

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

CARNER BARZAKAY, LLC, a Florida limited
liability company,

Plaintiff,

v.

BIG AL'S BAIL BONDS, INC., a Florida
corporation, BIG AL'S BAIL BONDS, LLC, a
Florida limited liability company, ALAN
CERTAIN, JR., an individual, and JUSTINA
WAYNE, an individual,Defendants.
_____ /**COMPLAINT**

Plaintiff, Carner Barzakay, LLC, ("Carner"), by and through its undersigned counsel, hereby sues Defendants, Big Al's Bail Bonds, Inc. ("Big Al's Inc."), Big Al's Bail Bonds, LLC, LLC, ("Big Al's LLC") (collectively, the "Corporate Defendants"), Alan Certain, Jr. ("Certain"), and Justina Wayne, ("Wayne") (hereinafter individually each defendant is referred to as "Defendant" and collectively all referred to as "Defendants"), and states:

JURISDICTION & VENUE

1. This is an action for service mark infringement, counterfeiting, unfair competition and cyberpiracy under the United States Trademark Act ("Lanham Act"), 15 U.S.C. §§ 1051 et seq. This Court has subject matter jurisdiction under § 39 of the Federal Trademark Act, 15 U.S.C. § 1121(a), and the Judicial Code, 28 U.S.C. §§ 1331 and 1338. This Court has supplemental jurisdiction of the state statutory and common law claims under 28 U.S.C. §§ 1338(b) and 1367(a). This complaint asserts claims for federal service mark counterfeiting and

infringement in violation of Section 32 and 43(a) of the Lanham Act, 15 U.S.C. §§ 1114 and 1125(a), for unfair competition in violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125(a), for cyberspionage in violation of Section 43 of the Lanham Act, 15 U.S.C. § 1125(d), for federal trademark dilution in violation of Section 43 of the Lanham Act 15 U.S.C. § 1125(c), for service mark infringement in violation of the common law of Florida, for unfair competition in violation of the common law of Florida, for service mark dilution in violation of the Florida Trademark Act (Fla. Stat. §495.001, et. seq.) and the common law of Florida, for civil conspiracy, and for cancellation of a fraudulent Florida trademark under Fla. Stat. §495.101.

2. This Court has personal jurisdiction over Defendants under Fla. Stat. §48.193, because they are incorporated in or reside in Florida, have engaged in substantial and not isolated business activity in the Florida, are operating, conducting, engaging in, or carting on a business or business venture in Florida, maintain offices in Florida, signed contracts in Florida, have offered services and goods into the Florida, and have committed the tortious acts complained of herein in the Florida.

3. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because all of the Defendants reside in this District and a substantial part of the events or omissions giving rise to the claim occurred in this District. The Corporate Defendants are subject to personal jurisdiction in this District because they have engaged in substantial and not isolated business activity in the District, are operating, conducting, engaging in, or carting on a business or business venture in the District, maintain offices in the District, signed contracts in the District, have offered services and goods into the District, and have committed the tortious acts complained of herein in the District. As such, they are deemed, pursuant to 28 U.S.C. § 1391(c), to reside in this District for purposes of venue.

THE PARTIES

4. Plaintiff Carner is a Florida limited liability company.

5. Defendant Big Al's Inc. is a Florida corporation with a principal address of 300 S.W. 12th St., Ft. Lauderdale, FL 33315. Its Registered Agent for service of process is Defendant Certain, at the same address.

6. Defendant Big Al's LLC is a Florida limited liability company with a principal address of 300 S.W. 12th St., Ft. Lauderdale, FL 33315. Its Registered Agent for service of process is Defendant Certain, at the same address.

7. Defendant Certain is an individual who, upon information and belief, resides in Broward County, Florida, is the Registered Agent of the Corporate Defendants, President of Defendant Big Al's Inc., and Manager of Defendant Big Al's LLC, and has been *sui juris* at all times relevant hereto.

8. Defendant Wayne is an individual who, upon information and belief, resides in Broward County, Florida, is Vice President of Defendant Big Al's Inc., and Manager of Defendant Big Al's LLC, and has been *sui juris* at all times relevant hereto.

9. Upon information and belief, Defendants Certain and Wayne control and direct the activities of the Corporate Defendants, and are the active moving forces behind the tortious conduct of the Corporate Defendants as alleged herein, and accordingly, are jointly and severally liable therefor.

STATEMENT OF FACTS

10. As early as 2005, Carner began advertising the mark BIG AL (the "Mark"), in connection with legal services. Carner has run an extensive series of advertisements in various media featuring the Mark, including, but not limited to, print media, radio and television, and has

spent millions of dollars in connection with this advertising. In recent years, Carner has spent an average of \$100,000 per month on advertising featuring the Mark.

11. Carner is the owner of the United States Service Mark BIG AL, Registration No. 3,860,159, for “legal services.” This registration is valid and subsisting and in full force and effect.

12. Due to Carner’s promotional efforts, the Mark has become associated exclusively with Carner’s services.

13. As a result of the supervision and control exercised by Carner over the nature and quality of the services offered in connection with the Mark and the extensive advertising and public acceptance of the Mark, as well as the extensive sale of services offered in connection with the Mark, the Mark has acquired celebrity, particularly in Florida, symbolizing the extensive goodwill that Carner has created. Therefore, the Mark has acquired significant secondary meaning in the minds of the relevant public and has become famous. Indeed, this Court, in *Carner Barzakay, LLC v. The Accident Hotline Guide, Inc., et al*, Case No. 10-24135-CIV-GRAHAM, ruled that the Mark is famous. *See* [DE 21] at ¶9.

14. In light of the fame and status of the distinctive Mark, the Mark has become an asset of enormous, if not incalculable, value to Carner.

15. Long after Carner’s first use of the Mark, and long after the Mark acquired secondary meaning and became famous, Defendants began to use, without Carner’s consent, a counterfeit of the Mark in connection with bail bond services, which they refer to as “BIG AL’S BAIL BONDS”.

16. Defendants offer their services on website associated with the domain BIGALS BAIL BONDS.COM, which constitutes a further misappropriation of the Mark.

17. Due to the high degree of relation between legal services and bail bond services, the public is likely to be confused by Defendants' counterfeit mark. Indeed, Carner has received multiple calls from members of the public confused by Defendants' counterfeiting and inquiring as to whether Carner is now operating a bail bond business.

18. The legal industry is built on trust and confidence. The harm that could be caused to Carner by Defendants' actions in falsely representing themselves as BIG AL is substantial and irreparable.

19. If the public's confidence in Carner's brand is lost, Carner's entire business and practice can be destroyed.

20. Defendants' use of the Mark has been undertaken and continued deliberately, with knowledge of Carner's prior use of the famous Mark and with the willful intent to cause mistake, to deceive and/or to confuse consumers into believing that Carner sponsors or approves of Defendants' use of the Mark, thus causing injury to Carner.

21. Defendants' actions described above (1) are likely to affect interstate commerce by deceiving or confusing the public throughout the nation, including but not limited to, Florida; (2) constitute a false designation of the origin of the BIG AL mark; (3) falsely suggests a non-existent connection between Defendants and Carner; (4) falsely suggests that Carner has sponsored, licensed or approved of Defendants' use of the Mark; and (5) have diluted, damaged, blurred and tarnished the distinctive quality and value of the Mark, and continue to do so. Such confusion, counterfeiting, infringement, unfair competition, and cybersquatting are and will continue to irreparably injure Carner's goodwill, business reputation, and the Mark.

22. In addition, because the Mark is used on a national scale via licensees, Defendants' wrongful activity is likely to cause confusion throughout the nation, to harm

Carner's licensees, and to interfere with Carner's relationships with licensees and prospective licensees.

23. On July 11, 2011 Carner, through counsel, contacted Defendants and demanded that it immediately cease its tortious conduct. Defendants did not comply with this demand, and instead on July 21, 2011, in a further display of bad faith, applied to register their counterfeit mark with the State of Florida, resulting in Florida Trademark Registration No. T11000000709 for the mark BIG AL'S BAIL BONDS "GOT JAIL? CALL YOUR PAL BIG AL!" Such disregard for the law is particularly shocking coming from licensed bond agents, and underscores the threat to Carner's reputation inherent in being confused with Defendants.

24. All conditions precedent to the bringing of this action have either been satisfied or have been waived by Defendants.

25. Carner has retained the undersigned counsel in connection with this suit and is obligated to pay them a reasonable fee for their services.

FIRST CAUSE OF ACTION
Federal Service Mark Counterfeiting and Infringement Under the
Lanham Act §§ 32 and/or 43(a), 15 U.S.C. §§ 1114 and/or 1125(a)
Against All Defendants

26. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

27. The Mark is inherently distinctive and has become exclusively associated with, and exclusively identifies, Carner's business and services.

28. By using Carner's federally-registered Mark in a counterfeit manner to misrepresent themselves to the consumer, Defendants have intentionally caused confusion and mistake and have deceived consumers.

29. Defendants' unauthorized use of the Mark in commerce for services related to those offered by Carner is calculated to, and is likely to, deceive, mislead and confuse the

relevant consumers as to an affiliation, connection, or association with Carner, or as to the origin, sponsorship, or approval of Defendants' services or commercial activities. Such actions therefore constitute counterfeiting and service mark infringement in violation of §§ 32 and/or 43(a) of the Lanham Act, 15 U.S.C. §§ 1114 and/or 1125(a).

30. As a proximate result of the acts of Defendants as alleged herein, Carner has suffered and will continue to suffer great damage to its business, goodwill, reputation, and profits, while Defendants have profited from their wrongdoing.

31. Carner has no adequate remedy at law for the counterfeiting and infringement of its service mark as alleged herein. Unless the use of the Mark and the BIGALSAILBONDS.COM domain are permanently enjoined by the Court pursuant to 15 U.S.C. § 1116, Carner will continue to suffer irreparable harm.

32. The actions of Defendants have been willful and deliberate and amount to exceptional circumstances, justifying an award of attorney's fees to Carner pursuant to 15 U.S.C. § 1117.

33. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is jointly and severally liable therefor.

34. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is jointly and severally liable therefor.

SECOND CAUSE OF ACTION
Federal Unfair Competition Under the
Lanham Act §§ 43(a), 15 U.S.C. §§ 1125(a)
Against all Defendants

35. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

36. The Mark is inherently distinctive and has become exclusively associated with, and exclusively identifies, Carner's business and services.

37. By reason of Defendants' wrongful use of the Mark, consumers have been intentionally deceived by Defendants, thereby degrading and damaging Carner's consumer goodwill.

38. By using the Mark to deceive consumers, with knowledge that Carner owns and has used, and continues to use, the Mark in Florida and across the United States, Defendants have intentionally made false designations of origin about Defendants' services and commercial activities. Such conduct already has, and is likely to continue to, cause confusion, mistake, and to deceive as to the affiliation, connection, or association of Defendants with Carner, or as to the origin, sponsorship, or approval of Defendants' services with respect to Carner. In addition, this conduct constitutes misrepresentation as to the nature, characteristics, and qualities of Defendants' services.

39. As a proximate result of the acts of Defendants as alleged herein, Carner has suffered and will continue to suffer great damage to its business, goodwill, reputation, and profits, while Defendants have profited from their wrongdoing.

40. Carner has no adequate remedy at law for the false designation of origin as alleged herein. Unless the use of the Mark is permanently enjoined by the Court pursuant to 15 U.S.C. § 1116, Carner will continue to suffer irreparable harm.

41. Furthermore, Defendants' registration of the domain BIGALS BAIL BONDS.COM, in view of their intentional counterfeiting activities, can only be seen as a further effort to profit through consumer confusion and theft of Carner's goodwill thereby causing irreparable harm to Carner which can only be prevented through an order transferring the domain.

42. The actions of Defendants have been willful and deliberate and amount to exceptional circumstances, justifying an award of attorney's fees to Carner pursuant to 15 U.S.C. § 1117.

43. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

44. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

THIRD CAUSE OF ACTION
Federal Cybersquatting Under Lanham Act § 43(d), 15 U.S.C. § 1125(d)(1)(A)
Against all Defendants

45. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

46. The Mark is distinctive as used in connection with legal services, and is famous as a result of Carner's prominence in the marketplace and its extensive advertising, promotion and sale of services in connection with the Mark.

47. Defendants have wrongfully registered, trafficked in, and/or use the Internet domain name BIGALS BAIL BONDS.COM which is, and was known by Defendants to be at the time of registration of the domain, confusingly similar to and/or dilutive of the Mark, which was already distinctive and famous. As a result, consumers and other members of the public have

been, and will continue to be, erroneously led to believe that Defendants' domain name and the associated website originated with or was sponsored or otherwise approved by Carner, in violation of § 43(d) of the Lanham Act, 15 U.S.C. § 1125(d)(1)(A).

48. Defendants' aforementioned acts were committed with the bad faith intent to profit from or trade off the fame, reputation and brand recognition inherent in the Mark.

49. Defendants' registration and use of the domain name BIGALS BAIL BONDS.COM is likely to cause confusion with respect to the Mark and is dilutive of the Mark.

50. Defendants' acts constitute cyberpiracy in violation of § 43(d) of the Lanham Act, 15 U.S.C. § 1125(d)(1)(A).

51. As a proximate result of Defendants' unlawful acts as alleged herein, Carner has suffered and will, without judicial intervention, continue to suffer great damage to its business, goodwill, reputation and profits.

52. Carner has no adequate remedy at law against the acts of cyberpiracy committed by Defendants as alleged herein. Unless Defendants' use of BIGALS BAIL BONDS.COM is permanently enjoined by the Court pursuant to 15 U.S.C. § 1116, and the domain name transferred to Carner pursuant to 15 U.S.C. § 1125(d)(1)(C), Carner will continue to suffer irreparable harm.

53. The actions of Defendants have been willful and deliberate and amount to exceptional circumstances, justifying an award of attorney's fees to Carner pursuant to 15 U.S.C. § 1117.

54. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

55. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

FOURTH CAUSE OF ACTION
Federal Dilution Under Lanham Act
§ 43(c) and or § 43(d)(1), 15 U.S.C. § 1125(c) and/or § 1125(d)(1)
Against all Defendants

56. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

57. The Mark is distinctive as used and registered by Carner in connection with Carner's services. The Mark is strong, and indeed, famous, as a result of Carner's prominence in the marketplace and Carner's extensive advertising, promotion and sale of the services in association with the Mark.

58. Defendants' use of BIG AL and the domain BIGALSBAILBONDS.COM, for promoting and selling services not emanating from, associated with ,or approved by Carner, has diluted, blurred, and diminished, and is likely to dilute, blur, and diminish the distinctive quality and value of the famous Mark, in violation of 15 U.S.C. § 1125(c) and/or § 1125(d)(1).

59. As a proximate result of Defendants' unlawful acts as alleged herein, Carner has suffered and will, without judicial intervention, continue to suffer great damage to its business, goodwill, reputation and profits. Carner has no adequate remedy at law.

60. The actions of Defendants have been willful and deliberate and amount to exceptional circumstances, justifying an award of attorney's fees to Carner pursuant to 15 U.S.C. § 1117.

61. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

62. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

FIFTH CAUSE OF ACTION
Common Law Service Mark Infringement
Against all Defendants

63. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

64. The Mark is distinctive as used by Carner in connection with Carner's services, and indeed, famous, as a result of Carner's prominence in the marketplace and Carner's extensive advertising, promotion and sale of the services in association with the Mark

65. The Mark is distinctive and has become exclusively associated with and exclusively identifies Carner's business and services, and as a result of the supervision and control exercised by Carner's over the nature and quality of the services offered in connection with the Mark, and the extensive advertising, sale and public acceptance of the Mark, this distinctive mark has acquired celebrity symbolizing the extensive goodwill and reputation that Carner had created. Therefore, the distinctive Mark has acquired significant secondary meaning in the minds of the relevant public and has become famous.

66. By reason of Defendants' wrongful use of the Mark, long after Carner's first use of the Mark, to identify services related to those offered by Carner in the same geographical area, consumers are likely to mistakenly believe that Defendants' services are sponsored or otherwise approved by Carner.

67. As a proximate result of Defendants' unlawful acts as alleged herein, Carner has suffered and will, without judicial intervention, continue to suffer great damage to its business, goodwill, reputation and profits.

68. Carner has no adequate remedy at law for the infringement of its service mark as alleged herein. Unless the use of the Mark and the BIGALS BAIL BONDS.COM domain are permanently enjoined by the Court, Carner will continue to suffer irreparable harm.

69. Carner is entitled to recover from Defendants all damages it has and may later sustain due to Defendants' improper conduct and is further entitled to recover Defendants' profits obtained from their improper conduct, in an amount to be proven.

70. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

71. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

SIXTH CAUSE OF ACTION
Unfair Competition in Violation of Florida Common Law
Against all Defendants

72. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

73. The Mark is distinctive as used in connection with legal services, and is famous as a result of Carner's prominence in the marketplace and its extensive advertising, promotion and sale of services in connection with the Mark.

74. By reason of Defendants' wrongful use of the Mark, long after Carner's first use of the Mark, to identify services related to those offered by Carner in the same geographical area, consumers are likely to mistakenly believe that Defendants' services are sponsored or otherwise approved by Carner.

75. Defendants' willful acts as alleged herein, which confuse, mislead, and deceive the public as to the source of Defendants' services, and falsely suggest a connection with Carner, constitute acts of unfair competition with Carner in violation of the laws of the State of Florida.

76. As a proximate result of Defendants' unlawful acts as alleged herein, Carner has suffered and will, without judicial intervention, continue to suffer great damage to its business, goodwill, reputation and profits.

77. Carner has no adequate remedy at law for the infringement of its service mark as alleged herein. Unless the use of the Mark and the BIGALS BAIL BONDS.COM domain are permanently enjoined by the Court, Carner will continue to suffer irreparable harm.

78. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

79. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

SEVENTH CAUSE OF ACTION
State Statutory and Common Law Trademark Dilution
Pursuant to FLA. STAT. § 495.151
Against All Defendants

80. Carner realleges and incorporates herein by reference the allegations of paragraphs 1-25 of the Complaint as set forth above.

81. The Mark is famous in the state of Florida as a result of Carner's prominence in the marketplace and Carner's extensive advertising, promotion and sale of the services in association with its Mark.

82. Defendants' use of the trademark BIG AL, for promoting and selling services not emanating from, associated with or approved by Carner, has diluted, blurred, and diminished,

and is likely to dilute, blur, and diminish the distinctive quality and value of the famous Mark, in violation of the laws of Fla. Stat. § 495.151.

83. Defendants willfully sought to trade upon Carner's reputation or to cause dilution of the Mark.

84. As a proximate result of Defendants' unlawful acts as alleged herein, Carner has suffered and will, without judicial intervention, continue to suffer great damage to its business, goodwill, reputation and profits.

85. Carner has no adequate remedy at law for the infringement of its service mark as alleged herein. Unless the use of the Mark and the BIGALSAILBONDS.COM domain are permanently enjoined by the Court, Carner will continue to suffer irreparable harm.

86. The actions of Defendants justify an award of attorney's fees to Carner pursuant to Fla. Stat. § 495.141 and Fla. Stat. § 495.151.

87. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

88. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

EIGHTH CAUSE OF ACTION
Cancellation of Fraudulent Florida Trademark Registration
Pursuant to FLA. STAT. §§ 495.101 and 495.121
Against all Defendants

89. The allegations contained in paragraphs 1-25 are hereby re-alleged as if fully set forth herein.

90. Carner is the owner of the United States Service Mark BIG AL, Registration No. 3,860,159, for "legal services." This registration was granted on October 12, 2010, and is valid and subsisting and in full force and effect.

91. Subsequent to the registration of Carner's Mark, Defendant Big Al's Inc. applied for and received Florida Trademark Registration No. T11000000709 for the mark BIG AL'S BAIL BONDS "GOT JAIL? CALL YOUR PAL BIG AL!" in connection with "engaging in nationwide bail bond services under the laws of the United States and State of Florida."

92. The application contains a sworn declaration by Defendant Certain that falsely states that Defendant Big Al's Inc. is the owner of the trademark, and that no other person had registered or had the right to use a mark in such near resemblance as to be likely, when applied to their goods or services, to cause mistake or to deceive. Without this false declaration of facts material to the trademark sought to be registered, the registration would not have been granted. At the time this sworn declaration was made, Defendants were already in receipt of Carner's demand letter, and so were aware of Carner's rights and of the declaration's falsity.

93. Big Al's Inc.'s mark is so similar to Carner's Mark as to be likely to cause confusion or to deceive, and accordingly, must be cancelled pursuant to Fla. Stat. §495.101(d).

94. Because Carner, and not Defendant Big Al's, Inc., is the true owner of the mark in the subject registration, the registration must be cancelled pursuant to Fla. Stat. §495.101(b).

95. Because the registration was granted in reliance upon the false declaration in the application, the registration was granted improperly, and must be cancelled pursuant to Fla. Stat. §495.101(c).

96. Because the registration was obtained fraudulently, it must be cancelled pursuant to Fla. Stat. §495.101(d).

97. As a proximate result of Defendants' unlawful acts as alleged herein, Carner has suffered and will, without judicial intervention, continue to suffer great damage to its business, goodwill, reputation and profits.

98. Carner is entitled to damages pursuant to Fla. Stat. § 495.121.

99. The actions of Defendants justify an award of attorney's fees to Carner pursuant to Fla. Stat. § 495.141.

100. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

101. Upon information and belief, the Defendants have all conspired together to commit the foregoing acts, and each is therefore jointly and severally liable therefor.

NINTH CAUSE OF ACTION
Civil Conspiracy
Against All Defendants

102. The allegations contained in paragraphs 1-25 are hereby re-alleged as if fully set forth herein.

103. As alleged more fully above, upon information and belief, Defendants have conspired to do unlawful acts or to do lawful acts by unlawful means.

104. As a direct and proximate result of this conspiracy and the acts done in furtherance of it, Carner has suffered and will suffer damages in an amount to be calculated.

105. Upon information and belief, Defendants Certain and Wayne have been the active, moving force behind the Corporate Defendants' tortious conduct, and each is therefore jointly and severally liable therefor.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that the Court order the following relief:

A. That the Court enter a preliminary and permanent injunction prohibiting Defendants, their officers, agents, servants, employees, and/or all persons acting in privity or in concert or participation with them, or any of them, from: (1) using the confusingly similar mark BIG AL, and any confusingly similar variations thereof, alone or in combination with any other letters,

words, letter strings, phrases, or designs in commerce or in connection with any business or for any other purpose (including, but not limited to, on web sites, in domain names, and as names for business entities); (2) registering or trafficking in any domain names containing the term “BIG AL” or confusingly similar variations thereof, alone or in combination with any other letters, words, phrases or designs; and (3) engaging in any course of conduct likely to cause confusion, deception or mistake, or injure Carner’s business reputation or weaken the distinctive quality of Carner’s marks, as well as ordering them to surrender to Carner for destruction any promotional materials in their possession that contain the prohibited terms;

B. A preliminary injunction against the use, sale, transfer or operation of the BIGALS BAIL BONDS.COM domain or any domain which includes the mark BIG AL or any confusingly similar mark and permanent injunction requiring the current domain registrars to transfer such domain names to Carner;

C. That the Court order the cancellation of Florida Trademark Registration No. T11000000709.

D. An award of compensatory, consequential, statutory, and punitive damages in an amount to be determined at trial;

E. An award of interest, costs and attorneys’ fees incurred by Carner in prosecuting this action; and

F. All other relief to which Carner is entitled.

DEMAND FOR TRIAL BY JURY

Plaintiff demands trial by jury for all issues so triable as a matter of law.

Dated: August 9, 2011.

Respectfully Submitted,

By: s/ Michael E. Tschupp
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