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U.S. District Court - Eastern District of Tennessee (Knoxville)
CIVIL DOCKET FOR CASE #: 3:21-cv-00176-TRM-DCP

Vitolo et al v. Guzman
Assigned to: District Judge Travis R McDonough
Referred to: Magistrate Judge Debra C Poplin
Case in other court: Sixth Circuit, 21-05517
US Court of Appeals, 21-05528
Cause: 28:1331 Federal Question: Other Civil Rights

Date Filed: 05/11/2021
Date Terminated: 08/25/2021
Jury Demand: None
Nature of Suit: 440 Civil Rights:
Other
Jurisdiction: U.S. Government
Defendant

Plaintiff

Antonio Vitolo

represented by **Daniel P Lennington**
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Plaintiff

Jake's Bar and Grill, LLC

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Luke N Berg
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Matthew Janson McClanahan
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Plaintiff

3kad LLC

represented by **Daniel P Lennington**
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Plaintiff

Denis Flanagan

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Plaintiff

Kevin L Pearson

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Plaintiff

Homesteads Management LLC

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ATTORNEY TO BE NOTICED

Plaintiff

Zinfandel LLC

represented by **Daniel P Lennington**
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ATTORNEY TO BE NOTICED

Plaintiff

The 579 LLC

represented by **Daniel P Lennington**
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Plaintiff

S&K Soup Co.

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Plaintiff

Chardonnays Inc.

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Plaintiff

Byron Sackett

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Plaintiff

Alfred Castiglioni

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V.

Defendant**Isabella Casillas Guzman**

represented by **Alexandra Rachel Saslaw**
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Date Filed	#	Docket Text
05/12/2021	<u>1</u>	COMPLAINT against All Plaintiffs (Filing fee \$ 402 receipt number ATNEDC-4734503.), filed by Antonio Vitolo, Jake's Bar and Grill, LLC. (Attachments: # <u>1</u> Summons, # <u>2</u> Other Civil Cover Sheet)(McClanahan, Matthew) (Entered: 05/12/2021)
05/12/2021		District Judge Travis R McDonough and Magistrate Judge Debra C Poplin added. (CAT) (Entered: 05/12/2021)
05/12/2021	<u>2</u>	Summons Issued as to Isabella Casillas Guzman. (CAT) (Entered: 05/12/2021)
05/12/2021	<u>3</u>	Order Governing Sealing Confidential Information. Signed by District Judge Travis R McDonough on 05/12/2021. (Copy of Order mailed to Daniel Lennington, Luke Berg, & Rick Esenberg) (CAT) (Entered: 05/12/2021)
05/12/2021	<u>4</u>	Order Governing Depositions. Signed by District Judge Travis R McDonough on 05/12/2021. (Copy of Order mailed to Daniel Lennington, Luke Berg, & Rick Esenberg) (CAT) (Entered: 05/12/2021)
05/12/2021	<u>5</u>	Order Governing Motions To Dismiss. Signed by District Judge Travis R McDonough on 05/12/2021. (Copy of Order mailed to Daniel Lennington, Luke Berg, & Rick Esenberg) (CAT) (Entered: 05/12/2021)
05/12/2021	<u>6</u>	NOTICE of Deficiency (Pro Hac). Attorneys Daniel Lennington, Luke Berg, & Rick Esenberg are not admitted (See LR 83.5). This

		matter will be referred to a magistrate judge if a pro hac motion is not filed within 15 days of this Notice. (Notice mailed to Daniel Lennington, Luke Berg, & Rick Esenberg) (CAT) (Entered: 05/12/2021)
05/12/2021		NOTICE OF FAILURE TO FILE Certificate of Corporate Interest as required by FRCP 7.1 by Jake's Bar and Grill, LLC. (CAT) (Entered: 05/12/2021)
05/12/2021	7	Administrative Notice to Counsel 1 Complaint : INFORMATIONAL ONLY. For future reference, please file the Civil Cover Sheet and Summons in a non-fillable format. (CAT) (Entered: 05/12/2021)
05/12/2021	8	First MOTION for Leave to Appear Pro Hac Vice <i>Luke Berg</i> (Filing fee \$ 90 receipt number ATNEDC-4734749.) by Jake's Bar and Grill, LLC. (Attachments: # 1 Other Berg - Certificate of Good Standing)(McClanahan, Matthew) (Entered: 05/12/2021)
05/12/2021	9	MOTION for Leave to Appear Pro Hac Vice <i>Rick Esenberg</i> (Filing fee \$ 90 receipt number ATNEDC-4734808.) by Jake's Bar and Grill, LLC. (Attachments: # 1 Other Esenberg - Certificate of Good Standing)(McClanahan, Matthew) (Entered: 05/12/2021)
05/12/2021	10	MOTION for Leave to Appear Pro Hac Vice <i>Daniel Lennington</i> (Filing fee \$ 90 receipt number ATNEDC-4734839.) by Jake's Bar and Grill, LLC. (Attachments: # 1 Other Lennington - Certificate of Good Standing)(McClanahan, Matthew) (Entered: 05/12/2021)
05/12/2021	11	MOTION for Preliminary Injunction by Jake's Bar and Grill, LLC. (McClanahan, Matthew) (Entered: 05/12/2021)
05/12/2021	12	MOTION for Temporary Restraining Order by Jake's Bar and Grill, LLC. (Attachments: # 1 Other Proposed Temporary Restraining Order, # 2 Supplement TRO Brief, # 3 Exhibit TRO Brief Exhibit)(McClanahan, Matthew) (Entered: 05/12/2021)
05/12/2021	13	***FILED IN ERROR, PLEASE SEE DOC 14 ***Certificate of Corporate Interest by Jake's Bar and Grill, LLC. (McClanahan, Matthew) Modified on 5/13/2021 (BDG). (Entered: 05/12/2021)
05/12/2021	14	Certificate of Corporate Interest by Jake's Bar and Grill, LLC. (McClanahan, Matthew) (Entered: 05/12/2021)

05/12/2021	<u>15</u>	MEMORANDUM in Support of Motion re <u>12</u> MOTION for Temporary Restraining Order filed by Jake's Bar and Grill, LLC. (McClanahan, Matthew) (Entered: 05/12/2021)
05/13/2021	<u>16</u>	ORDER Setting Hearing on Motion <u>12</u> MOTION for Temporary Restraining Order : Motion Hearing set for 5/17/2021 02:00 PM in Courtroom 3 - Chattanooga before District Judge Travis R McDonough.Signed by District Judge Travis R McDonough on 5/13/2021. (BDG)Order mailed to Esenberg, Berg, and Lennington. (Entered: 05/13/2021)
05/13/2021		Clerk's Verification of PHV Requirements is complete <i>regarding document: <u>8</u> First MOTION for Leave to Appear Pro Hac Vice Luke Berg (Filing fee \$ 90 receipt number ATNEDC-4734749.) filed by Jake's Bar and Grill, LLC, <u>10</u> MOTION for Leave to Appear Pro Hac Vice Daniel Lennington (Filing fee \$ 90 receipt number ATNEDC-4734839.) filed by Jake's Bar and Grill, LLC, <u>9</u> MOTION for Leave to Appear Pro Hac Vice Rick Esenberg (Filing fee \$ 90 receipt number ATNEDC-4734808.) filed by Jake's Bar and Grill, LLC (JBR)</i> (Entered: 05/13/2021)
05/13/2021	<u>17</u>	NOTICE of Appearance by Alexandra Rachel Saslaw on behalf of Isabella Casillas Guzman (Saslaw, Alexandra) (Entered: 05/13/2021)
05/16/2021	<u>18</u>	RESPONSE in Opposition re <u>12</u> MOTION for Temporary Restraining Order filed by Isabella Casillas Guzman. (Attachments: # <u>1</u> Declaration of Dianna Seaborn)(Saslaw, Alexandra) (Entered: 05/16/2021)
05/17/2021	19	ORDER granting <u>8</u> Motion for Leave to Appear Pro Hac Vice. You MUST register as an E-Filer here: https://pacer.psc.uscourts.gov/pscof/regWizard.jsf ; granting <u>9</u> Motion for Leave to Appear Pro Hac Vice. You MUST register as an E-Filer here: https://pacer.psc.uscourts.gov/pscof/regWizard.jsf ; granting <u>10</u> Motion for Leave to Appear Pro Hac Vice. You MUST register as an E-Filer here: https://pacer.psc.uscourts.gov/pscof/regWizard.jsf . Signed by Magistrate Judge Debra C. Poplin on 5/17/2021. (This entry constitutes the complete Order of the Court). (AGA) Modified to reflect copy mailed to Daniel Lennington, Luke Berg and Rick Esenberg on 5/17/2021 (JBR). (Entered: 05/17/2021)

05/17/2021	<u>20</u>	ORDER denying <u>12</u> Motion for TRO.A forthcoming memorandum opinion will detail the Courts reasoning. Signed by District Judge Travis R McDonough on May 17, 2021. (SAC) Modified on 5/17/2021 , Order mailed to Lennington, Berg and Esenberg.(SAC). (Entered: 05/17/2021)
05/17/2021	<u>21</u>	Minute Entry for proceedings held before District Judge Travis R McDonough: Motion Hearing held on 5/17/2021 re <u>12</u> MOTION for Temporary Restraining Order filed by Jake's Bar and Grill, LLC. (Court Reporter Elizabeth Coffey) (DJH) (Entered: 05/17/2021)
05/17/2021	<u>22</u>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT of Proceedings held on 5/17/2021 (Hearing on Motion for Temporary Restraining Order), before Judge Travis R. McDonough. Court Reporter/Transcriber Elizabeth Coffey, Telephone number (423) 267-7333. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have seven (7) calendar days to file with the Court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript will be made remotely electronically available to the public without redaction after 90 calendar days. The policy is located on our website at http://www.tned.uscourts.gov/electronic-case-filing Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER.. Redaction Request due 6/7/2021 . Redacted Transcript Deadline set for 6/17/2021 . Release of Transcript Restriction set for 8/16/2021 . (EBC) (Entered: 05/17/2021)
05/19/2021	<u>23</u>	MOTION to Stay by Jake's Bar and Grill, LLC. (McClanahan, Matthew) (Entered: 05/19/2021)
05/19/2021	<u>24</u>	MEMORANDUM OPINION. PLaintiffs' motion for temporary restraining order (Doc. 12) is DENIED. Plaintiffs are ORDERED to inform the Court on or before May 21, 2021 whether they wish to persist in their motion for a preliminary injunction (Doc. 11). Signed by District Judge Travis R McDonough on 5/19/2021. (AML) (Entered: 05/19/2021)
05/20/2021	<u>25</u>	NOTICE OF APPEAL as to <u>20</u> Order on Motion for TRO, <u>24</u> Memorandum & Opinion, by Jake's Bar and Grill, LLC,

		Antonio Vitolo. Filing fee \$ 505, receipt number ATNEDC-4740819. (Berg, Luke) (Entered: 05/20/2021)
05/20/2021	<u>26</u>	USCA Case Number 21-5517 for <u>25</u> Notice of Appeal filed by Jake's Bar and Grill, LLC, Antonio Vitolo. (JBR) (Entered: 05/20/2021)
05/20/2021	<u>27</u>	ORDER denying <u>23</u> Motion to Stay. Signed by District Judge Travis R McDonough on 5/20/2021. (BDG) (Entered: 05/20/2021)
05/20/2021	<u>28</u>	RESPONSE re <u>24</u> Memorandum & Opinion, <i>Plaintiffs Response Regarding Preliminary Injunction Motion</i> . (Berg, Luke) (Entered: 05/20/2021)
05/20/2021	29	TEXT ORDER Before the Court is Plaintiffs' motion for preliminary injunction (Doc. 11). Defendant is ORDERED to respond to Plaintiffs' motion (Doc. 11) on or before May 21, 2021 . Signed by District Judge Travis R. McDonough on 05/20/2021. (VAM) (Entered: 05/20/2021)
05/21/2021	<u>30</u>	RESPONSE to Motion re <u>11</u> MOTION for Preliminary Injunction filed by Isabella Casillas Guzman. (Saslaw, Alexandra) (Entered: 05/21/2021)
05/23/2021	<u>31</u>	MOTION for Leave to File <i>Reply In Support of Preliminary Injunction Motion</i> by Jake's Bar and Grill, LLC, Antonio Vitolo. (Attachments: # <u>1</u> Reply in Support of Preliminary Injunction)(Lennington, Daniel) (Entered: 05/23/2021)
05/25/2021	<u>32</u>	ORDER denying <u>11</u> Motion for Preliminary Injunction. Signed by District Judge Travis R McDonough on 5/24/2021. (BDG) (Entered: 05/25/2021)
05/25/2021	<u>33</u>	NOTICE OF APPEAL as to <u>32</u> Order on Motion for Preliminary Injunction by Jake's Bar and Grill, LLC, Antonio Vitolo. Filing fee \$ 505, receipt number ATNEDC-4744564. (Lennington, Daniel) (Entered: 05/25/2021)
06/01/2021	<u>34</u>	AMENDED COMPLAINT against All Defendants., filed by Jake's Bar and Grill, LLC, Antonio Vitolo, 3kad LLC, Denis Flanagan, Kevin L Pearson, Homesteads Management LLC, Zinfandel LLC,

		The 579 LLC, S&K Soup Co., Chardonnays Inc., Byron Sackett, Alfred Castiglioni.(Lennington, Daniel) (Entered: 06/01/2021)
06/02/2021	35	USCA Case Number 21-5528 for 33 Notice of Appeal filed by Jake's Bar and Grill, LLC, Antonio Vitolo. (ABF) (Entered: 06/02/2021)
06/02/2021	36	Informational Copy from USCA: UPON CONSIDERATION of the motion to consolidate appeals 21-5517 and 21-5528, IT IS ORDERED that the motion to consolidate the appeals be, and it hereby is GRANTED. (ABF) (Entered: 06/02/2021)
06/02/2021	37	ORDER of USCA as to 33 and 25 Notice of Appeal filed by Jake's Bar and Grill, LLC, Antonio Vitolo: IN CONSIDERATION THEREOF, it is ORDERED that the emergency motion for an injunction pending appeal is GRANTED. The preliminary injunction shall remain in place until this case is resolved on the merits and all appeals are exhausted. (ABF) (Entered: 06/02/2021)
06/02/2021	38	Certificate of Corporate Interest by 3kad LLC, Alfred Castiglioni, Chardonnays Inc., Denis Flanagan, Homesteads Management LLC, Jake's Bar and Grill, LLC, Kevin L Pearson, S&K Soup Co., Byron Sackett, The 579 LLC, Antonio Vitolo, Zinfandel LLC. (Lennington, Daniel) (Entered: 06/02/2021)
06/02/2021	39	Emergency MOTION for Temporary Restraining Order <i>and Preliminary Injunction (Second)</i> by 3kad LLC, Alfred Castiglioni, Chardonnays Inc., Denis Flanagan, Homesteads Management LLC, Jake's Bar and Grill, LLC, Kevin L Pearson, S&K Soup Co., Byron Sackett, The 579 LLC, Antonio Vitolo, Zinfandel LLC. (Attachments: # 1 Exhibit Declaration of Alfred Castiglioni, # 2 Exhibit Declaration of Denis Flanagan, # 3 Exhibit Declaration of Kevin L. Pearson, # 4 Exhibit Declaration of Byron Sackett)(Lennington, Daniel) (Entered: 06/02/2021)
06/02/2021	40	TEXT ORDER Before the Court is Plaintiffs' emergency motion for temporary restraining order and preliminary injunction (Doc. 39). Defendant is ORDERED to respond to Plaintiffs' motion (Doc. 39) on or before June 3, 2021 . Signed by District Judge Travis R McDonough on 6/2/2021. (VAM) (Entered: 06/02/2021)
06/03/2021	41	RESPONSE to Motion re 39 Emergency MOTION for Temporary Restraining Order <i>and Preliminary Injunction (Second)</i> filed by Isabella Casillas Guzman. (Attachments: # 1

		Declaration of John A. Miller)(Saslaw, Alexandra) (Entered: 06/03/2021)
06/04/2021	42	ORDER re 39 Emergency MOTION for Temporary Restraining Order <i>and Preliminary Injunction (Second)</i> filed by 3kad LLC, Homesteads Management LLC, Kevin L Pearson, S&K Soup Co., Denis Flanagan, Jake's Bar and Grill, LLC, The 579 LLC, Byron Sackett, Alfred Castiglioni, Chardonnays Inc., Zinfandel LLC, Antonio Vitolo. In light of the Miller declaration, Plaintiffs are ORDERED to reply to the Government's response on or before June 7, 2021, specifically addressing the Government's mootness arguments and providing any evidence Plaintiffs may have to rebut the Miller declaration. Signed by District Judge Travis R McDonough on 6/4/2021. (BJL) Modified on 6/4/2021 (BJL).* Mailed to Rick Esenberg (Entered: 06/04/2021)
06/07/2021	43	REPLY to Response to Motion re 39 Emergency MOTION for Temporary Restraining Order <i>and Preliminary Injunction (Second)</i> filed by 3kad LLC, Alfred Castiglioni, Chardonnays Inc., Denis Flanagan, Homesteads Management LLC, Jake's Bar and Grill, LLC, Kevin L Pearson, S&K Soup Co., Byron Sackett, The 579 LLC, Antonio Vitolo, Zinfandel LLC. (Berg, Luke) (Entered: 06/07/2021)
06/10/2021	44	MEMORANDUM OPINION denying 39 Motion for TRO.The Government is ORDERED to file a notice with the Court as soon as possible if and/or when: (1) the Additional Plaintiffs applications have been funded, and (2) SBA decides to resume processing of priority applications. Signed by District Judge Travis R McDonough on June 10, 2021. (SAC) Modified on 6/10/2021, Order mailed to Rick Esenberg. (SAC). (Entered: 06/10/2021)
06/11/2021	45	Administrative Notice to Counsel Rick Esenberg, 19 Order on Motion for Leave to Appear Pro Hac Vice, 9 MOTION for Leave to Appear Pro Hac Vice <i>Rick Esenberg</i> :ECF registration requirements due by 6/25/2021 . (Attachments: # 1 Supplement)(SAC)Notice and Letter mailed to Attorney Rick Esenberg. (Entered: 06/11/2021)
06/11/2021	46	NOTICE by Isabella Casillas Guzman (Attachments: # 1 Supplemental Declaration of John A. Miller, # 2 Exhibit 1)(Saslaw, Alexandra) (Entered: 06/11/2021)

07/14/2021	47	STIPULATION <i>Pursuant to Local Rule 12.1</i> by All Defendants. (Saslaw, Alexandra) (Entered: 07/14/2021)
07/15/2021	48	ORDER of USCA. Upon consideration of the appellant's motion to voluntarily dismiss the appeal herein pursuant to Rule 42(b), Federal Rules of Appellate Procedure, It is ORDERED that the motion is GRANTED and the appeal is dismissed. (ADA) (Entered: 07/15/2021)
08/06/2021	49	MOTION to Dismiss for Lack of Jurisdiction by Isabella Casillas Guzman. (Attachments: # 1 Brief, # 2 Declaration of John A. Miller)(Saslaw, Alexandra) (Entered: 08/06/2021)
08/25/2021	50	STIPULATION of Dismissal of Case by 3kad LLC, Alfred Castiglioni, Chardonnays Inc., Denis Flanagan, Homesteads Management LLC, Jake's Bar and Grill, LLC, Kevin L Pearson, S&K Soup Co., Byron Sackett, The 579 LLC, Antonio Vitolo, Zinfandel LLC. (Lennington, Daniel) (Entered: 08/25/2021)

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