

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

**JOHN A. BLAZI
and GREENWICH COFFEE, LLC**

: CIVIL ACTION

Plaintiffs

VS.

: NO: 308CV01441 CFD

**JASON WAGONER
and NICHOLAS DEGRAZIA**

: September 19, 2008

Defendants

OBJECTION TO MOTION TO DISMISS PLAINTIFFS' COMPLAINT

The plaintiffs respectfully object to the defendants' Motion to Dismiss dated October 21, 2008. The defendants state as their first basis for dismissal that the federal complaint should be dismissed because it is an "identical action" to one the maintained by the plaintiffs in State Court. However, even a cursory reading of the State Court complaint that the defendants attach to their motion as compared to this federal action demonstrates that the claims and the parties are not identical in the two actions. First, John Blazi is not a plaintiff in the State Court action. Second, Nancy Degrazia is not a party to this action. Third, the State Court case involves claims of; tortious interference with business expectancy, unjust enrichment, statutory theft, civil conspiracy and violation of CUTPA (Connecticut Unfair Trade Practices Act). The relief sought was a **ORAL ARGUMENT NOT REQUESTED**

TESTIMONY NOT REQUIRED

temporary injunction against the defendants barring them from interfering with the plaintiff's ability to process credit and gift card transactions through Greenwich Coffee's point of sale computer system. The complaint also sought money damages, treble damages pursuant to C.G.S. Section 52-564 and punitive damages and attorneys fees pursuant to C.G.S. Section 42-110b, et seq.

This federal complaint, by contrast, seeks redress for trademark infringement occasioned by the defendants' unauthorized use of the trademark "Greenwich Coffee" pursuant to the Lanham Act §32(1) 15 U.S.C. §1114(1) (2005) and a temporary restraining order against defendants Jason Wagoner ("Wagoner") and Nicholas DeGrazia ("DeGrazia") (collectively "defendants") prohibiting the defendants from further unauthorized use of a trademark.. The plaintiffs, herein, also seek relief pursuant to 18 U.S.C. § 1030(a) (5) (A) due to the defendants destruction of computer files on a computer used in interstate commerce. The plaintiffs' claims for damages in this federal case are distinctly different from those sought in the State Court case.

The defendants second and third reasons for dismissal are equally unavailing. The defendants state, without any legal authority, that the "complaint fails to state a claim upon which relief can be granted" and that the Court lacks "SUBJECT MATTER JURISDICTION" (sic). The defendants failed to attach a written memorandum of law as required by F.R.C.P. 7 and the basis for these last to claims for dismissal have absolutely no foundational support.

Wherefore, the defendants object to plaintiffs motion to dismiss and request that it be denied.

PLAINTIFFS: JOHN A. BLAZI
and GREENWICH COFFEE, LLC

Respectfully submitted,

_____/S/_____
Bethany B. Karas Bar (ct 27472
ATTORNEY FOR PLAINTIFFS
786 Chase Parkway
Waterbury, CT 06708
(203) 596-0600
fax (203) 596-7953
blazi.law@sbcglobal.net

Certification of Service

The plaintiffs certify that they have this day the 29th day of October, 2008 mailed a copy of the foregoing to the pro se defendants of record at their addresses as listed on the appearances they filed in this matter.

_____/S/_____
Bethany B. Karas Bar (ct 27472
ATTORNEY FOR PLAINTIFFS
786 Chase Parkway
Waterbury, CT 06708
(203) 596-0600
fax (203) 596-7953
blazi.law@sbcglobal.net