

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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NATIONAL ASSOCIATION FOR THE
ADVANCEMENT OF COLORED PEOPLE,

Plaintiff,

-against-

A.A. ARMS, INC.; AMERICAN ARMS, INC.;
AMERICAN DERRINGER CORPORATION;
AMERICAN FIREARMS TECHNOLOGY;
ARCADIA MACHINE & TOOL, INC; ARMS
TECHNOLOGY, INC.; ASTRA-STAR
C/LBRRA, S.A.; AUGUSTA ARMS, INC.;
BOND ARMS, INC.; BRAZTECH, INC.;
BERSA, S.A.; B.L. JENNINGS, INC.;
BROWNING ARMS CO.; BRYCO ARMS;
CALICO LIGHT WEAPON SYSTEMS, INC.;
CASPIAN ARMS, LTD.; CENTURY
INTERNATIONAL ARMS, INC.; CESKA
ZBROJOVKA; CHARCO 2000, INC.;
CHINA NORTH INDUSTRIES a/k/a NORINCO;
COBRAY FIREARMS, INC.; COLT'S
MANUFACTURING COMPANY, INC.;
CZ USA; DAEWOO PRECISION
INDUSTRIES, LTD.; DAVIS INDUSTRIES,
INC.; DESERT MOUNTAIN MANUFACTURING;
EAGLE IMPORTS; EUROPEAN AMERICAN
ARMORY CORP.; EXCEL INDUSTRIES a/k/a
ACCU-TEK; FABRICA D'ARMI PIETRO
BERETTA S.p.A; FELK INCORPORATED;
FERUNION/HUNGARIAN ARMS;
FORT WORTH ARMS; FREEDOM ARMS,
INC.; FIREARMS INTERNATIONAL CORP.;
F.M.J., INC. d/b/a FULL METAL JACKET, INC.;
GLOCK GmbH; GLOCK, INC.; GREDEL, INC.;
HAMMERLI LTD. a/k/a HAMMERLI GmbH;
HARRINGTON & RICHARDSON, INC.;
HASKELL, INC.; HECKLER & KOCH, GmbH;
HECKLER & KOCH, INC.; HERITAGE
MANUFACTURING, INC.; HIGH STANDARD
MANUFACTURING, INC.; HI-POINT
FIREARMS; H&R 1871, INC.;

CIVIL ACTION No:

COMPLAINT

BENCH TRIAL DEMANDED

HOWA MACHINERY LTD.; IMPORT
SPORTS CORP.; INTERNATIONAL ARMAMENT
CORPORATION d/b/a INTERARMS; ISRAEL
MILITARY INDUSTRIES; K.B.I. INC.;
KEL-TEC CNC INDUSTRIES, INC.; L.A.R.
MANUFACTURING, INC.; LASERAIM
TECHNOLOGIES, INC.; LLAMA GABILONDO
Y CIA; LORCIN ENGINEERING CO.; INC.;
L.W. SEECAMP CO., INC.; MAGNUM
RESEARCH INC.; MAUSER WEKE
OBERNDORF WAFFNSYSTEME GmbH;
MAVERICK ARMS, INC.; MITCHELL
ARMS, INC.; MKS SUPPLY, INC.;
NAVEGAR, INC. d/b/a INTRATEC;
NAVY ARMS, INC.; NORTH AMERICAN
ARMS; NORTH CHINA INDUSTRIES
NORINCO, INC.; OLYMPIC ARMS, INC.;
PARA-ORDNANCE MANUFACTURING, INC.;
PARA-ORDNANCE, INC.; PHOENIX ARMS,
INC.; QUALITY ARMS, INC.; QUALITY
FIREARMS, INC.; QUALITY FIREARMS
OF IDAHO, INC.; RAM-LINE CORP.;
RAVEN ARMS, INC.; REMINGTON ARMS
COMPANY; REPUBLIC ARMS; RG
INDUSTRIES, INC.; ROCKY MOUNTAIN
ARMS, INC.; ROHM GmbH; ROSSI, S.A.;
SAFARI ARMS, INC.; SAVAGE ARMS, INC.;
SGS IMPORTS INTERNATIONAL, INC.;
SGW ENTERPRISES, INC.; SIGARMS, INC.;
SIGARMS/SAUER; SMITH & WESSON
CORPORATION; SPORTSMEN OF FLORIDA;
STALLARD/MAVERICK ARMS, INC.;
STALLARD ARMS; STAR, BONIFACIO
ECHEVERRIA S.A.; STI INTERNATIONAL;
STOEGER, INC.; STURM, RUGER & COMPANY;
SUNDANCE INDUSTRIES, INC.; S.W. DANIEL,
INC.; TANFOGLIO S.r.l.; TAURUS HOLDINGS,
INC.; TAURUS INTERNATIONAL
MANUFACTURING, INC.; FORJAS
TAURUS, S.A.; THOMPSON/CENTER
ARMS; UBERTI ALDO; UBERTI USA, INC.;
ULTRA LIGHT ARMS, INC.; VEBA AG;
WALTHER GmbH; WEATHERBY, INC.;

BRUCE JENNINGS; SYLVIA DANIEL;
and WAYNE DANIEL,

Defendants.

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Plaintiffs National Association for the Advancement of Colored People (hereinafter “NAACP”), on behalf of themselves, their individual members, and those whose interests they represent, by way of Complaint against the defendants, and each of them, allege as follows:

I.

NATURE OF THE ACTION

1. Plaintiff, NAACP, brings this action for equitable relief against the defendants seeking changes to the marketing, distribution and sales practices of the defendants – practices which have led to disproportionate numbers of injuries, deaths and other damages among those whose interests the plaintiff represents.

2. Handguns designed, manufactured, imported, marketed, distributed and sold by the defendants kill and seriously injure tens of thousands of people in the United States every year. Many of those who are injured, killed or placed at risk by the defendants’ handguns are children, including the children of members of the NAACP, and other children whose interests and welfare the NAACP represents and endeavors to protect.

3. These handgun-related injuries and deaths are the result of the defendants’ conduct in failing to regulate, supervise and otherwise exercise reasonable control over the marketing, distribution and sale of their handguns, resulting in an oversupply of illegal handguns in the United States.

4. For years the handgun industry comprising the defendants has negligently distributed handguns and by doing so has flooded and saturated the lawful handgun market so as to create, maintain and supply an unlawful, unregulated and underground handgun market. Defendants knew, or reasonably should have known and foreseen, that they were producing, marketing and distributing handguns far in excess of the reasonable legitimate demand from responsible and legal consumers in the lawful handgun market, but they have failed and refused to take any meaningful steps to regulate and control the marketing and distribution of their handguns. Defendants' acts and omissions, both individually and collectively as an industry, have established the conditions necessary to facilitate the supply of handguns to an unlawful underground market in handgun. It is in this unlawful market, which is the source of handguns involved in thousands of shootings annually, that criminals, juveniles, the mentally ill and other persons not lawfully authorized to own or possess handguns, can and do quickly and easily obtain such lethal weapons.

5. These injuries and deaths are also the result of the defective and/or negligent design of the defendants' handguns, which fail to incorporate feasible basic safety devices that would prevent or reduce their improper use. The irresponsible production, marketing, distribution and sale of these handguns through both the lawful and unlawful handgun markets further acts to ensure that they will be misused when they fall into the hands of those who are inexperienced and/or incapable of using them safely, including children.

6. These injuries and deaths are also the result of the defendants' failure to provide adequate warnings about the risks and dangers associated with their handguns. Instead of warning about the risks and dangers of handgun ownership, possession and use, the defendants

have concealed and down-played these risks and dangers, especially to children and others persons inexperienced in the use of handguns. Defendants further over promote the purported benefits of handgun ownership. They advertise, portray and emphasize handgun ownership as providing safety and security, even though handgun ownership actually increases dramatically the risks of injury and death to household members.

7. Defendants are and have been aware of the enormous scale of human suffering caused by their handguns, but for decades have shirked any responsibility for the tragedies caused by their products, instead shifting the blame to the users of their deadly products. Their lack of care and concern for the suffering caused to victims by their negligent marketing and distribution practices, their defectively and negligently designed, marketed, and distributed handguns, and their failure to warn of the true risks and dangers of handgun ownership, possession and use is the result of callous disregard, gross indifference to the right and safety of others, greed, and a complete absence of civic responsibility. The handgun industry has historically denied that it bears any responsibility for the misuse of its product by either youths or criminals, and it has resisted any efforts made to institute safer sales or marketing practices, or to incorporate available safety features in the design of its products to prevent accidental discharges. On the contrary the handgun industry uses the lobbying efforts of the National Rifle Association and other organizations of which the defendants are members to oppose and defeat any proposed legislative changes in industry practices which would make handguns less accessible to criminals, juveniles and other prohibited persons.

8. As a consequence of the defendants' marketing, distribution and sales practices, plaintiff NAACP, and persons whose interests they seek to protect, have suffered, and will continue to suffer, irreparable harm, in the nature of serious personal injuries, deaths and other

damages, unless the defendants are prevented from engaging in their harmful activities. There being no adequate remedy at law, plaintiffs invoke the Court's historical equitable authority to grant the injunctive relief requested herein.

II.

JURISDICTION AND VENUE

9. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332 on the basis of diversity of citizenship, the amount in controversy being in excess of \$75,000.

10. Venue of this matter in the Eastern District of New York is proper pursuant to 28 U.S.C. § 1391 in that all defendants conduct business and advertise in this district, have caused their products to be distributed in this district and have received substantial profits from the sale of their products in this district.

III.

THE PARTIES **Plaintiffs**

11. Plaintiff NAACP is a citizen of the States of New York and Maryland, being organized and existing under the laws of New York, with its principal place of business in Maryland. It is a national organization with more than 500,000 members and more than 2,200 local branches covering all 50 states and the District of Columbia, as well as locations overseas. Founded in 1909 and incorporated in 1911, it is the oldest and largest civil rights organization the United States. Its purposes include the promotion of social justice and protection of the well-being and security of African-Americans and other persons of color. The NAACP is committed to non-violence and the achievement of its goals by moral, political and legal persuasion through the press, the political process, and the legal system. The NAACP is particularly concerned about the level of handgun violence in African-American communities and it has consistently taken a strong

position against such violence in favor of handgun control. Plaintiff NAACP brings this action for permanent injunctive relief in order to protect the well-being and security of its membership which has been disproportionately injured by defendants' conduct, and those other persons whose interests it represents, and such action is germane to its purposes.

12. A significant number of NAACP members could have brought this action in their own right in that a number of NAACP members have been injured by negligently marketed underground market firearms and a greater number have been placed at risk of harm as a result of the prevalence of underground market handguns.

13. The claims for injunctive relief asserted by plaintiff does not require the participation of individual members in that it can adequately be presented by the plaintiff organization.

Defendant Manufacturers

14. At all times relevant to this action, defendant A.A. ARMS, INC., ("A.A. Arms") was and still is a corporation organized and existing under the laws of the State of North Carolina with its principal place of business in North Carolina. At all times relevant to this action, A.A. Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York..

15. At all times relevant to this action, defendant AMERICAN ARMS, INC. ("American Arms") was and still is a corporation organized and existing under the laws of the State of Kansas with its principal place of business in Kansas. At all times relevant to this action, American Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

16. At all times relevant to this action, defendant AMERICAN DERRINGER

CORPORATION (“American Derringer”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. On July 1, 1999 American Derringer filed a petition for reorganization under Chapter 11 of the Bankruptcy Code, which petition was granted in November, 1996. At all times relevant to this action, American Derringer manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

17. At all times relevant to this action, defendant AMERICAN FIREARMS TECHNOLOGIES (“American Firearms”) was and still is a corporation organized and existing under the laws of the State of Michigan with its principal place of business in Michigan. At all times relevant to this action, American Firearms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

18. At all times relevant to this action, defendant ARCADIA MACHINE & TOOL, INC. (“Arcadia”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Arcadia manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

19. At all times relevant to this action, defendant ARMS TECHNOLOGY, INC. (“Arms Technology”) was and still is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah. At all times relevant to this action, Arms Technology manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

20. At all times relevant to this action, defendant ASTRA-STAR, C/LBARRA S.A. (“Astra-Star”) was and still is a corporation organized and existing under the laws of Spain with

its principal place of business in Spain. At all times relevant to this action, Astra-Star manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

21. At all times relevant to this action, defendant AUGUSTA ARMS, INC. (“Augusta Arms”) was and still is a corporation organized and existing under the laws of the State of Alabama with its principal place of business in Alabama. At all times relevant to this action, Augusta Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

22. At all times relevant to this action, defendant BOND ARMS, INC. (“Bond Arms”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, Bond Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

23. At all times relevant to this action, defendant BRAZTECH, INC., (“BrazTech”) was and still is a corporation organized and existing under the laws of Florida, with its principal place of business in Florida. At all times relevant to this action, BrazTech imported and distributed handguns within the United States, including the State of New York..

24. At all times relevant to this action, defendant BERSA S.A. (“Bersa”) was and still is a corporation organized and existing under the laws of Argentina with its principal place of business in Argentina. At all times relevant to this action, Bersa manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

25. At all times relevant to this action, defendant B.L. JENNINGS, INC. (“B.L. Jennings”) was and still is a corporation organized and existing under the laws of the State of

Nevada with its principal place of business in Nevada. At all times relevant to this action, B.L. Jennings , Inc. manufactured, assembled and directed the manufacture, assemblage and distribution of handguns for defendant, Bryco Arms, and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

26. At all times relevant to this action, defendant BROWNING ARMS CO. (“Browning”) was and still is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah. At all times relevant to this action, Browning manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

27. At all times relevant to this action, defendant BRYCO ARMS (“Bryco”) was and still is a corporation organized and existing under the laws of the State of Nevada with its principal place of business in California. At all times relevant to this action, Bryco manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

28. At all times relevant to this action, defendant CALICO LIGHT WEAPON SYSTEMS, INC. (“Calico”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Calico manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

29. At all times relevant to this action, defendant CASPIAN ARMS, LTD. (“Caspian Arms”) was and still is a corporation organized and existing under the laws of the State of Vermont with its principal place of business in Vermont. At all times relevant to this action, Caspian Arms manufactured, assembled and/or imported handguns, which were marketed,

distributed and/or sold within the United States, including the State of New York.

30. At all times relevant to this action, defendant CENTURY INTERNATIONAL ARMS, INC. (“Century”) was and still is a corporation organized and existing under the laws of the State of Vermont with its principal place of business in Vermont. At all times relevant to this action, Century manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

31. At all times relevant to this action, defendant CESKA ZBROJOVKA (“Ceska”) was and still is a corporation organized and existing under the laws of Argentina with its principal place of business in Argentina. At all times relevant to this action, Ceska manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

32. At all times relevant to this action, defendant CHARCO 2000, INC. (“Charco”) was and still is a foreign corporation with its principal place of business in Connecticut. At all times relevant to this action, Charco manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

33. At all times relevant to this action, defendant CHINA NORTH INDUSTRIES (“China North”) a/k/a NORINCO was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, China North manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York..

34. At all times relevant to this action, defendant COBRAY FIREARMS, INC. (“Cobray”) was and still is a foreign corporation with its principal place of business in Tennessee. At all times relevant to this action, Cobray manufactured, assembled and/or imported handguns,

which were marketed, distributed and/or sold within the United States, including the State of New York.

35. At all times relevant to this action, defendant COLT'S MANUFACTURING COMPANY, INC. ("Colt's") was and still is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Connecticut. At all times relevant to this action, Colt's manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

36. At all times relevant to this action, defendant CZ USA was and still is a corporation organized and existing under the laws of the State of Kansas, with its principal place of business in Kansas. At all times relevant to this action, CZ USA manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

37. At all times relevant to this action, defendant DAEWOO PRECISION INDUSTRIES, LTD. ("Daewoo") was and still is a corporation organized and existing under the laws of Korea with its principal place of business in Korea. At all times relevant to this action, Daewoo manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

38. At all times relevant to this action, defendant DAVIS INDUSTRIES, INC. ("Davis") was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. On May 27, 1999 Davis filed a petition for reorganization under Chapter 11 of the Bankruptcy Code in the Bankruptcy Court, Central District of California, Case No. RS99-19302 MJ. At all times relevant to this action, Davis manufactured, assembled and/or imported handguns, which were marketed, distributed

and/or sold within the United States, including the State of New York.

39. At all times relevant to this action, defendant DESERT MOUNTAIN MANUFACTURING (“Desert Mountain”) was and still is a corporation organized and existing under the laws of the State of Montana with its principal place of business in Montana. At all times relevant to this action, Desert Mountain manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

40. At all times relevant to this action, defendant EAGLE IMPORTS (“Eagle Imports”) was and still is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in New Jersey. At all times relevant to this action, Eagle Imports manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

41. At all times relevant to this action, defendant EUROPEAN AMERICAN ARMORY CORP. (“E.A.A.”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, E.A.A. manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

42. At all times relevant to this action, defendant EXCEL INDUSTRIES (“Excel”), a/k/a ACCU-TEK, was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Eagle Imports manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

43. At all times relevant to this action, defendant FABRICA D’ARMI PIETRO BERETTA S.p.A. (“Pietro Beretta”) was and still is a corporation organized and existing under

the laws of Italy with its principal place of business in Italy. At all times relevant to this action, Pietro Beretta manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

44. At all times relevant to this action, defendant FELK INCORPORATED (“Felk”) was and still is a corporation organized and existing under the laws of the State of Virginia with its principal place of business in Virginia. At all times relevant to this action, Felk manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

45. At all times relevant to this action, defendant FERUNION/HUNGARIAN ARMS (“FEG”) was and still is a corporation organized and existing under the laws of Hungary with its principal place of business in Hungary. At all times relevant to this action, FEG manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

46. At all times relevant to this action, defendant FORT WORTH ARMS (“Fort Worth Arms”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, Fort Worth Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

47. At all times relevant to this action, defendant FREEDOM ARMS, INC. (“Freedom Arms”) was and still is a corporation organized and existing under the laws of the State of Wyoming with its principal place of business in Wyoming. At all times relevant to this action, Freedom Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York

48. At all times relevant to this action, defendant FIREARMS INTERNATIONAL CORP. (“Firearms International”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, Firearms International manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

49. At all times relevant to this action, defendant F.M.J., INC. d/b/a FULL METAL JACKET, INC. (“Full Metal Jacket”) was and still is a corporation organized and existing under the laws of the State of Tennessee with its principal place of business in Tennessee. At all times relevant to this action, Full Metal Jacket manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

50. At all times relevant to this action, defendant GLOCK GmbH was and still is a corporation organized and existing under the laws of Austria with its principal place of business in Austria. At all times relevant to this action, Glock GmbH manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the state of New York.

51. At all times relevant to this action, defendant GLOCK, INC. (“Glock”) was and still is a corporation organized and existing under the laws of the State of Georgia with its principal place of business in Georgia. At all times relevant to this action, Glock manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

52. At all times relevant to this action, defendant GRENDEL, INC. (“Grendel”) was and still is a corporation organized and existing under the laws of the State of Florida with its

principal place of business in Florida. At all times relevant to this action, Grendel manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

53. At all times relevant to this action, defendant HAMMERLI LTD (“Hammerli”) a/k/a HAMMERLI GmbH was and still is a corporation organized and existing under the laws of the Switzerland with its principal place of business in Switzerland. At all times relevant to this action, Hammerli manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

54. At all times relevant to this action, defendant HARRINGTON & RICHARDSON, INC. (“Harrington & Richardson”) was and still is a corporation organized and existing under the laws of the State of Massachusetts with its principal place of business in Massachusetts. At all times relevant to this action, Harrington & Richardson manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

55. At all times relevant to this action, defendant HASKELL, INC. (“Haskell”) was and still is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Ohio. At all times relevant to this action, Haskell manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York

56. At all times relevant to this action, defendant HECKLER & KOCH GmbH (“Heckler & Koch”) was and still is a corporation organized and existing under the laws of Germany with its principal place of business in Germany. At all times relevant to this action, Heckler & Koch manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

57. At all relevant times to this action, defendant HECKLER & KOCH, INC. was and still is a corporation organized and existing under the laws of the State of Virginia, with its principal place of business in Virginia. At all times relevant to this action, Heckler & Koch, Inc. imported, marketed, distributed and/or sold handguns within sold within the United States, including the State of New York.

58. At all times relevant to this action, defendant HERITAGE MANUFACTURING, INC. (“Heritage”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Heritage manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

59. At all times relevant to this action, defendant HIGH STANDARD MANUFACTURING, INC. (“High Standard”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, High Standard manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

60. At all times relevant to this action, defendant HI-POINT FIREARMS (“Hi-Point”) was and still is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Ohio. At all times relevant to this action, Hi-Point manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

61. At all times relevant to this action, defendant H&R 1871, INC. (“H&R 1871”) was and still is a corporation organized and existing under the laws of the State of Massachusetts with its principal place of business in Massachusetts. At all times relevant to this action, H&R 1871

manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

62. At all times relevant to this action, defendant HOWA MACHINERY LTD. (“Howa”) was and still is a corporation organized and existing under the laws of Japan with its principal place of business in Japan. At all times relevant to this action, How manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

63. At all times relevant to this action, defendant IMPORT SPORTS CORP. (“Import Sports”) was and still is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business in New Jersey. At all times relevant to this action, Import Sports manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

64. At all times relevant to this action, defendant INTERNATIONAL ARMAMENT CORPORATION d/b/a INTERARMS (“Interarms”) was and still is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Virginia. At all times relevant to this action, Interarms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

65. At all times relevant to this action, defendant ISRAEL MILITARY INDUSTRIES (“IDI”) was and still is a corporation organized and existing under the laws of Israel with its principal place of business in Israel. At all times relevant to this action, IDI manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

66. At all times relevant to this action, defendant K.B.I., INC. (“KBI”) was and still is

a corporation organized and existing under the laws of the State of Pennsylvania with its principal place of business in Pennsylvania. At all times relevant to this action, KBI manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

67. At all times relevant to this action, defendant KEL-TEC CNC INDUSTRIES, INC. (“Kel-Tec”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Kel-Tec manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

68. At all times relevant to this action, defendant L.A.R. MANUFACTURING, INC. (“L.A.R.”) was and still is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah. At all times relevant to this action, L.A.R. manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

69. At all times relevant to this action, defendant LASERAIM TECHNOLOGIES, INC. (“Laseraim”) was and still is a corporation organized and existing under the laws of the State of Arkansas with its principal place of business in Arkansas. At all times relevant to this action, Laseraim manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

70. At all times relevant to this action, defendant LLAMA GABILONDO Y CIA (“Llama”) was and still is a corporation organized and existing under the laws of Spain with its principal place of business in Spain. At all times relevant to this action, Llama manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold

within the United States, including the State of New York.

71. At all times relevant to this action, defendant LORCIN ENGINEERING CO., INC. (“Lorcin”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. On November 17, 1996 Lorcin filed a petition for reorganization under Chapter 11 of the Bankruptcy Code. At all times relevant to this action, Lorcin manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

72. At all times relevant to this action, defendant L.W. SEECAMP CO., INC. (“L.W. Seecamp”) was and still is a foreign corporation with its principal place of business in Connecticut. At all times relevant to this action, L.W. Seecamp manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

73. At all times relevant to this action, MAGNUM RESEARCH, INC. (“Magnum”) was and still is a corporation organized and existing under the laws of the State of Minnesota, with its principal place of business in Minnesota.. At all times relevant to this action, Magnum imported, marketed, distributed and/or sold handguns within the United States, including the State of New York.

74. At all times relevant to this action, defendant MAUSER WERKE OBERNDORF WAFFENSYSTEME, GmbH (“Mauser”) was and still is a corporation organized and existing under the laws of Germany with its principal place of business in Germany. At all times relevant to this action, Mauser manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

75. At all times relevant to this action, MAVERICK ARMS, INC. (“Maverick”) was and still is a corporation organized and existing under the laws of the State of Connecticut and

having its principal place of business in Connecticut. At all times relevant to this action, Maverick manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

76. At all times relevant to this action, defendant MITCHELL ARMS, INC. (“Mitchell”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Mitchell manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York.

77. At all times relevant to this action, defendant MKS SUPPLY, INC. (“MKS Supply”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Ohio. At all times relevant to this action, MKS Supply manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

78. At all times relevant to this action, defendant NAVEGAR, INC. d/b/a INTRATEC (“Intratec”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Intratec manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within sold within the United States, including the State of New York

79. At all times relevant to this action, defendant NAVY ARMS, INC. (“Navy Arms”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in New Jersey. At all times relevant to this action, Navy Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

80. At all times relevant to this action, defendant NORTH AMERICAN ARMS

(“North American Arms”) was and still is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah. At all times relevant to this action, North American Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

81. At all times relevant to this action, defendant NORTH CHINA INDUSTRIES NORINCO, INC. (“Norinco”) was and still is a corporation organized and existing under the laws of China with its principal place of business in China. At all times relevant to this action, Norinco manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

82. At all times relevant to this action, defendant OLYMPIC ARMS, INC. (“Olympic”) was and still is a corporation organized and existing under the laws of the State of Washington with its principal place of business in the State of Washington. At all times relevant to this action, Olympic manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

83. At all times relevant to this action, defendant PARA-ORDNANCE MANUFACTURING, INC. (“Para-Ordnance”) was and still is a foreign corporation with its principal place of business in Ontario, Canada. At all times relevant to this action, Para-Ordnance manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

84. At all times relevant to this action, defendant PARA-ORDNANCE, INC. (“Para-Ordnance”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Para-Ordnance manufactured, assembled and/or imported handguns, which were marketed, distributed

and/or sold within the United States, including the State of New York.

85. At all times relevant to this action, defendant PHOENIX ARMS, INC. (“Phoenix Arms”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Phoenix Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

86. At all times relevant to this action, defendant QUALITY ARMS, INC. (“Quality Arms”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, Quality Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

87. At all times relevant to this action, defendant QUALITY FIREARMS, INC. (“Quality Firearms”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Quality Handgun manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

88. At all times relevant to this action, defendant QUALITY FIREARMS OF IDAHO, INC. (“Quality Firearms of Idaho”) was and still is a corporation organized and existing under the laws of the State of Idaho with its principal place of business in Idaho. At all times relevant to this action, Quality Firearms of Idaho manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

89. At all times relevant to this action, defendant RAM-LINE CORP. (“Ram-Line”) was a foreign corporation with its principal place of business in Colorado. At all times relevant to this action, Ram-Line manufactured, assembled and/or imported handguns, which were marketed,

distributed and/or sold within the United States, including the State of New York.

90. At all times relevant to this action, defendant RAVEN ARMS, INC. (“Raven”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Raven manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

91. At all times relevant to this action, REMINGTON ARMS COMPANY (“Remington”) was and still is a corporation organized and existing under the laws of the State of North Carolina with its principal place of business in North Carolina. At all times relevant to this action, Remington manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

92. At all times relevant to this action, defendant REPUBLIC ARMS (“Republic”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, Republic manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

93. At all times relevant to this action, RG INDUSTRIES, INC. was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, RG Industries manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

94. At all times relevant to this action, defendant ROCKY MOUNTAIN ARMS, INC. (“Rocky Mountain”) as and still is a corporation organized and existing under the laws of the State of Colorado with its principal place of business in Colorado. At all times relevant to this

action, Rocky Mountain manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

95. At all times relevant to this action, defendant ROHM GmbH (“Rohm”) was and still is a corporation organized and existing under the laws of Germany with its principal place of business in Germany. At all times relevant to this action, Rohm manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

96. At all times relevant to this action, defendant ROSSI S.A. (“Rossi”) was and still is a corporation organized and existing under the laws of Brazil with its principal place of business in Brazil. At all times relevant to this action, Rossi manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

97. At all times relevant to this action, defendant SAFARI ARMS, INC. (“Safari”) was and still is a corporation organized and existing under the laws of the State of Washington with its principal place of business in the State of Washington. At all times relevant to this action, Safari manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

98. At all times relevant to this action, defendant SAVAGE ARMS, INC. (“Savage Arms”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Massachusetts. At all times relevant to this action, Savage Arms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

99. At all times relevant to this action, defendant SGS IMPORTS

INTERNATIONAL, INC. (“SGS International”) was and still is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business in New Jersey. At all times relevant to this action, SGS Imports International, Inc. manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

100. At all times relevant to this action, defendant SGW ENTERPRISES, INC. (“SGW”) was and still is a corporation organized and existing under the laws of the State of Washington with its principal place of business in the State of Washington. At all times relevant to this action, SGW manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

101. At all times relevant to this action, defendant SIGARMS, INC. (“Sigarms”) was and still is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in New Hampshire. At all times relevant to this action, Sigarms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

102. At all times relevant to this action, defendant SIGARMS/SAUER (“Sigarms Sauer”) was and still is a corporation organized and existing under the laws of Germany with its principal place of business in Germany. At all times relevant to this action, Sigarms Sauer manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

103. At all times relevant to this action, defendant SMITH & WESSON CORPORATION (“Smith & Wesson”) was and still is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Massachusetts. At all

times relevant to this action, Smith & Wesson manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

104. At all times relevant to this action, defendant SPORTSMEN OF FLORIDA (“Sportsarms”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Sportsarms manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

105. At all times relevant to this action, defendant STALLARD/MAVERICK ARMS, INC. (“Stallard/Maverick”) was and still is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in Connecticut. At all times relevant to this action, Stallard/Maverick manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

106. At all times relevant to this action, defendant STALLARD ARMS (“Stallard”) was and still is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in Connecticut. At all times relevant to this action, Stallard manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

107. At all times relevant to this action, defendant STAR, BONIFACIO ECHEVERRIA S.A.(“Star”) was and still is a corporation organized and existing under the laws of Spain with its principal place of business in Spain. At all times relevant to this action, Star manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

108. At all times relevant to this action, defendant STI INTERNATIONAL (“STI International”) was and still is a corporation organized and existing under the laws of the State of Texas with its principal place of business in Texas. At all times relevant to this action, STI International manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

109. At all times relevant to this action, defendant STOEGER, INC. (“Stoeger”) was and still is a corporation organized and existing under the laws of the State of New Jersey with its principal place of business in New Jersey. At all times relevant to this action, Stoeger manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

110. At all times relevant to this action, defendant STURM, RUGER & COMPANY, (“Sturm Ruger”) was and still is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Connecticut. At all times relevant to this action, Sturm Ruger manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

111. At all times relevant to this action, defendant SUNDANCE INDUSTRIES, INC. (“Sundance”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Sundance manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

112. At all times relevant to this action, defendant S.W. DANIEL, INC. (“S.W. Daniel”) was and still is a corporation organized and existing under the laws of the State of

Georgia with its principal place of business in Tennessee. At all times relevant to this action, S.W. Daniel manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

113. At all times relevant to this action, defendant TANFOGLIO S.r.l. (“Tanfoglio”) was and still is a corporation organized and existing under the laws of Italy with its principal place of business in Italy. At all times relevant to this action, Tanfoglio manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

114. At all times relevant to this action, defendant TAURUS HOLDINGS, INC. (“Taurus Holdings”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Taurus Holdings manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

115. At all times relevant to this action, defendant TAURUS INTERNATIONAL MANUFACTURING, INC. (“Taurus”) was and still is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. At all times relevant to this action, Taurus manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

116. At all times relevant to this action, defendant FORJAS TAURUS, S.A. (“Forjas Taurus”) was and still is a corporation organized and existing under the laws of Brazil with its principal place of business in Brazil. At all times relevant to this action, Taurus Forjas manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

117. At all times relevant to this action, defendant THOMPSON/CENTER ARMS (“Thompson”) was and still is a corporation organized and existing under the laws of the State of New Hampshire with its principal place of business in New Hampshire. At all times relevant to this action, Thompson manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

118. At all times relevant to this action, defendant UBERTI ALDO (“Uberti Aldo”) was and still is a corporation organized and existing under the laws of Italy with its principal place of business in Italy. At all times relevant to this action, Uberti Aldo manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

119. At all times relevant to this action, defendant UBERTI USA, INC. (“Uberti USA”) was and still is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in Connecticut. At all times relevant to this action, Uberti USA manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

120. At all times relevant to this action, defendant ULTRA LIGHT ARMS, INC. (“Ultra Light”) was and still is a corporation organized and existing under the laws of the State of West Virginia with its principal place of business in West Virginia. At all times relevant to this action, Ultra Light manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

121. At all times relevant to this action, defendant VEBA AG (“Veba”) was and still is a corporation organized and existing under the laws of Germany with its principal place of

business in Germany. At all times relevant to this action, Verba manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

122. At all times relevant to this action, defendant WALTHER GmbH (“Walther”) was and still is a corporation organized and existing under the laws of Germany with its principal place of business in Germany. At all times relevant to this action, Walther manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold within the United States, including the State of New York.

123. At all times relevant to this action, defendant WEATHERBY INC. (“Weatherby”) was and still is a corporation organized and existing under the laws of the State of California with its principal place of business in California. At all times relevant to this action, Weatherby manufactured, assembled and/or imported handguns, which were marketed, distributed and/or sold in the United States, including the State of New York.

124. At all times relevant to this action, defendant Bruce Jennings was and still is a citizen of the State of Nevada. Defendant Bruce Jennings organized or caused to be organized B.L. Jennings, Inc. under the laws of the State of Nevada for the purpose of operating a firearm assembly and distribution company and, upon information and belief, defendant Bruce Jennings has held the office of President from the date of incorporation to the present time. Defendant Bruce Jennings, as the alter ego of defendant, B.L. Jennings Corporation, is and has been managing, controlling and conducting the affairs of the corporation since its incorporation, as though it were defendant Bruce Jennings’ own business and has used defendant corporation for the purpose of defrauding plaintiff and others similarly situated.

125. At all times relevant to this action, defendant Sylvia Daniel was and still is a citizen

of the State of Tennessee, and the owner of S.W. Daniel, Inc., Cobray and Full Metal Jacket. Defendant Sylvia Daniel organized or caused to be organized the corporations S.W. Daniel, Cobray and Full Metal Jacket under the laws of the State of Tennessee for the purposes of operating firearm manufacturing, assembly and distribution companies and, upon information and belief, defendant Sylvia Daniel has held the office of President of each corporation from the dates of incorporation to the present time. Defendant Sylvia Daniel, as the alter ego of defendants, S.W. Daniel, Inc., Cobray and Full Metal Jacket, is and has been managing, controlling and conducting the affairs of the corporations since their incorporation, as though they were defendant Sylvia Daniel's own businesses and has used defendant corporations for the purpose of defrauding plaintiff and others similarly situated.

126. At all times relevant to this action, defendant Wayne Daniel was and still is a citizen of the State of Tennessee, and is the owner of defendants S.W. Daniel, Inc., Cobray and Full Metal Jacket. Defendant Wayne Daniel organized or caused to be organized the corporations S.W. Daniel, Inc., Cobray and Full Metal Jacket under the laws of the State of Tennessee for the purposes of operating firearm manufacturing, assembly and distribution companies and, upon information and belief, defendant Wayne Daniel has held the office of President from the dates of incorporation to the present time. Defendant Wayne Daniel, as the alter ego of defendants, S.W. Daniel, Inc., Cobray and Full Metal Jacket, is and has been managing, controlling and conducting the affairs of the corporations since their incorporation, as though they were defendant Wayne Daniel's own businesses and has used defendant corporations for the purpose of defrauding plaintiff and others similarly situated.

IV.

GENERAL FACTUAL ALLEGATIONS

127. The widespread availability and use of handguns is a national problem of disastrous health, social and economic proportions. Handguns are involved in the deaths of approximately 34,000 people each year and are the instrumentalities most commonly used in homicides. Handguns were used to commit 69% of all homicides in 1995 and 68% of all homicides in 1996.

128. Plaintiff NAACP is particularly concerned about the level of handgun violence in the African-American communities, as well as other minority communities, and supports background checks under the Brady Handgun Violence Prevention Act, 18 U.S.C. §922. The human cost suffered by victims of handgun violence, their families and communities is disproportionately borne by African-Americans. According to a 1990 study by the Federal Centers for Disease Control (“CDC”), homicide is the leading cause of death for black males aged 15-17 and handguns were involved in 78% of these homicides. According to the same CDC study, a young African-American male is nine (9) times more likely to be murdered than a young white male. The American Academy of Pediatrics reported that handgun shot wounds among children in urban areas increased 300% from 1986 to 1988, and the NAACP estimates that, if this rate of handgun violence continues, one out of every twenty-five African-American males now in kindergarten will be wounded with a handgun before he reaches the age of 18 years. Despite overall decreases in handgun-related crimes, according to a 1998 *Uniform Crime Report* compiled by the Department of Justice (“DOJ”), the only demographic which did not indicate a decrease in handgun-related homicides was that of black males between the ages of 14 and 24. The National Center for Health Statistics, DOJ *Crime Statistics Report* for 1998, revealed that two-thirds of homicide victims are non-white.

129. Plaintiff NAACP is very concerned not only about the physical and social impact of handgun violence on African-Americans and other minorities, but also the economic cost.

According to a 1994 report of the *New England Journal of Medicine*, nationally, \$24 billion is spent annually on medical services for the victims of handgun-related violence, and of that figure, 85% goes to the care and treatment of people with no health insurance and who receive state assistance, a substantial portion of whom are minorities. The collateral economic affect of handgun violence on communities of color is devastating.

**Defendants' Unsafe Handguns And Assault Weapons Pose
A Clear Risk Of Harm To Millions Of Children**

130. The high level of handgun violence has had a particularly drastic impact on young people, particularly African-American males. *See ante at ¶127.* Between 1984 and 1987, the firearm death rate for ages 15-19 increased by approximately 10% to 14%. From 1987 to 1989, the rate of increase more than doubled, to between 23% and 25%. In 1990, 82% of all homicides of persons aged 15-19 were committed with handguns. Homicide is the second-leading cause of death for youths aged 15-19.

131. It is estimated by the CDC that 1.2 million elementary school-aged “latch-key” children have access to handguns in their homes. There are handguns in millions of homes sold within the United States, including the State of New York. One survey reports that 30% of handgun-owners who have children in their homes keep their handguns loaded. Another survey reports that 36% of handgun owners with children in their homes keep their handguns unlocked. In one survey, nearly 60% of children between the ages of 10 and 19 years responded that they can acquire a handgun should they want one. The same survey reports that 15% of children between the ages of 10 and 19 years reported that they had carried a handgun on their persons in the past 30 days.

132. In one study, the General Accounting Office (“GAO”) estimated that 23% of the annual 1,400-1,500 unintentional shooting deaths occur because handgun users are not aware that a round of ammunition has been loaded into the handgun’s firing chamber. A significant percentage of the injuries and deaths caused by an undetected round of ammunition in the firing chamber occur when an unintended user of the handgun, such as a child, unintentionally shoots another person. According to the GAO, approximately 35% of all unintentional shooting deaths involve users of handguns who were between the ages of 13 and 18 years. Children are naturally attracted to accessible handguns and are either unaware of or can not fully comprehend the risks associated with handling a firearm.

133. Currently, defendants design their handguns without incorporating safety features that could eliminate or substantially reduce injuries and death, in order to maximize profits and based on the fallacy that handguns without such safety devices are more effective.

134. Child-proofing devices are not new and have been available on some models in the past. For example, defendant Smith & Wesson offered child-proof handguns from approximately 1888 to 1937. These weapons would not shoot unless a bar on the back of the grip was firmly pressed, and the pressure required to do this made it impossible or very difficult for a child to press the bar and pull the trigger simultaneously. Other child-proof designs have been patented, including one in 1926 (Patent No. 1,638,068) and another in 1977 (Patent No. 4,031,648).

135. There are several feasible devices and designs which can be fitted to a firearm after purchase, which effectively personalize the handgun so that it cannot be used by any person other than the owner. New technology, if supported, developed and adopted by the defendants could effectively and with reasonable cost allow handguns to be personalized and rendered inoperable by any other user, particularly children, and would alert anyone in possession of a pistol that a

round of ammunition is in the firing chamber. The Johns Hopkins University School of Hygiene and Public Health's Center for Handgun Policy and Research has concluded that personalized handguns can eliminate many deaths and injuries by preventing the unauthorized firing of the firearm, and can be especially effective in preventing unintentional deaths and injuries to children and police officers.

136. The failure of defendants to support, develop and adopt the aforementioned safety features, child proofing, and personalized gun technology is further evidence of the defendants' unwillingness to limit their sales, advertising distribution and marketing of handguns solely and exclusively to lawful owners, and discloses defendants' efforts to attract and serve the market of unlawful users.

**Defendants Intentionally Target Sales Of Unsafe Handguns
To Children, Juveniles And Women**

137. After defendants experienced stagnant or declining sales in their traditional markets consisting overwhelmingly of men, they embarked on a concerted effort in the 1990s to promote sales to women and youth. In 1992, one of the handgun industry's leading trade associations of which the defendants are members, the National Shooting Sports Foundations ("NSSF"), announced a "new focus on women and youngsters" and started a "Youth Education Program," all in a search for new customers and expansion of the handgun market. At that time the NSSF stated that "bringing women and youngsters to the shooting sports is the goal of fully half of" the NSSF's new programs. The September/October 1992 issue of NSSF's magazine *SHOT Business* carried a column by a noted celebrity in the industry, Grits Gresham, in which he said:

There's a way to help insure that new faces and pocketbooks will continue to patronize your business: Use the schools . . . they can

be a huge asset. Think about it. Schools collect, at one point, a large number of minds and bodies that are important to your future well-being. How else would you get these potential customers and future leaders together to receive your message about handguns and hunting, without the help of the schools....Schools are an opportunity. Grasp it.

138. An NSSF pamphlet entitled *When Your Youngster Wants a Handgun* clearly reveals that the industry places no age limit on the possession of handguns, stating, “Age is not the major yardstick. Some youngsters are ready to start at 10, others at 14.”

139. The NSSF advertises in children’s magazines, such as *Boys Life* and *Scouting*. *Shooting Industry*, a journal catering to handguns dealers, reported that at a conference held by the NSSF in 1996: “One important area addressed at the summit was youth involvement. Each year scouting, 4-H, FFA and other programs introduce 3 million young people to recreational shooting.” All of these advertisements and programs are designed to enhance the defendants’ customer base and to encourage the purchase of the defendants’ unsafe handguns.

140. Defendants’ advertisements and other promotional activities are also targeted at women with children. For example, an advertisement by Colt in the July 1992 southeast regional issue of *Ladies Home Journal* shows a woman leaning over her daughter at bedtime with the headline “Self-protection is more than your right . . . it’s your responsibility.” Colt placed a similar advertisement in the *SHOT Business* issue of March/April, 1993, but with the emphasis placed on the bottom line: “You Might Think This Ad Is About Handguns. It’s Really About Doubling Your Business.”

141. Defendants design, manufacture, advertise and sell handguns for women and children, such as Smith & Wesson’s *LadySmith* revolver and Harrington & Richardson’s 929 *Sidekick* revolver, with full knowledge that many of these customers are unskilled and

inexperienced in the use of handguns and lack an awareness of the dangers, injuries and death cause by their products. Yet, unlike any other responsible industry, the defendants refuse to incorporate safety devices in their products that would substantially reduce the number of fatalities and serious injuries which result from the use of handguns.

142. The defendants' efforts to solicit sales from youth and women is designed and intended to increase the number of unsafe handguns in the homes of the American public, with the result that many of those handguns are accessible to young and inexperienced users persons. No mention is made in the defendants' advertisements of the statistical and anecdotal information referring to the deaths and injuries caused by handguns, particularly in the home context, and no warnings are provided, as they are for other much less lethal products.

143. It is now generally recognized in the field of public heath that introducing a firearm into the home is dangerous to the people who live there and to their family, friends and associates because it is demonstrably much more likely to be used against them than against an intruder or other aggressor. Such uses include intentional shootings (often of a spouse), suicides, and unintentional/accidental shootings (most often involving children). The death of a household member is almost three times more likely in homes with handguns than in homes without them, and a handgun in the home is four times more likely to be involved in a fatal or non-fatal unintentional shooting than to be used to injure or kill in self-defense

144. The dangers of handguns and the consequences of widespread sales without restraints or limits have been well-known for many years. For example, over 30 years ago a staff report of the U.S. Commission on the Causes and Prevention of Violence, entitled *Firearms and Violence in American Life* (1968), noted an increasing number of deaths and injuries and concluded.

[Americans] may seriously overrate the effectiveness of handguns in protection of their homes. In our urbanized society the handgun is rarely an effective means of protecting the home against either the burglar or the robber. . . [A handgun in the home] provides a measure of comfort to a great many Americans, but for the homeowner, this comfort is largely an illusion bought at the high price of increased accidents, homicides, and more widespread illegal use of handguns.

**Defendants Fail To Exercise Control Over Production, Marketing And Distribution,
Resulting In Purchase Of Their Handguns By Criminals And
Other Prohibited Persons**

145. There were approximately 122 handgun distributors or wholesalers (not including handgun manufacturers) in the United States in 1997, according to the trade magazine *Shooting Industry*. Many of those distributors require nothing more than a copy of the dealer's federal handguns license before supplying handguns to that dealer. The requirements for a federal firearms license are minimal: virtually any adult who is 21 years old or over, has no criminal record, has business premises and complies with local laws can obtain a license. In addition, there are unlicensed dealers who sell handguns at handgun shows and elsewhere, and who are indistinguishable from licensed handguns dealers.

146. As a result of the ready availability of defendants' handguns, homicides by youths involving the use of handguns more than doubled between 1985 and 1992, although there was no similar increase in non-handgun homicides. Studies indicate that during this same period handguns became "ubiquitous" in inner-city neighborhoods and were a major factor in the doubling of the homicide rate both by and of those under 18 years of age. Defendants oversupply states with weak handgun controls and restrictions, flooding them with substantially more handguns than their residents reasonably can be projected to purchase, and thus facilitating the channeling of those handguns to states with stricter controls and restrictions, such as New York.

147. Defendants have increased the production of particular handguns that are popular in criminal use. For example, over the past decade defendants have increased their production of 9-millimeter handguns, which are popular in the illicit drug trade and are the most frequently used in crime. This production increase was initiated even though defendants' own market research showed that the legitimate market for 9-millimeter handguns among law-abiding purchasers was already saturated. Moreover, defendants have designed and advertised particular features of their products specifically to appeal to purchasers with criminal intent. For example, defendant Navegar's brochure for its *Intratec* line states that a trademarked coating yields "excellent resistance to finger prints."

148. Defendants in fact view the popularity of their handguns among criminals as a marketing advantage generating increased sales. For example, the marketing and sales director for the *Intratec* line was candidly quoted in the *New York Times* as actually being pleased by the notorious reputation of the TEC-9 semiautomatic assault weapon, (one of the weapons used in the Columbine High School shootings): "It has just that advertising tingle to it. Hey, it's talked about, it's read about, the media write about it. That generates more sales for me. It might sound cold and cruel, but I'm sales-oriented."

149. The marketing and distribution structure, policies and practices established and maintained by defendants facilitate the criminal handgun market. For example, the manufacturing defendants avoid any connection to or vertical integration with the distributors and dealers who sell their products. Moreover, they do not use available computerized inventory and sales tracking systems that are commonly and inexpensively used by other industries to limit and screen customers – particularly in businesses that produce dangerous or harmful products.

150. The legal wholesale and retail markets established by defendants and the

underground criminal market are substantially and directly connected. According to Robert I. Hass, a former senior vice president of marketing and sales for defendant Smith & Wesson:

The company and the industry as a whole are fully aware of the extent of the criminal misuse of handguns. The company and the industry are also aware that the black market in handguns is not simply the result of stolen handguns but is due to the seepage of handguns into the illicit market from multiple thousands of unsupervised federal handguns licensees. In spite of their knowledge, however, the industry's position has consistently been to take no independent action to insure responsible distribution practices. . . .

I am familiar with the distribution and marketing practices of all of the principal U.S. handguns manufacturers and wholesale distributors and none of them, to my knowledge, . . . investigate, screen or supervise the wholesale distributors and retail outlets that sell their products to insure that their products are distributed responsibly.

151. Although the defendants are aware that the black market in handguns is in large part the result of seepage of handguns into the illicit market from the lawful handgun market, they have persistently failed and refused to exercise any control over the channels of distribution for their products. Defendants have failed to impose on handgun distributors franchise relationships or other contractual arrangements under which manufacturers could regulate the distributors' wholesale disposal of their handguns. Instead, the defendants have favored a lack of control and responsibility, making liberal use of large numbers of low-end dealers/retailers, with respect to whose activities the defendants take a "hear-no-evil, see-no-evil" approach.

152. Among other things, defendants have failed to impose on distributors and dealers any requirements that they:

- 1.) monitor Bureau of Alcohol, Tobacco and Handguns ("ATF") tracing data

to identify dealers who sell weapons that are repeatedly the subject of traces;

- 2.) provide warnings to dealers about products that have been the frequent subject of ATF traces;
- 3.) require dealers to keep accurate records of sales made in order to monitor the dealers' customer base and, in particular, to ensure that dealers do not make multiple sales to the same individual acting as a gun trafficker and/or "straw" purchaser for prohibited persons;
- 4.) require dealers to examine documentation from each purchaser prior to sale, including ensuring that each purchaser's firearm owner's identification card contains a valid address and that the other items of documentation provided by the purchaser are accurate;
- 5.) require dealers to inquire as to a purchaser's intended use for the handgun in order ensure that the handgun is proper for that intended use;
- 6.) provide dealers with a detailed protocol with each weapons shipment outlining steps that need to be taken to minimize the risk of transfers to illegitimate purchasers;
- 7.) otherwise train dealers to detect inappropriate purchasers; and
- 8.) institute such other requirements that would enable control the channels of distribution and sale.

153. According to Kansas City stocking handgun dealer Robert Lockett, who was named 1993 Dealer of the Year by the National Alliance of Stocking Handgun Dealers, handgun manufacturers are aware of the implications of not policing handgun sales more vigilantly, and

could do so by establishing direct franchise relationships with a limited number of handgun dealers, each of whom would have an exclusive sales territory. Each franchisee would be subject to restrictions on the sale of handguns, including a ban on selling handguns at gun shows (all four of the handguns used in the Columbine High School massacre were obtained at gun shows); a ban on selling more than two or three handguns at a time; a requirement that dealers provide manufacturers with monthly sales reports; and other restrictions designed to prevent the sale of handguns to prohibited persons and eliminate flooding of the legal handgun market. Manufacturers could also reduce flooding the market with cheap and readily accessible handguns by ceasing to market handguns through discount mass retailers and engaging in the widespread publication of wholesale prices that facilitates the sale and purchase of handguns at lower prices, particularly at gun shows from licensed and unlicensed sellers with lower overhead.

154. However, defendants acting individually, as well as collectively through their industry and trade associations NSSF, ASSC and SAAMI (and often in conjunction with the National Rifle Association), have vigorously opposed attempts to impose restrictions or controls on the marketing and distribution of handguns and assault weapons, and have consistently refused to implement effective measures to voluntarily police the sale of their handguns. They have also consistently failed to provide with their handguns, either at the time of manufacture or by way of post-sale retrofit, any of several available devices or technologies which would effectively make their handgun safer and “personalize” their handguns so that they cannot be used by anyone other than the lawful owners.

V.

CLAIMS FOR RELIEF

CLAIM FOR INJUNCTIVE RELIEF

Negligent Marketing And Distribution

155. Plaintiff NAACP, on behalf of itself, its individual members, and other persons whose interests the plaintiff represents, reallege and incorporate herein each and every allegation contained in paragraphs above.

156. At all times relevant hereto, defendants were engaged in the business of manufacturing, importing, marketing, distributing and/or selling handguns throughout sold within the United States, including the State of New York.

157. Defendants owed a duty of care to the plaintiff's members and other persons whose interests the plaintiff represents to conduct their business in such a manner as to avoid foreseeable risks of harm arising from the manufacture, importation, marketing, distribution and/or sale of their handguns, including the implementation of marketing and distribution practices designed to prevent or reduce the likelihood that the defendants' handguns would come into the ownership or possession of criminals, juveniles, the mentally ill, and other persons not lawfully authorized to own, possess or use such handguns.

158. Defendants breached their duty of care in that they manufactured, imported, marketed, distributed and/or sold handguns far in excess of the reasonable legitimate demand generated by responsible and legal consumers in the lawful handgun market. In producing, marketing and distributing excess amounts of handguns without reasonable care into channels where they were likely to come into the hands of unauthorized persons, the defendants knew, or reasonably should have known and foreseen, that they were creating, maintaining and supplying an unlawful "underground market" for handguns in which criminals, juveniles, the mentally ill and other prohibited persons would gain access to these weapons.

159. Defendants have failed and refused to take meaningful or effective steps to regulate, supervise and otherwise exercise that degree of control over the marketing, distribution and sale of their handguns necessary to prevent or reduce their unlawful ownership, possession and use. In failing and refusing to regulate, supervise and control the marketing and distribution of their handguns as alleged herein, the defendants knew, or reasonably should have known and foreseen, that their marketing and distribution practices would flood the lawful handgun market, greatly increase the supply and availability of handguns in the unlawful handgun market, and lead to such handguns being acquired by criminals, juveniles, the mentally ill and other prohibited persons not lawfully authorized to own, possess or use such handguns and have used those handguns to cause injury and death to persons, including plaintiff's members and their children and others whose interests are represented by the plaintiffs.

160. As a direct and proximate result of the defendants' negligent marketing and distribution practices, criminals, juveniles, the mentally ill and other prohibited persons not lawfully authorized to own, possess or use handguns have acquired ownership or possession of the defendants' handguns, and have used those handguns to cause injury and death to persons, including plaintiff's members and their children and others whose interests are represented by the plaintiff.

161. As a direct and proximate result of the acquisition and use of the defendants' handguns as alleged herein, the plaintiff's members and other persons whose interests the plaintiff represents, have suffered, and will continue to suffer, injuries, death and other damages.

162. Defendants' negligent marketing and distribution practices have been a substantial factor in causing injuries, death and other damages to the plaintiff's members and other persons whose interests it represents, and unless enjoined, will continue to be a substantial factor in

causing injuries, death and other damages to the plaintiff's members and other persons whose interests it represents.

163. As a direct and proximate result of the defendants' negligent marketing and distribution practices as alleged herein, the plaintiff's members and other persons whose interests the plaintiff represents, have suffered irreparable harm, and will continue to suffer irreparable harm, for which there is no adequate remedy at law. Plaintiff NAACP is, therefore, entitled to injunctive relief, including but not limited to:

(1) An order that each defendant establish the following mandatory requirements of its distributors and/or retailers:

(a) distributors will not sell to retailers who are non-stocking dealers;

(b) distributors will not sell to retailers who do not maintain adequate liability insurance;

(c) distributors will not sell to retailers who do not maintain inventory requirements of \$250,000;

(e) distributors and retailers are not to engage in the sale of more than one (1) handgun to the same person in a thirty (30) day period;

(f) distributors and retailers must not have more than two (2) criminal trace requests in any one (1) month period;

(g) distributors and retailers must allow manufacturers to review distributor's and retailer's handguns acquisition and disposition records, aka "bound books", and all other records relating to sales including sales incentive records, at least four

(4) times per year;

(h) distributors and retailers must supply state sales and data to manufacturers.

(2) An order that each defendant will implement the following mandatory procedures which it will comply with:

(a) defendant will not market, distribute and sell handguns to distributors and retailers who sell handguns at gun shows;

(b) defendant will procure, keep and maintain adequate liability insurance;

(c) defendant will conduct quarterly inspection of all distributors and retailers;

(d) defendant, acting in conjunction with all other defendants herein, will institute an industry-wide program of warranty revocation upon individual resale of handguns, unless the firearm is resold only through a bona fide stocking handgun retailer so that secondary sales are subject to background checks under the Brady Handgun Violence Prevention Act, 18 U.S.C. §922.

(e) defendant, acting in conjunction with all other defendants herein, will institute and contribute to a fund for the education, supervision and regulation of the approximately 16,000 stocking gun dealers.

VI.

PRAYER FOR EQUITABLE RELIEF

164. Plaintiff NAACP, its members and other persons whose interests the plaintiff represents have no plain, adequate or complete remedy at law, and have suffered and will continue to suffer irreparable harm, including injuries, death and other damages, unless defendants are enjoined from continuing in their tortious conduct. A mere award of damages to the plaintiff will not be adequate to protect them, their members, and other persons whose interests they

represent from the defendants' continuing tortious conduct.

WHEREFORE, plaintiff NAACP, on behalf of itself, its members and other persons whose interests the plaintiff represents, pray for judgment against the defendants, and each of them jointly and severally, as follows:

A. For an order directing that each defendant establish, implement and enforce the following mandatory requirements of its distributors and/or retailers:

- (1) distributors will not sell to retailers who are non-stocking dealers;
- (2) distributors will not sell to retailers who do not maintain adequate liability insurance;
- (3) distributors will not sell to retailers who do not maintain inventory requirements of \$250,000;
- (4) distributors and retailers are not to engage in the sale of more than one (1) handgun to the same person in a thirty (30) day period;
- (5) distributors and retailers must not have more than two (2) criminal trace requests in any one (1) month period;
- (6) distributors and retailers must allow manufacturers to review distributor's and retailer's handguns log at least four (4) times per year;
- (7) distributors and retailers must supply state sales and data to manufacturers.

B. For an order directing that each defendant establish, implement and enforce the following mandatory procedures which it will comply with:

- (1) defendant will not market, distribute and sell handguns to distributors and retailers who sell handguns at handgun shows;

(2) defendant will procure, keep and maintain adequate liability insurance;

(3) defendant will conduct quarterly inspection of all distributors and retailers for the purpose of insuring compliance with A(1) - (6) and B (1) and (2).

(4) defendant, acting in conjunction with all other defendants herein, will institute an industry-wide program of warranty revocation upon individual resale of handguns, unless the firearm is resold only through a bona fide stocking handgun retailer so that secondary sales are subject to background checks under the Brady Handgun Violence Prevention Act, 18 U.S.C. §922.

C. For an order requiring defendants to institute and contribute to a fund for the education, supervision and regulation of approximately 16,000 stocking gun dealers.

D. For reasonable attorneys' fees and costs;

E. For such further relief as this Court deems just and proper.

DATED: New York, New York
July 16, 1999

Respectfully Submitted,

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