

IN THE COURT OF COMMON PLEAS  
CIVIL DIVISION  
CUYAHOGA COUNTY, OHIO

STATE OF OHIO EX REL.  
PROSECUTING ATTORNEY OF  
CUYAHOGA COUNTY,  
MICHAEL C. O'MALLEY  
1200 Ontario Street, 9<sup>th</sup> Floor  
Cleveland, Ohio 44113

Relator,

vs.

CLUB DEW DROP, LLC.  
d.b.a. DEWW DROP INN  
16379 Euclid Avenue  
East Cleveland, Ohio 44112

TERRI SHURNEY, statutory agent  
5040 S. Barton Road  
Lyndhurst, Ohio 44124

GERALDINE EL-AMIN  
16379 Euclid Avenue  
East Cleveland, Ohio 44112

IRBY L. BURNETT, JR.  
16379 Euclid Avenue  
East Cleveland, Ohio 44112

DAMION SIMPSON  
16379 Euclid Avenue  
East Cleveland, Ohio 44112

Respondents.

CASE NO:

Judge: SHERRIE MIDAY

CV 17 876524

**VERIFIED PETITION**  
**FOR INJUNCTIVE RELIEF**  
**WITH AFFIDAVIT ATTACHED**

2017 09 27 P 09:31

FILED

## PARTIES AND JURISDICTION

1. This matter is brought under Ohio Revised Code 3767.01 *et seq.*, by Michael C. O'Malley, in his official capacity as the Prosecuting Attorney for Cuyahoga County, Ohio.
2. The Deww Drop Inn is located at 16379 Euclid Avenue, East Cleveland, Cuyahoga County, Ohio 44112. Terri Shurney is the statutory agent for Club Dew Drop, LLC d.b.a. Deww Drop Inn.
3. Deww Drop Inn leases 16379 Euclid Avenue from the building landlord, Geraldine El-Amin. The owner and permit holder for the Deww Drop Inn is Irby L. Burnett, Jr.
4. Damion Simpson has repeatedly informed patrons and East Cleveland Police that he is the owner of the Deww Drop Inn.
5. R.C. § 3767.01(C)(1) defines nuisance as: "that which is defined and declared by statutes to be a nuisance."
6. There are felony violations occurring on the property that constitute a nuisance subject to abatement, such as murder, felonious assaults, shootings, liquor violations, drug possession, amongst other criminal and civil violations. Most recently, on February 8, 2017, six people were shot in the back parking lot of the Deww Drop Inn right after leaving the establishment. The individuals were under the age of legal consumption, yet were being served alcohol in the establishment. One of the victims, 20 year old Eric Howard, died as a result of his injuries.
7. Damion Simpson and Irby Burnett are aware of the felony and liquor violations, but have ignored or done nothing to alleviate the nuisances.

### **THE PREMISES**

8. 16379 Euclid Avenue, East Cleveland, Ohio is the business address of Deww Drop Inn which is part of complex containing other store fronts.
9. There have been shootings, murder, felonious assaults, drug possession, and other criminal activities at the Deww Drop Inn.

### **CRIMINAL ACTIVITY**

10. Deww Drop Inn located at 16379 Euclid Avenue, East Cleveland, Ohio is a scourge to the community.
11. From the period of February 8, 2016 to the present, there have been 23 calls for service to the Deww Drop Inn, mostly fights, assaults, criminal damaging, and the like.
12. East Cleveland Police have had numerous calls for gang activity, fights, large crowds gathering, narcotics sales, and shootings.
13. After the bar closes, issues spill out into the surrounding neighborhood, which East Cleveland Police Officers then respond. The issues initiate from the Deww Drop Inn, but the calls are attributed to the location where officers encounter the issue.
14. Most recently, on February 8, 2017 at approximately 12:20 a.m., East Cleveland Police Officer Von Harris responded to the parking lot of the Deww Drop Inn. He was met by Cleveland Police Officers who informed him that there were five shooting victims in the back parking lot of the Deww Drop Inn. Witnesses in the bar stated that there were two rival gangs in the Deww Drop Inn that night. One of the

shooting victims, 20 year old Eric Howard died. Four other victims were life-flighted for immediate medical care. Video evidence reviewed a few days later showed and witnesses confirmed that the underage victims and alleged assailants were all served and drank alcoholic beverages at the Deww Drop Inn. The shooting death of Eric Howard appears to be related to a shooting that occurred at the Deww Drop Inn in October 2016, another gang related shooting.

15. On October 26, 2016 at approximately 2:20a.m., East Cleveland Police Officers were dispatched to the back parking lot of the Deww Drop Inn for a report of a male shot. Upon arrival, a male was found shot in the neck. An argument occurred at a dark SUV and the assailant took out a gun and shot the victim twice. He survived his wounds.
16. Damion Simon, who claimed to be the owner, permitted East Cleveland Police to take the video recording system. The victim and another male were in Deww Drop Inn together and were seen leaving together.
17. Upon further investigation by my officers, the victim would not cooperate with the investigation and would laugh and smile when asked about the assailant.
18. On May 13, 2016, a male walked into the East Cleveland Police Department to report that he was beaten up at the Deww Drop Inn the night before by the owner named Damion and some of his friends. The male sought medical attention immediately after the incident. He had visible injuries. Officers later learned that Irby Burnett, Jr. is the owner. It is unknown whether Damion Simpson is also an owner or manager of the Deww Drop Inn.

19. On January 16, 2016, a female arrived at the East Cleveland lobby to make a report of an assault at the Deww Drop Inn. The female's former friend, who was the bartender at the Deww Drop Inn, jumped her and then the female was also struck and hit by the bartender's boyfriend and friend as well. The female had visible injuries.
20. Commander Gardner spoke to Damion Simon after the October 26, 2016 shooting. At the time, Damion Simon identified himself as the owner of the Deww Drop Inn. Commander Gardner spoke to Simon about how the gang activity and shootings need to stop and things need to change at the bar. The activity unfortunately, continued.
21. There have been many other reports of fights, large crowds, criminal damaging, and shots fired originating from the Deww Drop Inn.
22. The owners or other personnel from the Deww Drop Inn do not call the police when an incident occurs. Almost all of the calls originate from patrons or people driving by on the street.
23. The only way the nuisance activity will cease is for the property at 16379 Euclid Avenue to be declared a nuisance and boarded up.
24. Furthermore, the Deww Drop Inn at 16379 Euclid Avenue has the reputation for shootings, fights, gang activity, and drug activity that affects patrons and the surround business owners when the illegal activity continues.
25. R.C. 3767.01(C)(3) provides that any building "where beer or intoxicating liquor is manufactured, sold, bartered, possessed, or kept in violation of law and all property

kept and used in maintaining the same . . . where the operation of that place substantially interferes with public decency, sobriety, peace, and good order” is a nuisance.

26. The Deww Drop Inn at 16379 Euclid Avenue has the reputation for shootings, fights, gang activity, drug activity, and other disturbances to the surround business owners.
27. The criminal felony violations that have occurred and are still occurring at the Deww Drop Inn at 16379 Euclid Avenue, East Cleveland, Ohio have created a hazard to life and the community. The Deww Drop Inn is a nuisance as defined by R.C. §3767.01.
28. Unless restrained by order of this Court, these persons, and all others similarly situated and inclined, will continue to create a nuisance by their presence at and around the Deww Drop Inn at 16379 Euclid Avenue, East Cleveland, Ohio.

**WHEREFORE**, Relator prays that this Honorable Court grant judgment in Relator’s favor in the following respects:

A. That this Court find as a matter of law that the illegal activity at the Deww Drop Inn located at 16379 Euclid Avenue, East Cleveland, Ohio to be a nuisance as defined by R.C. §§3767.01.

B. That Relator be granted a permanent injunction in accordance with R.C. §3767.06 that:

(1) directs Cuyahoga County and East Cleveland Police Department to remove from 16379 Euclid Avenue, East Cleveland, Ohio, all individuals, personal property, and contents used in conducting the nuisance;

(2) directs East Cleveland to sell all such personal property and contents in the manner provided for the sale of chattels under execution;

(3) orders that the Premises be padlocked, boarded, and otherwise physically closed against its use for any purpose for a period of one year from the date of the issuance of the Permanent Injunction; and

(4) enjoins all persons, other than law enforcement officials or those acting under their direction, from entering, attempting to enter, using, or attempting to use the Premises for any purpose whatsoever for the duration of the Permanent Injunction.

C. That Relator be awarded:

(1) compensatory damages in an amount to be determined by the Court;

(2) costs for the removal and sale of personal property and contents equal to the same fees as Relator would charge and receive for levying upon the sale of like property on execution;

(3) costs for closing and boarding the structure at 16379 Euclid Avenue, East Cleveland, Ohio, and for keeping it closed; and

(4) the costs of this action, including attorney fees, in an amount as determined by the Court to be reasonable.

D. That the tax of Three Hundred Dollars (\$300.00) be imposed upon the nuisance and against Respondents under R.C. §3767.08.

E. That Relator be awarded all other relief to which it is entitled in equity or at law.

Respectfully submitted,

MICHAEL C. O'MALLEY, Prosecuting Attorney  
of Cuyahoga County

By:



JENNIFER M. MEYER (0077853)

Assistant Prosecuting Attorney

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ATTORNEY FOR RELATOR  
PROSECUTING ATTORNEY OF  
CUYAHOGA COUNTY  
MICHAEL C. O'MALLEY



STATE OF OHIO )  
 )  
COUNTY OF CUYAHOGA )

SS:

Assistant Prosecuting Attorney, Jennifer M. Meyer, being first duly sworn, states that she has read this Complaint and brings suit in the name of the Prosecuting Attorney of Cuyahoga County, Michael C. O'Malley, on behalf of the State of Ohio on relation thereof, and that all statements made in this Complaint are true and accurate to the best of her knowledge, information, and belief.

  
JENNIFER M. MEYER  
Assistant Director of Law

SWORN TO BEFORE ME and subscribed in my presence this 27<sup>th</sup> day of February, 2017.

  
NOTARY PUBLIC



**HEATHER JAKUBOWSKI**  
**NOTARY PUBLIC**  
**Cuyahoga County, Ohio**  
**My Commission Expires**  
**April 26, 2020**

STATE OF OHIO                    )  
  )     SS:   AFFIDAVIT  
COUNTY OF CUYAHOGA

I, MICHAEL CARDILLI, under oath, state:

1. I am the Chief of East Cleveland Police Department. I have been a police officer for 19 years with the East Cleveland Police Department. I have been the Chief of Police for East Cleveland for the last 3 years. Before becoming a police officer, I served in the United States Army for four years.
2. I have professional experience in the investigation of crimes.
3. I have reviewed all the East Cleveland police reports for all of the incidents described below.
4. I have no personal or financial interest in the property at 16379 Euclid Avenue, East Cleveland, Ohio also known as "Deww Drop Inn."
5. While I have known of the Deww Drop Inn over the years as a problem area in our city, over the past year, the Deww Drop Inn has come to my attention because of the increase in illegal activity: shootings, gang activity, fights, and narcotics sales occurring at or around the Deww Drop Inn
6. I know the owner of the property to be Geraldine El-Amin. The lease holder for Deww Drop Inn located at 16367 Euclid Avenue, East Cleveland, Ohio is Irby L. Burnett, Jr. Damion Simon has told my officers and patrons that he is the owner of the Deww Drop Inn, but we have subsequently learned he is the manager.
7. From the period of February 8, 2016 to the present, there have been 23 calls for service to the Deww Drop Inn, mostly fights, assaults, criminal damaging, and the like. By comparison,

we received 22 service calls to the Fire Side Lounge, which half of those calls were for business checks and alarms. We received 3 service calls to the Colombo Lounge for the same time period.

8. For brevity sake, I will discuss some of the most serious calls we have received regarding the Deww Drop Inn. We have had numerous calls for gang activity, fights, large crowds gathering, narcotics sales, and shootings.

9. After the bar closes, issues spill out into the surrounding neighborhood, which my officers then respond. The issues initiate from the Deww Drop Inn, but calls are attributed to the location where officers encounter the issue.

10. Most recently, on February 8, 2017 at approximately 12:20 a.m., Officer Von Harris responded to the parking lot of the Deww Drop Inn. He was met by Cleveland Police Officers who informed him that there were five shooting victims. Witnesses in the bar stated that there were two rival gangs in the Deww Drop Inn that night. One of the shooting victims, 20 year old Eric Howard, succumbed to his injuries. Four other victims were life-flighted for immediate medical care. Video evidence reviewed a few days later showed and witnesses confirmed that the underage victims and alleged assailants were all served and drank alcoholic beverages at the Deww Drop Inn. The shooting death of Eric Howard appears to be related to a shooting that occurred at the Deww Drop Inn in October 2016.

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the victim twice. He survived his wounds. Upon further investigation by my officers, the victim would not cooperate with the investigation and would laugh and smile when asked about the assailant.

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15. The only way the nuisance activity will cease is for the property at 16379 Euclid Avenue to be declared a nuisance and boarded up.

16. Furthermore, the Deww Drop Inn at 16379 Euclid Avenue has the reputation for shootings, fights, gang activity, and drug activity that affects patrons and the surround business owners when the illegal activity continues.

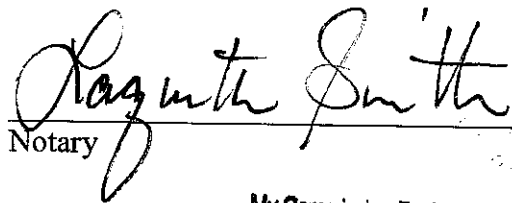
17. The criminal felony violations that have occurred and are still occurring at the Deww Drop Inn at 16379 Euclid Avenue, East Cleveland, Ohio have created a hazard to the community and they create a nuisance as defined by R.C. §3767.01.

18. Unless restrained by order of this Court, these persons, and all others similarly situated and inclined, will continue to create a nuisance by their presence at and around the Deww Drop Inn at 16379 Euclid Avenue, East Cleveland, Ohio.

**THIS CONCLUDES MY TESTIMONY.**

  
\_\_\_\_\_  
**CHIEF MICHAEL CARDILLI**

Sworn to and subscribed before me this 27 day of February, 2017.

  
\_\_\_\_\_  
Notary

My Commission Expires  
March 07, 2021