

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY**

ALVINO CRAWFORD, et al.,)	
)	
Plaintiffs,)	Case No. 1916-CV17245
)	
v.)	Division 10
)	
JIMENEZ ARMS, INC., et al.,)	Oral Argument Scheduled
)	<u>Dec. 12, 2019 at 4 p.m.</u>
Defendants.)	

**PLAINTIFFS’ AMENDED OPPOSITION TO DEFENDANT JIMENEZ ARMS, INC.’S
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION¹**

This lawsuit seeks to hold Defendant Jimenez Arms, Inc. (“Jimenez Arms”) accountable for contributing to the death of Alvino Dwight Crawford, a Kansas City, Missouri resident, and creating a public nuisance in Kansas City, Missouri, by conspiring with, and facilitating, a trafficking ring that flooded the city with illegal guns for five years. The trafficking ring only ended in October 2018, when federal authorities arrested Defendant James Samuels and charged him with violating numerous federal firearms laws.

Jimenez Arms manufactured 57 of the 77 guns that Samuels trafficked. It mailed guns directly to Samuels’ home—located in **Missouri**—took phone payments from Samuels’ credit card—while Samuels was in **Missouri**—and stated on its website that it had 49 authorized dealers in **Missouri**. Yet, Jimenez Arms argues that this case has no relation to **Missouri**. Jimenez Arms asks the Court to pay no mind to its systematic business contacts and continuous misdeeds committed in **Missouri**, the effects of which were felt in **Missouri** for years, as trafficked Jimenez

¹ Plaintiffs submit this amended opposition by leave of Court because relevant deposition testimony was provided by Defendant Christopher Bendet on October 22, 2019, the day after Plaintiffs’ original brief was filed. Discovery from Jimenez Arms has not yet commenced.

Arms guns turned up at crime scenes in **Missouri**, including in connection with the murder of Dwight Crawford. That argument is baseless. Jimenez Arms' motion to dismiss for lack of personal jurisdiction should be denied.

The keystone of Jimenez Arms' spurious argument is that the Court should focus *only* on the first-step of the distribution chain of the weapon used to kill Dwight Crawford (the "Murder Weapon"), which was sold by Jimenez Arms to National Wholesale Distribution, a Georgia-based distributor. Jimenez Arms' attempt to avoid jurisdiction is erroneous for three independent reasons.

Jimenez Arms' first error is that it asks the Court to ignore the facts as alleged. The Petition alleges that 57 Jimenez Arms guns were shipped to Samuels in Missouri—not just one—during the course of the trafficking ring, *including the undisputed fact that Jimenez Arms shipped 32 pistols directly into Missouri in fulfillment of orders placed by Samuels*. Jimenez Arms' unlawful and negligent sales to its co-conspirator and unscrupulous distribution practices are integral to Plaintiffs' public nuisance and negligence claims, as well as their conspiracy and aiding and abetting theories of liability.² Indeed, Jimenez Arms concedes on the first page of its motion that "it has contacts with Missouri," Def. Br. at 1, but asks the Court to determine at this early stage that its repeated and sustained contacts with Missouri did not contribute to the cause of death of Dwight Crawford, despite contrary allegations in the Petition. This request is improper and premature at the motion to dismiss stage, especially a motion based on personal jurisdiction.

Jimenez Arms' second error is that it ignores well-established precedent that jurisdiction can be found where a manufacturer of a product "serve[s] *directly or indirectly*, the market for its

² For this reason, the Court can readily dismiss Jimenez Arms' argument that Plaintiffs' claim of "personal jurisdiction over Jimenez Arms [is] only on the basis of general personal jurisdiction." Def. Br. at 2. Plaintiffs' Petition asserts causes of action arising out of Jimenez Arms' contacts with Missouri, as explained through this brief.

product in other States’ and ‘delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State.’” *Andra v. Left Gate Prop. Holding, Inc.*, 453 S.W.3d 216, 226 (Mo. 2015) (emphasis added) (quoting *World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 297-98 (1980)). The Supreme Court of Missouri has made clear that where an out-of-state manufacturer makes an effort to serve the market for its products in the forum state, and the plaintiff is a resident of the forum state, jurisdiction over the defendant is proper *whether or not* the particular product at issue was sold directly into the state by the defendant. *State ex rel. Newport v. Wiesman*, 627 S.W.2d 874, 879 (Mo. 1982). So too, this Court has jurisdiction over Jimenez Arms, which “introduce[d] its products into the stream of interstate commerce fully aware that they will be sold and resold in Missouri.” *Id.* at 880. Jimenez Arms’ citation to cases involving out-of-state plaintiffs injured in other states, Def. Br. at 3-4, are inapposite.

Finally, Jimenez Arms’ argument proceeds from a faulty factual premise. Jimenez Arms incorrectly asserts that “Plaintiffs do not, and cannot, allege any contact between Jimenez and the state of Missouri as it relates to” the Murder Weapon. Def. Br. at 2. But even at this early stage in the litigation, discovery from the Missouri-based gun dealer that sold the Murder Weapon to Samuels shows that he called Jimenez Arms *directly* to ask how he could become a dealer of its firearms, was told how to do so, and shortly thereafter contacted the national distributor from which he purchased the Murder Weapon. Although it is not necessary for a national manufacturer to direct a particular product into the forum state in order for the state’s courts to have jurisdiction over it, here Jimenez Arms’ conduct—providing the Missouri dealer information about how to purchase its guns—led to the Murder Weapon ending up in Missouri. For each of the aforementioned reasons, Jimenez Arms’ motion should be denied.

I. FACTS AND BACKGROUND

A. Jurisdictional Facts Related to the Gun Trafficking Scheme

The Petition alleges a litany of contacts Jimenez Arms had with the State of Missouri, many of which are specifically related to Jimenez Arms' contacts with James Samuels who operated in the Kansas City, Missouri area. Defendants in this action—including Jimenez Arms—all participated in this gun-trafficking scheme that placed or attempted to place 57 Jimenez Arms pistols into the illegal stream of commerce. Pet. ¶ 4. Many of the trafficked guns are yet to be recovered; others have been recovered at the scenes of drug crimes and one was recovered after a domestic violence incident in Missouri. *See, e.g.*, Pet. ¶¶ 1, 4, 37-39, 43. On July 5, 2016, one of the trafficked guns was used in Kansas City, Missouri to murder Dwight Crawford. Pet. ¶¶ 57, 63.

Jimenez Arms conspired to illegally sell 32 guns directly to Samuels, a Missouri resident operating in Missouri, even though it knew that Samuels did not have a federal firearms license and that he intended to re-sell these guns. Pet. ¶¶ 4, 16. The Petition alleges six direct and unlawful transactions between Jimenez Arms and Samuels each involving Jimenez Arms shipping guns to Missouri, some of which were sent to Samuels' home. Jimenez Arms does not dispute these shipments:

1. On November 22, 2013, Samuels ordered six guns from Jimenez Arms and Jimenez Arms shipped those guns into Missouri. Pet. ¶¶ 36-37; Jimenez Arms Answer ("Answer") ¶¶ 36-37.
2. Around December 12, 2013, Samuels ordered seven more Jimenez Arms pistols directly from Jimenez Arms and Jimenez Arms shipped them into Missouri. Pet. ¶ 38; Answer ¶ 38.
3. On December 23, 2013 Samuels purchased three more guns from Jimenez Arms and Jimenez Arms shipped them into Missouri. Pet. ¶ 39; Answer ¶ 39.

4. On December 31, 2014, Jimenez Arms sold Samuels eight more guns and shipped them directly to *Samuels' home* in Missouri. Pet. ¶¶ 16, 42; Answer ¶ 42.
5. Around January 28, 2015, Jimenez Arms sold three more guns to Samuels and shipped them to Samuels' Missouri home. Pet. ¶ 44; Answer ¶ 44.
6. On April 28, 2015 Samuels called Jimenez Arms from Missouri, and said he was "ordering through" another gun dealer in Missouri, and wanted to have guns shipped there. Pet. ¶ 45; Answer ¶ 45. Jimenez Arms shipped five more guns to the dealer in Missouri, but upon receipt on April 30, 2015, the dealer shipped the pistols back because the transaction was illegal and unauthorized. Pet. ¶ 47; Answer ¶ 47.

Jimenez Arms' actions were instrumental in helping to establish and supply Samuels' trafficking ring. By illegally selling guns to Samuels, Jimenez Arms helped Samuels acquire a reputation as gun trafficker in the Kansas City, Missouri area. Pet. ¶ 53. Individuals prohibited from owning firearms knew that Samuels was a source of new, "out-of-the-box" guns and that Samuels sold them to individuals who were not able to legally possess or purchase them. *Id.*

Despite shipping these 32 guns into Missouri on six separate occasions, Jimenez Arms did nothing to rectify the harm it had caused or withdraw from the conspiracy it was a part of: Jimenez Arms did not call law enforcement, Jimenez Arms did not notify the gun dealers to whom it illegally shipped guns, and Jimenez Arms did not notify its authorized gun dealers in Missouri that they should not conduct transactions with Samuels. Pet. ¶ 49. When law enforcement came to Jimenez Arms' factory in 2014 and 2017 to conduct an audit and look for indicators of trafficking, Jimenez Arms concealed its transactions from federal agents, telling them that Jimenez Arms did not sell guns to unlicensed individuals. Pet. ¶¶ 41, 51.

Enabled by Jimenez Arms' concealment, Samuels continued purchasing significant quantities of Jimenez Arms pistols, obtaining at least 19 additional Jimenez Arms guns after April 2015, including the Murder Weapon. Pet. ¶ 52.³ Jimenez Arms had a financial motive to not report or stop Samuels' illegal gun trafficking in Missouri because, as Samuels continued selling Jimenez Arms guns, Jimenez Arms continued to profit off of Samuels' illegal conduct. Jimenez Arms' business model relies on the criminal aftermarket for its products: "As the [Bureau of Alcohol, Tobacco, Firearms and Explosives] explained in the criminal case against Samuels, Jimenez Arms guns 'are frequently used by criminals' in part because they are inexpensive and 'a profit can be made by buying them at a low cost and selling them at a marked-up price to prohibited individuals.'" Pet. ¶ 56.

In late 2015, the owner of Defendant Green Tip Arms, Defendant Christopher Bendet, a licensed Missouri gun dealer, contacted Jimenez Arms "to inquire about how to purchase their firearms." *See* Lefkowitz Aff. (attached as Exhibit 1) at Ex. C ("Bendet Dep. Tr.") Tr. 78:7-9. He testified that he believed that Jimenez Arms provided Green Tip Arms "a place to go or a list or some place of distributors that carry them." Bendet Dep. Tr. 81:1-8. For the other brands of guns that it sold, Green Tip Arms had three regular distributors. Bendet Dep. Tr. 82:3-12. Shortly after Green Tip Arms called Jimenez Arms, Green Tip Arms contacted National Wholesale Distribution and placed its first order, ultimately purchasing the Murder Weapon in January 2016. Bendet Dep., Tr. 78:10-15, 82:11-83:17; Lefkowitz Aff., ¶ 7, Ex. A. National Wholesale Distribution advertised itself as having a "Nationwide Client Base," and shipped Jimenez Arms guns to "gun dealers across the United States." Lefkowitz Aff. ¶ 9, Ex. B. In total, Green Tip Arms ordered between 24 and

³ In total, the Petition alleges that Samuels purchased 57 Jimenez Arms guns. Some firearms were purchased prior to contacting Jimenez Arms directly, and the date of sale and source of other Jimenez Arms guns was not known at the time the petition was filed.

30 Jimenez Arms pistols to be delivered to Missouri by placing orders through National Wholesale Distribution. Bendet Dep., Tr. 84:11-18, 91:25-92:9.

B. Other Jurisdictional Facts

Jimenez Arms has other significant Missouri contacts that support this Court's jurisdiction over it. Critically, Jimenez Arms lists 49 authorized dealers in the state of Missouri on its website. Pet. ¶ 12. Additionally, Jimenez Arms "guns are frequently recovered at crime scenes in the Kansas City, [Missouri] area. For example, federal prosecutors in the Western District of Missouri have brought cases against individuals who have used Jimenez Arms guns to carry out carjackings, high speed car chases, drug distribution schemes, and bank robberies (among numerous other crimes)." Pet. ¶ 67. At least 166 Jimenez Arms guns were recovered by the Kansas City, Missouri Police Department between 2014 and 2018. *See Lefkowitz Aff.* ¶ 5. By implication, there are many more Jimenez Arms guns in Kansas City and Missouri.

II. PROCEDURAL POSTURE AND CLAIMS AGAINST JIMENEZ ARMS

Plaintiffs filed the instant action on June 24, 2019 against Defendants Jimenez Arms, Green Tip Arms, LLC (Missouri), Green Tip Arms, LLC (Arizona), Christopher Bendet, and James Samuels. The petition seeks damages and injunctive relief. It alleges four counts against Jimenez Arms: (i) Public nuisance; (ii) Negligence; (iii) Civil Conspiracy; and (iv) Aiding and Abetting.

First, Plaintiffs allege that Jimenez Arms created an ongoing public nuisance in the city of Kansas City, Missouri, by "knowingly placing a substantial number of small, cheap handguns often used in crimes into the community, including through unlawful means." Pet. ¶ 72; *see City of Greenwood v. Martin Marietta Materials, Inc.*, 299 S.W.3d 606, 616 (Mo. Ct. App. 2009) (a public nuisance is an "unreasonable interference with a right common to the general public.") (internal quotation marks omitted). Jimenez Arms helped create and sustain a public nuisance in Missouri: "The foreseeable result of an illegal gun trafficking ring is that individuals convicted of

felonies, minors and other individuals who cannot legally possess firearms” can obtain them, including the individual who shot Dwight Crawford. Pet. ¶ 75. As private citizens, Plaintiffs have standing to maintain a public nuisance claim because they have suffered “a special injury” beyond that felt by the public generally. *Kelly v. Boys' Club of St. Louis, Inc.*, 588 S.W.2d 254, 256–57 (Mo. Ct. App. 1979).

Plaintiffs’ negligence claim alleges that Jimenez Arms breached a duty to Plaintiffs by “shipping firearms that it knew, or consciously avoided knowing, were destined for the illegal stream of commerce and into the hands of persons ineligible to possess a firearm” and that it did so in violation of state and federal laws. Pet. ¶ 81. Jimenez Arms’ unscrupulous distribution practices made it possible for Samuels to purchase dozens of its guns and to establish himself as a known gun trafficker in the Kansas City area. Even assuming, *arguendo*, that Jimenez Arms did not know in 2013 and 2014 that it was supplying a gun trafficker, it was explicitly put on notice of Samuels’ illegal conduct in April 2015. Pet. ¶ 47. Thereafter, Jimenez Arms had a duty to mitigate the risk of harm that it had created but failed to do so. *See* Restatement (Second) of Torts § 321 (“If the actor does an act, and subsequently realizes or should realize that it has created an unreasonable risk of causing physical harm to another, he is under a duty to exercise reasonable care to prevent the risk from taking effect.”).

Plaintiffs also allege that Jimenez Arms is liable for civil conspiracy and aiding and abetting based on the totality of Jimenez Arms’ conduct as it related to Samuels. Plaintiffs allege acts in furtherance of the conspiracy, including all six of the transactions detailed above that took place between Samuels and Jimenez Arms; all of this conduct placed guns in Missouri. Pet. ¶ 106(a). Plaintiffs also allege that Jimenez Arms never withdrew from the conspiracy—a requirement to avoid liability—but instead continued to profit from the conspiracy. Pet. ¶ 107;

State v. Baker, 607 S.W.2d 153, 157 (Mo. 1980) (“To withdraw in the legal sense defendant must have done so in due time, he must have shown his confederates by acts or words that he disapproved or opposed the contemplated crime, and he must have done everything practicable to detach himself from the criminal enterprise and to prevent the consummation of the crime.”). Plaintiffs’ aiding and abetting claim, moreover, alleges that Jimenez Arms “provided substantial assistance and encouragement to Samuels” in carrying out his tortious scheme in Missouri. Pet. ¶ 113. It also alleges that without Jimenez Arms’ assistance and encouragement, Samuels “would have been more likely to be detected at an earlier time.” Pet. ¶ 115. Jimenez Arms may disagree with the allegations in the Petition, but it cannot pretend that they do not exist.

III. LEGAL ANALYSIS

On a motion to dismiss for lack of personal jurisdiction, the Court reviews “the allegations contained in the pleadings to determine whether, if taken as true, they establish facts adequate to invoke Missouri’s long-arm statute [RSMo. § 506.500] and support a finding of minimum contacts with Missouri sufficient to satisfy due process,” as required by the United States Constitution. *Good World Deals, LLC. v. Gallagher*, 554 S.W.3d 905, 910 (Mo. Ct. App. 2018) (internal quotation marks omitted). Once the defendant raises a question of personal jurisdiction on a motion to dismiss, the “burden shifts to the plaintiffs to make a *prima facie* case that personal jurisdiction exists over the defendant.” *Noble v. Shawnee Gun Shop, Inc.*, 316 S.W.3d 364, 369–70 (Mo. Ct. App. 2010). Allegations in the Petition are viewed in the light “most favorable to the existence of the jurisdictional fact.” *Good World Deals*, 554 S.W.3d at 910 (internal citation and quotation marks omitted). The Court may consider “affidavits and depositions properly filed in support of the motion to dismiss,” and this does not convert the motion into one for summary judgment. *Andra*, 453 S.W.3d at 224. “The merits of the underlying case are not considered.” *Id.*

The Due Process and long-arm inquiries are not necessarily distinct. “Section 506.500 is construed ‘to extend the jurisdiction of the courts of this state over nonresident defendants to that extent permissible under the Due Process clause.’” *Bryant v. Smith Interior Design Grp., Inc.*, 310 S.W.3d 227, 232 (Mo. 2010) (quoting *State ex rel. Deere & Co. v. Pinnell*, 454 S.W.2d 889, 892 (Mo. 1970)). “Pursuant to this objective, Missouri courts have interpreted [section 506.500’s] words ‘transaction of any business within the state’ or ‘commission of a tortious act within this state’ broadly so as not to deny jurisdiction under § 506.500 in situations in which the due process clause would permit the assertion of personal jurisdiction.” *Wiesman*, 627 S.W.2d at 876. For this reason, Due Process will be addressed first, and then the long-arm statute.

A. Jurisdiction over Jimenez Arms Satisfies Due Process

Jimenez Arms’ intentional, sustained and direct contacts with Missouri establish that personal jurisdiction over it is consistent with Due Process. Due Process requires that “‘the defendant purposefully avails itself of the privilege of conducting activities within the forum State’ such that the defendant enjoys the protections of state laws and, therefore, should reasonably anticipate being haled into court in that state.” *Andra*, 453 S.W.3d at 226. “A substantial connection with the forum state may occur when a distributor makes an effort to ‘serve directly or indirectly, the market for its product in other States’ and ‘delivers its products into the stream of commerce with the expectation that they will be purchased by consumers in the forum State.’” *Id.*

Manufacturers that place products into the stream of commerce knowing that they may end up in Missouri are routinely held to account for their conduct that has effects in the state. *See, e.g., Wiesman*, 627 S.W.2d at 879–80 (finding personal jurisdiction over an airplane manufacturer where “the airplane at issue [wa]s not one of the four Beech models sold by the Missouri franchisees, [but] it [wa]s nevertheless true that Beech delivers its products into the stream of

commerce with the expectation that they will be purchased by consumers in the forum State.” (internal quotation marks omitted)); *Clune v. Alimak AB*, 233 F.3d 538, 543 (8th Cir. 2000) (holding under Missouri and federal law that a Swedish manufacturer had sufficient minimum contacts with Missouri because it created and “reap[ed] the benefits” of a distribution network that was national in scope, and “could not plead ignorance that its products were being distributed into neighboring states”); *see also Barone v. Rich Bros. Interstate Display Fireworks Co.*, 25 F.3d 610, 611-15 (8th Cir. 1994) (holding that a Japanese company had sufficient minimum contacts with Nebraska despite the fact that it “d[id] not advertise in Nebraska, nor d[id] it directly send any of its products into Nebraska” because it utilized regional distributors that sent its products to Nebraska and it “reaped the benefits of its network of distributors”).

Jimenez Arms’ contacts with Missouri are continuous and purposeful. Jimenez Arms sells guns directly into Missouri and it lists 49 authorized dealers in Missouri on its website. Pet. ¶ 12. As detailed above, Jimenez Arms shipped 32 guns directly to Samuels in Missouri in six different transactions. In addition, even the very limited discovery that Plaintiffs have elicited at this early date indicates that Jimenez Arms directed Green Tip Arms, a Missouri gun dealer, to a distributor that sold its guns. Jimenez Arms interactions with Samuels and Green Tip Arms are cases in point; both called Jimenez Arms directly to ask about purchasing Jimenez Arms guns and both proceeded to order dozens of them. *See supra* Section I(A). This is exactly what it means to purposefully avail oneself of doing business in Missouri. *See Andra*, 453 S.W.3d at 228 (“Left Gate purposefully availed itself of doing business in Missouri by allowing and promoting business in Missouri over the last five years.”).

What is more, in the five-year period from 2014 through 2018, at least 166 Jimenez Arms guns have been recovered by the Kansas City, Missouri Police Department. *See Lefkowitz Aff.* ¶

5. And for each gun recovered as part of a criminal investigation, the Bureau of Alcohol, Tobacco, Firearms and Explosives sends a request for a “trace” of the gun to the manufacturers and dealers that sold the gun. Pet. ¶ 26. Jimenez Arms would thus have been alerted through the tracing system each time one of its firearms was recovered from a crime scene in Missouri.

Jimenez Arms contorts law and fact in arguing that “Plaintiffs have not demonstrated a contact between Jimenez Arms and the state of Missouri from which its cause of action arises.” Def. Br. at 4. All three cases that Jimenez Arms cites for this proposition concern *out-of-state plaintiffs* who *suffered injuries out of state*. See *State ex rel. Bayer Corp. v. Moriarty*, 536 S.W.3d 227 (Mo. 2017) (85 non-residents of *Missouri* sued drug manufacturer for injuries suffered out of state);⁴ *State ex rel. Norfolk S. Ry. Co. v. Dolan*, 512 S.W.3d 41 (Mo. 2017) (concerning an injury “in Indiana to Russel Parker, an Indiana resident, as a result of his work for [defendant] in Indiana.”); *State ex rel. Cedar Crest Apartments, LLC v. Grate*, 577 S.W.3d 490 (Mo. 2019) (Kansas resident injured in Kansas).

Plaintiffs’ claims here, by contrast, involve a *Missouri* resident who was shot and killed with a Jimenez Arms gun in *Missouri*. The cause of action in this case arises out of Jimenez Arms’ contacts with Missouri; its negligent and unlawful dealings with Samuels led to the creation and proliferation of a dangerous gun trafficking ring that sold the Murder Weapon. Jimenez Arms also told Green Tip Arms where it could purchase its guns; and only afterwards did Green Tip begin selling guns to Samuels.

Even ignoring Jimenez Arms’ direct sales to Samuels and its contact with Green Tip Arms, there is personal jurisdiction over Jimenez Arms. Jimenez Arms sold the Murder Weapon to a

⁴ In fact, in *Moriarty* there were also seven in-state Plaintiffs in the case, and as to those plaintiffs “jurisdiction was uncontested.” *Id.* at 231.

national distributor knowing full well that there was a substantial chance it would end up in Missouri. National Wholesale Distribution advertised itself as “Serving a Nationwide Client Base,” and represented that it had an inventory of Jimenez Arms guns. Lefkowitz Aff. ¶¶ 8-9, Ex. B. Between 24 and 30 Jimenez Arms guns that Jimenez Arms shipped to this distributor were later shipped to Missouri-based dealer Defendant Green Tip Arms, some of which were in turn sold to Samuels. Bendet Dep, Tr. 84:11-18, 91:25-92:9. This is *in addition* to the 20 other Jimenez Arms guns that were sold to Samuels through means other than direct purchases from Jimenez Arms. *Clune*, 233 F.3d at 544 (“[B]etween twenty and forty [hoists manufactured by the defendant] ended up in Missouri. This fact alone makes it difficult for us to characterize the hoist’s location in Missouri as random, attenuated or fortuitous.”). Many Jimenez Arms guns, as explained above, end up in Missouri, and by authorizing dealers in the state and selling to a distributor that distributes to Missouri, Jimenez Arms has submitted to the jurisdiction of the state. *See A. Uberti & C. v. Leonardo*, 892 P.2d 1354, 1362–63 (Ariz. 1995) (“We do not believe that a foreign [gun] manufacturer that knowingly and intentionally distributes its products in America through an American company can avoid jurisdiction of American courts by the simple expedient of closing its eyes and making no effort to learn about or restrict its distributor’s activities.”).

B. Jurisdiction over Jimenez Arms Comports with Missouri’s Long-Arm Statute

As discussed above, since Due Process is satisfied in this case, the Court need not separately analyze Missouri’s long-arm statute, RSMo. § 506.500. Nonetheless, running through the long-arm statute analysis, the Court clearly has personal jurisdiction over Jimenez Arms. Section 506.500 lists six categories that give rise to personal jurisdiction over an out-of-state defendant, three of which are relevant here: “(1) The transaction of any business within this state;

(2) The making of any contract within this state; (3) The commission of a tortious act within this state” RSMo. § 506.500(1).

Missouri courts recognize that “extraterritorial acts that produce consequences in the state, such as fraud, are subsumed under the tortious act section of the long-arm statute.” *Bryant*, 310 S.W.3d at 232 (internal quotation marks omitted). What is more, “Missouri courts have interpreted the words ‘transaction of any business within this state’ or ‘commission of a tortious act within this state’ broadly so as not to deny jurisdiction under § 506.500 in situations in which the due process clause would permit the assertion of personal jurisdiction.” *Wiesman*, 627 S.W.2d at 876.

Applying the proper standard, the long-arm statute is easily satisfied. First, Plaintiffs allege that Jimenez Arms committed tortious acts within the state.⁵ Plaintiffs’ claims are premised on Jimenez Arms’ negligent and unlawful conduct that was felt—and continues to be felt—in Missouri, both through the murder of Plaintiffs’ son and the use of the trafficked firearms in crimes throughout Kansas City. As alleged, Jimenez Arms shipped “firearms that it knew, or consciously avoided knowing, were destined for the illegal stream of commerce” including the Murder Weapon. Pet. ¶ 81. Jimenez Arms, having helped Samuels become a significant gun dealer, had a duty to ensure that no more of its guns ended up in his hands. *Cf. Johnson v. Bryco Arms*, 304 F. Supp. 2d 383, 400–01 (E.D.N.Y. 2004) (“[Plaintiff] alleges [defendant] has committed the torts of public nuisance and negligence outside this state, causing him severe physical and emotional injury

⁵ Jimenez Arms’ argument that the causes of action here do not arise out of its contacts with Missouri is premature and premised on the same factual and legal errors explained above. The claims arise out of Jimenez Arms’ Missouri contacts for at least two reasons: (1) the causes of action here arise out of Jimenez Arms’ dealings with Samuels, and (2) the effects of Jimenez Arms’ business practices and tortious conduct were felt in Missouri when Dwight Crawford was murdered in Missouri.

within New York Such conduct satisfies criteria previously determined to support a court’s exercise of jurisdiction over gun companies.”).

Noble v. Shawnee Gun Shop, Inc., 316 S.W.3d 364 (Mo. Ct. App. 2010), cited in Jimenez Arms’ motion for a protective order, bears particular relevance here. In that case, a Kansas gun dealer allegedly sold firearm magazines negligently that were then used in a shooting in Missouri. *Id.* at 367. Despite the fact that the sale—and the alleged negligence—took place in Kansas, the allegations that the effect of the negligent act was felt in Missouri, and that the gun shop did business with other Missouri residents were sufficient to confer jurisdiction over the defendant. *Id.* at 370-72. Applying the long-arm statute, the court held that it was “foreseeable that a sale originating from [the gun shop] could have consequences in the neighboring state.” *Id.* at 372.

The case for jurisdiction is even stronger here. Jimenez Arms directed Missouri-based Green Tip Arms to a Georgia company that then sold Green Tip Arms the Murder Weapon and the effects of that sale were felt in Missouri when Dwight Crawford was killed here. Jimenez Arms’ contacts with Missouri, including knowingly sending guns here itself and through distributors, establish that it was foreseeable that the Murder Weapon would end up in Missouri. Like the defendant gun shop in *Noble*, Jimenez Arms’ conduct is covered by the long-arm statute.⁶

⁶ Even if the Court determines that the petition does not make a *prima facie* showing of personal jurisdiction over Jimenez Arms, the proper recourse would be to permit Plaintiffs to amend the Petition or permit jurisdictional discovery since it has been established that Jimenez Arms has contacts with Missouri and Dwight Crawford’s murder took place in state. *See Deere*, 454 S.W.2d at 894 (stating that discovery “may be used to inquire into facts relating to jurisdiction of the Court over the person of the defendant.”).

IV. CONCLUSION

This Court has personal jurisdiction over Jimenez Arms because of its systematic contacts with the state both related and unrelated to the facts of this case. For the aforementioned reasons, Jimenez Arms' motion to dismiss should be denied.

Dated: November 4, 2019

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 4th day of November 2019, the foregoing document was filed with the Clerk of the Court using the Court's E-Filing system which electronically sends notice to all counsel of record.

/s/ Eric L. Dirks

Eric L. Dirks

Exhibit 1

IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY

ALVINO CRAWFORD, et al.,)	
)	
Plaintiffs,)	Case No. 1916-CV17245
)	
v.)	
)	Division 10
JIMENEZ ARMS, INC., et al.,)	
)	
Defendants.)	

**Affidavit of Alla Lefkowitz in Support of Plaintiffs' Amended Opposition to
Jimenez Arms, Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction**

I, Alla Lefkowitz, submit this affidavit based on my personal knowledge unless otherwise indicated. I state as follows:

1. I represent the Plaintiffs in the above-captioned case. I am the Director of Affirmative Litigation at Everytown Law, and a member in good standing of the bars of the State of New York (active) and the District of Columbia (inactive). I am admitted in this case *pro hac vice*. I submit this affidavit in support of the Plaintiffs' Amended Opposition to Jimenez Arms Inc.'s Motion to Dismiss for Lack of Personal Jurisdiction, filed simultaneously.

2. On June 28, 2019, I requested five years of data related to firearms seized as evidence by the Kansas City, Missouri Police Department ("KCPD").

3. On or around August 19, 2019, my office received a list of all guns recovered, seized, or held as evidence by the KCPD between 1/1/2014 and 3/25/2019. The list states the make and model (using National Crime Information Center ["NCIC"] codes) of all firearms recovered in this time period by the KCPD. The NCIC code for Jimenez Arms, Inc. ("Jimenez Arms") made firearms is JMZ.

4. The 176 pages of raw data are in my custody and control, and were served on counsel for Defendant Jimenez Arms on October 21, 2019. I can provide a copy to the court upon request.

5. The data shows that in the five-year period from 2014 through 2018, at least 166 Jimenez Arms guns have been recovered, seized, or held as evidence by KCPD.

6. Discovery with Defendants Green Tip Arms, LLC of Missouri, Green Tip Arms, LLC of Arizona, and Christopher Bendet is ongoing. In the normal course of business, Federal Firearms Licensed dealers ("FFLs") keep a record book of each acquisition and disposition of a firearm. Attached as Exhibit A is a true and correct copy of six pages of Green Tip Arms, LLC of Missouri's acquisition and disposition log, produced to Plaintiffs by Green Tip Arms LLC of Missouri, bates numbered GTA_00353-00356, GTA_00359-00360.

7. The unredacted portions of the acquisition and disposition log shows that Green Tip Arms, LLC of Missouri purchased at least five Jimenez Arms pistols from National Wholesale Distribution and later sold them to Defendant James Samuels. The gun bearing the serial number 361229 was used to murder Dwight Crawford. The acquisition and disposition log shows that it was purchased by Green Tip Arms from National Wholesale Distribution on January 14, 2016 and then sold to James Samuels on April 7, 2016.

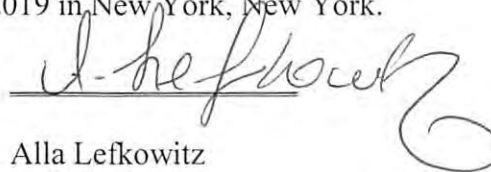
8. On October 16, 2019, I accessed archives of National Wholesale Distributions' website, using an internet archive service known as the "Wayback Machine" (<https://archive.org/web/>). Attached as Exhibit B are true and correct copies of the webpages pulled from this internet archive.

9. The webpages show that National Wholesale Distribution advertised Jimenez Arms guns for sale over the internet and stated that it served a "Nationwide Client Base."

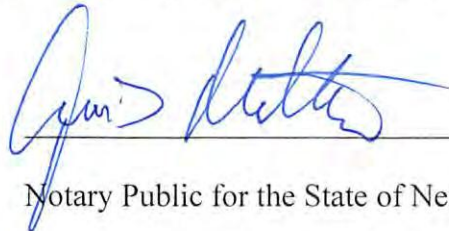
10. On October 22, 2019, counsel for Plaintiffs deposed Defendant Christopher Bendet, the owner and sole proprietor of Defendants Green Tip Arms (Missouri) and Green Tip Arms (Arizona). Attached as Exhibit C are true and correct copies of relevant, excerpted pages of that deposition transcript.

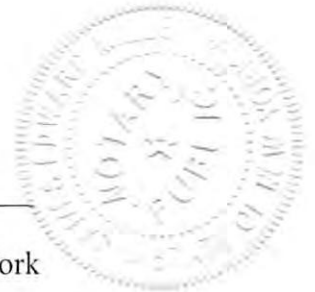
I affirm under penalty of perjury under the laws of the State of New York and Missouri that the foregoing is true and correct.

EXECUTED on this 4th day of November, 2019 in New York, New York.


Alla Lefkowitz

SUBSCRIBED AND SWORN TO before me this 4th day of November, 2019.


Notary Public for the State of New York



JAMES EDWARD MILLER
Notary Public, State of New York
Registration #02M16381318
Qualified In New York County
Commission Expires Oct. 1, 2022

Exhibit A

ACQUISITION

DESCRIPTION OF FIREARM						RECEIPT	
CODE	MANUFACTURER and / or IMPORTER	MODEL	SERIAL NUMBER	TYPE	CALIBER OR GAUGE	DATE	FROM WHOM RECEIVED (Name and Address or Name and License Number)
211	Jimenez Arms	JA380	361128	Pistol	380ACP	12/15/15	National Wholesale Distribution 1-58-117-01-76-10547

DISPOSITION

	DATE	NAME	ADDRESS OR LICENSE NUMBER IF LICENSEE Or Form 4473 Serial Number if Forms 4473 Filed Numerically
211	12/20/15	James Allen Samuels	2201 E. 38th St. Kansas City, MO 64109

ACQUISITION

DESCRIPTION OF FIREARM							RECEIPT
CODE	MANUFACTURER and / or IMPORTER	MODEL	SERIAL NUMBER	TYPE	CALIBER OR GAUGE	DATE	FROM WHOM RECEIVED (Name and Address or Name and License Number)
229	Jimenez Arms	JA380	361149	Pistol	380 ACP	12/23/15	National Wholesale Distribution 1-58-117-01-76-10547
230	Jimenez Arms	JA380	361150	Pistol	380 ACP	12/23/15	National Wholesale Distribution 1-58-117-01-76-10547

DISPOSITION

	DATE	NAME	ADDRESS OR LICENSE NUMBER IF LICENSEE Or Form 4473 Serial Number if Forms 4473 Filed Numerically
229	12/24/15	James Allen Samuels	2201 E. 38th St. Kansas City, MO 64109 (122415a)
230	12/24/15	James Allen Samuels	2201 E. 38th St. Kansas City, MO 64109 (122415a)

ACQUISITION

DESCRIPTION OF FIREARM							RECEIPT
CODE	MANUFACTURER and / or IMPORTER	MODEL	SERIAL NUMBER	TYPE	CALIBER OR GAUGE	DATE	FROM WHOM RECEIVED (Name and Address or Name and License Num
292	JIMENEZ ARMS INC.	JA380	361229	Pistol	380ACP	1/14/16	National Wholesale Distrib 1-58-117-01-16-10547
295	JIMENEZ ARMS INC.	JA380	361232	Pistol	380ACP	1/14/16	National Wholesale Distrib 1-58-117-01-16-10547

DISPOSITION

	DATE	NAME	ADDRESS OR LICENSE NUMBER IF LICENSEE Or Form 4473 Serial Number if Forms 4473 Filed Numerically
292	4/7/16	James Allen Samuels	2201 E. 38th St., Kansas City, MO 64109 (040716a)
295	4/7/16	James Allen Samuels	2201 E. 38th St., Kansas City, MO 64109 (040716a)

Exhibit B

Call Us Today! 1 (800) 834-6217



National Wholesale Distribution, LLC

A Responsive, Reliable Resource

For Firearms & Accessories

(800) 834-6217

(770) 729-4325

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American Tactical



National Wholesale Distribution, LLC

We Sell Firearms To Federally Licensed Gun Dealers

NWD is a Georgia corporation, formed in 2015. Our mission is to serve as a responsive, reliable resource for gun dealers across the United States. We offer a wide variety of both new and used firearms. We also carry a nice selection of firearms accessories, including holsters and laser systems. When you purchase weapons, ammunition or firearms accessories from **NWD**, you can be confident that our goal will always be to have inventory on hand and ready to ship. You can also rest assured that any new firearm we sell will be of the highest quality and backed by a full manufacturer warranty. Used firearms we sell may also be available for an **NWD** warranty.

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Interested in new weapons? We offer a great selection of pistols and rifles. Shop our website to see the items we currently have in stock. We encourage you to visit the website on a regular basis. Quite often you will find special offers that we put out on certain product lines. We find that many of our regular clients take advantage of those sale prices, when securing additional inventory for their stores.

We carry several top lines of new pistols. The weapons we offer are all state of the art and back by full manufacturers warranties. We have a great selection of accessories, including the latest high is are not made alike. Oh they may look similar but, the real differences are things like reliability, durability and ease of maintenance and repair. We have hand to pieces that our dealers have access to the most accurate brands and models.



http://nwdllc.com/firearms/jimenez-arms/

6 captures

11 Feb 2016 - 26 Oct 2016

Go

FEB MAR MAY

31

2015 2016 2017

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Jimenez Arms

Manufacturers of Affordable Arms



[Dealer Direct Brochure \(No Prices\) Updated](#)

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JIMENEZ

MANUFACTURERS OF

ARMS, INC.

AFFORDABLE FIREARMS



MODEL JA .22 LR / .25 ACP

Overall Weight 13 oz.
Overall Thickness875 in.
Overall Height 3.2 in.
Overall Length 5 in.
Barrel Length 2.5 in.

Fixed Sights
(2) 6-Round Magazines
Chambered for .22 Cal. LR
Cocked Indicator
Any combination with Polish included



MODEL JA .380 / .32

Overall Weight 19 oz.
Overall Thickness960 in.
Overall Height 3.75 in.
Overall Length 5.3 in.
Barrel Length 2.75 in.

Fixed Sights
(2) 6-Round Magazines with Finger Rest
Cock Indicator
Any combination with Polish included



MODEL JA T-380

Overall Weight (with magazine) 28 oz.
Overall Thickness 1 in.
Overall Height 4.75 in.
Overall Length 6.75 in.
Barrel Length 4 in.

5.75" Adjustable Target Sights
Thumb Operated Magazine Release
.380 Auto, 7 Round Magazine
Magazine Out Safety (Locked Trigger)

As with all Jimenez Arms Inc. products, the JA T-380 comes with a second magazine, and a limited lifetime warranty.



MODEL JA NINE / LC .380

Overall Weight 30 oz.
Overall Thickness 1.25 in.
Overall Height 4.75 in.
Overall Length 6.625 in.
Barrel Length 3.75 in.

Adjustable Rear Sights
(2) 12-Round Magazines with 9mm
(2) 12-Round Magazines with LC .380
Cock Indicator
Loaded Chamber Indicator
Last Round Slide Hold Open
Any combination with Polish included



Jimenez Arms Inc. is proud to announce the newest addition to our product lineup.

Exhibit C

Christopher Bendet
October 22, 2019

<p>Page 78</p> <p>1 was looking for it or something, I occasionally 2 did, or if I was trying to figure out where to 3 purchase their firearms. 4 Q. How often would you call a manufacturer? 5 A. Probably -- I don't know. Not that 6 often. Every few months maybe. 7 Q. Did you ever contact Jimenez Arms? 8 A. I did contact them one time to inquire 9 about how to purchase their firearms. 10 Q. When was that? 11 A. To be honest, I don't know. It was prior 12 to when I first actually did order Jimenez 13 firearms, but I don't recall exactly when that 14 was. Sometime October, November of 2015, I'd 15 guess, but that's a guess. I'm not -- 16 Q. So let's talk about Jimenez Arms. How 17 did you first become aware of their guns? 18 A. I think at a gun show I saw someone else 19 who had them on their table, and I was, you 20 know, interested in seeing how we could 21 possibly, you know, have those as well. 22 Q. And that was the first time you'd seen 23 them? 24 A. Yeah. I mean, I may have seen them 25 online somewhere, too, but that was the first</p>	<p>Page 80</p> <p>1 A. Yes. 2 Q. Okay. And was there -- did you -- had 3 you received any requests for Jimenez Arms 4 pistols? 5 A. Maybe. I don't -- honestly, that wasn't 6 why I inquired and purchased them -- 7 Q. Okay. 8 A. -- when I did. But, I mean, I think 9 probably had somebody ask me about them before 10 that, so -- 11 Q. Okay. When you contacted Jimenez Arms in 12 October or November, what did they tell you? 13 MR. BELANCIO: Objection; misstates his 14 testimony. 15 Q. BY MS. THOMAS-JENSEN: When you 16 contacted -- 17 MR. BELANCIO: He stated it was a mere 18 guess. 19 MR. BROWN: Repeat that, Mike. 20 MR. BELANCIO: He stated that they were 21 mere guesses. He's got no idea when he 22 contacted them. 23 Q. BY MS. THOMAS-JENSEN: When you contacted 24 Jimenez Arms in October or November of 2015 -- 25 MR. BELANCIO: Same objection.</p>
<p>Page 79</p> <p>1 time I'd actually seen one in person. 2 Q. All right. And what made you want to 3 start selling them? 4 A. I was always looking for firearms that 5 were in all price points, in all budgets, and so 6 that was -- you know, they were in a budget that 7 I felt like, you know, was something that people 8 who were looking for an extra gun for their 9 vehicle or whatever would probably, you know, be 10 interested in. 11 Q. Sure. Do you own any Jimenez Arms 12 pistols in your personal collection? 13 A. I do not. 14 Q. Okay. And when did you first start 15 stocking Jimenez Arms? 16 A. It was in December of 2015. That was the 17 first time. 18 Q. How far in advance of the gun show that 19 you attended in December '15 -- 2015 did you get 20 them in stock? 21 A. I'd say probably -- without looking in my 22 logbook, I'm not entirely certain, but I'd say a 23 week to two at the most. 24 Q. Did you order them specifically to have 25 on hand at a gun show?</p>	<p>Page 81</p> <p>1 Q. BY MS. THOMAS-JENSEN: -- what did they 2 ask you or what did you ask them? 3 A. I just asked them, you know, how I would 4 go about becoming a distributor or dealer for 5 their -- you know, for their firearms. And I 6 believe, but I don't -- I can't be sure, that 7 they gave me a place to go or a list or some 8 place of distributors that carry them. I'm not 9 positive of that. I can't -- you know, I can't 10 completely give you that answer as the truth 11 because I don't remember exactly. But somehow I 12 figured out how -- you know, who was a 13 distributor for those firearms. 14 Q. Is there any other place where you might 15 have found out how to contact a distributor for 16 Jimenez Arms? 17 A. Not that I know of, but, I mean, 18 people -- when you're an FFL, a lot of times 19 you'll receive unsolicited emails and mailers 20 and all kinds of things from different -- you 21 know, different places. I don't know how they 22 get that list, but I was always receiving, you 23 know, from other distributors different, you 24 know, brochures and things, you know. So it 25 could have been that I got them through that,</p>

Page 82	Page 84
<p>1 too. I don't really recall, to be honest with 2 you. 3 Q. All right. So earlier you said that you 4 worked primarily with three distribution 5 companies? 6 A. Correct. 7 Q. Chattanooga, MGE and Davidson's? 8 A. Correct. 9 Q. Where did you order Jimenez Arms pistols 10 from? 11 A. It was from a distributor called National 12 Wholesale Distribution. 13 Q. Okay. 14 A. I believe they're in Georgia -- or they 15 were in Georgia. I don't think they exist now, 16 but -- 17 Q. Did you order -- what did you order from 18 National Wholesale Distribution? 19 A. I believe it was just the Jimenez Arms 20 firearms, but I may have ordered other things 21 from them. Again, I'd have to check my logbook 22 to see what I had ordered from them because I 23 believe they carried other -- other firearms as 24 well. So I may have ordered some other things 25 at some time from them.</p>	<p>1 them still, and they don't seem to exist 2 anymore. So I'm not -- even if I had the phone 3 records, I wouldn't be able to look up and see 4 when, you know -- or I wouldn't -- I wouldn't 5 know what their phone number was, I guess is 6 what I'm saying. 7 Q. How many orders did you place with 8 National Wholesale Distribution? 9 A. I believe on three different occasions I 10 ordered through them. 11 Q. And what guns did you order from them? 12 A. Mostly Jimenez Arms. 13 Q. Mostly? 14 A. Yes. 15 Q. How many guns total did you order from 16 them? 17 A. I'm going to say under 30, but I'm not 18 sure exactly. 19 Q. Can you tell me in the first shipment 20 that you requested -- 21 A. Uh-huh. 22 Q. -- or that you made, how many guns did 23 you request? 24 A. Again, I'm not entirely -- without 25 referring to my logs, I believe it was around</p>
Page 83	Page 85
<p>1 Q. When did you first contact National 2 Wholesale Distribution? 3 A. Probably around the same time, after I 4 had contacted Jimenez, so somewhere in October, 5 November, somewhere in there. 6 Q. Okay. So to summarize, what you're 7 telling me is that you contacted Jimenez Arms 8 sometime in October 2015 -- 9 MR. BELANCIO: Objection; leading. 10 Q. BY MS. THOMAS-JENSEN: -- and you 11 contacted National Wholesale Distribution 12 sometime afterwards, also in October or November 13 of 2015; is that a fair statement? 14 MR. BELANCIO: Objection; leading and 15 compound. 16 THE WITNESS: To the best of my 17 knowledge. 18 Q. BY MS. THOMAS-JENSEN: Okay. Did you 19 contact National Wholesale Distribution by 20 phone? 21 A. I believe so, but I am not entirely 22 certain. I don't have my phone records or 23 anything from back then. And we were with a 24 different carrier at that time, and I don't know 25 even -- I looked to see if I could even find</p>	<p>1 eight to 10 guns. 2 Q. Eight to 10 guns. And that was in 3 December 2015? 4 A. Correct. 5 Q. Before -- 6 MR. BELANCIO: Objection; leading. 7 Q. BY MS. THOMAS-JENSEN: Before the 8 December 21st gun show? 9 A. Correct. 10 Q. Okay. 11 A. Actually, I think it was the 19th and 12 20th, was the gun show. 13 Q. Okay. Thank you. 14 A. But, yeah. 15 Q. All right. So you first started stocking 16 Jimenez Arm pistols in December of 2015, 17 correct? 18 A. Correct. 19 MR. BELANCIO: Objection; leading. 20 Q. BY MS. THOMAS-JENSEN: All right. What 21 was the average price for the Jimenez Arms 22 pistols that you sold? 23 A. My cost or what I charged? 24 Q. Both. 25 A. Okay. My cost, I believe, was around</p>

<p>Page 86</p> <p>1 \$100. 2 Q. Uh-huh. 3 A. And, typically, I sold them for \$150 at 4 the fire -- at the gun shows. 5 Q. And was that the average price for a 6 Jimenez Arms 380? 7 A. Correct. 8 Q. And that was also the price for Jimenez 9 Arms 9mm? 10 A. I think the 9 -- the JA 9, which I didn't 11 sell very many of, maybe two, I believe I sold 12 that for 200 or 225. 13 Q. Okay. How does that compare to the other 14 brands that you sell? 15 For instance, how would that compare to a 16 Smith & Wesson 9mm? 17 A. It depends which Smith & Wesson. An SDVE 18 9mm, my cost on it, I think, was around \$160, 19 and they sold for, you know, 225 to 300, 20 depending on the dealer. 21 The Sky pistols, I purchased those for 22 125 to \$140 and sold them for about \$200. 23 Phoenix Arms, I sold -- I purchased those for 24 about \$85 and sold them for about 150 -- 125 to 25 \$150. So they're probably, you know,</p>	<p>Page 88</p> <p>1 different price points and different quality 2 kind of, in my opinion. And I don't know that I 3 ever had any issues with Jimenez firearms as far 4 as like their quality or anything. 5 Q. Are Jimenez Arms pistols popular for -- 6 amongst aficionados of target shooting or 7 marksmanship? 8 A. I don't know. I would say if you're -- 9 MR. BELANCIO: Objection; calls for 10 speculation. 11 THE WITNESS: Yeah. I mean, I -- I don't 12 really know. I mean, I -- I think people have 13 different reasons for buying different guns, and 14 I don't know that I would -- I don't know, I 15 really don't. I mean, I don't know if they -- 16 if people buy them to target shoot or not. I -- 17 you know. 18 Q. BY MS. THOMAS-JENSEN: When you sell to 19 people, do they tell you what they're hoping to 20 do with the gun? 21 MR. BELANCIO: Objection; calls for 22 hearsay. 23 THE WITNESS: Not typically. I mean, I 24 certainly -- you know, I mean, occasionally, if 25 I had someone, let's say, buying multiple --</p>
<p>Page 87</p> <p>1 somewhere -- somewhere in those -- the same 2 range of those guns, so it just depends on the 3 firearm, I guess. 4 Q. What about for like a Glock 9mm? 5 A. Well, for, like, example, like a 6 Glock 19, my cost on a Glock 19 is probably 375 7 to 399. 8 Q. Okay. Is it fair to say that the price 9 point for Jimenez Arms handguns was attractive 10 to your customers? 11 MR. BELANCIO: Objection; leading. 12 THE WITNESS: It depends on -- it 13 really depended on the customer. You know, 14 everybody has a different budget, so, you know, 15 I think some customers were attracted to it and 16 some customers weren't, just depending on what 17 they were looking for and their budget. 18 Q. BY MS. THOMAS-JENSEN: Okay. How did the 19 quality of Jimenez Arms guns -- or handguns 20 compare to models manufactured by, for instance, 21 Smith & Wesson? 22 A. Again, that's -- I think that's kind of 23 a -- it's a difficult comparison to make 24 because, you know, there's -- some -- you know, 25 every manufacturer has different guns in</p>	<p>Page 89</p> <p>1 multiple handguns, they might say, I want to put 2 one of these in my -- one in my kitchen and one 3 in my living room and one in the bedroom 4 sometimes, or, you know, I want a truck gun and 5 a cabin gun and a gun to carry on me, or, you 6 know, occasionally, sometimes people would tell 7 me why there were, yes. 8 Q. BY MS. THOMAS-JENSEN: All right. What 9 did you generally talk about with your 10 customers? 11 A. Usually just like firearms and, you know, 12 what -- a lot of my customers I knew or I knew 13 someone that they knew or they referred or they 14 came in with another customer or friend that I 15 knew. A lot -- you know, a lot of my -- because 16 I'm -- it was in Missouri, you know, a lot of 17 my -- people from my church purchased firearms 18 from me; people from, you know, a group -- I got 19 together every week with a group of guys and 20 we'd shoot and hang out and barbecue and just 21 talk. A lot of their friends would buy guns 22 from me. You know, usually just kind of talk 23 about, I don't know, events, the Chiefs, the 24 Royals, I mean, you know, different things. We 25 talked guns a lot. I mean, you know, they'd</p>

Christopher Bendet
October 22, 2019

<p style="text-align: right;">Page 90</p> <p>1 tell me about another gun that they had or, you 2 know -- I don't know. Just -- it was more -- a 3 lot of times it was a little more personable 4 than like, you know, say, just a regular retail 5 shop that you'd walk in or a Walmart or 6 someplace like that. 7 Q. Sure. So when you -- I'm curious. When 8 you go out to go shooting with friends, would 9 you go to some kind of range? 10 A. It depends. We went to some ranges, 11 indoor and out, because Kansas City gets quite 12 cold in January and February. So a lot of times 13 we'd go to, you know, a range indoors somewhere 14 or sometimes -- you know, I have friends that 15 had big acreages that we had built, you know, 16 backstops and that sort of thing and have had a 17 range on their land. So sometimes we'd go out 18 and shoot there. Sometimes we were in a range. 19 It just really depended on weather and who we 20 were with and all that. 21 Q. When you and your friends would go target 22 shooting, either on somebody's land or at a 23 range, what guns would you bring with you? 24 A. Pretty much everything we owned, most of 25 us. It was -- you know, it was -- we had a</p>	<p style="text-align: right;">Page 92</p> <p>1 understood, you placed -- am I correct in saying 2 that you placed about three orders with them 3 for, all told, about 30 handguns? Is that what 4 you -- 5 A. Up to 30. I can't tell you it was 30. 6 It may have been 24 and I may have ordered eight 7 each time. I really don't recall the total 8 number without looking -- referring to my 9 logbook, but it was under 30. 10 Q. And the first one, say, the -- you told 11 me that the first order you placed was in 12 December. When was the last order that you 13 placed with National Wholesale Distribution? 14 A. I think sometime in March, I believe. 15 Q. Okay. Why did you stop ordering from 16 them? 17 A. Well, so after that, not very long after 18 that, I was closing down my photography business 19 and winding up the remaining weddings that I had 20 to photograph for the year. And, literally, in 21 July, right after the 4th of July in 2016, my 22 family moved here. And I didn't move here until 23 the beginning of November because I had to 24 finish my -- finish the wedding business that I 25 had in Kansas City.</p>
<p style="text-align: right;">Page 91</p> <p>1 ritual of every 4th of July we'd go out and 2 shoot on a friend of mine's land, and everybody 3 would pretty much bring all of everything they 4 had and just -- and we'd set up targets and 5 things. And so, yeah, it just -- really just 6 depended on who we're with and all that, so -- 7 Q. Long guns and handguns -- 8 A. Yes. 9 Q. -- both? 10 A. Yes. 11 Q. Did you ever know if any of your friends 12 brought along with them Jimenez Arms handguns 13 for target shooting? 14 A. I had a friend that had one. And he had, 15 I think, one of their predecessor's firearms, 16 too, before it became Jimenez, so -- 17 Q. Did you ever email National Wholesale 18 Distribution? 19 A. I -- possibly I did, but I don't -- I 20 couldn't find any records of that in my email 21 when I went through it. Because I was trying to 22 go through it when -- and I didn't find any. So 23 I believe I called them when I -- when I ordered 24 from them. 25 Q. Okay. And just to make sure I</p>	<p style="text-align: right;">Page 93</p> <p>1 So during that time, I was -- I 2 transferred my license to my friend's home, and 3 I was still doing some gun shows and a little 4 bit of business. But for the most part, I was 5 pretty busy trying to get our house sold and 6 the photography business wrapped up, so I wasn't 7 focusing as much. 8 When I moved to Arizona -- people here 9 take their firearms really seriously, and it 10 tends to be a little bit -- a little bit higher 11 end -- not higher -- I wouldn't say high end, 12 but a little -- you know, people are more 13 interested, I would say, at the shows I was 14 doing here in Phoenix in, you know, pistols that 15 are 3- to 4- or \$500, you know, in that range. 16 So I just didn't -- I wasn't selling them. I 17 had a few left, and it took me a longer period 18 of time to sell them, so I just didn't reorder. 19 Q. Were you -- during the same time period 20 were you making -- were you placing orders with 21 the Chattanooga, MGE and Davidson's -- 22 A. Yes. 23 Q. -- distributors? 24 A. Yes. 25 Q. Okay. So you continued to place orders</p>

24 (Pages 90 to 93)