

FILED
9/26/2022 6:20 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021CH01987
Calendar, 14
19647729

**IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION**

CITY OF CHICAGO, an Illinois
Municipal corporation,

Plaintiff,

-vs-

WESTFORTH SPORTS, INC.,

Defendant.

Case No.: 21 CH 01987

Judge: Clare J. Quish

**CITY OF CHICAGO’S UNOPPOSED MOTION TO SUPPLEMENT THE RECORD
AND TO EXTEND THE DATE FOR DEFENDANT’S REPLY TO OCTOBER 31, 2022**

Plaintiff, City of Chicago ("Plaintiff") respectfully moves this Court for the entry of an Order granting Plaintiff the right to file supplemental evidence in support of Plaintiff's Opposition to Defendant's Section 2-619 Motion to Dismiss. Plaintiff seeks leave to supplement the record with one additional exhibit comprised of select documents produced by ATF, attached as **Exhibit 1** to the Affidavit of Alla Lefkowitz, submitted herewith. Counsel for Plaintiff has conferred with counsel for Defendant regarding this motion, and Defendant consents to the proposed supplemental filing and subject to an extension of the date for Defendant’s reply to October 31, 2022.

On August 11, 2022, this Court entered an order permitting non-party the U.S. Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”) to produce certain documents relevant to this litigation that would otherwise be restricted by the Privacy Act. *See* Privacy Act Order. Despite repeated efforts by the Plaintiff to obtain these documents prior to the September 15th deadline for filing Plaintiff’s opposition brief, those documents were not produced until September 19, 2022. *See* Affidavit of Alla Lefkowitz, ¶¶ 5-6. Counsel for Plaintiff served the produced documents on Defendant on September 20, 2022. *Id.* Plaintiff believes the evidence is significant and directly

relates to the Defendant's knowledge of the indicators of straw purchasing, a pivotal issue in both the Plaintiff's and Defendant's arguments.

For the foregoing reasons, Plaintiff respectfully requests that the Court enter an order giving Plaintiff leave to supplement the record on Plaintiff's Opposition to Defendant's Section 2-619 Motion to Dismiss to include the documents attached as Exhibit 1 to the Affidavit of Alla Lefkowitz, and extending the time for Defendant to file its reply in support of its motion to dismiss, to October 31, 2022.

Dated: September 26, 2022

Respectfully submitted,

By: /s/ Michael J. Gill

Celia Meza
Stephen J. Kane
Rebecca A. Hirsch
CITY OF CHICAGO DEPT. OF LAW
121 North LaSalle Street, Room 600
Chicago, Illinois 60602
(312) 744-6934
stephen.kane@cityofchicago.org
Rebecca.Hirsch2@cityofchicago.org

Michael J. Gill
MAYER BROWN LLP
71 S. Wacker Drive
Chicago, IL 60606
(312) 782-0600
Firm No. 43948
mgill@mayerbrown.com
mscodro@mayerbrown.com

James E. Miller*
Krystan Hitchcock*
EVERYTOWN LAW
450 Lexington Ave.
P.O Box # 4184
New York, NY 10017
Phone: (646) 324-8220
jedmiller@everytown.org
khitchcock@everytown.org

Mark G. Hanchet*
Robert W. Hamburg*
Victoria D. Whitney*
Whitney A. Suflas*
MAYER BROWN LLP
1221 Avenue of the Americas
New York, NY 10020
(212) 506-2500
mhanchet@mayerbrown.com
rhamburg@mayerbrown.com
vwhitney@mayerbrown.com
wsuflas@mayerbrown.com

Alla Lefkowitz *

EVERYTOWN LAW

P.O. Box 14780

Washington, DC 20044

Phone: 202-545-3257 ext. 1007

alefkowitz@everytown.org

* Admitted pro hac vice

**ATTORNEYS FOR PLAINTIFF
CITY OF CHICAGO, ILLINOIS**

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

CITY OF CHICAGO, an Illinois
municipal corporation,

Plaintiff,

-vs-

WESTFORTH SPORTS, INC.,

Defendant.

Case No. 21 CH 01987

Judge: Clare J. Quish

CERTIFICATE OF SERVICE

The undersigned, an attorney, hereby certifies under penalties provided by law pursuant to section 1-109 of the Illinois Code of Civil Procedure (735 ILCS 5/1-109) that he caused copies of the foregoing Plaintiff City of Chicago's Motion to Supplement the Record in Opposition to Defendant's Section 2-619 Motion to Dismiss for Lack of Personal Jurisdiction and to Extend the Date for Defendant's Reply to October 31, 2022 to be served electronically upon the counsel of record listed in the below Service List via Odyssey eFileIL.

Respectfully Submitted,

/s/ Michael J. Gill

Attorney for Plaintiff, the City of Chicago

Michael J. Gill

Michael A. Scodro

MAYER BROWN LLP

71 S. Wacker Drive

Chicago, IL 60606

(312) 782-0600

Firm No. 43948

mgill@mayerbrown.com

mscodro@mayerbrown.com

Service List

<p>Richard J. Leamy, Jr. Rachel S. Nevarez WIEDNER & McAULIFFE, LTD. One North Franklin Street, Suite 1900 Chicago, Illinois 60606 (312) 855-1105 – Atty: #10524 rjleamy@wmlaw.com rsnevarez@wmlaw.com</p>	<p>Scott L. Braum Timothy R. Rudd SCOTT L. BRAUM & ASSOCIATES, LTD. 812 East Franklin Street, Suite C Dayton, Ohio 45459 slb@braumlaw.com trr@braumlaw.com</p>
<p>Mr. James T. Nyeste 820 Davis Street Evanston, IL 60201 (847) 242-0601 jnyeste@coveragelaw.com</p>	<p>Stephen J. Kane Rebecca A. Hirsch CITY OF CHICAGO DEPT. OF LAW 121 North LaSalle Street, Room 600 Chicago, Illinois 60602 (312) 744-6934 stephen.kane@cityofchicago.org Rebecca.Hirsch2@cityofchicago.org</p>
<p>Michael J. Gill Michael A. Scodro MAYER BROWN LLP 71 S. Wacker Drive Chicago, IL 60606 (312) 782-0600 Firm No. 43948 mgill@mayerbrown.com mscodro@mayerbrown.com</p>	<p>Mark G. Hanchet Robert W. Hamburg Victoria D. Whitney MAYER BROWN LLP 1221 Avenue of the Americas New York, NY 10020 (212) 506-2500 mhanchet@mayerbrown.com rhamburg@mayerbrown.com vwhitney@mayerbrown.com</p>
<p>James E. Miller Krystan Hitchcock EVERYTOWN LAW 450 Lexington Ave. P.O Box # 4184 New York, NY 10017 Phone: (646) 324-8365 jedmiller@everytown.org khitchcock@everytown.org</p>	<p>Alla Lefkowitz EVERYTOWN LAW P.O. Box 14780 Washington, DC 20044 Phone: 202-545-3257 ext. 1007 alefkowitz@everytown.org</p>

FILED
9/26/2022 6:20 PM
IRIS Y. MARTINEZ
CIRCUIT CLERK
COOK COUNTY, IL
2021CH01987
Calendar, 14
19647729

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT – CHANCERY DIVISION

CITY OF CHICAGO, an Illinois
Municipal corporation,

Plaintiff,

-vs-

WESTFORTH SPORTS, INC.,

Defendant.

Case No.: 21 CH 01987

Judge: Clare J. Quish

AFFIDAVIT OF ALLA LEFKOWITZ IN SUPPORT OF
PLAINTIFF CITY OF CHICAGO’S MOTION TO SUPPLEMENT
THE RECORD IN OPPOSITION TO DEFENDANT’S SECTION 2-619
MOTION TO DISMISS FOR LACK OF PERSONAL JURISDICTION

BEFORE ME, the undersigned authority, personally appeared Alla Lefkowitz, who being duly sworn, stated as follows:

1. My name is Alla Lefkowitz. I am an attorney of record for the City of Chicago, in the above-captioned case. I am over the age of eighteen, of sound mind, and have never been convicted of a felony. The statements in this affidavit are true and correct and are based on my personal knowledge..
2. I have been an attorney licensed in the State of New York since 2011 and the District of Columbia since 2017. My licenses have never been suspended or revoked.
3. I am admitted *pro hac vice* by this Court to practice in the above-captioned case.
4. Attached hereto as **Exhibit 1** is a true and correct copy of a sign-in sheet for a Firearms Dealer Seminar conducted by the Bureau of Alcohol, Tobacco, Firearms and Explosives

FILED DATE: 9/26/2022 6:20 PM 2021CH01987

("ATF") on February 25, 2020 in Saint John, Indiana, as well as a true and correct copy of an excerpt of the PowerPoint presentation presented during the seminar.

5. The above documents were produced to me as part of a larger production on September 19, 2022 by an employee of the ATF. On September 20, 2022, I sent a Dropbox link to counsel for Defendant Westforth Sports providing the entire set of documents produced by the ATF.

6. I exercised due diligence in trying to obtain these documents prior to September 15, 2022, the deadline for Plaintiff's opposition to the Defendant's motion to dismiss. Between August 11, 2022, the day the Privacy Act Order was entered, and September 15, 2022, I emailed counsel for ATF on six separate occasions in an effort to obtain the documents. Finally, after 5:00 pm eastern on September 15, 2022, the day the brief was due, I received an email from an employee of the ATF stating that that the production was too large to send via email. Given the deadline for filing the brief, it was not possible to obtain and file these documents as part of the brief. I therefore made arrangements to obtain these documents by an alternate method as soon as practicable, and ultimately received the documents on September 19, 2022.

Signed this 25th date of September 2022.

A. Lefkowitz

Alla Lefkowitz
Admitted *Pro Hac Vice*

SUBSCRIBED AND SWORN TO BEFORE ME on the 25 date of September 2022, to certify which witness my hand and official seal.



Connor Thomas Cuzzio
Notary Public for the ~~District of Columbia~~
state of Virginia

EXHIBIT 1



FIREARMS DEALER SEMINAR
February 25, 2020 - Saint John, Indiana



<u>FLL Name</u>	<u>FFL City</u>	<u>Name of Attendee</u>	<u>Phone Number</u>	<u>Email Address</u>
	Fair Oaks			
	Fair Oaks			
	ST. JOHN			
	LAFORTE			
	Dyer, Indiana			
	[REDACTED]			
	HOBART			
	HOBART			
	RENSSELAER			
	Cedar Lake			
	Rolling Prairie			
	Laforte			
	Schroeder			



FIREARMS DEALER SEMINAR
February 25, 2020 - Saint John, Indiana



<u>FLL Name</u>	<u>FLL City</u>	<u>Name of Attendee</u>	<u>Phone Number</u>	<u>Email Address</u>
	Merrillville IN			
	Harrods IN			
	Cedar Lake, IN			
	East Chicago			
	Russelton			
	Lowell, IN			
	Valparaiso			
Westforth Sports	Gary	Sheila M Lewis	219-980-0680	Salas @westforth sports.com
WESTFORTH SPORTS	GARY	EARL WESTFORTH	219-980-0680	Salas @ Westforth Sports, Gary
	Merrillville			
	Dyer			
	Merrillville			



FIREARMS DEALER SEMINAR
February 25, 2020 - Saint John, Indiana



<u>FLL Name</u>	<u>FFL City</u>	<u>Name of Attendee</u>	<u>Phone Number</u>	<u>Email Address</u>
	Gary, IN			
	SCHERERVILLE, IN			
	Highland, IN			
	Rensselaer, IN			
	CROWN POINT			

6

31

Bureau of Alcohol, Tobacco, Firearms and Explosives

FFL Seminar
February 25, 2020

Detecting & Avoiding Straw Purchases

Case No. 21-CH-01987

What Is A “Straw Purchase?”

- The illegal purchase of a firearm by one person on behalf of another.
- Actual buyer may or may not be prohibited.
- “Actual buyer” selects firearm, pays for firearm, takes custody of firearm, etc.
- “Straw Purchaser” completes paperwork.
- May be firearm trafficking or single purchase.
- Gifts are NOT straw purchases.

What Is A "Straw Purchase?" (Cont'd)



Straw Purchaser

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives

Firearms Transaction Record

WARNING: You may not receive a firearm if prohibited by Federal or State law. The information you provide will be used to determine whether you are prohibited from receiving a firearm. Certain violations of the Gun Control Act, 18 U.S.C. 922, at any, are punishable by up to 10 years imprisonment and/or up to a \$250,000 fine.

Read the Notice, Instructions, and Declarations on this form. Prepare in original only at the licensed premises ("licensed premises") includes business temporarily conducted from a qualifying gun show or event in the same State in which the licensed premises is located under the transaction qualifies under 18 U.S.C. 922(j). All entries must be handwritten in ink. "PLEASE PRINT"

1. Transferee's Name (If legal name contains an initial only, record "I" after the initial. If no middle initial or name, record "M" for Last Name (including suffix, e.g., Jr. or II, III). First Name Middle Name Last Name

2. Current State of Residence and Address (U.S. Postal abbreviations are acceptable. Consent for a post office box) Number and Street Address City State ZIP Code

3. Place of Birth U.S. City and State (If Foreign Country) 4. Height Ft. In. 5. Weight (Lbs.) 6. Sex Male Female 7. Birth Date Month Day Year

8. Social Security Number (Optional, but will help process background check) 9. Unique Personal Identifier (UPI) (If applicable (See Instructions for Question 9))

10. Ethnicity (U.S. Race (In addition to ethnicity, select one or more race to 100% and 100% must be answered) 11. Answer the following questions by checking or marking "Yes" or "No" in the boxes to the right of the questions. Yes No

12. Have you ever been convicted of a crime for which the judge could have imprisoned you for more than one year? (See Instructions for Question 11.1.)

13. Have you ever been convicted in any court of a felony, or any other crime for which the judge could have imprisoned you for more than one year, even if you received a shorter sentence including probation? (See Instructions for Question 11.2.)

14. Are you a fugitive from justice? (See Instructions for Question 11.3.)

15. Are you an unlawful user of, or addicted to, narcotic or any dependent, stimulant, narcotic, drug, or any other controlled substance? Warning: The use or possession of narcotic or any other controlled substance is prohibited under Federal law regardless of whether it has been legalized or decriminalized for medical or scientific purposes in the state where you reside.

16. Have you ever been adjudicated as a mental defective or have you ever been committed to a mental institution? (See Instructions for Question 11.4.)

17. Have you been discharged from the Armed Forces under dishonorable conditions?

18. Are you subject to a court order restraining you from harassing, stalking, or threatening your child or an intimate partner or child of such person? (See Instructions for Question 11.5.)

19. Have you ever been convicted in any court of a misdemeanor crime of domestic violence? (See Instructions for Question 11.6.)

20. Country of Citizenship (Check Let more than one, if applicable. Nationals of the United States may check U.S.A.) United States (U.S.A.) Other Country/Countries (Specify):

21. Have you ever renounced your United States citizenship?

22. Are you an alien illegally or unlawfully in the United States?

23. Are you an alien who has been admitted to the United States under a nonimmigrant visa? (See Instructions for Question 12.4.)

24. If "yes," do you fall within any of the exceptions listed in the instructions?

25. If you are an alien, record your U.S.-Issued Alien or Admission number (AIE, I-20/20A, or I-94)

Transferee/Owner Consents to Next Page
STAPLE IF PAGES BECOME SEPARATED

ATF Form 4473 (2015)
Revised October 2015



Actual Buyer

It's not just a "paperwork" crime!

Common Indicators

- Bulk purchases or repetitive purchases of same or similar firearms especially “non-collectibles.”
- Structuring purchases to avoid MS reporting.
- Purchase made with new identification.
- No previous purchases but now frequent buying.
- No haggling or questions on price.
- Paying with large amount of cash.
- Apparent drug-abuser.



Common Indicators (Cont'd)

- Arriving in car with out-of-state license plate.
- Attempts to conceal conversation from FFL.
- “Scouting” of firearm by person with purchaser.
- Taking/sending cell phone photos of firearms.
- Talking on telephone while looking at firearms.
- Avoids engaging in conversation with FFL or is evasive when asked questions.
- Travels an illogical distance to purchase.

And even more Common Indicators

- Reluctance of apparent buyer to complete paperwork.
- Attempted purchase of firearm from recent denial.
- Purchaser has little or no knowledge about firearms.
- Purpose inconsistent with firearm purchased
 - Deer hunting with .22-caliber.
- Customer inconsistent with firearm purchased
 - Small-framed person buys large pistol.
 - Person with no apparent income buys expensive firearm.

What Can You Do?

- Ask Questions,
- Ask More Questions,
- Ask Even More Questions!!!



What Can You Do (Cont'd)?

- Educate your employees on recognition and prevention.
- Get to know your customers
 - Engage with your customers.
 - Ask questions.
- Trust your instincts.
- Maintain complete records
 - 4473.
 - Multiple Sale Reports.
- Report suspected straw purchasers.

What Can You Do (Cont'd)?

Decline the Sale

- There is no legal obligation to complete a sale.
- If you feel the transaction may not be legitimate, you may decline the sale.
- If you have reasonable cause to believe it is not legitimate, you must decline the sale.