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13 (pro hac vice application to be filed)

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15 **IN THE UNITED STATES DISTRICT COURT**
16 **FOR THE DISTRICT OF ARIZONA**

17 Scoop Soldiers Service Company, LLC,
18 a Texas limited liability company,

19 Plaintiff,

20 v.

21 Top Paw Distributing LLC, an Arizona
22 limited liability company; Top Paw,
23 LLC, an Arizona limited liability
24 company; and Carl Gregory, an
25 individual,

26 Defendants.

CASE NO.:

COMPLAINT

27 Plaintiff Scoop Soldiers Service Company, LLC, a Texas limited liability company,
28 (“Plaintiff,” “SSSC” or “Scoop Soldiers”), by and through the undersigned counsel, seeks
relief for *inter alia* trademark infringement and unfair competition by Defendants Top Paw
Distributing LLC, an Arizona limited liability company, Top Paw LLC, an Arizona limited
liability company, and Defendant Carl Gregory, a resident of the state of Arizona
(collectively “Defendants”). In support of this action, Plaintiff alleges as follows:

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1 **NATURE OF THE ACTION**

2 1. This is a civil action for trademark infringement and unfair competition under
3 the Lanham Act, 15 U.S.C. § 1051, *et seq.*; false designation of origin and false advertising
4 under 15 U.S.C. § 1125(a); and common law trademark infringement and unfair
5 competition under Arizona common law.

6 2. Long before the Defendants, Plaintiff Scoop Soldiers adopted and began
7 using its “SCOOP SOLDIERS” trademark in connection with its business providing pet
8 waste removal services and other related services (the “Scoop Services”). In addition to its
9 extensive common law rights, Scoop Soldiers has a registered trademark on the Principal
10 Register that was issued by the United States Patent Trademark Office (“USPTO”) on
11 November 5, 2019 bearing Reg. Number 5,905,187 (the “Scoop Mark”). See a true and
12 correct copy of the Plaintiff’s USPTO Certificate of Registration for its Scoop Mark which
13 is attached hereto as **Exhibit A**.

14 3. On January 23, 2019, Plaintiff also registered its trademark as a Domain
15 Name, a name that matches its federally registered trademark, and has continuously done
16 business using that website URL for its pet waste removal business:
17 **SCOOPSOLDIERS.COM**.

18 4. Scoop Soldiers brings this lawsuit to stop the ongoing consumer and market
19 confusion and the resulting harm that Defendants have caused by adopting and using
20 Plaintiff’s trademark in connection with the offering of identical pet waste removal service
21 in the state of Arizona.

22 5. Specifically, Defendants have adopted and are using the trademark “SCOOP
23 SOLDIER” in a Domain Name offering identical services to consumers and Defendants are
24 therefore trading off the reputation and goodwill that Plaintiff has earned through years of
25 hard work and investment, and is thereby unlawfully causing confusion in the marketplace.

26 6. Because there is no harm that is more irreparable than the loss of reputation
27 that this confusion has and will continue to cause, Scoop Soldiers asks the Court to stop
28 Defendants from using “SCOOP SOLDIER” or any other confusingly similar mark, and

1 adopt a non-infringing name, mark and website domain name for its business.

2 **PARTIES**

3 7. Plaintiff Scoop Soldiers Service Company, LLC, is a Texas limited liability
4 company, with a principal place of business located at 15315 Plum Lane, McKinney, Texas
5 75072.

6 8. Defendant Top Paw Distributing LLC is an Arizona limited liability
7 company, with a principal place of business located at 3219 E. Camelback Rd., Suite 380,
8 Phoenix, Arizona 85018. It is operated and managed by Defendant Top Paw LLC.

9 9. Defendant Top Paw LLC is an Arizona limited liability company, with a
10 principal place of business located at 3219 E. Camelback Rd., Suite 380, Phoenix, Arizona
11 85018. It is owned and managed by Defendant Carl Gregory.

12 10. Defendant Carl Gregory (“Gregory”) is an individual with an address of 3219
13 E. Camelback Rd., Suite 380, Phoenix, Arizona 85018, and is the owner and Manager of
14 Defendants Top Paw Distributing LLC and Top Paw, LLC.

15 11. Defendant Gregory is responsible for the unlawful conduct alleged herein,
16 and at all times referenced was the agent and/or servant and/or owner/principal/manager of
17 Defendants Top Paw Distributing LLC and Top Paw, LLC, and/or was acting within the
18 course and scope of said agency and/or ownership.

19 12. Defendant Gregory personally participated in, directed, authorized and/or
20 approved the unlawful activities described herein, or used Defendants Top Paw Distributing
21 LLC and Top Paw, LLC in a willful and intentional manner to carry out the unlawful
22 activities described herein.

23 13. Defendant Gregory, at all relevant times herein, knew or reasonably should
24 have known of the acts and behavior alleged herein and the damages caused thereby, and
25 by his inaction ratified and encouraged such acts and behavior. Plaintiff further alleges that
26 Defendant Gregory has a non-delegable duty to prevent such acts and the behavior
27 described herein, which duty he failed and/or refused to perform.

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1 **JURISDICTION AND VENUE**

2 14. This Court has jurisdiction under 28 U.S.C. § 1338 because this action arises
3 under an Act of Congress related to trademarks. This Court also has jurisdiction under 28
4 U.S.C. § 1367 and the doctrine of pendent jurisdiction over the state law claims because
5 they are so related to the claims arising under federal law that they form part of the same
6 case and controversy under Article III of the United States Constitution.

7 15. This Court has personal jurisdiction over SSSC and Defendants, and venue is
8 proper in the District of Arizona pursuant to 28 U.S.C. § 1391(b) and (c) because SSSC is
9 being harmed in this District where a substantial part of the events or omissions giving rise
10 to these claims occurred; and Defendants reside in and are located and registered to do
11 business in this District; and Defendants are is unlawfully using and infringing upon
12 Plaintiff's "SCOOP SOLDIERS" trademark in this District.

13 **FACTUAL BACKGROUND**

14 16. Scoop Soldiers began operations in 2010 as Pooper Troopers USA, LLC, its
15 ("Predecessor"), in Texas offering pet waste removal service.

16 17. Scoop Soldiers eventually began to offer franchise opportunities through the
17 United States. Between 2014 – 2015, Predecessor expanded into many areas throughout
18 Texas including the Dallas-Forth Worth metroplex, Austin, San Antonio, and Houston.

19 18. In 2017, Predecessor expanded into the Phoenix, Arizona market offering the
20 Scoop Services under a different mark.

21 19. On January 23, 2019, Scoop Soldiers' Predecessor filed U.S. Serial No.
22 88273715 ("the '715 Application") with the USPTO for the mark SCOOP SOLDIERS with
23 a date of first use of June 1, 2019. On the same day, Scoop Soldiers' Predecessor registered
24 the domain name SCOOPSOLDIERS.COM (the "Scoop Domain Name").

25 20. The '715 Application did not face any basis for refusal during the examination
26 period. After the '715 Application was approved for publication, Scoop Soldiers
27 incorporated in Texas as a limited liability company on May 16, 2019.

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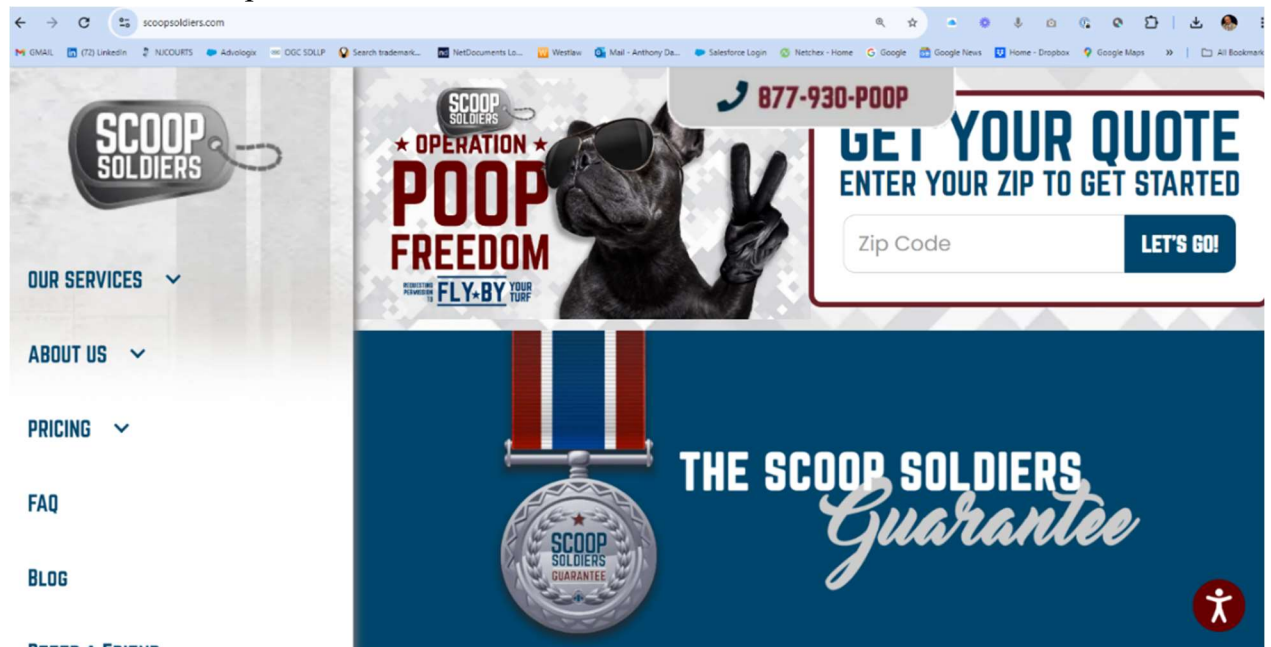
1 21. On August 12, 2019, Scoop Soldiers' Predecessor assigned all rights, title,
2 interest and goodwill in the '715 application to Scoop Soldiers including all rights, title and
3 interest in the Scoop Domain Name.

4 22. On November 5, 2019, the '715 Application for the SCOOP SOLDIERS
5 Mark matured into U.S. Registration No. 5905187.

6 23. Since 2019, Scoop Soldiers' Predecessor has offered the Scoop Services
7 under the Scoop Mark through the United States. Scoop Soldiers has offered and continues
8 to offer franchise opportunities under the Scoop Mark. By 2023, Scoop Soldiers had ninety-
9 six (96) franchised territories in 16 states.

10 24. Since 2019, Scoop Soldiers has been providing the Scoop Services within the
11 Phoenix, Arizona territory under the Scoop Mark.

12 25. Scoop Soldiers' homepage can be found at <https://www.scoopsoldiers.com/>.
13 The following is a screenshot excerpt of Plaintiff's current website homepage displaying its
14 trademark to the public:



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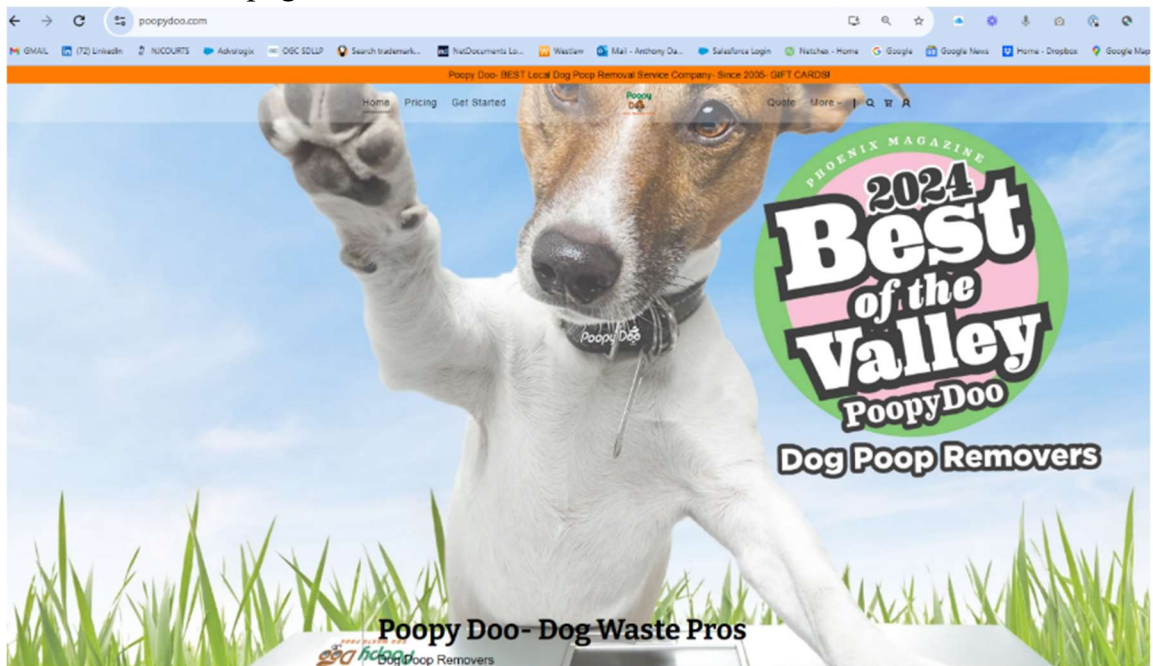
26 26. In 2022, Scoop Soldiers awarded the Phoenix, Arizona market to a franchisee,
27 Thompson Romney PHX LLC (the "Scoop Franchisee"). The Scoop Franchisee continues
28 to provide Scoop Services under the Scoop Mark in the Phoenix market.

1 27. Scoop Soldiers is well-known in the industry and numerous mainstream
2 outlets have featured and/or reported about its business and the Scoop Services. In fact,
3 *Inc.* Magazine has twice listed Scoop Soldiers within its *Inc.* 5000 list.

4 28. As a result of the excellent qualities of the Scoop Services, the widespread
5 association of the Scoop Mark and the Scoop Domain Name with Plaintiff, the continuous,
6 significant, and substantially exclusive use of the Scoop Mark, the registration of the Scoop
7 Mark, and the extensive sales and advertising of same, Scoop Soldiers has established
8 substantial trademark rights in the Scoop Mark.

9 29. Defendants Top Paw Distributing LLC and Top Paw LLC (collectively “Top
10 Paw”) is a distributor of pet care products such as pet urine removers, pet toys, and pet foods
11 that also offers pet waste removal services in Phoenix, Arizona.

12 30. Top Paw offers competing pet waste removal services through its website
13 named: <https://poopydoo.com/>. The following is a screenshot excerpt of Defendants’
14 current website homepage:



26 31. In 2022, Top Paw registered the domain name SCOOPSOLDIER.com (the
27 “Top Paw Domain”). The Top Paw Domain is identical to the Scoop Domain Name, but
28 omits the second letter “s” in “soldiers.”

1 32. The Top Paw Domain is confusing similarity to the Scoop Mark and the
2 Scoop Domain.

3 33. Defendants have misused the Top Paw Domain by automatically redirecting
4 anyone that tries to access the Top Paw Domain to their www.poopydoo.com website where
5 they are offered identical pet waste removal services as those being offered by Scoop
6 Soldiers under the Scoop Mark.

7 34. Scoop Soldiers has developed substantial goodwill through its use of its
8 “SCOOP SOLDIERS” trademark in conjunction with its services and business activities by
9 means of extensive sales and marketing efforts.

10 35. As a result of its infringing conduct, Defendants have created consumer
11 confusion which is ongoing and continuing.

12 36. As a result of Defendants’ unlawful conduct, Plaintiff was compelled to file
13 this action to protect its reputation and its trademark rights.

14 **INJURY TO SCOOP SOLDIERS AND THE PUBLIC**

15 37. Defendants’ unauthorized use of the confusingly similarly “SCOOP
16 SOLDIER” in the Top Paw Domain has caused confusion and, if not enjoined, is likely to
17 cause continued and increased confusion, mistake, and deception between the source of
18 origin of Plaintiff’s services, its business, and/or its commercial activities and Defendants,
19 their goods and services, their business, and/or their activities.

20 38. Defendants’ actions described herein are likely to dilute the distinctive quality
21 of the Scoop Mark by blurring and/or tarnishment.

22 39. Defendant’s unauthorized use of the Scoop Mark has damaged and
23 irreparably injured and, if permitted to continue, will further damage and irreparably injure
24 Plaintiff, its trademark, its reputation and goodwill associated with its mark, and the public’s
25 interest in being free from confusion, mistake, and deception.

26 40. Defendants knew, or should have known, that their unauthorized use of the
27 Scoop Mark violates Plaintiff’s rights in its trademark. Thus, Defendants have acted
28 knowingly, willfully, in reckless disregard of Plaintiff’s rights, and in bad faith.

1 41. Plaintiff has no adequate remedy at law.

2 ***FIRST CAUSE OF ACTION***
3 **FEDERAL TRADEMARK**
4 **INFRINGEMENT**
5 **(15 U.S.C. § 1051 *et seq.*)**

6 42. Plaintiff incorporates by reference all allegations set forth in paragraphs 1
7 through 41 as though fully set forth herein.

8 43. The infringing mark and domain name used by Defendants is virtually
9 identical to and is so similar as to be an infringing colorable imitation of the Scoop Mark,
10 and Defendants' use of the infringing mark and domain is likely to cause confusion,
11 mistake, or deception in that consumers are likely to believe that the Defendants are in some
12 manner affiliated with, approved by, associated with, sponsored by or connected with
13 Plaintiff. Defendants' use of the infringing mark and domain is likely to cause consumer
14 confusion and mistake, or to deceive as to the origin or approval of the associated services.

15 44. Defendants have willfully used the infringing mark and domain in commerce
16 to advertise and sell the identical services as Plaintiff, namely, the pet waste removal
17 services.

18 45. Defendants' actions have damaged Plaintiff's business, reputation, and
19 goodwill.

20 46. Defendants' actions constitute trademark infringement under 15 U.S.C. §
21 1051, *et seq.*

22 ***SECOND CAUSE OF***
23 ***ACTION***
24 **FEDERAL TRADEMARK INFRINGEMENT, FALSE DESIGNATION OF**
25 **ORIGIN, AND UNFAIR COMPETITION**
26 **(15 U.S.C. § 1125(a)(1)(A))**

27 47. Plaintiff incorporates by reference all allegations set forth in paragraphs 1
28 through 46 as though fully set forth herein.

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1 the infringing mark and domain is likely to cause consumer confusion or mistake, or to
2 deceive as to the origin or approval of the associated services, and further tends to cause
3 consumer confusion as to origin.

4 56. Defendants' aforesaid acts are greatly and irreparably damaging to Plaintiff
5 and will continue to inflict irreparable damage unless enjoined by this Court; without this
6 result, Plaintiff is without adequate remedy at law.

7 57. Defendants' aforesaid acts are carried out willfully and in full knowledge that
8 their infringing mark and domain infringes on and tends to create confusion with Plaintiff's
9 Scoop Mark. Defendants' aforesaid acts are carried out willfully and in full knowledge that
10 its use of Plaintiff's Scoop Mark infringes on Plaintiff's rights.

11 58. If not stopped, Defendants will continue to harm Plaintiff irreparably, leaving
12 Plaintiff with no adequate remedy at law.

13 59. Defendants' acts have damaged Plaintiff's business, reputation and goodwill.

14 60. Defendants' unlawful actions constitute common law trademark
15 infringement.

16 ***FOURTH CAUSE OF***
17 ***ACTION***
18 **COMMON LAW UNFAIR COMPETITION**

19 61. Plaintiff incorporates by reference all allegations set forth in paragraphs 1
20 through 60 as though fully set forth herein.

21 62. Defendants' aforesaid acts enable and will continue to enable Defendants to
22 obtain the benefit of and trade off the goodwill of Plaintiff.

23 63. Defendants' aforesaid acts damage and will continue to damage Plaintiff's
24 goodwill in that Plaintiff does not have control over the business and services of Defendants.

25 64. Defendants' aforesaid acts have caused, and are likely to continue to cause,
26 confusion, mistake, or deception of the public.

27 65. Defendants' aforesaid acts will and have result in unfair competition and
28 unjust enrichment of Defendants.

1 logo, trade name, company name, source identifier, or designation (including the
2 words “Scoop” “Soldier” or “Soldiers”) in any manner likely to cause confusion
3 with Plaintiff’s Scoop Mark, or to otherwise injure Plaintiff and/or its reputation;

4 b) From representing, by any means whatsoever, directly or indirectly,
5 that Plaintiff, its services, and/or its activities originate from, are sponsored by,
6 or are associated, affiliated, or connected with Defendants in any way; and

7 c) From assisting, aiding, and/or abetting any other person or entity in
8 engaging in or performing any of the activities referred to above.

9 7. An Order requiring Defendants to immediately retract and destroy all signage,
10 advertisements, promotional materials, stationary, forms, and/or materials and things that
11 contain or bear the Plaintiff’s Scoop Mark, and/or any other name, mark, trade name,
12 company name, source identifier, or designation that contains or is confusingly similar to
13 or dilutive of Plaintiff’s Scoop Mark;

14 8. An Order requiring Defendants to immediately discontinue and cease all use
15 and operation of its website under the domain name: www.ScoopSoldier.com or any use
16 of a confusingly similar domain name;

17 9. An Order directing that, within thirty (30) days after the entry of the
18 injunction, Defendants file with this Court and serve on Plaintiff’s attorneys a report in
19 writing and under oath setting forth in detail the manner and form in which Defendants have
20 complied with the injunction;

21 10. An Order requiring Defendants to account for and pay to Plaintiff all profits
22 arising from Defendants unlawful acts, and increasing such profits, including trebling them,
23 in accordance with 15 U.S.C. § 1117 and other applicable laws;

24 11. An Order requiring Defendants to pay to Plaintiff punitive damages in an
25 amount to be determined due to the foregoing willful acts of Defendants;

26 12. An Order requiring Defendants to pay damages, in an amount to be
27 determined (but exceeding \$75,000), resulting from Defendants’ unlawful acts, and trebling
28 such damages in accordance with 15 U.S.C. § 1117 and other applicable laws;

1 13. An Order requiring Defendants to pay Plaintiff's costs and attorneys' fees in
2 this action pursuant to 15 U.S.C. § 1117 and other applicable laws;

3 14. An Order requiring Defendants to pay all available damages pursuant to
4 Arizona law; and

5 15. Other relief as the Court may deem just and proper.

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Dated: October 11, 2024

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