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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING**

RUSTY AND MARC ANDRUS,
a Married Couple,

-and-

RUSTLERS, LLC,
a Wyoming limited liability company,

289 N. MAIN STREET
THAYNE, WY 83127

Plaintiffs,

v.

THE TOWN OF THAYNE, WYOMING,
an incorporated Wyoming municipality,

-and-

THE MAYOR AND MEMBERS OF THE
TOWN COUNCIL OF THE TOWN OF
THAYNE WYOMING,
in each of their official capacities,

Defendants.

CASE NO. 18-CV-05-S

**VERIFIED COMPLAINT FOR
DAMAGES, DECLARATORY AND INJUNCTIVE RELIEF**

INTRODUCTION

1. This lawsuit challenges a repeated and systematic pattern of discriminatory conduct on the part of the Town of Thayne, Wyoming and its Mayor and members of its Town

to issued

Council. Such conduct, as more thoroughly set forth below, is best summarized as the municipality's refusal to evenly apply its laws to all of its citizens and businesses, and its use of its governmental position to actively discriminate against lesbian, gay, bisexual, and transgender ("LGBT") people and business owners, specifically Plaintiffs Marc and Rusty Andrus and their business, Rustlers, LLC. By singling out LGBT people for disfavored treatment and intentionally exercising the Town of Thayne's municipal ordinances and powers so as to place LGBT people and business owners in a disfavored position compared to other non-LGBT (but otherwise similarly situated) citizens and business owners, Defendants have denied Plaintiffs equal protection under the laws, and the most basic guarantees under the Wyoming and U.S. Constitutions.

2. Plaintiffs Marc and Rusty Andrus are a married couple, residing in Lincoln County, Wyoming and own the business Rustlers, LLC, a Wyoming limited liability company. Plaintiffs purchased a commercial property located on Main Street in Thayne, Wyoming in September of 2015 and have made significant efforts over the intervening time period to create a family restaurant, bar and grille to fulfill their dream of becoming restaurant owners, as well as to enhance and benefit the Town of Thayne and its community. Plaintiffs operate the restaurant under the name "Rustlers Restaurant and Saloon." Since the beginning of this effort in September of 2015, Plaintiffs have made strenuous and earnest attempts to work with Defendants and to comply with all of Defendants' ordinances, rules, regulations and instructions to Plaintiffs -- only to be met with push-back, hostility, and utterly disparate treatment from Defendants in comparison to other similarly situated non-LGBT citizens and business owners within the Town of Thayne. Ultimately, Defendants have taken official action against Plaintiffs in order to

discriminate against Plaintiffs, in violation of the Constitutions of the United States and Wyoming, as set forth thoroughly below.

PARTIES

A. Plaintiffs.

3. Plaintiff Rusty Andrus is an adult resident of Wyoming, residing in Star Valley Ranches, Lincoln County, Wyoming. Mr. Andrus is an openly gay man.

4. Plaintiff Marc Andrus is an adult resident of Wyoming, residing in Star Valley Ranches, Lincoln County, Wyoming. Mr. Andrus is an openly gay man.

5. Plaintiffs Rusty and Marc Andrus are a married couple and have been married to each other at all times relevant to this action.

6. Rustlers, LLC is a Wyoming limited liability company, duly organized under the laws of Wyoming and registered with the Wyoming Secretary of State's Office. Rustlers, LLC owns and operates the restaurant under the name "Rustlers Restaurant and Saloon," within the Town of Thayne, Wyoming.

B. Defendants.

7. The Mayor of the Town of Thayne is Mayor DeLand Lainhart ("Defendant Mayor of the Town of Thayne") and is sued herein in his official capacity. The members of the Town Council of Thayne, Wyoming are Lorell Woolley, Joe Heward, Lee Schwab, and Steve Wicks (collectively, "Defendant Members of the Town Council of the Town of Thayne") and are each sued herein in their respective official capacities.

8. Defendant Town of Thayne, Wyoming is an incorporated Wyoming municipality, located in Lincoln County, Wyoming and created pursuant to the powers vested by Wyo. Stat. Ann. §§ 15-1-201 *et seq.* It is a duty of the Town of Thayne, Wyoming to defend and enforce its laws and

ordinances. *See* Wyo. Stat. Ann. §§ 15-1-103 *et seq.* The Town of Thayne is a person within the meaning of 42 U.S.C. § 1983 and was acting under color of state law at all times relevant to this Complaint.

9. Defendants Mayor and Town Council of the Town of Thayne, Wyoming are sued in each of their official capacities as the Mayor of the Town of Thayne, Wyoming and each of the members of the Town Council of the Town of Thayne, Wyoming. Pursuant to Wyo. Stat. Ann. § 15-1-103(a)(i) and 42 U.S.C. § 1983 each of these individuals may be sued in their official capacities, and therefore have a duty to answer this Complaint. It is also the duty of each of the Defendants Mayor and Town Council of the Town of Thayne, Wyoming to defend and enforce the laws and ordinances of the Town of Thayne, Wyoming. Each of the Defendants Mayor and Town Council of the Town of Thayne, Wyoming is a person within the meaning of 42 U.S.C. § 1983 and was acting under color of state law at all times relevant to this complaint.

JURISDICTION AND VENUE

10. This action arises under 42 U.S.C. § 1983 to redress the deprivation under color of state law of rights secured by the United States Constitution and under the Establishment Clause of the First Amendment to the United States Constitution and correlating sections of the Wyoming Constitution, the Substantive and Procedural Due Process Clauses of the Fourteenth Amendment to the United States Constitution and correlating sections of the Wyoming Constitution, and the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution and correlating sections of the Wyoming Constitution.

11. This Court has original jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1343 because the matters in controversy arise under laws of the United States and the United States Constitution.

12. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) and (2) because all Defendants reside within the District, and all Defendants reside within the State of Wyoming; and because a substantial part of the events that gave rise to the Plaintiffs' claims took place within the District.

13. This Court has the authority to enter a declaratory judgment and to provide preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure, and 28 U.S.C. §§ 2201 and 2202.

14. This Court has personal jurisdiction over Defendants because they are all domiciled in Wyoming.

FACTUAL ALLEGATIONS

A. Plaintiffs and Plaintiffs' Treatment by Defendants.

15. Plaintiffs purchased a commercial property located on Main Street in Thayne, Wyoming in September of 2015 and have made significant efforts over the intervening time period to create a family restaurant, bar and grille to fulfill their dream of becoming restaurant owners, as well as to enhance and benefit the Town of Thayne and its community. Plaintiffs operate the restaurant under the name "Rustlers Restaurant and Saloon" (hereinafter "Rustlers").

16. Since Plaintiffs first made plans to open "Rustlers," Plaintiffs have been met with opposition and disparate treatment by Defendants in their dealings with Defendants on issues relating to their operation of "Rustlers" within the Town of Thayne. Such treatment, as set forth herein below, has been disparate in comparison to Defendants' treatment of other similarly situated non-LGBT citizens and business owners.

17. Plaintiffs purchased a century-old commercial property for their restaurant, located on Thayne's Main Street, which at the date of their purchase had been on the market for more than eight years without sale.

18. Plaintiffs made significant capital investments into the building and subsequent restaurant in order to bring the building that had fallen into disrepair into compliance with applicable codes, including electrical, fire and handicap accessibility, adding restrooms and a full commercial kitchen to develop a family-style restaurant and lounge with an "Old West" vintage feel, that would be attractive for the people of Thayne and the families who reside in the area to dine in. Plaintiffs' goal was, among others, to establish a nice and pleasant restaurant to be enjoyed by Thayne's dining public.

19. Among other things, Plaintiffs collected authentic western furniture from around Lincoln County, including an 18-foot long, 117 year old oak bar from Kemmerer, Wyoming, five wagon wheel lights that were once hung in the Thayne Cheese Factory Restaurant, and a 12-foot bar from Cokeville, Wyoming. All of the foregoing were obtained at great expense to Plaintiffs in furtherance of the above-stated goals for their business.

20. In addition to the above, in the fall of 2015, Plaintiffs began meeting with Defendants to inquire and to obtain a "Bar and Grille" liquor license from the Town of Thayne.

21. During September and October of 2015, Plaintiffs communicated extensively with the Town Clerk of the Town of Thayne in order to provide Defendants and the Wyoming State Liquor Division with plans and layout design for their restaurant and bar in order to obtain approval of the same in connection with Plaintiffs' liquor license application.

22. Over the course of the following months, and up until March of 2016, Defendants communicated extensively with Plaintiffs, requiring significant and detailed information in the

process of considering Plaintiffs' liquor license application. Defendants' inquiries revolved around preparation for a March 31, 2016 hearing before the Town of Thayne. The Town Clerk emailed Plaintiffs relative to Plaintiffs' liquor license application and demanded information as to proof of required off street parking for the maximum capacity of the building as defined by Town ordinance and Lincoln County, procedures followed by Plaintiffs prior to applying for a liquor license with the Town, plans for Training for Intervention Procedures ("TIPS") training¹ and services which Plaintiffs would provide for assisting patrons who have been over-served alcohol. Prior to the subject meeting, the town clerk warned Plaintiffs to bring to the subject hearing "as many supporters as [they] can... don't worry about how many, the more the better."

23. On March 31, 2016 Plaintiffs appeared at a special meeting before the Town of Thayne and Defendants for purposes of conducting a hearing as to Plaintiffs' liquor license application. The subject special meeting lasted more than two and a half hours. Plaintiffs were subjected to verbal accusations and hostility from multiple members of the Town Council. Defendant Council Members Joe Heward and Lorell Woolley repeatedly and very publicly accused Plaintiffs of being deceitful without any basis for such accusations whatsoever.

24. At the special meeting, Defendants stated that Plaintiffs' liquor license application was untimely and should have been submitted earlier. This was untrue. In order to obtain the subject liquor license, Plaintiffs were required to have a working kitchen and could not complete the application to obtain the license without a working kitchen in their establishment. Further, Plaintiffs' application was filed well within the prescribed time period for filing liquor license applications.

¹ TIPS (Training for Intervention Procedures) is a global leader in education and training for the responsible service, sale, and consumption of alcohol. Proven effective by third-party studies, TIPS is a skills-based training program that is designed to prevent intoxication, underage drinking, and drunk driving. Defendants require TIPS certification in connection with the issuance of liquor licenses within the Town of Thayne.

25. Defendants also took testimony and heard objections from citizens and non-LGBT restaurant and bar owners within the Town of Thayne. The owner of the bar neighboring Plaintiffs' restaurant, "Dad's Bar," untruthfully told Defendants that he had been lied to that Plaintiffs intended to use the space as an apartment building. This was never the case. Additionally, the owner of Dad's Bar untruthfully represented to Defendants that Plaintiffs' parking lot, required for their business, was public parking. It is not; Plaintiffs own fee simple title to the subject parking lot.

26. Despite the blatant lack of truth to the foregoing, Defendants' opposition and hostility towards Plaintiffs escalated. Near the conclusion of the hearing, Defendant Mayor of Thayne stated that Defendants could and would collect Plaintiffs' monthly sales and use tax receipts to verify that Plaintiffs' gross alcohol sales were legally proportionate to Plaintiffs' food sales, and that Defendants would immediately revoke Plaintiffs' liquor license if this were not the case.

27. Upon information and belief, no such investigation, threats of investigation, or potential revocation of licenses has occurred or been threatened against any similarly situated non-LGBT liquor license holder or business owner by Defendants.

28. Additionally, Defendant Mayor of Thayne's threatened action was unlawful, as the law requires such alcohol to food sales proportions be viewed over a twelve-month period. Wyo. Stat. Ann. §§ 12-4-413; 12-4-408(b).

29. At the hearing, Defendants raised issues related to Thayne's recent struggles with intoxicated motorists and inquired what Plaintiffs intended to do to remedy such problems, insinuating that Plaintiffs were responsible for these issues despite Plaintiffs' not having owned a liquor license at the time. Plaintiffs already planned to conduct required TIPS training. Defendants have maintained such focus upon Plaintiffs as responsible for the Town of Thayne's

purported liquor-related costs, despite Plaintiffs having never been implicated in a liquor license violation or any other liquor-related or other offense. Very recent to this filing, and as discussed below, Defendants increased Plaintiffs' liquor license renewal fee by 100%, doubling Plaintiffs' fee while allowing all other liquor license holders' renewal fees (some of whom have been implicated in liquor license violations) to remain the same.

30. Defendant Mayor of the Town of Thayne stated that Defendants would come into Plaintiffs' restaurant regularly and check Plaintiffs' grill to ensure that it was on; and if it was not on, Defendant Mayor stated that Defendants would revoke Plaintiffs' liquor license. Upon information and belief, no such investigation, threats of investigation, or potential revocation of licenses has occurred or been threatened against any similarly situated non-LGBT liquor license holder or business owner by Defendants. Further, Defendant Mayor of Thayne's threat was unlawful as there is no law requiring Plaintiffs' grill to be on at all hours of operation.

31. Defendants demanded information relative to Plaintiffs' proposed parking arrangement. Plaintiffs were able to assure Defendants via an accurately depicted parking map that Plaintiffs could provide adequate, fenced off parking. Despite Defendants' strict requirement that Plaintiffs be able to provide adequate parking dedicated to their restaurant alone, Defendants have never required compliance with such laws from Dad's Bar, Mi Ranchero, or Hubs, among other similarly situated establishments. The owners of the foregoing similarly situated establishments are, upon information and belief, all non-LGBT persons.

32. Defendants stated that they would also require Plaintiffs to erect a fence around the property and parking lot, despite no legal authority requiring any fencing and no other similarly situated establishment being required to fence its property or parking. Plaintiffs reasonably

believed that the issuance of their liquor license was contingent upon compliance with this request.

33. At the conclusion of the hearing, Defendants announced that Defendants would still need to address Plaintiffs' initial liquor license fee, since Defendants' current Town Ordinance permitted Defendants to charge Plaintiffs up to a maximum of \$10,500.00 for an initial fee. In actuality, the Town Ordinance at the time of the hearing set the price for all liquor licenses at \$1,500.00. *See* Town of Thayne Municipal Ordinance § 3.02.140 (August 9, 2000, not amended until August 18, 2016) (setting annual fee for all liquor licenses at \$1,500.00). Defendants in this announcement were only demonstrating their desire to act disparately and hostilely towards Plaintiffs.

34. Defendants never, and have not since, made any such suggestion of a liquor license fee increase to any other similarly situated non-LGBT owned establishment. Further, immediately prior to the above-referenced hearing, Defendants granted two retail liquor licenses and one restaurant liquor license to non-LGBT owned establishments without any mention of an increased liquor license fee. None of the other issues of concern that Defendants raised with Plaintiffs or requirements imposed upon Plaintiffs were raised to or required of those other non-LGBT applicants.

35. Upon information and belief, members of the audience at the special meeting made hostile gay slurs about Plaintiffs during the hearing.

36. Ultimately, the hearing at the special meeting concluded with Plaintiffs' liquor license application being approved by a narrow 3-2 vote, but with the issue of Plaintiffs' initial license fee and future renewal fees for their liquor license still outstanding, despite the provisions of Defendants' current liquor license ordinance at Section 3.02.140, setting such fee at \$1,500.00.

37. The following week, on or about April 7, 2016, Plaintiffs met with Defendant Mayor to discuss additional requirements incidental to Defendants' approval of Plaintiffs' liquor license. Defendant Mayor stated that Defendants wanted Plaintiffs to build, at their cost, a six-foot solid fence around Plaintiffs' parking lot. There is no applicable ordinance or other legal authority authorizing Defendants to make this requirement. However, Plaintiffs reasonably believed that the issuance of their liquor license was contingent upon compliance with this request.

38. The stated reasons for Defendants' requiring Plaintiffs to erect the subject fence were: (i.) So that people from neighboring bars could not get into Plaintiffs' parking lot or over or under the fence, (ii.) so that "Plaintiffs would not get sued," and (iii.) so that others could not see who was present or parked in Plaintiffs' parking lot.

39. Plaintiffs reasonably believed that, given the pendency of Defendants' decision to potentially raise Plaintiffs' annual liquor license fee to \$10,500.00, Plaintiffs' acquiescence to this fencing requirement was necessary in order to avoid an increased liquor license fee. Plaintiffs ultimately made the decision to erect a post and rail fence.

40. At this April 7, 2016 meeting, Defendant Mayor told Plaintiffs that they were not permitted to have a neon sign outside of their restaurant. However, Defendants' ordinance relative to signage states that neon signage is permissible, and Dad's Bar and Pines Bar, owned and operated by similarly situated non-LGBT business owners, have been permitted to have neon signs and currently have neon signs at their establishments.

41. On April 21, 2016, Defendants had a regular Town Council meeting that included an agenda item to determine the liquor license fee for Plaintiffs. Defendants Mayor of Thayne and the Town Council went into executive session and then returned with a motion to set the initial license fee for Plaintiffs at \$1,500.00. The motion ultimately passed at the time, but was

opposed by Defendant Councilman Joe Heward, despite such opposition being in direct conflict with the existing Town of Thayne ordinance at the time.

42. On April 28, 2016, Defendants held a special Town Council meeting, wherein Defendants proposed changing the Town of Thayne's liquor license ordinance to permit Defendants latitude to assess liquor license fees for a Bar and Grille license from anywhere between \$1,500.00 to \$10,500.00.

43. According to Defendants, at this special meeting the amended liquor license ordinance would permit Defendants to impose liquor license renewal fees on applicants on a case-by-case basis, dependent on whether the specific applicant had received "complaints" or caused "cost to the Town" over the preceding year. Defendants also represented that the Town of Thayne received a report relative to intoxicated driving issues and purportedly received an "F" grade. When questioned at the hearing about this statement, Defendants quickly acknowledged that this representation was untrue and that no such report was issued or existed.

44. Defendants eventually admitted that there had been no charges for driving under the influence of alcohol issued by the Town of Thayne in the preceding six months; but stated that it was cost-prohibitive to process charges for driving under the influence of alcohol.

45. Defendants stated that once they could assess a \$10,500.00 liquor license renewal fee against Plaintiffs that they would likely do so as Defendants "did not want to leave money on the table."

46. When asked whether a \$10,500.00 license renewal fee would be assessed against Plaintiffs, so that Plaintiffs could plan their finances accordingly, Plaintiffs were told by Defendants, "Do you want us to define a fee now? We will set it right now at \$10,500.00." Defendant Councilman Joe Heward followed this threat with statements that Plaintiffs provide

no “benefit to me or my family,” “to plan for the maximum fee allowable,” and that Plaintiffs should “start budgeting [for the maximum fee] now.” No other Defendants disputed or cautioned against these statements.

47. Defendants voted to approve the first reading of the revised liquor license ordinance. Upon request, Plaintiffs were denied a copy of the approved first reading draft of the ordinance.

48. Defendants told Plaintiffs that Defendants would be monitoring Plaintiffs’ business and operations closely. Other members of the Thayne community told Plaintiffs that they were “being watched.” One such declarant was a Lincoln County Fire Marshall who told Plaintiffs that they were under intense scrutiny, upon information and belief, from Defendants.

49. On or about May 3, 2016, Defendant Mayor of Thayne approached Plaintiffs outside of Plaintiffs’ restaurant relative to the potential renewal fees in the revised ordinance that Plaintiffs would be assessed for renewal of Plaintiffs’ liquor license.

50. During this encounter, Defendant Mayor of Thayne stated that he “believed that he had enough votes [from Defendant Town Council members] to keep the annual renewal fees for all liquor licenses at \$1,500.00 for now.” Defendant Mayor of Thayne also, and very significantly for this action, stated that he had spoken with a high ranking local member of the Church of Jesus Christ of Latter-day Saints (the “LDS Church”), regarding that religious leader’s thoughts on Plaintiffs’ liquor license application and renewal. According to Defendant Mayor of Thayne’s statements to Plaintiffs, this religious leader eventually communicated his approval of Plaintiffs’ liquor license to Defendant Mayor. When questioned about the legality or appropriateness of having a religious leader influence or impact local government decisions, Defendant Mayor of Thayne stated “[this religious leader] represented the people” of Thayne.

51. On August 18, 2016 Defendants completed and approved the third reading of the revised liquor license ordinance. Plaintiffs made four different attempts to obtain a copy of the drafted revised ordinance, with the last occurring on October 14, 2016. Neither Defendants, nor the Town of Thayne Clerk, agreed to provide a copy of the draft ordinance to Plaintiffs upon any of these requests.

52. Pursuant to Defendants' liquor license ordinance, Plaintiffs submitted an application for renewal of their liquor license in November of 2016. Along with this renewal application, Plaintiffs submitted all necessary TIPS certifications and all necessary documentation required for renewal of Plaintiffs' liquor license.

53. Following submission of Plaintiffs' liquor license renewal application, one Defendant, Town Council member Joe Heward, approached Plaintiffs at Plaintiffs' restaurant and stated definitively that Plaintiffs needed to personally appear at the liquor license renewal hearing. The tone of this statement was terse, direct and perceived as threatening by Plaintiffs.

54. On February 2, 2017, Defendants held a meeting at which Defendants held hearings on liquor license renewal applications. During the meeting Defendants stated that Defendants had not received reports of any incidents at any licensed bar or other establishment.

55. Prior to the meeting, and in accordance with Defendants' ordinance, Plaintiffs submitted certification of completed TIPS training and all documentation necessary for their liquor license renewal application. Despite having all of Plaintiffs' complete documentation, members of the Defendant Town Council initially failed to second a motion to approve Plaintiffs' liquor license renewal application. Neither Defendant Heward nor Defendant Woolley would second the motion. In contrast, Defendant Woolley seconded a motion to approve Dad's Bar's liquor license renewal and Defendant Heward seconded the motion for Pines Bar's liquor license

renewal, despite late or incomplete TIPS certification from those establishments. Finally, after no Defendant seconded the motion to approve Plaintiffs' renewal application, a newer member of the council stated that he would second the motion. No basis for refusing to second the motion for Plaintiffs' liquor license renewal application was provided by any of the Defendants, nor was any legal or factual basis for opposing Plaintiffs' application provided.

56. Ultimately, Plaintiffs' application for renewal of their liquor license was approved, but only after the immediate approval of the other two applicants, Dad's Bar and Pines Bar.

57. Dad's Bar failed to submit any required TIPS certifications or any other required documentation until the day of the hearing. Despite this failure to comply with the time requirements of Defendants' ordinance and application procedures, Dad's Bar's application was immediately motioned, seconded and approved.

58. Pines Bar had not submitted any TIPS certification or any other required documentation, at all, at the time of the hearing. Despite this failure to even attempt to comply with Defendants' ordinance and application procedures, Pines Bar's application was immediately motioned, seconded and approved.

59. The foregoing is highly demonstrative that Defendants strictly apply each and every ordinance, law and regulation that Defendants can to Plaintiffs and Plaintiffs' business, but fail and refuse to, and apparently willfully ignore such ordinances, laws and regulations as to every other similarly situated but non-LGBT owned business within Defendants' jurisdiction. This uneven application of the law by Defendants, while acting under the color of state law as set forth herein, is highly improper, unconstitutional, and has damaged and will continue to damage Plaintiffs if not immediately remedied.

60. Further, due to Defendants' failure, and indeed refusal, to evenly apply its own ordinances, rules and regulations as to similarly situated non-LGBT owned establishments, competing establishments are permitted to open and operate without having to comply with the same requirements that Plaintiffs have been repeatedly admonished to comply with or face revocation of Plaintiffs' liquor license.

61. Plaintiffs have also incurred damage due to the Town's failure, and indeed refusal, to enforce its liquor license ordinances and regulations as to similarly situated non-LGBT owned establishments. On multiple occasions, Plaintiffs and their employees have been harassed and threatened verbally by patrons of other establishments, some of whom had been over-served at other competing establishments, in violation of Defendants' ordinances, or have left other establishments with open containers of alcohol, in violation of Defendants' ordinances. Despite these repeated and pervasive incidents being reported by Plaintiffs to Thayne law enforcement as well as Defendants, no meaningful enforcement efforts or action whatsoever have been taken by Defendants against any similarly situated non-LGBT owned establishments.

62. This non-enforcement is in stark contrast to the admonitions leveled by Defendants at Plaintiffs, should Plaintiffs violate any liquor license ordinance or regulations. As stated above, Defendants have stated that if Plaintiffs so much as have their grill turned off during service hours, Defendants will revoke Plaintiffs' liquor license.

63. Defendants' treatment of Plaintiffs, and baseless accusations against Plaintiffs made at a public Town of Thayne meeting, tainted the impression that the community of Star Valley, Wyoming and Thayne, Wyoming had of Plaintiffs even prior to Rustlers' opening. Defendants' treatment of Plaintiffs and Defendants' decision to treat Plaintiffs disparately from other non-LGBT owned establishments, has established an example for the community to follow and has

emboldened private citizens to harass and discriminate against Plaintiffs based upon Plaintiffs' LGBT status.

64. Upon information and belief, in connection with Plaintiffs' initial liquor license application to Defendants, an email was circulated among members of the LDS Church opposing Plaintiffs' application. Upon information and belief, multiple Defendants are members of the LDS Church and were participants in these email communications.

65. Upon information and belief, Nicole Astle, a former member of then Thayne Town Council, received threatening communications as a result of her support of Plaintiffs at their initial liquor license hearing. Ms. Astle's term as councilperson has since ended and she chose not to run for Town Council for another term. Ms. Astle has expressed to Plaintiffs her significant dismay and sadness with Defendants' discriminatory treatment of Plaintiffs.

66. Defendants' disparate treatment of Plaintiffs relative to Defendants' liquor ordinances and regulations, as well as Defendants' refusal to protect Plaintiffs' rights vis-à-vis its law enforcement, continues to date. On consecutive weekends as recently as October 12, 2017 and October 21, 2017, severely intoxicated patrons of other similarly situated, non-LGBT owned establishments entered upon Plaintiffs' property after having been over-served at other establishments. Such patrons caused significant property damage to Plaintiffs. Though Lincoln County has purported to take law enforcement action against the individuals involved, no efforts to enforce Defendants' liquor laws against the establishments that served these individuals or allowed them to operate vehicles following such service has been undertaken by Defendants. This non-enforcement is in stark contrast to the admonitions leveled by Defendants at Plaintiffs, should Plaintiffs violate any liquor license ordinance or regulations.

67. Specifically, on or about October 12, 2017, Plaintiffs were verbally harassed and threatened by intoxicated patrons of Dad's Bar next door to Plaintiffs' establishment. Plaintiffs received vulgar insults, harassing language and threats from such patrons. This situation escalated when an intoxicated patron of Dad's Bar attempted to leave Dad's Bar following a domestic dispute with another patron of Dad's Bar and, in doing so, drove her vehicle through Plaintiffs' fence at Plaintiffs' property two separate times. The intoxicated driver ultimately fled the scene and was later charged with driving under the influence, as Plaintiffs understand.

68. Despite all of the foregoing being captured on Plaintiffs' security cameras and the situation clearly emanating from these patrons of Dad's Bar being over-served while at Dad's Bar, no enforcement action has been taken by Defendants relative to Dad's Bar with respect to Defendants' liquor license ordinance and regulations to date.

69. Then again in the late night of October 21, 2017, an intoxicated patron of Pines Bar left Pines Bar and drove his pickup truck through Plaintiffs' fence at Plaintiffs' property. Plaintiffs' security cameras, again, captured video of the incident, including the subject vehicle leaving Pines Bar and driving through Plaintiffs' fence.

70. Despite all of the foregoing being captured on Plaintiffs' security cameras and the situation clearly emanating from the patrons of Pines Bar being over-served while at Pines Bar, and being permitted to use his vehicle following service at Pines Bar, no enforcement action has been taken by Defendants relative to Pines Bar with respect to Defendants' liquor license ordinance and regulations to date.

71. As stated above, these examples of non-enforcement by Defendants are in stark contrast to the admonitions leveled by Defendants at Plaintiffs, should Plaintiffs violate any liquor license ordinance or regulations. As discussed above, Defendants have stated that if Plaintiffs so much

as have their grill turned off during service hours, Defendants would revoke Plaintiffs' liquor license.

B. The Town of Thayne's Treatment of Other Similarly Situated Non-LGBT Citizens and Business Owners.

72. Defendants, and the Town of Thayne community in general, are comprised of many conservative, devoutly religious members of the Church of Jesus Christ of Latter-day Saints. Upon information and belief, throughout Plaintiffs' interaction with Defendants, Defendants' religious beliefs have heavily influenced and permeated Defendants' treatment of Plaintiffs².

73. For example, and as set forth above, prior to approving Plaintiffs' application for the renewal of Plaintiffs' liquor license, Defendant Mayor stated that he had spoken with a leader of the LDS Church in Thayne in order to obtain that religious leader's approval of Plaintiffs' liquor license application in order to gain the requisite support for Plaintiffs among the religious community.

74. This religious influence upon Defendants, upon information and belief, formed the basis for much of Defendants' disparate treatment of Plaintiffs in comparison to Defendants' treatment of other similarly situated, non-LGBT citizens and business owners.

² For example, in response to recent United States Supreme Court decisions bestowing marriage rights to same-gender couples, the Town of Thayne, responding to pressure from religious leaders and citizens, recently considered passing a "religious freedom" ordinance that would have the effect of making it "a criminal act to coerce someone to participate in any activity that is against their religious convictions or beliefs." (<https://www.starvalleyindependent.com/2015/07/20/town-of-thayne-considers-need-for-religious-freedom-ordinance/>, last visited January 4, 2018.) This ordinance, like many that have made headlines nationwide, can be utilized to permit conduct such as denying marriage licenses to legally-wed same-sex couples, so long as such discriminatory conduct is based upon purported religious reasons. Such actions, despite ordinances of this type, have been found to be unlawful. *See, e.g., Miller v. Davis*, 123 F. Supp. 3d 924 (E.D. Ky. 2016). Nevertheless, Defendants still considered adopting such an ordinance and the current status of consideration of such an ordinance by Defendants is unknown to Plaintiffs at this time.

75. For instance, the day after Defendants held the April 28, 2016 special meeting (at which Plaintiffs were chastised by Defendants relative to Plaintiffs' liquor license application and the problems presented by liquor licensees within the Town), on April 29, 2016, the neighboring establishment, Dad's Bar, held an annual party at which 200 people were served alcohol and consumed such alcohol outside of the licensed establishment in violation of Defendants' liquor license ordinance. No police or other representatives of the Town of Thayne were present and no enforcement action relative to Defendants' liquor license ordinance occurred against Dad's Bar.

76. Defendants have repeatedly and aggressively stated their intention to strictly enforce all Defendants' ordinances, restrictions, regulations and liquor license laws against Plaintiffs and to closely monitor Plaintiffs as to any violations of the same. Defendants have also threatened immediate revocation of Plaintiffs' licenses through the Town of Thayne should any perceived violations of the same occur.

77. Despite the foregoing statements and threats leveled at Plaintiffs, Defendants routinely and as a matter of course do not enforce Defendants' ordinances, restrictions, regulations and liquor license laws against similarly situated non-LGBT citizens and business owners.

78. Wagon Wheel Café in Thayne, Wyoming is, upon information and belief, owned by a non-LGBT business owner. The restaurant was previously known as "Hubs Restaurant" which has transferred ownership four different times. This establishment significantly increased its seating in 2016, thus requiring additional designated parking under Thayne's parking ordinances and has no designated handicap parking as federally mandated. Upon information and belief, Defendants have not enforced any parking ordinances against Hubs Restaurant or Wagon Wheel Café.

79. Mi Ranchito in Thayne, Wyoming was, upon information and belief, owned by a non-LGBT business owner. This establishment received its business license and began operating in 2015. Mi Ranchito opened as a restaurant with seated dining in the spring of 2015 in a building not previously used for a restaurant or place of assembly. This establishment, despite Defendants' ordinances, had no designated off street parking and no handicap parking. Upon information and belief Defendants did not enforce any parking ordinances against this establishment.

80. Dad's Bar in Thayne, Wyoming is, upon information and belief, owned by a non-LGBT business owner. This establishment underwent significant renovations to both its interior and exterior as well as its parking lot in 2016 and 2017, thus requiring that it bring its designated parking into compliance with Thayne's parking ordinances, necessitating additional designated parking under such parking ordinances and handicap parking as federally mandated. Upon information and belief Defendants have not enforced any parking ordinances against Dad's Bar and Dad's Bar, to date, has insufficient designated parking for its posted capacity of 200.

81. The Thayne, Wyoming "Dog Wash" re-opened in a new location in a new modular building in the spring of 2017. Upon information and belief, this establishment is owned by a non-LGBT business owner. This establishment, despite Defendants' ordinances, has no handicap access, no designated parking and no handicap parking as federally mandated. Upon information and belief, Defendants have not enforced any parking ordinances against this establishment.

82. Bo-B-Q in Thayne, Wyoming is, upon information and belief, owned by a non-LGBT business owner. This establishment received its business license in 2017. Bo-B-Q opened as a restaurant with seated dining in the fall of 2017 in the building formally used as a dog-wash and not a place of assembly. This establishment, despite Defendants' ordinances, has no designated

off street parking and no handicap parking as federally mandated. Upon information and belief Defendants have not enforced any parking ordinances against this establishment.

83. The Town of Thayne maintains a governmentally run website located online at <http://www.Thayne-WY.com>. This website bears the Defendant Town of Thayne's seal and is, upon information and belief, controlled and managed by Defendants and Defendants' agents and employees. Additionally, the information disseminated on this website is, upon information and belief, provided by Defendants and is clothed in governmental authority as a result.

84. On the Town of Thayne's website, Defendants have provided "Dining" information, wherein Defendants have provided visitors with information relative to the Town of Thayne's available dining establishments and options. This information is located at <http://www.Thayne-WY.com/dining>.

85. As recently as January 8, 2018, this website contained information for "Tootsies," "Juan's House of Tacos," "Wagon Wheel Café," "Dad's Bar and Steakhouse," and "Valley Market – deli."

86. "Rustlers Restaurant and Saloon" has been omitted by Defendants and has never appeared on this website, despite the website clearly being updated since "Hubs Restaurant" was changed to the "Wagon Wheel Café," in July of 2017, which occurred after Plaintiffs began operating "Rustlers Restaurant and Saloon."

87. Upon information and belief, "Tootsies," "Juan's House of Tacos," "Wagon Wheel Café," "Dad's Bar and Steakhouse," and "Valley Market – deli" are all owned and operated by non-LGBT business owners.

88. The foregoing are examples, but not an exhaustive list, of the manner in which Defendants have subjected Plaintiffs to disparate treatment from other similarly situated non-

LGBT citizens and business owners since Plaintiffs began operation of their establishment.

There are myriads of other examples of Defendants' failing and refusing to enforce Defendants' own laws, ordinances, and regulations against non-LGBT business owners, but nevertheless insisting upon strict enforcement as to Plaintiffs, bolstered by heavy-handed threats that were not leveled at Plaintiffs' non-LGBT counterparts.

89. The foregoing conduct on the part of Defendants constitutes governmental action that: 1. adopts, endorses and supports one religion (the LDS Church) over other religions or no religion at all, in violation of the Establishment Clause of the First Amendment; 2. unlawfully deprives Plaintiffs of constitutionally protected property and liberty rights, as well as business rights in violation of the Substantive Due Process Clause of the Fourteenth Amendment; and 3. subjects Plaintiffs to disparate treatment based upon their identity as LGBT individuals, when other non-LGBT individuals are not subject to the same treatment, in violation of the Equal Protection Clause of the Fourteenth Amendment.

90. Defendants are without any rational, compelling or even reasonable justification for their conduct and treatment of Plaintiffs.

91. As a result of the foregoing, Plaintiffs have been chilled from acting upon or asserting their Constitutionally protected rights, have actually suffered a deprivation of their Constitutionally protected rights, and have consequently suffered and will continue to suffer damages so long as Defendants' conduct is permitted to persist.

92. As a result of the foregoing, Plaintiffs are entitled to injunctive relief as Plaintiffs are threatened with immediate, permanent and irreparable harm should Defendants' discriminatory conduct and the Constitutional violations perpetrated by Defendants be permitted to persist.

C. The Town of Thayne's Discriminatory Increase of Plaintiffs' Liquor License Fee.

93. The foregoing conduct on the part of Defendants, by itself, reveals discriminatory treatment of Plaintiffs by Defendants in a manner that violates Plaintiffs' constitutional rights as set forth herein. However, very recently Defendants took it upon themselves to double Plaintiffs' annual liquor license fee, raising such annual fee by a factor of 100%, without any notice to Plaintiffs, without any opportunity for Plaintiffs to be heard on the issue, without any formal notice to the public of any kind, without placing the item on Defendants' meeting agenda, all in violation of Defendants' own policy and procedures and in an effort to further discriminate against Plaintiffs.

94. In November, 2017, Plaintiffs inquired to Defendants relative to paying their \$1,500.00 annual liquor license renewal fee and how best to submit the same and their renewal application to Defendants.

95. On November 21, 2017, the Town Clerk contacted Plaintiffs to let Plaintiffs know that Defendants had not discussed the renewal fee. The next Town Council meeting was scheduled for November 27, 2017.

96. Defendants scheduled a "Special Meeting" for the Mayor and Town Council for November 27, 2017. In connection with the scheduling of the meeting, Defendants published a meeting agenda outlining the business to be conducted at the subject meeting. The only item publicly disclosed on the agenda to be carried out was "Thayne Ambulance Service Finances." A copy of the subject meeting agenda is attached hereto as **Exhibit A** and made a part hereof.

97. Despite the fact that only agenda item for Defendants' November 27, 2017 "Special Meeting" was "Thayne Ambulance Service Finances," Defendants nevertheless took up the matter Plaintiffs' liquor license, as the only "Bar and Grille License" in Thayne, and on

Defendants' own initiative increased Plaintiffs' liquor license renewal fee from \$1,500.00 to \$3,000.00.

98. Plaintiffs were not provided with advance notice that the matter of their liquor license renewal fee would be addressed at this meeting. No notice was provided that the matter would be taken up by Defendants, as seen by the agenda, Ex. A.

99. Plaintiffs were not given any opportunity to be heard on the issue whatsoever.

100. Defendants' justification that "the renewal fee should reflect costs generated throughout the year" to raise only Plaintiffs' liquor license fee is without any basis and is purely pre-textual in an effort to cover up the discriminatory basis for such action. A copy of the draft minutes from the subject meeting is attached hereto as **Exhibit B** and made a part hereof.

101. The action taken by Defendants only raised Plaintiffs liquor license renewal fees and left all other types of licenses, and all other establishments within the Town of Thayne at the same renewal rate.

102. Defendants raised Plaintiffs' liquor license renewal fees, and no other establishment's liquor license renewal fees, despite the fact that Plaintiffs' establishment was not cited or implicated in any violations of Defendants' liquor license laws in 2016 or 2017. Plaintiffs have never engaged in, or even been accused of engaging in, conduct violative of Defendants' liquor license laws. The same is not true of other establishments, who have actively violated Defendants' liquor license regulations as set forth above, all of whose fees all remained the same.

103. The foregoing conduct on the part of Defendants is discriminatory and is specifically directed at Plaintiffs in an effort and concerted design to harm Plaintiffs. Such conduct is plainly

violative of the Wyoming and United States Constitutions and was undertaken deliberately by Defendants.

104. As a result of the foregoing, Plaintiffs have sustained and will continue to sustain damages resulting from Defendants' conduct.

CLAIMS FOR RELIEF

COUNT I

Deprivation of Equal Protection Under the Law U.S. Const. Amend. XIV

105. Plaintiffs incorporate paragraphs 1 through 104 as though fully set forth herein.

106. Plaintiffs state this cause of action against Defendants in their official capacities for purposes of seeking declaratory and injunctive relief, and challenge Defendants' conduct as set forth herein, as applied to them.

107. The Fourteenth Amendment to the United States Constitution, enforceable pursuant to 42 U.S.C. § 1983, provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV, § 1.

108. Discrimination based on sex includes but is not limited to discrimination based on sexual orientation and/or identity.

109. Lesbian, gay, and bisexual people have suffered a long history of extreme discrimination in Wyoming and across the country, and continue to suffer such discrimination to this day³.

³ Wyoming's history with LGBT rights is widely regarded as having been one of the most difficult for recognition of LGBT persons' rights among the 50 states. *See, e.g., The History of Sodomy Laws in the United States - Wyoming*. Glapn.org; William N. Eskridge, *Dishonorable Passions: Sodomy Laws in America, 1861-2003* (NY: Penguin Group, 2008), 201n, April 10, 2011; Hancock, Laura, "Mead says Supreme Court move has no impact on Wyoming's gay marriage case". Casper Star Tribune. (October 6, 2014); Celock, John "Wyoming Legislative Committee Rejects Gay Marriage, Passes Domestic Partnerships". *Huffington Post*; "Wyoming House defeats domestic partnership bill". *Billings Gazette*. (January 30, 2013); *Wyoming's Anti-Discrimination Bill Fails*. KGWN-TV. (February 24, 2015). Wyoming consistently ranks among the least "tolerant" states for LGBT rights in recent rankings conducted by online journalists.

110. Lesbian, gay, and bisexual people are a discrete and insular group and lack the political power to protect their rights through the legislative process. Lesbian, gay, and bisexual people have largely been unable to secure explicit local, state, and federal protections to protect them against discrimination.

111. A person's sexual orientation bears no relation to a person's ability to contribute to society.

112. Sexual orientation is a core, defining trait and is so fundamental to one's identity and conscience that a person cannot be required to abandon it as a condition of equal treatment.

113. Sexual orientation generally is fixed at an early age and highly resistant to change through intervention.

114. Based upon the foregoing, Defendants, and each of them, have impermissibly and unconstitutionally discriminated against Plaintiffs and deprived Plaintiffs of equal protection under the laws, based upon Plaintiffs' sexual orientation. Indeed, the only distinction between Plaintiffs and other similarly situated business owners that can possibly serve as the basis for Defendants' disparate treatment of Plaintiffs is Plaintiffs' status as LGBT individuals.

115. As a result of Defendants' deprivation of Plaintiffs' rights to equal protection under the laws, Plaintiffs have suffered and will continue to suffer damages.

116. Defendants' conduct in this respect was, and remains, intentional, discriminatory and without regard to the rights of Plaintiffs.

See, e.g., www.thedailybeast.com/ranking-the-most-tolerant-and-least-tolerant-states (last accessed October 25, 2017)(ranking Wyoming 50th out of 50 states for tolerance); www.alternet.org/newsandviews/article/440581/10_most_%28and_10_least%29_tolerant_states_in_america/ (last accessed October 25, 2017)(ranking Wyoming last in terms of tolerant states).

COUNT II
Violation of Substantive Due Process
U.S. Const. Amend. XIV

117. Plaintiffs incorporate paragraphs 1 through 116 as though fully set forth herein.

118. Plaintiffs possess property interests in the form of their business interests, liquor licenses and expectations of the same as discussed herein and set forth above. Plaintiffs also possess liberty interests in the form of Plaintiffs' right of freedom from the uneven application of laws and freedom from the application of laws that do not exist against them, all of which are protected by the Substantive Due Process Clause of the Fourteenth Amendment.

119. The Due Process Clause of the Fourteenth Amendment, in its Substantive sections, places limitations on governmental action that deprives individuals of life, liberty, or property.

120. As a result of Defendants' conduct as set forth herein, which conduct can be described as the uneven application of Defendants' ordinances, laws and regulations against Plaintiffs, and Defendants' imposition of restrictions and rules that do not exist against Plaintiffs and not against other similarly situated citizens, Defendants have deprived Plaintiffs of property and liberty interests in violation of the Fourteenth Amendment's requirements.

121. There is no compelling governmental interest that is furthered by Defendants' conduct as set forth herein, nor is Defendants' conduct narrowly tailored or the least restrictive alternative for promoting any governmental interest which Defendants may have. Defendants' conduct also is not even rationally related to a legitimate government interest.

122. Defendants' conduct, as set forth herein, constitutes a pattern or practice of violations of the guarantees of Substantive Due Process of the Fourteenth Amendment to the United States Constitution, and has the actual effect of unconstitutionally depriving Plaintiffs' of their rights to property and liberty interests as stated herein.

COUNT III
Violation of Procedural Due Process
U.S. Const. Amend. XIV

123. Plaintiffs incorporate paragraphs 1 through 122 as though fully set forth herein.
124. The Procedural Due Process Clause of the Fourteenth Amendment to the United States Constitution prohibits Defendants from depriving “any person of life, liberty, or property without due process of law.”
125. Plaintiffs have a liberty and property interest in their liquor license, in being able to renew the same so long as Plaintiffs comply with Defendants’ liquor license laws, and being able to derive income from the same.
126. Defendants’ conduct as set forth above unconstitutionally deprives Plaintiffs of such liberty or property interest by impermissibly doubling the fee associated with such liquor license against Plaintiffs only, without any notice to Plaintiffs of the pendency of such action or opportunity to be heard on the issue whatsoever.
127. Defendants’ action as set forth above was in violation of Defendants’ own policies and procedures, which require public notice via the agenda of what business will be discussed at a “Special Meeting” and the statement of Defendants in their own ordinance which states “[Liquor License] Renewals shall be uniform for all licenses in each class until the Town of Thayne determines a more equitable method of assessing fees.” Town of Thayne Ordinance 3.01.050, passed August 8, 2016.
128. The action taken by Defendants, without notice or the opportunity to be heard provided to Plaintiffs, i.e. the doubling of only Plaintiffs’ liquor license renewal fee, does not bear any relationship, neither legitimate, nor rational or otherwise, to any government interest to be served

thereby. It bears no relationship to the purpose stated therefore by Defendant Mayor of Town of Thayne at the subject meeting. See Ex. B.

129. As a result, Defendants' conduct and specifically Defendants' doubling of Plaintiffs' liquor license fee without notice or an opportunity to be heard provided to Plaintiffs, violates the Procedural Due Process Clause of the Fourteenth Amendment.

130. As a result of the foregoing, Plaintiffs have sustained and will continue to sustain damages and are also entitled to declaratory and injunctive relief as prayed herein.

COUNT IV
Violation of the Establishment Clause
U.S. Const. Amend. I

131. Plaintiffs incorporate paragraphs 1 through 130 as though fully set forth herein.

132. The Establishment Clause of the First Amendment states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." U.S. Const. Amend. I.

133. The Establishment Clause of the First Amendment has been made applicable to state governments through the Incorporation Clause of the Fourteenth Amendment.

134. The Establishment Clause is applicable to Defendants by virtue of Defendants' conduct as set forth herein being clothed in the color of state law.

135. As set forth above, prior to approving Plaintiffs' application for the renewal of Plaintiffs' liquor license, Defendant Mayor stated that he spoke with a leader of the LDS Church in Thayne in order to obtain that religious leader's approval of Plaintiffs' liquor license application in order to gain the requisite support for Plaintiffs among the religious community.

136. The foregoing constitutes the endorsement of a religion over other religions or no religion at all, in violation of well-settled law relative to the Establishment Clause of the First

Amendment. In essence, with respect to Plaintiffs' liquor licenses and other interactions before Defendants as government officials, Defendants have conducted the Town of Thayne municipal government as a theocracy.

137. Defendants' policies, customs, and actions, as described herein, have no legitimate secular purpose, and instead have the purpose to advance the interests and practices of the LDS Church. The unequal treatment of Plaintiffs by Defendants demonstrates a preference for the interests and practices of the LDS Church over the laws of the United States and the United States Constitution.

138. Defendants' policies, customs, and actions, described herein, have the effect of advancing and endorsing the LDS Church over all other religions and religion in general over no religion.

139. Defendants' conduct as set forth herein violates longstanding United States Supreme Court precedent respecting the separation of religion and government, including *McCullum v. Board of Education*, 333 U.S. 203 (1948).

140. Defendants' actions as described herein are acts and conduct performed under color of law within the meaning of 42 U.S.C. § 1983.

141. Defendants' unconstitutional acts described, if allowed to continue, will irreparably harm Plaintiffs.

142. Defendants' conduct, as described herein, unless enjoined, will cause a deprivation of constitutional rights in violation of the First and Fourteenth Amendments to the United States Constitution and 42 U.S.C. § 1983.

PRAYER FOR RELIEF AS TO ALL COUNTS

WHEREFORE, Plaintiffs respectfully request that this Court enter judgment:

A. Declaring that the conduct of Defendants as discussed above violate Plaintiffs' rights under the Establishment Clause of the First Amendment to the United States Constitution, as well as the Equal Protection and Due Process Clauses of the Fourteenth Amendment to the United States Constitution;

B. Preliminarily and permanently enjoining any of the foregoing complained of conduct and actions by Defendants as discussed above;

C. Requiring Defendants in their official capacities to cease all sex-based discrimination against Plaintiffs and other, similarly situated LGBT people;

D. Awarding Plaintiffs their damages in an amount to be proven at trial;

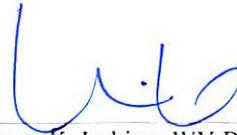
E. Awarding Plaintiffs their costs, expenses, and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988 and other applicable laws;

F. Awarding Plaintiffs punitive and exemplary damages against Defendants, in order to punish Defendants for engaging in such conduct so as to intentionally deprive Plaintiffs of their constitutional rights, and in order to deter others similarly situated to Defendants from engaging in similar conduct; and

G. Granting such other and further relief as the Court deems just and proper.

H. The declaratory and injunctive relief requested in this action is sought against each Defendant; against each Defendant's officers, employees, and agents; and against all persons acting in active concert or participation with any Defendant, or under any Defendant's supervision, direction, or control.

Respectfully submitted this 8th day of January, 2018.



James K. Lubing, WY Bar No. 5-2284
Kevin P. Gregory, WY Bar No. 7-5360
LUBING LAW GROUP, LLC
P.O. Box 3894
260 W. Broadway, Suite A
Jackson, WY 83001
(307) 733-7242 – Telephone
(307) 733-7471 – Facsimile
Attorney for Plaintiffs

VERIFICATION

I, Marc Andrus, Plaintiff, being duly sworn, verify and affirm that I have read the foregoing Verified Complaint and I certify under penalty of false swearing that the foregoing is true to the best of my knowledge, information and belief.

Marc Andrus
Marc Andrus

STATE OF Wyoming)
COUNTY OF Lincoln) ss.

Subscribed and sworn to before me this 3 day of Jan, 2018 by Marc Andrus.

Witness my hand and official seal:



[Signature]
Notary Public
My Commission Expires: Feb 26, 2021

I, Rusty Andrus, Plaintiff, being duly sworn, verify and affirm that I have read the foregoing Verified Complaint and I certify under penalty of false swearing that the foregoing is true to the best of my knowledge, information and belief.

Rusty Andrus
Rusty Andrus

STATE OF Wyoming)
COUNTY OF Lincoln) ss.

Subscribed and sworn to before me this 3 day of Jan, 2018 by Rusty Andrus.

Witness my hand and official seal:



[Signature]
Notary Public
My Commission Expires: Feb 26-2021

Special Meeting Agenda

THAYNE TOWN COUNCIL MEETING AGENDA

5:30 p.m. November 27, 2017

Mayor A. DeLand Lainhart

Call to Order 5:30 p.m.

Pledge of Allegiance by _____

Prayer by _____

Discussion on proposed Agendas

Adoption of Agendas as finalized Motion by ____ Second ____
in Favor ____ Opposed ____

SPECIAL MEETING AGENDA

1. Thayne Ambulance Service Finances

Motion to Adjourn: Motion by _____ Seconded _____

In Favor _____ Opposed _____

Time: _____



Thayne Town Council
Special Public Meeting

November 27, 2017

Council in attendance: Mayor Lainhart, Councilman Heward, Councilman Wicks, Councilman Woolley, Clerk Hillstead and Assistant Clerk Hyde.

Public Meeting Open at 5:30 PM

Welcome: Mayor Lainhart Presiding

Pledge: Assistant Clerk Hyde

Prayer: Mayor Lainhart

Adoption of Agenda as finalized.

Motion Councilman Woolley

Seconded- Councilman Heward

Motion carried

Thayne Ambulance Service

- Mayor Lainhart opened the conversation with stating that he has had a meeting with the Town of Star Valley Ranch's Mayor Buyers. This meeting concerned funding for their current emergency services provided by Thayne Ambulance Service. Mayor Buyers stated that with their funding limited, the Town is unable to continue to pay Thayne Ambulance Service the \$30,000 a year that they have done in the past. Mayor Lainhart asked the members of Thayne Ambulance Service that were present what they could get by with and still be able to operate their service. Currently it is not cost effective for the Town of Star Valley Ranch with the number of calls that the Ambulance Service responds to. Sherri Merritt mentioned that the Town of Thayne had always set the amount with Star Valley Ranch in the past and the Service just went with it. Councilman Woolley gave his opinion that if the Town of Star Valley Ranch decides to contract with the hospital, the quality of care would drop drastically due to the length of time it would take Afton EMS to respond. Thayne Fire Department Chief Marc Clark stated that the Fire Department doesn't want to wait for fire backup from Afton; the Department doesn't want to respond to calls without Thayne EMS. Lesli Dana asked how the community of Star Valley Ranch feels about the funding to their emergency services being cut or is the community even aware of the situation. Mayor Lainhart stated that if the Service wants to continue as they are, they have to either reduce operating costs or increase revenue. Councilman Heward stated that we need to educate the public of the 3mil levy that Star Valley Medical Center receives. The Hospital board needs to be approached and asked for some of that funding. Lincoln County Commissioner Bob King stated that it is only legal to have a Fire District not an EMS district, however a health care district can be formed and they pull their own 3mil levy. Mayor Lainhart wrapped up the conversation with the Towns need to approach SVMC with a very well put together presentation of exactly what they need. Councilman Heward added that we also need to look into a Health Care District and what all that would consist of. Members of the Thayne



Ambulance Service are to provide the Town with their operating costs and what the Service would need to continue to operate.

-Mayor Lainhart stated that the second item of discussion with the Thayne Ambulance Service is that the Town of Thayne has been approached by a member of the Service requesting to be given a W-2 rather than a 1099. The Town Officials decided that all members of the Ambulance Service would continue to receive 1099s in a prior discussion. The Town of Thayne then received a phone call from the State of Wyoming Workforce Services Auditor due to that member contacting them. Mayor Lainhart stated that the Town cannot afford to have the members of the Thayne Ambulance Service as employees of the Town. Lesli Dana asked the Council if it was possible for the Service to take over the compensation pay and take the taxes out of the checks each month; the Council replied that it would not be possible. Captain Delsa Bird stated that the Service was told to figure out their structure when the assessment of the EMS Services throughout the Valley was performed, that is the reasoning for the Service investigating W-2 vs. 1099. It was in agreement that Thayne Ambulance Service members would continue to receive a 1099. Mayor Lainhart asked if there were any other comments and thanked those for attending the discussion.

Town of Thayne 2018 Liquor License Fees

-It is now the time of year to start the renewal process for liquor licenses. Mayor Lainhart mentioned to the Council that Rustler's has asked what the renewal fee will be so that they can include a check when their application is submitted to the Town. Mayor Lainhart has instructed Clerk Hillstead to only accept a payment from any renewal application for the publishing fee until the Council has granted the renewal of the license. Mayor Lainhart then referenced Wyo. Stat §12-4-104. With the Town of Thayne able to set renewal fees at wherever they see appropriate with a minimum of \$1,500 and a maximum of \$10,000, the Mayor feels as though the renewal fee should reflect costs generated throughout the year. Lainhart also added that no person is entitled to have a license to sell alcohol but it is a privilege. Mayor Lainhart proposed that for the Bar and Grill class the Liquor License renewal fee shall be \$3,000 and for the Retail Liquor class the renewal fee shall be \$1,500. Council was in agreement. Mayor Lainhart also mentioned that while studying the Wyo. Stat § 12-4-104 he read that a Bar and Grill Licensee cannot do anything to be in competition with a Retail Liquor License.

Motion to assess the Bar and Grill class license at \$3,000 plus publishing costs and the Retail Liquor License at \$1,500 plus publishing costs for the year 2018.

Motion- Mayor Lainhart

Seconded- Councilman Heward

Motion carried

Comments from the Audience:

No comments were made from the audience.

Motion to Adjourn.

Motion- Mayor Lainhart

Seconded- Councilman Heward

Motion carried

Meeting Adjourned at 6:43 p.m.

JS 44 (Rev. 06/17)

RECEIVED
CIVIL COVER SHEET
JAN 09 2018
CLERK, U.S.D.C.
CHEYENNE, WYOMING

18-CV-05-S

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.)

<p>I. (a) PLAINTIFFS Rusty and Marc Andrus; Rustlers, LLC</p> <p>(b) County of Residence of First Listed Plaintiff <u>Lincoln County, Wyoming</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys (Firm Name, Address, and Telephone Number) Lubing Law Group, LLC; 350 East Broadway, P.O. Box 3894, Jackson, WY 83001; (307) 733-7242; James K. Lubing (jim@lubinglawgroup.com) and Kevin P. Gregory (kevin@lubinglawgroup.com).</p>	<p>DEFENDANTS The Town of Thayne, Wyoming; Mayor and Town Council of the Town of Thayne, Wyoming</p> <p>County of Residence of First Listed Defendant <u>Lincoln County, Wyoming</u> <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys (If Known)</p>
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<p>II. BASIS OF JURISDICTION <i>(Place an "X" in one Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;"></td> <td style="width: 10%;">PTF</td> <td style="width: 10%;">DEF</td> <td style="width: 55%;"></td> <td style="width: 10%;">PTF</td> <td style="width: 10%;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td><input type="checkbox"/> 1</td> <td><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td><input type="checkbox"/> 4</td> <td><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td><input type="checkbox"/> 2</td> <td><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td><input type="checkbox"/> 5</td> <td><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td><input type="checkbox"/> 3</td> <td><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td><input type="checkbox"/> 6</td> <td><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input 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
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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 <i>(Place an "X" in One Box Only)</i>					Click here for: Nature of Suit Code Descriptions.
CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander		PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment	
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust	
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking	
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce	
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	LABOR	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation	
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	SOCIAL SECURITY	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations Act	
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit	
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable Sat TV	
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 495 Securities Commodities Exchange	
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Acts	
		<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts	
REAL PROPERTY	CIVIL RIGHTS	IMMIGRATION	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters	
<input type="checkbox"/> 210 Land Condemnation	<input checked="" type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act	
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration	
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment			<input type="checkbox"/> 899 Administrative Procedure Act Review or Appeal of Agency Decision	
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing Accommodations			<input type="checkbox"/> 950 Constitutionality of State Statutes	
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment				
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other				
	<input type="checkbox"/> 448 Education				

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

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity):*
42 U.S.C. § 1983

Brief description of cause:
Violation of First and Fourteenth Amendments to the US Constitution and correlating provisions of Wyoming Const

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** >\$100,000; Injunction CHECK YES only if demanded in complaint: **JURY DEMAND:** Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):* JUDGE _____ DOCKET NUMBER _____

DATE: 01/08/2018 SIGNATURE OF ATTORNEY OF RECORD: Kevin P. Gregory

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT: \$400.00 APPLYING IFP _____ JUDGE: St. John MAG. JUDGE: Rankin

CH4028074

LUBING LAW GROUP, LLC
Attorneys at Law

James K. Lubing
Admitted in WY, ID & MT
Nathan D. Rectanus
Admitted in WY
Kevin P. Gregory
Admitted in WY & MT
Amanda D. Gamblin
Admitted in WY

January 8, 2018

VIA FEDERAL EXPRESS

Clerk of Court
U.S. District Court of Wyoming
2120 Capitol Avenue, Room 2131
Cheyenne, WY 82001

RE: *Rusty and Marc Andrus and Rustlers, LLC vs. The Town of Thayne, Wyoming and the Mayor and Members of the Town Council of the Town of Thayne, Wyoming*

Dear Sir or Madam:

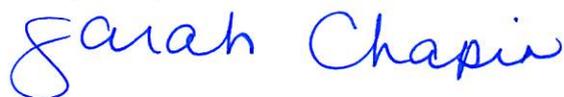
Enclosed herein please find the original and one (1) copy of the following documents for filing with the Court. The filing fee of \$400.00 is also enclosed.

- Civil Case Cover Sheet
- *Verified Complaint for Damages, Declaratory and Injunctive Relief*, including Exhibits A and B
- Entry of Appearance — James K. Lubing
- Entry of Appearance — Kevin P. Gregory
- *Summons in a Civil Action* (for each Defendant), including attached *Proof(s) of Service*
 1. The Town of Thayne, Wyoming
 2. Mayor of Town Council of Thayne, Wyoming — DeLand Lainhart
 3. Member of Town Council of Thayne, Wyoming — Lorell Woolley
 4. Member of Town Council of Thayne, Wyoming — Joe Heward
 5. Member of Town Council of Thayne, Wyoming — Lee Schwab
 6. Member of Town Council of Thayne, Wyoming — Steve Wicks
- *Notice of Complexity of Civil Case*

Please find the originals, issue the Summonses and return a time stamped copy of each document in the enclosed self-addressed prepaid envelope.

If you have any questions or issues with this filing please contact this office immediately.

Very Truly Yours,



Sarah P. Chapin
Legal Assistant

/spc
Enclosures