

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF KENTUCKY  
LOUISVILLE DIVISION**

GULLIVER’S TAVERN, INC. d/b/a  
FOXY LADY,

Plaintiff,

v.

FOXY, INC. d/b/a FOXY LADY  
GENTLEMEN’S CLUB,

SERVE: REGISTERED AGENT  
MILFORD RENFROW  
1715 BERRY BLVD.  
LOUISVILLE, KY 40215

Defendant.

Civil Action No. 3:23CV-53-RGJ

**COMPLAINT**

For its Complaint against Defendant Foxy, Inc. d/b/a Foxy Lady Gentlemen’s Club (“FLGC”), Plaintiff Gulliver’s Tavern, Inc. d/b/a Foxy Lady (“Foxy Lady”) complains and alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for trademark infringement and unfair competition under the Lanham Act with a pendant claim for common law trademark infringement.
2. Foxy Lady seeks damages, attorneys’ fees, costs, and permanent injunctive relief.

**JURISDICTION**

3. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C. §§ 1331 and 1338(a). The Court has supplemental jurisdiction over Plaintiff’s state law claims pursuant to 28 U.S.C. § 1367(a).
4. This Court has personal jurisdiction over Defendant FLGC based upon the following: (a) FLGC is incorporated in the Commonwealth of Kentucky; and (b) FLGC’s principal place of business is in this judicial district.

5. Venue is proper in the United States District Court for the Western District of Kentucky under 28 U.S.C. § 1391(b) and (c).

### **THE PARTIES**

6. Foxy Lady is a Rhode Island corporation with its principal place of business in Providence, Rhode Island. Foxy Lady's owns and operates the Foxy Lady adult entertainment club in Providence, Rhode Island.

7. FLGC is a Kentucky corporation with its principal place of business in Louisville, Kentucky. FLGC operates the Foxy Lady Gentlemen's Club in Louisville, Kentucky.

### **ALLEGATIONS COMMON TO ALL COUNTS**

8. Foxy Lady operates the Foxy Lady adult entertainment club in Providence, Rhode Island. The club has been in operation since 1979.

9. Foxy Lady owns the mark FOXY LADY and variants thereto and has obtained a federal mark registration for FOXY LADY (U.S. Reg. No. 2,809,938) for entertainment in the nature of live performances for an adult audience, namely exotic dance performances and restaurant services and bar services.

10. Foxy Lady federal trademark registration has not been abandoned, cancelled, or revoked. In fact, it has become incontestable through the filing of Section 8 and Section 15 affidavits in the United States Patent and Trademark Office.

11. Since it commenced using the mark in 1979, Foxy Lady and its licensees have continuously used the mark in connection with advertising and promoting its goods and services. Foxy Lady has spent significant funds advertising and promoting its FOXY LADY marks, including on the internet through a website accessible at <foxyladyri.com>.

12. Based upon its federal trademark registrations and extensive use, Foxy Lady owns the exclusive right to use the FOXY LADY mark in connection with exotic dance performances, bar services, and restaurant services.

13. Foxy Lady additionally owns valid and subsisting common law rights to the FOXY LADY mark by continually using the FOXY LADY name and mark in connection with the goods and services it provides, specifically exotic dance, bar, and restaurant services.

14. On information and belief, Defendant FLGC has been in operation since March 9, 2000.

15. On information and belief, Defendant operates a business with exotic dance performances, bar services, and restaurant services.

16. Defendant uses Plaintiff's registered FOXY LADY mark for the same purposes as Plaintiff uses the mark. Defendant's use of the mark infringes upon Foxy Lady trademark rights and attempts to trade on the goodwill of Plaintiff Foxy Lady.

17. FLGC operates an Instagram page, located at [instagram.com/foxy\\_ladyky/?hl=en](https://www.instagram.com/foxy_ladyky/?hl=en). FLGC's Instagram page almost exclusively features images of women in various stages of undress and happy hour advertisements, in a manner that creates confusion with Foxy Lady's use of its mark. *See Exhibit 1.*

18. FLGC also has an Instagram hashtag page, located at [instagram.com/explore/locations/17180245/foxy-lady-gentlemens-club/](https://www.instagram.com/explore/locations/17180245/foxy-lady-gentlemens-club/). The Instagram hashtag page almost exclusively features images of women in various stages of undress and happy hour advertisements, in a manner that creates confusions with Foxy lady's use of its mark. *See Exhibit 2.* When an Instagram user uses the #foxyladygentlemensclub hashtag, the user will likely expect to see photographs related to Plaintiff's adult cabaret. Instead, the user will see photos of Defendant's strip club, leading to consumer confusion.

19. Through its use of the FOXY LADY mark, Defendant is trying to create an association between Plaintiff Foxy Lady and Defendant FLGC.

20. Plaintiff's mark was distinctive at the time Defendant commenced use of the FOXY LADY mark.

21. Even if Defendant FLGC does not have the intent to infringe upon Plaintiff's mark, there is no *mens rea* for trademark infringement. Thus, in the alternative, Defendant has negligently infringed upon Plaintiff's trademark and must be enjoined from further use.

22. Plaintiff Foxy Lady and its predecessors-in-interest had been using the mark for over 20 years when Defendant FLGC commenced its infringing use of the mark around 2000. Plaintiff's mark was distinctive when Defendant began to unlawfully use it.

23. While Plaintiff and its Foxy Lady adult entertainment club enjoy a sterling reputation among consumers, Defendant's reputation is poor, causing harm to Plaintiff's goodwill and the value of its mark.

24. On or about September 25, 2019, Plaintiff sent a cease and desist letter to Defendant regarding its unlawful use of the FOXY LADY name and mark. *See Exhibit 3*. Defendant did not respond, necessitating the instant action.

25. Upon information and belief, Defendants used the FOXY LADY mark with the bad faith intent to profit from Plaintiff's mark.

26. Alternatively, Defendant used Plaintiff's FOXY LADY mark negligently and must be enjoined from further use.

27. Upon information and belief, Defendant did not believe or have reasonable grounds to believe that the use of Plaintiff's mark was a fair use or otherwise lawful.

**FIRST CLAIM FOR RELIEF**  
**Trademark Infringement – 15 U.S.C. § 1114**

28. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.

29. Defendant used and is using a business name which contains the entirety of Plaintiff's FOXY LADY trademark and is thus confusingly similar to Plaintiff's FOXY LADY trademark.

30. Defendant's use in commerce of Plaintiff's mark constitutes a reproduction, copying, counterfeiting, and colorable imitation of Plaintiff's mark in a manner that is likely to cause confusion or mistake or is likely to deceive consumers.

31. By using Plaintiff's mark with the knowledge that Plaintiff owns and has used, and continues to use, its trademark in the United States, Defendant has intended to cause confusion, cause mistake, or deceive consumers.

32. Defendant is using a mark identical to Plaintiff's FOXY LADY trademark in connection with the sale, offering for sale, or advertising of services in a manner that is likely to cause confusion or mistake or to deceive consumers as to affiliation, connection, or association with Plaintiff or as to the origin, sponsorship, or approval of Defendant's services or commercial activities by Plaintiff.

33. Defendant's use of Plaintiff's marks has created a likelihood of confusion among the consuming public who may falsely believe that Defendant's business is associated with Plaintiff's or that Plaintiff sponsors or approves of Defendant's services or commercial activities.

34. As a direct and proximate result of Defendant's infringement, Plaintiff has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

**SECOND CLAIM FOR RELIEF**  
**Unfair Competition – 15 U.S.C. § 1125(a)**

35. Plaintiff incorporates the allegations of the preceding paragraphs as if fully set forth herein.

36. Defendant's use in commerce of marks identical to Plaintiff's in connection with Defendant's services, which are the same as Plaintiff's, constitutes a false designation of origin and/or a false or misleading description or representation of fact, which is likely to cause confusion, cause mistake, or deceive as to affiliation, connection, or association with Plaintiff, or as to the origin, sponsorship, or approval of Defendant's services or commercial activities by Plaintiff.

37. Defendant's use in commerce of Plaintiff's marks with the knowledge that Plaintiff owns and has used, and continues to use, its trademarks constitutes intentional conduct by Defendant to make false designations of origin and false descriptions about Defendant's services and commercial activities.

38. As a direct and proximate result of such unfair competition, Plaintiff has suffered, and will continue to suffer, monetary loss and irreparable injury to its business, reputation, and goodwill.

**THIRD CLAIM FOR RELIEF**  
**Common Law Trademark infringement**

39. Plaintiff incorporates the allegations of the preceding paragraphs as if set forth fully herein.

40. By virtue of having used and continuing to use its trademarks, Plaintiff has acquired common law rights in those marks.

41. Defendant's use of marks identical to Plaintiff's trademarks infringes Plaintiff's common law rights in its trademarks, and this use is likely to cause confusion, mistake, or deception among consumers, who will falsely believe that Defendant's services originate from, or are affiliated with, or endorsed by Plaintiff.

42. As a direct and proximate result of Defendant's infringement of Plaintiff's common law trademark rights, Plaintiff has suffered, and will continue to suffer, monetary damages and irreparable injury to its business, reputation, and goodwill.

**PRAYER FOR RELIEF**

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

A. Injunctive relief prohibiting Defendant, its respective officer, agents, servants, employees, and/or all persons acting in concert or participation with them, or any of them, from using Plaintiff's trademarks or 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 for any other purpose;

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

C. An award of interests, costs, and attorneys' fees incurred by Plaintiff in prosecuting this action; and

D. All other relief to which Plaintiff is entitled.

Dated: February 1, 2023

Respectfully Submitted,

/s/ Brian Butler

Brian Butler  
STITES & HARBISON PLLC  
400 West Market Street, Suite 1800  
Louisville, KY 40202  
Tel.: (502) 681-0617  
bbutler@stites.com

Marc J. Randazza (*Pro Hac Vice forthcoming*)  
Ronald D. Green (*Pro Hac Vice forthcoming*)  
RANDAZZA LEGAL GROUP, PLLC  
4974 S. Rainbow Blvd., Ste. 100  
Las Vegas, NV 89118  
Tel.: (702) 420-2001  
ecf@randazza.com

*Attorneys for Plaintiff*  
*Gulliver's Tavern, Inc. d/b/a Foxy Lady*

1553044:1

# **EXHIBIT 1**

Foxy Lady Gentleman's Club  
Instagram Page



Instagram

Log In Sign Up

foxy\_ladyky

Follow

Message

...



237 posts

9,431 followers

251 following

Foxy Lady KY

Dance & Night Club

BEST GENTLEMENS CLUB IN LOUISVILLE, KY ❤️

Monday-Friday: NOON to 4AM

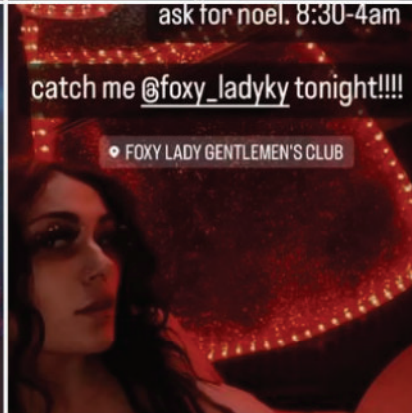
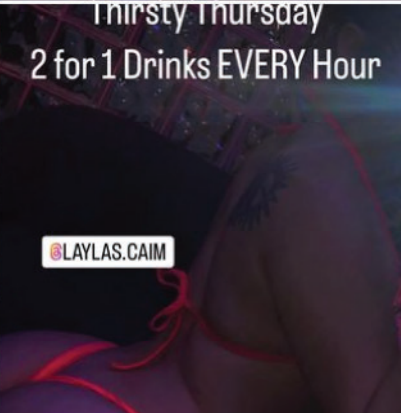
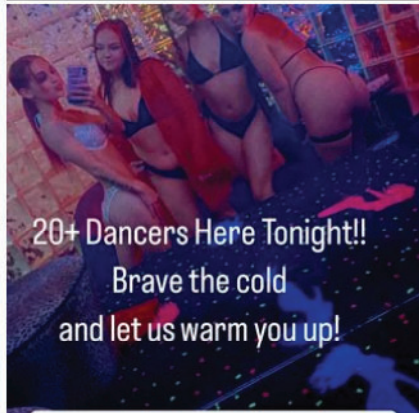
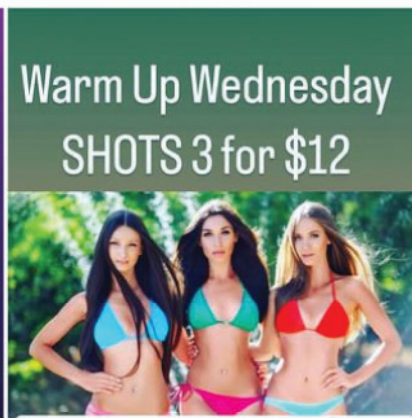
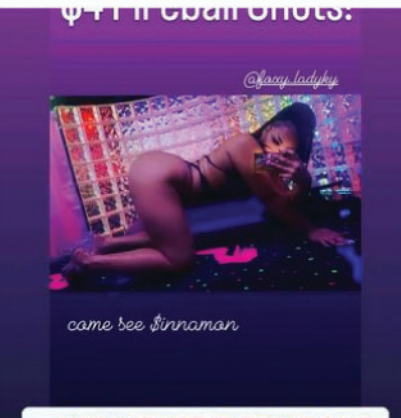
Saturday: 6PM to 4AM

#FLGC #foxylady #foxyladyky #foxyladylouisville

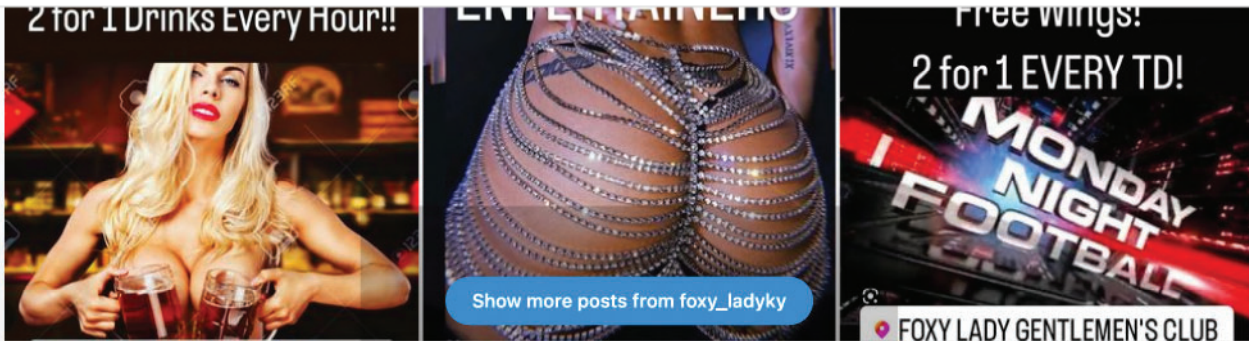
POSTS

REELS

TAGGED




# Instagram




## Related accounts

[See all](#)

 ×


**lyssaparis**  
Alyssa Paris

[Follow](#)

 ×


**parts.pelts.bones**  
Belle Leigh

[Follow](#)

 ×


**thatilwhitegirlbra...**  
Brandy 🍷

[Follow](#)

 ×

**showgirls\_louisville**  
Showgirls Louisville

[Follow](#)

 ×

**gracebellaja**  
Gracie bac

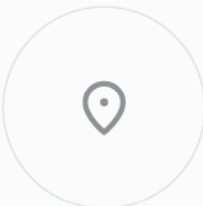
[Follow](#)

# **EXHIBIT 2**

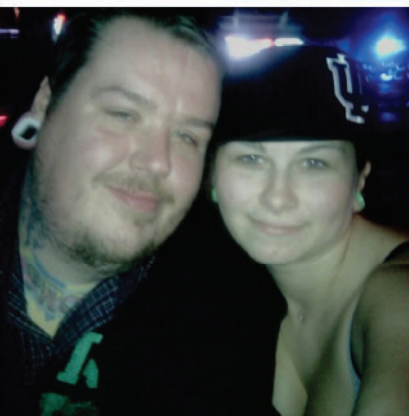
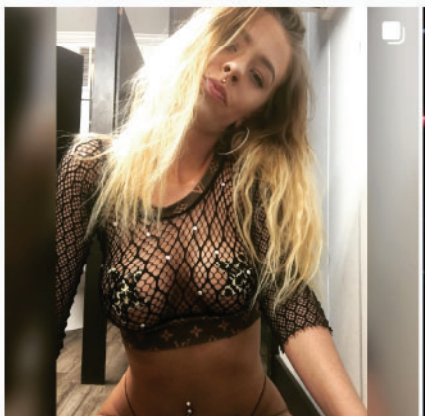
Foxy Lady Gentleman's Club  
hashtag page

Instagram


Log In Sign Up



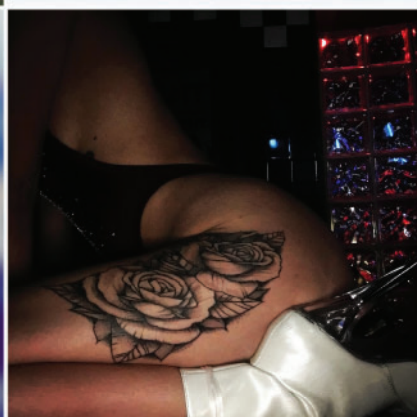
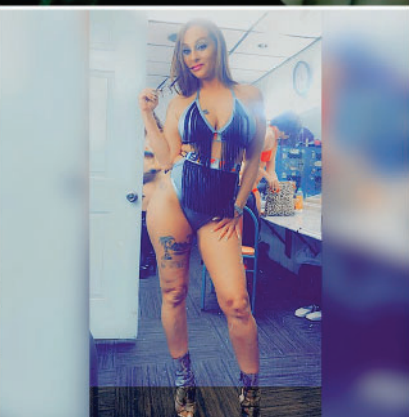
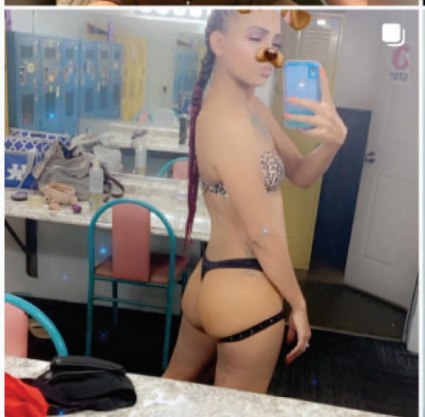
Top posts



Write Post Post

 Come out and enjoy Monday night football, Free wings while game is on and 3 for 1 drinks every touchdown scored. 5\$ entry | - at Foxy Lady Gentlemen's Club.

+ Location Camera Share



Log into Instagram Log in to see photos and videos from friends and discover other accounts you'll love.

Log in Sign Up

Instagram

English ▾ © 2023 Instagram from Meta



Log into Instagram

Log in to see photos and videos from friends and discover other accounts you'll love.

Log in

Sign Up

# **EXHIBIT 3**

Cease and desist letter



# LUKE CHARLES LIROT, P.A.



ATTORNEYS AND COUNSELORS AT LAW  
2240 BELLEAIR ROAD, SUITE 190  
CLEARWATER, FLORIDA 33764

(727) 536-2100 TEL

(727) 536-2110 FAX

September 25, 2019

**Via Certified Mail 7019-1640-0001-5950-6688**

Foxy Lady Gentlemen's Club  
1715 Berry Blvd.  
Louisville, KY 40215

Re: Infringement of Trademark

To Whom It May Concern:

Our firm is counsel to Gulliver's Tavern, Inc. ("GULLIVER'S"), of Providence, Rhode Island. GULLIVER'S is the owner of registered and common law trademarks and copyrights, including the trade name "FOXY LADY". For many years, GULLIVER'S has owned and used the trade name FOXY LADY in connection with a well-known gentlemen's club in Rhode Island.

Over the years, GULLIVER'S has invested substantial time, effort, and resources promoting and marketing its mark under and in connection with the adult entertainment industry. As a result of the recognition and goodwill that our client has built up in its FOXY LADY mark, GULLIVER'S considers the mark to be one of its most valuable assets. To protect that valuable mark, GULLIVER'S has obtained federal registration from the United States Trademark Office, which is now incontestable pursuant to 15 U.S.C. § 1065. See Registration No. 2809938.

It has recently come to our attention that your establishment is using the FOXY LADY mark in a manner identical or similar to our client's mark. Internet printouts documenting your use of FOXY LADY are attached hereto as Attachment A. Your use of our client's mark is without permission and in violation of applicable trademark laws. In light of the renown of our client's federally-registered mark, we believe that you have adopted the name FOXY LADY with the intent of trading upon the considerable goodwill associated with the FOXY LADY mark. Whatever your intentions, we believe that your use of FOXY LADY will lead members of the public and those in the relevant sector of trade to believe that your establishment is approved by, affiliated with, or sponsored by GULLIVER'S.

Accordingly, we believe that your use of FOXY LADY in connection with your establishment constitutes an infringement of our client's FOXY LADY mark, as well as unfair competition and a violation of the applicable deceptive trade practices statute. If found liable under such circumstances, you would be subject to injunctive relief and a judgment for damages, including possible treble damages, as well as claims for our client's attorney's fees and costs.

We are contacting you at this time, however, in an effort to resolve this matter amicably and avoid the expense and burden of litigation. To do so, we will need to have your **prompt written**

**assurance** that you will; (i) cease any and all use, advertising, and other promotion under the designation FOXY LADY; (ii) certify in writing that you have destroyed or will promptly destroy all marketing and promotional materials bearing the designation FOXY LADY, including, but not limited to, signage, flyers, internet ads, websites, and business cards; and (iii) forbear from using the designation FOXY LADY, or any other designation comprising the term FOXY LADY or otherwise confusingly similar term to our client's FOXY LADY mark, in connection with your establishment in the future, including, but not limited to use of the term as a trademark, service mark, trade name, or domain name, as well as in any advertising, marketing, or other promotion of your establishment.

This letter is sent without prejudice to any other rights of, or remedies available to our client, all of which are expressly reserved.

We anticipate your prompt response.

Sincerely,

A handwritten signature in cursive script, appearing to read "Luke Lirot".

Luke Lirot, Esq.  
Law Office of Luke Lirot

Enclosures.

CC: Client.

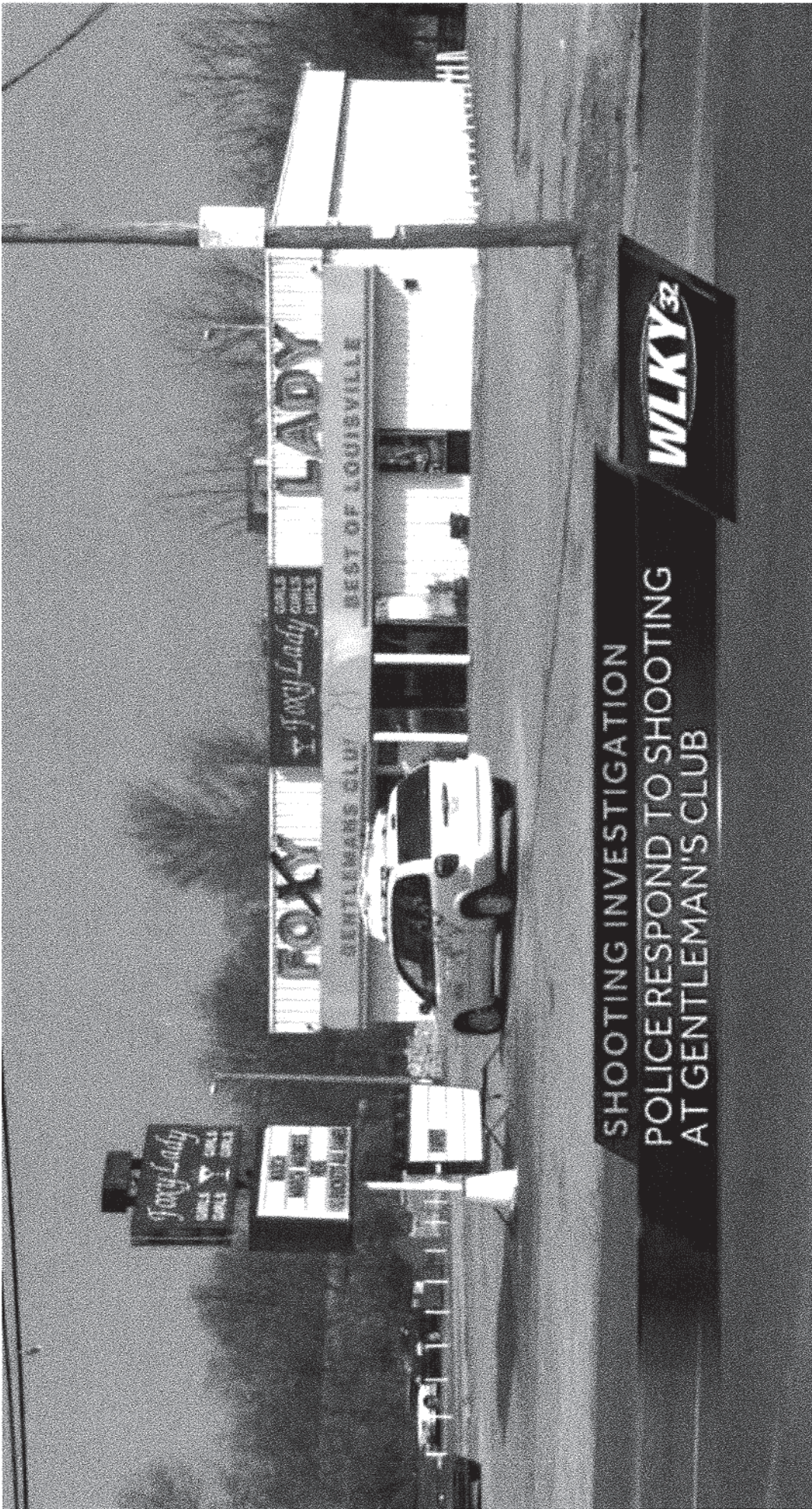




ATTACHMENT A



ATTACHMENT A



**ATTACHMENT A**

7/24/2019

Foxy Lady Gentlemen's Club - Home | Facebook

Email or Phone  Password

[Forgot account?](#)



Like Share

Send Message

### Foxy Lady Gentlemen's Club

Home

Reviews

Photos

About

Community

Create a Page

#### Recommendations and Reviews

Recommended by 55 people

- was nice and laid back, everyone was real cool, brandi was a delight to talk to and hang out with, g... See More  
December 22, 2016
- This is the best club in louisville..The staff are friendly and fast and the ladies are all beautifu... See More  
July 7
- The wife and i have been a couple times and we had a great time. Girls here are all nice and most o... See More  
November 5, 2017

See All

See More

#### Foxy Lady Gentlemen's Club Dance & Night Club in Louisville, Kentucky

3.8  
Closed Now

#### Community

See All

- 921 people like this
- 945 people follow this
- 1,271 check-ins

#### About

See All



1715 Berry Blvd (733.02 mi)  
Louisville, Kentucky 40215  
Get Directions

(502) 366-3273

Contact Foxy Lady Gentlemen's Club on Messenger

www.clubplanet.com/Venues/97441/Louisville/Fc

Dance & Night Club · Adult Entertainment Service · Pub

Opens at 12:00 PM  
Closed Now

#### Page Transparency

See More

Facebook is showing information to help you better understand the purpose of a Page. See actions taken by the people who manage and post content.

Page created - October 14, 2009

#### People

921 likes  
1,271 visits

#### Related Pages

- The New Classy Lady**  
Dance & Night Club
- Green Light Lounge**  
Adult Entertainment Service
- Plaza La Predilecta**  
Amateur Sports Team

ATTACHMENT A

7/24/2019

Foxy Lady Gentlemen's Club - Home | Facebook

**See more of Foxy Lady Gentlemen's Club on Facebook**

Log In

or

Create New Account

[English \(US\)](#) · [Español](#) · [Português \(Brasil\)](#) · [Français \(France\)](#) · [Deutsch](#)

[Privacy](#) · [Terms](#) · [Advertising](#) · [Ad Choices](#) · [Cookies](#) · [More](#)  
Facebook © 2019

**ATTACHMENT A**

7/24/2019

Foxy Lady Gentlemen's Club on Instagram • Photos and Videos

Search

Log In

Sign Up



Top Images And Videos



ATTACHMENT A

7/24/2019

Foxy Lady Gentlemen's Club on Instagram • Photos and Videos

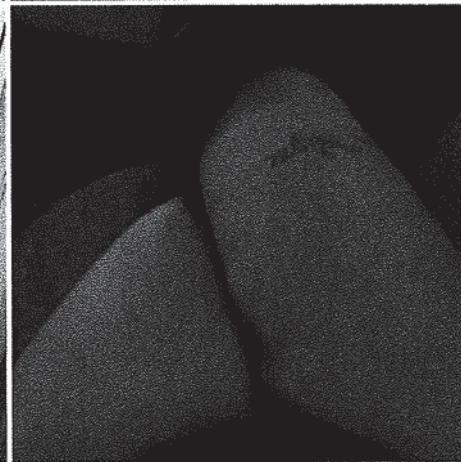
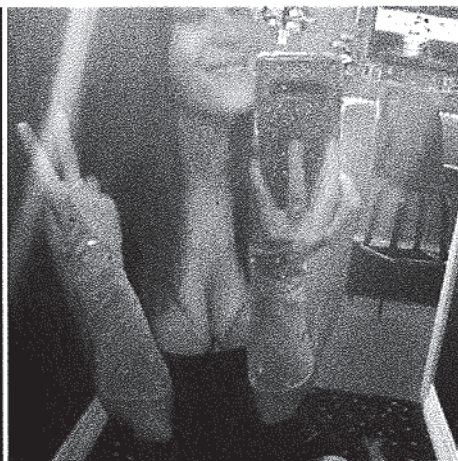
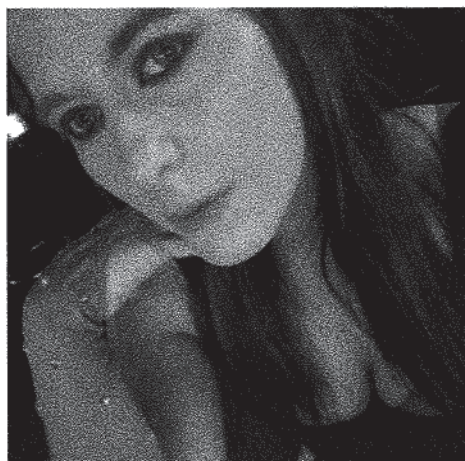
Search

Log In

Sign Up



Most Recent



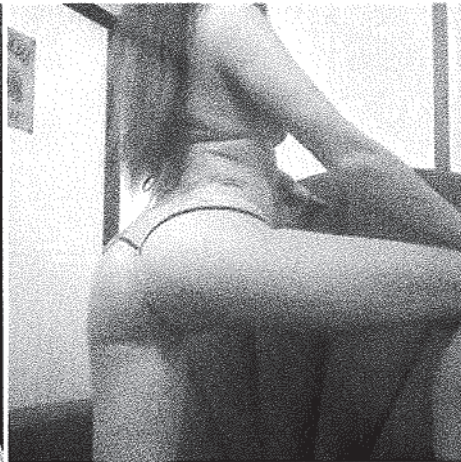
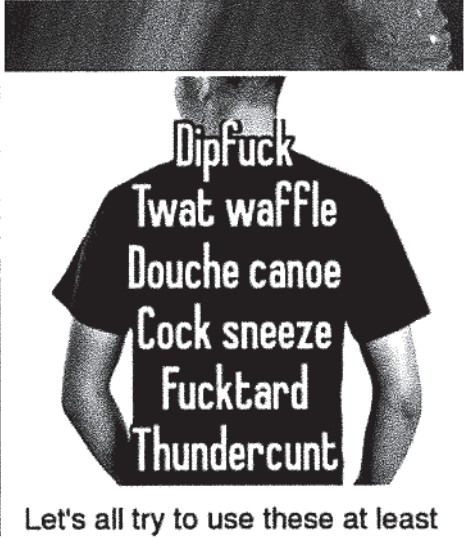
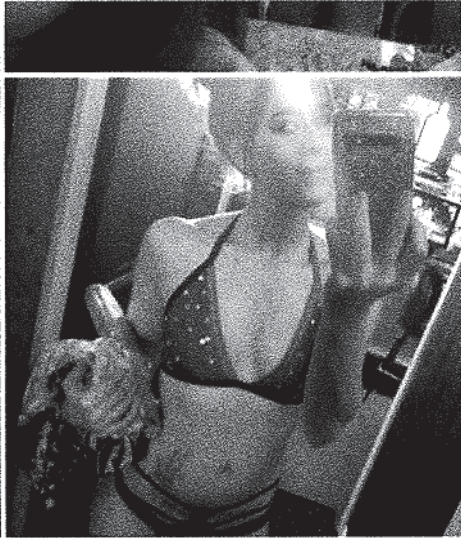
7/24/2019

Foxy Lady Gentlemen's Club on Instagram • Photos and Videos

Search

Log In

Sign Up



ATTACHMENT A



7/24/2019

Foxy Lady Gentlemen's Club on Instagram • Photos and Videos

Search

Log In

Sign Up



[ABOUT US](#) [SUPPORT](#) [PRESS](#) [API](#) [JOBS](#) [PRIVACY](#)

[TERMS](#) [DIRECTORY](#) [PROFILES](#) [HASHTAGS](#) [LANGUAGE](#)

© 2019 INSTAGRAM

**ATTACHMENT A**

7/24/2019

Foxy Lady Gentlemens Club Nightclub in Louisville, KY - 5023663273

Login / Subscribe

Search  GO

[change city] New York

CLUBS NEWS MUSIC EVENTS GUESTLISTS PHOTOS COMMUNITY PLAN YOUR PARTY

US > Louisville > Venues > Nightclub > Foxy Lady Gentlemens Club

INFO MAP VIDEOS PICTURES

# FOXY LADY GENTLEMENS CLUB, LOUISVILLE

1715 Berry Blvd  
Louisville, KY 40215  
502-366-3273

Let us help plan your party at this venue

Make yourself taller, let us help

Type (genre): Club  
Inside Info: Status: Open

IS THIS YOUR BUSINESS? CLICK HERE! | SUGGEST A CORRECTION

## FOXY LADY GENTLEMENS CLUB LOUISVILLE, VENUE DESCRIPTION

Foxy Lady Gentlemens Club - So you want to get a table? Be prepared to shell out some cash. Foxy Lady Gentlemens Club caters to the upscale crowd so you better make sure you're ready to roll.



Click Here For More Pictures

### New Events at Foxy Lady Gentlemens Club Louisville

There are currently no events listed for Foxy Lady Gentlemens Club Louisville yet.

Click here if you want to promote or list an event at Foxy Lady Gentlemens Club Louisville

### Regulars of Foxy Lady Gentlemens Club Louisville

Foxy Lady Gentlemens Club Louisville, does not have any regulars yet.

Become a Regular

### Venues Near Foxy Lady Gentlemens Club Louisville

- MIXER (Lounge)
- Kearton Enterprises (Bar)
- Huelsman Bar & Grill (Bar)
- Quals (Bar)
- Brewskee's Sports & Entrtnmnt (Club)
- Moe's Final Furlong (Bar)
- Heck Inc (Bar)
- Rhodes Place (Bar)
- Slade's (Bar)
- Club King Sports Bar & Grill (Bar)

### LAST NIGHT'S PHOTOS



11.22.2014

Hook N Sling at Light Las Vegas

City: Boca Raton

7/24/2019

Foxy Lady Gentlemens Club Nightclub in Louisville, KY - 5023663273



11.14.2014

p

City:New York

#LIGHTMARE • HALLOWEEN

LIGHT

NEW YORK

with DJ LINDA ON BEATS



10.31.2014

halloween

City:New York

[VIEW ALL RECENT PHOTOS](#)

Cool Resources for  
Foxy Lady Gentlemens Club  
Louisville

[Foxy Lady Gentlemens Club New Years Eve 2020](#)

[Foxy Lady Gentlemens Club at Wantickets.com](#)

[Foxy Lady Gentlemens Club at nocheLatina.com](#)

[Foxy Lady Gentlemens Club Halloween](#)

CP Buzz on facebook



[cooljunkie](#) [nocheLatina](#) [wt](#) [new years](#) [halloween](#)

USA  
CANADA



**ATTACHMENT A**

7/24/2019

Foxy Lady Gentlemens Club Nightclub in Louisville, KY - 5023663273  
company info | services | privacy policy | legal stuff | careers | advertising  
Tel: (212)843-2400

Copyright © 2019 Clubplanet, Inc. All Rights Reserved.

JS 44 (Rev. 04/21)

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

GULLIVER'S TAVERN, INC. d/b/a FOXY LADY

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Brian Butler, Stites & Harbison PLLC  
400 W. Market St., Ste. 1800, Louisville, KY 40202  
(502) 681-0617

DEFENDANTS

FOXY, INC. d/b/a FOXY LADY GENTLEMEN'S CLUB

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
- 3 Federal Question (U.S. Government Not a Party)
- 2 U.S. Government Defendant
- 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)

- Citizen of This State PTF  1 DEF  1 Incorporated or Principal Place of Business In This State PTF  4 DEF  4
- Citizen of Another State  2 Incorporated and Principal Place of Business In Another State  5
- Citizen or Subject of a Foreign Country  3 Foreign Nation  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	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability		<b>INTELLECTUAL PROPERTY RIGHTS</b>	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 345 Marine Product Liability		<input checked="" type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<b>LABOR</b>	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 710 Fair Labor Standards Act	<b>SOCIAL SECURITY</b>	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 720 Labor/Management Relations	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 740 Railway Labor Act	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 751 Family and Medical Leave Act	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/Exchange
		<input type="checkbox"/> 790 Other Labor Litigation	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<b>REAL PROPERTY</b>	<b>CIVIL RIGHTS</b>	<input type="checkbox"/> 791 Employee Retirement Income Security Act	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 440 Other Civil Rights		<b>FEDERAL TAX SUITS</b>	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 441 Voting	<b>IMMIGRATION</b>	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 462 Naturalization Application	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 443 Housing/Accommodations	<input type="checkbox"/> 465 Other Immigration Actions		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment			<input type="checkbox"/> 950 Constitutionality of State Statutes
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other			
	<input type="checkbox"/> 448 Education			
	<b>PRISONER PETITIONS</b>			
	<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			
	<b>Other:</b>			
	<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

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
28 U.S.C. Sections 1331; 1338(a); 1367(a)

VI. CAUSE OF ACTION

Brief description of cause:  
Trademark infringement and unfair competition under the Lanham Act with a pendant claim for common law trademark infringement

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

Feb 1, 2023 /s/Brian Butler

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.