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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91250979
Party	Defendant Blitz NV, LLC
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Date	01/27/2021
Attachments	Motion to Suspend - Proceeding No. 91250979.pdf(123881 bytes) Exhibit 1.pdf(589126 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial Number: 88/125,045



For the Mark:

Filed: September 20, 2018

Published in the Trademark Official Gazette on: May 21, 2019

All Saints Retail Limited,	:	
	:	
Opposer,	:	
	:	
v.	:	Opposition No. 91250979
	:	
Blitz NV, LLC,	:	
	:	
Applicant.	:	

**APPLICANT’S MOTION TO SUSPEND
OPPOSITION PROCEEDING PENDING CIVIL ACTION**

Applicant Blitz NV, LLC (“Applicant”) hereby moves for the suspension of this proceeding pursuant to TBMP § 510.02(a) pending final disposition of federal district court case No. 2:21-cv-00089, filed January 15, 2021, in the U.S. District Court for the District of Nevada (the “Civil Action”). Copies of the complaint and civil cover sheet are attached as **Exhibit 1**.

All Saints Retail Limited (“Opposer”) filed a Notice of Opposition in this matter with the Trademark Trial and Appeal Board (the “Board”) on September 17, 2019 contesting registration of Appl. Serial No. 88/125,045, filed by Applicant, citing (i) an alleged likelihood of confusion, pursuant to Section 2(d) of the Lanham Act, 15 U.S.C. § 1052(d), between the mark that is the subject of Serial No. 88/125,045 filed by Applicant, and certain design marks and a word mark

that are the subject of registrations owned by Opposer (U.S. Trademark Registration Nos. 3976276; 4995379; 3987543; and 4570963) (collectively, the “Pleaded Registrations”); and (ii) an alleged likelihood of dilution of the marks in Opposer’s Pleaded Registrations by blurring and by tarnishment pursuant to Section 43(c) of the Lanham Act, 15 U.S.C. § 1125(c).¹

The Board instituted the proceeding on September 17, 2019 under Proceeding No. 91250979. Applicant filed its answer, affirmative defenses, and counterclaims on October 25, 2019 including allegations that Opposer’s Pleaded Registrations are invalid or have been abandoned in part, and Opposer filed its response to Applicant’s counterclaims along with its own affirmative defenses on December 19, 2019. The parties have since been actively engaged in negotiations for settlement and have filed multiple consented motions to suspend the subject proceeding, each of which has been granted by the Board.² However, it has recently become evident that a settlement will not be reached.

On January 15, 2021, Applicant filed a Complaint in the Civil Action seeking, among other things, a declaratory judgment: (1) that Applicant’s use of the mark that is the subject of the opposed application in this proceeding does not infringe nor dilute the marks that are the subject of the Pleaded Registrations, or violate state law unfair competition laws (*see* Exhibit 1 at ¶ 1, p. 28); and (2) certain of Opposer’s Pleaded Registrations (as contested by Applicant’s counterclaims in this proceeding) be cancelled in part (*id.* at ¶ 2, p. 28).

When parties are involved in court proceedings concerning the same marks and related issues, the “standard practice” of the Board is to suspend its administrative proceedings pending outcome of the civil litigation. J.T. McCarthy, McCarthy on Trademarks and Unfair Competition

¹ Another opposition proceeding involving these parties and the Pleaded Registrations is co-pending, No. 91252633.

² *See* TTABVUE, Proceeding No. 91250979, Nos. 11-20.

§ 32:47 (5th ed.) (“It is standard practice for the Trademark Board to stay administrative proceedings pending the outcome of court litigation between the same parties involving related issues”). The civil action need not even be dispositive of the Board proceeding to warrant suspension. Rather, it is sufficient that the civil action have bearing on the issues before the Board to justify a suspension. *See* 37 C.F.R. § 2.117(a); *see also New Orleans Louisiana Saints LLC v. Who Dat? Inc.*, 99 USPQ2d 1550, 1552 (TTAB 2011) (granting suspension, noting that a District Court decision regarding infringement of the mark subject of the Board proceeding would have a bearing on the Board proceeding).

The outcome of the Civil Action initiated by Applicant will have a bearing on this opposition proceeding. The Civil Action involves the same parties, the same marks, and the same or substantially similar goods and services and activities as those at issue in this proceeding. (*See* Exhibit 1 at ¶¶ 1-2, p. 28.) Applicant filed the Civil Action against Opposer. (*Id.* at ¶¶ 4 and 7.) Opposer owns the Pledged Registrations upon which Opposer’s claims in this opposition proceeding are based, which are the same marks Applicant contends are not infringed or diluted in the Civil Action. (*Id.* at ¶¶ 1-2, p. 28.) Accordingly, the parties and marks in this opposition proceeding and the Civil Action are sufficiently related such that the Civil Action will have a meaningful bearing upon the issues before the Board here.

In addition, issues before the Board here are also at issue in the Civil Action. Applicant’s declaratory judgment claims of non-infringement and non-dilution involve similar issues to the ones the Board will be deciding in this proceeding. But, the Civil Action will also involve other matters and broader issues, such as unfair competition. Because the parties, marks, and issues in the Civil Action are similar and because the outcome will have an impact on the claims before the

Board, suspension of this opposition proceeding pending the outcome of the Civil Action between the parties is warranted.

Moreover, judicial economy is served by immediately suspending all activity in this proceeding. *See Townley Clothes, Inc. v. Goldring, Inc.*, 100 USPQ 57 (Comr. 1953). This opposition proceeding is still in its infancy, and no discovery has yet been served. Because the Civil Action involves not only similar issues to those currently before the Board, but also issues concerning use of the applied-for mark and unfair competition, discovery in the Civil Action will involve documents, depositions, and other information that is not being and will not be gathered or produced in this proceeding. Thus, suspending this proceeding would avoid duplicative effort, wasted time, and unnecessary expenses for both the parties and the Board.

For all these reasons, Applicant respectfully requests that the Board suspend Proceeding No. 91250979 until a final decision in the Civil Action has been issued. Applicant will notify the Board once a final decision in the Civil Action has been issued, and Applicant will provide the Board with a copy of the decision in the Civil Action in accordance with TBMP § 510.02(b) so that Proceeding No. 91250979 may be dismissed or resumed by the Board as appropriate.

January 27, 2021

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned certifies that on January 27, 2021 a true and complete copy of the foregoing **Motion to Suspend Opposition Proceeding Pending Civil Action** was served on Opposer via e-mail to:

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EXHIBIT 1

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16
17 **UNITED STATES DISTRICT COURT**
18 **DISTRICT OF NEVADA**

19 BLITZ NV, LLC,

20 Plaintiff,

21 v.

22 ALL SAINTS RETAIL LIMITED,

23 Defendant.


Case No:

COMPLAINT

24 Plaintiff, Blitz NV, LLC (“Blitz” or “Plaintiff”), by and through its attorneys, for
25 its complaint against All Saints Retail Limited (“All Saints” or “Defendant”), alleges as
26 follows:

27 **I. NATURE OF ACTION AND RELIEF SOUGHT**

28 1. This is an action under the Declaratory Judgment Act, 28 U.S.C. § 2201,

29 *et seq.*, seeking a declaration that Blitz’s use of its goat skull logo  (Blitz’s “Goat
30 Skull Logo”), in connection with the marketing and sale of its clothing, accessories, and

1 personal care goods and related retail and wholesale sales services, does not infringe or
2 dilute, or compete unfairly with, All Saints' so-called RAMSKULL trademarks, namely,
3 U.S. Trademark Registration Nos. 4,570,963 for the word RAMSKULL, 3,976,276 and
4



5
6 3,987,543 for the logo, and 4,995,379 for the logo (collectively, the "All
7 Saints Registrations") and any common law rights therein (collectively, the "All Saints
8 RAMSKULL Marks").
9

10 2. This is also an action seeking an order to cancel, in whole or in part, All
11 Saints' U.S. Trademark Registration Nos. 3,976,276 and 4,995,379 under Section 37 of the
12 Lanham Act, 15 U.S.C. § 1119.

13 **II. PARTIES**

14 3. Blitz incorporates by reference paragraphs 1 to 2 as if fully set forth herein.

15 4. Upon information and belief, All Saints is a limited company formed under
16 the laws of the United Kingdom and having an address at Jack's Place, Units C15-C17, 6
17 Corbet Place, London, E1 6NN United Kingdom.

18 5. Upon information and belief, All Saints' agent and operating company for
19 retail sales in the United States is AllSaints USA Limited, a limited company formed under
20 the laws of the United Kingdom and having an address at Jack's Place, Units C15-C17, 6
21 Corbet Place, London, E1 6NN United Kingdom.

22 6. Upon information and belief, AllSaints USA Limited is a wholly owned
23 subsidiary of All Saints and All Saints' alter ego in the United States.

24 7. Blitz NV, LLC is a limited liability company formed under the laws of
25 Nevada and having an address at 6005 Las Vegas Boulevard South, Las Vegas, Nevada
26 89119.

27 ///

28 ///

1 **III. JURISDICTION AND VENUE**

2 8. Blitz incorporates by reference paragraphs 1 to 7 as if fully set forth herein.

3 9. This Court has jurisdiction over the subject matter of this action pursuant
4 to the Trademark Laws of the United States, 15 U.S.C § 1051, *et seq.* (the “Trademark
5 Act”); 15 U.S.C. § 1125, *et seq.* (the “Lanham Act”); and 28 U.S.C. §§ 2201 and 2202 (the
6 “Declaratory Judgment Act”). Thus, this Court has original jurisdiction over the subject
7 matter of this action pursuant to 28 U.S.C. §§ 1331 and 1338. This Court further has
8 supplemental jurisdiction over claims relating to state law pursuant to 28 U.S.C. § 1367.

9 10. This Court has personal jurisdiction over All Saints because, upon
10 information and belief, All Saints has established minimum contacts with this forum and
11 further, All Saints has substantial, continuous, and systemic contacts with the State of
12 Nevada.

13 11. AllSaints USA Limited is a foreign corporation registered to do business
14 in Nevada.

15 12. Upon information and belief, AllSaints USA Limited serves as All Saints’
16 operating company, agent, and alter ego in the United States.

17 13. Upon information and belief, AllSaints USA Limited operates retail stores
18 in Nevada, at which the All Saints RAMSKULL Marks are used (the “All Saints Nevada
19 Stores”).

20 14. Upon information and belief, the All Saints Nevada Stores include retail
21 stores at 3500 S Las Vegas Blvd, Las Vegas, NV 89109, 3708 S Las Vegas Blvd, Las
22 Vegas, NV 89109, and 505 S Grand Central Pkwy, #3245, Las Vegas, NV 89106.

23 15. Upon information and belief, All Saints is the owner of All Saints’
24 RAMSKULL Marks and the All Saints Registrations.

25 16. Upon information and belief, All Saints markets, sells, offers for sale,
26 licenses, and distributes clothing and other goods and services bearing the All Saints
27 RAMSKULL Marks in this District via its website at www.allsaints.com (“All Saints’
28

1 Website”) and through its licensees (including, but not limited to, AllSaints USA Limited,
2 which operates a website in this District at us.allsaints.com) and others.

3 17. Upon information and belief, AllSaints USA Limited is the only party
4 authorized by All Saints to use the All Saints RAMSKULL Marks as a trademark for retail
5 clothing store services in International Class 35 in the United States.

6 18. Upon information and belief, AllSaints USA Limited serves as All Saints’
7 distributor, representative, and agent in the United States.

8 19. Upon information and belief, All Saints’ clothing products are also sold
9 through third-party retail stores in this District, including Bloomingdale’s stores.

10 20. Upon information and belief, at least some All Saints’ goods and services
11 bearing the All Saints RAMSKULL Marks are marketed and sold to customers in this
12 District through All Saints’ Website, which indicates that such goods and services are
13 available at retail locations in Nevada through the website’s “Store Locator” feature,
14 available at:

15 [https://www.us.allsaints.com/store-locator/search/position/38.8026097/-](https://www.us.allsaints.com/store-locator/search/position/38.8026097/-116.419389/)
16 [116.419389/](https://www.us.allsaints.com/store-locator/search/position/38.8026097/-116.419389/)

17 21. All Saints purposefully availed themselves of the privilege of conducting
18 business in this State and in this District. All Saints regularly maintains stores in this State
19 and, therefore, is continuously present in this State.

20 22. In addition, All Saints’ false assertions of infringement and likelihood of
21 confusion of its alleged trademarks were directed to Blitz in this District.

22 23. Thus, this Court has both general and specific personal jurisdiction over
23 All Saints.

24 24. Venue is proper in this District under 28 U.S.C. § 1391(b) and (c) because,
25 upon information and belief, a substantial part of the events giving rise to Blitz’s claims
26 occurred in this District and because All Saints is subject to personal jurisdiction in this
27 District.

28 ///

25. An actual case or controversy exists between the parties.

26. All Saints has repeatedly asserted that a likelihood of confusion and a likelihood of dilution exist between the Blitz Goat Skull Logo and the All Saints RAMSKULL Marks.

IV. FACTUAL BACKGROUND

BLITZ’S PRODUCTS AND BLITZ’S GOAT SKULL LOGO

27. Blitz incorporates by reference paragraphs 1 to 26 as if fully set forth herein.

28. Blitz is a Nevada company.

29. Among other things, Blitz, through its licensees, sells clothing, accessories, and personal and body care products for men and women displaying Blitz’s Goat Skull Logo, and provides retail and wholesale services featuring these products. *See, e.g., Exs. A, B, C, and D, collectively, the exemplary “Blitz Goods and Services.”*

30. Blitz and its licensees also distribute goods displaying the Blitz Goat Skull Logo to members of the public as promotional products.

31. In particular, Blitz sells its Blitz Goods and Services primarily through its licensees, including Ignite International, Ltd. (“Ignite”).

32. Ignite sells products displaying both the Blitz Goat Skull Logo and the Blitz Goat Skull Logo with the word IGNITE superimposed upon it (the “Ignite Goat Skull Logo”).

33. Ignite also distributes goods displaying the Blitz Goat Skull Logo and Ignite Goat Skull Logo as promotional goods.

34. Ignite sells Blitz Goods and Services displaying the Blitz Goat Skull Logo and the Ignite Goat Skull Logo primarily online through its website hosted at the domain name Ignite.co.

35. The Blitz Goods and Services sold at Ignite.co displays the Blitz Goat Skull Logo and the Ignite Goat Skull Logo ornamentally.

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1 36. The Blitz Goods and Services sold at Ignite.co also use the Blitz Goat Skull
2 Logo and the Ignite Goat Skull Logo to indicate to customers that the products are sold by
3 Blitz or its licensee.

4 37. Blitz is owned by Internet celebrity, Dan Bilzerian.

5 38. Mr. Bilzerian’s social media posts are followed by millions of people
6 around the world.

7 39. Mr. Bilzerian’s Facebook Page regularly displays Blitz’s Goat Skull Logo
8 and has more than thirteen million followers.

9 40. Mr. Bilzerian’s Instagram account prominently displays Blitz’s Goat Skull
10 Logo and has more than thirty million followers.

11 41. “Blitz” is Mr. Bilzerian’s nickname and Mr. Bilzerian uses the Blitz Goat
12 Skull Logo as his personal symbol.

13 42. Mr. Bilzerian regularly displays the Blitz Goat Skull Logo on his websites,
14 social media posts, and on clothing worn by himself and models and companions that
15 accompany him.

16 43. Mr. Bilzerian has also displayed the Blitz Goat Skull Logo on his
17 residence, on yachts, and in other manners as his personal symbol.

18 44. The Blitz Goat Skull Logo has become famous as a symbol of Mr.
19 Bilzerian and his companies.

20 45. Consumers who see the Blitz Goat Skull Logo and Ignite Goat Skull Logo
21 associate those symbols with Mr. Bilzerian and his companies.

22 46. Mr. Bilzerian first adopted a version of the Blitz Goat Skull Logo when
23 his brother presented him with a preserved animal skull as a gift.

24 47. Since he began using the Blitz Goat Skull Logo as his personal symbol,
25 Mr. Bilzerian’s companies have been putting goods into the stream of commerce with the
26 symbol on them both through sales and as promotional items.

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1 48. Mr. Bilzerian has received substantial media attention for his companies
2 with which the Blitz Goat Skull Logo is featured.

3 49. Blitz is the owner of U.S. Trademark Appl. Serial Number: 88/125,045 for
4 the Goat Skull Logo for intended use with: Sun-tanning lotions and oils; non medicated
5 stimulating lotions for the skin; Bar soap; liquid bath soaps; skin soap; perfumed soap;
6 make up removing milk, gel, lotions and creams; make up primer; Facial make up, namely,
7 powder, foundation, primer, lipstick, lip gloss in International Class 3; clothing for
8 domestic pets; Collars for pets; Pet clothing; Backpacks in International Class 18; Clothing,
9 namely, belts, chaps, coats, dresses, footwear, foul weather gear, gloves, headwear, jackets,
10 pants, robes, scarves, shirts, t-shirts, tank-tops, shorts, skirts, sleepwear, socks, sweaters,
11 sweatshirts, swimwear, ties, undergarments, vests, hats, toques, lab coats, yoga pants and
12 tights, cargo pants; bandanas in International Class 25; and On-line retail store services
13 featuring clothing, snack foods, and smokers' products; Retail store services featuring
14 clothing, snack foods, and smokers' products in International Class 35.

15 50. A copy of the U.S. Patent & Trademark Office's *TESS* printouts of the
16 above-listed mark is attached hereto as Exhibit E.

17 51. All Saints has opposed the registration of Blitz's Mark in Opposition No.
18 91250979.

19 52. A copy of the U.S. Patent & Trademark Office's *TTABVUE* printouts of
20 the Notice of Opposition is attached hereto as Exhibit F.

21 53. Blitz is also the owner of Trademark Appl. Serial Number: 88/333,668 for
22 the Goat Skull Logo for intended use with: Men's, women's or unisex personal care
23 grooming products, namely, shampoo, hair conditioner, body lotion, aftershave, deodorant,
24 antiperspirants, cologne, perfume, body spray, sun screen, after sun cream, self-tanning
25 cream, lip balm, hair gel, hair pomade in International Class 3.

26 54. A copy of the U.S. Patent & Trademark Office's *TESS* printouts of the
27 above-listed mark is attached hereto as Exhibit G.

28 ///

1 55. All Saints has opposed the registration of Blitz’s Mark in Opposition No.
2 91252633.

3 56. A copy of the U.S. Patent & Trademark Office’s *TTABVUE* printouts of
4 the Notice of Opposition is attached hereto as Exhibit H.

5 **ALL SAINTS SENDS A CEASE AND DESIST LETTER TO BLITZ**
6 **DEMANDING BLITZ STOP USING THE GOAT SKULL LOGO AND**
7 **ABANDON ITS TRADEMARK APPLICATIONS AND REGISTRATIONS**
8 **WORLDWIDE**

9 57. Blitz incorporates by reference paragraphs 1 to 56 as if fully set forth
10 herein.

11 58. All Saints initiated this dispute by sending Blitz a cease and desist letter
12 dated April 9, 2019 (the “April 9 Letter”), attached hereto as Exhibit I.

13 59. The April 9 Letter was titled “Your use and registration for the Skull logo
14 in the EU, US, Brazil, Chile and Canada, and opposition thereto by All Saints Retail
15 Limited...” *Id.* at 1.

16 60. In the April 9 Letter, All Saints asserts that a likelihood of confusion exists
17 between Blitz’s Goat Skull Logo and All Saints’ RAMSKULL Marks when used in
18 connection with at least clothing products and retail services, which All Saints termed its
19 “core goods.” *Id.* at 2.

20 61. In particular, the April 9 Letter states: “Your [Goat] Skull logo has a high
21 level of visual similarity with our client’s Ramskull logo, ***and use of the [Goat] Skull logo***
22 ***in relation to our client’s core goods and services is likely to result in confusion...***” *Id.*
23 at 2 (emphasis added).

24 62. All Saints then demanded in the letter that Blitz, “[i]n order to avoid
25 lengthy legal proceedings,” must:

- 26 1. surrender [All Saints’] core classes from [Blitz’s] EUTM registration
27 [for the Goat Skull Logo trademark];
- 28 2. surrender [All Saints’] core classes from all pending applications [for

- 1 the Goat Skull logo] in Chile, Canada, Brazil and the United States;
- 2 3. *refrain from using the [Goat] Skull logo in relation to [All Saints']*
- 3 *core goods and services;* and
- 4 4. refrain from filing future trade mark applications for the [Goat] Skull
- 5 logo in relation to [All Saints'] core goods and services.

6 *Id.* at 2 (emphasis added).

7 63. On May 29, 2019, Blitz responded to All Saints' April 9 Letter and
8 declined to acquiesce to All Saints' demands "to surrender its registrations and applications
9 and limit its use." Ex. J at 2.

10 **ALL SAINTS LAUNCHES OPPOSITION PROCEEDINGS AGAINST**
11 **BLITZ'S TRADEMARK APPLICATIONS AT THE USPTO AND**
12 **AROUND THE WORLD**

13 64. Despite the fact that none of the All Saints Registrations nor any other
14 application or registration of All Saints was cited against Blitz's U.S. trademark
15 application, on September 17, 2019, All Saints filed a notice opposing registration of
16 Blitz's U.S. Application Serial No. 88/125,045 in part, alleging likelihood of confusion,
17 dilution by blurring, and dilution by tarnishment with the All Saints Registrations. *See*
18 Ex. F.

19 65. Despite the fact that none of the All Saints Registrations nor any other
20 application or registration of All Saints was cited against Blitz's U.S. trademark
21 application, on December 4, 2019, All Saints filed a notice opposing registration of Blitz's
22 U.S. Application Serial No. 88/333,668 in part, alleging likelihood of confusion, dilution
23 by blurring, and dilution by tarnishment with the All Saints Registrations. *See* Ex. H.

24 66. All Saints has also opposed the Goat Skull Logo trademark applications
25 filed by Blitz in countries around the world, including, by way of example, in Australia
26 (Ex. K), Argentina, the United Kingdom (Ex. L), Mexico, India (Ex. M) and Norway.

27 67. In each case, All Saints alleges that a likelihood of confusion exists
28 between Blitz's Goat Skull Logo and the All Saints RAMSKULL Marks. *See* Exs. K – M.

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1 68. Blitz and its licensees, in turn, initiated non-use cancellation proceedings
2 against All Saints seeking to cancel All Saints' registrations for non-use in several countries
3 around the world, including Argentina, Australia, and India.

4 69. Shortly after the parties began litigating these proceedings around the
5 world, Blitz and All Saints attempted to settle the disputes between them, and spent much
6 of 2020 and the early weeks of 2021 in negotiations.

7 70. During those settlement discussions, the U.S. opposition proceedings were
8 suspended or had deadlines extended, and they have not yet proceeded beyond the initial
9 pleadings.

10 71. Likewise, most of the opposition and cancellation proceedings elsewhere
11 in the world were suspended or entered cooling-off periods so that the parties could attempt
12 to resolve the dispute.

13 72. Sadly, Blitz's and All Saints' settlement discussions have now reached an
14 impasse.

15 73. All Saints is unwilling to covenant not sue Blitz or its licensees for past,
16 current, or future infringement based on use of the Blitz Goat Skull Logo or Ignite Goat
17 Skull Logo as it is used in connection with Blitz's Goods and Services.

18 74. All Saints' April 9 Letter, its repeated assertions of a likelihood of
19 confusion and dilution, its initiation of multiple opposition proceedings in the U.S. and
20 elsewhere around the world, and its refusal to agree not to assert legal claims against Blitz
21 for its use of its Goat Skull Logo despite numerous requests, create an actual, imminent,
22 and substantial controversy between Blitz and All Saints.

23 75. Blitz cannot move forward with its business and marketing plans with the
24 continued unresolved controversy.

25 76. Even if Blitz were to prevail in the opposition proceedings, Blitz would
26 still be forced to live under a threat of trademark infringement and dilution litigation by All
27 Saints as Blitz's business grows and its products evolve and change. This is because the
28

1 dispute (initiated by All Saints in its cease and desist letter) as to Blitz's use of the Goat
2 Skull Logo cannot be resolved in the pending opposition proceedings at the U.S. Patent &
3 Trademark Office alone.

4 77. There thus presently exists a justiciable controversy regarding Blitz's right
5 to market and sell its clothing, accessories, and personal care products featuring Blitz's
6 Goat Skull Logo free of any allegation by All Saints that such conduct constitutes an
7 infringement or dilution of any trademark allegedly owned by All Saints.

8 **ALL SAINTS ASSERTED REGISTRATIONS IT KNEW TO BE INVALID**

9 78. Blitz incorporates by reference paragraphs 1 to 76 as if fully set forth
10 herein.

11 79. On information and belief, All Saints sells certain men's and women's
12 clothing, accessories, and cologne online, through retail stores, and through third-party
13 retail distributors.

14 80. On information and belief, only a subset of the goods and services
15 identified in the All Saints Registrations are actually sold by All Saints.

16 81. At the time, All Saints first sent Blitz the April 9 Letter, and later when All
17 Saints initiated the opposition proceedings, the All Saints Registrations collectively recited
18 a large variety of goods and services in International Classes 3, 9, 14, 18, 25, and 35.

19 82. For example, at the time All Saints' sent its April 9 Letter and initiated its
20 opposition proceedings against Blitz, All Saints' U.S. Registration No. 4570963 (Ex. P,
21 *TESS* records, Ex. Q Registration Certificate,) for the mark RAMSKULL recited "Articles
22 of soaps, namely, beauty soaps, bath soaps, and cream soaps, perfumery, essential oils,
23 cosmetics, non-medicated skin preparations, hair lotions, shampoos, conditioners, shaving
24 preparations and after-shave preparations, deodorants for personal use, dentifrices, lip
25 balm, eye creams and gels, sunscreen and sun-tanning preparations, cleaning preparations
26 and exfoliators, namely, exfoliating pad containing a glycolic ingredient not for medical
27 purposes, laundry preparations, namely, laundry detergents, bath and shower foams and
28

1 gels, bath and shower preparations, namely, gels and salts not for medical purposes and
2 depilatory preparations” in International Class 3; “Optical goods, namely, spectacles;
3 sunglasses; cases and carrying cases adapted for spectacles and sunglasses; containers for
4 spectacles and sunglasses; chains, cords and straps for spectacles and sunglasses; frames
5 for spectacles and sunglasses; lenses for spectacles and sunglasses; headphones; mouse
6 mats; bags adapted for carrying photographic apparatus, video apparatus, cameras; battery
7 holders; cassette tape holders; compact disc holders; MP3 holders; holders specially
8 adapted for use with mobile phones; holders adapted for the display and storage of audio
9 and video cassettes and discs; holders specially adapted for use with compact discs; holders
10 for the transport of cassettes and discs; downloadable music files; downloadable video files
11 featuring musical performances; music recordings; musical video recordings” in
12 International Class 9; “Jewelry, precious stones, horological and chronometric
13 instruments, clocks and watches, earrings, key fobs and key rings of precious metal, badges
14 of precious metal, buckles for watchstraps, jewelry chains, lapel pins” in International
15 Class 14; “Bags, namely, travel bags, beach bags, luggage, rucksacks, bum bags, handbags,
16 keycases, Tote bags, holdalls, shoulder bags, shoulder belts made of leather or imitation
17 leather, wallets, umbrellas, satchels, suitcases, trunks, valises” in International Class 18;
18 “Articles of clothing, namely, shirts, pants, trousers, t-shirts, suits, blouses, dresses, skirts,
19 shorts, jeans, socks, coats, overcoats, jackets, wind-resistant jackets and shells, running
20 pants, athletic shorts, sweat suits, track suits, sweat pants, and sweat shirts; footwear; and
21 headgear, namely, hats and caps” in International Class 25; and “Retail store and wholesale
22 store services featuring articles of soaps, perfumery, essential oils, cosmetics, skin
23 preparations, hair lotions, shampoos, conditioners, shaving preparations and after-shave
24 preparations, deodorants, dentifrices, lip balm, eye creams and gels, sunscreen and tanning
25 preparations, exfoliators and cleaning preparations, laundry preparations, bath and shower
26 foams and gels, bath and shower preparations and depilatory compositions, optical goods,
27 spectacles, sunglasses, cases and carrying cases adapted for spectacles and sunglasses,
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1 containers for spectacles and sunglasses, chains, cords and straps for spectacles and
2 sunglasses, frames for spectacles and sunglasses, lenses for spectacles and sunglasses,
3 headphones, mouse mats, mobile phone accessories, bags adapted for carrying
4 photographic apparatus, bags adapted for carrying video apparatus, bags adapted for
5 carrying cameras, battery holders, cassette tape holders, compact disc holders, MP3
6 holders, holders adapted for mobile phones, holders adapted for the display and storage of
7 audio and video cassettes and discs, holders adapted for compact discs, holders for the
8 transport of cassettes and discs, downloadable music files, downloadable video files, music
9 recordings, musical video recordings, jewelry, precious stones, horological and
10 chronometric instruments, clocks and watches, earrings, key fobs and rings, badges,
11 buckles, chains, pins, bags, travel bags, beach bags, luggage, rucksacks, bum bags,
12 handbags, keycases, tote bags, hold all bags, shoulder bags, belts made of leather or
13 imitation leather, wallets, umbrellas, satchels, suitcases, trunks, valises, travel goods and
14 bags being made of leather or imitation leather, parts and fittings for all the aforesaid goods,
15 articles of clothing, footwear and headgear” in International Class 35.

16 83. On information and belief, All Saints was not using its mark in connection
17 with all the goods and services recited at the time.

18 84. And on July 22, 2020, when it came time to file its Section 8 Declaration
19 of Continued Use in connection with this registration, All Saints cancelled the entirety of
20 Classes 3, 9, 14, and 18 from its registration. (Ex. P at 10, *TESS* records.)

21 85. Regardless of All Saints’ belated attempt to “correct” its registration at the
22 U.S. Patent & Trademark Office, there still remains an unresolved dispute with respect to
23 All Saints’ allegation of a likelihood of confusion and a likelihood of dilution in connection
24 with Blitz’s use of its Goat Skull Logo, and any common law rights.

25 86. All Saints’ limitation of goods in its registration is not a promise to limit
26 assertion of its rights in that mark or withdraw claims against Blitz.

27 87. Blitz’s ability to conduct its business free from the fear of suit is therefore
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1 still in doubt.

2 **BLITZ'S USE OF THE GOAT SKULL LOGO IN CONNECTION WITH**
3 **THE BLITZ GOODS AND SERVICES DOES NOT INFRINGE OR**
4 **DILUTE THE ALL SAINTS RAMSKULL MARKS**

5 88. Blitz incorporates by reference paragraphs 1 to 83 as if fully set forth
6 herein.

7 89. At least due to differences in the marks themselves and in the channels of
8 trade used in which the parties' respective goods and services travel, no likelihood of
9 confusion or dilution exists between the All Saints RAMSKULL Marks and the Blitz Goat
10 Skull Logo in the United States.

11 90. At least due to differences in the marks themselves and in the channels of
12 trade used in which the parties' respective goods and services travel, no likelihood of
13 confusion or dilution exists between the All Saints RAMSKULL Marks and the Ignite Goat
14 Skull Logo in the United States.

15 91. Any possible likelihood of confusion or dilution alleged by All Saints is
16 further mitigated by the association in the minds of consumers between the celebrity of Mr.
17 Bilzerian and the Blitz Goat Skull Logo.

18 92. Any possible likelihood of confusion or dilution alleged by All Saints is
19 further mitigated by the fact that animal skull logos are common trademarks.

20 93. Any possible likelihood of confusion or dilution alleged by All Saints is
21 further mitigated by the fact that Blitz's and its licensees' use the Blitz Goat Skull Logo
22 and Ignite Goat Skull Logo ornamentally. For example, Exhibits A-C attached hereto show
23 clothing products on which the Blitz Goat Skull Logo is used as ornamentation.

24 94. Any possible likelihood of confusion or dilution alleged by All Saints is
25 further mitigated by the fact that other companies selling retail clothing to U.S. consumers
26 while using animal skull designs indicates that consumers are used to distinguishing
27 between different animal skull designs as being trademarks of different companies.

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1 95. At least due to the fact that the All Saints RAMSKULL Marks are not
2 famous, and contrary to All Saints' allegations and threats, Blitz's and its licensees' use of
3 the Blitz Goat Skull Logo and Ignite Goat Skull Logo will not dilute any distinctive quality
4 of the All Saints RAMSKULL Marks.

5 **FIRST CLAIM FOR RELIEF**

6 **(Declaratory Judgment of Non-Infringement)**

7 96. Blitz incorporates by reference paragraphs 1 to 95 as if fully set forth
8 herein.

9 97. All Saints claims that a likelihood of confusion exists with respect to
10 Blitz's Goat Skull Logo and All Saints' RAMSKULL Marks when Blitz's Goat Skull Logo
11 is used in connection with the Blitz Goods and Services.

12 98. All Saints has cited U.S. federal trademark registrations as alleged
13 evidence of prior rights in All Saints' RAMSKULL Marks.

14 99. The Blitz Goat Skull Logo and Ignite Goat Skull Logo are visually
15 different from the All Saints RAMSKULL Marks.

16 100. The visual differences between the Blitz Goat Skull Logo and Ignite Goat
17 Skull Logo on one hand and the All Saints RAMSKULL Marks on the other hand are such
18 that the marks have a different overall commercial impression when viewed by consumers
19 of the parties' respective goods and services.

20 101. The Blitz Goods and Services are labeled, advertised, marketed, and sold
21 in such a manner that there is no likelihood of confusion there is no likelihood of confusion
22 as between All Saints' goods and services displaying the All Saints RAMSKULL Marks
23 on one hand and Blitz's Goods and Services displaying the Blitz Goat Skull Logo and
24 Ignite Goat Skull Logo on the other hand.

25 102. All Saints has demanded that Blitz refrain from use of the Blitz Goat Skull
26 Logo based in part on All Saints' allegation of a likelihood of confusion with respect to
27 Blitz's and its licensees' goods and services.

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1 103. Cessation of use of the Blitz Goat Skull Logo would necessarily result in
2 a cessation of use of the Ignite Goat Skull Logo.

3 104. An actual, present, and justiciable controversy exists between Blitz and
4 All Saints concerning Blitz’s and its licensees’ use of the Blitz Goat Skull Logo and the
5 Ignite Goat Skull Logo in connection with Blitz Goods and Services and/or other Blitz
6 goods in at least International Classes 3, 18, 25, and 35 and/or Blitz’s Goods and Services
7 that are similar to All Saints “core goods.”

8 105. Blitz seeks a declaratory judgment from this Court that the Blitz Goat Skull
9 Logo and Ignite Goat Skull Logo are not likely to cause confusion as to the source,
10 affiliation, or sponsorship of Blitz’s and its licensees’ goods and services with those of All
11 Saints.

12 106. Blitz seeks a declaratory judgment from this Court that the sale of Blitz’s
13 and Blitz’s licensees’ goods and services do not constitute trademark infringement under
14 the Lanham Act or under Nevada common law to the extent such goods use the Blitz Goat
15 Skull Logo or the Ignite Goat Skull Logo ornamentally.

16 107. Blitz seeks a declaratory judgment from this Court that the sale or
17 distribution of clothing displaying or in connection with the Blitz Goat Skull Logo or the
18 Ignite Goat Skull Logo does not constitute unfair competition under the Lanham Act or
19 under Nevada law.

20 108. Blitz seeks a declaratory judgment from this Court that the sale or
21 distribution of Blitz’s or Blitz’s licensees’ goods and services in International Classes 3,
22 18, 25, and 35, or Blitz’s or Blitz’s licensees’ goods and services similar to All Saints’
23 “core goods,” displaying or in connection with the Blitz Goat Skull Logo or the Ignite Goat
24 Skull Logo does not constitute unfair competition or trademark infringement under the
25 Lanham Act or under Nevada law.

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1 109. Blitz seeks declaratory judgment that All Saints has not suffered, and will
2 not suffer, any damages or loss of goodwill as a result of the sale of Blitz's or Blitz's
3 licensees' goods and services displaying the Blitz Goat Skull Logo or the Ignite Goat Skull
4 Logo.

5 110. Blitz seeks a declaratory judgment that All Saints is not entitled to any
6 injunctive relief or damages under 15 U.S.C. § 1125 or Nevada law.

7 **SECOND CLAIM FOR RELIEF**

8 **(Declaratory Judgment of Non-Dilution)**

9 111. Blitz incorporates by reference paragraphs 1 to 95 as if fully set forth
10 herein.

11 112. All Saints claims that a likelihood of dilution exists with respect to Blitz's
12 Goat Skull Logo and All Saints' RAMSKULL Marks when Blitz's Goat Skull Logo is used
13 in connection with Blitz's Goods and Services.

14 113. All Saints claims that Blitz's and its licensees' use of the Blitz Goat Skull
15 Logo in connection with goods and services in classes 3, 18, 25, and 35 and/or in
16 connection with goods similar to All Saints' "core goods" will dilute the distinctive quality
17 of the All Saints RAMSKULL Marks.

18 114. All Saints claims of dilution, however, are, by definition, not limited to
19 goods or services of any one kind or class.

20 115. The Blitz Goat Skull Logo and Ignite Goat Skull Logo are visually
21 different from the All Saints RAMSKULL Marks.

22 116. The visual differences between the Blitz Goat Skull Logo and Ignite Goat
23 Skull Logo on one hand and the All Saints RAMSKULL Marks on the other hand are such
24 that the marks have a different overall commercial impression when viewed by consumers
25 of the parties' respective goods and services.

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1 117. Blitz’s goods are labeled, advertised, marketed, and sold in such a manner
2 that there is no likelihood of dilution as between All Saints’ goods and services displaying
3 the All Saints RAMSKULL Marks on one hand and Blitz’s Goods and Services displaying
4 the Blitz Goat Skull Logo and Ignite Goat Skull Logo on the other hand.

5 118. All Saints has demanded that Blitz refrain from use of the Blitz Goat Skull
6 Logo and the Ignite Goat Skull Logo.

7 119. All Saints’ RAMSKULL Marks are not famous in the United States as
8 required for a claim of dilution under the Lanham Act and Nevada law.

9 120. All Saints repeatedly asserted that Blitz’s and its licensees’ use of the Blitz
10 Goat Skull Logo is likely to dilute the distinctive quality of All Saints’ RAMSKULL
11 Marks.

12 121. An actual, present, and justiciable controversy exists between Blitz and
13 All Saints concerning Blitz’s use of the Blitz Goat Skull Logo and the Ignite Goat Skull
14 Logo in connection with Blitz’s Goods and Services.

15 122. Blitz seeks a declaratory judgment from this Court that use of the Blitz
16 Goat Skull Logo and Ignite Goat Skull Logo does not dilute any distinctive quality of All
17 Saints’ RAMSKULL Marks under the Lanham Act or Nevada law.

18 123. Blitz seeks a declaratory judgment that All Saints has not suffered, and
19 will not suffer, any damages or loss of goodwill as a result of the sale of Blitz’s or Blitz’s
20 licensees’ goods displaying the Blitz Goat Skull Logo or the Ignite Goat Skull Logo.

21 124. Blitz seeks a declaratory judgment that All Saints is not entitled to any
22 injunctive relief or damages under 15 U.S.C. § 1125 or Nevada law.

23 **THIRD CLAIM FOR RELIEF**

24 **(Cancellation of U.S. Trademark Reg. No. 3976276)**

25 125. Blitz incorporates by reference paragraphs 1 to 95 as if fully set forth
26 herein.

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2 126. U.S. Trademark Reg. No. 3976276 was issued on June 14, 2011. Ex. R
3 (TESS Records); Ex. S (Registration Certificate).

4 127. Upon information and belief, All Saints is not currently offering in
5 commerce, and has not offered for at least three continuous years, at least the following
6 goods and services listed in Registration No. 3976276 in the United States in connection
7 with the above-referenced mark:

8 • beach bags, luggage, bum bags, handbags, keycases, tote bags, shoulder
9 bags, umbrellas, satchels, suitcases, luggage trunks, kit bags, toiletries bags for travel, shoe
10 bags for travel, replacement parts, and fittings for all the aforesaid goods in International
11 Class 18;

12 • articles of clothing, namely, suits, skirts, dresses, and undergarments in
13 International Class 25; and

14 • retail and wholesale store services featuring articles of soaps, essential oils,
15 cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations
16 and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels,
17 sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry
18 preparations, bath and shower foams and gels, bath and shower preparations and depilatory
19 compositions, precious stones, key fobs and rings, badges, buckles, chains, pins, beach
20 bags, luggage, bum bags, keycases, tote bags, umbrellas, satchels, suitcases, trunks, parts
21 and fittings for all the aforesaid goods, in International Class 35.
22
23

24 128. Upon information and belief, All Saints has no intention to resume bona
25 fide use of the mark in the ordinary course of All Saints' trade in the foreseeable future.

26 129. Upon information and belief, All Saints has abandoned the mark appearing
27 in Registration No. 3976276, at least in part.

28 130. Blitz therefore seeks an order from this Court cancelling this registration.

1 131. Should this Court not cancel the registration in its entirety, because All
2 Saints abandoned any rights with respect to the abandoned goods and services, Blitz seeks
3 an order from this Court striking the abandoned goods and services from All Saints’
4 registration.

5 132. This Court has the power to cancel All Saints’ registration in whole or in
6 part pursuant to 15 U.S.C. § 1119.

7 133. Due to the threats and demands All Saints has made regarding Blitz’s past,
8 present, and future use of its Goat Skull Logo and Ignite Goat Skull Logo, Blitz will be
9 harmed if All Saints’ registration is permitted to remain on the Primary Register in its
10 current form.

11 **FOURTH CLAIM FOR RELIEF**

12 **(Cancellation of U.S. Trademark Reg. No. 4995379)**

13 134. Blitz incorporates by reference paragraphs 1 to 95 as if fully set forth
14 herein.

15 135. U.S. Trademark Reg. No. 4995379 was filed on February 2, 2015 (as a
16 request for extension of protection under Section 66(a) for International Registration No.
17 1261021) and issued on July 12, 2016. Ex. T (*TESS* Records); Ex. U (Registration
18 Certificate).

19 136. Under Section 66(a) of the Trademark Act, a holder of an international
20 registration under the Madrid Protocol may request that the United States Patent and
21 Trademark Office (“USPTO”) extend protection of that international registration to the
22 United States.

23 137. Upon information and belief, All Saints, at the time of filing the request to
24 extend protection, declared its intention to use the mark in the United States.

25 138. Upon information and belief, All Saints did not use in commerce, nor have
26 a bona fide intent to use in commerce, the mark at the time of filing the application for
27 registration under Section 66(a) on February 2, 2015, nor did it use in commerce, nor have
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1 a bona fide intent to use in commerce, the mark after the time the Registration issued on
2 July 12, 2016, or any time afterward, with at least the following goods and services listed
3 in Registration No. 4995379:

4 • kit bags, toiletry bags for travel, shoe bags for travel, beach bags, luggage,
5 bum bags, handbags, key cases, tote bags, shoulder bags, satchels, suitcases, luggage
6 trunks, travelling trunks, parts and fittings for all the aforesaid goods, in the nature of
7 leather straps, and umbrellas in International Class 18;

8 • articles of clothing, namely, men's, women's and children's apparel,
9 namely, blouses, cardigans, camisoles, jerseys, capris, suits, neckties, blazers, dresses,
10 gowns, skirts, vests, overcoats, leather pants, rainwear, ponchos, jumpers, jumpsuits, track
11 suits, sweat suits, gym suits, sleepwear, robes, bathrobes, night gowns, pajamas, swimwear,
12 swim suits, bathing suits, bikinis, board shorts, beach coverups, beachwear, coveralls, body
13 shapers, body suits, bras, brassieres, stockings, slippers, lingerie, legwarmers, leggings,
14 leotards, bandanas, shawls, ear muffs, infantwear, infant sleepers, bib overalls, in
15 International Class 25; and

16 • wholesale and retail store services of articles of soaps, essential oils,
17 cosmetics, skin preparations, hair lotions, shampoos, conditioners, shaving preparations
18 and after-shave preparations, deodorants, dentifrices, lip balm, eye creams and gels,
19 sunscreen and tanning preparations, exfoliators and cleaning preparations, laundry
20 preparations, bath and shower foams and gels, bath and shower preparations and depilatory
21 compositions, headphones, mouse mats, bags adapted for carrying photographic apparatus,
22 bags adapted for carrying video apparatus, bags adapted for carrying cameras, battery
23 holders, cassette tape holders, compact disc holders, MP3 holders, holders adapted for the
24 display and storage of audio and video cassettes and discs, holders adapted for compact
25 discs, holders for the transport of cassettes and discs, downloadable music files,
26 downloadable video files, music recordings, musical video recordings, pins being jewelry,
27 precious stones, key fobs and rings, badges of precious metal, beach bags, luggage, bum
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1 bags, key cases, tote bags, umbrellas, satchels, suitcases, luggage trunks, travelling trunks
2 in International Class 35.

3 139. Upon information and belief, the period of consecutive non-use is greater
4 than three years.

5 140. Upon information and belief, during the period of non-use, All Saints had
6 no intent to use the mark in the future.

7 141. Upon information and belief, All Saints has abandoned the mark appearing
8 in Registration No. 4995379, at least in part.

9 142. Blitz therefore seeks an order from this Court cancelling this registration.

10 143. Should this Court not cancel the registration in its entirety, because All
11 Saints abandoned any rights with respect to the abandoned goods and services, Blitz seeks
12 an order from this Court striking the abandoned goods and services from All Saints'
13 registration.

14 144. This Court has the power to cancel All Saints' registration in whole or in
15 part pursuant to 15 U.S.C. § 1119.

16 145. Due to the threats and demands All Saints has made regarding Blitz's past,
17 present, and future use of its Goat Skull Logo and Ignite Goat Skull Logo, Blitz will be
18 harmed if All Saints' registration is permitted to remain on the Primary Register in its
19 current form.

20 **FIFTH CLAIM FOR RELIEF**

21 **(Declaratory Judgment of No Common Law Infringement or Unfair Competition**
22 **under Nevada Law Pursuant to NRS 30.040)**

23 146. Blitz incorporates by reference paragraphs 1 to 95 as if fully set forth
24 herein.

25 147. All Saints claims that a likelihood of confusion exists with respect to
26 Blitz's Goat Skull Logo and All Saints' RAMSKULL Marks when Blitz's Goat Skull Logo
27 is used in connection with the Blitz Goods and Services.
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1 148. Blitz and its licensees sell or distribute, or have sold or distributed, a
2 variety of products to consumers in Nevada, including clothing and fragrances.

3 149. Goods sold by Blitz and its licensees in Nevada in connection with the
4 Blitz Goat Skull Logo and Ignite Goat Skull Logo are within the listing of goods All Saints
5 referred to in its demand letter as its “core goods.”

6 150. AllSaints USA Limited is All Saints’ retail distributor in the United States.
7 Any claim of likelihood of confusion of All Saints’ RAMSKULL Marks in the U.S. would
8 necessarily allege harm to AllSaints USA Limited as All Saints’ primary retail distributor
9 for All Saints “core goods” in the United States.

10 151. On information and belief, AllSaints USA Limited sells or otherwise
11 distributes goods in Nevada that fall within what All Saints believes are its “core goods,”
12 but that are not listed on All Saints’ federal registration.

13 152. On information and belief, any common law trademark rights acquired by
14 AllSaints USA Limited’s sales in Nevada would inure to the benefit of All Saints.

15 153. Blitz’s compliance with All Saints’ demand to Blitz that Blitz cease use of
16 Blitz’s Goat Skull Logo and the Ignite Goat Skull Logo on goods that fall within All Saints’
17 “core goods” would require Blitz and its licensees to cease use of those logos in Nevada
18 and would preclude distribution of goods sold by Blitz in Nevada that are not listed on All
19 Saints’ federal trademark registrations.

20 154. The Blitz Goat Skull Logo and Ignite Goat Skull Logo are visually
21 different from the All Saints RAMSKULL Marks.

22 155. The visual differences between the Blitz Goat Skull Logo and Ignite Goat
23 Skull Logo on one hand and the All Saints RAMSKULL Marks on the other hand are such
24 that the marks have a different overall commercial impression when viewed by consumers
25 of the parties’ respective goods and services.

26 156. The Blitz Goods and Services are labeled, advertised, marketed, and sold
27 in such a manner that there is no likelihood of confusion as between All Saints’ goods and
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1 services displaying the All Saints RAMSKULL Marks on one hand and Blitz's Goods and
2 Services displaying the Blitz Goat Skull Logo and Ignite Goat Skull Logo on the other
3 hand.

4 157. All Saints has demanded that Blitz refrain from use of the Blitz Goat Skull
5 Logo based in part on All Saints' allegation of a likelihood of confusion with respect to
6 Blitz's and its licensees' goods and services.

7 158. Cessation of use of the Blitz Goat Skull Logo would necessarily result in
8 a cessation of use of the Ignite Goat Skull Logo.

9 159. All Saints' assertion that a likelihood of confusion exists creates a question
10 of the extent of All Saints' common law trademark rights in Nevada, and an apprehension
11 that Blitz's continued use of the Blitz Goat Skull Logo and Blitz's licensees' continued use
12 of the Ignite Goat Skull Logo will subject Blitz to an action for common law trademark
13 infringement based on its activities in its home state of Nevada or a claim for
14 indemnification from Blitz's licensees.

15 160. An actual, present, and justiciable controversy exists between Blitz and
16 All Saints concerning Blitz's and its licensees' use of the Blitz Goat Skull Logo and the
17 Ignite Goat Skull Logo in connection with Blitz's Goods and Services.

18 161. Blitz seeks a declaratory judgment from this Court that the Blitz Goat Skull
19 Logo and Ignite Goat Skull Logo are not likely to cause confusion as to the source,
20 affiliation, or sponsorship of Blitz's and its licensees' goods with those of All Saints under
21 Nevada common law.

22 162. Blitz seeks a declaratory judgment from this Court that the sale of Blitz's
23 and Blitz's licensees' goods do not constitute trademark infringement under Nevada
24 common law to the extent such goods use the Blitz Goat Skull Logo or the Ignite Goat
25 Skull Logo ornamentally.

26 163. Blitz seeks a declaratory judgment from this Court that the sale or
27 distribution of clothing displaying or in connection with the Blitz Goat Skull Logo or the
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1 Ignite Goat Skull Logo does not constitute unfair competition under Nevada law.

2 164. Blitz seeks declaratory judgment that All Saints has not suffered, and will
3 not suffer, any damages or loss of goodwill as a result of the sale of Blitz's or Blitz's
4 licensees' goods displaying the Blitz Goat Skull Logo or the Ignite Goat Skull Logo.

5 165. Blitz seeks a declaratory judgment that All Saints is not entitled to any
6 injunctive relief or damages under the statutes or common law of the State of Nevada.

7 **SIXTH CLAIM FOR RELIEF**

8 **(Declaratory Judgment of No Dilution under Nevada Law Pursuant to NRS 30.040)**

9 166. Blitz incorporates by reference paragraphs 1 to 95 as if fully set forth
10 herein.

11 167. All Saints asserts that Blitz's use of the Blitz Goat Skull Logo dilutes the
12 distinctiveness of All Saints' RAMSKULL Marks.

13 168. All Saints assertion that Blitz's use of the Blitz Goat Skull Logo dilutes the
14 distinctiveness of All Saints' RAMSKULL Marks would necessarily include an allegation
15 that Blitz's and its licensees' use of the Ignite Goat Skull Mark dilutes the distinctiveness
16 of the All Saints' RAMSKULL Marks.

17 169. All Saints asserts that the All Saints RAMSKULL Marks are famous
18 throughout the U.S., including in Nevada.

19 170. All Saints' assertion that Blitz's use of the Blitz Goat Skull Logo and Ignite
20 Goat Skull Logo dilutes the distinctiveness of All Saints' RAMSKULL Marks throughout
21 the United States would necessarily implicate an allegation of dilution in Nevada under
22 Nevada law.

23 171. Blitz and its licensees sell or distribute a variety of products to consumers
24 in Nevada that are not included within All Saints' description of its "core goods," including
25 CBD products and vaping products, and that display or are sold in connection with the
26 Blitz Goat Skull Mark and Ignite Goat Skull Logo.

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1 172. AllSaints USA Limited is All Saints Retail Limited’s retail distributor in
2 the United States. Any claim that Blitz’s or its licensees’ use of the Blitz Goat Skull Logo
3 or Ignite Goat Skull Logo would dilute the distinctive quality of All Saints’ RAMSKULL
4 Marks in the U.S. would necessarily allege harm to AllSaints USA Limited as All Saints
5 Retail Limited’s primary retail distributor in the United States.

6 173. The Blitz Goat Skull Logo and Ignite Goat Skull Logo are visually
7 different from the All Saints RAMSKULL Marks.

8 174. Multiple trademark owners use similar animal skull designs in connection
9 with various goods and services in the state of Nevada.

10 175. The degree of inherent distinctiveness of the All Saints RAMSKULL
11 Marks in Nevada is low, particularly in light of the fact that multiple trademark holders use
12 similar marks.

13 176. The visual differences between the Blitz Goat Skull Logo and Ignite Goat
14 Skull Logo on one hand and the All Saints RAMSKULL Marks on the other hand are such
15 that the marks have a different overall commercial impression when viewed by consumers
16 of the parties’ respective goods and services.

17 177. The channels of trade through which Blitz and its licensees sell their
18 products are different from the channels of trade through which All Saints sells its products.

19 178. The degree of recognition of Blitz’s Goat Skull Logo and the Ignite Goat
20 Skull Logo within the channels of trade within which Blitz and its licensees sell products
21 is sufficiently strong to avoid any dilution of any rights All Saints may have in the All
22 Saints RAMSKULL Marks.

23 179. Neither All Saints Retail Limited nor AllSaints USA Limited has suffered
24 any lessening in the capacity of the All Saints RAMSKULL Marks to identify and
25 distinguish goods or services in Nevada.

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1 180. All Saints' assertion that Blitz's use of the Blitz Goat Skull Logo dilutes
2 the distinctive nature of All Saints' RAMSKULL Marks creates a question of the extent of
3 All Saints' trademark rights in Nevada and an apprehension that Blitz's and Blitz's
4 licensees' past and continued use of the Blitz Goat Skull Logo and Ignite Goat Skull Logo
5 will subject Blitz to an action for trademark dilution under NRS 600.435 based on its
6 activities in its home state of Nevada.

7 181. An actual, present, and justiciable controversy exists between Blitz and
8 All Saints concerning Blitz's and its licensees' use of the Blitz Goat Skull Logo and the
9 Ignite Goat Skull Logo in connection with Blitz's Goods and Services.

10 182. Blitz seeks a declaratory judgment from this Court that Blitz's and its
11 licensees' use of the Blitz Goat Skull Logo and Ignite Goat Skull Logo will not dilute any
12 distinctive quality of the All Saints RAMSKULL Marks under Nevada law.

13 183. Blitz seeks a declaratory judgment from this Court that the All Saints
14 RAMSKULL Marks are not famous in Nevada as such term is used in NRS 600.435.

15 184. Blitz seeks a declaratory judgment from this Court that the sale of Blitz's
16 and Blitz's licensees' goods that use the Blitz Goat Skull Logo or the Ignite Goat Skull
17 Logo ornamentally do not dilute any distinctive quality of the All Saints RAMSKULL
18 Marks under Nevada law.

19 185. Blitz seeks declaratory judgment that All Saints has not suffered, and will
20 not suffer, any damages or dilution of the distinctive nature of the All Saints RAMSKULL
21 Marks as a result of the sale of Blitz's or Blitz's licensees' goods displaying the Blitz Goat
22 Skull Logo or the Ignite Goat Skull Logo.

23 186. Blitz seeks a declaratory judgment that All Saints is not entitled to any
24 injunctive relief or damages under the statutes or common law of the State of Nevada.

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1 **PRAYER FOR RELIEF**

2 WHEREFORE, Blitz prays that the Court enter judgment in its favor as follows:

3 A. declaring that Blitz’s conduct, including its marketing and sale of Blitz’s
4 and its licensees’ goods and services, including its clothing, accessories, and personal and
5 body care goods and related retail and wholesale services, with the Blitz Goat Skull Logo,
6 does not constitute trademark infringement, trademark dilution, or unfair competition,
7 under the Lanham Act or under Nevada Law, with respect to the All Saints RAMSKULL
8 Marks, including U.S. Trademark Registration Nos. 4,570,963 for the word RAMSKULL,
9  6 and 3,987,543 (Ex. V, *TE*  cords; Ex. W, Registration Certificate) for the
10 logo, and 4,995,379 for the logo and any common law rights therein;

11 B. declaring that All Saints is not entitled to enjoin the sale of Blitz’s or its
12 licensees’ goods or services under federal law or Nevada law for infringement, dilution, or
13 unfair competition with respect to the All Saints RAMSKULL Marks;

14 C. declaring that All Saints has not suffered any and will not suffer any harm
15 or damages, and thus are not entitled to any relief under the Lanham Act or under Nevada
16 law, for infringement, dilution, or unfair competition with respect to the All Saints
17 RAMSKULL Marks;

18 D. ordering the U.S. Patent & Trademark Office to cancel U.S. Trademark
19 Registration Nos. 4995379 and 3976276 pursuant to Section 37 of the Lanham Act, or, in
20 the alternative, striking all non-used or abandoned goods and services from those
21 registrations;

22 E. awarding Blitz its costs, expenses, and attorneys’ fees in this action; and
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F. awarding such other further relief to which Blitz may be entitled as a matter of law or equity, or which the Court deems to be just and proper.

Dated this 15th day of January, 2021

FLANGAS LAW GROUP

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Attorneys for Plaintiff

CIVIL COVER SHEET

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.)

I. (a) PLAINTIFFS

(b) County of Residence of First Listed Plaintiff _____
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | 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 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS			
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

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):

Brief description of cause:

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading 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. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

- I.(a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.
- (b) County of Residence.** For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)
- (c) Attorneys.** Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".
- II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
 United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here. United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
 Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
 Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)
- III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.
- IV. Nature of Suit.** Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: [Nature of Suit Code Descriptions](#).
- V. Origin.** Place an "X" in one of the seven boxes.
 Original Proceedings. (1) Cases which originate in the United States district courts.
 Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
 Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
 Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
 Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
 Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
 Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.
- VI. Cause of Action.** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.
- VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
 Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
 Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.
- VIII. Related Cases.** This section of the JS 44 is used to reference related pending cases, if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.