

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF LOUISIANA**

TREVOR ANDREW BAUER

Plaintiff

VS

BRENT POURCIAU

AND

TOP VELOCITY, LLC

Defendants

CIVIL ACTION No. 18-5611

**COMPLAINT FOR DAMAGES,
PRELIMINARY INJUNCTION AND
PERMANENT INJUNCTION**

JURY DEMANDED

NOW INTO COURT, through undersigned counsel, comes plaintiff, TREVOR ANDREW BAUER, and upon information and belief alleges as follows:

I.

NATURE OF THE ACTION

This is an action to enjoin and collect damages caused by Defendants' acts of unfair competition, intellectual property infringement, dilution, misappropriation, unjust enrichment and other acts and violations actionable under the following laws:

Federal Causes of Action:

1. Unfair Competition under the Lanham Act, as amended, 15 U.S.C. §1051 et seq.;
2. False Endorsement under 15 U.S.C. §1125(a) and (c) of the Lanham Act;
3. False Designations of Origin under 15 U.S.C. §1125(a) and (c) of the Lanham

Act;

4. Dilution of famous marks under 15 U.S.C. §1125(a) and (c) of the Lanham Act;
5. False Advertising under 15 U.S.C. §1125(a) and (c) of the Lanham Act;
6. False or Misleading Descriptions or Representations under 15 U.S.C. §1125(a) and (c) of the Lanham Act;
7. Pictorial and Other Misrepresentations under 15 U.S.C. §1125(a) and (c) of the Lanham Act;
8. Trade Disparagement and Trade Libel under 15 U.S.C. §1125(a) and (c) of the Lanham Act;

Louisiana State Causes of Action:

9. Misappropriation/Theft
10. Unfair Trade Practices Act, LSA-R.S. 51:1402 et seq
11. Civil Code Article 2315
12. Louisiana Trademark Laws, LSA-R.S. 51:223.1
13. Unjust Enrichment

Texas State Causes of Action:

14. Violations of Texas Law of the Right of Privacy and Publicity
15. Violations of Texas Law of Unfair Business Practices and Competition
16. Violation of Texas and Common Law Trademark

Common Law Causes of Action:

17. Right of Privacy
18. Right of Publicity
19. Unjust Enrichment

20. Misappropriation
21. Unfair Competition and Trade Practices

II.

PARTIES

Plaintiff:

1. TREVER ANDREW BAUER (“BAUER”) is a person of the full age of majority and domiciled in the State of Texas. BAUER is a famous, world renowned Major League Baseball (“MLB”) player with the Cleveland Indians. As set forth herein, BAUER has established a well-recognized and valuable identity arising from his baseball activities and accomplishments. BAUER is best known for his high velocity pitching skills. As a result of his recognizable and well-known identity, BAUER has been or will be retained to promote and provide endorsements for exclusive and selected entities and manufacturers for which BAUER does or may receive compensation. BAUER has also received notoriety for his civic and charitable activities stemming from his popularity as a MLB player. BAUER is the owner of a registered website, www.BauerOutage.com, which is used to promote his goods and services associated with his MLB notoriety.

Defendants:

2. BRENT POURCIAU (“POURCIAU”) is a person of the full age of majority and domiciled in the State of Louisiana, Parish of St. Tammany. POURCIAU is the owner, manager, officer and/or employee of Top Velocity, LLC, which is a Louisiana domestic, limited liability company.

3. TOP VELOCITY, LLC (“TOP VELOCITY”) is a Louisiana domestic, limited liability company with its principle place of business in Covington, Louisiana. Matthew

Devereaux, 534 East Boston Street, Covington, Louisiana 70433, has been appointed as the company's registered agent for service of process. TOP VELOCITY is in the business of marketing and selling baseball programs, training and facilities designed to enhance an individual's baseball pitching performance and speed. TOP VELOCITY markets and sells its products and services through the internet (www.topvelocity.pro), advertising materials, guides, ebooks, videos, computer programs, books, handbooks, and other means of commercialization. TOP Velocity also offers Online Camps as well as a physical facility where individual training is provided. TOP Velocity also utilizes social media such as YouTube, Twitter, and Facebook to promote its products and services.

III.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 USC §1332, diversity of citizenship jurisdiction with claims exceeding \$100,000.00. Plaintiff is domiciled and resides in California. Both defendants are domiciled and reside in Louisiana. Therefore, complete diversity exists between all plaintiffs and all defendants.

2. Jurisdiction is also proper under 28 USC §1331 and 1338. Some of Bauer's actions are predicated upon the Lanham Act, 15 U.S.C. §1501 et.seq and 15 U.S.C. §1125 and other federal questions with claims exceeding \$100,000.00.

3. This Court has supplemental jurisdiction over BAUER's state law actions pursuant to 28 U.S.C. § 1367 because they are substantially related to his federal actions and arise out of the same case or controversy.

4. Venue is proper in this judicial district pursuant to 28 U.S.C. §1391(b) and (c) because Defendants reside in this district, Plaintiff's claims arise in this district as well as others

and the Defendants have significant contacts in this district. Further, Defendants infringement activities occurred in this district as well as others.

IV.

FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS

1. BAUER is a famous, world renowned major league baseball (“MLB”) player with the Cleveland Indians. As set forth herein, BAUER has established a well-recognized and valuable identity arising from his baseball pitching abilities and other professional accomplishments. As a result of his recognizable and well-known identity and baseball skills, BAUER has been or will be retained to promote and provide endorsements for exclusive and selected entities and manufacturers for which BAUER receives compensation. BAUER has also received notoriety for his civic and charitable activities stemming from his popularity as a MLB player. BAUER is the owner of a registered website, www.BauerOutage.com, which is utilized to sell and promote his products and services. BAUER’s high velocity pitching ability has become the standard in the industry.

2. BAUER has or will endorse many different products and services and has or will receive compensation for the endorsements. BAUER also sells various products through the internet. Some of the products are designed to aid and promote individual pitching velocity development and other pitching qualities. Other products that BAUER sells involve baseball gear such as gloves, cleats, video equipment and goggles. Many of BAUER’s promotional items, services and products can be found on his registered website, www.BauerOutage.com.

3. BAUER’s name, image, likeness, photographs, videos, statements, and titles have become famous throughout the world and have made BAUER’s identity valuable and respected. An endorsement of a product or service by BAUER carries with it valuable meaning and

marketing opportunities for various commercial activities.

4. Recently, BAUER learned that POURCIAU and TOP VELOCITY were infringing and misappropriating BAUER's name, identity, images, likenesses, photographs, videos, statements, products, goods, services, tradename and/or titles (collectively "Protected Intellectual Property"). See Exhibit A. Defendants' infringing activities involve the exploitation and misappropriation of BAUER's Protected Intellectual Property in violation of the foregoing laws through Defendants' website (www.topvelocity.pro), Twitter, Face Book, You Tube, social media platforms and other commercialization activities. The Defendants have also infringed and misappropriated BAUER's Protected Intellectual Property in violation of the law by using the property in advertising media, advertising materials, guides, ebooks, videos, websites, social media, physical facilities, computer programs, books, handbooks, flyers, pamphlets, and/or other means of marketing and communication without permission from BAUER (collectively "Infringing Materials").

5. The Defendants appropriated and infringed BAUER's Protected Intellectual Property to Defendants' advantage. The Defendants lacked consent to do so. Defendants' actions and/or inactions have caused damage and injury to BAUER.

6. On March 26, 2018, BAUER's counsel issued a letter to POURCIAU and his counsel demanding that the Defendants immediately cease and desist from any activity and/or communication of any nature that uses Mr. Bauer's name, photographs, videos, likenesses, images and/or intellectual and business property. Exhibit 1.

7. Defendants' counsel responded on March 26, 2018, seeking a discussion about the issues. Exhibit 2.

8. On March 26, 2018, BAUER's counsel responded setting a conference date of April 2, 2018. Exhibit 3.

9. No response was received by BAUER's counsel until April 9, 2018, at which time Defendants' counsel indicated that an alternative discussion date would be provided. Exhibit 4.

10. Having received no further response from Defendants' counsel, on April 9, 2018, BAUER's counsel issued a second demand letter seeking an accounting of the uses and revenues associated with the unauthorized use of Bauer's Protected Intellectual Property. Exhibit 5, 6.

11. On April 10, 2018, a telephone discussion occurred between counsel for the parties wherein the Defendants agreed to remove all images/likenesses of Mr. Bauer from his website, YouTube and other social media platforms but that it would take time to do so. A subsequent email was issued by Defendants' counsel verifying the discussion. Exhibit 7, 8.

12. On April 11, 2018, BAUER's counsel issued another demand letter requiring that the infringing activities be discontinued by April 16, 2018. Counsel also requested evidence proving that the uses had been completely discontinued. Exhibit 9, 10, 11.

13. Defendants responded on April 11, 2018 asking "what 'evidence' was required.

14. BAUER's counsel responded, stating that the Defendants could print out the new web pages showing the changes and could ask for letters from the social media platforms verifying the changes. An affidavit reflecting the agreement to discontinue the unauthorized and infringing uses was also requested. Exhibit 12.

15. On April 11, 2018, Defendants' counsel responded to the affidavit request stating that he required additional time to discuss the matter with his client. Exhibit 13, 14, 15, 16, 17.

16. On April 19, 2018, Defendants counsel issued an email stating that all images and likenesses of Trevor Bauer had been removed from "his virtual presence", including his website and YouTube channels. Defendants also confirmed that they will never again post Trevor Bauer's image and/or likeness without first obtaining Mr. Bauer's permission. Exhibit 18.

17. On April 19, 2018, BAUER's counsel issued an email stating that an affidavit was required from the Defendants, verifying that the removal and purging process had been completed. Exhibit 19.

18. Defendants never provided the requested affidavit, the accounting or evidence that the infringing actions had been discontinued.

19. The Defendants actively took steps to distribute and disseminate the Infringing Materials and made them available to others for republication and distribution through the World Wide Web and by other means.

20. The Infringing Materials were published, distributed and disseminated throughout the world by a variety of media, including various websites owned, managed, and/or controlled by the Defendants.

21. By using BAUER's name, identity, likeness and other Protected Intellectual Property, Defendants impaired the ability of BAUER to negotiate representation of and/or endorsements with other entities, thereby depriving him of his established earning potential and further infringed on BAUER's right of publicity.

22. BAUER has invested substantial amounts of time, effort and money into building, developing and maintaining his brand name, trade name, services and products. BAUER's Protected Intellectual Property has become valuable and desired. BAUER's name and likeness and other Protected Intellectual Property have become well-known throughout the world and in MLB.

23. BAUER sells and distributes products and services through various third party retail stores and the internet, including his own website, all of which rely on BAUER's ability to maintain control over unauthorized uses of his Protected Intellectual Property.

24. The Defendants transact business through interstate commerce through the World Wide Web and other commercial media.

25. Defendants' unauthorized use of BAUER's Protected Intellectual Property has been done willfully for commercial gain, to trade on the goodwill created by BAUER and to mislead the public and customers into believing that there is an association or relationship between the Defendants and BAUER.

26. Defendants' appropriation of BAUER's Protected Intellectual Property is likely to cause confusion, mistake or deception as to the source or origin of Defendants' products and/or services.

V.

CLAIMS FOR RELIEF

COUNT I

**Violations of the Lanham Act
15 U.S.C §1125(a) and (c), 15 U.S.C. §1117**

Unfair Competition

False Endorsement

False Designations of Origin

False Descriptions

False Advertising

False or Misleading Descriptions or Representations

Pictorial Misrepresentations

Trade Disparagement

Dilution

1. Plaintiff re-alleges and incorporates herein by reference the allegations set forth above.
2. Because the Defendants website, Infringing Materials and other media programs are available from any internet-connected location in the world, and because Defendants' website appears to be calculated to influence the purchasing decisions of potential patrons, Defendants' conduct affects interstate commerce.

3. Defendants' use of BAUER's Protected Intellectual Property in conjunction with Defendants' website, Infringing Materials and business operations constitute a false designation of origin and unfair competition because the use falsely suggests that BAUER is associated with, approves of, endorses and/or sponsors the Defendants products and/or services.
4. Defendants' use of BAUER's Protected Intellectual Property in the Infringing Materials is likely to cause confusion or to cause mistake or to deceive the public.
5. Plaintiff's remedies at law cannot adequately compensate him for the ongoing injuries threatened by the Defendants' conduct. Unless Defendants are restrained and enjoined, Defendants' will continue to commit unlawful acts, causing Plaintiff to suffer further irreparable injury to his reputation and businesses.
6. Because Defendants' actions are intentional and willful violations of Plaintiff's rights, BAUER is entitled to treble damages and reasonable attorney's fees under 15 U.S.C. § 1117.
7. Defendants' use of BAUER's Protected Intellectual Property in the Infringing Materials constitute a false and/or misleading description of fact and/or misrepresentation that is likely to cause confusion and deceive the public as to the affiliation, connection and/or association of Plaintiff with the Defendants.
8. Defendants use of BAUER's Protected Intellectual Property was made without Plaintiff's permission, knowledge or license.
9. Plaintiff has been and will continue to be irreparably harmed and Plaintiff is entitled to general damages, specific damages, punitive damages, attorneys' fees, expert fees, costs and pre-judgment interest.

10. The Defendants' actions are likely to dilute the distinctive quality of BAUER's Protected Intellectual Property by blurring and confusing the quality, meaning and importance of BAUER's Protected Intellectual Property.
11. Defendants' use of BAUER's Protected Intellectual Property constitutes false and/or misleading advertising designed to promote Defendants' commercial goods and services to the detriment of BAUER.
12. Defendants have used in commerce BAUER's Protected Intellectual Property without permission in such a manner that it is likely to cause confusion or to cause mistake, or to deceive as to the affiliation, connection or association of such person with another person, or as to the origin, sponsorship, or approval of the goods, services or commercial activities by another person.
13. Defendants have used in commerce BAUER's Protected Intellectual Property without permission in commercial advertising and/or promotion, misrepresenting the nature, characteristic, qualities or geographic origin of BAUER's Protected Intellectual Property.

COUNT II

Violations of Common Law Right of Privacy, Right of Publicity and Unjust Enrichment

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. The Defendants, without Plaintiff's consent or agreement, invaded Plaintiff's right to privacy and publicity by utilizing BAUER's Protected Intellectual Property in the Infringing Materials in such a manner that it could be inferred that Plaintiff agreed to endorse Defendants' services and products.

3. Defendants' conduct involves the appropriation of BAUER's Protected Intellectual Property because the use in association with the Infringing Materials implies his assistance with its preparation, consent to its use, and constituted the use of his professional status and endorsement.
4. The appropriation was for the Defendants' advantage in that the Plaintiff is an extremely well known and recognized individual, has a record of success, and was made for the Defendants' sole pecuniary gain and profit.
5. The value of BAUER's Protected Intellectual Property has been impaired and/or adversely affected by Defendants' wrongful, improper and unlicensed use. The Defendants have been unjustly enriched at Bauer's expense.
6. Defendants' are guilty of oppression, fraud, and/or malice, in that Defendants made use of BAUER's Protected Intellectual Property with the intent to injure and/or annoy Plaintiff by utilizing his established, well-known name, likeness and identity with a willful and conscious disregard of Plaintiff's rights. Plaintiff therefore seeks an award of punitive damages.

COUNT III.

Violations of Texas Law of the Right of Privacy and Publicity

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. Plaintiff's Protected Intellectual Property was used in the Defendants' Infringing Materials without Plaintiff's permission or consent causing damage to the Plaintiff.
3. Defendants' actions are violations of Tex. Bus. & Com. Code 16.29 in that their actions are likely to injure the business reputation or to dilute the distinctive quality of BAUER's

Protected Intellectual Property regardless of whether there is competition between the parties or confusion as to the source of goods or services.

4. Defendants' creation, release, and distribution of the Infringing Materials constitutes a violation of 15 U.S.C. §1125(a), the Lanham Act as well as common trademark law.
5. The Defendants have misappropriated BAUER's Protected Intellectual Property through the Infringing Materials.
6. The Defendants appropriated BAUER's Protected Intellectual Property for the value associated with it because BAUER's name and/or likeness can be identified from the Infringing Materials. The Defendants gained some advantage or benefit from their unauthorized uses.
7. Defendants violated the Texas Property Code, Chapter 26, Section 14 by the unauthorized use of BAUER's Protected Intellectual Property.
8. The Defendants have violated Texas Law and common law under Restatement of Torts Law, 2nd §652C in that the Defendants appropriated and used BAUER's Protected Intellectual Property in their business for their sole benefit without authorization.
9. Plaintiff therefore seeks an injunction, general damages, specific damages, punitive damages and attorney's fees, expert fees and costs.
10. Plaintiff first discovered the foregoing wrongful actions and conduct less than one year prior to the filing of this Complaint.

COUNT IV.

Violations of Texas Law of Unfair Business Practices and Competition

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.

2. By designing, creating, distributing and permitting BAUER's Protected Intellectual Property to be disseminated through the internet websites and by other communication means owned and/or controlled by Defendants, Defendants have engaged in unfair competition and business practices under Texas law and common law in that their actions are contrary to honest practice in industrial or commercial matters.
3. Defendants' unfair competition and business practices include, but are not limited to, the following:
 - (a) Defendants caused the Infringing Materials to be created and disseminated on the world wide web, and the Defendants intentionally utilized BAUER's Protected Intellectual Property while knowing that they had no authorization, permission, license or grant to do so;
 - (b) Defendants violated Plaintiff's right to privacy and/or publicity by misappropriating the Protected Intellectual Property for their own use and profit;
 - (c) Defendants' creation, release, and distribution of the Infringing Materials constitutes a violation of 15 U.S.C. §1125(a), the Lanham Act;
 - (d) By the use of BAUER' Protected Intellectual Property, the Defendants profited at Plaintiff's expense. The Defendants have been unjustly enriched.
4. The Defendants violated the Texas Deceptive Trade Practices Act, Tex. Bus. & Comm. Code §17.505(d).
5. BAUER has expended extensive time, labor and money for the creation of his Protected Intellectual Property. The Defendants used the property in a manner that gives them a special advantage and as a result, the Plaintiff has suffered commercial damages.
6. As a result of the foregoing, Plaintiff is entitled to civil penalties, an Order for the

restitution of any and all monies or property obtained and disgorgement of all profits derived from or achieved through the use of Plaintiff's Protected Intellectual Property, attorneys' fees and costs, and injunctive relief.

6. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.

COUNT V.

Violation of Texas and Common Law Trademark

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. Defendants' creation, release, and distribution of the Infringing Materials constitutes a violation of 15 U.S.C. §1125(a), the Lanham Act
3. Defendants disseminated to the public BAUER's Protected Intellectual Property which was deceptive in that it could lead a reasonable person to infer that BAUER had endorsed the Defendants' products and/or services. These statements were disseminated through a variety of means, including but not limited to advertisements and media programs over the World Wide Web.
4. The statements were untrue and/or misleading.
5. Defendants knew, or should have known, through the exercise of reasonable care, that the use of BAUER's Protected Intellectual Property was untrue and/or misleading to the public.
6. The Defendants used BAUER's Protected Intellectual Property in commerce for their sole gain and profit in a manner likely to confuse potential customers as to the affiliation, connection, or association of BAUER's Protected Intellectual Property

7. As a direct and proximate result of these acts, people have been and are being harmed.
8. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.

COUNT VI.

**Violations of Louisiana's Unfair Trade Practices Law
LSA-R.S. 51:1402 et seq.**

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. Under Louisiana's Unfair Trade Practices Law, R.S. 51:1402, unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful.
3. By designing, creating, releasing, distributing and permitting BAUER's Protected Intellectual Property to be distributed through the internet websites owned or controlled by Defendants and by other communication means, Defendants have engaged in unfair competition and business practices.
4. Defendants' unfair competition and business practices include, but are not limited to, the following:
 - (a) Defendants caused the Infringing Materials to be created and released, and the Defendants intentionally utilized BAUER's Protected Intellectual Property while knowing that they had no authorization, permission, license or grant to do so;
 - (b) Defendants violated Plaintiff's right to privacy and/or publicity by misappropriating his Protected Intellectual Property for their own use and profit;
 - (c) Defendants misappropriated Plaintiff's Protected Intellectual Property for

purposes of commercial gain;

(d) Defendants' creation, release, and distribution of the Infringing Materials constituted a violation of 15 U.S.C. §1125(a), the Lanham Act;

(e) By the use of BAUER's Protected Intellectual Property, the Defendants profited at Plaintiff's expense;

5. BAUER has suffered loss of money and other damages as a result of the use or employment by the Defendants of unfair and/or deceptive methods, acts or practices declared unlawful by the Act.
6. As a result of the foregoing, Plaintiff is entitled to civil penalties, an Order for the restitution of any and all monies or property obtained and disgorgement of all profits derived from or achieved through the use of Plaintiff's Protected Intellectual Property, attorneys' fees and costs, and injunctive relief.
7. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.
8. As a result of Defendants unauthorized use of BAUER's Protected Intellectual Property through Defendants' Infringing Materials, Plaintiff is entitled to damages, special damages, treble damages, costs, expenses, attorneys' fees, prejudgment interest, and other relief allowed by law, including injunctive relief.

COUNT VII.

Violations of Louisiana Statute LSA-R.S. 51:223.1

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. The Defendants' unauthorized use of BAUER's Protected Intellectual Property through

the Infringing Materials has caused and is likely to cause injury and damage to BAUER's business and reputation.

3. The Defendants' actions have resulted in infringement of BAUER's tradename and Protected Intellectual Property and have resulted in unfair competition and/or confusion.
4. As a result of Defendants' actions and violations of LSA-R.S. 51:223.1, BAUER is entitled to damages, special damages, treble damages, costs, expenses, attorneys' fees, prejudgment interest, and other relief allowed by law, including injunctive relief.
5. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.

COUNT VIII.

Violations of Louisiana Law by Misappropriation/Theft

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. Theft is the misappropriation or taking of anything of value which belongs to another, either without the consent of the other to the misappropriation or taking or by means of fraudulent conduct, practices or representations. The Defendants intentionally took or deprived BAUER of his Protected Intellectual Property through the use of Defendants' Infringing Materials.
3. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.
4. As a result of Defendants unauthorized use of BAUER's Protected Intellectual Property, Plaintiff is entitled to damages, special damages, treble damages, costs, expenses, attorneys' fees, prejudgment interest, and other relief allowed by law, including

injunctive relief.

COUNT IX.

Violation of Louisiana's Civil Code Article 2315

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. LSA-C.C. Art. 2315 provides that every act whatever of man that causes damage to another obliges him by whose fault it happened to repair it. The Defendants unauthorized use of BAUER's Protected Intellectual Property through the Infringing Materials has caused injury and damage to BAUER's business and reputation. The Defendants are therefore obligated and required by law to pay any appropriate damages.
3. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.
4. As a result of Defendants unauthorized use of BAUER's Protected Intellectual Property, Plaintiff is entitled to damages, special damages, treble damages, costs, expenses, attorneys' fees, prejudgment interest, and other relief allowed by law, including injunctive relief.

COUNT X.

Unjust Enrichment

1. Plaintiff incorporates herein by reference the foregoing paragraphs as if they were copied herein *in extenso*.
2. Louisiana's C.C. Art. 2298 provides that a person who has been enriched without cause at the expense of another person is bound to compensate that person.
3. The Defendants unauthorized use of BAUER's Protected Intellectual Property through the Infringing Materials has caused injury and damage to BAUER's business and

reputation. The Defendants have been unjustly enriched at the expense of the Plaintiff.

4. Plaintiff first discovered the foregoing improper and wrongful conduct and actions less than one year prior to the filing of this Complaint.
5. As a result of Defendants unauthorized use of BAUER's Protected Intellectual Property, Plaintiff is entitled to damages, special damages, treble damages, costs, expenses, attorneys' fees, prejudgment interest, and other relief allowed by law, including injunctive relief.

XI.

JURY DEMAND

Plaintiff, BAUER, demands a trial by jury on all issues and matters.

XII.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, **TREVOR ANDREW BAUER**, respectfully prays for judgment against Defendants, **BRENT POURCIAU AND TOP VELOCITY, LLC**, and for the following relief:

1. That the Court grant a preliminary and permanent injunction against Defendants: (1) from using BAUER's Protected Intellectual Property in any manner, (2) from using, maintaining or providing any website, domain, media, communication and/or social media that improperly implies that Plaintiff has any association with the Defendants of any kind, has endorsed Defendants' products and/or services or suggests that Plaintiff is part of Defendants' business; (3) from disseminating and/or distributing BAUER's Protected Intellectual Property without his consent; and (4) further order the Defendants to file with the Court and serve upon Plaintiff within thirty (30) days after any injunction is issued, a written report, certified under

oath, setting forth the manner and form in which Defendants have complied with the Court's injunction.

2. That the Court award treble damages and other damages together with costs, prejudgment interest and attorneys' fees as permitted by 15 U.S.C. §1117(a).

3. That the Court award punitive damages.

4. That the Court award actual damages and Defendants' profits derived from the unauthorized use of BAUER's Protected Intellectual Property together with attorneys' fees, costs and prejudgment interest.

5. That the Court award general damages.

6. That the Court award special damages.

7. That the Court award statutory damages.

8. That the Court order Defendants to destroy all Infringing Materials or any other material or thing which use contains BAUER's Protected Intellectual Property.

9. That the Court order Defendants to account to Plaintiff for any and all profits derived by them and for all damages sustained by Plaintiff by reason of Defendants wrongful conduct and actions.

10. That the Court award prejudgment and other interest allowed by law.

11. That the Court award Plaintiff such other and further relief allowed by law and/or as the Court may deem just and proper under the law.

Respectfully submitted,

s/ Edward D. Markle

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