

STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF WAYNE

EDWARD H. MCNAMARA, Wayne County
Executive, JOHN D. O'HAIR, Wayne
County Prosecuting Attorney,
RICARDO SOLOMON, Chairman of the
Wayne County Commission, EDNA BELL,
Chairman of the Public Safety
Committee of the Wayne County
Commission, ROBERT BLACKWELL, Wayne
County Commissioner, KATHLEEN HUSK,
Wayne County Commissioner, WAYNE
COUNTY, a political subdivision of
the State of Michigan,

Plaintiffs,

v. Case No. - NZ

Hon.

ARMS TECHNOLOGY, INC., BERETTA USA
CORP., B. L. JENNINGS, INC.,
BROWNING ARMS CO., BRYCO ARMS,
INC., COBRAY FIREARMS, COLT'S
MANUFACTURING COMPANY, INC.,
DAVIS INDUSTRIES, FMJ (a/k/a
"FULL METAL JACKET"), GLOCK, INC.,
H & R 1871, INC., MKS SUPPLY,
INC., d/b/a HI-POINT FIREARMS,
INTERNATIONAL ARMAMENT CORP., d/b/a
INTERARMS INDUSTRIES, INC.,
KEL-TEC, CNC INDUSTRIES, INC.,
LORCIN ENGINEERING COMPANY, INC.,
O.F. MOSSBERG & SONS, INC., NAVEGAR, INC.,
d/b/a INTRATEC USA, INC., PHOENIX
ARMS, RAVEN ARMS, INC., SMITH &
WESSON CORP., STURM RUGER & COMPANY,
INC., SUNDANCE INDUSTRIES, INC.,
S.W. DANIEL, INC., TAURUS INTERNATIONAL
MANUFACTURING, INC., ALEXANDERS SPORT
SHOP, INC., a Michigan Corporation
d/b/a ALEXANDERS GUN SHOP AND GUN
RANGE, LLOYD DEAN V. PARR d/b/a
DEAN'S GUN SHOP II, DICK'S SPORTING GOODS, INC.,
GANDER MOUNTAIN, L.L.C., GIBRALTAR TRADE

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

CENTER, INC., JOEL SILBER d/b/a/
JOEL SILBER SPORTING GOODS, GENERAL LANEY
d/b/a LANEY'S GUNS & SUPPLIES, GENERAL LANEY, INC.
LORTZ, LTD., a Michigan Corporation
d/b/a MIDWEST ORDNANCE, MOTOR CITY SPORTS
CAR LTD., URBANSKI'S GUN SHOP, a
Michigan Corporation d/b/a PAGO'S GUN SHOP,
and THE SPORTS AUTHORITY, INC.

Defendants.

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**CENTER TO PREVENT HANDGUN VIOLENCE
LEGAL ACTION PROJECT**
1225 Eye Street, NW
Suite 1100

**A civil action between these parties or other parties
arising out of the transaction or occurrence alleged
in the complaint has been previously filed in this
Court, where it was given docket number and
was assigned to Judge . The action remains pending.**

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COME the above named Plaintiffs, by and through their attorneys, Cy V. Weiner and Elizabeth C. Thomson, of the law firm of Thurswell, Chayet & Weiner, P.C., Robert F. Garvey of Thomas, Garvey, Garvey & Sciotti, P.L.L.C., Edward Ewell, Wayne County Corporation Counsel, and Dennis A. Henigan and Brian J. Siebel, of the Center to Prevent Handgun Violence Legal Action Project, complaining against the above named Defendants, and each of them, their agents, servants, and/or employees, either real or ostensible, and say as follows:

NATURE OF THE ACTION

1. This is a civil action seeking compensatory and exemplary damages brought by Wayne County alleging, inter alia, public nuisance and negligence against the Defendant manufacturers, distributors, and sellers of handguns and other firearms who have knowingly and deliberately, and for their own financial benefit, marketed and distributed guns in a manner that foreseeably injures Wayne County and its residents.

2. Defendants manufacture, distribute and sell thousands of handguns and other firearms in a manner which ensures that those firearms will ultimately be purchased by criminals, youths or otherwise irresponsible people, for use in the commission of crimes. Defendants employ a careful

strategy which couples manufacturing decisions, marketing schemes, and distribution patterns with a carefully constructed veil of deniability regarding particular point-of-sale transactions. Through this calculated strategy of willful blindness, Defendants exploit, rely upon, and help to maintain an active illegitimate secondary market in firearms. Defendants' conduct has and continues to impose foreseeable, unreasonable, substantial, ongoing and permanent harm to Wayne County, its citizens in the form of loss of, life, serious injury, law enforcement costs, health care costs, and other damages.

3. Defendants' conduct constitutes a public nuisance in that it significantly interferes with the public's health, safety, welfare, peace, comfort and convenience, and because it is conduct which Defendants knew or should have known to be of a continuous and long-lasting nature that produces permanent and significant adverse effects on Wayne County and its citizens. Defendants' conduct constitutes actionable negligence in that it violates Defendants' duty to the County of Wayne and its citizens not to impose an unreasonable risk of foreseeable harm, and has thereby proximately caused harm.

4. A substantial number of handguns and firearms used to commit crimes in Wayne County, as throughout the country, are purchased or otherwise diverted from licensed dealers in a wide and ever changing array of schemes -- including sham or "straw" purchases, multiple sales, and diversion by corrupt dealers -- designed to supply a steady stream of guns to an illegitimate secondary market of felons, juveniles, and other dangerous individuals who could not legally qualify to purchase guns on their own. Defendants not only know that this diversion takes place; they depend upon it. Defendants could dramatically reduce the flow of handguns and firearms to this illegitimate secondary market. They have chosen not to do so. Instead, these Defendants rely upon and exploit this secondary market as a steady and lucrative source of profit.

5. Defendants affirmatively rely upon the laxness of dealers and the ingenuity of criminals and other illegal purchasers to ensure that thousands of handguns and other firearms find their way to their expected place in the illegitimate secondary market. In order to facilitate this strategy, Defendant manufacturers have erected a veil of deniability between themselves and the dealers. Defendants scrupulously avoid monitoring dealers. They are careful not to provide training or guidance to dealers. They do not curtail shipments to dealers who supply firearms to the illegitimate secondary market. Indeed, Defendants make little or no effort to ascertain which of their dealers are supplying guns to these illegal purchasers, including criminals and youths. What Defendants do know — what they depend upon and budget for — is that so long as they continue their strategy of willful blindness, thousands of profitable firearms will get to their expected illegitimate buyers and users.

6. Defendant dealers have negligently or intentionally acted to create and maintain the illegitimate secondary market. Many make openly illegal sales without filling out required federal paperwork or conducting background checks on purchasers. Others conveniently look the other way while sales are made to straw purchasers or under circumstances where the dealer knows or should know the gun will thereafter be diverted into the illegal secondary market to unauthorized buyers who will use the guns in crime.

7. From the perspective of the Defendants, this strategy has been a resounding success. Producing and selling thousands of firearms for indirect but predictable sale on the illegitimate secondary market has been enormously lucrative. From the perspective of Wayne County and its citizens, the consequences of this strategy have been nothing short of disastrous. Hundreds of lives are lost each year, and thousands more are injured or victimized, in crimes committed with the

firearms supplied by the Defendants in this fashion. Millions of dollars must be spent to investigate and prosecute these crimes and millions more dollars must be spent on, for example, criminal prosecutions, health care and other costs responding to this crisis. Put simply, Defendants have adopted a strategy which allows them to sell thousands of firearms to unlawful and/or irresponsible purchasers at enormous economic and social costs to Wayne County and its citizens. Defendants have knowingly and unreasonably subsidized their lucrative business at Plaintiffs' social and economic expense.

8. As a result of the foregoing conduct, Wayne County has suffered irreparable harm and has incurred financial harm, including significant expenses for additional police protection, overtime, prevention work, health care, social services and other necessary facilities and services. Wayne County currently suffers and will continue to suffer this ongoing harm.

PARTIES

9. Paragraphs 1 through 8 are repeated and realleged as if fully set forth herein.

10. Wayne County is a political and corporate entity organized and existing under the laws of the State of Michigan and encompassing the City of Detroit and surrounding metropolitan areas. The County operates the criminal justice system responsible for investigating and prosecuting firearm crimes in the County. The County also operates and funds County departments and instrumentalities impacted by gun violence such as: the Wayne County Sheriff's Department, Wayne County Jail Operations, Office of the Prosecuting Attorney, Indigent Health Care, the Department of the Medical Examiner, Adult Probation Services, the Wayne County Fire Department, and the Third Circuit Court of Wayne County.

11. Edward H. McNamara, as a resident of Wayne County and as Wayne County

Executive, brings this action in his individual capacity as a taxpayer and in his official capacity as County Executive on behalf of Wayne County.

12. John D. O'Hair, Wayne County Prosecuting Attorney, as a resident of Wayne County, brings this action in his individual capacity as a taxpayer.

13. Ricardo Solomon, Chairman of the Wayne County Commission, as resident of Wayne County, brings this action in his individual capacity as a taxpayer.

14. Edna Bell, Chairman of the Public Safety Committee of the Wayne County Commission, as a resident of Wayne County, brings this action in her individual capacity as a taxpayer.

15. Robert Blackwell, Wayne County Commissioner, as a resident of Wayne County, brings this action in his individual capacity as a taxpayer.

16. Kathleen Husk, Wayne County Commissioner, as a resident of Wayne County, brings this action in her individual capacity as a taxpayer.

17. The following Defendants manufacture, distribute, and/or sell firearms that are found in Wayne County:

18. Defendant Arms Technology, Inc. ("Arms Technology") is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah. Arms Technology is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Arms Technology is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

19. Defendant Beretta U.S.A. Corp. ("Beretta") is a corporation organized and existing

under the laws of the State of Maryland with its principal place of business in Maryland. Beretta imports firearms manufactured by Pietro Beretta Sp. A., a corporation organized and existing under the laws of Italy with its principal place of business in Italy. Beretta is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Beretta is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

20. B. L. Jennings, Inc. ("Jennings") is a corporation organized and existing under the laws of the State of Nevada with its principal place of business in the State of Nevada. Jennings is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Jennings is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

21. Defendant Browning Arms Co. ("Browning") is a corporation organized and existing under the laws of the State of Utah with its principal place of business in Utah. Browning is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Browning is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

22. Defendant Bryco Arms, Inc. ("Bryco") is a corporation organized and existing under the laws of the State of Nevada with its principal place of business in Nevada. Bryco is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Bryco is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

23. Defendant Cobray Firearms ("Cobray") is a corporation organized and existing under

the laws of the State of Georgia, with its principal place of business in McCaysville, Georgia. Cobray is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Cobray is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

24. Defendant Colt's Manufacturing Company, Inc. ("Colt's") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Connecticut. Colt's is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Colt's is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

25. Defendant Davis Industries, Inc. ("Davis") is a corporation organized and existing under the laws of the State of California with its principal place of business in California. Davis is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Davis is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

26. Defendant FMJ (a/k/a "Full Metal Jacket") is a corporation organized and existing under the laws of the State of Tennessee with its principal place of business in Tennessee. FMJ is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, FMJ is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

27. Defendant Glock, Inc. ("Glock") is a corporation organized and existing under the laws of the State of Georgia with its principal place of business in Georgia. Glock imports firearms

manufactured by defendant Glock GmbH, an Austrian corporation with its principal place of business in Austria. Glock is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Glock is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

28. Defendant H & R 1871, Inc. ("H & R") is a corporation organized and existing under the laws of the State of Massachusetts with its principal place of Business in Massachusetts. H & R is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, H & R is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

29. Defendant MKS Supply, Inc., d/b/a/ Hi-Point Firearms, Inc. ("Hi-Point") is a corporation organized and existing under the laws of the State of Ohio with its principal place of business in Ohio. Hi-Point is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Hi-Point is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

30. Defendant International Armament Corp. d/b/a Interarms Industries, Inc. ("Interarms") is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Virginia. Interarms imports firearms manufactured by defendant Carl Walther GmbH, a German corporation with its principal place of business in Germany. Interarms is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Interarms is conclusively presumed to be doing

business in the state and is thereby subject to the jurisdiction of Michigan's courts.

31. Defendant Kel-Tec CNC Industries ("Kel-Tec") is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. Kel-Tec is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Kel-Tec is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

32. Defendant Lorcin Engineering Co., Inc. ("Lorcin") is a corporation organized and existing under the laws of the State of California with its principal place of business in California. Lorcin is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Lorcin is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

33. Defendant O.F. Mossberg & Sons, Inc. ("Mossberg") is a corporation organized and existing under the laws of the State of Connecticut with its principal place of business in Connecticut. Mossberg is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Mossberg is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

34. Defendant Navegar, Inc. d/b/a Intratec U.S.A. ("Intratec") is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. Intratec is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Intratec is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

35. Defendant Phoenix Arms ("Phoenix") is a corporation organized and under the laws

of the laws of the State of California with its principal place of business in California. Phoenix is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Phoenix is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

36. Defendant Raven Arms, Inc. (“Raven”) is a corporation organized and existing under the laws of the State of California with its principal place of business in California. Raven is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Raven is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

37. Defendant Smith & Wesson Corp. (“Smith & Wesson”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Massachusetts. Smith & Wesson is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Smith & Wesson is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

38. Defendant Sturm, Ruger & Company, Inc. (“Sturm Ruger”) is a corporation organized and existing under the laws of the State of Delaware with its principal place of business in Massachusetts. Sturm Ruger is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Sturm Ruger is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

39. Defendant Sundance Industries, Inc. (“Sundance”) is a corporation organized and

existing under the laws of the State of California with its principal place of business in California. Sundance is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Sundance is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

40. Defendants S.W. Daniel, Inc. ("S.W. Daniel") is a corporation organized under the laws of the State of Georgia, with its principal place of business in Atlanta, Georgia. S.W. Daniel is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, S.W. Daniel is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

41. Defendant Taurus International Manufacturing, Inc. ("Taurus") is a corporation organized and existing under the laws of the State of Florida with its principal place of business in Florida. Taurus imports firearms manufactured by Defendant Forjas. Taurus, S.A., a corporation organized and existing under the laws of Brazil with its principal place of business in Brazil. Taurus is engaged in the business of manufacturing and selling firearms through distributors to entities in Michigan, and in particular, Wayne County. As such, Taurus is conclusively presumed to be doing business in the state and is thereby subject to the jurisdiction of Michigan's courts.

42. Defendant Alexanders Sport Shop, Inc. ("Alexanders") is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Detroit, Michigan and at all relevant times was doing business as Alexanders Gun Shop and Gun Range in Detroit, Michigan.

43. Defendant Lloyd Dean V. Parr, an individual, does business as Dean's Gun Shop II with its principal place of business in Chesterfield Township and at all relevant times was conducting

business in Chesterfield Township and Taylor, Michigan.

44. Defendant Dick's Sporting Goods, Inc. is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Taylor, Michigan and at all relevant times was conducting business in Taylor, Michigan.

45. Defendant Gander Mountain , L.L.C. is a corporation, organized and existing under the laws of Delaware, with its principal place of business in Taylor, Michigan and at all relevant times was conducting business in Taylor, Michigan.

46. Defendant Gibraltar Trade Center, Inc. is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Taylor, Michigan and at all relevant times was conducting business in Taylor, Michigan.

47. Defendant Joel Silber, an individual, does business as Joel Silber Sporting Goods with its principal place of business in White Lake and at all relevant times was conducting business in White Lake and Taylor, Michigan.

48. Defendant General Laney , an individual, does business as Laney's Guns & Supplies, with his principal place of business in Detroit, Michigan, and at all relevant times was conducting business in Detroit, Michigan.

49. Defendant General Laney, Inc. is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Detroit, Michigan, and at all relevant times was conducting business in Detroit, Michigan.

50. Defendant Lortz, Ltd. is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Royal Oak, Michigan, and at all relevant times was doing business as Midwest Ordinance in Royal Oak and Taylor, Michigan.

51. Defendant Motor City Sports Car Ltd. is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Detroit, Michigan, and at all relevant times was conducting business in Detroit, Michigan.

52. Defendant Urbanski's Gun Shop, Inc. is a corporation, organized and existing under the laws of Michigan, with its principal place of business in Taylor, Michigan, and at all relevant times was doing business as Pago's Gun Shop in Taylor, Michigan.

53. Defendant The Sports Authority, Inc., is a corporation, organized and existing under the laws of the State of Delaware, with its principal place of business in Burbank, Illinois, and at all relevant times was conducting business in Dearborn, Michigan and is thereby subject to the jurisdiction of Michigan's Courts.

VENUE

54. Venue is proper in this court in that, at all times relevant to this action, all Defendants named herein conducted business in the County of Wayne, State of Michigan.

55. Wayne County is a political subdivision of the State of Michigan, and all individual Plaintiffs named herein reside within Wayne County.

56. The damages claimed by the Plaintiffs named herein occurred and continue to occur in the County of Wayne, State of Michigan.

BACKGROUND

The Easy Availability of Firearms to Juveniles, Criminals, and Other Prohibited Purchasers and Users Causes Substantial, Ongoing Harm to Wayne County and Its Citizens

57. Paragraphs 1 through 56 are repeated and realleged as if set forth herein.

58. The widespread availability and misuse of handguns and other firearms by juveniles,

felons, and other unauthorized users is a national problem. In 1996, the most recent year for which statistics are available, more than 34,000 people were killed with firearms. Of these, more than 14,300 were homicides. In addition, based on 1992 data, approximately 99,000 individuals are treated annually in hospital emergency rooms for non-fatal firearm injuries.

59. One of the most serious problems facing Wayne County, as with most major cities and counties in the United States, is the high level of violent crime committed with firearms. For example, firearm homicides occurring in Wayne County totaled 463 in 1998, 483 in 1997, and more than 581 as recently as 1993. So far in 1999, more than 150 people have been killed by firearms in the County. For each of these fatal shootings, there are roughly three non-fatal shootings that require emergency room care.

60. Firearms are also used in numerous other crimes in the Detroit area. For example, in 1997, approximately 4,300 robberies and 4,465 assaults were committed with firearms within Detroit. On average, about 12 robberies *and* 12 assaults with a firearm occurred every day.

61. The firearms crisis is particularly egregious in the way it strikes at youths. From 1992 through 1998, more than 1,550 youths, aged 16 and under, were shot in Detroit, for an average of about 220 children per year.

62. In 1997 and 1998 alone, more than 100 youths, aged 18 and under, were killed by gunfire in Wayne County. On average, in just about every week in Wayne County a youth, age 18 or less, died as a result of a firearm shooting.

63. One study indicated that from 1980 until 1988, the homicide rate for children ages 10 to 18 increased 252% in Detroit, accounting for 41% of all deaths to children in those years. The study also found that the tripling of the homicide rate in Detroit among 15-to-18 year olds was

attributable almost exclusively to firearm deaths. Homicides are the leading cause of death among children in Detroit today.

64. This staggering total of gun violence and crime is fueled by the easy movement of handguns and other firearms from the legal marketplace to unauthorized and illegal users through an illegal secondary firearms market.

65. Surveys have consistently shown how easily juveniles and convicted criminals can obtain handguns. For example, a recent survey showed that approximately 29% of 10th grade boys and 23% of 7th grade boys have at one time carried a concealed handgun. A different survey of high school students and incarcerated juveniles reported that 32% of respondents asked adults to buy guns on their behalf. A survey of adult prisoners showed that 70% felt they could easily obtain a firearm upon their release.

66. Tracing of crime guns by the Federal Bureau of Alcohol, Tobacco and Firearms (“ATF”) confirms that juveniles, felons, and other unauthorized users can easily obtain firearms for crime. A just-released ATF study of 27 major urban centers throughout the United States, including Detroit, which analyzed more than 75,000 guns traced to crime over a one-year period, reported that more than 11% of guns picked up in crime have been possessed by children under age 18. The same tracing study indicated that more crime guns are seized from persons in the next age group up – youths who are 18, 19, or 20 years old -- than from any other three-year age group, adult or juvenile. Accordingly, more than 26% of crime guns in the 27 cities were seized from children under 21, who cannot legally purchase handguns under federal or state law. Moreover, ATF tracing of trafficked crime guns found that more than 45% of the weapons seized were illegally possessed by convicted felons. Substantial percentages of these guns had been used in assaults, robberies, homicides, and

other violent crimes.

67. Easy juvenile access to firearms is also confirmed by the large numbers of guns seized from children in the City of Detroit. Between the years 1994 and 1996, the Detroit Police confiscated approximately 7,459 guns; more than 1,600 of these guns, or about 21%, were confiscated from children aged 16 and under.

68. Between 1990 and 1997, approximately 2,790 children aged 16 and under were arrested and charged with felony firearms possession in Wayne County, or almost 350 children a year.

69. Another 1,352 children were charged with armed robbery within Wayne County during those years, for an average of almost 170 children a year. Between 1990 and 1998, approximately 5,264 children aged 16 and under were arrested and charged with carrying a concealed weapon within the County, an average of nearly 660 a year. Based upon information and belief, most of these CCW charges involved firearms.

70. The quick movement of guns into the illegitimate marketplace is also demonstrated by the short time between retail sale and criminal misuse for a significant percentage of firearms. ATF tracing data indicates that as many as 43% of firearms traced to crime in urban centers across America have been bought from retail dealers less than three years earlier, which is a strong indication that the firearm has been trafficked. In Detroit, this percentage was 38% in the most recent ATF report.

**Defendants' Lax Distribution Practices have Channelled Firearms
Directly and Indirectly Into the Hands of Juveniles, Criminals, and Other Prohibited
Purchasers and Users**

71. The flow of Defendants' firearms into the unlawful market, and into the hands of

unauthorized and irresponsible persons, including juveniles and convicted felons, has occurred in numerous ways, including but not limited to the below listed methods. Defendants knew or should have known of these methods of illegal diversion and could have taken action to control and prevent the diversion, but have deliberately chosen not to do so.

72. Thousands of guns have flowed into the unlawful market by a method of diversion called “straw purchasing,” wherein the purchaser buys the gun from a licensed dealer for a person who is not qualified to purchase the firearm under federal and state regulations, such as a juvenile or a convicted felon. Indeed, in one recent law enforcement study, more than 50% of the firearms subject to firearm trafficking investigations had been acquired as part of a straw purchase. Many of these straw purchases have occurred under circumstances which have indicated or should have indicated to the firearm seller that a “straw purchase” was being made.

73. Thousands more guns have been diverted into the unlawful market after first being part of multiple sales, wherein the purchaser buys more than one gun at a time or several guns over a short period of time from a licensed dealer with the intention of later selling or transferring the gun to a person who is not qualified to purchase them under federal and state regulations, such as a juvenile or a convicted felon. Many multiple sales have occurred under circumstances which have indicated or should have indicated to the firearm seller that the handguns being purchased were destined for the unlawful market.

74. For many years, Defendants have sold thousands of guns to “kitchen table” dealers, i.e., federally licensed firearm dealers who do not sell firearms from a retail store. Many of these firearms dealers, although federally licensed, are corrupt, and have sold firearms without completing background checks on purchasers or complying with other reporting requirements. Recent reports of

Detroit area crime guns discussed several cases wherein corrupt dealers had diverted hundreds of firearms to the criminal market. Unsupervised storefront dealers have also engaged in criminal diversions of firearms. Defendants have done nothing to curb these dealers or their illegal practices, but have instead continued to supply them with firearms.

75. Thousands of firearms have also reached the unlawful market after having been stolen from retail dealers and other federal firearm licensees who have failed to provide adequate security of their premises. Defendants, in turn, have failed to ensure that persons distributing its dangerous products have implemented adequate security to prevent these foreseeable thefts. A 1992 ATF report discusses the theft of 194 firearms from a single federal firearms dealer that were later peddled on the streets of Detroit. A 1993 ATF Detroit-area study found that of 184 stolen guns recovered in crime, 74 were recovered in narcotics investigations, 57 were retrieved during an arrest for a weapons offense, and 34 were used in homicides, assaults, robberies or other violent crimes.

76. Thousands of handguns diverted to crime also have had their serial numbers obliterated to prevent tracing of the firearm by law enforcement. Such guns are more useful to criminals who seek to eliminate the tracks of their crimes. Defendants are aware of this problem, and the ease with which serial numbers can be obliterated, but have taken no initiative to make their serial numbers tamper-proof. The recent 1997 ATF study of 27 major urban centers found, on average, that more than 11% of the guns traced to crime had obliterated serial numbers. Recent ATF studies of the Detroit area found similar percentages, and noted that some federal firearms licensees obliterate the serial numbers of all of their guns before resale.

**Defendants' Reckless Distribution of Firearms in Wayne County
is Confirmed by Plaintiffs' Undercover Investigation**

77. An undercover investigation conducted by Plaintiffs in March and April, 1999, indicates that these negligent distribution practices are widespread in Wayne County, Michigan. This investigation involved undercover members of the Wayne County Sheriff's Office and other authorized investigators making firearm purchases from Defendant dealers in Wayne County. Numerous straw purchases were made on behalf of persons representing themselves to dealers as convicted felons or juveniles. Defendant dealers were more than willing to participate in these straw purchases and made large-scale multiple sales to persons representing themselves as having felony records. Some of the specific conduct of the Defendant dealers that negligently or intentionally facilitates the illegal possession and use of firearms in Wayne County is set forth below:

a. On March 20, 1999, two officers entered the Gibraltar Trade Center in Taylor, Wayne County, Michigan and visited the Midwest Ordnance Gun Shop display. Officer 1 asked if he could see two different .40 caliber Smith & Wesson handguns and a Titanium Smith & Wesson handgun, and said he would like to purchase them. Officer 1 then told the clerk that he was a convicted felon and asked if the person he brought with him, Officer 2, could fill out the forms and buy the guns on his behalf. The clerk completed this transaction. Officer 1 remained at the store and purchased the 3 Smith & Wesson handguns and several boxes of ammunition. Officer 1 handed over the money, was given the change, and was handed the guns to walk out of the store.

b. On March 21, 1999, the two officers returned to the Midwest Ordnance Gun Shop within the Gibraltar Trade Center. Again, Officer 1 indicated he had a felony record to the store clerks, but wanted to purchase a Ruger P-94 handgun. The store clerks completed the transaction with Officer 2 filling out the forms. Officer 1 handed over the money, was given the change, and was handed the gun to walk out of the store.

c. On March 21, 1999, two officers visited Pago's Gun Shop inside the Gibraltar Trade Center in Taylor, Wayne County, Michigan. Officer 1 asked if he could see several weapons, including a Mossberg 12-gauge shotgun with a pistol grip. Officer 1 told the clerk he would like to purchase it. The clerk returned with the federal form to fill out and said he would have to run a background check. Officer 1 then said: "If I have a felony on my record, would it go through?" The clerk said: "No, it would not." At that point, Officer 1 said that his friend, Officer 2, would fill out the form for him. The clerk gave the form to Officer 2 and completed the sale. The clerk also sold ammunition to Officer 1. Officer 1 handed over the money, was given the change, and was handed the gun to walk out of the store.

d. On March 24, 1999, two officers visited Alexanders Gun Shop in Inkster, Wayne County, Michigan. Officer 1 asked to look at a .40 caliber Browning Hi-Point semi-automatic pistol, and then told the clerk he wanted to purchase the weapon. The clerk retrieved the forms to fill out, and Officer 1 then asked if he could complete the forms with a felony on his record. The clerk said no, at which point Officer 1 stated that he would let Officer 2 complete the forms for him. The clerk completed this sale. The clerk also sold ammunition to Officer 1. Officer 1 handed over the money, was given the change, and was handed the gun to walk out of the store.

e. On March 24, 1999, two officers visited the Sports Authority located at 5751 Mercury, Dearborn, Wayne County, Michigan. Officer 1 asked to see a .44 magnum Colt's revolver. He then said he would like to purchase the gun. The clerk gave the forms to Officer 1 to complete. Officer 1 asked if he could fill out the papers if he had a felony on his record. The clerk replied that Officer 1 could not. Officer 1 then asked if his friend, Officer 2, could complete the forms. The clerk then gave the forms to Officer 2. While Officer 2 was completing the forms, the clerk said that this

transaction was a “straw purchase.” The clerk then stated, *twice*: “This is highly illegal.” The clerk nevertheless completed the sale. Officer 1 was also sold two boxes of ammunition for the handgun. Officer 1 handed over the money, was given the change, and was handed the gun to walk out of the store.

f. On April 14, 1999, the two officers who had twice previously visited Midwest Ordinance Gun Shop within Gibraltar Trade Center, visited the store’s location in Royal Oak, Michigan. There they saw the same clerks who had waited on them at Gibraltar. The officers indicated that they had seen them at Gibraltar, and the clerks confirmed that they knew who they were. Officer 1 discussed his felony record again, and asked to purchase 10 .22 caliber Jennings pistols and a 9mm Lorcin handgun. Officer 2 filled out the paperwork, and the clerks made the multiple sale. Officer 1 handed over the money, was given the change, and was handed the guns to walk out of the store.

78. Numerous other undercover straw purchases were made during March and April, 1999, including the following:

a. On March 31, 1999, at Alexanders Gun Shop in Inkster, Michigan, a non-felon was permitted to purchase a .380 caliber Davis handgun for an officer representing herself to the dealer as a felon.

b. On April 1, 1999, at Alexanders Gun Shop in Inkster, Michigan, a non-felon was permitted to purchase a .380 caliber Davis handgun for an officer representing herself to the dealer as a felon.

c. On April 2, 1999, at Gander Mountain in Taylor, Wayne County, Michigan, a non-felon was permitted to purchase three Mossberg shotguns and eleven boxes of shotgun shells for

an officer representing himself to the dealer as a felon.

d. On April 2, 1999, at Dick's Sporting Goods in Taylor, Michigan, a non-felon was permitted to purchase a .22 caliber Marlin rifle, a .410/.45 caliber New England Firearms rifle, and two boxes of ammunition for an officer representing himself to the dealer as a felon.

e. On April 2, 1999, at Pago's Gun Shop in Gibraltar Trade Center in Taylor, Michigan, a non-felon was permitted to purchase a .44 magnum caliber Colt's handgun and a box of ammunition for an officer representing himself to the dealer as a felon.

f. On April 6, 1999, at Motor City Sports in Detroit, Michigan, an adult was permitted to purchase a 9mm Jennings handgun and a box of ammunition for an officer representing himself to the dealer as a juvenile.

g. On April 9, 1999, at J.S. Sporting Goods in Gibraltar Trade Center in Taylor, Michigan, an adult was permitted to purchase a .223 caliber Ruger Mini-14 semiautomatic assault rifle with a 30-round magazine and ammunition for an officer representing himself to the dealer as a juvenile.

h. On April 9, 1999, at Midwest Ordnance Gun Shop in Gibraltar Trade Center in Taylor, Michigan, an adult was permitted to purchase a .380 caliber Smith & Wesson handgun and a box of ammunition for an officer representing himself to the dealer as a juvenile.

i. On April 9, 1999, at Dean's Gun Shop in Gibraltar Trade Center in Taylor, Michigan, an adult was permitted to purchase a .223 caliber Colt semi-automatic rifle for an officer representing himself to the dealer as a juvenile.

79. Over the course of this undercover investigation, officers were able to straw purchase twenty-two handguns, four shotguns, four rifles, and numerous boxes of ammunition for persons who

openly declared to the store clerks they were convicted felons or juveniles.

80. During the investigation, certain dealers which are not named as defendants in this case, refused to sell to undercover officers seeking to make straw purchases. In each case, the dealer indicated it was an illegal straw sale and refused to sell the firearm. Overall, undercover officers posing as convicted felons or juveniles were sold firearms in fifteen different transactions, and were turned away only four times. Moreover, in two of those initial rejections the undercover officer, who originally posed as the non-felon, returned to the store the next business day and purchased the same weapons that were selected by the alleged felon on the prior visit, from the same clerk who had originally rejected the sale. Accordingly, in nearly every case, dealers were more than willing to facilitate straw purchases to prohibited purchasers.

81. Defendants' corrupt distribution practices are also revealed by numerous case summaries of firearm dealers' and others' illegal firearm trafficking schemes, which are spelled out in gun trafficking studies conducted by ATF in the Detroit area. These studies provide additional examples of how the Defendants' willful blindness to the corrupt distribution practices of many local federal firearm licensees facilitates the easy flow of firearms from the legal marketplace to illegal possessors and purchasers, such as criminals and juveniles, who thereafter use the guns in crime in Wayne County. For example:

a. Federal firearms licensee ("FFL") Steven Durham d/b/a All Gun Cleaning Services, provided hundreds of firearms to the most violent narcotics organizations in the Detroit area, many of which were used for murder and narcotics trafficking. Mr. Durham did not keep records of these illegal sales.

b. FFL Boris Taylor d/b/a Bulls Eye Guns, diverted between 300-350 firearms over

two years, many of which turned up in the hands of narcotics dealers, often with obliterated serial numbers. Mr. Taylor claimed his acquisition and disposition records were stolen.

c. FFL Deon Ogletree d/b/a Dee's Sporting Goods, provided hundreds of firearms to some of the most visible and violent drug organizations in Wayne County through various schemes, including not having purchasers complete required federal forms.

d. FFL Wilfred Hart d/b/a Hart's Firearm Sales, who falsified his FFL renewal form after being convicted of a felony, purchased and resold over 300 firearms between 1987 and 1990, many of which turned up with obliterated serial numbers.

e. FFL McClinton Thomas Jr. d/b/a M-Q Firearms, ordered over 400 firearms in January 1990 from a wholesaler in Ohio and disbursed them onto the streets of Detroit without completing required federal forms. Many of these firearms were thereafter traced to crime in Wayne County.

f. Between 1991 and 1992, an unnamed FFL in Southfield, Michigan, used two aliases to obtain federal licenses and used them to order and resell 1,400 firearms on the streets of Detroit. Serial numbers on a significant number of these guns were obliterated.

g. In October 1990, an unnamed Wayne County FFL was found to be knowingly selling firearms to convicted felons, one of whom purchased an AK-47 assault rifle in a straw purchase multiple sale that was thereafter used in a double homicide in Southfield, Michigan.

h. FFL Kenneth Powell, a "kitchen table" dealer in Detroit who was arrested in 1993 admitted that during the six years he had been an FFL, he never kept records on any of the several hundred firearm sales he made.

i. FFL Kevin James McClaren purchased and resold in excess of 300 firearms, most of them inexpensive small caliber weapons commonly picked up in crime in Detroit, without completing required federal paperwork.

j. FFL Roderick Strong of Detroit used a convicted felon to pick up firearms ordered from out-of-state wholesalers, then resold more than 125 guns without completing forms, most of them to a Detroit area party store.

k. In 1994, an FFL and four co-conspirators illegally sold over 500 handguns in the Detroit area, making up names of listed purchasers. More than 60 of these guns have been traced to crime in Wayne County.

l. Also in 1994, a Detroit FFL who sold more than 200 firearms without completing records, was arrested by ATF along with a multi-convicted felon to whom the FFL transferred guns.

m. In 1993, an unnamed Detroit FFL admitted to being the middleman for Detroit-area narcotics traffickers, purchasing and selling between 400 and 500 firearms illegally to them.

n. FFL Jonathan Hunter d/b/a John's Firearms readily made straw sales to undercover agents in July 1993.

o. In August 1993, a Detroit FFL allowed a juvenile with state juvenile charges pending against him to use his license to purchase several firearms. Several Lorcin .380 pistols with obliterated serial numbers picked up in Detroit were traced to this dealer.

p. In January 1993, Hazel Park, Michigan FFL Daniel Werkmeister used a middleman to sell new firearms directly on the streets of Detroit. Two narcotics traffickers who had purchased guns from the FFL were arrested for reselling the guns to other traffickers.

q. Detroit FFL Michael Caldwell d/b/a Photo-Guns was indicted for selling over 725

firearms on the streets of Detroit without completing paperwork. Some of these firearms have turned up in homicide investigations, a near-fatal shooting of a 12-year-old boy, and in several narcotics cases.

82. The above-referenced sampling of case summaries further substantiate Plaintiffs' claims that the Defendants named in this action knew or should have known that their negligent conduct as herein alleged was fueling an illegitimate secondary market for firearms that was likely to create unreasonable risks of foreseeable harm to Wayne County and its citizens.

83. The examples listed above are just some of the ways in which Defendants' products have fallen into the hands of unauthorized and irresponsible persons, including juveniles and convicted felons, and used in crime. A substantial percentage of crime guns recovered from these prohibited users are quite new and have most likely been deliberately and illegally trafficked. Moreover, in more than two-thirds of the firearms trafficking investigations in one study, improperly transferred firearms were known to have been subsequently involved in additional crimes, a high percentage of which were violent crimes. Such criminal activity has injured Wayne County and has injured and killed its citizens.

**Defendants' Business Practices Are Calculated To Exploit
The Illegitimate Secondary Market In Handguns And Firearms**

84. For many years, Defendants have knowingly participated in a national firearm market and should have expected that their production, marketing and/or distribution of handguns and other firearms would have consequences throughout the United States, including the State of Michigan and the County of Wayne.

85. Defendants knew and know that a substantial percentage of the firearms that they

manufacture, distribute, and sell will ultimately be purchased by unauthorized and irresponsible persons, including juveniles and convicted felons, and used in the commission of crime.

86. Defendants earn millions of dollars of profit annually from the sale of handguns and other firearms to the illegitimate secondary market to unauthorized and irresponsible persons, including juveniles and convicted felons, for use in the commission of crimes.

87. Defendants plan manufacturing strategies based on the knowledge that a substantial percentage of the handguns and other firearms they manufacture, distribute and sell will ultimately be purchased by unauthorized and irresponsible persons, including juveniles and convicted felons, for use in the commission of crimes.

88. Defendants have distributed their firearms without self-regulation or supervision in order to increase their sales, knowing that many of those firearms will be purchased by unauthorized and irresponsible persons, including juveniles and convicted felons, for use in the commission of crimes.

89. Defendants make business and accounting decisions based on the knowledge that they can depend upon the sale of thousands of handguns and other firearms through the illegitimate secondary market to unauthorized and irresponsible persons, including juveniles and convicted felons, for use in the commission of crimes.

90. Defendants have acted in concert, and/or have tacitly agreed or cooperated with respect to their failure or refusal reasonably to supervise, oversee, or control the retail firearms dealers and others who distribute their handguns.

**Defendants Have Adopted A Strategy Of Willful Blindness
In Order To Ensure That They Are Able To Supply Handguns
And Other Firearms To The Illegitimate Secondary Market**

91. Defendants have adopted a calculated strategy of willful blindness to the regular, ongoing sale of handguns and other firearms on the illegitimate secondary market.

92. Defendants have distributed handguns and other firearms without adequate self-supervision and regulation.

93. Defendants knew or should have known that their distribution practices were unreasonably unsafe.

94. Defendants knew or should have known that by distributing handguns and other firearms without adequate self-supervision and regulation that they were creating, maintaining, or supplying the illegitimate secondary market in firearms.

95. Defendants have adopted no procedures to stem the flow of handguns or other firearms to the illegitimate secondary market.

96. Defendants have not conducted research, or reviewed existing research, which would allow them to better monitor and control the flow of handguns and other firearms to the illegitimate secondary market.

97. Defendants have failed to investigate or screen distributors or dealers through which they distribute and sell firearms.

98. Defendants do not terminate sales to or discipline distributors or dealers about whom they know or should know have distributed handguns or other firearms either directly or indirectly into the illegitimate secondary market.

99. Defendants have avoided monitoring or supervising distributors or dealers through which they distribute and sell firearms to help prevent the flow of those guns into the illegitimate

secondary market. Certain Defendants have, however, monitored dealers, out of a concern for profit, with respect to how they display Defendant's products, and the price at which they sell their firearms.

100. Defendants do not adequately train dealers through which they distribute firearms, nor do the Defendants encourage their dealers to act lawfully and responsibly.

101. Defendants have known or should have known for many years that they sell firearms which are frequently used in crimes but make no meaningful efforts to supervise, regulate or impose standards on the distribution practices of either the distributors or the dealers who channel their guns to the public.

102. Defendants know, or reasonably should know, that there is an absence of meaningful regulations of firearm distributors and dealers and are aware of the ease with which persons can become a federally licensed firearms dealer. Defendants fail to supervise, regulate or set standards for distributors' or dealers' conduct, but instead rely upon the mere fact that distributors and dealers are licensed by state and federal governments.

103. Defendants choose not to supervise, regulate or standardize distributors or dealers because such a practice would limit and/or eliminate sales of their firearms to a significant illegal market and thereby reduce their sales.

104. Robert Hass, the former Senior Vice-President of Marketing and Sales for Defendant Smith & Wesson, said the following in a sworn statement concerning gun manufacturers' failure to promote responsible practices by distributors and dealers:

The company [Smith & Wesson] 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 guns but is due to the seepage of guns into the illicit market from multiple thousands of unsupervised federal handgun licensees. In spite of their knowledge, however, the

industry's position has consistently been to take no independent action to insure responsible distribution practices, to maintain that the present minimal federal regulation of federal handgun licensees is adequate and to call for greater criminal enforcement of those who commit crimes with guns as the solution to the firearm crime problem . . . I am familiar with the distribution and marketing practices of the [sic] all of the principal U.S. handgun manufacturers and wholesale distributors and none of them, to my knowledge, take additional steps, beyond determining the possession of a federal handgun license, to investigate, screen or supervise the wholesale distributors and retail outlets that sell their products to insure that their products are distributed responsibly.

105. Defendants, their agents, servants, and employees are individually and/or jointly negligent and careless in, among other ways:

- a. distributing and promoting firearms without adequate supervision and/or control;
- b. distributing, promoting, advertising, and marketing firearms in such a way that it was reasonably foreseeable that they would be acquired by unauthorized and irresponsible persons, including juveniles and felons;
- c. failing to or refusing to implement reasonable controls, standards and mechanisms to regulate the distribution of firearms;
- d. causing, permitting, and allowing firearms to be promoted, marketed, distributed, and disseminated to unauthorized and irresponsible persons, including young people incapable of appreciating the dangers and hazards of these products;
- e. failing or refusing to interview, screen, and investigate the background and business practices of the distributors and retail sellers of their firearms;
- f. failing or refusing to take reasonable efforts to ensure that their dangerous and hazardous firearms were not acquired by unauthorized and irresponsible persons, including

juveniles and convicted felons.

106. Defendants could, through means within their control, help prevent firearms they make, sell, and/or market from directly or indirectly entering the illegitimate firearms market from which they are thereafter used in crime or other injurious conduct in Wayne County. Defendants could engage in practices, including but not limited to, the following:

a. systematically monitor distributors and dealers, and publish studies and reports, in order to ascertain how best to prevent the flow of firearms into illegitimate markets, and then implement preventive strategies;

b. stop supplying firearms to distributors who resell them to dealers without determining whether the dealer sells those firearms in a manner likely to lead directly or indirectly to their diversion into the illegitimate marketplace;

c. stop supplying firearms to dealers who resell them under circumstances where they knew or should have known the firearms would likely not be used for the purchaser's personal use or otherwise would likely not be used for legal purposes;

d. provide adequate training to firearms distributors and dealers and their salespersons through which they distribute to ensure compliance with federal, state, and local laws, and in order to ensure that dealers and their salespeople are able to identify those circumstances under which they should realize that the firearms will likely not be used for the purchaser's personal use or otherwise will likely not be used for legal purposes;

e. direct and encourage dealers to refuse to sell firearms under circumstances where the dealer knew or should have known that the firearms will likely not be used for the purchaser's personal use or otherwise will likely not be used for legal purposes;

- f. direct and encourage dealers to refuse to sell multiple firearms to any given purchaser during a given time period; and
- g. establish a tighter and more direct distribution system in which manufacturers remain in control of the distribution of their lethal products.

**Defendants Knew Or Should Have Known That
Their Conduct Causes Substantial, Ongoing Harm
To Wayne County And Its Citizens**

107. Defendants knew or should have known that the thousands of handguns and firearms Defendants distribute through the legal firearms market will be quickly and easily diverted to juveniles, felons, and other prohibited purchasers and thereafter used in crime, which causes substantial ongoing harm to Wayne County and its citizens. Defendants' actions and omissions set forth above unreasonably facilitate violations of federal and state laws, contribute to physical harm, fear and inconvenience to the Wayne County's residents, and are injurious to the public health and safety of the those residents.

108. All the Defendants have made or sold firearms that have been and continue to be recovered by Wayne County or the City of Detroit in connection with a crime in the County.

109. At all times relevant to this action, all Defendants named herein possessed actual or constructive knowledge that the citizens and police officers of Wayne County would foreseeably fall victim to death and serious injuries caused by their actions. It was also reasonably foreseeable that Wayne County would be forced to bear substantial economic and/or social expenses as a result of Defendants' negligent acts.

110. At all times relevant to this action, all Defendants named herein engaged in these activities, either individually or in concert with one another, and continued to do so with actual or

constructive knowledge that Wayne County, in their role of providing protection and care for its citizens, would provide and/or pay for, by way of example and not limitation, police protection, health care and other necessary services due to the threat posed by the illegal use of Defendants' products after they were easily obtained by juveniles and convicted criminals. In addition, Defendants knew or should have known that the County would be harmed as a result of the injuries to its citizens and police officers resulting from the flow of Defendants' products into unauthorized users' hands, as well as by the loss of substantial tax revenue.

111. The harm to Wayne County and its citizens by firearm violence, as alleged herein, is widely publicized and is a matter of common knowledge. Defendants have specific knowledge and information of that harm. Gang-related shootings and other shooting incidents are regularly reported in the *Detroit Free Press*, the *Detroit News*, and other media. This public information confirms that juveniles and convicted felons are obtaining and using firearms to harm Wayne County and its residents.

112. The fact that a substantial percentage of the firearms used to harm Wayne County and its citizens by firearms violence are wielded by juveniles and criminals able to obtain guns quickly and easily through the legal firearms market is also publicized and is common knowledge within the firearms industry. For example, firearm tracing reports on crime guns prepared by ATF for Detroit and other urban centers across the United States are publicly available. Many of these reports have been available to Defendants for years. Thus, Defendants have specific knowledge and information of the fact that a substantial percentage of the firearms used to inflict the harm to Wayne County and its citizens by firearms violence are obtained through the legal firearms market and thereafter diverted to unlawful purchasers and users.

113. Moreover, Defendants are aware that the specific guns they have made and/or sold have been traced to crime because ATF has contacted them in conducting traces of crime guns.

**Defendant Dealers' Conduct Causes
Ongoing Harm To Wayne County**

114. Defendant firearm dealers engage in numerous illegitimate sales practices, including selling firearms to straw purchasers whom they know or should know will transfer those firearms to juveniles, convicted felons, or others not lawfully able to purchase or possess those firearms, and who will thereafter likely use those weapons in crime.

115. Defendant firearm dealers also sell multiple firearms at once or within a short period of time to persons whom the dealer knows or should know will transfer those firearms to juveniles, convicted felons, or others not lawfully able to purchase or possess those firearms, and who will thereafter likely use those weapons in crime.

116. Defendant firearm dealers have consciously failed to take any action to prevent violations of law when Wayne County residents and others make multiple purchases of guns, or otherwise purchase guns in a manner that would make it plainly foreseeable that the purchaser is not buying the weapons for himself, but instead for the use and/or possession of the weapon by a felon, youth or other irresponsible person.

117. Defendant dealers are aware that these straw purchases and multiple purchasers are only one way in which guns are provided to persons who are not eligible to possess them or who do not wish to be identified as a purchaser of a firearm in official records, and who are likely to use the firearms that they obtain in the commission of crimes.

118. Plaintiffs possess specific knowledge that the Defendant gun dealers have sold guns

or continue to sell guns to Wayne County residents under circumstances where they know or should know that the guns, in reality, are being purchased for felons' use, or other irresponsible people who will use the guns for illegal purposes in Wayne County or transfer the guns to others who will likewise possess or use the guns illegally in the County or elsewhere. By so acting, the Defendant dealers have aided and abetted violations of Federal and State laws.

119. Defendant firearm dealers have actual and/or constructive knowledge that their practices have created and caused a large illegitimate market for firearms to flourish in Wayne County. Wayne County residents can easily obtain firearms through this illegitimate market in contravention of law.

FIRST COUNT
PUBLIC NUISANCE
(ALL DEFENDANTS)

120. Paragraphs 1 through 120 are repeated and realleged as if set forth herein.

121. The citizens of Wayne County and the Plaintiffs named herein have a common right to be free from conduct that creates an unreasonable jeopardy to the public health, welfare and safety and to be free from conduct that creates a disturbance and reasonable apprehension of danger to person and property.

122. Defendants' conduct, as fully alleged in this Complaint, constitutes a public nuisance in Wayne County because it is an unreasonable interference with common rights enjoyed by the general public.

123. Defendants' conduct, as fully alleged in this Complaint, is an unreasonable interference with common rights enjoyed by the general public in Wayne County because it significantly interferes with the public's health, safety, peace, comfort and convenience.

124. Defendants' conduct, as set as fully alleged in this Complaint, is an unreasonable interference with common rights enjoyed by the general public in Wayne County because Defendants knew or should have known that conduct to be of a continuous and long-lasting nature that produces a permanent and long-lasting significant negative effect on the rights of the public.

125. Defendants' ongoing conduct produces an ongoing nuisance, as thousands of firearms that they directly or indirectly supply to the illegitimate secondary firearms market which are thereafter illegally used and possessed in Wayne County will remain in the hands of persons who will continue to use and possess them illegally for many years.

126. As a result of the continued use and possession of many of these firearms, residents of Wayne County will continue to be killed and injured by these firearms and the public will continue to fear for their health, safety and welfare and will be subjected to conduct that creates a disturbance and reasonable apprehension of danger to person and property. The County has a clearly ascertainable right to abate conduct that perpetuates this nuisance.

127. The presence of illegitimately possessed and used firearms in Wayne County proximately results in significant costs to the County in order to enforce the law, arm its police force, and treat the victims of firearm crime. Stemming the flow of firearms into the illegitimate firearms market will help to alleviate this problem, will save lives, prevent injuries and will make Wayne County a safer place to live.

SECOND COUNT
NEGLIGENCE
(ALL DEFENDANTS)

128. Paragraphs 1 through 127 are repeated and realleged as if set forth herein.

129. Defendants had a duty to Wayne County and its citizens not to create an

unreasonable risk of foreseeable harm.

130. Defendants' conduct, as fully alleged in this Complaint, constitutes a breach of Defendants' duty to Wayne County and its citizens not to create an unreasonable risk of foreseeable harm.

131. Defendants' conduct, as fully alleged in this Complaint, proximately caused substantial, foreseeable harm to Wayne County and its citizens.

132. Defendants' conduct, as fully alleged in this Complaint, constitutes actionable negligence because it violates defendants' duty not to impose an unreasonable risk of foreseeable harm to Wayne County and its citizens, and has thereby proximately caused substantial and foreseeable harm to Wayne County and its citizens.

THIRD COUNT
ALTERNATIVE LIABILITY
(ALL DEFENDANTS)

133. Paragraphs 1 through 132 are repeated and realleged as if set forth herein.

134. In addition and in the alternative to individual liability, Plaintiffs allege that:

- a. All Defendants have acted tortiously;
- b. Plaintiffs have been harmed by the conduct of one or more of the Defendants; and
- c. Plaintiffs, through no fault of their own, may be unable to identify which Defendant or Defendants caused particular harms.

FOURTH CAUSE OF ACTION
CONCERT OF ACTION
(DEFENDANT MANUFACTURERS AND DISTRIBUTORS)

135. Paragraphs 1 through 134 are repeated and realleged as if set forth herein.

136. At all times material to this action all Defendant manufacturers acted tortiously, as

fully alleged herein, individually and/or in concert with one another thereby proximately causing substantial and foreseeable harm to Wayne County and its citizens.

FIFTH COUNT
EXEMPLARY DAMAGES
(ALL DEFENDANTS)

137. Paragraphs 1 through 136 are repeated and realleged as if set forth herein.

138. Defendants' conduct has been malicious, willful, and wanton, such as to demonstrate a reckless disregard for the rights of Wayne County and its citizens.

PRAYER FOR RELIEF

WHEREFORE, Wayne County hereby requests trial by jury and that this court adjudge and decree that Defendants are liable for creating a public nuisance, negligence, etc., enter judgment for Wayne County and against Defendants, and award the Wayne County the following:

a. Allocated monetary damages attributable to each Defendant to compensate the County for Wayne for the costs that it bears as a result of Defendants' conduct, in excess of \$200 million.

b. Exemplary damages against each Defendant in the amount in excess of \$200 million to reflect and compensate for the fact that Defendants' conduct has been malicious, willful, and wanton, such as to demonstrate a reckless disregard for the rights of Wayne County and its citizens.

c. Interest upon any judgment entered as provided by law.

d. Costs of suit and attorneys' fees herein incurred.

e. Any other legal or equitable relief the Court deems appropriate.

Dated: _____

Respectfully submitted,

THURSWELL, CHAYET & WEINER

By: _____

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DEMAND FOR JURY

NOW COME the above-named Plaintiffs, by and through their attorneys, THURSWELL,
CHAYET & WEINER, and hereby make formal demand for a trial by jury of the facts and issues

involved in this cause of action.

Respectfully submitted,

THURSWELL, CHAYET & WEINER

By:

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