

CAUSE NO. CV-0081158

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| ROSIE YANAS and CHRISTOPHER STONE, individually and as next friends of CHRISTOPHER JAKE STONE | § COUNTY COURT AT LAW |
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| <i>Plaintiffs,</i> | § |
| | § GALVESTON COUNTY, TEXAS |
| vs. | § |
| | § |
| | § |
| ANTONIOS PAGOURTZIS and ROSE MARIE KOSMETATOS | § |
| | § |
| | § |
| | § |
| <i>Defendants.</i> | § COURT NO. 3 |

THE TENNESSEE DEFENDANTS' MOTION FOR PROTECTION AND TO STAY DISCOVERY ACTIVITY AND PROCEEDINGS PENDING RESOLUTION OF THEIR RULE 91a MOTION TO DISMISS AND THEIR RULE 120a SPECIAL APPEARANCES

Defendants LuckyGunner, LLC (“LuckyGunner”), Red Stag Fulfillment, LLC (“Red Stag”), Mollenhour Gross, LLC (“MG”), Jordan Mollenhour, and Dustin Gross (collectively, the “Tennessee Defendants”) request the Court enter a protective order and stay further proceedings pursuant to Texas Rule of Civil Procedure 192.6, including discovery activities and discovery motion practice, pending final resolution of two case dispositive motions: (1) the Tennessee Defendants’ Rule 91a Motion to Dismiss and (2) the Rule 120a Special Appearances.¹

SUMMARY OF MOTION AND PERTINENT BACKGROUND

This lawsuit arises from Dimitrios Pagourtzis’s criminal shooting at Santa Fe High School in May 2018. Plaintiffs are victims of Pagourtzis’s crimes. The alleged liability of all of the Tennessee Defendants is predicated on LuckyGunner’s alleged sale of ammunition used in the shooting. Because the Tennessee Defendants have filed two threshold dispositive motions, any

¹ Four of the five Tennessee Defendants – Red Stag, MG, Mr. Mollenhour and Mr. Gross – have filed Special Appearances objecting to personal jurisdiction under Rule 120a. Collectively, they are the “Specially Appearing Defendants.” This motion is filed without waiver of their Special Appearances.

further discovery is unnecessary and unwarranted at this early stage of the case.

First, the Tennessee Defendants have moved pursuant to Rule 91a to dismiss Plaintiffs' claims based on the immunity and protections afforded by the federal Protection of Lawful Commerce in Arms Act ("PLCAA"). Subject to narrow exceptions, civil actions against sellers and distributors of ammunition resulting from the criminal misuse of ammunition "***may not be brought in any Federal or State court.***" 15 U.S.C. § 7902(a) (emphasis added). The PLCAA was intended to protect ammunition sellers from the immense burden and attending costs of defending litigation, including the expense of discovery. 15 U.S.C. § 7901(b)(4) (among the PLCAA's purposes is to prevent the use of lawsuits to impose unreasonable burdens on interstate commerce in firearms and ammunition). A stay of further discovery, including what is likely to be extensive discovery-related motion practice, until after final resolution of Defendants' Rule 91a motion serves the PLCAA's interests and, by extension, furthers Congress's intent.²

Second, the Specially Appearing Defendants are challenging the existence of both "general" and "specific" personal jurisdiction over them in Texas courts pursuant to Rule 120a. The Plaintiffs' barebones allegations that the Specially Appearing Defendants are subject to personal jurisdiction in Texas simply do not unlock the door to discovery. Regardless of these pleading deficiencies, the Specially Appearing Defendants also submitted affidavits in accordance with Rule 120a.3 as a firm backstop that affirmatively negates any speculative grounds for personal jurisdiction in this case. Thus, unless and until the Specially Appearing Defendants' jurisdictional challenges are resolved and a determination is made that they are properly before this Court, any

² The Tennessee Defendants' Rule 91a Motion to Dismiss was filed on January 6, 2021. The filing and adjudication of a Rule 91a motion does not waive a special appearance. Tex. R. Civ. P. 91a.8. That motion must be ruled on by February 22, 2021. Tex. R. Civ. P. 91a.3(c).

discovery-related activity or proceedings should be stayed.³

Despite the Rule 91a and Rule 120a motions pending before this Court (which need to be expeditiously resolved), Plaintiffs served an extensive set of written discovery on all the Tennessee Defendants. The discovery consists of more than 50 interrogatories and more than 200 requests for production of documents concerning both the merits of the case and what the Plaintiffs consider relevant jurisdictional matters (hereinafter, “Plaintiffs’ Discovery”). The Plaintiffs’ Discovery is the epitome of a “scorched earth” approach, with time-periods that date back more than a decade and with requests for myriad forms of electronically stored information (“ESI”) that contradict the directives of the Texas Supreme Court. *See, e.g., In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017) (discovery, including of ESI, should be reasonable and proportional to the specific issues and needs of the case).

On February 8, 2021, in tandem with this motion for protection, the Tennessee Defendants served timely objections with limited responses to Plaintiffs’ Discovery.⁴ At this stage of the case, attempting to resolve the many problems with Plaintiffs’ Discovery (on a request-by-request basis) would waste the parties’ and the court’s limited time and resources. This discovery activity is inappropriate before the threshold, case dispositive issues raised in the pending Rule 91a and Rule 120A motions are resolved. *See, e.g., Bethel v. Quilling, Lownds, Winslett & Moser, P.C.*, 565 S.W.3d 651 (Tex. 2020) (affirming dismissal based on attorney immunity and explaining “[o]ur interpretation of Rule 91a serves these objectives by allowing courts to dismiss meritless cases before the parties engage in costly discovery”).

³ The Specially Appearing Defendants’ personal jurisdiction challenges were filed on December 23, 2020.

⁴ The Tennessee Defendants’ Objections and Responses to Plaintiffs’ Discovery are attached as follows: the Yanas Plaintiffs’ discovery as Exhibits A-1 through A-8; the Beazley Plaintiffs’ discovery as Exhibits B-1 through B-5; and the Hart Plaintiffs’ discovery as Exhibits C-1 through C-6.

With regard to the PLCAA, the Texas Supreme Court has recently provided guidance this Court should follow. In October 2020, the Supreme Court heard oral argument in *In re Academy, Ltd. d/b/a Academy Sports & Outdoors* (Case Nos. 19-0497 and 19-0637), two original proceedings against a firearm seller arising from a criminal shooting, in which the Court will address the scope of PLCAA immunity. Prior to oral argument, the Court granted the defendant's motion to stay the underlying proceedings, which would include further discovery, pending the Court's decision.⁵ The stay order implicitly acknowledged that the threshold nature of the defendant's PLCAA defense justified a stay of all proceedings to avoid the "irreversible waste of judicial and public resources" that would occur if the plaintiffs were permitted to proceed with discovery. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 137 (Tex. 2004) (orig. proceeding) (granting mandamus relief where the very act of proceeding to trial, regardless of outcome, would defeat substantive right involved).

With regard to the purported "jurisdictional" discovery served on the Specially Appearing Defendants, the law is also clear: it is inappropriate where, as here, a plaintiff has not pleaded the existence of the necessary personal jurisdiction grounds (and, in fact, the allegations made serve to defeat any such grounds) to hale a defendant into Texas court. *In re Deutsche Bank Securities Inc.*, 2015 WL 4079280 (Tex. App.—Austin 2015, no pet.) (mem. op.) (trial court abused its discretion in requiring a foreign defendant to respond to extensive discovery concerning specific personal jurisdiction when the plaintiff made no allegations to warrant the existence of specific jurisdiction).⁶

For these reasons, the Tennessee Defendants ask the Court to enter a protective order and

⁵ See Ex. D, Texas Supreme Court Order dated June 21, 2019.

⁶ See also *In re Stern*, 321 S.W.3d 828 (Tex. App.—Houston [1st Dist.] 2010, orig. proceeding) (trial court abused its discretion in ordering overly broad discovery from specially appearing defendant).

stay all further proceedings in the case, including discovery activity and discovery motion practice, pending the Court’s ruling on (1) the Tennessee Defendants’ Rule 91a Motions to Dismiss and (2) the Specially Appearing Defendants’ Rule 120a Special Appearances.

ARGUMENT AND AUTHORITIES

I. Standard for issuing a protective order and staying proceedings.

Under Texas Rule of Civil Procedure 192.6, the Court “may make any order in the interest of justice” to protect the movant from undue burden, unnecessary expense, harassment, or annoyance. TEX. R. CIV. P. 192.6(b). Such limitations may include protection with respect to the time of discovery. TEX. R. CIV. P. 192.6(b). To this end, Rule 190.4(b)(2) provides that courts may schedule discovery to occur in appropriate phases. TEX. R. CIV. P. 190.4(b)(1).

The Court has broad discretion to limit discovery pending resolution of threshold issues like personal jurisdiction challenges and immunity from suit defenses. *See, e.g., In re Alford Chevrolet-Geo*, 997 S.W.2d 173, 181 (Tex. 1999); *USX Corp. v. West*, 759 S.W.2d 764, 767 (Tex. App.—Houston [1st Dist.] 1988, orig. proceeding) (stating trial court stayed merits discovery against a corporation pending resolution of two individual defendants’ special appearances); *Lumenta v. Bell Helicopter Textron, Inc.*, 2015 WL 5076299 (Tex. App.—Houston [1st Dist.] 2015, no pet.) (mem. op.) (trial court did not abuse its discretion in granting motion for protection on the merits of the case pending determination of forum non conveniens motion); *In re Deutsche Bank Securities Inc.*, 2015 WL 4079280 (trial court abused its discretion in requiring discovery concerning personal jurisdiction before resolving special appearance).

II. The Court should protect the Tennessee Defendants from further discovery related activity and stay proceedings until the Rule 91a Motion is resolved.

No discovery is necessary for Plaintiffs to respond to the Tennessee Defendants’ Rule 91a Motion to Dismiss. To the contrary, allowing discovery would defeat the Tennessee Defendants’

substantive right to avoid the burden and expense of litigation based on PLCAA immunity from suit. As a result, the procedure of a Rule 91a motion combined with the purpose of the PLCAA drive home this point: any further discovery related activity should be stayed.

A. Discovery is unnecessary to resolve the Rule 91a motion.

The strict deadlines for filing and ruling on Rule 91a motions encourage parties to assert (and the courts to resolve) Rule 91a motions soon after the filing of the case and before any significant opportunity for discovery. Indeed, “the court may *not* consider evidence in ruling on the motion and must decide the motion based solely on the pleading of the cause of action, together with any pleading exhibits permitted by” the rules of civil procedure. TEX. R. CIV. P. 91a.6 (emphasis added).

Because of Rule 91a’s framework and express directive, numerous courts have held that plaintiffs are not entitled to discovery in responding to motions to dismiss. *See In re Butt*, 495 S.W.3d 455, 463 (Tex. App.—Corpus Christi 2016, orig. proceeding) (plaintiffs not entitled to complete discovery before motion to dismiss ruling); *see also Gonzales v. Dallas Cnty. App. Dist.*, No. 05–13–01658–CV, 2015 WL 3866530, at *5 (Tex. App.—Dallas June 23, 2015, no pet.) (mem.op.) (rejecting the contention that the trial court should not have granted a Rule 91a motion to dismiss until the plaintiff had the opportunity to conduct discovery).

This is particularly true where the Rule 91a motion relies on threshold legal defenses such as immunity or lack of any cognizable legal duty.⁷ *See Bethel*, 565 S.W.3d at 656. In affirming a trial court’s order dismissing a claim based on attorney immunity in *Bethel*, the Texas Supreme Court explained Rule 91a is intended to dispose of claims promptly by allowing courts to dismiss meritless cases before the parties engage in costly discovery. *Id.* at 656. “Forcing parties to

⁷ In addition to the PLCAA, the Tennessee Defendants assert Plaintiffs failed to state claims due to lack of any legally recognizable duty. *See* The Tennessee Defendants’ Rule 91a Motion to Dismiss at pp. 20-25.

conduct discovery when the claimant's allegations conclusively establish the existence of an affirmative defense would be a significant waste of state and private resources.” *Id.*; *see also Sabre Travel Int'l, Ltd. v. Deutsche Lufthansa AG*, 567 S.W.3d 725, 736-41 (Tex. 2019) (considering a federal preemption defense in the context of a Rule 91a motion).⁸

B. Forcing the Tennessee Defendants to engage in further discovery before a ruling on the Rule 91a Motion to Dismiss would eliminate the protections afforded by the PLCAA.

Among the stated purposes of the PLCAA is “[t]o prevent the use of … lawsuits to impose unreasonable burdens” on members of the firearms industry. 15 U.S.C. § 7901(b)(4); *see also City of New York v. Beretta*, 524 F.3d 384, 394-95 (2d Cir. 2008) (“Congress explicitly found that the third-party suits that the Act bars are a direct threat to the firearms industry,” and “rationally perceived substantial effect on the industry of the litigation that the Act seeks to curtail.”). Nor is PLCAA immunity merely a defense to be addressed following discovery; instead, PLCAA immunity is a threshold issue. *Jeffries v. District of Columbia*, 916 F. Supp. 2d 42, 44 (D.D.C. 2013). Indeed, lawsuits seeking damages resulting from the criminal use of lawfully manufactured, non-defective ammunition “may not be brought in any Federal or State court.” 15 U.S.C. § 7902(a). Further driving home this point, every single qualified lawsuit against firearm industry members that was pending when the PLCAA became law was to “be immediately

⁸ A stay of proceedings is also proper where “the very act of proceeding to trial—regardless of the outcome—would defeat the substantive right involved.” *In re McAllen Med. Ctr., Inc.*, 275 S.W.3d 458, 465 (Tex. 2008); *see, e.g., In re Ford Motor Co.*, 165 S.W.3d 315, 322 (Tex. 2005) (granting temporary stay to review denial of motion for continuance because attorney needed to attend Legislature); *In re Automated Collection Techs., Inc.*, 156 S.W.3d 557, 558 (Tex. 2004) (granting temporary stay to review order refusing to enforce forum selection clause); *In re Allied Chem. Corp.*, 227 S.W.3d 652, 658 (Tex. 2007) (granting temporary stay to review discovery rulings that curtailed defendant’s ability to prepare defense); *see also Tarrant Reg'l Water Dist. v. Gragg*, 962 S.W.2d 717, 718 (Tex. App. - Waco 1998, no pet.) (granting temporary stay after trial court confirmed trial setting on claims to which immunity attached); *cf. TEX. CIV. PRAC. & REM. CODE § 51.014* (providing automatic stay of underlying proceedings when denial of governmental immunity is appealed).

dismissed.” 15 U.S.C. § 7902(b). There can be no dispute: Congress acted to prevent the use of the judicial branch to circumvent the legislative branches of government “through judgments or judicial decrees.” 15 U.S.C. § 7901(a)(8).

Absent the requested stay, the Tennessee Defendants will be unfairly prejudiced by being forced to litigate – destroying their “entitlement not to stand trial or face the other burdens of litigation.” *Mitchell v. Forsyth*, 472 U.S. 511, 526 (1985); *see also Saucier v. Katz*, 533 U.S. 194, 201 (2001) (benefit of immunity from suit “is effectively lost if a case is erroneously permitted to go to trial”); *McSurely v. McClellan*, 697 F.2d 309, 317 n.13 (D.C. Cir. 1982) (Scalia and Wald, JJ.) (“compelling a [defendant] to proceed to trial . . . will generally constitute irreparable injury not because of the expense of litigation, but because of the irretrievable loss of immunity from suit”). Nor is the Tennessee Defendants’ prejudice just a theoretical problem. The immense overbreadth of the discovery Plaintiffs served will impose the full burdens of litigation that the PLCAA is intended to protect against in the first place. *See* Exs. A-1 through C-8.

Finally, multiple other courts have dismissed cases under the PLCAA without discovery. *See, e.g., Gilland v. Sportsmen’s Outpost, Inc.*, No. X04CV095032765S, 2011 WL 2479693, at *13, 24 (Conn. Super. May 26, 2011) (dismissing case without discovery); *Phillips v. Lucky Gunner, LLC*, 84 F. Supp. 3d 1216, 1221-28 (D. Colo. 2015) (same); *Bannerman v. Mountain State Pawn, Inc.*, No. 3:10-CV-46, 2010 WL 9103469, at *3, 8-9 (N.D. W. Va. Nov. 2010) (same). Indeed, the Texas Supreme Court in *In re Academy, Ltd.* stayed all further discovery and other proceedings while it addresses the scope of the defendant’s PLCAA defense in that case. This Court should do the same.

II. Plaintiffs are not entitled to personal jurisdiction discovery.

The Plaintiffs have not and cannot demonstrate a need for, or entitlement to, jurisdictional discovery. The Specially Appearing Defendants therefore ask the Court to protect them from the

Plaintiffs’ Discovery – *even those styled as merely jurisdictional discovery* – and stay any further discovery activity pending final resolution of their Rule 120a Special Appearances.

A. Legal framework concerning jurisdictional discovery.

Under Texas law, the plaintiff “bears the initial burden of pleading allegations sufficient to confer jurisdiction.” *TV Azteca v. Ruiz*, 490 S.W.3d 29, 36 n.4. (Tex. 2016); *Moncrief Oil Intern. Inc. v. OAO Gazprom*, 414 S.W.3d 142, 149 (Tex. 2013). When a plaintiff fails to meet this threshold requirement on the face of its petition, jurisdictional discovery is improper. *See In re Deutsche Bank Securities, Inc.*, 2015 WL 4079280, at *8-9 (Tex. App.—Austin July 3, 2015, no pet.) (granting mandamus to reverse trial court’s allowance of discovery on specific jurisdiction where petition failed to allege that conduct in Texas gave rise to claim); *see also Kelly v. General Interior Constr., Inc.*, 301 S.W.3d 653, 659–60 (Tex. 2010) (explaining plaintiff’s petition frames the jurisdictional analysis).

Rule 120a(3) “authorizes discovery by a party prior to a ruling on a special appearance *only with respect to facts ‘essential to justify his opposition’ to the special appearance.*” *In re Stern*, 321 S.W.3d 828, 839 (Tex. App.- Houston [1st Dist.] 2010, orig. proceeding) (emphasis added) (citing *Dawson-Austin v. Austin*, 968 S.W.2d 319, 321, 323 (Tex. 1998)) (holding it was an abuse of discretion to order discovery on matters the plaintiff has not shown to be necessary to disposition of the special appearance). Where the facts a plaintiff seeks to discover through jurisdictional discovery would not establish personal jurisdiction over the defendant under the governing law, a “plaintiff is not entitled to jurisdictional discovery.” *Monkton Ins. Services, Ltd. v. Ritter*, 768 F.3d 429, 434 (5th Cir. 2014). Indeed, Rule 120a(3) does not “authorize postponement of a special appearance hearing to allow a party to obtain discovery prior to the court’s ruling on the special appearance that is unnecessary or irrelevant to the establishment of jurisdictional facts.” *In re Stern*, 321 S.W.3d at 840.

Consistent with these principals, Texas jurisdictional discovery should be denied where, as here, the discovery would not advance a legitimate jurisdictional issue. *See In re Deutsche Bank Sec. Inc.*, 2015 WL 4079280 at *6 (finding trial court abused its discretion by granting a plaintiff's motion to compel discovery related to general and specific jurisdiction).

B. Plaintiffs have not sufficiently alleged the Specially Appearing Defendants are subject to “general” or “specific” personal jurisdiction in Texas.

Plaintiffs' own allegations negate the existence of “general” jurisdiction as articulated by the Supreme Court in *Goodyear Dunlop Tires Operations, S.A. v. Brown*, 564 U.S. 915, 919 (2011) and *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). In *Daimler*, the Court dramatically altered the scope of constitutionally permissible general (“all-purpose”) jurisdiction over a non-resident corporate defendant. *Daimler* replaced the prior “substantial, continuous, and systematic course of business” test with a test that restricts general jurisdiction to where a corporation is “at home”—its principal place of business or state of incorporation—absent an exceptional case. In response to fears expressed by Justice Sotomayor that *Daimler*'s holding would “radically [expand] the scope of jurisdictional discovery,” the *Daimler* majority remarked “it is hard to see why much in the way of discovery would be needed to determine where a corporation is at home.” *Id.* at 134 S.Ct. at 762, n. 20.

To be clear, discovery aimed at establishing a defendant conducts “extensive business practices” in Texas and is thus subject to “general” jurisdiction in Texas is pointless post-*Daimler*. *In re Deutsche Bank Sec. Inc.*, 2015 WL 4079280 at *6. Rather, the only proper discovery requests for purposes of “general” jurisdiction are those capable of establishing (1) Texas is the place of the Specially Appearing Defendants’ incorporation, (2) Texas is their principal place of business, or (3), that they ceased business operations in their principal place of business and moved

operations to Texas, *i.e.*, the “exceptional case” contemplated by the Supreme Court. But the Plaintiffs’ Discovery does not address these topics and their own pleadings vitiate any contention the Specially Appearing Defendants are subject to “general” jurisdiction in Texas. *See, e.g., BNSF Ry. Co v. Tyrrell*, 137 S. Ct. 1549, 1559 (2017). Indeed, Plaintiffs have pleaded each Specially Appearing Defendant is a Tennessee resident and the corporate defendants (MG and Red Stag) are Tennessee limited liability companies with their principal place of business in Tennessee. *See Yanas TAP at ¶14; Beazley FAP at ¶15 (Red Stag is a Tennessee company); Yanas TAP at ¶¶16, 17; Beazley FAP at ¶¶17, 18 (Mr. Mollenhour and Mr. Gross are individuals and non-residents of Texas); Yanas TAP at ¶15; Beazley FAP at ¶16 (MG is a Tennessee limited liability company); Yanas TAP at ¶¶15, 16, 17; Beazley FAP at ¶¶16, 17, 18 (Mr. Mollenhour, Mr. Gross, and MG do not have regular places of business in Texas, and are only amenable to service in Tennessee).* This ends the inquiry – there is no “general” jurisdiction over the Specially Appearing Defendants.

With respect to “specific” jurisdiction, the Specially Appearing Defendants’ contacts with LuckyGunner do not equate to “specific” personal jurisdiction in Texas. To be clear, jurisdiction is defendant-specific, requiring the Court to examine each defendant’s contacts with the forum state transaction or event separately in order to determine whether they give rise to specific jurisdiction. *See Calder v. Jones*, 465 U.S. 783, 790, (1984) (“Each defendant’s contacts with the forum State must be assessed individually.”).⁹ In looking at each defendant’s contacts, neither the conduct of a third party nor the mere occurrence of an injury in the forum state is sufficient to confer jurisdiction. *Walden v. Fiore*, 571 U.S. 277, 284 (2014) (“We have consistently rejected

⁹ *See also Rush v. Savchuk*, 444 U.S. 320, 332-22 (1980) (holding that aggregating the defendant into a collective of “defending parties” did not satisfy federal due process); *Nat'l Cnty. Reinvestment Coal. v. NovaStar Fin., Inc.*, 631 F. Supp. 2d 1, 3 (D.D.C. 2009) (“The plaintiff may not aggregate factual allegations concerning multiple defendants in order to demonstrate personal jurisdiction over any individual defendant.”).

attempts to satisfy the defendant-focused ‘minimum contacts’ inquiry by demonstrating contacts between the plaintiff (or third parties) and the forum State.”); *id.* at 290 (“The proper question is not where the plaintiff experienced a particular injury or effect but whether the defendant’s conduct connects him to the forum in a meaningful way.”). Contrary to this Supreme Court precedent, the Plaintiffs’ own allegations establish that the “specific” jurisdictional contact that they claim connects the Specially Appearing Defendants to Texas runs only through LuckyGunner’s connection to Texas.

With respect to all of the Specially Appearing Defendants, Plaintiffs lump them all together and generically claim that they have “perform[ed] business and commission of a tort in the State of Texas” [Yanas TAP at ¶¶15, 16, 17]; and that “the Defendants purposefully availed themselves of the privileges and benefits of conducting business in Texas...[or] because the Defendants committed a tort, which is the subject of this suit, in whole or in part in Texas.” (Beazley FAP at ¶¶16, 19, 21.) These are not specific factual allegations lodged against each of the Specially Appearing Defendants, individually, that could ever satisfy the constitutional test that each defendant, individually, maintain specific contacts with Texas.

Plaintiffs’ conclusory jurisdictional allegations against each of the Specially Appearing Defendants fare no better. With respect to Red Stag, Plaintiffs insufficiently allege that it “conducts business in the State of Texas” and the lawsuit arose from Red Stag’s “performance of business in Texas.” (Yanas TAP at ¶14; Beazley FAP at ¶15). And Plaintiffs compound their insufficient jurisdictional allegations by merely alleging Mr. Mollenhour and Mr. Gross “launched [defendant] Luckygunner in 2009 [in Tennessee] through their limited liability company, MollenhourGross” [TAP at ¶58]; and “Mollenhour and Gross established Red Stag in May 2013, through their limited liability company, MollenhourGross, to provide shipping services for

Luckygunner.” (*Id.* at ¶169.) None of these barebones allegations unlock the door to “specific” jurisdiction discovery against Red Stag, MG, Mr. Mollenhour, or Mr. Gross. To the contrary, these allegations only reaffirm Tennessee (non-Texas) business activity, and that LuckyGunner, MG, and Red Stag are separate Tennessee limited liability companies.

Plaintiffs’ “jurisdictional” allegations also fail under Texas Supreme Court precedent. “Specific” jurisdiction is proper when the plaintiff alleges a cause of action that grows out of or relates to a contact between the defendant and the forum state. *Moki Mac River Expeditions v. Drugg*, 221 S.W.3d 569, 585 (Tex. 2007) (“for a nonresident defendant’s forum contacts to support an exercise of specific jurisdiction, there must be a substantial connection between those contacts and the operative facts of the litigation.”). Plaintiffs allege each of the Specially Appearing Defendants is liable for negligence and negligence *per se* through their connection to LuckyGunner and its alleged sale of ammunition to Pagourtzis. But such general claims and allegations fail to establish personal jurisdiction as a matter of law, because none of the Specially Appearing Defendants are alleged to have actually transacted with Pagourtzis.¹⁰

To the extent Plaintiffs’ negligence and negligence *per se* claims allege failures to act by the Specially Appearing Defendants, such inaction cannot serve as minimum contacts sufficient to confer jurisdiction in Texas as a matter of law. *See Brocail v. Anderson*, 132 S.W.3d 552, 564 (Tex. App.—Houston [14th Dist.] 2004, pet. denied) (“[I]t is difficult to see how a failure to act could meet the purposeful availment requirement needed to establish personal jurisdiction.”)

¹⁰ For example, Red Stag’s alleged acts of fulfilling its customer’s orders in Tennessee do not, as a matter of law, form the basis of “specific” jurisdiction in Texas. *See, e.g., US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor do the acts of MG’s subsidiary, LuckyGunner, subject MG to “specific” personal jurisdiction in Texas. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020).

(quoting *Anderson v. Bechtle*, 2001 WL 930205, at *2 (Tex. App.—Houston [1st Dist.] Aug. 16, 2001, no pet.) (not designated for publication)); *Vogel v. Bellows-Blakely*, No. 05-98-01675-CV, 1999 WL 270330, at *6 (Tex. App.—Dallas May 5, 1999, no pet.) (failure to act does not constitute an affirmative act required for the assertion of specific jurisdiction). Discovery directed towards such a theory would therefore be improper.

To the extent Plaintiffs’ Discovery asks for information connected to an alter ego or conspiracy theory, such discovery should be rejected because those theories were insufficiently pled and only serve to vitiate any legitimate basis for jurisdiction, as explained in detail in the Special Appearances on file.¹¹ Without a valid legal foundation, discovery on these baseless theories amounts to nothing more than an impermissible “fishing expedition.” *In re Stern*, 321 S.W.3d at 843 (rejecting purported jurisdictional discovery that was overbroad and based on speculative theories).

Because Plaintiffs have failed to plead any allegations that establish personal jurisdiction in Texas over the Specially Appearing Defendants, and the Specially Appearing Defendants also submitted affidavits in accordance with Rule 120a.3 as a firm backstop that affirmatively negates any speculative grounds for personal jurisdiction in this case, this Court should grant protection from any further discovery-activity. *In re Deutsche Bank Securities, Inc.*, 2015 WL 4079280, at *8-9 (finding abuse of discretion to order jurisdictional discovery in the face of an insufficient petition).

CONCLUSION AND PRAYER

The Tennessee Defendants respectfully request the Court grant them a protective order and stay all further proceedings, including discovery activity and discovery motion practice, pending

¹¹ To summarize, a conspiracy cannot form the basis of personal jurisdiction and two allegedly conspiring entities cannot be alter egos of each other under Texas law.

resolution of (1) the Tennessee Defendants' Rule 91a Motion to Dismiss and (2) the Rule 120a Special Appearances. The Tennessee Defendants ask the Court to grant such relief promptly and at the Court's earliest convenience, and they request any further relief that the Court deems appropriate.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to the below listed counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

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/s/ A.M. “Andy” Landry III
A.M. “Andy” Landry III

EXHIBIT A

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE**

§ COUNTY COURT AT LAW

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GALVESTON COUNTY, TEXAS

vs.

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS**

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Defendants.

§ COURT NO. 3

**LUCKYGUNNER, LLC'S OBJECTIONS AND ANSWERS TO PLAINTIFFS' FIRST SET
OF INTERROGATORIES TO DEFENDANT LUCKYGUNNER, LLC**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant LUCKYGUNNER, LLC (“LuckyGunner” or “Defendant”) and serves these Objections and Answers to Plaintiff Chase Yarbrough’s First Set of Interrogatories to Defendant LuckyGunner, LLC as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, LuckyGunner filed a motion for protective order and to stay discovery pending resolution of its threshold dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections, responses and answers herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to LuckyGunner. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses and answers are given without prejudice to LuckyGunner’s right to produce evidence of any subsequently discovered facts or to change any and all responses and answers herein

as additional facts are ascertained. LuckyGunner reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to LuckyGunner's right to rely at trial on subsequently discovered information or information inadvertently omitted from these responses as a result of a mistake, error or oversight.

The word usage and sentence structure is that of the attorneys who prepared these responses and answers, and does not purport to be the exact language of the responding party.

II. GENERAL OBJECTIONS

1. LuckyGunner objects to Plaintiffs' requests for discovery at this stage, as fully outlined in LuckyGunner's motion for protective order and to stay discovery pending final resolution of its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a.

2. LuckyGunner objects to Plaintiffs' interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant or proportional to the claims or defenses of any party or to the specific issues of this case, or to the extent they seek information beyond those permitted by the Texas Rules of Civil Procedure.

3. LuckyGunner objects to Plaintiffs' interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, these interrogatories are not proportional to the needs of the case.

4. LuckyGunner objects to Plaintiffs' interrogatories to the extent that they call for information that is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. LuckyGunner objects to Plaintiffs' requests to the extent that they are not limited to seeking information that is maintained by LuckyGunner. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. LuckyGunner shall construe Plaintiffs' interrogatories as limited to information within the "possession, control or custody" of LuckyGunner, as that terminology is defined by the Texas Rules of Civil Procedure and corresponding case law.

6. LuckyGunner objects to Plaintiffs' interrogatories to the extent they seek information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. LuckyGunner does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' interrogatories. On the contrary, LuckyGunner specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such information, or with respect to the subject matter thereof, nor shall such disclosure waive LuckyGunner's right to object to the use of the information during this or any subsequent proceeding.

7. LuckyGunner is responding to Plaintiffs' interrogatories without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which LuckyGunner has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' interrogatories at this stage in the litigation, it is not possible for LuckyGunner to anticipate all possible grounds for objection with respect to the particular questions set forth herein. LuckyGunner reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the LuckyGunner's responses and answers to Plaintiffs' Interrogatories.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. LuckyGunner objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond LuckyGunner's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 197.

2. LuckyGunner further objects to these Definitions and Instructions and the applicable interrogatories to the extent they seek searches of electronically stored information and documentation to be disclosed or produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request LuckyGunner to act beyond what is reasonable and required by the applicable law in the preservation, review and production of such electronically stored information. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. LuckgyGunner objects to Plaintiffs' definition in Paragraph C because this definition

renders any discovery requests utilizing the terms “You,” “Your,” or “Yours” overly broad and unduly burdensome. Any interrogatories utilizing these terms necessarily invades the attorney work product and attorney-client privileges in violation of the Texas Rules of Civil Procedure. To the extent these terms are intended to include “any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority” any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from LuckyGunner and have no reasonable connection to the Plaintiffs’ claims.

4. LuckyGunner objects to Plaintiffs’ definitions in Paragraph D and Paragraph F because they render any discovery requests utilizing the terms “Document” and/or “Communication” as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible “fishing expedition” in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. LuckyGunner further objects to these definitions to the extent they purport to obligate LuckyGunner to locate and obtain information that is not readily and feasibly accessible or is not in the possession of LuckyGunner. The myriad forms data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, LuckyGunner objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. LuckyGunner objects to the definition in Paragraph I of “Your Websites” on the

grounds that interrogatories utilizing this definition would be overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. Plaintiffs' definition reduces any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery. Plaintiffs' claims in this case center on LuckyGunner's website and transactions that purportedly occurred on www.luckygunner.com and no other websites. Nor is Plaintiffs' attempt to expand the scope reasonable and proportional to any need in this case. LuckyGunner further objects to this definition to the extent it purports to obligate LuckyGunner to locate and obtain information that is not readily and feasibly accessible or is not maintained by LuckyGunner.

6. LuckyGunner objects to the definition and instructions in Paragraph G regarding the term "Identify" because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery beyond LuckyGunner's obligations as contemplated by Rule 192.3. Nor is the collateral information requested in Paragraph G appropriately sought under Rule 197 through mere inclusion of the term "Identify" inside of an interrogatory.

7. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses and answers to Plaintiffs' Interrogatories.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
LUCKYGUNNER, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. “Andy” Landry III

A.M. “Andy” Landry III

ANSWERS TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1: Provide the name, address, and phone number of each person involved in providing information to respond to these interrogatories.

ANSWER: **Briton Collins, 448 N. Cedar Bluff Road, No. 201, Knoxville, TN 37923 assisted counsel with providing information to respond to these interrogatories.**

INTERROGATORY NO. 2: Identify any point-of-sale software systems You use or have used, from January 1, 2018 to present.

ANSWER: **LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.**

Were discovery appropriate, LuckyGunner objects to this interrogatory as overbroad because the more than three-year time period in the interrogatory is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in March 2018. Information relating to an entire three year period surrounding the sales in question is simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Subject to and without waving these objections, LuckyGunner used the e-commerce platform Magento 1 in March 2018.

INTERROGATORY NO. 3: Identify any companies, systems, vendors, or software programs You use or have used to process credit card payments, from January 1, 2018 to present.

ANSWER: **LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.**

Were discovery appropriate, LuckyGunner objects to this interrogatory as overbroad because the more than three-year time period in the interrogatory is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in March 2018. Information relating to an entire three year period surrounding the sales in question is simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Subject to and without waving these objections, LuckyGunner.com used Heartland Payment Systems in March 2018.

INTERROGATORY NO. 4: Identify any companies, systems, vendors, or software programs You use or have used to detect fraudulent activity, from January 1, 2018 to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory on several grounds.

First, the interrogatory is overly broad because the more than three-year time period in the interrogatory is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in March 2018. Information relating to an entire three year period surrounding the sales in question is simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Second, "fraudulent activity" is not the basis of Plaintiffs' claims against LuckyGunner. Thus, the information sought is not tailored to specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Subject to and without waving these objections, in March 2018 LuckyGunner used its own programing to assess potential financial fraud.

INTERROGATORY NO. 5: Identify any companies, systems, vendors, employees or software programs that helped to build or design—in whole or in part—any component, page, or feature of Your website, from January 1, 2010 to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory on multiple grounds.

First, identifying the extensive set of information sought over the course of an 11 year time period is grossly overbroad in scope and not reasonably tailored to any specific issue in this case, which concerns only how www.luckygunner.com operated in March 2018, *i.e.*, when ammunition was allegedly purchased by Pagourtzis. To answer the Plaintiffs' request, as stated. LuckyGunner would have to deconstruct each component, page, and feature of its entire website on a minute-by-minute basis for the past 11 years to determine what systems and

software programs were operating on each component, page, and feature at that moment in time, and then determine which vendors and employees may have been involved (in whole or in part) with such system or program. This is, quite literally, an impossible task and nevertheless grossly disproportional to the needs of this case. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues.

INTERROGATORY NO. 6: Identify any companies, systems, vendors, or software programs You use or have used to ship packages to consumers, from January 1, 2018 to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory on several grounds.

First, this interrogatory is overly broad because the more than three-year time period in the interrogatory is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in March 2018. Information relating to an entire three year period surrounding the sales in question is simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Second, the overbroad topic of "ship[ment] of packages to consumers" is not a reasonable starting point to discover specific information that could impact any disputed issue in this case. Thus, the scope of this interrogatory is unreasonable and not proportional to any need in the case.

Subject to and without waving these objections, in March 2018 LuckyGunner used Red Stag Fulfillment, LLC as its third-party warehousing and order fulfillment service, and LuckyGunner used FedEx and UPS as common carriers to ship orders from Red Stag's warehouse to LuckyGunner's customers. This was accomplished through the integration of LuckyGunner's Magento 1 e-commerce platform with proprietary application programming interfaces provided by Red Stag, FedEx, and UPS.

INTERROGATORY NO. 7: Identify any companies, systems, vendors, or software programs You

use or have used for accounting, creation of financial statements, and bookkeeping, from January 1, 2018 to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this interrogatory on several grounds.

First, this interrogatory is overly broad because the more than three-year time period in the interrogatory is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in March 2018. Information relating to an entire three year period surrounding the sales in question is simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Second, this interrogatory is overbroad and harassing because the general topic of "accounting, creation of financial statements, and bookkeeping" is not reasonably tailored to any pertinent issue in this case, which involves two alleged sales of ammunition to Pagourtzis in Texas via LuckyGunner's website in March 2018. Simply put, the scope of the information sought is not proportional to any need in the case.

INTERROGATORY NO. 8: Identify all long guns in which You contend that Magtech .38 special – 158 grain SJHP ammunition is suitable for use and describe the factual basis for such contention.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Subject to and without waving these objections, the following long guns are currently in production and advertised by their manufacturers as being chambered for .38 special ammunition:

- <http://www.winchesterguns.com/products/rifles/model-1873/model-1873-current-products/model-1873-carbine.html>
- <https://www.henryusa.com/rifles/big-boy-x-model/e>
- <https://www.henryusa.com/rifles/henry-big-boy-carbine/>
- <https://rossiusa.com/firearms/lever-action-rifles/51-r92-357-mag-16-5-8-rounds-triple-black>
- <https://www.cimarron-firearms.com/1866-short-rifle-38-special-20-oct->

- [barrel.html](#)
- <https://www.cimarron-firearms.com/1866-carbine-with-saddle-ring-38-special-19-rnd-barrel.html>
 - <https://www.marlinfirearms.com/lever-action/model-1894/model-1894c>
 - <https://taylorsfirearms.com/catalog/product/view/id/541/s/1866-rifle/category/55/>
 - <https://taylorsfirearms.com/catalog/product/view/id/546/s/1866-carbine/category/55/>

This list is not exhaustive.

INTERROGATORY NO. 9: Identify by name and title all managers and directors of LuckyGunner, from January 1, 2016 to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory on several grounds.

First, this interrogatory is overly broad because the more than five-year time period in the interrogatory is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in March 2018. Information relating to an entire five year period surrounding the sales in question is simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to information generated *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Second, the term "managers and directors" is undefined and vague. LuckyGunner does not have a board of directors and its sole member at the time of the events allegedly giving rise this lawsuit was Mollenhour Gross, LLC. LuckyGunner's day-to-day operations are managed by its CEO, Jake Felde.

INTERROGATORY NO 10: Identify all owners, shareholders, members, or others with control over LuckyGunner LLC, as well as the percentage of the company's units or shares owned by each such person (and, if such percentage changed over time, each percentage ownership and the dates during which such percentage of ownership was in effect), from January 1, 2010, to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Subject to and without waiving these objections, Mollenhour Gross, LLC was the sole member of LuckyGunner through September 2020. 2A Group, LLC is

now the sole member of LuckyGunner.

INTERROGATORY NO. 11: Identify all capital contributions made to LuckyGunner by amount, date, and name of contributor, from January 1, 2010 to present.

ANSWER: **LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.**

Subject to and without waiving these objections, no capital contributions were made to LuckyGunner during the stated time period.

INTERROGATORY NO. 12: List all addresses for Your offices and/or facilities, from January 1, 2010 to present.

ANSWER: **LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.**

Subject to and without waiving these objections, LuckyGunner identifies 205 S. Mohican Street, Knoxville, TN 37919 from January 1, 2010 to April 14, 2011, and 5205 Homberg Drive, Knoxville, TN 37919 from April 15, 2011 to present.

INTERROGATORY NO. 13: List all names under which You have conducted business, from January 1, 2010 to present.

ANSWER: **LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.**

Were discovery appropriate, LuckyGunner objects to this interrogatory because it is harassing, overbroad, and irrelevant to any specific issue in this case. This case concerns two ammunition sales allegedly made via www.luckygunner.com in March 2018. Plaintiffs' request for information about other trade names over an 11 year time-period that goes far beyond the two sales at issue is unreasonable and disproportional to any need in this case. This is particularly true as it relates to information pertaining to *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Subject to and without waiving these objections, LuckyGunner acknowledges

that it did business as luckygunner.com throughout this time-period. LuckyGunner did not do business as or under the names of co-defendants Jordan Mollenhour, Dustin Gross, Mollenhour Gross, LLC, or Red Stag Fulfillment, LLC.

INTERROGATORY NO. 14: List all website addresses at which You have conducted business, from January 1, 2010 to present.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this interrogatory because it is harassing, overbroad and irrelevant to any specific issue in this case. This case concerns ammunition sales allegedly made via www.luckygunner.com in March 2018. Plaintiffs' request for information about other websites over an 11 year time-period that goes far beyond the two sales at issue is unreasonable and disproportional to any need in this case. This is particularly true as it relates to information pertaining to *after* the incidents in question. This information has absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Subject to and without waiving these objections, LuckyGunner acknowledges that it conducted business at luckygunner.com throughout this time-period.

INTERROGATORY NO. 15: For each insurance policy that You have purchased or that has provided coverage to You in any way since January 1, 2018, provide the name of the insurance company, the name of the policy owner, the policy number, the type of coverage, the amount of coverage, and the effective period of the policy.

ANSWER: LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory based on its overbroad scope. Texas law does not require disclosure of insurance information that is irrelevant to the case, e.g., worker's compensation insurance.

Subject to and without waiving these objections, LuckyGunner is not covered by insurance for this matter.

INTERROGATORY NO. 16: Provide the name, address, and phone number of each person from whom You have obtained an affidavit or other statement, written or recorded, concerning any act, circumstance, or event related to any claims or defenses in this case and for each statement provide the substance of the statement and the custodian of the statement.

ANSWER: LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory because Plaintiffs' request for information about statements "concerning any act, circumstance, or event related to any claims or defenses" is overbroad and could be construed to seek information that is not otherwise discoverable under Texas law.

Subject to and without waiving these objections, LuckyGunner does not possess any witness statements at this time (aside from the declarations filed in federal court and the affidavits filed in state court on behalf of co-defendants' motions). Furthermore, attorney-client communications are not statements and, in any event, would be patently privileged under Texas law. *See, e.g., Tex. R. Civ. P. 193.3(c).*

INTERROGATORY NO. 17: Provide the name, address, and phone number of each person who may have knowledge or information supporting or relating to any of the allegations, claims, or defenses asserted in this case.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory on several grounds.

First, Plaintiffs' request for information about potential witnesses with knowledge of "any" "allegation, claims, or defenses" is grossly overbroad and premature at this early stage of the case.

Second, this request calls for disclosure of information protected by privilege, to be used for impeachment, or that is otherwise not discoverable under Texas law. LuckyGunner will disclose witnesses to support defenses in accordance with any Docket Control Order entered by the Court and the Texas Rules of Civil Procedure.

Subject to and without waiving these objections, LuckyGunner identifies the list of persons disclosed as part of the Rule 26(a)(1) initial disclosures exchanged while this case was in federal court.

INTERROGATORY NO. 18: State the name, address, and occupation, profession, or field of expertise of each person You expect to call as an expert witness; for each expert witness, identify whether the expert witness is retained or non-retained.

ANSWER: LuckyGunner objects to this interrogatory because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this interrogatory on several grounds.

First, this interrogatory is premature because it seeks information about LuckyGunner's experts who have not yet been disclosed and are not yet required to be disclosed.

Second, this interrogatory seeks material beyond the scope of permissible discovery of expert witnesses as governed by the Texas Rules of Civil Procedure. LuckyGunner will disclose its experts and any required information about those experts in accordance with any Docket Control Order entered by the Court and the Texas Rules of Civil Procedure.

VERIFICATION

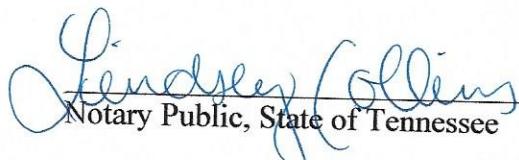
BRITON COLLINS, being first duly sworn, deposes and says that he is a duly authorized representative for LuckyGunner, LLC in the above referenced lawsuit and that he has read the foregoing answers to Plaintiffs' First Set of Interrogatories directed to LuckyGunner, LLC; that the answers were prepared with the assistance and advice of counsel; that LuckyGunner, LLC reserves the right to make any changes in the answers if it appears at any time that omissions or errors have been inadvertently made therein or that more accurate information is available; and that subject to the limitations set forth herein, the answers are true to the best of his knowledge, information, and belief.



Briton Collins, on behalf of LuckyGunner, LLC

I, Lindsey Collins, a notary public of Knox County, Tennessee, certify that Briton Collins, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily for and as the act of said company.

Subscribed and sworn before me on February 5, 2021.



Lindsey Collins
Notary Public, State of Tennessee

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
§ **GALVESTON COUNTY, TEXAS**
vs. §
§
§

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§

Defendants. § **COURT NO. 3**

**LUCKYGUNNER, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant LUCKYGUNNER, LLC ("LuckyGunner" or "Defendant") and serves these Objections and Responses to Plaintiffs' First Request for Production of Documents to Defendant LuckyGunner, LLC as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, LuckyGunner filed a motion for protective order and to stay discovery pending resolution of its threshold dispositive defenses that have been asserted pursuant to Tex. R. Civ. P. 91a. The objections and responses herein are provided in the event that discovery is permitted and made in good faith based only upon information and documentation that is presently available to, and specifically known to, LuckyGunner. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to LuckyGunner's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are

ascertained. LuckyGunner reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to LuckyGunner's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. LuckyGunner objects to Plaintiffs' requests for discovery at this stage, as fully outlined in LuckyGunner's motion for protective order and to stay discovery pending final resolution of its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a.

2. LuckyGunner objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the subject matter involved in this action, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. LuckyGunner objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, Plaintiffs' requests are not proportional to any need in the case.

4. LuckyGunner objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. LuckyGunner objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by LuckyGunner. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. LuckyGunner shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of LuckyGunner, as that terminology is defined by the Texas Rules of Civil Procedure and corresponding case law.

6. LuckyGunner objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. LuckyGunner does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, LuckyGunner specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such disclosure waive LuckyGunner's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. LuckyGunner is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this

action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which LuckyGunner has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for LuckyGunner to anticipate all possible grounds for objection with respect to the particular requests set forth herein. LuckyGunner reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the LuckyGunner's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. LuckyGunner objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond LuckyGunner's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. LuckyGunner further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request LuckyGunner to act

beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. LuckyGunner objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from LuckyGunner and have no reasonable connection to the Plaintiffs' claims. Finally, LuckyGunner objects to the extent that use of these terms seeks to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. LuckyGunner objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and beyond the reasonable scope of discovery contemplated by Rule 192.3. LuckyGunner further objects to these definitions to the extent they purport to obligate LuckyGunner to locate and obtain information that is not readily and feasibly accessible or is not maintained by LuckyGunner. The myriad forms data (both electronic and hard versions) requested under these definitions fails the proportionality test. The burden and expense of

the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, LuckyGunner objects to the extent that use of these terms seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. LuckyGunner objects to the definition in Paragraph 8 of "Your Websites" on the grounds that request utilizing this definition would be overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. Plaintiffs' definition reduces any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery, *see* Rule 192.3. Plaintiffs' claims regarding LuckyGunner's website involve transactions that purportedly occurred on www.luckygunner.com and no other websites. Nor is Plaintiffs' attempt to expand the scope reasonable and proportional to any need in this case. LuckyGunner further objects to this definition to the extent it purports to obligate LuckyGunner to locate and obtain information that is not readily and feasibly accessible or is not maintained by LuckyGunner.

6. LuckyGunner objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

7. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
LUCKYGUNNER, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on February 8, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III _____

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All Documents or Communications relating to purchases made by Dimitrios Pagourtzis, including, but not limited to: database records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant Red Stag, LLC) concerning or related to the Purchases.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the Protection of Lawful Commerce in Arms Act (“PLCAA”). Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to the scope of this request and to the extent it is overbroad and calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, and without admitting that LuckyGunner sold the ammunition at issue in this lawsuit, LuckyGunner would agree to provide its records and emails regarding sales of ammunition to customers named Dimitrios Pagourtzis. Because this material may constitute or contain proprietary and/or confidential information, it would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All Documents or Communications produced to any law enforcement agencies investigating the Incident or Dimitrios Pagourtzis.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate at this stage, LuckyGunner would agree to provide the requested documents.

3. All Communications that You have had with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives, from January 1, 2018 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request because requesting “All” communications with BATFE, regardless of subject matter, is grossly overbroad and not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Nor is this request proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner has not had contact with the BATFE regarding Pagourtzis’s crimes perpetrated at Santa Fe High School.

4. All Documents or Communications (including but not limited to e-mails, SMS or text messages, instant messages, voice recordings, and other correspondence) sent or received by you, from July 1, 2012 to present, concerning:
 - a. Mass shootings or school shootings;
 - b. The shooting that occurred on July 20, 2012, at the Century 16 movie theatre in Aurora, Colorado;
 - c. The shooting that occurred on February 14, 2018, at Margery Stoneman Douglas High School in Parkland, Florida; and
 - d. Any potential or possible changes in business practices in response to mass shootings or school shootings, including the Aurora shooting and the shooting at Margery Stoneman Douglas High School (regardless of whether those changes were ultimately adopted or not).

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, requesting LuckyGunner search for and produce “e-mails, SMS or text messages, instant messages, voice recordings, and other correspondence” about unrelated crimes that occurred over the course of a 9 year time-period is grossly overbroad in scope, harassing, and disproportional to any need in the case. None of these other crimes concern the events giving rise to Plaintiffs’ claims based on Pagourtzis’ criminal acts perpetrated on May 18, 2018 in Texas.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the specific issues in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material that constitutes attorney work product, attorney-client or other privileged material. For example, the criminal shooting identified in section b. resulted in a lawsuit wherein

LuckyGunner was a party. While the case was dismissed based on the pleadings, *Phillips v. Lucky Gunner, LLC*, 84 F. Supp. 3d 1216, 1220 (D. Colo. 2015), no reasonable scope of discovery in the present case should seek to invade and obtain privileged material generated as a result of that litigation.

One final note: to the extent this request suggests that LuckyGunner had any connection to the February 14, 2018 criminal shooting at Margery Stoneman Douglas High School in Parkland, Florida, that suggestion is vehemently denied.

5. All Documents or Communications referring to the risks of selling ammunition and related products to juveniles (those under the age of 18) or minors (those under the age of 21), from January 1, 2010 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “risks” is vague and overbroad. Requesting all material about “risks” is not a reasonable starting point, nor is it tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Searching for and producing “all” material that merely refers to juveniles or minors over the course of an 11 year time-period is also an unreasonable starting point.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the specific issues in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

6. All Documents or Communications describing, relating to, or referring to decisions and/or discussions about whether to require signature, proof of age, or proof of identity upon delivery of packages sent from You to consumers, from January 1, 2010 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery

is inappropriate at this stage of the case.

Were merits discovery appropriate at this stage, LuckyGunner objects to this request on several grounds.

First, the terms “decisions and/or discussions” are vague and overbroad.

Second, this request is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal law nor Texas law requires proof of age, identity, or signature for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point.

Third, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the specific issues in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

7. All Documents and Communications containing, describing, or summarizing Your policies relating to verification or confirmation of the age of Purchasers of ammunition and/or the minimum age of consumers to whom You will sell ammunition, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, this request is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal law nor Texas law requires “verification or confirmation of the age” of purchasers of ammunition, including internet sales.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to

LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

8. All Documents and Communications containing, describing, or summarizing Your policies relating to your verification or confirmation of the identity of consumers who purchase ammunition through Your Websites, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, this request is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal law nor Texas law requires “verification or confirmation of the identity” of purchasers of ammunition, including internet sales.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in

resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

9. All Documents and Communications containing, describing, or summarizing Your policies relating to accepted methods of payment for transactions conducted via Your Websites, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate at this stage, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, requesting “all” materials that merely contain, describe or summarize “accepted methods of payment” is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, a description of LuckyGunner’s accepted forms of payments can be found at <https://www.luckygunner.com/faq-payment-options>.

10. All Documents and Communications containing, describing, or summarizing Your policies relating to compliance with federal and/or state firearms laws from January 1, 2016, to

present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the premise of this request is irrelevant to the central issues in this case, which involve ammunition sales and ammunition sales laws—not “federal and/or state firearms laws”.

Second, Plaintiffs’ petition alleges LuckyGunner violated and/or aided and abetted the violation of two specific subsections of 18 U.S.C. §§ 922. Requesting information about LuckyGunner’s compliance with other laws is not reasonably tailored to issues in the case and is nothing more than a fishing expedition.

Third, requesting “all” materials that merely contain, describe, or summarize “policies relating to compliance with federal and/or state firearms laws” over the course of a 5 year period goes far beyond the reasonable scope of discovery in this case involving the sale of ammunition in Texas in March 2018. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

11. All Documents and Communications containing, describing, or summarizing Your policies relating to the prevention of illegal sales of ammunition and/or the prevention of trafficking of ammunition, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several

grounds.

First, the term “policies” is vague and overbroad.

Second, the “prevention of trafficking of ammunition” is irrelevant to any pertinent issue in the case.

Third, requesting “all” materials that merely contain, describe, or summarize “policies” about the “prevention of illegal sales” over the course of a 5 year period goes far beyond the reasonable scope of discovery in this case involving the sale of ammunition in Texas in March 2018. Neither federal nor Texas law require background checks or inquiry by retail sellers into the qualifications or motives of prospective purchasers.

Fourth, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fifth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case. As such, this request is not proportional to any need in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

Subject to and without waiving these objections, LuckyGunner would agree to produce the procedures its customer experience team uses to analyze potentially fraudulent activity. Because this material may constitute or contain proprietary and/or confidential information, it would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

12. All Documents and Communications containing, describing, or summarizing Your policies relating reporting illegal or suspected unlawful activities to law enforcement agencies, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, requesting “all” martials that merely contain, describe, or summarize “policies” about the “reporting of illegal or suspected unlawful activities” to law enforcement over the course of a 5 year time-period goes far beyond the reasonable scope of discovery in this case involving the sale of ammunition in Texas in March 2018. Neither federal nor Texas law impose such requirements as part of the process for selling ammunition. Indeed, LuckyGunner does not have a set procedure for contacting law enforcement.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

13. All Documents or Communications discussing, referring to, or relating to the design, construction, or creation of the following mechanisms, features or aspects of Your Websites, from January 1, 2016 to present:
 - a. Any measures used to learn or verify the age of online Purchasers;
 - b. Any measures used to determine whether the Purchaser has read and agreed with Your terms and conditions of sale;
 - c. Your promise or guarantee to consumers that You will pay them \$100 if an order placed before 3 pm on a business day is not shipped the same day;
 - d. Any measures used to learn or verify the identity of online Purchasers;
 - e. Any mechanisms You use to prevent the sale of ammunition to those who are prohibited from purchasing ammunition; and
 - f. Any other mechanism, feature, or aspect of Your website that identifies potentially suspicious, illegal, or fraudulent purchasers.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “discussing, referring to, or relating to” is so broad and amorphous that it is not reasonable to search for and produce responsive material.

Second, the categories of material sought are not tailored to issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal nor Texas law impose such requirements – e.g., “age verification,” agreement to terms and conditions, identity verification, or the forms of background check measures contemplated by this request – on retail sellers of ammunition, including online sellers.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

14. All Documents or Communications containing discussion, evaluation, or research concerning the following topics, from January 1, 2010 to present:
 - a. What forms of payment You will accept for online purchase of ammunition;
 - b. Risks associated with accepting Prepaid Cards for online purchase of ammunition; and
 - c. Whether to accept Prepaid Cards for online purchase of ammunition.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “discussion, evaluation, or research concerning” is so broad and amorphous that it is not reasonable to search for and produce responsive material. The

11 year time-period referenced in this request only compounds its unreasonableness.

Second, the categories of material sought are not tailored to the pertinent issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal nor Texas law prohibit prepaid gift cards from being used to make online purchases. In any event, LuckyGunner only accepts credit cards and this information is readily available on its website: <https://www.luckygunner.com/faq-payment-options>.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

15. All Documents and Communications discussing or referring to use of .38 special ammunition in handguns and long guns.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the type of information Plaintiffs seek regarding .38 special ammunition is available on LuckyGunner's website: www.luckygunner.com. The burden of culling through the information on LuckyGunner's website is the same for the Plaintiffs as it is for LuckyGunner.

Second, requesting a search for and the production of all material that merely references .38 special ammunition (an extremely common and popular caliber of ammunition) is unreasonably overbroad in scope and unduly burdensome.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

16. All communications with Magtech Ammunition Inc., Magtech Ammunition USA, CBC Global Ammunition, or their related entities, concerning the marketing of their products and descriptions of their products.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery

is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, this request is not reasonably tailored to the type of “.38 Special Magtech 158 grain, semi-jacketed hollow-point ammunition” that LuckyGunner allegedly sold to Pagourtzis in March 2018. Information about this product is available at Magtech’s website, www.magtechammunition.com, and LuckyGunner’s website, <https://www.luckygunner.com/magtech-38-spl-ammo-for-sale-38special158sjhpmt-50>.

Second, requesting a search for and production of any material that concerns the marketing of all Magtech “products and descriptions of their products” is unreasonable, overbroad in scope, unduly burdensome, and disproportional to the specific issues in this case. Even if this request were narrowed to only .38 Special cartridges, the “marketing” of that product is not pertinent to any issue in this case involving an alleged violation of 18 U.S.C. § 922(x).

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues.

17. All Documents and Communications containing, describing, or summarizing trainings, seminars, or guidance that You provided to Your employees, contractors, associates, and/or vendors, from January 1, 2016, to present, on the following topics:
 - a. Compliance with federal firearms laws;
 - b. Compliance with state firearms laws;
 - c. Identifying red flags or warning signs of illegal purchases;
 - d. Identifying red flags or warning signs of trafficking of ammunition;
 - e. Reporting suspicious or illegal behavior to law enforcement agencies; and
 - f. Other risks faced by Your company.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “containing, describing, or summarizing” is so broad that it is not reasonable to search for and produce responsive material.

Second, the categories of material sought are not tailored to the specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Simply put, “compliance with federal firearms”

and “state firearms” laws is not at issue—rather, ammunition sales, and, specifically, compliance with 18 U.S.C. § 922(x) is at issue. Further, “trafficking of ammunition” is not at issue. Neither federal nor Texas law require background checks for online ammunition sales or the reporting of suspicious activity to law enforcement.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the phrase “other risks faced by” LuckyGunner is absurdly vague and not a reasonable starting point to request material.

Fifth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

Subject to and without waiving these objections, LuckyGunner would agree to produce the procedures its customer experience team uses to assess potentially fraudulent activity. Because this material may constitute or contain proprietary and/or confidential information, it would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

18. All Documents reflecting instances where an employee, contractor, or other representative or agent of LuckyGunner, was reprimanded or disciplined for failing to comply with policies or regulations pertaining to trafficking of ammunition, and/or for failing to comply with state and local firearms laws, between January 1, 2013 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the categories of material sought are not tailored to the specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in

Texas via its website in March 2018. Simply put, “trafficking of ammunition,” and compliance with “state and local firearms laws” are not at issue. Rather, ammunition sales, and specifically, compliance with 18 U.S.C. § 922(x) is at issue.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As such, this request is not proportional to the needs of this case.

Third, this request is overly broad because the more than eight-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire eight year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

Subject to and without waiving these objections, LuckyGunner is not aware of any such instances of discipline for lack of compliance with applicable law.

19. Your employee handbook and all personnel policies that were in effect in March 2018.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “personnel policies” is vague and overbroad.

Second, this request is not tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Indeed, Plaintiffs allege in their petition that LuckyGunner’s interaction with Pagourtzis was 100% automated. In other words, there was no interaction between an “employee” and Pagourtzis. Therefore, matters related to LuckyGunner’s relationship with its employees are simply irrelevant to the Plaintiffs and not reasonably calculated to lead to the discovery of admissible evidence.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the

issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner does not have an employee handbook.

20. All organizational charts and lists of owners, managers, or directors, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Subject to and without waiving these objections, LuckyGunner does not maintain “charts” or “lists” of its owners or managers. LuckyGunner does not have a board of directors. In any event, the issue of LuckyGunner’s ownership is not in dispute. Mollenhour Gross, LLC was the sole member of LuckyGunner, LLC at the time of the events in question.

21. All documents relating to transactions between You and Red Stag Fulfillment LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of Red Stag Fulfillment LLC, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “transactions” is vague and overbroad. Red Stag fulfills countless orders for LuckyGunner every single day, each of which could be considered a “transaction.” Thus, read literally, this request essentially asks for the production of every piece of data generated between LuckyGunner and Red Stag over a five year period.

Second, this request is not tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Requesting the production of all documents between LuckyGunner and Red Stag – even those pertaining to completely unrelated topics – is absurdly overbroad and nothing more than a fishing expedition.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner would agree to produce the records available on Red Stag's application programming interface pertaining to two orders placed by a customer named Dimitrios Pagourtzis in March 2018. LuckyGunner would also agree to produce the services contract with Red Stag in effect in March 2018. Because this material may constitute or contain proprietary and/or confidential information, this material would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

22. All documents relating to transactions between You and MollenhourGross LLC (and/or its members, Jordan Mollenhour and Dustin Gross), including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of MollenhourGross LLC (including its members, Jordan Mollenhour and Dustin Gross), from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term "transactions" is vague and overbroad.

Second, this request is not tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain

ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As such, this request is overbroad in scope, unduly burdensome, and disproportional to the specific issues in this case.

Subject to and without waiving these objections, LuckyGunner would agree to produce its annual meeting minutes for the requested time period and its operating agreement in effect in March 2018. Because this material may constitute or contain proprietary and/or confidential information, this material would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

23. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and Red Stag Fulfillment LLC, MollenhourGross LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein).

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request as being overly broad because the request is not limited in time and thus is not sufficiently tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Subject to and without waiving these objections, LuckyGunner would agree to produce the service contract with Red Stag in effect in March 2018. LuckyGunner does not have any employment, contractor, vendor or consultant agreements with Mollenhour Gross, LLC, Jordan Mollenhour, or Dustin Gross. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

24. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “any other organizing documents” is vague, overbroad in scope, unduly burdensome, and not proportional to any pertinent need in the case.

Second, this request is not sufficiently limited in time to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Finally, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Subject to and without waiving these objections, LuckyGunner would agree to produce its operating agreement in effect in March 2018.

25. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2016, to June 1, 2018, as well as the individuals’ job titles and responsibilities.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, searching for and producing materials to “identify all employees and contractors who worked for” LuckyGunner over the course of more than two years is unreasonable in scope and not tailored to any specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Second, the type of information sought in this request is not well-suited for or efficiently addressed in response to a request for production of documents.

Third, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner would agree to answer an interrogatory identifying the individuals who oversaw sales of the type of ammunition allegedly sold to Pagourtzis in March 2018.

26. All Documents or Communications relating to the incidents described in plaintiffs' and plaintiffs-intervenors' Third Amended Petition (to the extent not produced in response to other requests herein).

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, requesting production of material "relating to the incidents described" in Plaintiffs' petition is vague and so broad that it is not feasible to respond. Plaintiffs' petition includes hundreds of paragraphs. To the extent this request is focused on the two sales of ammunition that were allegedly made to a customer named Dimitrios Pagourtzis in March 2018, LuckyGunner has already agreed to produce its records of those sales. To the extent this request seeks something else, this request is unreasonable in scope and not tailored to any specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

27. All Documents that support or relate to Your claims or defenses.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains

pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, Plaintiffs' request for information about “[a]ll” documents that “support or relate” to LuckyGunner’s “claims or defenses” is grossly overbroad and would require it to prematurely marshal its evidence long before such disclosures are due.

Second, LuckyGunner does not have any “claims” in the case at this early juncture.

Finally, this request is objectionable to the extent it calls for the disclosure of material protected by privilege, to be used for impeachment, or that is otherwise not discoverable under Texas law.

Subject to and without waiving these objections, LuckyGunner will disclose evidence to support its defenses in accordance with any Docket Control Order entered by the Court and the Texas Rules of Civil Procedure.

28. All insurance policies that may cover the incidents described in plaintiffs' and plaintiffs-intervenors' Third Amended Petition.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Subject to and without waiving these objections, LuckyGunner is not covered by insurance for this matter.

29. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant LuckyGunner, LLC.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Subject to and without waiving these objections, LuckyGunner would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

30. All recordings, writings, transcriptions of, or other Documents or Communications concerning any statements taken from any witnesses relating to the incidents described in plaintiffs' and plaintiffs-intervenors' Third Amended Petition.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, requesting production of material “relating to the incidents described” in Plaintiffs’ petition is vague and so broad that it is not feasible to respond. Plaintiffs’ petition includes hundreds of paragraphs.

Second, this request is unreasonable in scope and not tailored to any specific claim in this lawsuit, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Subject to and without waiving these objections, LuckyGunner does not possess any witness statements at this time (aside from the declarations/affidavits filed by co-defendants that have objected to personal jurisdiction). Attorney-client communications are not statements and, in any event, would be patently privileged under Texas law. *See, e.g.*, Tex. R. Civ. P. 193.3(c).

31. All Documents, including curriculum vitae and resumes, relating to the qualifications or educational background of any expert witness you intend to call at trial.

RESPONSE:

LuckyGunner objects to this request as premature because it seeks information about LuckyGunner’s experts who have not yet been disclosed and are not yet required to be disclosed. This request is also objectionable to the extent it seeks material beyond the scope of permissible discovery of expert witnesses as governed by the Texas Rules of Civil Procedure. Subject to and without waiving these objections, LuckyGunner will disclose its experts and any required information about those experts in accordance with any Docket Control Order entered by the Court and the Texas Rules of Civil Procedure.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, § **GALVESTON COUNTY, TEXAS**
vs. §
§
§

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§

Defendants. § **COURT NO. 3**

**MOLLENHOURGROSS LLC'S OBJECTIONS AND ANSWERS TO PLAINTIFFS' FIRST
SET OF INTERROGATORIES SUBJECT TO AND WITHOUT WAIVING IT'S
PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant MOLLENHOURGROSS LLC ("MG" or "Defendant") and serves these Objections and Answers to Plaintiff Chase Yarbrough's First Set of Interrogatories to Defendant Mollenhour Gross LLC, subject to and without waiving its previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, MG filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections, responses and answers herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, MG. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses and answers are given

without prejudice to MG's right to produce evidence of any subsequently discovered facts or to change any and all responses and answers herein as additional facts are ascertained. MG reserves the right to amend these responses and answers if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses and answers are given without prejudice to MG's right to rely at trial on subsequently discovered information or information inadvertently omitted from these responses as a result of a mistake, error or oversight.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. MG objections to Plaintiffs' requests for any discovery at this stage, as fully outlined in MG's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. MG serves these Objections and Answers subject to and without waiving its previously filed Special Appearance

2. MG objects to Plaintiffs' interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant or proportional to the claims or defenses of any party or to the specific issues of this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. MG objects to Plaintiffs' interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are

not proportional to the needs of the case.

4. MG objects to Plaintiffs' interrogatories to the extent that they are not limited to seeking information that is maintained by MG. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. MG shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of MG, as that terminology is defined by the Texas Rules of Civil Procedure.

5. MG objects to Plaintiffs' interrogatories to the extent that they call for information that is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

6. MG objects to Plaintiffs' interrogatories to the extent they seek information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. MG does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' interrogatories. On the contrary, MG specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such information, or with respect to the subject matter thereof, nor shall such disclosure waive MG's right to object to the use of the information during this or any subsequent proceeding.

7. MG is responding to Plaintiffs' interrogatories without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which

MG has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' interrogatories at this stage in the litigation, it is not possible for MG to anticipate all possible grounds for objection with respect to the particular questions set forth herein. MG reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the MG's responses and answers to Plaintiffs' Interrogatories.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. MG objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond MG's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 197.

2. MG further objects to these Definitions and Instructions and the applicable interrogatories to the extent they seek searches of electronically stored information and documentation to be disclosed or produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request MG to act beyond what is reasonable and required by the applicable law in the preservation, review and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. MG objects to Plaintiffs' definition in Paragraph C because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from MG and have no reasonable connection to the Plaintiffs' claims. Finally, MG objects to the extent any interrogatories utilizing these terms seeks to invade the attorney work product and attorney-client privileges in violation of the Texas Rules of Civil Procedure.

4. MG objects to Plaintiffs' definitions in Paragraph D and Paragraph F because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. MG further objects to these definitions to the extent they purport to obligate MG to locate and obtain information that is not readily and feasibly accessible or is not maintained by MG. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, MG objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. MG objects to the definition and instructions in Paragraph G regarding the term

“Identify” because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery beyond MG’s obligations as contemplated by Rule 192.3. Nor is the collateral information requested in Paragraph G appropriately sought under Rule 197 through mere inclusion of the term “Identify” inside of an interrogatory.

6. Each of these Objections to Plaintiffs’ Definitions and Instructions is incorporated by reference in each of the responses and answers to Plaintiffs’ Interrogatories.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. “Andy” Landry III

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And

Andrew A. Lothson (PHV application filed)

lothson@smbtrials.com

Swanson, Martin & Bell, LLP

330 N. Wabash, Suite 3300

Chicago, IL 60611

(312) 321-9100 (Telephone)

(312) 321-0990 (Telefax)

**ATTORNEYS FOR DEFENDANT
MOLLENHOUR GROSS, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

ANSWERS TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1: Provide the name, address, and phone number of each person involved in providing information to respond to these interrogatories.

ANSWER:

Craig Meredith, 11409 Municipal Center Drive, No. 23434, Knoxville, TN 37933 assisted counsel with providing information to respond to these interrogatories

INTERROGATORY NO. 2: List all addresses for Your offices and/or facilities, from January 1, 2010 to present.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory as overbroad because it goes well beyond the pertinent time-period of the ammunition sales at issue in this case, *i.e.*, March 2018. Nor is this interrogatory reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waving these objections, MG identifies the following:

**11409 Municipal Center Drive, No. 23434
Knoxville, TN 37933**

**120H Market Place Boulevard
Knoxville, TN 37922**

INTERROGATORY NO. 3: List all names under which You have conducted business, from January 1, 2010 to present.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory because it is irrelevant to any pertinent issue in this case involving LuckyGunner’s sale of ammunition in Texas

in March 2018. Nor is this interrogatory reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waiving these objections, MG did business as Mollenhour Gross, LLC, only, throughout this time-period.

INTERROGATORY NO. 4: List all website addresses at which You have conducted business, from January 1, 2010 to present.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory as vague and overbroad. MG is an investment holding company and it does not sell products and thus does not “conduct” business via its website in the way this interrogatory infers.

Subject to and without waiving these objections, MG maintains this web address (www.mollenhourgross.com) as its business website.

INTERROGATORY NO. 5: For each bank or other financial account You have, list the name of the financial institution where the account is held and all authorized users or signers for each account.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as irrelevant and disproportional to any pertinent issue in the case. Names of financial intuitions and all authorized users or signers for such accounts goes far beyond a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waiving these objections, MG maintains multiple bank accounts and the only authorized users and signors are Mr. Mollenhour and Mr. Gross. MG’s Chief Financial Officer has access to the accounts. MG does not bank in Texas.

INTERROGATORY NO. 6: Identify all of Your employees, officers, directors, and members.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, MG's members are Mr. Mollenhour and Mr. Gross. MG does not have a board of directors. MG has the following officer or director level personnel: Craig Meredith, General Counsel; Coleton Bragg, Chief Financial Officer; and Keith Jackson, Director of Tax.

INTERROGATORY NO. 7: Identify how many shares (or other units of membership interest), by percentage of total issued, that You have owned or held (whether directly or indirectly) in LuckyGunner LLC, from May 12, 2009 to present. If the amount has varied over time, please indicate what periods of time correspond to what percentage of shares of LuckyGunner LLC held by You.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, MG was the sole member and owned 100% of LuckyGunner, LLC from its formation until September 30, 2020. 2A Group, LLC is now the sole member and owns 100% of LuckyGunner, LLC.

INTERROGATORY NO.8: Identify how many shares (or other units of membership interest), by percentage of total issued, that You have owned or held (whether directly or indirectly) in Red Stag Fulfillment LLC, from August 16, 2013 to present. If the amount has varied over time, please indicate what periods of time correspond to what percentage of shares of Red Stag Fulfillment LLC held by You.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed

pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, MG has been the sole member and owned 100% of Red Stag Fulfillment, LLC since its formation.

INTERROGATORY NO. 9: Identify each of Your subsidiaries whose products are, directly or indirectly, marketed in or sold in Texas or to purchasers residing in Texas.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. MG does not market or sell products to third-parties anywhere. Thus, the premise of this request is flawed. Nor is the "marketing and sale of products" by MG subsidiaries reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. A subsidiary's purposeful availment with the forum state does not subject the parent company to "specific" personal jurisdiction. See, e.g., *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Furthermore, this request is objectionable because any entities which MG owns that sell products are listed on MG's publicly available website: www.mollenhourgross.com.

INTERROGATORY NO. 10: Identify each of Your subsidiaries that has provided goods or services to any other of Your subsidiaries identified in your answer to Interrogatory No. 9.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Whether a subsidiary provides goods or services to another subsidiary goes far beyond the scope of a proper “specific” or “general” personal jurisdiction analysis. For example, a subsidiary’s purposeful availment with the forum state does not subject the parent company to “specific” personal jurisdiction. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a “general” jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, as Plaintiffs are aware, Red Stag Fulfillment, LLC has provided fulfillment services for LuckyGunner, LLC’s orders, a former subsidiary of MG.

INTERROGATORY NO. 11: Describe all services performed by You relating to or for the benefit of LuckyGunner LLC and/or Red Stag Fulfillment LLC, including but not limited to internal and external policy setting, election of product lines, website design, hiring and firing of officers and or directors, approval of sizable capital investments, auditing, accounting, bookkeeping, and payroll.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is irrelevant to any pertinent issue in this case involving allegations that Red Stag Fulfillment, LLC fulfilled a LuckyGunner, LLC ammunition sales order in March 2018. Further, the services referenced in this request are grossly overbroad in scope and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waiving these objections, MG was involved with hiring the President of Red Stag Fulfillment, LLC, hiring of the CEO of LuckyGunner, LLC, and approval of sizable capital investments.

INTERROGATORY NO. 12: Describe all contractual obligations incurred by each subsidiary identified in your answer to Interrogatory No. 9 for which You are also a guarantor.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is harassing, and irrelevant to any specific issue in this case involving allegations that Red Stag Fulfillment, LLC fulfilled a LuckyGunner, LLC ammunition sales order in March 2018. Nor are "contractual obligations" of subsidiaries reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, none.

INTERROGATORY NO. 13: Separately identify each of Your employees who plays any role in the marketing or sale of products produced by each subsidiary identified in your answer to Interrogatory No. 9.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is irrelevant to any pertinent issue in this case involving allegations that Red Stag Fulfillment, LLC fulfilled a LuckyGunner ammunition sales order in March 2018. Nor would "play[ing]" a "role in marking or sale of products produced" of subsidiaries form a reasonable basis of discovery tailored to a proper "specific" or "general" personal jurisdiction analysis. Furthermore, Red Stag Fulfillment, LLC does not sell products and LuckyGunner does not "produce" products. Thus, this interrogatory is vague and confusing.

Subject to and without waiving these objections, MG is not involved in marketing or selling products on behalf of LuckyGunner, LLC and MG personnel do not market or sell any products of subsidiaries.

INTERROGATORY NO. 14: For each employee identified in your answer to Interrogatory No. 13, provide a brief description of each employee's day-to-day activities as they relate to sales and marketing for those subsidiaries identified in your answer to Interrogatory No. 9.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither

merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory for the same reasons identified in response to interrogatory Nos. 9 and 13, *supra*. MG incorporates herein its objections those interrogatories. Furthermore, this interrogatory is a grossly overbroad topic and not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this interrogatory is not proportional to any need in this case.

Subject to and without waiving these objections, MG is not involved in marketing or selling products on behalf of LuckyGunner, LLC and MG personnel do not market or sell any products of subsidiaries.

INTERROGATORY NO. 15: Separately identify each employee of You or any of Your subsidiaries who has assisted, consulted, or played any role in the design and or operation of the website LuckyGunner.com.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is harassing and irrelevant to any pertinent issue in this case. Nor would "play[ing]" a "role in the design and or operation of" LuckyGunner's website form a reasonable basis of discovery tailored to a proper "specific" or "general" personal jurisdiction analysis. This request goes far beyond the reasonable scope of discovery and is not proportional to any need in this case.

INTERROGATORY NO. 16: Identify the entity(s) that paid a salary to, or otherwise provided remuneration to, any of Your officers, members, and directors during such times as such officer or director also served as an officer, member or director of any of Your subsidiaries.

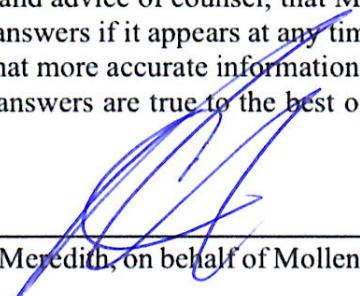
ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This interrogatory is a grossly overbroad topic and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this interrogatory is not proportional to any need in this case.

VERIFICATION

CRAIG MEREDITH, being first duly sworn, deposes and says that he is a duly authorized representative for Mollenhour Gross, LLC in the above referenced lawsuit and that he has read the foregoing answers to Plaintiffs' First Set of Interrogatories directed to Mollenhour Gross, LLC; that the answers were prepared with the assistance and advice of counsel; that Mollenhour Gross, LLC reserves the right to make any changes in the answers if it appears at any time that omissions or errors have been inadvertently made therein or that more accurate information is available; and that subject to the limitations set forth herein, the answers are true to the best of his knowledge, information, and belief.



Craig Meredith, on behalf of Mollenhour Gross, LLC

I, Terry Massey, a notary public of Knox County, Tennessee, certify that Craig Meredith, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily for and as the act of said company.

Subscribed and sworn before me on February 5th, 2021.



Terry Massey
Notary Public, State of Tennessee

Expires 2/6/23



Exhibit A4

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § COUNTY COURT AT LAW
§
§
§

Plaintiffs, §
§ GALVESTON COUNTY, TEXAS
vs. §
§
§

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§

Defendants. § COURT NO. 3
§
§

**MOLLENHOUR GROSS, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFFS'
FIRST REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT
WAIVING ITS PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant MOLLENHOUR GROSS, LLC (“MG” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Mollenhour Gross LLC, subject to and without waiving its previously filed Special Appearance and Motion to Stay Discovery as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, MG filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, MG. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to MG’s right to

produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. MG reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to MG's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. MG objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in MG's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. MG serves these Objections and Responses subject to and without waiving its previously filed Special Appearance.

2. MG objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. MG objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the

importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. MG objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. MG objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by MG. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. MG shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of MG, as that terminology is defined by the Texas Rules of Civil Procedure.

6. MG objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. MG does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, MG specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive MG's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. MG is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this

action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which MG has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for MG to anticipate all possible grounds for objection with respect to the particular requests set forth herein. MG reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the MG's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. MG objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond MG's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. MG further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request MG to act beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata

or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. MG objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from MG and have no reasonable connection to the Plaintiffs' claims. Finally, MG objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. MG objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. MG further objects to these definitions to the extent they purport to obligate MG to locate and obtain information that is not readily and feasibly accessible or is not maintained by MG. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, MG objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of

the Texas Rules of Civil Procedure.

5. MG objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. "Andy" Landry III
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And

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(312) 321-0990 (Telefax)

**ATTORNEYS FOR DEFENDANT
MOLLENHOUR GROSS, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All Documents or Communications relating to purchases made on LuckyGunner.com by Dimitrios Pagourtzis, including, but not limited to: database records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant LuckyGunner, LLC) concerning or related to the purchases.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. MG did not sell ammunition to Pagourtzis. Rather its former subsidiary, LuckyGunner, LLC, is alleged to have sold ammunition to Pagourtzis. MG objects to the premise and scope of this request as irrelevant because the acts of a subsidiary in the forum state do not subject the parent company to “specific” personal jurisdiction. See, e.g., *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). As a result, this request is not proportional to the needs of the case.

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, none.

2. Documents sufficient to identify Your members, officers, directors, and executive level staff, from January 1, 2009 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. The phrase “executive-level staff” is vague and overbroad. Nor is this request reasonably tailored to a proper personal jurisdiction analysis. The information sought is better suited for an interrogatory. Indeed, this request seeks information duplicative of information

disclosed in MG's responses to Plaintiffs' interrogatories. MG's members are Jordan Mollenhour and Dustin Gross. MG does not have a board of directors.

Subject to and without waiving these objections, MG would agree to produce its Operating Agreement in effect as of March 2018. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012, and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC over the course of multiple years is harassing, unduly burdensome and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG would agree to produce its former subsidiary, LuckyGunner, LLC's Operating Agreement and annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

4. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag over the course of multiple years is harassing, unduly burdensome and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG would agree to produce its subsidiary, Red Stag Fulfillment, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

5. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein), from January 1, 2009 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 3 and 4, *supra*. MG incorporates herein its objections and responses to those requests. Further responding, Mr. Mollenhour and Mr. Gross are the member/owners of MG, and they are not employees, contractors, vendors or consultants.

6. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2009 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request as simply irrelevant to and beyond the reasonable scope of any pertinent issue in the case.

Subject to and without waiving these objections, MG is a limited liability company and therefore does not have by-laws. MG would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

7. Any contract or agreement, including but not limited to asset purchase agreements, relating to Your sale or divestment of Your equity interest or other ownership of LuckyGunner LLC.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The subject of this request is irrelevant to any pertinent issue in this case because MG's divestment of its ownership of LuckyGunner, LLC took place in September 2020, *i.e.*, after the 2018 events giving rise to Plaintiffs' claims and the filing of this lawsuit. Further, this request is beyond the scope of a proper personal jurisdiction analysis.

8. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2009 to January 1, 2014 and from January 1, 2016, to June 1, 2018, as well as the individuals' job titles and responsibilities.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Requesting identities of "all employees and contractors who worked" for MG over the course of several years is unreasonable not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. Nor is searching for and producing documents about employment information, job titles and responsibilities feasible or best suited to disclose pertinent employment information about any particular work done at MG. Rather, an interrogatory focused on particular issues and job responsibilities would be substantially less burdensome and more convenient. As currently structured, however, the information sought in this request is not proportional to any need in this case.

9. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molliter, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde,

as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Requesting that MG search for information about job interviews is unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014).

10. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Jordan Mollenhour's and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "relate to" the "decision" to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper "specific" or "general" personal jurisdiction analysis. The two "articles" referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

11. Your financial statements for FY2018 and FY2019, including Your balance sheet, income statement, statement of cash flow, and annual report (or similar statements).

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general financial information sought in this request is harassing and not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

12. All press releases issued by You, from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Press releases are publically available and thus Plaintiffs already have access to this information. Nor is this request reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

13. Documents sufficient to show each debt instrument under which You are obligated.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in

Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general financial information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, none.

14. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Furthermore, this request is objectionable because entities which MG owns and which themselves sell products or services to third-parties are listed on MG's website: www.mollenhourgross.com.

15. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC's websites, from January 1, 2010 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The “construction and design” of LuckyGunner's website over the course of 11 years is a

grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG does not design websites for its subsidiaries.

16. All Documents and Communications relating to decisions or discussions about whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

17. All Documents and Communications containing, describing, or summarizing Your policies relating to ensuring that age-restricted products sold by your subsidiaries, such as ammunition or alcohol, are not shipped to under-age consumers.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. This request seeks information that is duplicative of information sought in request No. 16, *supra*. MG incorporates herein its objections and responses to those requests. Nor does MG set the general policies of its subsidiaries and did not do so with respect to the subject matter of this request. Further responding, LuckyGunner was the only subsidiary of MG that sold products to third-parties where certain age-restrictions could apply and, as discussed above, the acts of a subsidiary in the forum state do not subject the parent company to "specific" personal jurisdiction. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020).

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

18. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. MG does not market or sell products. Thus, the premise of this request is flawed. MG was the member/owner of LuckyGunner, LLC. Nor is LuckyGunner's alleged "marketing and sale of products" a topic of discovery that is reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

19. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant Mollenhour Gross LLC.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Subject to and without waiving these objections, MG would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. §
§
GALVESTON COUNTY, TEXAS

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§

Defendants. § **COURT NO. 3**

**RED STAG FULFILLMENT LLC'S OBJECTIONS AND ANSWERS TO PLAINTIFFS'
FIRST SET OF INTERROGATORIES SUBJECT TO AND WITHOUT WAIVING ITS
PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant RED STAG FULFILLMENT LLC (“Red Stag” or “Defendant”) and serves these Objections and Answers to Plaintiff Chase Yarbrough’s First Set of Interrogatories to Defendant Red Stag Fulfillment LLC, subject to and without waiving its previously filed Special Appearance as follows:

I.
PRELIMINARY STATEMENT

On February 8, 2021, Red Stag filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections, responses and answers herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Red Stag. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses and answers

are given without prejudice to Red Stag's right to produce evidence of any subsequently discovered facts or to change any and all responses and answers herein as additional facts are ascertained. Red Stag reserves the right to amend these responses and answers if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses and answers are given without prejudice to Red Stag's right to rely at trial on subsequently discovered information or information inadvertently omitted from these responses as a result of a mistake, error or oversight.

The word usage and sentence structure is that of the attorneys who prepared these responses and answers, and does not purport to be the exact language of the responding party.

II.
GENERAL OBJECTIONS

1. Red Stag objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in Red Stag's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Red Stag serves these Objections and Answers subject to and without waiving its previously filed Special Appearance.

2. Red Stag objects to Plaintiffs' interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant or proportional to the claims or defenses of any party or to the specific issues of this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Red Stag objects to Plaintiffs' interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs'

interrogatories are not proportional to any need in this case.

4. Red Stag objects to Plaintiffs' interrogatories to the extent that they call for information that is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Red Stag objects to Plaintiffs' interrogatories to the extent that they are not limited to seeking information that is maintained by Red Stag. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Red Stag shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Red Stag, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Red Stag objects to Plaintiffs' interrogatories to the extent they seek information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Red Stag does not intend to waive any applicable protections or privileges through the disclosure or the supplying of information in response to Plaintiffs' interrogatories. On the contrary, Red Stag specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such information, or with respect to the subject matter thereof, nor shall such disclosure waive Red Stag's right to object to the use of the information during this or any subsequent proceeding.

7. Red Stag is responding to Plaintiffs' interrogatories without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which

Red Stag has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' interrogatories at this stage in the litigation, it is not possible for Red Stag to anticipate all possible grounds for objection with respect to the particular questions set forth herein. Red Stag reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Red Stag's responses and answers to Plaintiffs' Interrogatories.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Red Stag objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Red Stag's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 197.

2. Red Stag further objects to these Definitions and Instructions and the applicable interrogatories to the extent they seek searches of electronically stored information and documentation to be disclosed or produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Red Stag to act beyond what is reasonable and required by the applicable law in the preservation, review and production of such electronically stored information and documentation. Simply put, this is not

a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Red Stag objects to Plaintiffs' definition in Paragraph C because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from Red Stag and have no reasonable connection to the Plaintiffs' claims. Finally, Red Stag objects to any interrogatories utilizing these terms to the extent they seek to invade the attorney work product and attorney-client privileges in violation of the Texas Rules of Civil Procedure.

4. Red Stag objects to Plaintiffs' definitions in Paragraph D and Paragraph F because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Red Stag further objects to these definitions to the extent they purport to obligate Red Stag to locate and obtain information that is not readily and feasibly accessible or is not in the possession of Red Stag. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues.

Finally, Red Stag objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Red Stag objects to the definition and instructions in Paragraph G regarding the term “Identify” because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery beyond Red Stag’s obligations as contemplated by Rule 192.3. Nor is the collateral information requested in Paragraph G appropriately sought under Rule 197 through mere inclusion of the term “Identify” inside of an interrogatory.

6. Each of these Objections to Plaintiffs’ Definitions and Instructions is incorporated by reference in each of the responses and answers to Plaintiffs’ Interrogatories.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. “Andy” Landry III

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(312) 321-0990 (Telefax)

**ATTORNEYS FOR DEFENDANT
RED STAG FULFILLMENT, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

ANSWERS TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1: Provide the name, address, and phone number of each person involved in providing information to respond to these interrogatories.

ANSWER: Eric McCollom, 5501 Island River Drive, Knoxville, TN 37914 assisted counsel with providing information to respond to these interrogatories.

INTERROGATORY NO. 2: List all addresses for Your offices and/or facilities, from August 1, 2013 to present.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this interrogatory as overbroad because it goes well beyond the pertinent time-period of the ammunition sales at issue in this case, i.e., March 2018. Nor is this interrogatory reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waving these objections, Red Stag identifies the following:

**202 W. Springdale Ave
Knoxville, TN 37917
(approximately May 2013 – September 2018)**

**5502 Island River Drive
Knoxville, TN 37914
(approximately August 2015 – Present)**

**5530 Island River Drive
Knoxville, Tn 37914
(approximately October 2020 – Present)**

**5501 Island River Drive
Knoxville, TN 37914
(approximately January 2021 – Present)**

**2507 S. 300 W.
Salt Lake City, UT 84115
(approximately April 2017 – June 2018)**

**5350 West Harold Gatty Drive
Salt Lake City, UT 84116
(approximately May 2018 – Present)**

**1909 South 4250 West
Salt Lake City, UT
(approximately December 2020 – Present)**

INTERROGATORY NO. 3: List all names under which You have conducted business, from August 1, 2013 to present.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this interrogatory on multiple grounds. This request is irrelevant to any specific issue in this case involving allegations that Red Stag fulfilled an order ammunition in March 2018. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, Red Stag has done business as Red Stag Fulfillment, LLC, only, throughout this time-period.

INTERROGATORY NO. 4: List all website addresses at which You have conducted business, from August 1, 2013 to present.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this interrogatory as vague and overbroad. Red Stag is a third-party logistics company. It does not sell products and thus does not "conduct" business via its website in the way this interrogatory infers.

Subject to and without waiving these objections, Red Stag maintains this web address (www.redstagfulfillment.com) as its business website.

INTERROGATORY NO. 5: For each bank or other financial account You have, list the name of the financial institution where the account is held and all authorized users or signers for each account.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense

afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and disproportional to any specific issue in the case. Nor is there a reasonable time-period identified that is reasonably tailored to Red Stag's fulfilment of LuckyGunner's two alleged orders with Pagourtzis that occurred in March 2018. Furthermore, names of financial intuitions and "all authorized users or signers" for such accounts is harassing, overbroad and not relevant to Plaintiffs' allegations that Red Stag is subject to either "general" or "specific" personal jurisdiction in Texas.

Subject to and without waiving these objections, as a best practice to prevent internal and external fraud, Red Stag maintains dual authority protocols throughout its accounts, where the generally applicable standard operating procedure is Controller Kimberly Welton sets up ACH payables, which President & COO Eric McCollom then reviews and approves. As for specific accounts, see the following:

Pinnacle Financial Partners Operating Account, with its principal user and signer being Eric McCollom.

Pinnacle Financial Partners Reserve Account, with its principal user and signer being Eric McCollom.

Pinnacle Financial Partners Credit Card Platform, with Eric McCollom and Kimberly Welton as the principal users of this platform, which Red Stag uses to issue purchasing credit cards to its employees.

PayPal Account for customer payments, with Kimberly Welton having access and control of this account.

INTERROGATORY NO. 6: Identify all of Your officers, directors, and members.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case, including whether "specific" or "general" personal jurisdiction over Red Stag exists. Nor is this request proportional to any need in this case.

Subject to and without waiving these objections, Red Stag's sole member is Mollenhour Gross, LLC and Eric McCollom is the President and Chief

Operating Officer. Red Stag does not have a board of directors.

INTERROGATORY NO. 7: Separately identify each employee of You or any of Your subsidiaries who has assisted, consulted, or played any role in the design and or operation of the website LuckyGunner.com.

ANSWER: **Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.**

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case, including whether “specific” or “general” personal jurisdiction over Red Stag exists. Nor is this request proportional to any need in this case.

Subject to and without waiving these objections, no executive or manager-level personnel of Red Stag have ever assisted, consulted, or played any role in the design and/or operation of the website LuckyGunner.com. While Red Stag currently employs or has employed hundreds of individuals, it is not aware of each individuals’ entire work history. That said, Red Stag is unaware of any of its employees previously assisting, consulting, or playing any role in the design and/or operating of the website LuckyGunner.com.

INTERROGATORY NO. 8: Identify each employee who has served as an account manager for LuckyGunner LLC or otherwise managed Your business with LuckyGunner LLC, from August 1, 2013 to present.

ANSWER: **Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.**

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case, including whether “specific” or “general” personal jurisdiction over Red Stag exists.

Subject to and without waiving these objections, from 2013 to approximately September 2019, the account was managed by Eric McCollom and Chris Molitor and members of the Red Stag account management team. Since approximately September 2019, the account has been managed by Nicholaus Barnett. This account is one of more than 30 client accounts managed by Mr. Barnett.

INTERROGATORY NO. 9: Describe all services that You provide to LuckyGunner LLC.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. General information about how Red Stag's clients' orders are fulfilled is not reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order does not, as a matter of law, form the basis of specific jurisdiction in Texas. *See, e.g., US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag provides all of its clients with fulfillment and warehousing services, to include receiving goods, warehousing and storing goods, kitting goods, retrieving goods from storage, preparing such goods for shipment by a common carrier, applying shipping labels (and at times other documentation like DOT-required markings) to the goods, and placing those goods on the truck of a common carrier for delivery to the client's end-customer. The general process to pick, pack, and ship goods is as follows:

- a. A Red Stag worker picks the product from its storage location, where the product is already in the client's packaging;
- b. The product is transported to a packing station;
- c. At the packing station, the product receives additional shipping packaging and markings (if necessary), and a shipping label is affixed;
- d. After a shipping label is affixed, the product is placed on the truck of the delivery carrier, such as Federal Express.

INTERROGATORY NO. 10: Describe how you calculate the fees or cost of services that You provide to LuckyGunner LLC, including whether such fees are assessed by a "flat rate" or are tied to the quantity and value of products shipped.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this interrogatory on several grounds. The scope of this interrogatory is not reasonably tailored to any pertinent issue in the case. General information about how fees or costs are calculated is not reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order does not, as

a matter of law, form the basis of specific jurisdiction in Texas. *See, e.g., US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag provides its clients with pricing generally comprised of flat rate fees which are charged on a per unit basis, *i.e.*, per pallet of storage or per label applied.

INTERROGATORY NO. 11: Identify all of Your employees who previously or concurrently worked for LuckyGunner LLC, Mollenhour Gross LLC, or any other company affiliated or owned by Mollenhour Gross LLC.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any specific issue in the case. The phrase "any other company affiliated or owned" is harassing, and so broad and without any reasonable time-period that relates to the events of March 2018 that form the basis of Plaintiffs' petition so as to make this interrogatory impossible to answer. Nor does Red Stag have access to other entities employment records.

Subject to and without waiving these objections, Red Stag currently employs or has employed hundreds of individuals and is not aware of each individuals' entire work history, nor is Red Stag aware of all investments made by Mollenhour Gross, LLC. That being said, Red Stag is unaware of any of its employees previously being employed by either LuckyGunner, LLC or Mollenhour Gross, LLC.

Exhibit A6

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
vs. §
§
§
§
§ **GALVESTON COUNTY, TEXAS**

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§
§

Defendants. § **COURT NO. 3**

RED STAG FULFILLMENT, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT WAIVING ITS PREVIOUSLY FILED SPECIAL APPEARANCE

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant RED STAG FULFILLMENT, LLC (“Red Stag” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Red Stag Fulfillment, LLC, subject to and without waiving its previously filed Special Appearance as follows:

I. PRELIMINARY STATEMENT

On February 8, 2021, Red Stag filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections and responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Red Stag. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without

prejudice to Red Stag's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Red Stag reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Red Stag's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Red Stag objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in Red Stag's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Red Stag serves these Objections and Responses subject to and without waiving its previously filed Special Appearance.

2. Red Stag objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Red Stag objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the

importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of this case.

4. Red Stag objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Red Stag objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by Red Stag. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Red Stag shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Red Stag, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Red Stag objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Red Stag does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Red Stag specifically intends to preserve any and all applicable protections or privileges. Production (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Red Stag's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Red Stag is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such

documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Red Stag has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Red Stag to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Red Stag reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Red Stag's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Red Stag objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Red Stag's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Red Stag further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Red Stag to act

beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible and proportional to resolving any issue in the case.

3. Red Stag objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from Red Stag and have no reasonable connection to the Plaintiffs' claims. Finally, requests utilizing these terms are objectionable to the extent they seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Red Stag objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Red Stag further objects to these definitions to the extent they purport to obligate Red Stag to locate and obtain information that is not readily and feasibly accessible or is not maintained by Red Stag. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake

in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Red Stag objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Red Stag objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
RED STAG FULFILLMENT, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUESTS FOR PRODUCTION

1. All Documents or Communications relating to purchases made by Dimitrios Pagourtzis, including, but not limited to: database records, application programming interface records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant LuckyGunner, LLC) concerning or related to the purchases.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to the scope of this request and to the extent it is overbroad and calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, Red Stag, without admitting LG sold the ammunition at issue in this lawsuit, would agree to provide its records regarding LuckyGunner’s orders with Dimitrios Pagourtzis. Because this material may constitute proprietary and/or confidential business information, it would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. Documents sufficient to show the dollar value of revenues on an annual basis generated by all order fulfillment, third-party fulfillment services, shipping of goods, and other third-party logistics services that You provide:

- a. To or on behalf of LuckyGunner LLC nationwide;
- b. To or on behalf of LuckyGunner LLC to customers located in Texas;
- c. To or on behalf of all Your clients to customers located in Texas.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “revenues” for all services provided to LuckyGunner, LLC over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale ammunition to Pagourtzis. This

request is irrelevant to that issue. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. This request is also irrelevant to that narrow issue. Indeed, the scope of this request is contrary to the general jurisdiction inquiry outlined in *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). In *Daimler*, the Supreme Court dramatically altered the scope of the constitutionally permissible analysis of general (“all-purpose”) jurisdiction over a non-resident defendant, such as Red Stag. Red Stag’s alleged “substantial, continuous, and systematic course of business” in a particular state is no longer the relevant inquiry, *post-Daimler*. Thus, the information sought in sections a. through c. is not proportional to any need in this case.

3. Documents sufficient to identify Your members, officers, directors, and executive-level staff.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The phrase “executive-level staff” is vague and overbroad and not pertinent to any personal jurisdiction issue. Red Stag’s sole member is Mollenhour Gross, LLC and Eric McCollom is the President and Chief Operating Officer. Red Stag does not have a board of directors. Nor is the information sought in this request available in any particular document and thus the request is better suited for an interrogatory. Indeed, this request also seeks information disclosed in Red Stag’s responses to Plaintiffs’ interrogatories.

Subject to and without waiving these objections, Red Stag would agree to produce its Operating Agreement in effect as of March 2018. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

4. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of LuckyGunner LLC, from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations

in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag would agree to produce the services agreement for the fulfillment of LuckyGunner, LLC. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

5. All documents relating to transactions between You and MollenhourGross LLC (and/or its members, Jordan Mollenhour and Dustin Gross), including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of MollenhourGross LLC (including its members, Jordan Mollenhour and Dustin Gross), from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag's member/owner, Mollenhour Gross, LLC and its members/owners, Mr. Mollenhour and Mr. Gross, over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag would provide its annual meeting minutes from 2016 through 2020.

6. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, MollenhourGross LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein).

RESPONSE:

This request is duplicative of request Nos. 4 and 5, *supra*. Red Stag incorporates herein its objections and responses to those requests.

7. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2013 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request as simply irrelevant to and beyond the reasonable scope of any pertinent issue in the case.

Subject to and without waiving these objections, Red Stag is a limited liability company and therefore does not have by-laws. Red Stag would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

8. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2016, to June 1, 2018, as well as the individuals' job titles and responsibilities.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Requesting identities of "all employees and contractors who worked" for Red Stag over the course of several years is unreasonable and not tailored to either a "specific" or "general" personal jurisdiction analysis. Nor is searching for and producing documents about employment information, job titles/responsibilities a feasible or efficient way to information about any particular work done at Red Stag. Rather, an interrogatory

reasonably focused on particular issues and job responsibilities would be substantially less burdensome and more convenient. As currently structured, however, the information sought in this request is not proportional to any need in this case. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

9. All Documents related to the hiring of Eric McCollom and Chris Molliter, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The hiring of Mr. McCollom and Mr. Molitor goes far beyond any pertinent issue within a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

10. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Jordan Mollenhour's and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "relate to" the "decision" to start the

company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper “specific” or “general” personal jurisdiction analysis. The two “articles” referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, Red Stag would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

11. Documents sufficient to identify Your corporate clients.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Requesting information about all of Red Stag’s “corporate clients” can only be seen as harassing. Nor is this request reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

12. All press releases issued by You.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Press releases are publically available and thus Plaintiffs already have access to this information. Plaintiffs are also free to visit www.redstagfulfillment.com/blog where

company announcements are published. To the extent this request seeks different or additional information, however, it is objectionable as not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

13. Your financial statements for FY2018 and FY2019, including Your balance sheet, income statement, statement of cash flow, and annual report (or similar statements).

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The general financial information sought in this request is irrelevant and not reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

14. Documents sufficient to show each debt instrument under which You are obligated.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The general financial information sought in this request is irrelevant and not reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

15. Documents, such as flow charts or other schematics, sufficient to show the process by which You receive inventory, receive orders, fulfill orders, and ship goods.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The phrases "flow charts or other schematics" are vague and overbroad. Nor is general information about how Red Stag's clients' orders are fulfilled reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order described in this request does not, as a matter of law, form the basis of specific jurisdiction in Texas. See, e.g., *US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Notwithstanding these objections, see Red Stag's answer to interrogatory No. 9.

16. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Red Stag is a fulfillment company and does not market or sell its clients' goods. Thus, the premise of this request is flawed. Further, it is Red Stag's understanding that LuckyGunner, LLC was formed and sold ammunition to Texas residents long before Red Stag was formed or began servicing orders on behalf of LuckyGunner, LLC. Indeed, this activity does not, as a matter of law, amount to "purposeful availment" for the purposes of establishing specific jurisdiction in Texas. See, e.g., *US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, Red Stag does not market or sell its client's products in Texas or any other jurisdiction. Therefore, Red Stag does not believe any such material responsive to this request exists.

17. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant Red Stag Fulfillment LLC.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Subject to and without waiving these objections, Red Stag would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. §
§
§ **GALVESTON COUNTY, TEXAS**

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§

Defendants. § **COURT NO. 3**

**DUSTIN GROSS'S OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT
WAIVING HIS PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant DUSTIN GROSS ("Mr. Gross" or "Defendant") and serves these Objections and Responses to Plaintiffs' First Request for Production of Documents to Defendant Dustin Gross, subject to and without waiving his previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, Mr. Gross filed a motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Mr. Gross. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to

Mr. Gross's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Mr. Gross reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Mr. Gross's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Mr. Gross objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in his motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Mr. Gross serves these Objections and Responses subject to and without waiving his previously filed Special Appearance.

2. Mr. Gross objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Mr. Gross objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the

importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. Mr. Gross objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Mr. Gross objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by him. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Mr. Gross shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Mr. Gross, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Mr. Gross objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Mr. Gross does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Mr. Gross specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Mr. Gross's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Mr. Gross is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such

documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Mr. Gross has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Mr. Gross to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Mr. Gross reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Mr. Gross's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Mr. Gross objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Mr. Gross's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Mr. Gross further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Mr. Gross to act

beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Mr. Gross objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority and have no reasonable connection to the Plaintiffs' claims. Finally, Mr. Gross objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Mr. Gross objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Mr. Gross further objects to these definitions to the extent they purport to obligate him to locate and obtain information that is not readily and feasibly accessible or is not maintained by him. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into

account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Mr. Gross objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Mr. Gross objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
DUSTIN GROSS**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUESTS FOR PRODUCTION

1. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Gross is a member of Mollenhour Gross, LLC and that entity has agreed to produce its former subsidiary, LuckyGunner, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag Fulfillment, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal

jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Gross is a member of Mollenhour Gross, LLC and that entity has agreed to produce its subsidiary, Red Stag Fulfillment, LLC's Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Mollenhour Gross LLC, and Jordan Mollenhour (to the extent not produced in response to other requests herein), from January 1, 2009 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 1 and 2, *supra*. Mr. Gross incorporates herein his objections and responses to those requests. Further responding, Mr. Gross and co-defendant, Jordan Mollenhour, are the member/owners of Mollenhour Gross, LLC, and they are not employees, contractors, vendors or consultants and no such agreements exist with respect to LuckyGunner, LLC and Red Stag Fulfillment, LLC. Mr. Gross would agree to produce the Mollenhour Gross, LLC Operating Agreement.

4. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molitor, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde, as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Requesting that he search for information about job interviews is harassing, unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

5. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Your and Jordan Mollenhour's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment"

(Webretailer) and “An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company” (The Silicon Review).

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Gross objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely “related to” the “decision” to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper “specific” or “general” personal jurisdiction analysis. The two “articles” referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

6. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. Mr. Gross has an equity interest in Mollenhour Gross, LLC, which is the parent of Red Stag Fulfillment, LLC and was the parent of LuckyGunner, LLC. Other entities that Mollenhour Gross, LLC owns are listed at www.mollenhourgross.com. Seeking information that goes beyond the scope of his lawsuit and the named defendants herein can only be seen as harassment and an attempt to seek discovery for improper purposes. Nor is this discovery proportional to any need in this case.

7. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC’s websites, from January 1, 2009 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The “construction and design” of LuckyGunner’s website over the course of 12 years is a grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

8. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

9. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA.

Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Mr. Gross does not personally market or sell products. Thus, the premise of this request is flawed. Rather, Mr. Gross is the member/owner of Mollenhour Gross, LLC, which was the parent company of LuckyGunner, LLC. But LuckyGunner's alleged "marketing and sale of products" is not a topic of discovery that is reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020); *see also Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
vs. § **GALVESTON COUNTY, TEXAS**
§
§

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§

Defendants. § **COURT NO. 3**

**JORDAN MOLLENHOUR'S OBJECTIONS AND RESPONSES TO PLAINTIFFS' FIRST
REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT
WAIVING HIS PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Clint E. McGuire, Martinez & McGuire PLLC, 17227 Mercury Drive, Suite B, Houston, Texas 77546.

COMES NOW, Defendant JORDAN MOLLENHOUR (“Mr. Mollenhour” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Jordan Mollenhour, subject to and without waiving his previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, Mr. Mollenhour filed a motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Mr. Mollenhour. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given

without prejudice to Mr. Mollenhour's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Mr. Mollenhour reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Mr. Mollenhour's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Mr. Mollenhour objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in his motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Mr. Gross serves these Objections and Responses subject to and without waiving his previously filed Special Appearance.

2. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Mr. Mollenhour objects to Plaintiffs' requests to the extent the burden or expense of

the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by him. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Mr. Mollenhour shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Mr. Mollenhour, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Mr. Mollenhour objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Mr. Mollenhour does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Mr. Mollenhour specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Mr. Mollenhour's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Mr. Mollenhour is responding to Plaintiffs' requests without waiving or intending to

waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Mr. Mollenhour has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Mr. Mollenhour to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Mr. Mollenhour reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Mr. Mollenhour's responses to Plaintiffs' Requests for Production.

III. OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS

1. Mr. Mollenhour objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Mr. Mollenhour's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Mr. Mollenhour further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure

and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Mr. Mollenhour to act beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Mr. Mollenhour objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority and have no reasonable connection to the Plaintiffs' claims. Finally, Mr. Mollenhour objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Mr. Mollenhour objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Mr. Mollenhour further objects to these definitions to the extent they purport to obligate him to locate and obtain information that is not readily and feasibly accessible or is not maintained

by him. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Mr. Mollenhour objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Mr. Mollenhour objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
JORDAN MOLLENHOUR**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Mollenhour is a member of Mollenhour Gross, LLC and that entity has agreed to produce its former subsidiary, LuckyGunner, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag Fulfillment, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Mollenhour is a member of Mollenhour Gross, LLC and that entity has agreed to produce its subsidiary, Red Stag Fulfillment, LLC's Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Mollenhour Gross LLC, and Dustin Gross (to the extent not produced in response to other requests herein), from January 1, 2009 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 1 and 2, *supra*. Mr. Mollenhour incorporates herein his objections and responses to those requests. Further responding, Mr. Mollenhour and co-defendant, Dustin Gross, are the member/owners of Mollenhour Gross, LLC, and they are not employees, contractors, vendors or consultants and no such agreements exist with respect to LuckyGunner, LLC and Red Stag Fulfillment, LLC. Mr. Mollenhour would agree to produce the Mollenhour Gross, LLC Operating Agreement.

4. Any contract or agreement, including but not limited to asset purchase agreements, relating to Your purchase, via 2A Group LLC, of an equity interest in LuckyGunner LLC.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The subject of this request is irrelevant to any pertinent issue in this case because 2A Group, LLC's purchase of LuckyGunner, LLC took place in September 2020, *i.e.*, after the 2018 events giving rise to Plaintiffs' claims and the filing of this lawsuit. Further, this request goes far beyond the scope of a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

5. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molliter, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde, as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Requesting that he search for information about job interviews is harassing, unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

6. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Your and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "related to" the "decision" to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper "specific" or "general" personal jurisdiction analysis. The two "articles" referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

7. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA.

Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. Mr. Mollenhour has an equity interest in Mollenhour Gross, LLC, which is the parent of Red Stag Fulfillment, LLC and was the parent of LuckyGunner, LLC. Other entities that Mollenhour Gross, LLC owns are listed at www.mollenhourgross.com. Seeking information that goes beyond the scope of his lawsuit and the named defendants herein can only be seen as harassment and an attempt to seek discovery for improper purposes. Nor is this discovery proportional to any need in this case.

8. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC's websites, from January 1, 2009 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The “construction and design” of LuckyGunner’s website over the course of 12 years is a grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

9. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds.

The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

10. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Mr. Mollenhour does not personally market or sell products. Thus, the premise of this request is flawed. Rather, Mr. Mollenhour is the member/owner of Mollenhour Gross, LLC, which was the parent company of LuckyGunner, LLC. But LuckyGunner’s alleged “marketing and sale of products” is not a topic of discovery that is reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020); *see also Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

EXHIBIT B

Exhibit B1

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. § **GALVESTON COUNTY, TEXAS**

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS**

Defendants. § COURT NO. 3

DUSTIN GROSS'S OBJECTIONS AND RESPONSES TO PLAINTIFFS, WILLIAM BEAZLEY, AND SHIRLEY BEAZLEY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT WAIVING HIS PREVIOUSLY FILED SPECIAL APPEARANCE

TO: Plaintiffs, by and through their attorney, Darrell A. Apffel, Apffel Legal, PLLC, 104 Moody Ave #101, Galveston, Texas 77550.

COMES NOW, Defendant DUSTIN GROSS (“Mr. Gross” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Dustin Gross, subject to and without waiving his previously filed Special Appearance as follows:

I. **PRELIMINARY STATEMENT**

On February 8, 2021, Mr. Gross filed a motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Mr. Gross. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to

Mr. Gross's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Mr. Gross reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Mr. Gross's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Mr. Gross objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in his motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Mr. Gross serves these Objections and Responses subject to and without waiving his previously filed Special Appearance.

2. Mr. Gross objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Mr. Gross objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the

importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. Mr. Gross objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Mr. Gross objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by him. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Mr. Gross shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Mr. Gross, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Mr. Gross objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Mr. Gross does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Mr. Gross specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Mr. Gross's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Mr. Gross is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such

documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Mr. Gross has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Mr. Gross to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Mr. Gross reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Mr. Gross's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Mr. Gross objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Mr. Gross's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Mr. Gross further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Mr. Gross to act

beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Mr. Gross objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority and have no reasonable connection to the Plaintiffs' claims. Finally, Mr. Gross objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Mr. Gross objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Mr. Gross further objects to these definitions to the extent they purport to obligate him to locate and obtain information that is not readily and feasibly accessible or is not maintained by him. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into

account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Mr. Gross objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Mr. Gross objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. "Andy" Landry III

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**ATTORNEYS FOR DEFENDANT
DUSTIN GROSS**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUESTS FOR PRODUCTION

1. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Gross is a member of Mollenhour Gross, LLC and that entity has agreed to produce its former subsidiary, LuckyGunner, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag Fulfillment, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal

jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Gross is a member of Mollenhour Gross, LLC and that entity has agreed to produce its subsidiary, Red Stag Fulfillment, LLC's Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Mollenhour Gross LLC, and Jordan Mollenhour (to the extent not produced in response to other requests herein), from January 1, 2009 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 1 and 2, *supra*. Mr. Gross incorporates herein his objections and responses to those requests. Further responding, Mr. Gross and co-defendant, Jordan Mollenhour, are the member/owners of Mollenhour Gross, LLC, and they are not employees, contractors, vendors or consultants and no such agreements exist with respect to LuckyGunner, LLC and Red Stag Fulfillment, LLC. Mr. Gross would agree to produce the Mollenhour Gross, LLC Operating Agreement.

4. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molitor, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde, as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Requesting that he search for information about job interviews is harassing, unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

5. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Your and Jordan Mollenhour's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment"

(Webretailer) and “An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company” (The Silicon Review).

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Gross objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely “related to” the “decision” to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper “specific” or “general” personal jurisdiction analysis. The two “articles” referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

6. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. Mr. Gross has an equity interest in Mollenhour Gross, LLC, which is the parent of Red Stag Fulfillment, LLC and was the parent of LuckyGunner, LLC. Other entities that Mollenhour Gross, LLC owns are listed at www.mollenhourgross.com. Seeking information that goes beyond the scope of his lawsuit and the named defendants herein can only be seen as harassment and an attempt to seek discovery for improper purposes. Nor is this discovery proportional to any need in this case.

7. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC’s websites, from January 1, 2009 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The "construction and design" of LuckyGunner's website over the course of 12 years is a grossly overbroad starting point and not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

8. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The terms "decisions or discussions" are vague and overbroad. Neither federal law nor Texas law requires "proof of age", "identity" or "signature" for ammunition sales and delivery, including internet sales. Searching for and producing "all" material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

9. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA.

Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Mr. Gross does not personally market or sell products. Thus, the premise of this request is flawed. Rather, Mr. Gross is the member/owner of Mollenhour Gross, LLC, which was the parent company of LuckyGunner, LLC. But LuckyGunner's alleged "marketing and sale of products" is not a topic of discovery that is reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020); *see also Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Exhibit B2

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. § GALVESTON COUNTY, TEXAS
§

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS**

Defendants. § COURT NO. 3

**JORDAN MOLLENHOUR'S OBJECTIONS AND RESPONSES TO PLAINTIFFS,
WILLIAM BEAZLEY, AND SHIRLEY BEAZLEY'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT WAIVING HIS
PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorney, Darrell A. Apffel, Apffel Legal, PLLC, 104 Moody Ave #101, Galveston, Texas 77550.

COMES NOW, Defendant JORDAN MOLLENHOUR (“Mr. Mollenhour” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Jordan Mollenhour, subject to and without waiving his previously filed Special Appearance as follows:

I. **PRELIMINARY STATEMENT**

On February 8, 2021, Mr. Mollenhour filed a motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Mr. Mollenhour. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes

in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to Mr. Mollenhour's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Mr. Mollenhour reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Mr. Mollenhour's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Mr. Mollenhour objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in his motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Mr. Gross serves these Objections and Responses subject to and without waiving his previously filed Special Appearance.

2. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Mr. Mollenhour objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by him. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Mr. Mollenhour shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Mr. Mollenhour, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Mr. Mollenhour objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Mr. Mollenhour does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Mr. Mollenhour specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Mr. Mollenhour's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Mr. Mollenhour is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Mr. Mollenhour has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Mr. Mollenhour to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Mr. Mollenhour reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Mr. Mollenhour's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Mr. Mollenhour objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Mr. Mollenhour's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Mr. Mollenhour further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able

to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Mr. Mollenhour to act beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Mr. Mollenhour objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority and have no reasonable connection to the Plaintiffs' claims. Finally, Mr. Mollenhour objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Mr. Mollenhour objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Mr. Mollenhour further objects to these definitions to the extent they purport to obligate

him to locate and obtain information that is not readily and feasibly accessible or is not maintained by him. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Mr. Mollenhour objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Mr. Mollenhour objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. "Andy" Landry III

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(312) 321-9100 (Telephone)
(312) 321-0990 (Telefax)

**ATTORNEYS FOR DEFENDANT
JORDAN MOLLENHOUR**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Mollenhour is a member of Mollenhour Gross, LLC and that entity has agreed to produce its former subsidiary, LuckyGunner, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag Fulfillment, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Mollenhour is a member of Mollenhour Gross, LLC and that entity has agreed to produce its subsidiary, Red Stag Fulfillment, LLC's Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Mollenhour Gross LLC, and Dustin Gross (to the extent not produced in response to other requests herein), from January 1, 2009 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 1 and 2, *supra*. Mr. Mollenhour incorporates herein his objections and responses to those requests. Further responding, Mr. Mollenhour and co-defendant, Dustin Gross, are the member/owners of Mollenhour Gross, LLC, and they are not employees, contractors, vendors or consultants and no such agreements exist with respect to LuckyGunner, LLC and Red Stag Fulfillment, LLC. Mr. Mollenhour would agree to produce the Mollenhour Gross, LLC Operating Agreement.

4. Any contract or agreement, including but not limited to asset purchase agreements, relating to Your purchase, via 2A Group LLC, of an equity interest in LuckyGunner LLC.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The subject of this request is irrelevant to any pertinent issue in this case because 2A Group, LLC's purchase of LuckyGunner, LLC took place in September 2020, *i.e.*, after the 2018 events giving rise to Plaintiffs' claims and the filing of this lawsuit. Further, this request goes far beyond the scope of a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

5. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molliter, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde, as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Requesting that he search for information about job interviews is harassing, unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

6. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Your and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "related to" the "decision" to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper "specific" or "general" personal jurisdiction analysis. The two "articles" referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

7. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA.

Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. Mr. Mollenhour has an equity interest in Mollenhour Gross, LLC, which is the parent of Red Stag Fulfillment, LLC and was the parent of LuckyGunner, LLC. Other entities that Mollenhour Gross, LLC owns are listed at www.mollenhourgross.com. Seeking information that goes beyond the scope of his lawsuit and the named defendants herein can only be seen as harassment and an attempt to seek discovery for improper purposes. Nor is this discovery proportional to any need in this case.

8. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC's websites, from January 1, 2009 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The “construction and design” of LuckyGunner’s website over the course of 12 years is a grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

9. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds.

The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

10. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Mr. Mollenhour does not personally market or sell products. Thus, the premise of this request is flawed. Rather, Mr. Mollenhour is the member/owner of Mollenhour Gross, LLC, which was the parent company of LuckyGunner, LLC. But LuckyGunner’s alleged “marketing and sale of products” is not a topic of discovery that is reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020); *see also Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Exhibit B3

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
vs. §
§
§
**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§

Defendants. § **COURT NO. 3**

LUCKYGUNNER, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFFS, WILLIAM BEAZLEY, AND SHIRLEY BEAZLEY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS

TO: Plaintiffs, by and through their attorney, Darrell A. Apffel, Apffel Legal, PLLC, 104 Moody Ave #101, Galveston, Texas 77550.

COMES NOW, Defendant LUCKYGUNNER, LLC (“LuckyGunner” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant LuckyGunner, LLC as follows:

I. PRELIMINARY STATEMENT

On February 8, 2021, LuckyGunner filed a motion for protective order and to stay discovery pending resolution of its threshold dispositive defenses that have been asserted pursuant to Tex. R. Civ. P. 91a. The objections and responses herein are provided in the event that discovery is permitted and made in good faith based only upon information and documentation that is presently available to, and specifically known to, LuckyGunner. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to LuckyGunner’s right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are

ascertained. LuckyGunner reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to LuckyGunner's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. GENERAL OBJECTIONS

1. LuckyGunner objects to Plaintiffs' requests for discovery at this stage, as fully outlined in LuckyGunner's motion for protective order and to stay discovery pending final resolution of its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a.

2. LuckyGunner objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the subject matter involved in this action, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. LuckyGunner objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, Plaintiffs' requests are not proportional to any need in the case.

4. LuckyGunner objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. LuckyGunner objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by LuckyGunner. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. LuckyGunner shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of LuckyGunner, as that terminology is defined by the Texas Rules of Civil Procedure and corresponding case law.

6. LuckyGunner objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. LuckyGunner does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, LuckyGunner specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such disclosure waive LuckyGunner's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. LuckyGunner is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this

action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which LuckyGunner has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for LuckyGunner to anticipate all possible grounds for objection with respect to the particular requests set forth herein. LuckyGunner reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the LuckyGunner's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. LuckyGunner objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond LuckyGunner's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. LuckyGunner further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request LuckyGunner to act

beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. LuckyGunner objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from LuckyGunner and have no reasonable connection to the Plaintiffs' claims. Finally, LuckyGunner objects to the extent that use of these terms seeks to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. LuckyGunner objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and beyond the reasonable scope of discovery contemplated by Rule 192.3. LuckyGunner further objects to these definitions to the extent they purport to obligate LuckyGunner to locate and obtain information that is not readily and feasibly accessible or is not maintained by LuckyGunner. The myriad forms data (both electronic and hard versions) requested under these definitions fails the proportionality test. The burden and expense of

the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, LuckyGunner objects to the extent that use of these terms seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. LuckyGunner objects to the definition in Paragraph 8 of "Your Websites" on the grounds that request utilizing this definition would be overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. Plaintiffs' definition reduces any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery, *see* Rule 192.3. Plaintiffs' claims regarding LuckyGunner's website involve transactions that purportedly occurred on www.luckygunner.com and no other websites. Nor is Plaintiffs' attempt to expand the scope reasonable and proportional to any need in this case. LuckyGunner further objects to this definition to the extent it purports to obligate LuckyGunner to locate and obtain information that is not readily and feasibly accessible or is not maintained by LuckyGunner.

6. LuckyGunner objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

7. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
LUCKYGUNNER, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on February 8, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All Documents or Communications relating to purchases made by Dimitrios Pagourtzis, including, but not limited to: database records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant Red Stag, LLC) concerning or related to the Purchases.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the Protection of Lawful Commerce in Arms Act (“PLCAA”). Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to the scope of this request and to the extent it is overbroad and calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, and without admitting that LuckyGunner sold the ammunition at issue in this lawsuit, LuckyGunner would agree to provide its records and emails regarding sales of ammunition to customers named Dimitrios Pagourtzis. Because this material may constitute or contain proprietary and/or confidential information, it would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All Documents or Communications produced to any law enforcement agencies investigating the Incident or Dimitrios Pagourtzis.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate at this stage, LuckyGunner would agree to provide the requested documents.

3. All Communications that You have had with the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives, from January 1, 2018 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request because requesting “All” communications with BATFE, regardless of subject matter, is grossly overbroad and not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Nor is this request proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner has not had contact with the BATFE regarding Pagourtzis’s crimes perpetrated at Santa Fe High School.

4. All Documents or Communications (including but not limited to e-mails, SMS or text messages, instant messages, voice recordings, and other correspondence) sent or received by you, from July 1, 2012 to present, concerning:
 - a. Mass shootings or school shootings;
 - b. The shooting that occurred on July 20, 2012, at the Century 16 movie theatre in Aurora, Colorado;
 - c. The shooting that occurred on February 14, 2018, at Margery Stoneman Douglas High School in Parkland, Florida; and
 - d. Any potential or possible changes in business practices in response to mass shootings or school shootings, including the Aurora shooting and the shooting at Margery Stoneman Douglas High School (regardless of whether those changes were ultimately adopted or not).

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, requesting LuckyGunner search for and produce “e-mails, SMS or text messages, instant messages, voice recordings, and other correspondence” about unrelated crimes that occurred over the course of a 9 year time-period is grossly overbroad in scope, harassing, and disproportional to any need in the case. None of these other crimes concern the events giving rise to Plaintiffs’ claims based on Pagourtzis’ criminal acts perpetrated on May 18, 2018 in Texas.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the specific issues in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material that constitutes attorney work product, attorney-client or other privileged material. For example, the criminal shooting identified in section b. resulted in a lawsuit wherein

LuckyGunner was a party. While the case was dismissed based on the pleadings, *Phillips v. Lucky Gunner, LLC*, 84 F. Supp. 3d 1216, 1220 (D. Colo. 2015), no reasonable scope of discovery in the present case should seek to invade and obtain privileged material generated as a result of that litigation.

One final note: to the extent this request suggests that LuckyGunner had any connection to the February 14, 2018 criminal shooting at Margery Stoneman Douglas High School in Parkland, Florida, that suggestion is vehemently denied.

5. All Documents or Communications referring to the risks of selling ammunition and related products to juveniles (those under the age of 18) or minors (those under the age of 21), from January 1, 2010 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “risks” is vague and overbroad. Requesting all material about “risks” is not a reasonable starting point, nor is it tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Searching for and producing “all” material that merely refers to juveniles or minors over the course of an 11 year time-period is also an unreasonable starting point.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the specific issues in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

6. All Documents or Communications describing, relating to, or referring to decisions and/or discussions about whether to require signature, proof of age, or proof of identity upon delivery of packages sent from You to consumers, from January 1, 2010 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery

is inappropriate at this stage of the case.

Were merits discovery appropriate at this stage, LuckyGunner objects to this request on several grounds.

First, the terms “decisions and/or discussions” are vague and overbroad.

Second, this request is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal law nor Texas law requires proof of age, identity, or signature for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point.

Third, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the specific issues in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

7. All Documents and Communications containing, describing, or summarizing Your policies relating to verification or confirmation of the age of Purchasers of ammunition and/or the minimum age of consumers to whom You will sell ammunition, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, this request is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal law nor Texas law requires “verification or confirmation of the age” of purchasers of ammunition, including internet sales.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to

LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

8. All Documents and Communications containing, describing, or summarizing Your policies relating to your verification or confirmation of the identity of consumers who purchase ammunition through Your Websites, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, this request is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal law nor Texas law requires “verification or confirmation of the identity” of purchasers of ammunition, including internet sales.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in

resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

9. All Documents and Communications containing, describing, or summarizing Your policies relating to accepted methods of payment for transactions conducted via Your Websites, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate at this stage, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, requesting “all” materials that merely contain, describe or summarize “accepted methods of payment” is not reasonably tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, a description of LuckyGunner’s accepted forms of payments can be found at <https://www.luckygunner.com/faq-payment-options>.

10. All Documents and Communications containing, describing, or summarizing Your policies relating to compliance with federal and/or state firearms laws from January 1, 2016, to

present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the premise of this request is irrelevant to the central issues in this case, which involve ammunition sales and ammunition sales laws—not “federal and/or state firearms laws”.

Second, Plaintiffs’ petition alleges LuckyGunner violated and/or aided and abetted the violation of two specific subsections of 18 U.S.C. §§ 922. Requesting information about LuckyGunner’s compliance with other laws is not reasonably tailored to issues in the case and is nothing more than a fishing expedition.

Third, requesting “all” materials that merely contain, describe, or summarize “policies relating to compliance with federal and/or state firearms laws” over the course of a 5 year period goes far beyond the reasonable scope of discovery in this case involving the sale of ammunition in Texas in March 2018. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

11. All Documents and Communications containing, describing, or summarizing Your policies relating to the prevention of illegal sales of ammunition and/or the prevention of trafficking of ammunition, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several

grounds.

First, the term “policies” is vague and overbroad.

Second, the “prevention of trafficking of ammunition” is irrelevant to any pertinent issue in the case.

Third, requesting “all” materials that merely contain, describe, or summarize “policies” about the “prevention of illegal sales” over the course of a 5 year period goes far beyond the reasonable scope of discovery in this case involving the sale of ammunition in Texas in March 2018. Neither federal nor Texas law require background checks or inquiry by retail sellers into the qualifications or motives of prospective purchasers.

Fourth, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fifth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case. As such, this request is not proportional to any need in this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

Subject to and without waiving these objections, LuckyGunner would agree to produce the procedures its customer experience team uses to analyze potentially fraudulent activity. Because this material may constitute or contain proprietary and/or confidential information, it would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

12. All Documents and Communications containing, describing, or summarizing Your policies relating reporting illegal or suspected unlawful activities to law enforcement agencies, from January 1, 2016, to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “policies” is vague and overbroad.

Second, requesting “all” martials that merely contain, describe, or summarize “policies” about the “reporting of illegal or suspected unlawful activities” to law enforcement over the course of a 5 year time-period goes far beyond the reasonable scope of discovery in this case involving the sale of ammunition in Texas in March 2018. Neither federal nor Texas law impose such requirements as part of the process for selling ammunition. Indeed, LuckyGunner does not have a set procedure for contacting law enforcement.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

13. All Documents or Communications discussing, referring to, or relating to the design, construction, or creation of the following mechanisms, features or aspects of Your Websites, from January 1, 2016 to present:
 - a. Any measures used to learn or verify the age of online Purchasers;
 - b. Any measures used to determine whether the Purchaser has read and agreed with Your terms and conditions of sale;
 - c. Your promise or guarantee to consumers that You will pay them \$100 if an order placed before 3 pm on a business day is not shipped the same day;
 - d. Any measures used to learn or verify the identity of online Purchasers;
 - e. Any mechanisms You use to prevent the sale of ammunition to those who are prohibited from purchasing ammunition; and
 - f. Any other mechanism, feature, or aspect of Your website that identifies potentially suspicious, illegal, or fraudulent purchasers.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “discussing, referring to, or relating to” is so broad and amorphous that it is not reasonable to search for and produce responsive material.

Second, the categories of material sought are not tailored to issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal nor Texas law impose such requirements – e.g., “age verification,” agreement to terms and conditions, identity verification, or the forms of background check measures contemplated by this request – on retail sellers of ammunition, including online sellers.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is overbroad in scope and disproportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

14. All Documents or Communications containing discussion, evaluation, or research concerning the following topics, from January 1, 2010 to present:
 - a. What forms of payment You will accept for online purchase of ammunition;
 - b. Risks associated with accepting Prepaid Cards for online purchase of ammunition; and
 - c. Whether to accept Prepaid Cards for online purchase of ammunition.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “discussion, evaluation, or research concerning” is so broad and amorphous that it is not reasonable to search for and produce responsive material. The

11 year time-period referenced in this request only compounds its unreasonableness.

Second, the categories of material sought are not tailored to the pertinent issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Neither federal nor Texas law prohibit prepaid gift cards from being used to make online purchases. In any event, LuckyGunner only accepts credit cards and this information is readily available on its website: <https://www.luckygunner.com/faq-payment-options>.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

15. All Documents and Communications discussing or referring to use of .38 special ammunition in handguns and long guns.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the type of information Plaintiffs seek regarding .38 special ammunition is available on LuckyGunner's website: www.luckygunner.com. The burden of culling through the information on LuckyGunner's website is the same for the Plaintiffs as it is for LuckyGunner.

Second, requesting a search for and the production of all material that merely references .38 special ammunition (an extremely common and popular caliber of ammunition) is unreasonably overbroad in scope and unduly burdensome.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

16. All communications with Magtech Ammunition Inc., Magtech Ammunition USA, CBC Global Ammunition, or their related entities, concerning the marketing of their products and descriptions of their products.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery

is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, this request is not reasonably tailored to the type of “.38 Special Magtech 158 grain, semi-jacketed hollow-point ammunition” that LuckyGunner allegedly sold to Pagourtzis in March 2018. Information about this product is available at Magtech’s website, www.magtechammunition.com, and LuckyGunner’s website, <https://www.luckygunner.com/magtech-38-spl-ammo-for-sale-38special158sjhpmt-50>.

Second, requesting a search for and production of any material that concerns the marketing of all Magtech “products and descriptions of their products” is unreasonable, overbroad in scope, unduly burdensome, and disproportional to the specific issues in this case. Even if this request were narrowed to only .38 Special cartridges, the “marketing” of that product is not pertinent to any issue in this case involving an alleged violation of 18 U.S.C. § 922(x).

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues.

17. All Documents and Communications containing, describing, or summarizing trainings, seminars, or guidance that You provided to Your employees, contractors, associates, and/or vendors, from January 1, 2016, to present, on the following topics:
 - a. Compliance with federal firearms laws;
 - b. Compliance with state firearms laws;
 - c. Identifying red flags or warning signs of illegal purchases;
 - d. Identifying red flags or warning signs of trafficking of ammunition;
 - e. Reporting suspicious or illegal behavior to law enforcement agencies; and
 - f. Other risks faced by Your company.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “containing, describing, or summarizing” is so broad that it is not reasonable to search for and produce responsive material.

Second, the categories of material sought are not tailored to the specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Simply put, “compliance with federal firearms”

and “state firearms” laws is not at issue—rather, ammunition sales, and, specifically, compliance with 18 U.S.C. § 922(x) is at issue. Further, “trafficking of ammunition” is not at issue. Neither federal nor Texas law require background checks for online ammunition sales or the reporting of suspicious activity to law enforcement.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Fourth, the phrase “other risks faced by” LuckyGunner is absurdly vague and not a reasonable starting point to request material.

Fifth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

Subject to and without waiving these objections, LuckyGunner would agree to produce the procedures its customer experience team uses to assess potentially fraudulent activity. Because this material may constitute or contain proprietary and/or confidential information, it would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

18. All Documents reflecting instances where an employee, contractor, or other representative or agent of LuckyGunner, was reprimanded or disciplined for failing to comply with policies or regulations pertaining to trafficking of ammunition, and/or for failing to comply with state and local firearms laws, between January 1, 2013 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the categories of material sought are not tailored to the specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in

Texas via its website in March 2018. Simply put, “trafficking of ammunition,” and compliance with “state and local firearms laws” are not at issue. Rather, ammunition sales, and specifically, compliance with 18 U.S.C. § 922(x) is at issue.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As such, this request is not proportional to the needs of this case.

Third, this request is overly broad because the more than eight-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records relating to LuckyGunner’s “policies” for the entire eight year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

Subject to and without waiving these objections, LuckyGunner is not aware of any such instances of discipline for lack of compliance with applicable law.

19. Your employee handbook and all personnel policies that were in effect in March 2018.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were merits discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “personnel policies” is vague and overbroad.

Second, this request is not tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Indeed, Plaintiffs allege in their petition that LuckyGunner’s interaction with Pagourtzis was 100% automated. In other words, there was no interaction between an “employee” and Pagourtzis. Therefore, matters related to LuckyGunner’s relationship with its employees are simply irrelevant to the Plaintiffs and not reasonably calculated to lead to the discovery of admissible evidence.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the

issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner does not have an employee handbook.

20. All organizational charts and lists of owners, managers, or directors, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Subject to and without waiving these objections, LuckyGunner does not maintain “charts” or “lists” of its owners or managers. LuckyGunner does not have a board of directors. In any event, the issue of LuckyGunner’s ownership is not in dispute. Mollenhour Gross, LLC was the sole member of LuckyGunner, LLC at the time of the events in question.

21. All documents relating to transactions between You and Red Stag Fulfillment LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of Red Stag Fulfillment LLC, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term “transactions” is vague and overbroad. Red Stag fulfills countless orders for LuckyGunner every single day, each of which could be considered a “transaction.” Thus, read literally, this request essentially asks for the production of every piece of data generated between LuckyGunner and Red Stag over a five year period.

Second, this request is not tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Requesting the production of all documents between LuckyGunner and Red Stag – even those pertaining to completely unrelated topics – is absurdly overbroad and nothing more than a fishing expedition.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Finally, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner would agree to produce the records available on Red Stag's application programming interface pertaining to two orders placed by a customer named Dimitrios Pagourtzis in March 2018. LuckyGunner would also agree to produce the services contract with Red Stag in effect in March 2018. Because this material may constitute or contain proprietary and/or confidential information, this material would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

22. All documents relating to transactions between You and MollenhourGross LLC (and/or its members, Jordan Mollenhour and Dustin Gross), including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of MollenhourGross LLC (including its members, Jordan Mollenhour and Dustin Gross), from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the term "transactions" is vague and overbroad.

Second, this request is not tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Third, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain

ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs' claims or the Defendants' defenses are true.

Fourth, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As such, this request is overbroad in scope, unduly burdensome, and disproportional to the specific issues in this case.

Subject to and without waiving these objections, LuckyGunner would agree to produce its annual meeting minutes for the requested time period and its operating agreement in effect in March 2018. Because this material may constitute or contain proprietary and/or confidential information, this material would be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

23. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and Red Stag Fulfillment LLC, MollenhourGross LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein).

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request as being overly broad because the request is not limited in time and thus is not sufficiently tailored to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Subject to and without waiving these objections, LuckyGunner would agree to produce the service contract with Red Stag in effect in March 2018. LuckyGunner does not have any employment, contractor, vendor or consultant agreements with Mollenhour Gross, LLC, Jordan Mollenhour, or Dustin Gross. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

24. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2016 to present.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, the phrase “any other organizing documents” is vague, overbroad in scope, unduly burdensome, and not proportional to any pertinent need in the case.

Second, this request is not sufficiently limited in time to the specific issues in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Finally, this request is overly broad because the more than five-year time period in the request is not sufficiently tailored. The Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018. Records for the entire five year period surrounding the sales in question are simply irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. This is particularly true as it relates to documents generated *after* the incidents in question. Those documents have absolutely no bearing on whether the Plaintiffs’ claims or the Defendants’ defenses are true.

Subject to and without waiving these objections, LuckyGunner would agree to produce its operating agreement in effect in March 2018.

25. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2016, to June 1, 2018, as well as the individuals’ job titles and responsibilities.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case. Nor is discovery appropriate for any other purpose in this litigation, including with respect to the personal jurisdiction objections lodged by co-defendants.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, searching for and producing materials to “identify all employees and contractors who worked for” LuckyGunner over the course of more than two years is unreasonable in scope and not tailored to any specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Second, the type of information sought in this request is not well-suited for or efficiently addressed in response to a request for production of documents.

Third, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, LuckyGunner would agree to answer an interrogatory identifying the individuals who oversaw sales of the type of ammunition allegedly sold to Pagourtzis in March 2018.

26. All Documents or Communications relating to the incidents described in plaintiffs' and plaintiffs-intervenors' Third Amended Petition (to the extent not produced in response to other requests herein).

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, requesting production of material "relating to the incidents described" in Plaintiffs' petition is vague and so broad that it is not feasible to respond. Plaintiffs' petition includes hundreds of paragraphs. To the extent this request is focused on the two sales of ammunition that were allegedly made to a customer named Dimitrios Pagourtzis in March 2018, LuckyGunner has already agreed to produce its records of those sales. To the extent this request seeks something else, this request is unreasonable in scope and not tailored to any specific issue in this case, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Second, the burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Finally, this request is objectionable to the extent it calls for disclosure of material protected by the attorney work product, attorney-client or any other applicable privilege.

27. All Documents that support or relate to Your claims or defenses.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains

pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, Plaintiffs' request for information about “[a]ll” documents that “support or relate” to LuckyGunner’s “claims or defenses” is grossly overbroad and would require it to prematurely marshal its evidence long before such disclosures are due.

Second, LuckyGunner does not have any “claims” in the case at this early juncture.

Finally, this request is objectionable to the extent it calls for the disclosure of material protected by privilege, to be used for impeachment, or that is otherwise not discoverable under Texas law.

Subject to and without waiving these objections, LuckyGunner will disclose evidence to support its defenses in accordance with any Docket Control Order entered by the Court and the Texas Rules of Civil Procedure.

28. All insurance policies that may cover the incidents described in plaintiffs' and plaintiffs-intervenors' Third Amended Petition.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Subject to and without waiving these objections, LuckyGunner is not covered by insurance for this matter.

29. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant LuckyGunner, LLC.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Subject to and without waiving these objections, LuckyGunner would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

30. All recordings, writings, transcriptions of, or other Documents or Communications concerning any statements taken from any witnesses relating to the incidents described in plaintiffs' and plaintiffs-intervenors' Third Amended Petition.

RESPONSE:

LuckyGunner objects to this request because a Rule 91a motion to dismiss remains pending and includes the immunity defense afforded by the PLCAA. Merits discovery is inappropriate at this stage of the case.

Were discovery appropriate, LuckyGunner objects to this request on several grounds.

First, requesting production of material “relating to the incidents described” in Plaintiffs’ petition is vague and so broad that it is not feasible to respond. Plaintiffs’ petition includes hundreds of paragraphs.

Second, this request is unreasonable in scope and not tailored to any specific claim in this lawsuit, wherein the Plaintiffs allege LuckyGunner sold certain ammunition to Pagourtzis in Texas via its website in March 2018.

Subject to and without waiving these objections, LuckyGunner does not possess any witness statements at this time (aside from the declarations/affidavits filed by co-defendants that have objected to personal jurisdiction). Attorney-client communications are not statements and, in any event, would be patently privileged under Texas law. *See, e.g.*, Tex. R. Civ. P. 193.3(c).

31. All Documents, including curriculum vitae and resumes, relating to the qualifications or educational background of any expert witness you intend to call at trial.

RESPONSE:

LuckyGunner objects to this request as premature because it seeks information about LuckyGunner’s experts who have not yet been disclosed and are not yet required to be disclosed. This request is also objectionable to the extent it seeks material beyond the scope of permissible discovery of expert witnesses as governed by the Texas Rules of Civil Procedure. Subject to and without waiving these objections, LuckyGunner will disclose its experts and any required information about those experts in accordance with any Docket Control Order entered by the Court and the Texas Rules of Civil Procedure.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
vs. §
§
**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§

Defendants. § **COURT NO. 3**

MOLLENHOUR GROSS, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFFS, WILLIAM BEAZLEY, AND SHIRLEY BEAZLEY'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT WAIVING ITS PREVIOUSLY FILED SPECIAL APPEARANCE

TO: Plaintiffs, by and through their attorney, Darrell A. Apffel, Apffel Legal, PLLC, 104 Moody Ave #101, Galveston, Texas 77550.

COMES NOW, Defendant MOLLENHOUR GROSS, LLC (“MG” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Mollenhour Gross LLC, subject to and without waiving its previously filed Special Appearance and Motion to Stay Discovery as follows:

I. PRELIMINARY STATEMENT

On February 8, 2021, MG filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, MG. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information

herein set forth. As a result, the following responses are given without prejudice to MG's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. MG reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to MG's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. MG objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in MG's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. MG serves these Objections and Responses subject to and without waiving its previously filed Special Appearance.

2. MG objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. MG objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in

controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. MG objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. MG objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by MG. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. MG shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of MG, as that terminology is defined by the Texas Rules of Civil Procedure.

6. MG objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. MG does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, MG specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive MG's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. MG is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such

documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which MG has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for MG to anticipate all possible grounds for objection with respect to the particular requests set forth herein. MG reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the MG's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. MG objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond MG's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. MG further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request MG to act beyond what is reasonable and required by the applicable law in the preservation and production of such

electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. MG objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from MG and have no reasonable connection to the Plaintiffs' claims. Finally, MG objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. MG objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. MG further objects to these definitions to the extent they purport to obligate MG to locate and obtain information that is not readily and feasibly accessible or is not maintained by MG. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, MG objects to the extent that use of these

terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. MG objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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ATTORNEYS FOR DEFENDANT

MOLLENHOUR GROSS, LLC

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All Documents or Communications relating to purchases made on LuckyGunner.com by Dimitrios Pagourtzis, including, but not limited to: database records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant LuckyGunner, LLC) concerning or related to the purchases.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. MG did not sell ammunition to Pagourtzis. Rather its former subsidiary, LuckyGunner, LLC, is alleged to have sold ammunition to Pagourtzis. MG objects to the premise and scope of this request as irrelevant because the acts of a subsidiary in the forum state do not subject the parent company to “specific” personal jurisdiction. See, e.g., *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). As a result, this request is not proportional to the needs of the case.

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, none.

2. Documents sufficient to identify Your members, officers, directors, and executive level staff, from January 1, 2009 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. The phrase “executive-level staff” is vague and overbroad. Nor is this request reasonably tailored to a proper personal jurisdiction analysis. The information sought is better suited for an interrogatory. Indeed, this request seeks information duplicative of information

disclosed in MG's responses to Plaintiffs' interrogatories. MG's members are Jordan Mollenhour and Dustin Gross. MG does not have a board of directors.

Subject to and without waiving these objections, MG would agree to produce its Operating Agreement in effect as of March 2018. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012, and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC over the course of multiple years is harassing, unduly burdensome and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG would agree to produce its former subsidiary, LuckyGunner, LLC's Operating Agreement and annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

4. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag over the course of multiple years is harassing, unduly burdensome and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG would agree to produce its subsidiary, Red Stag Fulfillment, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

5. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein), from January 1, 2009 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 3 and 4, *supra*. MG incorporates herein its objections and responses to those requests. Further responding, Mr. Mollenhour and Mr. Gross are the member/owners of MG, and they are not employees, contractors, vendors or consultants.

6. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2009 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request as simply irrelevant to and beyond the reasonable scope of any pertinent issue in the case.

Subject to and without waiving these objections, MG is a limited liability company and therefore does not have by-laws. MG would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

7. Any contract or agreement, including but not limited to asset purchase agreements, relating to Your sale or divestment of Your equity interest or other ownership of LuckyGunner LLC.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The subject of this request is irrelevant to any pertinent issue in this case because MG's divestment of its ownership of LuckyGunner, LLC took place in September 2020, *i.e.*, after the 2018 events giving rise to Plaintiffs' claims and the filing of this lawsuit. Further, this request is beyond the scope of a proper personal jurisdiction analysis.

8. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2009 to January 1, 2014 and from January 1, 2016, to June 1, 2018, as well as the individuals' job titles and responsibilities.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Requesting identities of "all employees and contractors who worked" for MG over the course of several years is unreasonable not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. Nor is searching for and producing documents about employment information, job titles and responsibilities feasible or best suited to disclose pertinent employment information about any particular work done at MG. Rather, an interrogatory focused on particular issues and job responsibilities would be substantially less burdensome and more convenient. As currently structured, however, the information sought in this request is not proportional to any need in this case.

9. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molliter, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde,

as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Requesting that MG search for information about job interviews is unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014).

10. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Jordan Mollenhour's and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "relate to" the "decision" to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper "specific" or "general" personal jurisdiction analysis. The two "articles" referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

11. Your financial statements for FY2018 and FY2019, including Your balance sheet, income statement, statement of cash flow, and annual report (or similar statements).

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general financial information sought in this request is harassing and not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

12. All press releases issued by You, from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Press releases are publically available and thus Plaintiffs already have access to this information. Nor is this request reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

13. Documents sufficient to show each debt instrument under which You are obligated.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in

Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general financial information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, none.

14. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Furthermore, this request is objectionable because entities which MG owns and which themselves sell products or services to third-parties are listed on MG’s website: www.mollenhourgross.com.

15. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC’s websites, from January 1, 2010 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The “construction and design” of LuckyGunner’s website over the course of 11 years is a

grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG does not design websites for its subsidiaries.

16. All Documents and Communications relating to decisions or discussions about whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

17. All Documents and Communications containing, describing, or summarizing Your policies relating to ensuring that age-restricted products sold by your subsidiaries, such as ammunition or alcohol, are not shipped to under-age consumers.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. This request seeks information that is duplicative of information sought in request No. 16, *supra*. MG incorporates herein its objections and responses to those requests. Nor does MG set the general policies of its subsidiaries and did not do so with respect to the subject matter of this request. Further responding, LuckyGunner was the only subsidiary of MG that sold products to third-parties where certain age-restrictions could apply and, as discussed above, the acts of a subsidiary in the forum state do not subject the parent company to "specific" personal jurisdiction. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020).

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

18. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. MG does not market or sell products. Thus, the premise of this request is flawed. MG was the member/owner of LuckyGunner, LLC. Nor is LuckyGunner's alleged "marketing and sale of products" a topic of discovery that is reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

19. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant Mollenhour Gross LLC.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Subject to and without waiving these objections, MG would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

Exhibit B5

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § COUNTY COURT AT LAW

Plaintiffs, §
vs. §
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§
GALVESTON COUNTY, TEXAS

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
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Defendants. § COURT NO. 3

**RED STAG FULFILLMENT, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFFS,
WILLIAM BEAZLEY, AND SHIRLEY BEAZLEY'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS SUBJECT TO AND WITHOUT WAIVING ITS
PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorney, Darrell A. Apffel, Apffel Legal, PLLC, 104 Moody Ave #101, Galveston, Texas 77550.

COMES NOW, Defendant RED STAG FULFILLMENT, LLC (“Red Stag” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Red Stag Fulfillment, LLC, subject to and without waiving its previously filed Special Appearance as follows:

I.
PRELIMINARY STATEMENT

On February 8, 2021, Red Stag filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections and responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Red Stag. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and

variations from the information herein set forth. As a result, the following responses are given without prejudice to Red Stag's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Red Stag reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Red Stag's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Red Stag objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in Red Stag's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Red Stag serves these Objections and Responses subject to and without waiving its previously filed Special Appearance.

2. Red Stag objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Red Stag objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount

in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of this case.

4. Red Stag objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Red Stag objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by Red Stag. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Red Stag shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Red Stag, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Red Stag objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Red Stag does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Red Stag specifically intends to preserve any and all applicable protections or privileges. Production (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Red Stag's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Red Stag is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of

competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Red Stag has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Red Stag to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Red Stag reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Red Stag's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Red Stag objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Red Stag's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Red Stag further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm*

Lloyds, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Red Stag to act beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible and proportional to resolving any issue in the case.

3. Red Stag objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from Red Stag and have no reasonable connection to the Plaintiffs' claims. Finally, requests utilizing these terms are objectionable to the extent they seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Red Stag objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Red Stag further objects to these definitions to the extent they purport to obligate Red Stag to locate and obtain information that is not readily and feasibly accessible or is not maintained by Red Stag. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit,

taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Red Stag objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Red Stag objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
RED STAG FULFILLMENT, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUESTS FOR PRODUCTION

1. All Documents or Communications relating to purchases made by Dimitrios Pagourtzis, including, but not limited to: database records, application programming interface records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant LuckyGunner, LLC) concerning or related to the purchases.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to the scope of this request and to the extent it is overbroad and calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, Red Stag, without admitting LG sold the ammunition at issue in this lawsuit, would agree to provide its records regarding LuckyGunner’s orders with Dimitrios Pagourtzis. Because this material may constitute proprietary and/or confidential business information, it would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. Documents sufficient to show the dollar value of revenues on an annual basis generated by all order fulfillment, third-party fulfillment services, shipping of goods, and other third-party logistics services that You provide:

- a. To or on behalf of LuckyGunner LLC nationwide;
- b. To or on behalf of LuckyGunner LLC to customers located in Texas;
- c. To or on behalf of all Your clients to customers located in Texas.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “revenues” for all services provided to LuckyGunner, LLC over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale ammunition to Pagourtzis. This

request is irrelevant to that issue. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. This request is also irrelevant to that narrow issue. Indeed, the scope of this request is contrary to the general jurisdiction inquiry outlined in *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). In *Daimler*, the Supreme Court dramatically altered the scope of the constitutionally permissible analysis of general (“all-purpose”) jurisdiction over a non-resident defendant, such as Red Stag. Red Stag’s alleged “substantial, continuous, and systematic course of business” in a particular state is no longer the relevant inquiry, *post-Daimler*. Thus, the information sought in sections a. through c. is not proportional to any need in this case.

3. Documents sufficient to identify Your members, officers, directors, and executive-level staff.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The phrase “executive-level staff” is vague and overbroad and not pertinent to any personal jurisdiction issue. Red Stag’s sole member is Mollenhour Gross, LLC and Eric McCollom is the President and Chief Operating Officer. Red Stag does not have a board of directors. Nor is the information sought in this request available in any particular document and thus the request is better suited for an interrogatory. Indeed, this request also seeks information disclosed in Red Stag’s responses to Plaintiffs’ interrogatories.

Subject to and without waiving these objections, Red Stag would agree to produce its Operating Agreement in effect as of March 2018. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

4. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of LuckyGunner LLC, from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations

in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag would agree to produce the services agreement for the fulfillment of LuckyGunner, LLC. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

5. All documents relating to transactions between You and MollenhourGross LLC (and/or its members, Jordan Mollenhour and Dustin Gross), including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of MollenhourGross LLC (including its members, Jordan Mollenhour and Dustin Gross), from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag's member/owner, Mollenhour Gross, LLC and its members/owners, Mr. Mollenhour and Mr. Gross, over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag would provide its annual meeting minutes from 2016 through 2020.

6. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, MollenhourGross LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein).

RESPONSE:

This request is duplicative of request Nos. 4 and 5, *supra*. Red Stag incorporates herein its objections and responses to those requests.

7. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2013 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request as simply irrelevant to and beyond the reasonable scope of any pertinent issue in the case.

Subject to and without waiving these objections, Red Stag is a limited liability company and therefore does not have by-laws. Red Stag would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

8. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2016, to June 1, 2018, as well as the individuals' job titles and responsibilities.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Requesting identities of "all employees and contractors who worked" for Red Stag over the course of several years is unreasonable and not tailored to either a "specific" or "general" personal jurisdiction analysis. Nor is searching for and producing documents about employment information, job titles/responsibilities a feasible or efficient way to information about any particular work done at Red Stag. Rather, an interrogatory

reasonably focused on particular issues and job responsibilities would be substantially less burdensome and more convenient. As currently structured, however, the information sought in this request is not proportional to any need in this case. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

9. All Documents related to the hiring of Eric McCollom and Chris Molliter, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The hiring of Mr. McCollom and Mr. Molitor goes far beyond any pertinent issue within a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

10. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Jordan Mollenhour's and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "relate to" the "decision" to start the

company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper “specific” or “general” personal jurisdiction analysis. The two “articles” referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, Red Stag would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

11. Documents sufficient to identify Your corporate clients.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Requesting information about all of Red Stag’s “corporate clients” can only be seen as harassing. Nor is this request reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

12. All press releases issued by You.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Press releases are publically available and thus Plaintiffs already have access to this information. Plaintiffs are also free to visit www.redstagfulfillment.com/blog where

company announcements are published. To the extent this request seeks different or additional information, however, it is objectionable as not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

13. Your financial statements for FY2018 and FY2019, including Your balance sheet, income statement, statement of cash flow, and annual report (or similar statements).

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The general financial information sought in this request is irrelevant and not reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

14. Documents sufficient to show each debt instrument under which You are obligated.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The general financial information sought in this request is irrelevant and not reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

15. Documents, such as flow charts or other schematics, sufficient to show the process by which You receive inventory, receive orders, fulfill orders, and ship goods.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The phrases "flow charts or other schematics" are vague and overbroad. Nor is general information about how Red Stag's clients' orders are fulfilled reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order described in this request does not, as a matter of law, form the basis of specific jurisdiction in Texas. See, e.g., *US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Notwithstanding these objections, see Red Stag's answer to interrogatory No. 9.

16. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Red Stag is a fulfillment company and does not market or sell its clients' goods. Thus, the premise of this request is flawed. Further, it is Red Stag's understanding that LuckyGunner, LLC was formed and sold ammunition to Texas residents long before Red Stag was formed or began servicing orders on behalf of LuckyGunner, LLC. Indeed, this activity does not, as a matter of law, amount to "purposeful availment" for the purposes of establishing specific jurisdiction in Texas. See, e.g., *US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, Red Stag does not market or sell its client's products in Texas or any other jurisdiction. Therefore, Red Stag does not believe any such material responsive to this request exists.

17. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant Red Stag Fulfillment LLC.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Subject to and without waiving these objections, Red Stag would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

EXHIBIT C

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. §
§
§ **GALVESTON COUNTY, TEXAS**

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §

Defendants. § **COURT NO. 3**

**DUSTIN GROSS'S OBJECTIONS AND RESPONSES TO PLAINTIFF-INTERVENOR
RHONDA HART'S FIRST REQUEST FOR PRODUCTION OF DOCUMENTS SUBJECT
TO AND WITHOUT WAIVING HIS PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Alton C. Todd, The Law Firm of Alton C. Todd, 312 S. Friendswood Drive, Friendswood, Texas 77546.

COMES NOW, Defendant DUSTIN GROSS ("Mr. Gross" or "Defendant") and serves these Objections and Responses to Plaintiffs' First Request for Production of Documents to Defendant Dustin Gross, subject to and without waiving his previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, Mr. Gross filed a motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Mr. Gross. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to

Mr. Gross's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Mr. Gross reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Mr. Gross's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Mr. Gross objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in his motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Mr. Gross serves these Objections and Responses subject to and without waiving his previously filed Special Appearance.

2. Mr. Gross objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Mr. Gross objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the

importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. Mr. Gross objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Mr. Gross objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by him. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Mr. Gross shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Mr. Gross, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Mr. Gross objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Mr. Gross does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Mr. Gross specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Mr. Gross's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Mr. Gross is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such

documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Mr. Gross has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Mr. Gross to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Mr. Gross reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Mr. Gross's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Mr. Gross objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Mr. Gross's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Mr. Gross further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Mr. Gross to act

beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Mr. Gross objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority and have no reasonable connection to the Plaintiffs' claims. Finally, Mr. Gross objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Mr. Gross objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Mr. Gross further objects to these definitions to the extent they purport to obligate him to locate and obtain information that is not readily and feasibly accessible or is not maintained by him. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into

account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Mr. Gross objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Mr. Gross objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
DUSTIN GROSS**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUESTS FOR PRODUCTION

1. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Gross is a member of Mollenhour Gross, LLC and that entity has agreed to produce its former subsidiary, LuckyGunner, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag Fulfillment, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal

jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Gross is a member of Mollenhour Gross, LLC and that entity has agreed to produce its subsidiary, Red Stag Fulfillment, LLC's Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Mollenhour Gross LLC, and Jordan Mollenhour (to the extent not produced in response to other requests herein), from January 1, 2009 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 1 and 2, *supra*. Mr. Gross incorporates herein his objections and responses to those requests. Further responding, Mr. Gross and co-defendant, Jordan Mollenhour, are the member/owners of Mollenhour Gross, LLC, and they are not employees, contractors, vendors or consultants and no such agreements exist with respect to LuckyGunner, LLC and Red Stag Fulfillment, LLC. Mr. Gross would agree to produce the Mollenhour Gross, LLC Operating Agreement.

4. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molitor, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde, as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Requesting that he search for information about job interviews is harassing, unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

5. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Your and Jordan Mollenhour's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment"

(Webretailer) and “An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company” (The Silicon Review).

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Gross objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely “related to” the “decision” to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper “specific” or “general” personal jurisdiction analysis. The two “articles” referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

6. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. Mr. Gross has an equity interest in Mollenhour Gross, LLC, which is the parent of Red Stag Fulfillment, LLC and was the parent of LuckyGunner, LLC. Other entities that Mollenhour Gross, LLC owns are listed at www.mollenhourgross.com. Seeking information that goes beyond the scope of his lawsuit and the named defendants herein can only be seen as harassment and an attempt to seek discovery for improper purposes. Nor is this discovery proportional to any need in this case.

7. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC’s websites, from January 1, 2009 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The “construction and design” of LuckyGunner’s website over the course of 12 years is a grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

8. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

9. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Mr. Gross objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA.

Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Gross objects to this request on several grounds. Mr. Gross does not personally market or sell products. Thus, the premise of this request is flawed. Rather, Mr. Gross is the member/owner of Mollenhour Gross, LLC, which was the parent company of LuckyGunner, LLC. But LuckyGunner's alleged "marketing and sale of products" is not a topic of discovery that is reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020); *see also Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Exhibit C2

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. §
§
§ **GALVESTON COUNTY, TEXAS**

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§

Defendants. § **COURT NO. 3**

**JORDAN MOLLENHOUR'S OBJECTIONS AND RESPONSES TO PLAINTIFF-
INTERVENOR RHONDA HART'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS SUBJECT TO AND WITHOUT WAIVING HIS PREVIOUSLY FILED
SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Alton C. Todd, The Law Firm of Alton C. Todd, 312 S. Friendswood Drive, Friendswood, Texas 77546.

COMES NOW, Defendant JORDAN MOLLENHOUR (“Mr. Mollenhour” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Jordan Mollenhour, subject to and without waiving his previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, Mr. Mollenhour filed a motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Mr. Mollenhour. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes

in, and variations from the information herein set forth. As a result, the following responses are given without prejudice to Mr. Mollenhour's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Mr. Mollenhour reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Mr. Mollenhour's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Mr. Mollenhour objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in his motion for protective order and to stay discovery pending resolution of his objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and his dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Mr. Gross serves these Objections and Responses subject to and without waiving his previously filed Special Appearance.

2. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Mr. Mollenhour objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Mr. Mollenhour objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by him. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Mr. Mollenhour shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Mr. Mollenhour, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Mr. Mollenhour objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Mr. Mollenhour does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Mr. Mollenhour specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Mr. Mollenhour's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Mr. Mollenhour is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Mr. Mollenhour has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Mr. Mollenhour to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Mr. Mollenhour reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Mr. Mollenhour's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Mr. Mollenhour objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Mr. Mollenhour's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Mr. Mollenhour further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able

to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Mr. Mollenhour to act beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Mr. Mollenhour objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome so as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from any person or entity authorized to act on your behalf, and/or other person or entity under your control or authority and have no reasonable connection to the Plaintiffs' claims. Finally, Mr. Mollenhour objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Mr. Mollenhour objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Mr. Mollenhour further objects to these definitions to the extent they purport to obligate

him to locate and obtain information that is not readily and feasibly accessible or is not maintained by him. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Mr. Mollenhour objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Mr. Mollenhour objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. "Andy" Landry III

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(312) 321-0990 (Telefax)

**ATTORNEYS FOR DEFENDANT
JORDAN MOLLENHOUR**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Mollenhour is a member of Mollenhour Gross, LLC and that entity has agreed to produce its former subsidiary, LuckyGunner, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by You and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag Fulfillment, LLC dating back more than a decade is harassing, grossly overbroad and unduly burdensome, and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Mr. Mollenhour is a member of Mollenhour Gross, LLC and that entity has agreed to produce its subsidiary, Red Stag Fulfillment, LLC's Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Mollenhour Gross LLC, and Dustin Gross (to the extent not produced in response to other requests herein), from January 1, 2009 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 1 and 2, *supra*. Mr. Mollenhour incorporates herein his objections and responses to those requests. Further responding, Mr. Mollenhour and co-defendant, Dustin Gross, are the member/owners of Mollenhour Gross, LLC, and they are not employees, contractors, vendors or consultants and no such agreements exist with respect to LuckyGunner, LLC and Red Stag Fulfillment, LLC. Mr. Mollenhour would agree to produce the Mollenhour Gross, LLC Operating Agreement.

4. Any contract or agreement, including but not limited to asset purchase agreements, relating to Your purchase, via 2A Group LLC, of an equity interest in LuckyGunner LLC.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The subject of this request is irrelevant to any pertinent issue in this case because 2A Group, LLC's purchase of LuckyGunner, LLC took place in September 2020, *i.e.*, after the 2018 events giving rise to Plaintiffs' claims and the filing of this lawsuit. Further, this request goes far beyond the scope of a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

5. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molliter, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde, as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Requesting that he search for information about job interviews is harassing, unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. As a result, this request is not proportional to the needs of this case.

6. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Your and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "related to" the "decision" to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper "specific" or "general" personal jurisdiction analysis. The two "articles" referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

7. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA.

Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. Mr. Mollenhour has an equity interest in Mollenhour Gross, LLC, which is the parent of Red Stag Fulfillment, LLC and was the parent of LuckyGunner, LLC. Other entities that Mollenhour Gross, LLC owns are listed at www.mollenhourgross.com. Seeking information that goes beyond the scope of his lawsuit and the named defendants herein can only be seen as harassment and an attempt to seek discovery for improper purposes. Nor is this discovery proportional to any need in this case.

8. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC's websites, from January 1, 2009 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. The “construction and design” of LuckyGunner’s website over the course of 12 years is a grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

9. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds.

The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

10. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Mr. Mollenhour objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Mr. Mollenhour objects to this request on several grounds. Mr. Mollenhour does not personally market or sell products. Thus, the premise of this request is flawed. Rather, Mr. Mollenhour is the member/owner of Mollenhour Gross, LLC, which was the parent company of LuckyGunner, LLC. But LuckyGunner’s alleged “marketing and sale of products” is not a topic of discovery that is reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020); *see also Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Exhibit C3

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § COUNTY COURT AT LAW

Plaintiffs, §
vs. §
§
§
§
§
§
§
GALVESTON COUNTY, TEXAS

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§
§
§
§

Defendants. § COURT NO. 3

**MOLLENHOURGROSS LLC'S OBJECTIONS AND ANSWERS TO PLAINTIFF-
INTERVENOR RHONDA HART'S FIRST SET OF INTERROGATORIES SUBJECT TO
AND WITHOUT WAIVING IT'S PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Alton C. Todd, The Law Firm of Alton C. Todd, 312 S. Friendswood Drive, Friendswood, Texas 77546.

COMES NOW, Defendant MOLLENHOURGROSS LLC (“MG” or “Defendant”) and serves these Objections and Answers to Plaintiff Chase Yarbrough’s First Set of Interrogatories to Defendant Mollenhour Gross LLC, subject to and without waiving its previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, MG filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections, responses and answers herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, MG. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses and answers are given

without prejudice to MG's right to produce evidence of any subsequently discovered facts or to change any and all responses and answers herein as additional facts are ascertained. MG reserves the right to amend these responses and answers if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses and answers are given without prejudice to MG's right to rely at trial on subsequently discovered information or information inadvertently omitted from these responses as a result of a mistake, error or oversight.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. MG objections to Plaintiffs' requests for any discovery at this stage, as fully outlined in MG's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. MG serves these Objections and Answers subject to and without waiving its previously filed Special Appearance

2. MG objects to Plaintiffs' interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant or proportional to the claims or defenses of any party or to the specific issues of this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. MG objects to Plaintiffs' interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are

not proportional to the needs of the case.

4. MG objects to Plaintiffs' interrogatories to the extent that they are not limited to seeking information that is maintained by MG. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. MG shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of MG, as that terminology is defined by the Texas Rules of Civil Procedure.

5. MG objects to Plaintiffs' interrogatories to the extent that they call for information that is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

6. MG objects to Plaintiffs' interrogatories to the extent they seek information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. MG does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' interrogatories. On the contrary, MG specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such information, or with respect to the subject matter thereof, nor shall such disclosure waive MG's right to object to the use of the information during this or any subsequent proceeding.

7. MG is responding to Plaintiffs' interrogatories without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which

MG has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' interrogatories at this stage in the litigation, it is not possible for MG to anticipate all possible grounds for objection with respect to the particular questions set forth herein. MG reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the MG's responses and answers to Plaintiffs' Interrogatories.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. MG objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond MG's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 197.

2. MG further objects to these Definitions and Instructions and the applicable interrogatories to the extent they seek searches of electronically stored information and documentation to be disclosed or produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request MG to act beyond what is reasonable and required by the applicable law in the preservation, review and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. MG objects to Plaintiffs' definition in Paragraph C because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from MG and have no reasonable connection to the Plaintiffs' claims. Finally, MG objects to the extent any interrogatories utilizing these terms seeks to invade the attorney work product and attorney-client privileges in violation of the Texas Rules of Civil Procedure.

4. MG objects to Plaintiffs' definitions in Paragraph D and Paragraph F because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. MG further objects to these definitions to the extent they purport to obligate MG to locate and obtain information that is not readily and feasibly accessible or is not maintained by MG. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, MG objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. MG objects to the definition and instructions in Paragraph G regarding the term

“Identify” because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery beyond MG’s obligations as contemplated by Rule 192.3. Nor is the collateral information requested in Paragraph G appropriately sought under Rule 197 through mere inclusion of the term “Identify” inside of an interrogatory.

6. Each of these Objections to Plaintiffs’ Definitions and Instructions is incorporated by reference in each of the responses and answers to Plaintiffs’ Interrogatories.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
MOLLENHOUR GROSS, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

ANSWERS TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1: Provide the name, address, and phone number of each person involved in providing information to respond to these interrogatories.

ANSWER:

Craig Meredith, 11409 Municipal Center Drive, No. 23434, Knoxville, TN 37933 assisted counsel with providing information to respond to these interrogatories

INTERROGATORY NO. 2: List all addresses for Your offices and/or facilities, from January 1, 2010 to present.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory as overbroad because it goes well beyond the pertinent time-period of the ammunition sales at issue in this case, *i.e.*, March 2018. Nor is this interrogatory reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waving these objections, MG identifies the following:

**11409 Municipal Center Drive, No. 23434
Knoxville, TN 37933**

**120H Market Place Boulevard
Knoxville, TN 37922**

INTERROGATORY NO. 3: List all names under which You have conducted business, from January 1, 2010 to present.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory because it is irrelevant to any pertinent issue in this case involving LuckyGunner’s sale of ammunition in Texas

in March 2018. Nor is this interrogatory reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waiving these objections, MG did business as Mollenhour Gross, LLC, only, throughout this time-period.

INTERROGATORY NO. 4: List all website addresses at which You have conducted business, from January 1, 2010 to present.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory as vague and overbroad. MG is an investment holding company and it does not sell products and thus does not “conduct” business via its website in the way this interrogatory infers.

Subject to and without waiving these objections, MG maintains this web address (www.mollenhourgross.com) as its business website.

INTERROGATORY NO. 5: For each bank or other financial account You have, list the name of the financial institution where the account is held and all authorized users or signers for each account.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as irrelevant and disproportional to any pertinent issue in the case. Names of financial intuitions and all authorized users or signers for such accounts goes far beyond a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waiving these objections, MG maintains multiple bank accounts and the only authorized users and signors are Mr. Mollenhour and Mr. Gross. MG’s Chief Financial Officer has access to the accounts. MG does not bank in Texas.

INTERROGATORY NO. 6: Identify all of Your employees, officers, directors, and members.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, MG's members are Mr. Mollenhour and Mr. Gross. MG does not have a board of directors. MG has the following officer or director level personnel: Craig Meredith, General Counsel; Coleton Bragg, Chief Financial Officer; and Keith Jackson, Director of Tax.

INTERROGATORY NO. 7: Identify how many shares (or other units of membership interest), by percentage of total issued, that You have owned or held (whether directly or indirectly) in LuckyGunner LLC, from May 12, 2009 to present. If the amount has varied over time, please indicate what periods of time correspond to what percentage of shares of LuckyGunner LLC held by You.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, MG was the sole member and owned 100% of LuckyGunner, LLC from its formation until September 30, 2020. 2A Group, LLC is now the sole member and owns 100% of LuckyGunner, LLC.

INTERROGATORY NO.8: Identify how many shares (or other units of membership interest), by percentage of total issued, that You have owned or held (whether directly or indirectly) in Red Stag Fulfillment LLC, from August 16, 2013 to present. If the amount has varied over time, please indicate what periods of time correspond to what percentage of shares of Red Stag Fulfillment LLC held by You.

ANSWER:

MG objects to this interrogatory because two threshold dispositive motions filed

pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, MG has been the sole member and owned 100% of Red Stag Fulfillment, LLC since its formation.

INTERROGATORY NO. 9: Identify each of Your subsidiaries whose products are, directly or indirectly, marketed in or sold in Texas or to purchasers residing in Texas.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. MG does not market or sell products to third-parties anywhere. Thus, the premise of this request is flawed. Nor is the "marketing and sale of products" by MG subsidiaries reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. A subsidiary's purposeful availment with the forum state does not subject the parent company to "specific" personal jurisdiction. See, e.g., *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Furthermore, this request is objectionable because any entities which MG owns that sell products are listed on MG's publicly available website: www.mollenhourgross.com.

INTERROGATORY NO. 10: Identify each of Your subsidiaries that has provided goods or services to any other of Your subsidiaries identified in your answer to Interrogatory No. 9.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Whether a subsidiary provides goods or services to another subsidiary goes far beyond the scope of a proper “specific” or “general” personal jurisdiction analysis. For example, a subsidiary’s purposeful availment with the forum state does not subject the parent company to “specific” personal jurisdiction. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a “general” jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, as Plaintiffs are aware, Red Stag Fulfillment, LLC has provided fulfillment services for LuckyGunner, LLC’s orders, a former subsidiary of MG.

INTERROGATORY NO. 11: Describe all services performed by You relating to or for the benefit of LuckyGunner LLC and/or Red Stag Fulfillment LLC, including but not limited to internal and external policy setting, election of product lines, website design, hiring and firing of officers and or directors, approval of sizable capital investments, auditing, accounting, bookkeeping, and payroll.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is irrelevant to any pertinent issue in this case involving allegations that Red Stag Fulfillment, LLC fulfilled a LuckyGunner, LLC ammunition sales order in March 2018. Further, the services referenced in this request are grossly overbroad in scope and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waiving these objections, MG was involved with hiring the President of Red Stag Fulfillment, LLC, hiring of the CEO of LuckyGunner, LLC, and approval of sizable capital investments.

INTERROGATORY NO. 12: Describe all contractual obligations incurred by each subsidiary identified in your answer to Interrogatory No. 9 for which You are also a guarantor.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is harassing, and irrelevant to any specific issue in this case involving allegations that Red Stag Fulfillment, LLC fulfilled a LuckyGunner, LLC ammunition sales order in March 2018. Nor are "contractual obligations" of subsidiaries reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, none.

INTERROGATORY NO. 13: Separately identify each of Your employees who plays any role in the marketing or sale of products produced by each subsidiary identified in your answer to Interrogatory No. 9.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is irrelevant to any pertinent issue in this case involving allegations that Red Stag Fulfillment, LLC fulfilled a LuckyGunner ammunition sales order in March 2018. Nor would "play[ing]" a "role in marking or sale of products produced" of subsidiaries form a reasonable basis of discovery tailored to a proper "specific" or "general" personal jurisdiction analysis. Furthermore, Red Stag Fulfillment, LLC does not sell products and LuckyGunner does not "produce" products. Thus, this interrogatory is vague and confusing.

Subject to and without waiving these objections, MG is not involved in marketing or selling products on behalf of LuckyGunner, LLC and MG personnel do not market or sell any products of subsidiaries.

INTERROGATORY NO. 14: For each employee identified in your answer to Interrogatory No. 13, provide a brief description of each employee's day-to-day activities as they relate to sales and marketing for those subsidiaries identified in your answer to Interrogatory No. 9.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither

merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory for the same reasons identified in response to interrogatory Nos. 9 and 13, *supra*. MG incorporates herein its objections those interrogatories. Furthermore, this interrogatory is a grossly overbroad topic and not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this interrogatory is not proportional to any need in this case.

Subject to and without waiving these objections, MG is not involved in marketing or selling products on behalf of LuckyGunner, LLC and MG personnel do not market or sell any products of subsidiaries.

INTERROGATORY NO. 15: Separately identify each employee of You or any of Your subsidiaries who has assisted, consulted, or played any role in the design and or operation of the website LuckyGunner.com.

ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This request is harassing and irrelevant to any pertinent issue in this case. Nor would "play[ing]" a "role in the design and or operation of" LuckyGunner's website form a reasonable basis of discovery tailored to a proper "specific" or "general" personal jurisdiction analysis. This request goes far beyond the reasonable scope of discovery and is not proportional to any need in this case.

INTERROGATORY NO. 16: Identify the entity(s) that paid a salary to, or otherwise provided remuneration to, any of Your officers, members, and directors during such times as such officer or director also served as an officer, member or director of any of Your subsidiaries.

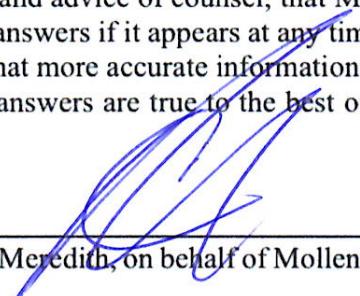
ANSWER:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this interrogatory on multiple grounds. This interrogatory is a grossly overbroad topic and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this interrogatory is not proportional to any need in this case.

VERIFICATION

CRAIG MEREDITH, being first duly sworn, deposes and says that he is a duly authorized representative for Mollenhour Gross, LLC in the above referenced lawsuit and that he has read the foregoing answers to Plaintiffs' First Set of Interrogatories directed to Mollenhour Gross, LLC; that the answers were prepared with the assistance and advice of counsel; that Mollenhour Gross, LLC reserves the right to make any changes in the answers if it appears at any time that omissions or errors have been inadvertently made therein or that more accurate information is available; and that subject to the limitations set forth herein, the answers are true to the best of his knowledge, information, and belief.



Craig Meredith, on behalf of Mollenhour Gross, LLC

I, Terry Massey, a notary public of Knox County, Tennessee, certify that Craig Meredith, whose name is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of this instrument, he executed the same voluntarily for and as the act of said company.

Subscribed and sworn before me on February 5th, 2021.



Terry Massey
Notary Public, State of Tennessee

Expires 2/6/23



CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
vs. §
§
**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§

Defendants. § **COURT NO. 3**

**MOLLENHOUR GROSS, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFF-
INTERVENOR RHONDA HART'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS SUBJECT TO AND WITHOUT WAIVING ITS PREVIOUSLY FILED
SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Alton C. Todd, The Law Firm of Alton C. Todd, 312 S. Friendswood Drive, Friendswood, Texas 77546.

COMES NOW, Defendant MOLLENHOUR GROSS, LLC (“MG” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Mollenhour Gross LLC, subject to and without waiving its previously filed Special Appearance and Motion to Stay Discovery as follows:

I.
PRELIMINARY STATEMENT

On February 8, 2021, MG filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, MG. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information

herein set forth. As a result, the following responses are given without prejudice to MG's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. MG reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to MG's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. MG objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in MG's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. MG serves these Objections and Responses subject to and without waiving its previously filed Special Appearance.

2. MG objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. MG objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in

controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of the case.

4. MG objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. MG objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by MG. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. MG shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of MG, as that terminology is defined by the Texas Rules of Civil Procedure.

6. MG objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. MG does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, MG specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive MG's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. MG is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such

documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which MG has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for MG to anticipate all possible grounds for objection with respect to the particular requests set forth herein. MG reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the MG's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. MG objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond MG's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. MG further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request MG to act beyond what is reasonable and required by the applicable law in the preservation and production of such

electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. MG objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from MG and have no reasonable connection to the Plaintiffs' claims. Finally, MG objects to the extent that requests utilizing these terms seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. MG objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. MG further objects to these definitions to the extent they purport to obligate MG to locate and obtain information that is not readily and feasibly accessible or is not maintained by MG. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, MG objects to the extent that use of these

terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. MG objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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And

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(312) 321-0990 (Telefax)

ATTORNEYS FOR DEFENDANT

MOLLENHOUR GROSS, LLC

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUEST FOR PRODUCTION

1. All Documents or Communications relating to purchases made on LuckyGunner.com by Dimitrios Pagourtzis, including, but not limited to: database records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant LuckyGunner, LLC) concerning or related to the purchases.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. MG did not sell ammunition to Pagourtzis. Rather its former subsidiary, LuckyGunner, LLC, is alleged to have sold ammunition to Pagourtzis. MG objects to the premise and scope of this request as irrelevant because the acts of a subsidiary in the forum state do not subject the parent company to “specific” personal jurisdiction. See, e.g., *PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). As a result, this request is not proportional to the needs of the case.

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, none.

2. Documents sufficient to identify Your members, officers, directors, and executive level staff, from January 1, 2009 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. The phrase “executive-level staff” is vague and overbroad. Nor is this request reasonably tailored to a proper personal jurisdiction analysis. The information sought is better suited for an interrogatory. Indeed, this request seeks information duplicative of information

disclosed in MG's responses to Plaintiffs' interrogatories. MG's members are Jordan Mollenhour and Dustin Gross. MG does not have a board of directors.

Subject to and without waiving these objections, MG would agree to produce its Operating Agreement in effect as of March 2018. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

3. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of LuckyGunner LLC, from January 1, 2009 to January 1, 2012, and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC over the course of multiple years is harassing, unduly burdensome and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG would agree to produce its former subsidiary, LuckyGunner, LLC's Operating Agreement and annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

4. All documents relating to transactions between You and Red Stag Fulfillment LLC including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of Red Stag Fulfillment LLC, from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag over the course of multiple years is harassing, unduly burdensome and goes far beyond the reasonable scope of a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG would agree to produce its subsidiary, Red Stag Fulfillment, LLC’s Operating Agreement and its annual meeting minutes for 2016 through 2020. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

5. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, Red Stag Fulfillment LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein), from January 1, 2009 to January 1, 2014, and from January 1, 2016 to present.

RESPONSE:

This request is seeks information duplicative of information sought in request Nos. 3 and 4, *supra*. MG incorporates herein its objections and responses to those requests. Further responding, Mr. Mollenhour and Mr. Gross are the member/owners of MG, and they are not employees, contractors, vendors or consultants.

6. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2009 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request as simply irrelevant to and beyond the reasonable scope of any pertinent issue in the case.

Subject to and without waiving these objections, MG is a limited liability company and therefore does not have by-laws. MG would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

7. Any contract or agreement, including but not limited to asset purchase agreements, relating to Your sale or divestment of Your equity interest or other ownership of LuckyGunner LLC.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The subject of this request is irrelevant to any pertinent issue in this case because MG's divestment of its ownership of LuckyGunner, LLC took place in September 2020, *i.e.*, after the 2018 events giving rise to Plaintiffs' claims and the filing of this lawsuit. Further, this request is beyond the scope of a proper personal jurisdiction analysis.

8. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2009 to January 1, 2014 and from January 1, 2016, to June 1, 2018, as well as the individuals' job titles and responsibilities.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Requesting identities of "all employees and contractors who worked" for MG over the course of several years is unreasonable not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. Nor is searching for and producing documents about employment information, job titles and responsibilities feasible or best suited to disclose pertinent employment information about any particular work done at MG. Rather, an interrogatory focused on particular issues and job responsibilities would be substantially less burdensome and more convenient. As currently structured, however, the information sought in this request is not proportional to any need in this case.

9. All Documents related to the hiring of Eric McCollom as President of Red Stag Fulfillment, LLC, and Chris Molliter, as Vice President of Red Stag Fulfillment, LLC, and Jake Felde,

as CEO of LuckyGunner LLC, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Requesting that MG search for information about job interviews is unreasonable and disproportional to any need in this case. The information sought in this request about Red Stag's hiring of Mr. McCollom and Mr. Molitor and LuckyGunner's hiring of Mr. Felde go far beyond a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014).

10. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Jordan Mollenhour's and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "relate to" the "decision" to start the company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper "specific" or "general" personal jurisdiction analysis. The two "articles" referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As result, this request is not proportional to any need in this case.

11. Your financial statements for FY2018 and FY2019, including Your balance sheet, income statement, statement of cash flow, and annual report (or similar statements).

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general financial information sought in this request is harassing and not reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

12. All press releases issued by You, from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. Press releases are publically available and thus Plaintiffs already have access to this information. Nor is this request reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

13. Documents sufficient to show each debt instrument under which You are obligated.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in

Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general financial information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, none.

14. Documents sufficient to identify all companies in which You have an equity interest.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The general “equity interest” information sought in this request is grossly overbroad and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Furthermore, this request is objectionable because entities which MG owns and which themselves sell products or services to third-parties are listed on MG's website: www.mollenhourgross.com.

15. All Documents and Communications concerning or reflecting Your participation in any decision or discussion relating to the construction and design of LuckyGunner LLC's websites, from January 1, 2010 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. The “construction and design” of LuckyGunner's website over the course of 11 years is a

grossly overbroad starting point and not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale and distribution of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where MG is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, MG does not design websites for its subsidiaries.

16. All Documents and Communications relating to decisions or discussions about whether LuckyGunner LLC should require signature, proof of age, or proof of identity upon delivery of packages, from January 1, 2010 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, MG objects to this request on several grounds. The terms “decisions or discussions” are vague and overbroad. Neither federal law nor Texas law requires “proof of age”, “identity” or “signature” for ammunition sales and delivery, including internet sales. Searching for and producing “all” material that merely refers to these topics over the course of an 11 year time-period is an unreasonable starting point. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Nor is this request reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. As a result, this request is overbroad in scope and disproportional to the pertinent issues in this case.

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

17. All Documents and Communications containing, describing, or summarizing Your policies relating to ensuring that age-restricted products sold by your subsidiaries, such as ammunition or alcohol, are not shipped to under-age consumers.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to

Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. This request seeks information that is duplicative of information sought in request No. 16, *supra*. MG incorporates herein its objections and responses to those requests. Nor does MG set the general policies of its subsidiaries and did not do so with respect to the subject matter of this request. Further responding, LuckyGunner was the only subsidiary of MG that sold products to third-parties where certain age-restrictions could apply and, as discussed above, the acts of a subsidiary in the forum state do not subject the parent company to "specific" personal jurisdiction. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020).

MG also objects to this request to the extent it calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

18. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas, from January 1, 2009 to January 1, 2012 and from January 1, 2016 to present.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, MG objects to this request on several grounds. MG does not market or sell products. Thus, the premise of this request is flawed. MG was the member/owner of LuckyGunner, LLC. Nor is LuckyGunner's alleged "marketing and sale of products" a topic of discovery that is reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis. *See, e.g., PHC-Minden, L.P. v. Kimberly-Clark Corp.*, 235 S.W.3d 163, 172-73 (Tex. 2007); *Searcy v. Parex Res., Inc.*, 496 S.W.3d 58, 67 (Tex. 2016); *FedEx Corp. v. Contreras*, No. 04-19-00757-CV, 2020 WL 4808721, at *5 (Tex. App.—San Antonio, Aug. 19, 2020). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Thus, this request is not proportional to any need in this case.

19. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant Mollenhour Gross LLC.

RESPONSE:

MG objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Subject to and without waiving these objections, MG would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**

Plaintiffs, §
vs. §
GALVESTON COUNTY, TEXAS

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §

Defendants. § **COURT NO. 3**

**RED STAG FULFILLMENT LLC'S OBJECTIONS AND ANSWERS TO PLAINTIFF-
INTERVENOR RHONDA HART'S FIRST SET OF INTERROGATORIES SUBJECT TO
AND WITHOUT WAIVING ITS PREVIOUSLY FILED SPECIAL APPEARANCE**

TO: Plaintiffs, by and through their attorneys, Alton C. Todd, The Law Firm of Alton C. Todd, 312 S. Friendswood Drive, Friendswood, Texas 77546.

COMES NOW, Defendant RED STAG FULFILLMENT LLC (“Red Stag” or “Defendant”) and serves these Objections and Answers to Plaintiff Chase Yarbrough’s First Set of Interrogatories to Defendant Red Stag Fulfillment LLC, subject to and without waiving its previously filed Special Appearance as follows:

**I.
PRELIMINARY STATEMENT**

On February 8, 2021, Red Stag filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections, responses and answers herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Red Stag. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and variations from the information herein set forth. As a result, the following responses and answers

are given without prejudice to Red Stag's right to produce evidence of any subsequently discovered facts or to change any and all responses and answers herein as additional facts are ascertained. Red Stag reserves the right to amend these responses and answers if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses and answers are given without prejudice to Red Stag's right to rely at trial on subsequently discovered information or information inadvertently omitted from these responses as a result of a mistake, error or oversight.

The word usage and sentence structure is that of the attorneys who prepared these responses and answers, and does not purport to be the exact language of the responding party.

II.
GENERAL OBJECTIONS

1. Red Stag objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in Red Stag's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Red Stag serves these Objections and Answers subject to and without waiving its previously filed Special Appearance.

2. Red Stag objects to Plaintiffs' interrogatories to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant or proportional to the claims or defenses of any party or to the specific issues of this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Red Stag objects to Plaintiffs' interrogatories to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs'

interrogatories are not proportional to any need in this case.

4. Red Stag objects to Plaintiffs' interrogatories to the extent that they call for information that is unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Red Stag objects to Plaintiffs' interrogatories to the extent that they are not limited to seeking information that is maintained by Red Stag. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Red Stag shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Red Stag, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Red Stag objects to Plaintiffs' interrogatories to the extent they seek information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Red Stag does not intend to waive any applicable protections or privileges through the disclosure or the supplying of information in response to Plaintiffs' interrogatories. On the contrary, Red Stag specifically intends to preserve any and all applicable protections or privileges. Disclosure (even inadvertent) of any information shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such information, or with respect to the subject matter thereof, nor shall such disclosure waive Red Stag's right to object to the use of the information during this or any subsequent proceeding.

7. Red Stag is responding to Plaintiffs' interrogatories without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which

Red Stag has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' interrogatories at this stage in the litigation, it is not possible for Red Stag to anticipate all possible grounds for objection with respect to the particular questions set forth herein. Red Stag reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Red Stag's responses and answers to Plaintiffs' Interrogatories.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Red Stag objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Red Stag's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 197.

2. Red Stag further objects to these Definitions and Instructions and the applicable interrogatories to the extent they seek searches of electronically stored information and documentation to be disclosed or produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm Lloyds*, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Red Stag to act beyond what is reasonable and required by the applicable law in the preservation, review and production of such electronically stored information and documentation. Simply put, this is not

a case where metadata or native document productions is necessary, feasible or proportional to resolving any issue in the case.

3. Red Stag objects to Plaintiffs' definition in Paragraph C because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from Red Stag and have no reasonable connection to the Plaintiffs' claims. Finally, Red Stag objects to any interrogatories utilizing these terms to the extent they seek to invade the attorney work product and attorney-client privileges in violation of the Texas Rules of Civil Procedure.

4. Red Stag objects to Plaintiffs' definitions in Paragraph D and Paragraph F because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Red Stag further objects to these definitions to the extent they purport to obligate Red Stag to locate and obtain information that is not readily and feasibly accessible or is not in the possession of Red Stag. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues.

Finally, Red Stag objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Red Stag objects to the definition and instructions in Paragraph G regarding the term “Identify” because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery beyond Red Stag’s obligations as contemplated by Rule 192.3. Nor is the collateral information requested in Paragraph G appropriately sought under Rule 197 through mere inclusion of the term “Identify” inside of an interrogatory.

6. Each of these Objections to Plaintiffs’ Definitions and Instructions is incorporated by reference in each of the responses and answers to Plaintiffs’ Interrogatories.

Respectfully submitted,

GRAY REED & MCGRAW LLP

By: /s/ A.M. “Andy” Landry III

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(312) 321-0990 (Telefax)

**ATTORNEYS FOR DEFENDANT
RED STAG FULFILLMENT, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

ANSWERS TO FIRST SET OF INTERROGATORIES

INTERROGATORY NO. 1: Provide the name, address, and phone number of each person involved in providing information to respond to these interrogatories.

ANSWER: Eric McCollom, 5501 Island River Drive, Knoxville, TN 37914 assisted counsel with providing information to respond to these interrogatories.

INTERROGATORY NO. 2: List all addresses for Your offices and/or facilities, from August 1, 2013 to present.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this interrogatory as overbroad because it goes well beyond the pertinent time-period of the ammunition sales at issue in this case, i.e., March 2018. Nor is this interrogatory reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis.

Subject to and without waving these objections, Red Stag identifies the following:

**202 W. Springdale Ave
Knoxville, TN 37917
(approximately May 2013 – September 2018)**

**5502 Island River Drive
Knoxville, TN 37914
(approximately August 2015 – Present)**

**5530 Island River Drive
Knoxville, Tn 37914
(approximately October 2020 – Present)**

**5501 Island River Drive
Knoxville, TN 37914
(approximately January 2021 – Present)**

**2507 S. 300 W.
Salt Lake City, UT 84115
(approximately April 2017 – June 2018)**

**5350 West Harold Gatty Drive
Salt Lake City, UT 84116
(approximately May 2018 – Present)**

**1909 South 4250 West
Salt Lake City, UT
(approximately December 2020 – Present)**

INTERROGATORY NO. 3: List all names under which You have conducted business, from August 1, 2013 to present.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this interrogatory on multiple grounds. This request is irrelevant to any specific issue in this case involving allegations that Red Stag fulfilled an order ammunition in March 2018. Nor is this interrogatory reasonably tailored to a proper "specific" or "general" personal jurisdiction analysis.

Subject to and without waiving these objections, Red Stag has done business as Red Stag Fulfillment, LLC, only, throughout this time-period.

INTERROGATORY NO. 4: List all website addresses at which You have conducted business, from August 1, 2013 to present.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this interrogatory as vague and overbroad. Red Stag is a third-party logistics company. It does not sell products and thus does not "conduct" business via its website in the way this interrogatory infers.

Subject to and without waiving these objections, Red Stag maintains this web address (www.redstagfulfillment.com) as its business website.

INTERROGATORY NO. 5: For each bank or other financial account You have, list the name of the financial institution where the account is held and all authorized users or signers for each account.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense

afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and disproportional to any specific issue in the case. Nor is there a reasonable time-period identified that is reasonably tailored to Red Stag's fulfilment of LuckyGunner's two alleged orders with Pagourtzis that occurred in March 2018. Furthermore, names of financial intuitions and "all authorized users or signers" for such accounts is harassing, overbroad and not relevant to Plaintiffs' allegations that Red Stag is subject to either "general" or "specific" personal jurisdiction in Texas.

Subject to and without waiving these objections, as a best practice to prevent internal and external fraud, Red Stag maintains dual authority protocols throughout its accounts, where the generally applicable standard operating procedure is Controller Kimberly Welton sets up ACH payables, which President & COO Eric McCollom then reviews and approves. As for specific accounts, see the following:

Pinnacle Financial Partners Operating Account, with its principal user and signer being Eric McCollom.

Pinnacle Financial Partners Reserve Account, with its principal user and signer being Eric McCollom.

Pinnacle Financial Partners Credit Card Platform, with Eric McCollom and Kimberly Welton as the principal users of this platform, which Red Stag uses to issue purchasing credit cards to its employees.

PayPal Account for customer payments, with Kimberly Welton having access and control of this account.

INTERROGATORY NO. 6: Identify all of Your officers, directors, and members.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case, including whether "specific" or "general" personal jurisdiction over Red Stag exists. Nor is this request proportional to any need in this case.

Subject to and without waiving these objections, Red Stag's sole member is Mollenhour Gross, LLC and Eric McCollom is the President and Chief

Operating Officer. Red Stag does not have a board of directors.

INTERROGATORY NO. 7: Separately identify each employee of You or any of Your subsidiaries who has assisted, consulted, or played any role in the design and or operation of the website LuckyGunner.com.

ANSWER: **Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.**

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case, including whether “specific” or “general” personal jurisdiction over Red Stag exists. Nor is this request proportional to any need in this case.

Subject to and without waiving these objections, no executive or manager-level personnel of Red Stag have ever assisted, consulted, or played any role in the design and/or operation of the website LuckyGunner.com. While Red Stag currently employs or has employed hundreds of individuals, it is not aware of each individuals’ entire work history. That said, Red Stag is unaware of any of its employees previously assisting, consulting, or playing any role in the design and/or operating of the website LuckyGunner.com.

INTERROGATORY NO. 8: Identify each employee who has served as an account manager for LuckyGunner LLC or otherwise managed Your business with LuckyGunner LLC, from August 1, 2013 to present.

ANSWER: **Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.**

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any pertinent issue in the case, including whether “specific” or “general” personal jurisdiction over Red Stag exists.

Subject to and without waiving these objections, from 2013 to approximately September 2019, the account was managed by Eric McCollom and Chris Molitor and members of the Red Stag account management team. Since approximately September 2019, the account has been managed by Nicholaus Barnett. This account is one of more than 30 client accounts managed by Mr. Barnett.

INTERROGATORY NO. 9: Describe all services that You provide to LuckyGunner LLC.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. General information about how Red Stag's clients' orders are fulfilled is not reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order does not, as a matter of law, form the basis of specific jurisdiction in Texas. *See, e.g., US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag provides all of its clients with fulfillment and warehousing services, to include receiving goods, warehousing and storing goods, kitting goods, retrieving goods from storage, preparing such goods for shipment by a common carrier, applying shipping labels (and at times other documentation like DOT-required markings) to the goods, and placing those goods on the truck of a common carrier for delivery to the client's end-customer. The general process to pick, pack, and ship goods is as follows:

- a. A Red Stag worker picks the product from its storage location, where the product is already in the client's packaging;
- b. The product is transported to a packing station;
- c. At the packing station, the product receives additional shipping packaging and markings (if necessary), and a shipping label is affixed;
- d. After a shipping label is affixed, the product is placed on the truck of the delivery carrier, such as Federal Express.

INTERROGATORY NO. 10: Describe how you calculate the fees or cost of services that You provide to LuckyGunner LLC, including whether such fees are assessed by a "flat rate" or are tied to the quantity and value of products shipped.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this interrogatory on several grounds. The scope of this interrogatory is not reasonably tailored to any pertinent issue in the case. General information about how fees or costs are calculated is not reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order does not, as

a matter of law, form the basis of specific jurisdiction in Texas. *See, e.g., US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag provides its clients with pricing generally comprised of flat rate fees which are charged on a per unit basis, *i.e.*, per pallet of storage or per label applied.

INTERROGATORY NO. 11: Identify all of Your employees who previously or concurrently worked for LuckyGunner LLC, Mollenhour Gross LLC, or any other company affiliated or owned by Mollenhour Gross LLC.

ANSWER: Red Stag objects to this interrogatory because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to the scope of this interrogatory as overbroad and not reasonably tailored to any specific issue in the case. The phrase "any other company affiliated or owned" is harassing, and so broad and without any reasonable time-period that relates to the events of March 2018 that form the basis of Plaintiffs' petition so as to make this interrogatory impossible to answer. Nor does Red Stag have access to other entities employment records.

Subject to and without waiving these objections, Red Stag currently employs or has employed hundreds of individuals and is not aware of each individuals' entire work history, nor is Red Stag aware of all investments made by Mollenhour Gross, LLC. That being said, Red Stag is unaware of any of its employees previously being employed by either LuckyGunner, LLC or Mollenhour Gross, LLC.

CAUSE NO. CV-0081158

**ROSIE YANAS and CHRISTOPHER
STONE, individually and as next friends
of CHRISTOPHER JAKE STONE** § **COUNTY COURT AT LAW**
§
§
§

Plaintiffs, §
vs. §
§
§
GALVESTON COUNTY, TEXAS
§
§
§

**ANTONIOS PAGOURTZIS and ROSE
MARIE KOSMETATOS** §
§
§
§

Defendants. § **COURT NO. 3**
§
§
§

RED STAG FULFILLMENT, LLC'S OBJECTIONS AND RESPONSES TO PLAINTIFF-
INTERVENOR RHONDA HART'S FIRST REQUEST FOR PRODUCTION OF
DOCUMENTS SUBJECT TO AND WITHOUT WAIVING ITS PREVIOUSLY FILED
SPECIAL APPEARANCE

TO: Plaintiffs, by and through their attorneys, Alton C. Todd, The Law Firm of Alton C. Todd, 312 S. Friendswood Drive, Friendswood, Texas 77546.

COMES NOW, Defendant RED STAG FULFILLMENT, LLC (“Red Stag” or “Defendant”) and serves these Objections and Responses to Plaintiffs’ First Request for Production of Documents to Defendant Red Stag Fulfillment, LLC, subject to and without waiving its previously filed Special Appearance as follows:

I.
PRELIMINARY STATEMENT

On February 8, 2021, Red Stag filed a motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. The objections and responses herein are provided in the event that discovery is permitted and are made in good faith and based only upon information and documentation that is presently available to, and specifically known to, Red Stag. It is possible that further discovery and independent investigation may supply additional facts, and/or add new meaning to known facts, which may lead to additions to, changes in, and

variations from the information herein set forth. As a result, the following responses are given without prejudice to Red Stag's right to produce evidence of any subsequently discovered facts or to change any and all responses herein as additional facts are ascertained. Red Stag reserves the right to amend these responses if new or more accurate information and documentation becomes available or if errors are discovered. Furthermore, these responses are given without prejudice to Red Stag's right to rely at trial on subsequently discovered information and documentation or on information and documentation inadvertently omitted from these responses as a result of a mistake, error or oversight.

Any non-privileged documents identified herein as responsive to a request and to which no objection is asserted will be produced at a later time should discovery become appropriate either as agreed between the parties or by court order.

The word usage and sentence structure is that of the attorneys who prepared these responses, and does not purport to be the exact language of the responding party.

II. **GENERAL OBJECTIONS**

1. Red Stag objects to Plaintiffs' requests for any discovery at this stage, as fully outlined in Red Stag's motion for protective order and to stay discovery pending resolution of its objection to personal jurisdiction asserted pursuant to Tex. R. Civ. P. 120a and its dispositive defenses asserted pursuant to Tex. R. Civ. P. 91a. Red Stag serves these Objections and Responses subject to and without waiving its previously filed Special Appearance.

2. Red Stag objects to Plaintiffs' requests to the extent that they are vague, ambiguous, overly broad, unduly burdensome or oppressive, or seek information or documents that are not relevant to the claims or defenses of any party or to the specific issues in this case, or to the extent they seek information or documents beyond those permitted by the Texas Rules of Civil Procedure.

3. Red Stag objects to Plaintiffs' requests to the extent the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs of the case, the amount

in controversy, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, Plaintiffs' requests are not proportional to the needs of this case.

4. Red Stag objects to Plaintiffs' requests to the extent that they call for information or documents that are unreasonably cumulative or duplicative, or obtainable from some other source that is more convenient, less burdensome, or less expensive.

5. Red Stag objects to Plaintiffs' requests to the extent that they are not limited to documents and information that are maintained by Red Stag. Plaintiffs occasionally have included the phrase "possession, control, or custody" in their discovery requests. Red Stag shall construe Plaintiffs' requests as limited to documents and information that are within the "possession, control or custody" of Red Stag, as that terminology is defined by the Texas Rules of Civil Procedure.

6. Red Stag objects to Plaintiffs' requests to the extent they seek documents or information protected from discovery by the attorney-client privilege, work product doctrine or other privilege, or that are otherwise immune or protected from disclosure. Red Stag does not intend to waive any applicable protections or privileges through the production of documents or the supplying of information in response to Plaintiffs' requests. On the contrary, Red Stag specifically intends to preserve any and all applicable protections or privileges. Production (even inadvertent) of any document shall not constitute a waiver of any privilege or any other ground for objecting to discovery with respect to such document or any other documents, or with respect to the subject matter thereof or the information contained therein. Nor shall such production waive Red Stag's right to object to the use of the document or the information contained therein during this or any subsequent proceeding.

7. Red Stag is responding to Plaintiffs' requests without waiving or intending to waive, but on the contrary, preserving and intending to preserve: (a) the right to object, on the grounds of

competency, privilege, relevance, or materiality, or any other proper grounds, to the use of such documents or information for any purpose, in whole or in part, in any subsequent proceedings, in this action or in any other action; (b) the right to object on all grounds, at any time, to interrogatories, requests, or other discovery procedures involving or relating to the subject of these requests to which Red Stag has responded herein; and (c) the right at any time to revise, correct, add to, or clarify any of the answers made herein.

8. Because of the over breadth of Plaintiffs' requests at this stage in the litigation, it is not possible for Red Stag to anticipate all possible grounds for objection with respect to the particular requests set forth herein. Red Stag reserves the right to supplement these answers and to raise any additional objections deemed necessary and appropriate in light of the results of any further review.

9. Each of these General Objections is incorporated by reference in each of the Red Stag's responses to Plaintiffs' Requests for Production.

III. **OBJECTIONS TO DEFINITIONS AND INSTRUCTIONS**

1. Red Stag objects to Plaintiffs' Definitions and Instructions in their entirety to the extent said Definitions and Instructions are overly broad, unduly burdensome, disproportional to any pertinent need in the case, and impermissibly seeks to broaden the scope of discovery beyond Red Stag's obligations as contemplated by Texas Rule of Civil Procedure 192.3 and 196.

2. Red Stag further objects to these Definitions and Instructions and the applicable requests to the extent they seek searches for electronically stored information and documentation to be produced in a form or manner beyond what is (1) kept in the normal course of business, (2) reasonable and proportional to the needs of the case, (3) reasonably accessible and able to be reproduced or formatted for production, or (4) required by the Texas Rules of Civil Procedure and applicable case law, such as *In re Weekley Homes*, 295 S.W.3d 309 (Tex. 2009) and *In re State Farm*

Lloyds, 520 S.W.3d 595 (Tex. 2017), and further to the extent that they request Red Stag to act beyond what is reasonable and required by the applicable law in the preservation and production of such electronically stored information and documentation. Simply put, this is not a case where metadata or native document productions is necessary, feasible and proportional to resolving any issue in the case.

3. Red Stag objects to Plaintiffs' definition in Paragraph 2 because this definition renders any discovery requests utilizing the terms "You," "Your," or "Yours" overly broad and unduly burdensome. To the extent these terms are intended to include "any person or entity authorized to act on your behalf, and/or any employee, officer, contractor, or other person or entity under your control or authority" any inquiry utilizing these terms is so overly broad and unduly burdensome as to make any such inquiry virtually impossible to answer. Moreover, these definitions discharge the corporate form because they include entities and individuals which are legally separate and distinct from Red Stag and have no reasonable connection to the Plaintiffs' claims. Finally, requests utilizing these terms are objectionable to the extent they seek to invade the attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

4. Red Stag objects to Plaintiffs' definitions in Paragraph 3 and Paragraph 6 because they render any discovery requests utilizing the terms "Document" and/or "Communication" as overly broad, unduly burdensome, harassing and not proportional to any pertinent need in the case. These definitions reduce any such inquiry to an impermissible "fishing expedition" in violation of Texas law concerning appropriate discovery and the reasonable scope of discovery contemplated by Rule 192.3. Red Stag further objects to these definitions to the extent they purport to obligate Red Stag to locate and obtain information that is not readily and feasibly accessible or is not maintained by Red Stag. The myriad forms of data (both electronic and hard versions) requested fails the proportionality test. The burden and expense of the discovery sought far outweighs its likely benefit,

taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. Finally, Red Stag objects to the extent that use of these terms necessary seeks to invade attorney work product and attorney-client privilege in violation of the Texas Rules of Civil Procedure.

5. Red Stag objects to the instructions in Paragraph 4 because they are overly broad, unduly burdensome and impermissibly seek to broaden the scope of discovery and this Defendant's obligations as contemplated by Rule 192.3. Nor is the information requested in Paragraph 4 appropriately sought under Rule 196.

6. Each of these Objections to Plaintiffs' Definitions and Instructions is incorporated by reference in each of the responses to Plaintiffs' Requests for Production.

Respectfully submitted,

GRAY REED & MCGRAW LLP

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**ATTORNEYS FOR DEFENDANT
RED STAG FULFILLMENT, LLC**

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing instrument was duly furnished to all counsel of record via email and eFileTexas on the 8th day of February, 2021, in accordance with the Texas Rules of Civil Procedure:

/s/ A.M. "Andy" Landry III

A.M. "Andy" Landry III

RESPONSES TO REQUESTS FOR PRODUCTION

1. All Documents or Communications relating to purchases made by Dimitrios Pagourtzis, including, but not limited to: database records, application programming interface records, point-of-sale system records, communications with any credit card processing company, emails sent to Dimitrios Pagourtzis or about Dimitrios Pagourtzis (or his purchases) (whether automatically generated or not), and communications with any other entity (including Defendant LuckyGunner, LLC) concerning or related to the purchases.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the Protect of Lawful Commerce in Arms Act (“PLCAA”). Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to the scope of this request and to the extent it is overbroad and calls for disclosure of materials that constitute attorney work product, attorney-client or other privileged materials.

Subject to and without waiving these objections, Red Stag, without admitting LG sold the ammunition at issue in this lawsuit, would agree to provide its records regarding LuckyGunner’s orders with Dimitrios Pagourtzis. Because this material may constitute proprietary and/or confidential business information, it would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

2. Documents sufficient to show the dollar value of revenues on an annual basis generated by all order fulfillment, third-party fulfillment services, shipping of goods, and other third-party logistics services that You provide:

- a. To or on behalf of LuckyGunner LLC nationwide;
- b. To or on behalf of LuckyGunner LLC to customers located in Texas;
- c. To or on behalf of all Your clients to customers located in Texas.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “revenues” for all services provided to LuckyGunner, LLC over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale ammunition to Pagourtzis. This

request is irrelevant to that issue. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. This request is also irrelevant to that narrow issue. Indeed, the scope of this request is contrary to the general jurisdiction inquiry outlined in *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). In *Daimler*, the Supreme Court dramatically altered the scope of the constitutionally permissible analysis of general (“all-purpose”) jurisdiction over a non-resident defendant, such as Red Stag. Red Stag’s alleged “substantial, continuous, and systematic course of business” in a particular state is no longer the relevant inquiry, *post-Daimler*. Thus, the information sought in sections a. through c. is not proportional to any need in this case.

3. Documents sufficient to identify Your members, officers, directors, and executive-level staff.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The phrase “executive-level staff” is vague and overbroad and not pertinent to any personal jurisdiction issue. Red Stag’s sole member is Mollenhour Gross, LLC and Eric McCollom is the President and Chief Operating Officer. Red Stag does not have a board of directors. Nor is the information sought in this request available in any particular document and thus the request is better suited for an interrogatory. Indeed, this request also seeks information disclosed in Red Stag’s responses to Plaintiffs’ interrogatories.

Subject to and without waiving these objections, Red Stag would agree to produce its Operating Agreement in effect as of March 2018. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

4. All documents relating to transactions between You and LuckyGunner LLC, including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of LuckyGunner LLC, from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations

in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “[a]ll” “transactions” with LuckyGunner, LLC over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag would agree to produce the services agreement for the fulfillment of LuckyGunner, LLC. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

5. All documents relating to transactions between You and MollenhourGross LLC (and/or its members, Jordan Mollenhour and Dustin Gross), including but not limited to, memoranda of understanding, asset purchase agreements, vendor agreements, contracts, notes or minutes of any meetings attended by any of Your employees and any employee of MollenhourGross LLC (including its members, Jordan Mollenhour and Dustin Gross), from January 1, 2013 to January 1, 2014 and from January 1, 2016 to present

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Information regarding “[a]ll” “transactions” with Red Stag's member/owner, Mollenhour Gross, LLC and its members/owners, Mr. Mollenhour and Mr. Gross, over the course of multiple years is unreasonable and irrelevant to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

Subject to and without waiving these objections, Red Stag would provide its annual meeting minutes from 2016 through 2020.

6. Documents sufficient to identify all employment, contractor, vendor and consultant agreements between You and LuckyGunner LLC, MollenhourGross LLC, Jordan Mollenhour, and Dustin Gross (to the extent not produced in response to other requests herein).

RESPONSE:

This request is duplicative of request Nos. 4 and 5, *supra*. Red Stag incorporates herein its objections and responses to those requests.

7. Your by-laws, articles of organization, operating agreement, and any other organizing documents, from January 1, 2013 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request as simply irrelevant to and beyond the reasonable scope of any pertinent issue in the case.

Subject to and without waiving these objections, Red Stag is a limited liability company and therefore does not have by-laws. Red Stag would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

8. Documents sufficient to identify all employees and contractors who worked for You, from January 1, 2016, to June 1, 2018, as well as the individuals' job titles and responsibilities.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Requesting identities of "all employees and contractors who worked" for Red Stag over the course of several years is unreasonable and not tailored to either a "specific" or "general" personal jurisdiction analysis. Nor is searching for and producing documents about employment information, job titles/responsibilities a feasible or efficient way to information about any particular work done at Red Stag. Rather, an interrogatory

reasonably focused on particular issues and job responsibilities would be substantially less burdensome and more convenient. As currently structured, however, the information sought in this request is not proportional to any need in this case. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

9. All Documents related to the hiring of Eric McCollom and Chris Molliter, including calendar entries for interviews, interview notes, offer letters, and employment contracts, from January 1, 2013 to present.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The hiring of Mr. McCollom and Mr. Molitor goes far beyond any pertinent issue within a proper "specific" or "general" personal jurisdiction analysis. "Specific" jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is "at home" – *i.e.*, its principal place of business or place of organization. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

10. All Documents, from January 1, 2012 to December 31, 2014, related to the founding and formation of Red Stag Fulfillment, LLC, including documents related to Jordan Mollenhour's and Dustin Gross's decision to start a fulfillment company after the Christmas 2012 season, as documented in articles such as "How Red Stag Breaks the Rules of Ecommerce Fulfillment" (Webretailer) and "An Interview with Red Stag Fulfillment Leadership: A World-Class Fulfillment Company" (The Silicon Review).

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request as simply irrelevant to and far beyond the reasonable scope of any pertinent issue in the case. Requesting a search for and production of all material that merely "relate to" the "decision" to start the

company is so overly broad and unreasonable that this request can only be seen as harassing and having no legitimate connection to a proper “specific” or “general” personal jurisdiction analysis. The two “articles” referenced in this request are irrelevant to personal jurisdiction. With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party’s resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, Red Stag would agree to produce its Articles of Organization and Operating Agreement. Because this material may constitute proprietary and/or confidential business information, this material would therefore be produced subject to the entry of an appropriate protective order governing dissemination of such materials.

11. Documents sufficient to identify Your corporate clients.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Requesting information about all of Red Stag’s “corporate clients” can only be seen as harassing. Nor is this request reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

12. All press releases issued by You.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Press releases are publically available and thus Plaintiffs already have access to this information. Plaintiffs are also free to visit www.redstagfulfillment.com/blog where

company announcements are published. To the extent this request seeks different or additional information, however, it is objectionable as not reasonably tailored to a proper “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is irrelevant to either issue and is therefore not proportional to any need in this case.

13. Your financial statements for FY2018 and FY2019, including Your balance sheet, income statement, statement of cash flow, and annual report (or similar statements).

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The general financial information sought in this request is irrelevant and not reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

14. Documents sufficient to show each debt instrument under which You are obligated.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs’ petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The general financial information sought in this request is irrelevant and not reasonably tailored to either a “specific” or “general” personal jurisdiction analysis. “Specific” jurisdiction is an analysis of the events or transaction at issue in the case – *i.e.*, the sale of ammunition to Pagourtzis. A general jurisdiction analysis is focused on where Red Stag is “at home” – *i.e.*, its principal place of business or place of organization. *See Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case.

15. Documents, such as flow charts or other schematics, sufficient to show the process by which You receive inventory, receive orders, fulfill orders, and ship goods.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. The phrases "flow charts or other schematics" are vague and overbroad. Nor is general information about how Red Stag's clients' orders are fulfilled reasonably tailored to either a "specific" or "general" personal jurisdiction analysis. Indeed, the act of fulfilling a customer's order described in this request does not, as a matter of law, form the basis of specific jurisdiction in Texas. See, e.g., *US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). Thus, this request is not proportional to any need in this case. Notwithstanding these objections, see Red Stag's answer to interrogatory No. 9.

16. All Communications between You and any employee, agent, director, or member of LuckyGunner LLC concerning marketing and sale of products in Texas.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Were discovery appropriate, Red Stag objects to this request on several grounds. Red Stag is a fulfillment company and does not market or sell its clients' goods. Thus, the premise of this request is flawed. Further, it is Red Stag's understanding that LuckyGunner, LLC was formed and sold ammunition to Texas residents long before Red Stag was formed or began servicing orders on behalf of LuckyGunner, LLC. Indeed, this activity does not, as a matter of law, amount to "purposeful availment" for the purposes of establishing specific jurisdiction in Texas. See, e.g., *US LED, Ltd. v. Nu Power Assocs., Inc.*, No. CIV.A H-07-0783, 2008 WL 4838851 (S.D. Tex. Nov. 5, 2008). Nor does this request concern a general jurisdiction analysis. See *Daimler AG v. Bauman*, 134 S.Ct. 746, 751 (2014). With respect to the burden and expense of the discovery sought, it far outweighs its likely benefit, taking into account the needs of the case, each party's resources, the importance of the issues at stake in the litigation, and the importance of the proposed discovery in resolving those issues. As a result, this request is not proportional to the needs of this case.

Subject to and without waiving these objections, Red Stag does not market or sell its client's products in Texas or any other jurisdiction. Therefore, Red Stag does not believe any such material responsive to this request exists.

17. All Documents or Communications identified or relied on in response to plaintiffs' and plaintiffs-intervenors' First Set of Interrogatories to Defendant Red Stag Fulfillment LLC.

RESPONSE:

Red Stag objects to this request because two threshold dispositive motions filed pursuant to Rule 120a and Rule 91a remain pending. These motions raise, *inter alia*, an objection to personal jurisdiction and the immunity defense afforded by the PLCAA. Neither merits nor personal jurisdiction discovery is warranted based on the allegations in Plaintiffs' petition.

Subject to and without waiving these objections, Red Stag would agree to produce any documents referenced in accordance with Texas Rule of Civil Procedure 197(c) in responding to the Interrogatories, including those, if any, to be produced following entry of an appropriate protective order. At this time, there are no such documents.

EXHIBIT D

IN THE SUPREME COURT OF TEXAS

No. 19-0497

IN RE ACADEMY, LTD. D/B/A ACADEMY SPORTS + OUTDOORS

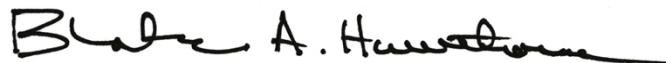
ON PETITION FOR WRIT OF MANDAMUS

ORDERED:

1. Relators' motion for emergency temporary relief, filed June 11, 2019, is granted. All trial court proceedings in Cause No. 2017CI23341; 2018CI14368; 2018CI23302; 2018CI23299, styled *Chris Ward, Individually and as Representative of the Estates of Joann Ward, Deceased, et al. v. Academy, Ltd. d/b/a Academy Sports & Outdoors*, in the 224th District Court of Bexar County, Texas, are stayed pending further order of this Court.

2. The petition for writ of mandamus remains pending before this Court.

Done at the City of Austin, this June 21, 2019.



BLAKE A. HAWTHORNE, CLERK
SUPREME COURT OF TEXAS

BY CLAUDIA JENKS, CHIEF DEPUTY CLERK