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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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THE CITY OF NEW YORK,

Plaintiff,

v.

**COMPLAINT**

**17 CV**

BLUE RAGE INC., d/b/a THE COP SHOP, and  
SALVATORE PICCOLO and SUSAN PICCOLO,

Plaintiff demands trial by jury

**ECF CASE**

Defendants.

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Plaintiff, the City of New York (the “City”), by its attorney, Zachary W. Carter, Corporation Counsel of the City of New York, for its Complaint against defendants Blue Rage Inc., d/b/a the Cop Shop, and Salvatore Piccolo and Susan Piccolo (collectively, “Defendants”), alleges as follows:

**PRELIMINARY STATEMENT**

1. This action is based upon Defendants’ knowingly unlawful marketing, sale and distribution of infringing merchandise bearing trademarks associated with the New York City Police Department (“NYPD”) and the Fire Department of the City of New York (“FDNY”).

### **PARTIES**

2. The City is a municipal corporation organized pursuant to the laws of the State of New York.

3. Upon information and belief, defendant Blue Rage Inc., d/b/a The Cop Shop, is a corporation duly organized and existing under the laws of the State of New York, with its principal place of business located at 560 Broadway, Massapequa, New York 11758, which also transacts business through a website @ [www.copshopny.com](http://www.copshopny.com).

4. Upon information and belief, defendant Salvatore Piccolo is a citizen and resident of the State of New York, County of Nassau.

5. Upon information and belief, defendant Susan Piccolo is a citizen and resident of the State of New York, County of Nassau.

6. Upon information and belief, defendant Salvatore Piccolo is the Chief Executive Officer of defendant Blue Rage Inc. and personally supervises and directs the infringing and tortious activities complained of herein.

7. Upon information and belief, defendant Susan Piccolo is the Manager of the Cop Shop and personally supervises and directs the infringing and tortious activities complained of herein.

### **JURISDICTION AND VENUE**

8. This Court has jurisdiction pursuant to 15 U.S.C. § 1121, 28 U.S.C. §§ 1331, 1338(a), 1338(b) and 1367, and the doctrine of pendent jurisdiction.

9. Venue is proper in this district pursuant to 28 U.S.C. §§ 1391(b) and (c).

### **THE NYPD TRADEMARKS**

10. The City owns all trademarks, logos, names, and insignia associated with the NYPD (collectively, the “NYPD Trademarks”), including the acronym NYPD (the “NYPD

Mark”) and a design consisting of the terms POLICE DEPARTMENT CITY OF NEW YORK surrounding a shield design (the “NYPD Shield”), which appears as follows:



11. The City, by and through the NYPD, has provided police and civil protection services since at least as early as 1845.

12. The City, by and through the NYPD, has continuously used the NYPD Shield, since at least as early as July 1, 1971.

13. Since at least as early as 1989, the City has used the NYPD Mark and the NYPD Shield on goods sold to the general public.

14. The NYPD Trademarks have been prominently featured in print and broadcast media, in promotional activities, and on a wide variety of licensed goods that are distributed nationally and throughout the world.

15. The NYPD Trademarks also have been prominently featured in numerous theatrical motion pictures and in a number of long running and highly successful television shows.

16. As a result of the NYPD’s exceptional reputation, and the media attention and other publicity the NYPD has received throughout the years, particularly after the events of September 11, 2001, the NYPD Trademarks have acquired tremendous goodwill and value, and are now recognized throughout the United States and the world as uniquely designating the NYPD.

17. The distinctive NYPD Trademarks are famous and are widely recognized throughout the world.

18. The City owns valid and subsisting federal trademark registrations for the NYPD Mark, the NYPD Shield, and various specialized NYPD units in a number of classes covering souvenir merchandise, all of which have been and continue to be in use in commerce, as follows:

**NYPD** U.S. Registration No. 3014363, registered on November 15, 2005, for Metal goods; namely, metal key chains, metal key rings, metal holiday ornaments in International Class 006; Electric and scientific apparatus; namely, thermometers not for medical use, mouse pads, decorative refrigerator magnets, children's video tapes, children's educational software, video tapes featuring public safety and health information in International Class 009; Jewelry; namely, lapel pins, costume jewelry, cuff links, pendants, tie clips, tie pins in International Class 014; Furniture and articles not otherwise classified; namely, plastic key chain tags, cushions, plastic figurines, picture frames in International Class 020; Housewares and glasses; namely, mugs, lunch boxes, thermal insulated containers for food or beverages, drinking glasses, commemorative plates, decorative plates and souvenir plates in International Class 021; Clothing; namely, caps, t-shirts and sweatshirts in International Class 025; and Toys and sporting goods; namely, toy model cars, stuffed toy animals, toy dolls and accessories therefor, articulated toy figurines, toy banks, Christmas tree ornaments in International Class 028;



U.S. Registration No. 3061459, registered on February 28, 2006, for Metal goods; namely, metal key chains, metal key rings, metal holiday ornaments in International Class 006; Electric and scientific apparatus; namely, thermometers not for medical use, mouse pads, decorative refrigerator magnets, children's video tapes, children's educational software, video tapes featuring public safety and health information in International Class 009; Jewelry; namely, lapel pins, costume jewelry, cuff links, pendants, tie clips, tie pins in International Class 014; Furniture and articles not otherwise classified; namely, plastic key chain tags, cushions, plastic figurines, picture frames in International Class 020; Housewares and glasses; namely, mugs, lunch boxes, thermal insulated containers for food or beverages, drinking glasses, commemorative plates, decorative plates and souvenir plates in International Class 021; Clothing; namely, caps, t-shirts and sweatshirts in International Class 025; and Toys and sporting goods; namely, toy model cars, stuffed toy animals, toy dolls and accessories therefor, articulated toy figurines, toy banks, Christmas tree ornaments in International Class 028;



U.S. Registration No. 3763645, registered on March 23, 2010, for Sweat shirts; T-shirts; Baseball caps in International Class 025;



U.S. Registration No. 3772010, registered on April 26, 2010, for Sweat shirts; T-shirts; Baseball caps in International Class 025;



U.S. Registration No. 3573246, registered on February 10, 2009, for Sweat shirts; T-shirts; Baseball caps in International Class 025;



U.S. Registration No. 3804638, registered on March 23, 2010, for Sweat shirts; T-shirts; Baseball caps in International Class 025;



U.S. Registration No. 3587833, registered on March 10, 2009, for Sweat shirts; T-shirts; Baseball caps in International Class 025;



U.S. Registration No. 3763644, registered on March 23, 2010, for Sweat shirts; T-shirts; Baseball caps in International Class 025; and



U.S. Registration No. 3573245, registered on February 10,

2009, for Sweat shirts; T-shirts; Baseball caps in International Class 025.

19. The City also owns New York State trademark registrations for the NYPD Mark (Reg. No. R-29799, registered on October 16, 2001) and the NYPD Shield (Reg. No. R-29800, registered on October 16, 2001).

20. The City also owns registrations for the NYPD Mark (Reg. No. 108018, registered on March 14, 2002) and the NYPD Shield (Reg. No. 108017, registered on March 14, 2002) in California.

21. The City owns registrations of the NYPD Mark (Reg. No. TMA756989, registered on January 13, 2010) and the NYPD Shield (Reg. No. TMA758886, registered on February 5, 2010) in Canada.

22. The City also owns registrations for the NYPD Mark (Reg. No. 3747326, registered on August 5, 2005; and Reg. No. 15382898, registered on September 27, 2016) and the NYPD Shield (Reg. No. 3743127, registered on August 12, 2005, and Reg. No. 15382881, registered on November 23, 2016) in the European Union.

23. The City also owns a registration for the NYPD Mark (Reg. No. 4601279, registered on September 6, 2002) in Japan.

24. The City also owns a registration for the NYPD Mark (Reg. No. 164267974, registered on April 27, 2016) in France.

25. The City also owns applications for registration of the NYPD Mark (Serial No. 20355174, filed June 20, 2016) and for the NYPD Shield (Serial No. 20355173, filed April 27, 2016) in China.

26. The City also owns applications for registration of the NYPD Mark (Serial Nos. 1813355 and 1813357, filed October 26, 2016) and the NYPD Shield (Serial Nos. 1813340 and 1813343, filed October 26, 2016) in Mexico.

### **THE FDNY TRADEMARKS**

27. The City also owns all trademarks, logos, names and insignia associated with the FDNY (collectively, the “FDNY Trademarks”), including the acronym “FDNY” (the “FDNY Mark”), a distinctive shield design with the words FIRE DEPARTMENT CITY OF NEW YORK and the colors red, white and blue with a gold border and a stylized Maltese cross with flames inside over a stylized representation of the New York City skyline in the background (the “FDNY Shield”), a Maltese Cross design containing the letters “F.D.N.Y.” (the “FDNY Maltese Cross”), and the number 343 (“the 343 Mark”), which is the number of members of the FDNY who died in the line of duty on September 11, 2001.

28. The City began using the FDNY Mark shortly after the FDNY’s formation as a professional fire department in 1865.

29. The FDNY Shield was created in 1976 and was made a part of the official uniform shortly thereafter, appearing as follows:





30. The City has used the FDNY Mark and the FDNY Shield to identify the FDNY and its services on goods sold to the general public since at least as early as 1989.

31. The City began using the FDNY Maltese Cross in connection with the provision of fire prevention service in 1887 and it has been using the FDNY Maltese Cross to identify the FDNY and its services on goods sold to the public since at least as early as 2000. The FDNY Maltese Cross design appears as follows:



32. The 343 Mark has been used since September 1, 2001 to honor FDNY personnel that died in the line of duty and to allow others to demonstrate their respect for its members and allegiance to their sacrifice. Use of the 343 Mark is carefully controlled in order not to tarnish the memory of fallen service members and other FDNY personnel.

33. The FDNY Trademarks have been prominently featured in print and broadcast media, in promotional activities, and on a wide variety of licensed merchandise that is distributed nationally and throughout the world.

34. The FDNY Trademarks also have been prominently featured in numerous theatrical motion pictures and television shows.

35. As a result of the FDNY's exceptional reputation, and the media attention and other publicity the FDNY has received throughout the years, particularly after the events of September 11, 2001, the FDNY Trademarks have acquired tremendous goodwill and value, and are now recognized throughout the United States and the world as uniquely designating the FDNY.

36. The distinctive FDNY Trademarks are famous and are widely recognized throughout the world.

37. The City also owns valid and subsisting federal trademark registrations for the FDNY Trademarks in a number of classes covering souvenir merchandise, all of which have been and continue to be in use in commerce, as follows:

**FDNY**

U.S. Registration No. 2606740, registered on August 13,

2002, for clothing, namely, t-shirts, sweat shirts, hats, caps, baseball caps, jackets, shirts, head wear, warm up suits, and wind resistant jackets, pants and shirts in International Class 25; U.S. Registration No. 3026049, registered on December 13, 2005, for metal key chains, metal key rings, metal holiday ornaments in International Class 06; thermometers not for medical use, mouse pads, decorative refrigerator magnets, children's musical sound and video recordings, compact disc holders; children's educational software, video tapes featuring public safety and health information in International Class 09; lapel pins, costume jewelry, cuff links, pendants, tie clips and tie pins in International Class 14; calendars, notepads, pens, pencils, pencil boxes, stickers, bumper stickers, decals, books, magazines and brochures featuring information on fire safety in International Class 16; all-purpose sports bags, umbrellas in International Class 18; plastic and foam key chains and key chain tags, cushions, plastic figurines and picture frames in International Class 20; mugs, lunch boxes, thermal insulated containers for food or beverage, drinking glasses, commemorative plates, decorative plates, souvenir plates and plastic coasters in International Class 21; blanket throws in International Class 24; cloth patches for clothing in International Class 26; and

toy model cars, toy fire helmets, stuffed toy animals, toy dolls and accessories therefore, articulated toy figurines, toy banks, Christmas tree ornaments, snow globes, toy vehicles, jigsaw puzzles and playing cards in International Class 28; d



U.S. Registration No. 3075308, registered on April 4, 2006, for metal key chains, metal key rings, metal holiday ornaments in International Class 06; thermometers not for medical use, mouse pads, decorative refrigerator magnets, children's musical sound and video recordings, compact disc holders; children's educational software, video tapes featuring public safety and health information in International Class 09; lapel pins, costume jewelry, cuff links, pendants, tie clips and tie pins in International Class 14; calendars, notepads, pens, pencils, pencil boxes, stickers, bumper stickers, decals; books, magazines and brochures featuring information on fire safety in International Class 16; all-purpose sports bags, umbrellas in International Class 18; plastic and foam key chains and key chain tags, cushions, plastic figurines and picture frames in International Class 20; mugs, lunch boxes, thermal insulated containers for food or beverage, drinking glasses, commemorative plates, decorative plates, souvenir plates and plastic coasters in International Class 21; clothing, namely t-shirts, tank tops, shirts, sweatshirts, sweatpants, hats, caps, baseball caps, jackets, vests, sweaters, aprons, neckties, bow ties, cummerbunds, scarves and boxer shorts in International Class 25; cloth patches for clothing in International Class 26; and toy model cars, toy fire helmets, stuffed toy animals, toy dolls and accessories

therefore, articulated toy figurines, toy banks, Christmas tree ornaments, snow globes, toy vehicles, jigsaw puzzles and playing cards in International Class 28;



U.S. Registration No. 3191341, registered on January 2, 2007, for Clothing, namely shirts, t-shirts, tank tops, sweatshirts, sweatpants, sweatsuits, pants, shorts, jackets, vests, coats, rainwear, pullovers, sweaters, aprons, neckties, boxer shorts, scarves, hats and caps in International Class 25; and U.S. Registration No. 365913, registered on July 14, 2009, for Jewelry, namely, lapel pins, costume jewelry, cuff links, and pendants in International Class 14; Toys and sporting goods, namely, toy model cars, stuffed toy animals, toy dolls and accessories, articulated toy figurines, toy banks and Christmas tree ornaments in International Class 28; and U.S. Registration No. 3868734, registered on October 26, 2010, for Jewelry, namely, lapel pins, costume jewelry, cuff links, pendants, rings, charms, mini-badges of precious metal, watches, tie clips and tie pins in International Class 14; and Clothing, namely, t-shirts, tank tops, shirts, sweatshirts, sweatpants, pants, coats, rainwear, pullovers, hats, caps, baseball caps, jackets, vests, sweaters, aprons, neckties, bow ties, cummerbunds, scarves and boxer shorts in International Class 25; and U.S. Registration No. 4276053, registered on January 15, 2013, for Toys and sporting goods, namely, toy model cars, toy fire helmets, snow globes, toy vehicles, jigsaw puzzles, playing cards, stuffed toy animals, toy dolls and accessories therefor, Christmas tree ornaments in International Class 28; and

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U.S. Registration No. 4750726, registered on June 9, 2015,

for Decals in International Class 16; U.S. Registration No. 4754475, registered on June 16, 2015, for Jewelry, lapel pins, in International Class 14; and U.S. Registration No. 5184325, registered on April 18, 2017, for t-shirts and hats, in International Class 25.

38. The City also owns trademark registrations for the FDNY Mark (Reg. No. R-31969, registered on December 12, 2001) and the FDNY Shield (Reg. No. R-31970, registered on December 12, 2001) in the State of New York.

39. The City also owns trademark registrations for the FDNY Mark (Reg. No. 2589596, registered on February 22, 2002, and Reg. No. 15376361, registered on November 23, 2016) and the FDNY Shield (Reg. Nos. 2589588, registered on February 22, 2002, and 15382856, registered on November 23, 2016) in the European Union.

40. The City also owns trademark registrations for the FDNY Mark (Reg. No. 641237, registered on June 2, 2010) and the FDNY Shield (Reg. No. 641155, registered on June 2, 2005) in Canada.

41. The City also owns an application for registration of the FDNY Mark (Serial No. 20355172, filed June 20, 2016) and the FDNY Shield (Serial No. 20355171, filed June 20, 2016) in China.

42. The City also owns applications for registration of the FDNY Mark (Serial Nos. 1813361 and 1813359, filed October 26, 2016) and the FDNY Shield (Serial Nos. 1813333 and 1813335, filed October 26, 2016) in Mexico.

**Officially Licensed Souvenir Merchandise**

43. The City operates and maintains an extensive merchandise licensing program, administered by the NYC & Company as the exclusive agent for the licensing of all of the City's various trademarks, pursuant to which a wide variety of officially licensed souvenir merchandise bearing the City's trademarks, including the NYPD and FDNY Trademarks, is sold to the general public.

44. Officially licensed merchandise generally bears a hologram, hangtag, label and/or packaging identifying the NYPD and FDNY Trademarks as trademarks that are owned by the City.

**Defendants' Unlawful Use of the NYPD and FDNY Trademarks**

45. Defendants, through both its retail shop at 560 Broadway, Massapequa, New York 11758, and its online website @ [www.copshopny.com](http://www.copshopny.com), are marketing, selling and distributing a wide variety of unlicensed, infringing merchandise bearing the NYPD and FDNY Trademarks.

46. Upon information and belief, Defendants possess and are manufacturing and selling these infringing and/or counterfeit products in interstate commerce to members of the general public.

47. Defendants further are unlawfully using the NYPD Shield and the FDNY Shield on business cards and on the store signage of the retail shop.

48. Defendants have failed to comply with plaintiff's demands to cease and desist from engaging in such infringing activity.

49. On February 22, 2014, defendants displayed and sold unlicensed plush toys bearing the FDNY Trademarks as a vendor at the Long Island Fire, Rescue & EMS Mega Show at the Nassau Coliseum.

50. On March 4, 2014, the City sent a letter to defendants, a copy of which is annexed hereto as Exhibit A, demanding that defendants immediately cease and desist from selling unlicensed and unauthorized merchandise bearing the NYPD and FDNY Trademarks.

51. On or about December 11, 2014, the City sent a follow-up letter, with a copy of the March 4, 2014 letter, stating in relevant part that a civil action for trademark infringement would be filed against defendants if they continued to sell unlicensed merchandise bearing the NYPD and FDNY Trademarks.

52. In a telephone call that took place on or about December 22, 2014, defendant Susan Piccolo told the City's attorney that the infringing items referenced in the March 4, 2014 letter had been donated to the Nassau County Lyons Club and that the Cop Shop was no longer in possession of any unlicensed merchandise bearing the NYPD and FDNY Trademarks.

53. In a follow-up telephone call that took place on or about January 30, 2015, defendant Salvatore Piccolo told the City's attorney that the Cop Shop was no longer selling any unlicensed merchandise bearing the NYPD and FDNY Trademarks.

54. On June 15, 2016, private investigators employed by the City's licensing agent NYC & Company visited the Cop Shop and made purchases of a number of unlicensed items bearing the FDNY and NYPD Trademarks.

55. Defendants have posted a sign within the store which states:

Some of the Various NYPD  
and FDNY products Sold in  
this store. Are sold as  
decoration and not a brand.  
Thank You  
Blue Rage Inc (The Cop Shop)

56. On May 15, 2017, a representative of NYC & Company visited the Cop Shop and observed that defendants were displaying and selling numerous unlicensed items bearing the

NYPD and FDNY Trademarks, including caps, sweatshirts, t-shirts, fleece jackets, polo shirts, apparel for dogs, mugs, and challenge coins.

57. On or about May 18, 2017, a representative of NYC & Company made online purchases of unlicensed items bearing the NYPD and FDNY Trademarks, including an NYPD pink ribbon uniform patch, a sweatshirt and a t-shirt from the [www.copshopny.com](http://www.copshopny.com) website maintained by defendants.

58. The City is suffering, and will continue to suffer, irreparable injury unless Defendants are enjoined from continuing to sell merchandise that infringes on the NYPD and FDNY Trademarks.

**COUNT I**  
**(Trademark Infringement with Respect**  
**to the NYPD and FDNY Trademarks)**

59. The City repeats and re-alleges the allegations of Paragraphs 1 through 58 as though fully set forth herein.

60. The City owns valid and subsisting federal registrations for the NYPD and FDNY Trademarks, which have been and continue to be used in commerce.

61. Defendants are selling infringing merchandise bearing the NYPD and FDNY Trademarks without the permission or consent of the City.

62. Defendants' sale of infringing merchandise bearing the NYPD and FDNY Trademarks in interstate commerce without the approval of the City constitutes trademark infringement actionable under Section 32 (1) (a) of the Lanham Act, 15 U.S.C. § 1114 (1)(a).

63. Defendants have acted willfully and purposely with the intention of misleading the public into believing that their infringing products may be lawfully sold to the public.

64. If the sale of infringing merchandise bearing the NYPD and FDNY Trademarks by Defendants is not enjoined by this Court: (a) the public will be confused, misled and deceived



as to the source and origin of Defendants' products and will mistakenly assume that Defendants' infringing merchandise is authorized, sponsored, approved or produced by or for the City or its agencies, or that Defendants are affiliated with the City or its agencies; (b) consumers will be misled into purchasing unauthorized products, causing dilution and irreparable damage to the distinctive value and reputation of the NYPD and FDNY Trademarks and the City's licensing program; (c) Defendants will be unjustly enriched by their misappropriation of the substantial goodwill of the NYPD and FDNY Trademarks.

65. The City has no adequate remedy at law.

66. By reason of the foregoing, the City has been injured in an amount not yet ascertained and is entitled to the remedies provided for in 15 U.S.C. §§ 1114 et seq., including injunctive relief.

## **COUNT II**

### **(False Designation of Origin in Violation of 15 U.S.C. § 1125(a))**

67. The City repeats and re-alleges the allegations of Paragraphs 1 through 66 as though fully set forth herein.

68. Defendants' use of the NYPD and FDNY Trademarks in interstate commerce in connection with the marketing, distribution and sale of infringing merchandise that is not approved by the City for sale to the general public constitutes a false designation of origin and/or a false description or representation, including words or symbols tending falsely to describe or represent the same, actionable under Sections 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

69. Defendants have acted willfully and purposely with the intention of misleading the public into believing that their products originate with the City, are licensed by the City, or are in some way sanctioned by or affiliated with the City or its agencies.

70. By reason of the foregoing, the City has been injured in an amount not yet ascertained and is entitled to the remedies provided for in 15 U.S.C. §§ 1114 et seq., including injunctive relief and damages.

**COUNT III**  
**(Trademark Dilution in Violation of 15 U.S.C. § 1125(c))**

71. The City repeats and re-alleges the allegations of Paragraphs 1 through 70 as though fully set forth herein.

72. The City's NYPD and FDNY Trademarks are inherently distinctive and famous, and through many years of use by the City have come to represent, worldwide, the highest standards of quality and character unique to the NYPD and FDNY.

73. Defendants' use of imitations of the famous and distinctive NYPD and FDNY Trademarks constitutes a commercial use in commerce of a mark or trade name, which has caused and will continue to cause irreparable dilution of the distinctive quality of the City's NYPD and FDNY Trademarks.

74. Defendants have willfully intended to trade on the City's reputation and/or the reputation of the NYPD and FDNY and to cause dilution of the City's famous and distinctive NYPD and FDNY Trademarks in violation of 15 U.S.C. § 1125(c).

75. By reason of the foregoing, the City is entitled to damages and injunctive relief.

**COUNT IV**  
**(Common Law Unfair Competition)**

76. The City repeats and re-alleges the allegations of Paragraphs 1 through 75 as though fully set forth herein.

77. Defendants' unauthorized and infringing use of the City's NYPD and FDNY Trademarks constitutes misappropriation and infringement of such trademarks, actionable under the law of unfair competition.

78. By reason of the foregoing, the City has been injured in an amount not yet ascertained.

**COUNT V**  
**(Trademark Infringement in Violation**  
**of General Business Law § 360-k)**

79. The City repeats and re-alleges the allegations of Paragraphs 1 through 78 as though fully set forth herein.

80. The City owns valid and subsisting New York State trademark registrations for the NYPD Mark, the NYPD Shield, the FDNY Mark and the FDNY Shield.

81. Defendants' unauthorized use of such trademarks in New York State without the City's consent, for the purpose of selling infringing merchandise not approved by the City for sale to the general public, has caused and continues to cause confusion, mistake and deception in the minds of the public.

82. By selling infringing merchandise bearing such NYPD and FDNY Trademarks, Defendants have infringed the NYPD and FDNY Trademarks registered under New York state law, and has willfully violated Section 360-k of the New York General Business Law.

83. Defendants' misappropriation and infringement of the City's NYPD and FDNY Trademarks in New York State was willfully committed with the intent to cause confusion or mistake or deception among the consuming public.

84. By reason of the foregoing, the City has been injured in an amount not yet ascertained and is entitled to the remedies provided for in New York General Business Law §§ 360-k, 360-l and 360-m.

**COUNT VI**  
**(Deceptive Trade Practices and False Advertising**  
**In Violation of New York General Business Law**  
**Sections 349, 350 and 350-e)**

85. The City repeats and re-alleges the allegations of Paragraphs 1 through 84 as though fully set forth herein.

86. Defendants' misappropriation and infringement of the City's NYPD and FDNY Trademarks represent a deliberate attempt to mislead consumers into believing that their infringing merchandise is authorized, sponsored, or otherwise affiliated with the City.

87. By engaging in such false and misleading marketing of its products, Defendants have engaged in deceptive acts or practices in violation of New York General Business Law § 349 and false advertising in violation of New York General Business Law §§ 350 and 350-e.

88. Such violations have resulted, upon information and belief, in profits to Defendants and have substantially harmed the City by depriving it of revenue to which it is entitled as a result of Defendants' unauthorized association of their merchandise with the NYPD and FDNY.

89. By reason of the foregoing, the City is entitled to the remedies provided for in New York General Business Law §§ 349, 350 and 350-e.

**WHEREFORE**, the City prays that this Court:

- A. Declare that Defendants, by the acts complained of herein, have infringed the City's NYPD and FDNY Trademarks and have competed unfairly with the City and its licensees, and that the acts complained of herein will damage and diminish the distinctiveness of the NYPD and FDNY Trademarks unless enjoined by this Court;

B. Order that Defendants, and all other persons acting in concert or participation with them, be permanently enjoined from further acts of trademark infringement, dilution, or unfair competition, and particularly from, in any manner, directly or indirectly:

- (a) using or otherwise infringing the City's NYPD and FDNY Trademarks;
- (b) using any mark or indicia that incorporates any of the NYPD and FDNY Trademarks;
- (c) manufacturing, distributing, circulating, selling, marketing, moving or otherwise disposing of merchandise bearing any simulation, reproduction, counterfeit, copy, colorable imitation or confusingly similar imitation of the NYPD and FDNY Trademarks, or marketing, advertising or displaying their goods in any way that tends to deceive, mislead or confuse the public into believing that Defendants' merchandise is in any way sanctioned by or affiliated with the City or its agencies;
- (d) using any false designation of origin or false description (including, without limitation, any letters or symbols) which can, or is likely to, lead the trade or public to believe that any product manufactured, advertised, distributed and/or sold by Defendants is in any manner associated or connected with the City, or is sold, licensed, sponsored, approved or authorized by the City;
- (e) otherwise competing unfairly with the City, its agencies, or its authorized licensees;

(f) diluting the distinctive quality of the NYPD and FDNY Trademarks; and

(g) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (f) above.

- C. Order that Defendants be required to deliver up for destruction all products, packaging, labels, literature, advertising and other material bearing imitations or reproductions, including confusingly similar variations of, the NYPD and FDNY Trademarks, as well as all manufacturing plates, screens, molds, matrices, or other equipment used to reproduce patches bearing the NYPD and FDNY Trademarks.
- D. Order that Defendants be required to account for and pay over to the City all gains, profits and advantages realized from the sale of counterfeit and infringing merchandise;
- E. Order that Defendants be directed to file with this Court and serve on Plaintiff within thirty (30) days after service of the injunction, a report in writing, under oath, setting forth in detail the manner and form in which the Defendants have complied with the injunction;
- F. Enter judgment against Defendants for damages, in an amount to be determined, that Plaintiff has sustained as a consequence of Defendants' acts of trademark infringement, unfair competition, deceptive and unfair practices and trademark dilution, including trebled damages pursuant to Section 35 of the Lanham Act, 15 U.S.C. § 1117, and, if the City so elects, statutory

damages for its willful infringement of the NYPD and FDNY Trademarks under 15 U.S.C. § 1117; plus Plaintiff's costs, expenses and reasonable attorney fees in connection with this action as provided in 15 U.S.C. § 1117; and


G. Such other, further and different relief as this Court deems just and proper.

**JURY DEMAND**

The City demands a jury trial of all issues triable by a jury.

Dated: New York, New York  
June 9, 2017

ZACHARY W. CARTER  
Corporation Counsel of the  
City of New York  
*Attorney for Plaintiff*  
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New York, New York 10007  
(212) 356-2036

By:   
Gerald E. Singleton (GS-4750)



JS 44 (Rev. 06/17)

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

**I. (a) PLAINTIFFS**

THE CITY OF NEW YORK

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

(c) Attorneys (Firm Name, Address, and Telephone Number)  
Gerald E. Singleton, New York City Law Department  
100 Church Street, Room 20-093  
New York, New York 10007

**DEFENDANTS**

BLUE RAGE, INC., SALAVATORE PICCOLO and SUSAN PICCOLO

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

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

Attorneys (If Known)  
Gerard F. Dunne, Esq.  
41 Union Square West, Suite 1125  
New York, New York 10003

**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)

- |   | PTF                        | DEF                        |
|---|----------------------------|----------------------------|
| Citizen of This State   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 |
| Citizen of Another State                                      | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 |
| Citizen or Subject of a Foreign Country                       | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 |
| Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)Click here for: [Nature of Suit Code Descriptions.](#)

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

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 USC 1114, 1121, 1125, 28 USC 1331

Brief description of cause:

Infringement of registered NYPD and FDNY trademarks; false designation of origin; trademark dilution

**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

6/7/17

SIGNATURE OF ATTORNEY OF RECORD

Gerald E. Singleton

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE



**CERTIFICATION OF ARBITRATION ELIGIBILITY**

Local Arbitration Rule 83.10 provides that with certain exceptions, actions seeking money damages only in an amount not in excess of \$150,000, exclusive of interest and costs, are eligible for compulsory arbitration. The amount of damages is presumed to be below the threshold amount unless a certification to the contrary is filed.

I, Gerald E. Singleton, counsel for the City of New York, do hereby certify that the above captioned civil action is ineligible for compulsory arbitration for the following reason(s):

- ☐ monetary damages sought are in excess of \$150,000, exclusive of interest and costs,
- ☒ the complaint seeks injunctive relief,
- ☐ the matter is otherwise ineligible for the following reason

**DISCLOSURE STATEMENT - FEDERAL RULES CIVIL PROCEDURE 7.1**

Identify any parent corporation and any publicly held corporation that owns 10% or more of its stocks:

**RELATED CASE STATEMENT (Section VIII on the Front of this Form)**

Please list all cases that are arguably related pursuant to Division of Business Rule 50.3.1 in Section VIII on the front of this form. Rule 50.3.1 (a) provides that "A civil case is "related" to another civil case for purposes of this guideline when, because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge." Rule 50.3.1 (b) provides that "A civil case shall not be deemed "related" to another civil case merely because the civil case: (A) involves identical legal issues, or (B) involves the same parties." Rule 50.3.1 (c) further provides that "Presumptively, and subject to the power of a judge to determine otherwise pursuant to paragraph (d), civil cases shall not be deemed to be "related" unless both cases are still pending before the court."

**NY-E DIVISION OF BUSINESS RULE 50.1(d)(2)**

- 1.) Is the civil action being filed in the Eastern District removed from a New York State Court located in Nassau or Suffolk County? No
- 2.) If you answered "no" above:
- a) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in Nassau or Suffolk County? Yes
- b) Did the events or omissions giving rise to the claim or claims, or a substantial part thereof, occur in the Eastern District? Yes

If your answer to question 2 (b) is "No," does the defendant (or a majority of the defendants, if there is more than one) reside in Nassau or Suffolk County, or, in an interpleader action, does the claimant (or a majority of the claimants, if there is more than one) reside in Nassau or Suffolk County?

(Note: A corporation shall be considered a resident of the County in which it has the most significant contacts).

**BAR ADMISSION**

I am currently admitted in the Eastern District of New York and currently a member in good standing of the bar of this court.

☒ Yes

☐ No

Are you currently the subject of any disciplinary action (s) in this or any other state or federal court?

☐ Yes

(If yes, please explain)

☒ No

I certify the accuracy of all information provided above.

Signature: Gerald E. Singleton

Eastern District of New York

Civil Action No.

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE***(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
 was received by me on *(date)* \_\_\_\_\_.

☐ I personally served the summons on the individual at *(place)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* \_\_\_\_\_, who is  
 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
 \_\_\_\_\_ on *(date)* \_\_\_\_\_; or

☐ I returned the summons unexecuted because \_\_\_\_\_; or

☐ Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ 0.00.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

for the

THE CITY OF NEW YORK,

Plaintiff(s)

**V.**

BLUE RAGE, INC., d/b/a THE COP SHOP, and  
SALVATORE PICCOLO and SUSAN PICCOLO,

Defendant(s)

Civil Action No.

To: *(Defendant's name and address)* Salvatore Piccolo  
560 Broadway  
Massapequa, New York 11758

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are: **Gerald E. Singleton**

Gerald E. Singleton  
New York City Law Department  
100 Church Street  
New York, New York 10007

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

DOUGLAS C. PALMER  
CLERK OF COURT

Date: \_\_\_\_\_

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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 \_\_\_\_\_, a person of suitable age and discretion who resides there,  
 on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

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 designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
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I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

Eastern District of New York

Civil Action No.

Signature of Clerk or Deputy Clerk

AO 440 (Rev. 06/12) Summons in a Civil Action (Page 2)

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Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: