
CITY OF PHILADELPHIA, a municipal
corporation,

Plaintiff,

v.

WRT MANAGEMENT, INC. f/k/a
TANNER'S SPORT CENTER INC., et al.,

Defendants.

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

Civil Action No. 230702394

CIVIL DIVISION

**PLAINTIFF CITY OF PHILADELPHIA'S OPPOSITION
TO DEFENDANT FRANK'S MOTION FOR RECONSIDERATION**

I. MATTER BEFORE THE COURT

Before the Court is Defendant Frank's Gun Shop & Shooting Range LLC ("Frank's")'s Motion for Reconsideration of this Court's September 26, 2024 Order granting the Plaintiff City of Philadelphia ("the City")'s Motion to Compel discovery production (Control Number 24095773).

II. QUESTION INVOLVED

Did this Court make a clear error by considering and granting the City's Motion to Compel as uncontested in accordance with local rules after Frank's failed to file a timely response?

Suggested answer: No.

III. STATEMENT OF FACTS

On September 5, 2024, the City filed a Motion to Compel discovery production and responses from Frank's. See **Exhibit A** (Motion to Compel Defendant Frank's Discovery Production and Responses). On September 12, the City filed a praecipe certifying the Motion as contested and directing that Frank's shall file a response to the Motion by the response date entered

on the docket; in this case, September 19, 2024. *See* **Exhibit B** (Praecipe for Contested Discovery Motion).¹ Frank's did not file a timely response by its September 19 deadline, after which the local rules treat discovery motions as unopposed. Instead, Frank's filed its opposition brief five days late, on September 24. *See* Frank's Mem. at 2. On September 26, this Court granted the City's Motion to Compel. *See* Frank's Exhibit A. On September 30, Frank's filed the instant Motion for Reconsideration.

IV. ARGUMENT

The only argument Frank's raises in support of reconsideration is that this Court "committed a clear error" by treating and granting the City's motion to compel as uncontested. Frank's Mem. at 3. Frank's contends this decision was "based on a clear mistake of fact" because the City certified the motion as contested on September 12. *Id.* at 1. *See* Exhibit B.²

What Frank's neglects to mention is that the Court's decision was based on Frank's own failure to file a timely response by its September 19 deadline. *See* Frank's Exhibit A (Order noting a certification date of September 12 and a response date of September 19). This Court's discovery motions rule states, "If a Discovery Motion is certified Contested, and no response is filed within seven (7) days, the motion will be assigned to a judge for review as unopposed." Philadelphia Court of Common Pleas' Protocol for Discovery Motions Filed on/after March 15, 2021 at 3.

¹ In its motion for reconsideration, Frank's attached the City's Praecipe for Contested Discovery Motion with regard to a different discovery motion (Control No. 2408523) and a different defendant (co-defendant Delia's). *See* Frank's Exhibit B.

² Frank's suggestion that the Court instructed it to file supplemental briefing at a September 24, 2024 hearing on the City's motion against co-defendant Delia's (Control No. 2408523) is misguided. Frank's Mem. at 2. The Court invited *the parties to that motion*—namely, the City and Delia's—to submit supplemental briefing. Frank's is neither the movant nor the respondent in that motion, has submitted no brief in that motion (and thus has nothing to "supplement"), and merely attended that hearing as an interested third party.

The Court properly applied this rule to consider the City’s Motion uncontested because Frank’s filed no response within the seven-day period after the City’s certification. The Court has discretion to consider and grant even dispositive motions as uncontested in accordance with local rules when parties do not file a timely response. *See e.g. McCarthy v. City of Bethlehem*, 962 A.2d 1276, 1280 (Pa. Commw. Ct. 2008) (“Under the clear language of local rule ... the trial court was authorized to treat the motion for summary judgment as uncontested only upon a failure to timely file a *response* to the motion[.]”); *Garner v. Se. Pennsylvania Transp. Auth.*, No. 904 C.D. 2014, 2015 WL 5453095 at *1 (Pa. Commw. Ct. 2015). (“We conclude that the trial court did not abuse its discretion in granting [defendant]’s motion for summary judgment as uncontested and that [plaintiff] was barred from seeking judicial remedies due to his failure to timely avail himself of the administrative process.”) (unpublished opinion cited for its relevance here).

Here, the Court correctly followed local rules and procedures to treat the City’s discovery motion as unopposed after Frank’s failed to file a timely response. Now, Frank’s seeks reconsideration based solely on the contention that the Court “committed a clear error.” Frank’s Mem. at 3. That misstates both the underlying facts and the applicable law and is not a proper basis for reconsideration here. While the Court certainly has discretion to reopen the merits of the City’s Motion to Compel, Frank’s Motion neither invokes this discretion nor attempts to justify its deployment here. As such, the Motion should be denied.

V. CONCLUSION

For the foregoing reasons, the City respectfully requests that Frank’s Motion for Reconsideration be denied.

Respectfully submitted this 2nd day of October, 2024.

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EXHIBIT A

FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY



CITY OF PHILADELPHIA, a municipal
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Plaintiff,

v.

WRT MANAGEMENT, INC., f/k/a
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FRANK'S GUN SHOP & SHOOTING
RANGE LLC, MAD MINUTE
ENTERPRISES, LLC d/b/a DELIA'S GUN
SHOP, and DELIA'S GUN SHOP, INC.

Defendants.

CIVIL DIVISION

Case No. 230702394

ORDER

AND NOW this _____ day of _____, 2024, upon consideration of Plaintiff City of Philadelphia's Motion to Compel Defendant Frank's Discovery Production and Responses to the City's First Set of Discovery requests, it is hereby ORDERED and DECREED that the Motion is **GRANTED**. Frank's is directed to produce all documents responsive to the City's Requests for Production, and to meaningfully answer the City's Interrogatories without objections, by _____, 2024.

BY THE COURT:

, J.

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24096923

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

CITY OF PHILADELPHIA, a municipal
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WRT MANAGEMENT, INC., f/k/a
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SHOP, and DELIA’S GUN SHOP, INC.,

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CIVIL DIVISION

Case No. 230702394

**PLAINTIFF’S MOTION TO COMPEL DEFENDANT FRANK’S DISCOVERY
PRODUCTION AND RESPONSES**

Plaintiff City of Philadelphia (the “City”) hereby moves the Court to compel Defendant Frank’s Gun Shop & Shooting Range LLC (“Frank’s”) to produce documents and responses to the City’s First Set of Discovery Requests. The grounds justifying the requested relief are set forth in the accompanying Memorandum of Law.

Date: September 5, 2024

/s/ Melissa Medina

Melissa Medina
1515 Arch Street, 15th Floor
Philadelphia, PA 19102
Attorney for Plaintiff

**FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
IN THE COURT OF COMMON PLEAS OF PHILADELPHIA COUNTY**

CITY OF PHILADELPHIA, a municipal
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CIVIL DIVISION

Case No. 230702394

**MEMORANDUM OF LAW IN SUPPORT OF THE CITY'S MOTION TO COMPEL
DEFENDANT FRANK'S DISCOVERY PRODUCTION AND RESPONSES**

The City seeks to hold Frank's accountable for its repeated violations of federal and Commonwealth firearms laws, resulting in the flow of illegal guns into its communities, which has harmed the City and its residents. The City served its initial discovery requests upon Frank's almost six months ago, yet despite repeated efforts by the City to enforce its requests, Frank's has refused to produce even a single document.

The City's lawsuit is predicated on Frank's knowing facilitation of straw purchases—illegal transactions where sham buyers pretend to purchase firearms for themselves but actually purchase the guns to sell or transfer to others. Exhibit A ¶ 23 (Amended Complaint). This practice diverts guns from legal commerce—where sales are subject to a background check and other public safety requirements, and must be recorded in a licensed dealer's books and records—into the unregulated criminal market. *Id.* The City's Amended Complaint details some of the 48 known straw transactions by Frank's, including instances where the store turned a blind eye to telltale red flags

of straw purchasing. *Id.* ¶¶ 65-80. In each transaction, Frank’s knowingly violated the law by falsely certifying its belief that the transaction was lawful. *Id.* ¶¶ 35, 46. Frank’s also submitted false information for firearms background checks, failed to conduct background checks on the actual purchasers, and recorded fictitious buyers in its books and records, among other violations. *Id.* ¶¶ 31, 38, 41-42, 46.

On March 5, 2024, the City served Frank’s discovery requests seeking information related to its illegal conduct. *See* Exhibit B (City’s First Set of Discovery Requests). Since that time, despite repeated efforts by the City to move discovery along, Frank’s has refused to produce any documents in response to the City’s discovery requests. Instead, several days after an extension granted by the City at Frank’s request had run, Frank’s served responses and objections invoking inapposite state (18 PA. CONS. STAT. § 6111(i)) and federal (18 U.S.C. § 926) prohibitions related to firearms, and asserting boilerplate, unsubstantiated objections. *See* Exhibit C (Defendant Frank’s Answer and Objections to Plaintiff’s First Set of Discovery Requests). After meeting and conferring with the City on August 22, 2024, Frank’s persists in these objections, all of which are meritless. As a result, the City now moves for an Order of this Court compelling Frank’s to produce responsive documents and to meaningfully respond to Interrogatory No. 2 for the reasons discussed below.

MATTER BEFORE THE COURT

The City moves this Court for an order compelling Frank’s to fully respond to its request for production of documents and interrogatories in a manner compliant with the Pennsylvania Rules of Civil Procedure (Rules).

STATEMENT OF THE QUESTIONS INVOLVED

1. Should this Court compel Frank's to produce documents responsive to the City's Requests for Production?

Suggested Answer: Yes.

2. Should this Court compel Frank's to meaningfully answer the City's Interrogatories in a manner compliant with the Pennsylvania Rules of Civil Procedure?

Suggested Answer: Yes.

PROCEDURAL AND FACTUAL BACKGROUND

On October 31, 2023, the City filed an Amended Complaint seeking to hold Defendant Frank's, along with two other local gun stores, accountable for its straw sales of firearms in violation of federal and state law from April 2018 to December 2021. Exhibit A ¶ 65. Firearms sold by Frank's in these transactions have been recovered by the Philadelphia Police Department in connection with violent crimes that have harmed Philadelphia residents. *Id.* ¶¶ 72-73, 75, 78, 80. Frank's facilitation of these illegal straw transactions has also harmed and imposed significant costs on the City. *Id.* ¶¶ 107-110. As just one example, Frank's sold six handguns to straw-purchaser Sakinah Braxton in just over a month, even though she was accompanied during each purchase by Johnnie Ballard (a gun trafficker), who instructed her about which guns to buy, arranged payment for the purchases, and immediately took possession of the guns upon completion of the transaction. *Id.* ¶¶ 66-67. At least three of these firearms have since been recovered in crimes by the Philadelphia police. *Id.* ¶¶ 72-73.

On November 21, 2023, Frank's filed preliminary objections to the City's Amended Complaint, which the Court overruled on March 20, 2024. While Frank's preliminary objections were pending, the City served its first Request for Production ("RFP") and its first set of

Interrogatories (“ROG”) (together, the “Discovery Requests”) upon Frank’s on March 5. *See* Exhibit B. The City’s Discovery Requests seek information relevant to Frank’s illegal conduct, including, among other things, records and information relating to straw purchases alleged in the Amended Complaint, Frank’s communications with federal and state law enforcement concerning straw purchasers, and Frank’s practices and policies for detecting and preventing straw transactions. *See id.* On April 2, two days before its deadline to respond to the City’s Discovery Requests, Frank’s requested an extension to April 30; the City consented. *See* Exhibit D (April 2, 2024 Email Correspondence). Nevertheless, Frank’s did not serve responses until May 3. *See* Exhibit E (May 3, 2024 Email Correspondence); Exhibit C.

The responses Frank’s served to the City’s Discovery Requests were not responsive at all. Frank’s objected to nearly every request for production by claiming, among other things, that the request was prohibited by Pennsylvania’s Uniform Firearms Act, 18 PA. CONS. STAT. § 6111(i) and 18 U.S.C. § 926; that the request was so vague and ambiguous as to render Frank’s “unable to decipher the specific documents requested”; or that the request was overbroad and sought the production of information not relevant to the claims or defenses in this matter. *See* Exhibit C. Although Frank’s responded to most of the City’s interrogatories, it refused to identify the date, transferor, transferee, and certain related manufacturer information for firearm and ammunition transactions it conducted with the identified straw purchasers—instead, Frank’s again objected under 18 PA. CONS. STAT. § 6111(i) and 18 U.S.C. § 926. *See id.* ¶ 2.

On July 9, 2024, the City requested to meet and confer with Frank’s on July 12, 16, or 17 about its non-responsive and unsubstantiated objections to virtually all requests. *See* Exhibit F at 1 (July 9, 2024 Letter from Everytown Law to Wally Zimolong). Frank’s ignored this request. On July 16, 2024, the City again asked Frank’s to meet and confer regarding its objections. *See* Exhibit

G at 8 (July 9, 2024, to August 22, 2024 Email Correspondence). Frank's initially offered to meet on August 8, 2024, but then asked instead to meet on August 23, 2024. *See id.* at 6-7. This was more than six weeks after the City's initial request.

On August 23, 2024, the parties conferred and remained at an impasse regarding the applicability of Section 6111(i) and 18 U.S.C. § 926. During the meet and confer, the City offered to assuage Frank's confidentiality concerns by entering into a confidentiality agreement, but Frank's contended that such an agreement would not resolve its objections. *See* Exhibit H (August 22, 2024 letter, Everytown Law to Wally Zimolong). The parties also remained at an impasse on Frank's other unsubstantiated objections as to the purported vagueness, ambiguity, and overbreadth of the City's requests. Indeed, despite the City's previous written request that Frank's either withdraw or fully explain its objections (*see* Exhibit F), Frank's did not clarify its position as to the applicability of 18 PA. CONS. STAT. § 6111(i) and 18 U.S.C. § 926, nor did it offer any additional explanation or argument to substantiate its conclusory claims as to the sufficiency of the City's other Discovery Requests. In response to the City's letter memorializing the meet & confer, Frank's attorney repeatedly accused counsel for the City of engaging in "outright lie[s]," leading the City to believe that further communications with Frank's would be unproductive. *See* Exhibit G at 1-2.

To date, Frank's has not produced a single document or communication in response to the City's Discovery Requests, and it has not agreed to a timeline for any such production.¹ Faced

¹ Frank's responded that it would produce "relevant communication that is not protected by state or federal laws, redacted if necessary" in response to RFPs Nos.6 and 11. *See* Exhibit C. At the meet and confer, Frank's reiterated its intent to produce responsive documents but did not commit to a production date, even though discovery had been pending for almost half a year. *See* Exhibit H. To date, Frank's counsel not produced any responsive documents nor has Frank's counsel provided the City with an update about whether such responsive documents exist.

with Frank’s ongoing refusal to produce documents concerning its straw sales of firearms, the City moves to compel Frank’s compliance.

ARGUMENT

Neither Pennsylvania’s Uniform Firearms Act 18 PA. CONS. STAT. § 6111(i) nor 18 U.S.C. § 926 prevent Frank’s from producing relevant information to the City in this litigation. Section 6111 is contained within the Uniform Firearms Act (“UFA”). That Act’s purposes are “to regulate the possession and distribution of firearms, which are highly dangerous and are frequently used in the commission of crimes,” *Commonwealth v. Corradino*, 588 A.2d 936, 940 (Pa. Super. Ct. 1991), and to “prohibit certain persons from possessing a firearm within this Commonwealth.” *Commonwealth v. Baxter*, 956 A.2d 465, 471 (Pa. Super. Ct. 2008).

Section 6111(i) provides, in relevant part:

All information provided by the potential purchaser, transferee or applicant, including, but not limited to, the potential purchaser, transferee or applicant’s name or identity, *furnished by a potential purchaser or transferee under this section or any applicant for a license to carry a firearm as provided by section 6109 shall be confidential and not subject to public disclosure.* (emphasis added).

By its own terms, Section 6111(i) only applies to: (i) purchaser information “furnished . . . under this section”—that is, to fulfill the requirements of Section 6111 under the UFA; or (ii) a firearm carry license applicant’s information under Section 6109 of the UFA. It does not apply to information in Frank’s possession for other federal statutory requirements, such as information on the federal Firearm Transaction Record (“Form 4473”) prescribed by the ATF, which must be completed when a person wants to purchase a firearm. Moreover, Section 6111(i) prohibits only *public disclosure* of the information; it says nothing about disclosure of the information to a party in civil litigation, particularly when the parties could negotiate a protective order to govern the use of the information in the litigation. *See Commonwealth v. Selenski*, 996 A.2d 494, 506 (Pa. Super.

Ct. 2010) (“Discovery, whether civil or criminal, is essentially a private process because the litigants and the courts assume that the sole purpose of discovery is to assist trial preparation.” (quoting *United States v. Wecht*, 484 F.3d 194, 209 (3d Cir. 2007); see also *Seattle Times Co. v. Rhinehart*, 467 U.S. 20, 33 & n.19 (1984) (“[P]retrial depositions and interrogatories are not public components of a civil trial. . . . [T]o the extent that courthouse records could serve as a source of public information, access to that source customarily is subject to the control of the trial court.”)). Frank’s overreaching interpretation of the statute it cites is at odds with its plain meaning and warrants no deference. See *Pa. Restaurant & Lodging Ass’n v. City of Pittsburgh*, 211 A.3d 810, 822 (Pa. 2019) (statutory interpretation “begins and ends with the plain language of the statute”).

Frank’s Section 6111(i) objections are particularly unwarranted here, where the identity of the straw-purchasers identified in the City’s Amended Complaint are already a matter of public record. Each of the straw purchasers named in the Amended Complaint was charged with a crime in state or federal court in association with their illegal purchases. See e.g., Exhibit I (Information, *United States v. Braxton*, No. 22-cr-00055 (E.D. Pa. Feb. 23, 2022), ECF No. 1) (information charging Sakinah Braxton with making a false statement in connection with the purchase of a firearm and outlining the details of her purchases at Frank’s); Exhibit J (Affidavit of Probable Cause, *Commonwealth v. Prosser* (Phila. Cnty. Ct. of Commons Pleas) (setting forth probable cause to charge Nafisa Prosser with unlawful transfer of a firearm, among other charges, and including the details of her purchases at Frank’s)). Because the straw purchasers’ identities and the circumstances of their crimes have already been made public in the City’s Amended Complaint and in criminal filings, it would be illogical to find that the information they provided to Frank’s in committing these crimes is barred from civil discovery. See 1 PA. CONS. STAT. § 1922(1) (detailing statutory interpretation presumption that “the General Assembly does not intend a result

that is absurd”). And in any event, firearm transaction records containing information provided by illegal purchasers are routinely disclosed, produced in discovery, and presented as evidence in courts. *See, e.g., Commonwealth v. Bennett*, Nos. 516 WDA 2022, 620 WDA 2022, 2023 WL 3478456 (Pa. Super. Ct. May 16, 2023); *Commonwealth v. Heim*, No. 497 WDA 2022, 2023 WL 5097286 (Pa. Super. Ct. Aug. 9, 2023); *Commonwealth v. Bachner*, No. 414 WDA 2018, 2020 WL 5513557 (Pa. Super. Ct. Sept. 14, 2020).

Frank’s objections based on 18 U.S.C. § 926 of the Gun Control Act of 1968 (“GCA”) are meritless and irrelevant to this litigation. The GCA imposes strict requirements on firearms dealers, such as Frank’s, with severe consequences for violations. To enforce these provisions, the United States Attorney General “may prescribe only such rules and regulations as are necessary.” 18 U.S.C. § 926(a). In doing so, the Attorney General is prohibited from promulgating rules that would require the transfer of firearms records, or the creation of any federal registry system. *Id.* Such restrictions are not only not applicable to the City but on its face contain no language that could be reasonably interpreted as creating an absolute privilege against disclosure in civil discovery in state court, as Frank’s baselessly claims. The City is not the Attorney General, and civil discovery is not a rule or regulation of the Attorney General.

Further, even if Section 926 were applicable to the City, its restrictions do not prohibit the type of discovery being sought. For example, the GCA requires gun stores like Frank’s to maintain records related to the production, shipment, receipt, sale, or other disposition of firearms. *See* 18 U.S.C. § 923. Courts have consistently held that Section 926 does not prohibit disclosures mandated by sources of authority other than a rule or regulation of the Attorney General. Thus, gun stores must disclose sales records in response to demand letters issued by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) under § 923(g)(5)(a), because “§ 926(a)

restricts only rules and regulations; the demand letter is not a rule or regulation, and neither is § 923(g)(5)(a), the statute under which it was issued.” *Ron Peterson Firearms, LLC v. Jones*, 760 F.3d 1147, 1159-60 (10th Cir. 2014). *See also Nat’l Shooting Sports Found., Inc. v. Jones*, 716 F.3d 200, 212 (D.C. Cir. 2013) (“The words ‘rule or regulation’ are not mere surplusage The demand letter is not a rule or regulation and, therefore, Section 926(a) does not apply.”). Similarly, the City’s Discovery Requests are not a federal rule and are “a very far cry from the creation of a national firearms registry” as prohibited under Section 926(a). *RSM, Inc. v. Buckles*, 254 F.3d 61, 68 (4th Cir. 2001) (limited collection of records by ATF does not run afoul of § 926(a))).

Frank’s vaguely and without further elaboration asserted that “many courts” have interpreted certain provisions directed at the Attorney General “broadly,” suggesting that these decisions may create a confidentiality requirement applicable to Frank’s. *See* Exhibit H at 1 (August 22, 2024 Letter, Everytown Law to Wally Zimolong). However, Frank’s has not identified any such court or case, nor has the City found any applicable. *Id.* Frank’s attempt to invoke this statute as a shield against disclosure is unfounded and should be rejected.

The production of documents in a court proceeding or pursuant to a lawfully issued subpoena does not constitute “public disclosure,” nor does it breach confidentiality. It cannot be “public disclosure” within the meaning of § 6111(i) to produce information to a person “authorized to receive such information by statute.” *Doe I v. Franklin Cnty.*, 272 A.3d 1022, 1027 (Pa. Commw. Ct. 2022) (citation omitted); *see also Toland v. Pa. Bd. of Probation & Parole*, 311 A.3d 649, 666 (Pa. Commw. Ct. 2024) (rejecting argument that Pennsylvania Right-to-Know Law bars disclosure to plaintiff, in discovery, of plaintiff’s own parole file, “because discovery, of course, does not implicate the RTKL’s policy concern of wide potential public disclosure, especially given the safeguards courts may erect around the discovery process.”). And the City has a statutory right to

receive discovery from Defendants relevant to its claims. 231 Pa. Code § 4000 *et. seq.* As a general rule “discovery, of course, does not implicate . . . policy concern[s] of wide potential public disclosure, especially given the safeguards courts may erect around the discovery process.” *Toland*, 311 A.3d at 666 (citing Pa. R. Civ. P. 4102).

To the extent that the production raises confidentiality concerns, these concerns could be adequately addressed with a protective order. To alleviate Frank’s concerns, the City is willing to enter into a protective order that bars the public disclosure of any personally identifying information of any of Frank’s customers that is not already in the public record. In fact, on August 22, 2024, the City attempted to resolve the parties’ discovery dispute by offering to enter a protective order with Frank’s, and Frank’s refused, suggesting that it would not produce documents prior to “hav[ing] the arguments presented to the Court for resolution,” and even accusing the City of being unlikely to abide by the terms of a protective order. *See* Exhibit G at 2; Exhibit H. Frank’s further suggested that it would continue to stonewall discovery by appealing any adverse interim decision from this Court on the matter. *See* Exhibit G at 2 (“I said it is an interest[ing] and novel legal issue and that the trial court will probably not have the last word.”).

Frank’s flat rejection of the practical measure of a protective order makes clear that its objections to the City’s Discovery Requests are nothing more than obstructionism. Indeed, it is widely acknowledged that protective orders are the appropriate safeguard for a party’s confidentiality interests and, for that reason, an important tool in facilitating discovery. *See, e.g., Richard Roe W.M. v. Devereaux Found.*, No. 21-2655, 2023 WL 1862290, at *4 (E.D. Pa. Feb. 9, 2023) (parties’ confidentiality interests in sensitive documents “can be protected through (1) a confidentiality agreement and/or protective order; and (2) redaction of names and other identifying information”); *Eddystone Rail Co., LLC v. Bridger Logistics, LLC*, No. 2:17-cv-00495 (JDW),

2022 WL 704206, at *1 (E.D. Pa. Mar. 9, 2022) (“In complex litigation, courts enter protective orders to facilitate discovery and further the ends of justice.”). In keeping with that purpose, this Court has broad discretion to issue a protective order under Rule 4012. *See Stenger v. Lehigh Valley Hosp. Ctr.*, 554 A.2d 954, 960 (Pa. Super. Ct. 1989) (“[W]e wholly embrace the conclusion of the Supreme Court of the United States that ‘the trial court is in the best position to weigh fairly the competing needs and interests of parties affected by discovery. The unique character of the discovery process requires that the trial court have substantial latitude to fashion protective orders.’”) (quoting *Seattle Times*, 467 U.S. at 36). To the extent that Frank’s has genuine confidentiality concerns, this Court should alleviate them through a protective order.

Some of the City’s discovery requests do not seek information about particular firearm purchasers, and thus, Section 6111(i) is doubly inapplicable. Even the broadest reading of Section 6111(i) does not reach all of the City’s discovery requests. For example, the City’s Discovery Requests include one concerning the process and systems by which Frank’s maintains its sales records (RFP 3), and one seeking documents that reflect audits, reports of violations, or warning letters that Frank’s received from ATF or the U.S. Department of Justice (RFP 10). Yet, Frank’s nevertheless objects to them based on Section 6111(i).

Frank’s remaining objections are boilerplate recitations of terms like “vague,” “ambiguous,” and “overly broad,” none of which suffices to alleviate Frank’s of its obligation to produce responsive documents. During the parties’ meet and confer, Frank’s failed to provide any specific reasoning to support these objections. Even if Frank’s perceives these requests as vague, irrelevant, or overbroad, that does not excuse it from producing any responsive documents whatsoever. In any event, the City’s requests are neither vague nor overbroad.

First, under Rule 4003.1, the City is entitled to obtain discovery on any matter that is relevant to its claims. Discovery should be liberally allowed when requests are reasonable and do not amount to a fishing expedition. *Koken v. One Beacon Ins. Co.*, 911 A.2d 1021, 1025 (Pa. Commw. Ct. 2006). Here, all of the City’s requests are relevant and seek information related to its claims—namely Frank’s awareness of and role in creating the crisis of illegal straw purchasing and resale of firearms in Philadelphia—the precise conduct “for which a judicial remedy is sought.” *Off. of the Dist. Att’y of Pa. v. Bagwell*, 155 A.3d 1119, 1138 (Pa. Commw. Ct. 2017). As such, the City’s requests meet the generous standard for relevance established by Rule 4003.1.

Second, the City’s requests are not vague. They explicitly identify records sought—such as acquisition and disposition records, ATF Form 4473s, Pennsylvania State Police Form SP4-113s; communications with ATF regarding straw purchasing, firearms trafficking, and recovery of firearms sold or transferred by Frank’s; ATF trace requests; and Firearms Inspection Reports and Firearms Qualification Reports (RFP 1, 6, 9, 10(b))—from January 1, 2018 to the present that either do or do not exist, and for which Frank’s is the party best situated to know what form they would take, if any. It is inconceivable that Frank’s is “unable to decipher the specific documents” these requests identify, as it dubiously and repeatedly claims. *See* Exhibit C. Moreover, in its requests, the City delineated the sender, recipient, and specific subject matter of the documents it seeks. These tailored requests are sufficient, relevant, and reasonable. *Cf. Eigen v. Textron Lycoming Reciprocating Engine Div.*, 874 A.2d 1179, 1187-88 (2005) (finding there was “nothing at all vague” about a request to produce “all insurance policies applicable” to an accident when such request was made to the potentially insured party).

Third, the City’s requests are not overly broad. The majority of the City’s requests that Frank’s labels overbroad are in fact carefully tailored to target a narrow subset of documents

pertaining to known straw purchasers whom the City has already identified. *See* RFP 1 (straw purchaser transaction records); RFP 2 (straw purchaser customer records); RFP 4-5 (law enforcement communications concerning straw purchasers); RFP 6 (communications with straw purchasers); RFP 9 (straw purchaser trace requests). Because they target specific documents pertaining to identified people over a limited and specified time period, these Discovery Requests are sufficiently narrow. *See Pa. State Sys. of Higher Educ. v. Ass’n of State Coll. & Univ. Faculties*, 142 A.3d 1023, 1031 (Pa. Commw. Ct. 2016) (discovery request for records pertaining to “current and past employees” completing specific reports over specific time period was “sufficiently narrow” because it provided a “subject matter and scope that identifies a discrete group of documents by both type and recipient”). And Frank’s has offered only general and conclusory objections to the contrary. *See* Exhibit C. This Court should reject such “boilerplate discovery objections without sufficient elaboration.” *Toland*, 311 A.3d at 673.

Frank’s nonresponsive, unsubstantiated objections are merely an attempt to avoid producing relevant documents clearly in its possession. Accordingly, the Court should dismiss the objections and require that Frank’s produce responsive documents to, and engage in meaningful discovery with, the City.

CONCLUSION

For the foregoing reasons, the City respectfully asks this Court to order Frank’s to produce responsive documents and meaningfully respond to the City’s First Set of Discovery Requests.

DATED this 5th day of September 2024.

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ATTORNEY CERTIFICATION OF GOOD FAITH
PURSUANT TO PHILA. CIV. R. *208.2(e)

The undersigned counsel for Movant City of Philadelphia hereby certifies and attests that:

I have had the contacts described below with opposing counsel or unrepresented party regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite all counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so.

Description: The City on numerous occasions corresponded with Defendant's counsel in an attempt to resolve the discovery dispute without court intervention, and parties attended a meet and confer on August 23, 2024, in further attempt to achieve a resolution. Despite these efforts, the parties have been unable to resolve this discovery dispute.

CERTIFIED TO THE COURT BY:

Date: September 5, 2024

/s/ Melissa Medina
Attorney I.D. No. 327048
Attorney for Defendant City of Philadelphia

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24096923

CERTIFICATE OF SERVICE

I, Melissa Medina, hereby certify that on the date below, the foregoing Motion to Compel was served on all counsel of record by electronic filing and is available for viewing and downloading.

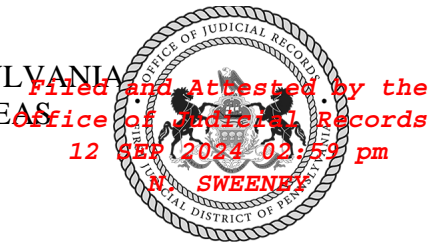
Dated: September 5, 2024

/s/ Melissa Medina
Melissa Medina, Esq.
Divisional Deputy City Solicitor

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24096923

EXHIBIT B

IN THE FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
PHILADELPHIA COURT OF COMMON PLEAS
TRIAL DIVISION – CIVIL



CITY OF PHILADELPHIA, a municipal
corporation,

Plaintiff

v.

WRT MANAGEMENT, INC., f/k/a
TANNER'S SPORT CENTER INC.,
FRANK'S GUN SHOP & SHOOTING
RANGE LLC, MAD MINUTE
ENTERPRISES, LLC d/b/a DELIA'S GUN
SHOP, and DELIA'S GUN SHOP, INC.,

Defendants

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY, PA

JULY TERM, 2023

NO. 230702394

PRAECIPE FOR CONTESTED DISCOVERY MOTION

To the Office of Judicial Records:

I, Melissa Medina, am counsel for the movant in the discovery motion filed on September 5, 2024 with Control number 24090925 seeking an Order compelling Defendant Frank's Gun Shop to provide responses to the City's discovery requests.

I certify that I have conferred or made reasonable attempts to confer with opposing counsel for Defendant Frank's in an effort to resolve the aforementioned motion. However, despite reasonable and good faith efforts, the parties are unable to resolve this dispute without Court intervention. I make this certification subject to the penalties of 18 Pa.C.S.A. § 4904 regarding unsworn falsifications to authorities.

Defendant shall file an answer by the established *Response Date* entered on the docket.

BY: /s/ Melissa Medina
Melissa Medina, Esquire

Attorney for the City of Philadelphia

Date: September 12, 2024

Case ID: 230702394
Control No.: 24095773

CERTIFICATE OF SERVICE

I, Melissa Medina, hereby certify that on the date below, the foregoing response in opposition to Frank's Motion for Reconsideration was served on all counsel of record by electronic filing and is available for viewing and downloading.

Dated: October 2, 2024

/s/ Melissa Medina

Melissa Medina

Divisional Deputy City Solicitor