organize social dance events in local bars and restaurants. However, I have found it difficult if not impossible to find venues in which to lawfully host events (i.e., venues that have obtained Cabaret Licenses.) Once one excludes strip clubs, catering halls, jazz clubs, and music halls, and some rave dance clubs, there are almost no suitable legal places to hold a public social dance event in the City. (One would not expect to present a social Lindy Hop dance in a strip club.) In particular, I would like to organize a dance event at Muchmore's, but Muchmore's, like other establishments in the City, has indicated that the cost and difficulty of obtaining a cabaret license would outweigh any marginal financial benefit. This leaves me with very few, if any, appropriate licensed establishments in which I could legally host a social dance event.

  
Alan D. Sugarman

Sworn to before me this  
20<sup>th</sup> day of May 2015  
  
Notary Public

SAMUEL MOLINA  
Notary Public - State of New York  
NO. 01M06291002  
Qualified in Bronx County  
My Commission Expires Oct 15, 2017