

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

**JORGE MENDOZA;  
CARLA GOMES;  
CHRISTIAN SILVESTRI;  
PATRICK MENDOZA**

**Plaintiffs,**

**v.**

**MICHELLE WU, in her Capacity as  
Mayor of the City of Boston**

**Defendant.**

**Civil Action No.:**

**COMPLAINT**

**I. PARTIES**

1. Jorge Mendoza (hereinafter, "J. Mendoza") is a resident of Massachusetts and owner of a restaurant in Boston, Massachusetts.
2. Carla Gomes (hereinafter, "Gomes") is a resident of Massachusetts and owner of restaurants in Boston, Massachusetts.
3. Christian Silvestri (hereinafter, "Silvestri") is a resident of Massachusetts and owner of a restaurant in Boston, Massachusetts.
4. Patrick Mendoza (hereinafter, "P. Mendoza") is a resident of Massachusetts and owner of a restaurant in Boston, Massachusetts.
5. Michelle Wu (hereinafter, "Mayor Wu") is the elected Mayor of the city of Boston, Massachusetts.

## **II. JURISDICTION**

6. The Court has jurisdiction in this matter pursuant to 42 USC § 1983 and 28 USC §§ 2201, 2202.

## **III. FACTS**

7. Prior to May 1, 2022, Mayor Wu, by and through her agents in Boston City Government, issued an Order (hereinafter, the “Order”) that any restaurant in the “North End” of Boston which wanted to have outdoor dining for the summer of 2022 was required to apply for a license to do so. Said license would require a special Seven Thousand and Five Hundred Dollar (“\$7,500.00”) fee, and every “parking space” the said restaurant took up in order to place tables on would cost an additional Four Hundred and Eighty Dollar (“\$480.00”) per month.

8. The Order did not apply to any other area of Boston, and any other area of Boston other than the North End did not have to pay the \$7,500.00 fee. Upon information, which is believed to be true, no restaurants in Boston, except in the North End, must pay for use of parking spaces in the outdoor dining program.

9. J. Mendoza owns *Vinoteca di Monica*, a restaurant located at 143 Richmond Street in the North End of Boston, Massachusetts.

10. Although Mendoza believes the special license fee is unconstitutional, in order to compete with other restaurants in the city of Boston, under protest he enrolled in the “payment plan” to pay the special \$7,500.00 fee so he could have outdoor dining at his restaurants. He also uses three (3) parking spaces for his outdoor dining.

11. Gomes owns *Terramia Ristorante* and *Antico Forno* restaurants located at 98 Salem Street and 93 Salem Street, respectively, in the North End of Boston, Massachusetts.

12. Although Gomes believes the special license fee is unconstitutional, in order to compete with other restaurants in the city of Boston, under protest she paid the special \$7,500.00 fee so she could have outdoor dining at her restaurants. She also uses two (2) parking spaces for her outdoor dining.

13. Although parking spaces in the program are designated for twenty (20) feet each, Gomes was only allowed thirty-two (32) feet total for her two (2) allotted parking spaces.

14. Silvestri owns *Rabia's Dolce Fumo*, located at 73 Salem Street, in the North End of Boston, Massachusetts.

15. Although Silvestri believes the special license fee is unconstitutional, in order to compete with other restaurants in the city of Boston, under protest he enrolled in the "payment plan" to pay the special \$7,500.00 fee so he could have outdoor dining at his restaurants. He also uses two (2) parking spaces for his outdoor dining.

16. P. Mendoza owns *Monica's Trattoria*, located at 67 Prince Street, in the North End of Boston, Massachusetts.

17. Although P. Mendoza believes the special license fee is unconstitutional in order to compete with other restaurants in the city of Boston, under protest he enrolled in the "payment plan" to pay the special \$7,500.00 fee so he could have outdoor dining at his restaurants. He also uses one (1) parking space for his outdoor dining.

18. Prior to the Order being handed down, Boston City officials, acting as agents for the Defendant, formed a committee of restaurant owners to discuss with said officials how outdoor dining would proceed in 2022. Neither of the Plaintiffs were part of the committee. The Boston City officials never mentioned anything about fees during the committee meetings.

19. The announcement of the fees mentioned in Paragraph 7 above were first stated in a Zoom meeting with the affected North End restaurants. Upon information, which is believed to be true, no written document was ever served upon the North End restaurant owners outlining the fees.

20. Upon learning of the fees mentioned in Paragraph 5 above, Plaintiffs, among other North End restaurant owners, went to a meeting with Boston City officials, said officials acting as agents for the Defendant, in City Hall to protest the fees.

21. The Boston City officials mentioned in Paragraph 14 barred the Plaintiffs from attending the meeting, although they allowed other restaurant owners to attend. Upon information, believed to be true, these latter restaurant owners were not opposed to the fees.

22. The Order has a later starting date for outdoor dining, and an earlier ending date for outdoor dining for all North End restaurants, than other Boston outdoor dining restaurants have, or approximately two (2) months less of outdoor dining than that of their competition in other parts of the City.

23. The undersigned attorney, acting for his clients, sent a demand letter to Mayor Wu on or about April 5, 2022, requesting that Mayor Wu rescind the Order. Said letter informed Mayor Wu that failure to do so would result in a civil action requesting a minimum of One Million and Five Hundred Thousand Dollars (“\$1,500,000.00”) in damages for each Plaintiff.

24. Upon information, believed to be true, the North End restaurants are a popular tourist attraction for people visiting Boston from around the United States and the world.

25. If Plaintiffs refused to pay the fees mentioned in Paragraph 7 above, they would not be allowed to have outdoor dining spaces. Without outdoor dining, Plaintiffs would not be able to

compete with other North End restaurants catering to the tourists mentioned in Paragraph 24 above.

#### **IV. CLAIMS**

##### **COUNT 1**

###### **(Violation of Plaintiffs' Due Process Rights)**

26. Paragraphs 1-25 are referenced and incorporated into Count 1.
27. The actions of the Defendant denied the Plaintiffs their rights to Due Process of Law as guaranteed them by the Constitution of the United States.

##### **COUNT 2**

###### **(Violation of Plaintiffs' Equal Protection and Treatment Rights)**

28. Paragraphs 1-27 are referenced and incorporated into Count 2.
29. The actions of the Defendant denied the Plaintiffs their rights to Equal Protection and equal treatment as guaranteed them by the Constitution of the United States.

##### **COUNT 3**

###### **(Violation of the Commerce Clause)**

30. Paragraphs 1-29 are referenced and incorporated into Count 3.
31. The actions of the Defendant violated the Commerce Clause of the Constitution of the United States.

##### **COUNT 4**

###### **(Violation of M.G.L c. 93A, § 2)**

32. Paragraphs 1-31 are referenced and incorporated into Count 4.
33. The actions of the Defendant set up "unfair methods of competition" and/or are "unfair or deceptive practices" in "commerce" in violation of M.G.L. c. 93A.

**V. RELIEF**

WHEREFORE, the Plaintiffs pray that this Honorable Court grant:

- A. A declaration that Plaintiffs' constitutional rights were violated and an order requiring proper and equitable relief;
- B. Compensatory damages in the amount of Five Hundred Thousand Dollars (" \$500,000.00");
- C. Punitive damages in the amount of One Million Dollars (" \$1,000,000.00");
- D. Reasonable attorneys' fees and costs of this action;
- E. Trial by jury;
- F. Such other and further relief that to the Court seems just, proper and equitable.

Respectfully submitted,  
The Plaintiffs  
By their attorney,

DATED: May 9, 2022

/s/ Richard C. Chambers, Jr., Esq.  
Richard C. Chambers, Jr., Esq.  
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Chambers Law Office  
220 Broadway, Suite 404  
Lynnfield, MA 01940  
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Email: [Richard@chamberslawoffice.com](mailto:Richard@chamberslawoffice.com)

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electric Filing (NEF) and paper copies will be sent this day to those participants indicated as non-registered participants.

DATED: May 9, 2022

/s/ Richard C. Chambers, Jr., Esq.

Richard C. Chambers, Jr., Esq.

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

## I. (a) PLAINTIFFS

Jorge Mendoza; Carla Gomes; Christian Silvestri;  
Patrick Mendoza

(b) County of Residence of First Listed Plaintiff Suffolk  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Richard C. Chambers, Jr.

## DEFENDANTS

Boston Mayor Michelle Wu

County of Residence of First Listed Defendant Suffolk  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

## III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                                   | DEF                        |   | PTF                        | DEF                                   |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State                   | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2            | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5            |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3            | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6            |

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>INTELLECTUAL PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSDI Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	<b>PRISONER PETITIONS</b> <b>Habeas Corpus:</b> <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <b>Other:</b> <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

## V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
42 USC section 1983 and 28 USC sections 2201, 2202

## VI. CAUSE OF ACTION

Brief description of cause:

Violations of Due Process Rights, Equal Protection and Treatment Rights, Commerce Clause and 93A section 2

## VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

May 9, 2022

SIGNATURE OF ATTORNEY OF RECORD

*Richard C. Chambers Jr.*

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS1. Title of case (name of first party on each side only) Mendoza et al v. Mayor Wu

2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).

☐

I. 160, 400, 410, 441, 535, 830\*, 835\*, 850, 880, 891, 893, R.23, REGARDLESS OF NATURE OF SUIT.

☒

II. 110, 130, 190, 196, 370, 375, 376, 440, 442, 443, 445, 446, 448, 470, 751, 820\*, 840\*, 895, 896, 899.

☐

III. 120, 140, 150, 151, 152, 153, 195, 210, 220, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 367, 368, 371, 380, 385, 422, 423, 430, 450, 460, 462, 463, 465, 480, 485, 490, 510, 530, 540, 550, 555, 560, 625, 690, 710, 720, 740, 790, 791, 861-865, 870, 871, 890, 950.

\*Also complete AO 120 or AO 121. for patent, trademark or copyright cases.

3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.

n/a

4. Has a prior action between the same parties and based on the same claim ever been filed in this court?

YES ☐NO ☒

5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403)

YES ☐NO ☒

If so, is the U.S.A. or an officer, agent or employee of the U.S. a party?

YES ☐NO ☒

6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284?

YES ☐NO ☒7. Do all of the parties in this action, excluding governmental agencies of the United States and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).YES ☐NO ☐A. If yes, in which division do all of the non-governmental parties reside?Eastern Division ☒Central Division ☐Western Division ☐

B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?

Eastern Division ☒Central Division ☐Western Division ☐

8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions)

YES ☐NO ☒

(PLEASE TYPE OR PRINT)

ATTORNEY'S NAME Richard C. Chambers, Jr.ADDRESS 220 Broadway, Suite 404, Lynnfield, Massachusetts 01940TELEPHONE NO. 781-581-2031