

# CRAIN'S DETROIT BUSINESS

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## Kefallinos faces federal lawsuit over how Bouzouki dancers are paid

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- Issue is whether they are club employees or independent contractors
- Class action complaint comes amid wave of settlements nationally in which clubs have paid millions in back-due wages
- Lawsuit could cost club owner, real estate investor at least \$80,000



Dennis Kefallinos

Detroit landlord and real estate investor Dennis Kefallinos has been hit with a federal lawsuit because he didn't pay at least two dancers at Bouzouki, the strip club he owns in the city's Greektown neighborhood.

It's the latest Fair Labor Standards Act complaint filed against a local club owner, coming roughly around the same time that Alan Markovitz, who owns The Flight Club in Inkster and The Coliseum and Penthouse Club strip clubs on Eight Mile Road in Detroit, was targeted with a similar lawsuit by two former dancers and a DJ from the suburban Wayne

County club.

The class action complaint filed in June by two former Bouzouki dancers comes amid a wave of settlements nationally in which clubs have paid millions in back-due wages, in general because they were classifying dancers and other workers such as bouncers and DJs as independent contractors rather than employees, allowing them to skirt federal wage laws. Cases have been brought virtually all over the country, from [Las Vegas](#) to [Denver](#), [Pittsburgh](#) to [Dallas](#).

The University of Illinois College of Law's Michael LeRoy, in "[Bare Minimum: Stripping Pay for Independent Contractors in the Share Economy](#)" published in 2017 in the William & Mary Journal of Race, Gender, and Social Justice, writes that of 75 federal and state court labor rulings he found, 38 determined that dancers were employees while only three found that they are independent contractors. (The other 34 were decided not on employment status, but on a procedural ruling, he wrote.)

"When there is a challenge waged, it's very rare that it doesn't prevail," said Megan Bonanni, equity partner for Royal Oak-based law firm Pitt McGehee Palmer & Rivers PC. She

represents the plaintiffs in the Markovitz cases and successfully sued strip club chain Déjà Vu, netting **\$6.5 million** for more than 28,000 workers in a case that wrapped earlier this year when the U.S. Sixth Court of Appeals **upheld** a May 2017 decision.

Bonanni said even though she has been victorious in earlier cases against the club owner, not much has changed.

"I asked at the time, I had made the request that they create an education program, do a change-over, converting dancers from independent contractors to employees, and I told their attorney that's what I thought was the right thing to do, and also that I'd be back if you don't correct these illegal employment practices," Bonanni said. "That's why we are back."

It's more complicated than just a demand for an hourly wage and overtime pay, health benefits and worker's compensation, some argue.

In California, a state Supreme Court ruling is making it more difficult for dancers to be considered independent contractors, which sparked concern from Stormy Daniels, who wrote in **a February op-ed in the Los Angeles Times** that work status allowed for more flexible hours, the ability to move to clubs where the pay is better and increased ability to shield their identity. Daniels, the adult film star and exotic dancer who says she had an affair with President Donald Trump and was paid hush money, is also a spokeswoman for Déjà Vu.

"In this industry, classification (as employee or independent contractor) is sometimes a very fact-specific inquiry and there is not one size fits all," said Christopher Trebilcock, member for Detroit-based law firm Clark Hill PLC specializing in labor and employment law. "There is not one size fits all for clubs, or for entertainers. There may be entertainers who dance at multiple clubs, as well as private gigs. There are some that have established themselves as LLCs and run a business by dancing. There are others that work solely for one club."

Still, he said, independent contracting can work.

"There are lawful ways to compensate where entertainers are not employees," Trebilcock said. "You could set it up in ways where dancers establish their own schedule, come and go when they want. They keep all their own money, set their own prices for dances. If they have formed an LLC, that's always helpful."

### **Employees or contractors?**

At issue in the Kefallinos case is whether the Bouzouki dancers were treated as employees or independent contractors. The latter would generally allow them to set their own hours,

coming and going as they please, and they would be able to dress as they wanted, among other things.

However, according to the complaint, that was far from the case.

Bouzouki, which the lawsuit says has north of \$500,000 in revenue per year, set the two dancers' work hours, prevented them from leaving early without permission, required them to wear specific uniforms or types of clothing, and charged fees if they missed a call to the stage or called off work, according to the complaint.

Based on the duration of employment and average number of hours worked by just the two dancers, Carla Merriweather and Ami Coleman, the lawsuit could cost Kefallinos at least \$80,000. The plaintiffs say there were compensated only in tips from the patrons of the club, 432 E. Lafayette St.

Each shift, they were required to generally pay \$155 to the club, \$10 to the "House Mom" (a sort of club manager) and \$20 to the DJ, according to the complaint, which is in front of Judge Victoria Roberts of the U.S. District Court for the Eastern District of Michigan. The nightly fees can vary.

The lawsuit also says it seeks to "recover unpaid wages owed to them and on behalf of all other similarly situated employees, current or former."

Maia Johnson Braun, an attorney with the Troy-based law firm Gold Star Law PC who is representing Merriweather and Coleman, said the case is in the discovery phase and could be certified as a class action complaint by March, which would then prompt Kefallinos to provide the names and last known addresses of dancers. They could then opt into the class action suit.

"It has been a pretty commonly brought suit in other jurisdictions and almost across the board, there aren't any that I'm aware of as of late where the individuals have not been deemed an employee," Johnson Braun said.

An email was sent to Kefallinos' attorney, Ben Gonek, seeking comment, as well as Markovitz's attorneys.

Kefallinos said in his response to the lawsuit that Merriweather and Coleman were independent contractors, not employees, and are not owed any back pay. Kefallinos' court response denies the claims the dancers made.

Markovitz has been sued no fewer than five times in federal court in Michigan for violations of the FLSA with varying results by former employees like bouncers and dancers at his clubs.

### **Sued before**

The Kefallinos case is the first known time he has faced federal litigation for his Bouzouki business, but he has been sued in federal court before for his real estate enterprise.

Earlier this year, he agreed in January to a [\\$300,000 consent order](#) with the nonprofit Fair Housing Center of Metropolitan Detroit after more than two years in court arguing a federal lawsuit that alleged his residential properties discriminated against people with children, in violation of federal law.

He repeatedly denied running afoul of fair housing law, saying he regularly rents to people with children.

In 2014, he was sued by people who claimed that they leased apartments or lofts from him when he knew he had no certificates of occupancy for any of the buildings and that there were safety hazards.

He won that case on summary disposition and an appeals court upheld the decision. The attorney representing the plaintiffs said because it was a Michigan Consumer Protection Act complaint, it was thrown out because activities sanctioned by the government — such as renting properties, governed by Detroit city code — can't be the basis of such complaints.

Kefallinos, who owns a large swath of commercial and residential buildings around the city, is a lightning rod for criticism because of what some perceive as a [lack of upkeep at his buildings](#). Among his real estate portfolio are the Roosevelt Hotel at 2250 14th St. across from Michigan Central Station in Corktown, now owned by Ford Motor Co. after a \$90 million sale last year; the Russell Industrial Center; the Michigan Building and former Michigan Theatre at 220 Bagley St.; a former hospital at 2401 20th St.; a large former Boy Scouts of America campground in Lupton about 10 miles from the Huron National Forest totaling 630 acres; and a large Corktown building at 1448 Wabash St. totaling 437,000 square feet.

He has also sold off assets in recent years, including a former Wayne State University pharmacy school building (\$16 million) in Lafayette Park to a developer planning 374 residential units and the Harvard Square building at 1346 Broadway St. (\$6.25 million) to Dan Gilbert, who plans a mixed-use redevelopment.

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