
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

**PETITION FOR SPECIAL AND PRELIMINARY INJUNCTIONS
AND SHOW CAUSE HEARING**

Plaintiff City of Philadelphia (“the City”) submits this emergency petition requesting this Court to issue special and preliminary injunctions under Pa. R.C.P. 1531 against Defendant Frank’s Gun Shop & Shooting Range LLC (“Frank’s”), to enjoin its spoliation of evidence and require the mitigation of any spoliation that may have already taken place. Immediate intervention of this Court is necessary given the significant likelihood that Frank’s is currently engaged in the spoliation of documents that are central to the City’s claims and which the Court has ordered Frank’s to produce. The City further requests that this Court schedule a hearing at its earliest convenience requiring Frank’s to show cause why further injunctions should not issue and answer questions about the whereabouts of the documents it has an obligation to preserve and produce.

MATTER BEFORE THE COURT

This lawsuit pertains to a public nuisance maintained by several local gun stores that have engaged in illegal and negligent gun sales. On March 5, 2024, the City served Frank’s, one of the defendant gun stores, with discovery seeking, *inter alia*, transaction records and communications relating to firearms sales that the City contends were illegal straw purchases. *See* Plaintiff’s First

Set of Requests for Production of Documents to Defendant Frank’s (attached hereto as **Exhibit 1**). Over the next six months, Frank’s objected to producing even a single document and engaged in dilatory tactics, as detailed below. *See e.g.* Frank’s Answers and Objections (attached hereto as **Exhibit 2**). On September 5, 2024, the City moved to compel production of the records, and the Court granted the City’s motion on September 26, ordering Frank’s to provide responses to the City’s demands, without objection. *See* Court’s Order Compelling Discovery Responses (attached hereto as **Exhibit 3**). On October 24, 2024, the Court denied Frank’s motion for reconsideration of that Order. *See* Court’s Order Denying Reconsideration (attached hereto as **Exhibit 4**).

After the motion to compel was granted and motion for reconsideration denied, Frank’s continued to delay responding to the City’s discovery requests until November 4, 2024. *See* Email Exchange Between the City and Frank’s Counsel (attached hereto as **Exhibit 5**). At that time, Frank’s refused to comply with this Court’s order commanding the production of documents and claimed for the first time that *none* of the documents that the City demanded eight months earlier are “in its care, custody, and control.” *Id.* Making matters worse, Frank’s Counsel further refused to disclose when or where Frank’s disposed of the records at issue, rebuffing the City’s good-faith efforts to mitigate prejudice from any potential spoliation of evidence which has already occurred. *See Id.* As detailed below, throughout this protracted eight-month discovery dispute, Frank’s represented to the City and to the Court that it possesses at least some of the requested documents. In fact, federal and state law requires firearms dealers to maintain many of the requested documents—not to mention Frank’s duty to preserve all potentially relevant evidence subject to this pending action.¹

¹ The Pennsylvania Supreme Court defines spoliation as “the non-preservation or significant alteration of evidence for pending or future litigation.” *Pyeritz v. Commonwealth*, 613 Pa. 80, 32

The City's independent research indicates that, during the pendency of the discovery dispute, Frank's may have surrendered its license to operate as a gun dealer. *Compare* ATF's Pennsylvania Federal Firearms License List from October 2024 (attached hereto as **Exhibit 6**) (listing Frank's) with ATF FFL eZ Check Search for Frank's on November 11, 2024 (attached hereto as **Exhibit 7**) (showing no active license). It appears that a new gun dealer called "Tons of Guns LLC" was recently registered with the Pennsylvania Department of State and obtained a license to deal in firearms at the same address as Defendant Frank's under the fictitious name of "Frank's Gun Shop and Double Tap Shooting Range." *See* Pennsylvania Department of State Registrations for Tons of Guns LLC (attached hereto as **Exhibits 8**); Pennsylvania Department of State Registrations for "Frank's Gun Shop and Double Tap Shooting Range" (attached hereto as **Exhibit 9**); ATF's Pennsylvania Federal Firearms License List from September 2024 (attached hereto as **Exhibit 10**) (showing Tons of Guns LLC for the first time).

The nature of the relationship between the new entity and Defendant Frank's is unclear, but it appears that Frank's either failed to retain, or intends not to retain, copies of the records requested by the City. Due to Frank's refusal to disclose where the records have gone, the City can only surmise that Frank's transferred, or is the process of transferring, the documents to Tons of Guns, federal and state regulators, or an unknown third party.

In light of the foregoing, and to prevent any further spoliation of evidence and mitigate the prejudice from any spoliation that has already occurred, the City respectfully requests that this Court:

- Issue a special injunction explicitly enjoining Frank's from any further transfer or disposal of any documents in its possession with any potential relevance to this case, and requiring it to take steps to mitigate any loss of access that has already taken place;

A.3d 687, 692 (2011). The City reserves all rights to seek appropriate sanctions should it determine that Frank's has spoliated evidence relevant to its claims.

- Schedule at the Court’s earliest convenience a hearing during which Frank’s must show cause as to why further injunctions should not issue and (1) identify the whereabouts of the documents that are responsive to the City’s discovery requests that Frank’s now claims are not in its care, custody, or control; (2) answer if, when, and to whom Frank’s transferred control of such documents; and (3) detail the full extent of the relationship between Frank’s, Tons of Guns LLC, and the entity currently doing business as “Frank’s Gun Shop” at 4730 Blakiston St., Philadelphia.
- Order any other relief this Court deems appropriate.

AVERMENTS

In support of this petition, the City further avers:

1. On July 25, 2023, the City brought the instant case alleging that Defendants, including Frank’s, cause harm to the City through the knowing facilitation of straw purchases—illegal transactions in which sham buyers pretend to purchase firearms for themselves but purchase the guns to sell or transfer to others—diverting firearms into the unregulated criminal market and fueling gun violence in the City.

2. On March 5, 2024, the City served its first set of requests for production and interrogatories (hereafter the “discovery requests”) on Frank’s. Requested documents included records of these straw transactions, such as mandated federal and state transaction forms, as well as Frank’s customer profiles for these straw purchasers and any correspondence with law enforcement regarding them. (**Ex. 1**).

3. On May 2, 2024, Frank’s served its Answers and Objections to the City’s discovery requests, in which it refused to produce a single document. Frank’s specifically objected to producing any information regarding the straw purchasers on the grounds that “it [wa]s prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926.” (**Ex. 2**).

4. In its May 2 response, Frank's specifically stated that "Franks complies with all state and federal firearms laws including, without limitation, completing required background checks on all purchasers *and maintaining required records of firearm sales.*" *Id.* at 10.

5. Frank's further averred:

"Frank's does perform all prerequisites required of it before transferring a firearm to an individual, making a copy of the Pennsylvania drivers licenses, *requiring the purchaser to complete an ATF Form 4473, and a Pennsylvania State Police handgun form.* ... The Pennsylvania State Police then supplies Frank's with an approval code which Frank's writes onto the Form 4473."

Frank's Answers and Objections to Plaintiff's First Set of Interrogatories (attached hereto as **Exhibit 11**) (emphasis added).

6. On July 9, 2024, the City sent Frank's a deficiency letter regarding its discovery responses and sought a meet and confer. Ten days later, on July 18, Frank's counsel responded and refused to make himself available until August 8. Email Exchange Between the City and Frank's Counsel (attached hereto as **Exhibit 12**). The City offered to make itself available anytime on August 8, but Frank's counsel then stated he was no longer available on the 8th and offered August 23. *Id.* The parties settled on August 21 for a meet and confer date. *Id.* After the meet and confer, during which Frank's continued to invoke 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926 as the principal reason for its refusal to produce the requested records, the City filed a motion to compel on September 5, 2024, arguing, *inter alia*, that these statutory provisions were at inapplicable. *See* Plaintiff's Motion to Compel (attached hereto as **Exhibit 13**).

7. On September 24, 2024, Frank's filed an untimely opposition to the City's Motion to Compel, reciting 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926 and asserting that "[n]either of these statutes has stopped plaintiff from requesting records of firearm[] transactions *in the care*,

custody, and control of Frank's." Frank's Opposition to Motion to Compel (attached hereto as **Exhibit 14**) (emphasis added).

8. On September 26, 2024, the Court granted the City's motion to compel and directed Frank's to "produce all documents responsive to the City's Requests for Production, and to meaningfully answer the City's Interrogatories *without Objections*" by October 17. (**Ex. 3**) (emphasis added).

9. On September 30, 2024, Frank's filed a Motion for Reconsideration of this order. See Frank's Motion for Reconsideration (attached hereto as **Exhibit 15**).

10. On October 8, 2024, Frank's submitted a supplemental brief arguing that further discovery should be stayed on the grounds that "any order compelling discovery would cause irreparable harm to Frank's because it *will have been required to produce documents* in a suit in which [it] enjoys immunity and over which this Court lacks jurisdiction." Frank's Supplemental Memorandum (attached hereto as **Exhibit 16**) (emphasis added).

11. On October 24, 2024, this Court denied Frank's Motion for the Reconsideration of this Court's September 26 Order compelling production. (**Ex. 4**).

12. At the City's prompting, Frank's served on November 4, 2024 its "Amended Answers and Objections" to the City's discovery requests, well after the October 17 deadline set by the Court. (**Ex. 5**).

13. Frank's refused to comply with the Court's Order to answer the City's interrogatories, as well as to provide discovery responses without any objections.

14. Instead, Frank's reiterated the exact same objections which the Court overruled in its order compelling discovery responses.

15. The only “amendment” Frank’s made after the Court ordered a response was to add, for the first time, the following sentence in its responses to eight of the City’s requests for production: “Without waiving these objections [based on 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926, as well as various other boilerplate issues such as relevance and breadth], **Frank’s has no documents in its care, custody, and control responsive to this request.**” *Id.*²

16. Frank’s new assertion that it does not possess these documents is contrary to federal and Commonwealth law that requires licensed gun dealers to create, maintain, and retain several types of transaction records. *See e.g.* 27 C.F.R. § 478.129 (b) (requiring licensees to retain each Form 4473 at premises readily accessible for inspection); *Id.* (c) (requiring licensees to retain copies of forms for multiple sale or other disposition of handguns); 18 Pa. C.S.A. § 6113(a)(5) (requiring licensees to maintain in the triplicate record of every firearm sold for 20 years).

² Frank’s responded that it does not now possess documents responsive to the following requests:

- Request #1 for all transaction records with straw purchasers who bought firearms from Frank’s, including but not limited to ATF Form 4473s and Pennsylvania State Police Form SP4-113s;
- Request # 2 for those straw purchasers’ customer profiles;
- Request #3 for documents sufficient to show how Frank’s maintains customer and transaction records;
- Request #4 for documents shared with law enforcement regarding the straw purchasers;
- Request #5 for communications with law enforcement regarding the straw purchasers;
- Request #6 for communications with law enforcement regarding various straw-purchasing related topics;
- Request #9 for all trace requests of firearms purchased by the straw purchasers; and
- Request #11 for all communications with the ATF regarding its Demand 2 program for gun stores with a high number of crime gun recoveries traced back to them.

17. Frank's was a licensed gun dealer at all times between when the City filed its lawsuit in July 2023, when the City served discovery in March 2024, and when the Court granted the City's motion to compel in September 2024. It was therefore legally obligated to maintain these transaction records in its possession at all of these times.

18. After Frank's informed the City that it did not possess the requested records as of November 4, 2024, Counsel for the City emailed Counsel for Frank's the following day in an effort to mitigate prejudice to the city by obtaining information about the documents' whereabouts so that the City could secure them. Counsel for the City reminded Frank's of its obligation to retain these (and related) records, by virtue of its status as both a licensed gun store and as a party to ongoing litigation, during which discovery demands for the documents had been made months earlier. **(Ex. 6).**

19. Counsel for Frank's did not provide the requested information and instead replied, "I am very confused by your email. Frank's has provided answers to your client's requests for production of documents." *Id.*

20. The City's Counsel responded by again asking Frank's to inform the City if the documents have been transferred out of Frank's possession, and when and to whom they were transferred. Frank's Counsel again refused to provide this information and responded only that Frank's November 4 "answers are full, complete, and accurate." *Id.*

21. Subsequent research by the City indicates that:

- On July, 30, 2024, an entity by name of "Tons of Guns LLC" filed do business in the state of Pennsylvania. **(Ex. 8).**
- In or about September 2024, Tons of Guns LLC obtained a federal license to engage in the business of dealing in firearms at 4730 Blakiston St. Philadelphia, PA, 19136, the same address as Defendant Frank's. **(Ex. 10).**

- On September 19, 2024, Tons of Guns LLC filed a registration to do business under the fictitious name “Frank’s Gun Shop & Double Tap Shooting Range” at that same address. **(Ex. 9)**.
- Frank’s has relinquished or allowed its Federal Firearms License to lapse as of November 2024. **(Ex. 6 & 7)**.
- On or around November 1, 2024, the Google Maps and Business page for Frank’s showed activity from a poster identifying himself as “the new owner.”

22. The nature of the relationship between this entity and Defendant Frank’s is unclear, as is whether Frank’s has transferred any of the evidence relevant to this case to the new entity or otherwise disposed of them or placed them out of reach of the City by submitting them to state or federal regulators.³

23. However, what is clear is that Frank’s has been on notice about the relevance of the documents at issue since at least July 2023, when the City filed this case. The City specifically requested these documents in March 2024, and this Court recently ordered their production. Yet, at the same time that Frank’s was prolonging a discovery dispute with the City about the production of the aforementioned document, it appears to have transferred them out of its possession, without making any copies. And it now refuses to tell the City where the documents are.

24. If Frank’s has transferred out of its custody, failed to retain copies of, or otherwise failed to preserve such evidence, it has engaged in the spoliation of evidence, defined by the Pennsylvania Supreme Court as “the non-preservation or significant alteration of evidence for pending or future litigation.” *Pyeritz v. Commonwealth*, 613 Pa. 80, 32 A.3d 687, 692 (2011).

³ State and federal law permit gun dealers going out of business to transfer firearm transaction records to either their successor or a relevant law enforcement agency in order to preserve the traceability of firearms. *See* 37 Pa. Code § 33.111(b)(2); 27 C.F.R. § 478.127. However, these provisions in no way preclude Frank’s from also complying with its duties as a litigant to preserve relevant evidence. Most obviously, it could have simply made and retained copies. Frank’s could also have disclosed its intent to dispose of the documents to the City or sought guidance from this Court at some point during the eight months of discovery disputes and litigation. However, it appears that Frank’s has refused to take any of these basic steps.

25. Trial courts possess broad discretion to determine how to best address spoliation. *See Marshall v. Brown's IA, LLC*, 2019 PA Super 191, 213 A.3d 263, 268 (2019).

26. A special injunction is appropriate and necessary here because the City is likely to suffer immediate and irreparable harm to its right to discovery, given the likelihood that Frank's has spoliated and may continue to spoliator inculpatory evidence about its misconduct, which is central to the City's case against Frank's.

27. Immediate intervention of the Court is necessary because Frank's refusal to disclose when and to whom it transferred the records prevents the City from taking timely steps to mitigate the prejudicial effect of spoliation.

CONCLUSION

In light of the foregoing, the City respectfully requests this Court:

- Issue a special injunction explicitly enjoining Frank's from any further transfer or disposal of any documents in its possession with any potential relevance to this case, and requiring it to take steps to mitigate any loss of access that has already taken place;
- Schedule at the Court's earliest convenience hearing during which Frank's must show cause as to why further injunctions should not issue and (1) identify the whereabouts of the documents that are responsive to the City's discovery requests that Frank's now disavows care, custody, or control over; (2) answer if, when, and to whom Frank's transferred control of such documents; and (3) detail the full extent of the relationship between Frank's, Tons of Guns LLC, and the entity currently doing business as "Frank's Gun Shop" at 4730 Blakiston St., Philadelphia.
- Order any other relief this Court deems appropriate.

Respectfully submitted this 12th day of November, 2024.

Eric Tirschwell*
James E. Miller*
Eugene Nam*
Laura Keeley*
EVERYTOWN LAW
450 Lexington Ave.
P.O Box # 4184
New York, NY 10017
Phone: (646) 324-8222
etirschwell@everytown.org

Alla Lefkowitz *
EVERYTOWN LAW
P.O. Box 14780
Washington, DC 20044
Phone: 202-545-3257
alefkowitz@everytown.org

*Admitted *pro hac vice*

By: Lydia M. Furst, Chief Deputy City
Solicitor
Attorney I.D. No. 307450
/s/ Lydia M. Furst
CITY OF PHILADELPHIA LAW DEPT.
Renee M. Garcia, City Solicitor
Attorney I.D. No. 315622
Melissa Medina, Divisional Deputy City
Solicitor
Attorney I.D. No. 327048
Ryan B. Smith, Deputy City Solicitor
Attorney I.D. No. 324643
1515 Arch Street, 15th Floor
Philadelphia, PA 19102-1595
Tel (215) 683-3573
Lydia.Furst@phila.gov

Drew Zagami*
**KRAMER LEVIN NAFTALIS &
FRANKEL LLP**
1177 Avenue of the Americas
New York, NY 10036
(212) 715-9100
DZagami@kramerlevin.com

Chloe Bootstaylor*
**KRAMER LEVIN NAFTALIS &
FRANKEL LLP**
2000 K Street NW, 4th Floor
Washington, DC 20006
(202) 775-4500
CBootstaylor@kramerlevin.com

**ATTORNEYS FOR PLAINTIFF
CITY OF PHILADELPHIA**

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

Exhibits to Emergency Petition

| Ex. | Document |
|------------|---|
| 1 | Plaintiff's First Set of Requests for Production of Documents |
| 2 | Defendant Frank's Answers and Objections to Requests for Production |
| 3 | Court's Order Compelling Discovery Responses |
| 4 | Court's Order Denying Reconsideration |
| 5 | Email Exchange Between the City and Frank's Counsel |
| 6 | ATF's Pennsylvania Federal Firearms License List from October 2024 |
| 7 | ATF's FFL eZCheck Search Results for Frank's Gun Shop |
| 8 | Pennsylvania Department of State Registrations for Tons of Guns LLC |
| 9 | Pennsylvania Department of State Registrations for Frank's Gun Shop and Double Tap Shooting Range |
| 10 | ATF's Pennsylvania Federal Firearms License List from September 2024 |
| 11 | Defendant Frank's Answers and Objections to Plaintiff's First Set of Interrogatories |
| 12 | Email Exchange Between the City and Frank's Counsel |
| 13 | Plaintiff's Motion to Compel |
| 14 | Frank's Opposition to Plaintiff's Motion to Compel |
| 15 | Frank's Motion for Reconsideration |
| 16 | Frank's Supplemental Memorandum |

EXHIBIT 1

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

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.

CIVIL DIVISION

Case No. 230702394

**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT FRANK'S GUN SHOP & SHOOTING RANGE LLC**

Pursuant to Pennsylvania Rules of Civil Procedure 4003.1, 4009.1, and 4009.11, Plaintiff City of Philadelphia hereby requests that Defendant Frank's Gun Shop & Shooting Range LLC produce all documents responsive to the following Requests for Production (the "Requests") at the offices of Kramer Levin Naftalis & Frankel, 1177 Avenue of the Americas, New York, New York 10036, within thirty (30) days of service.

DEFINITIONS

1. "Communications" means all oral or written exchanges of information and any responses thereto, including any documents consisting of or reflecting any correspondence, in-person, telephonic, or virtual conversations or meetings, emails, text messages, instant messages, chat messages, encrypted communications via Signal, We Chat, WhatsApp,

Telegram or any other encrypted messaging application, facsimiles, voicemail messages, recordings of telephone or in-person conversations, blog posts, and social media messages and posts.

2. “Documents” means all written or graphic matter of every kind or description, however produced or reproduced, whether draft or final, original or reproduction, signed or unsigned, and regardless of whether approved, signed, sent, received, redrafted, or executed, including but not limited to: written communications, letters, correspondence, facsimiles, email, memoranda, minutes, notes, films, recordings, of any type, transcripts, contracts, agreements, purchase or sales orders, memoranda of telephone conversations of personal conversations, diaries, desk calendars, interoffice communications, reports, studies, bills, receipts, checks, checkbooks, invoices, requisitions or material similar to any of the foregoing however denominated, by whomever prepared, and to whomever addressed, which are in your possession, custody or control or to which you have had or can obtain access.
3. “Identify” means:
 - a. when used with respect to an individual, means to state their (1) name; (2) business affiliation and official title and/or position; and (3) last known residential and business address.
 - b. when used with respect to a document, means to state (1) the type of document (e.g. letter, memorandum, hand-written note, facsimile, e-mail); (2) its date of origin or creation; (3) its author and addressee; (4) its last known custodian or locations; and (5) a brief description of its subject matter and size. In lieu of identifying any

document(s), you may attach a copy of it to your answer, indicating the question to which it is responsive.

- c. when used with respect to a company or other business entity, means to state, (1) the company's legal name, any former names, and the name under which it trades or does business (2) the address of its principal place of business; and (3) the identity of its chief executive officer.
- 4. "Person" means an individual, corporation, partnership, trust, association, company, organization, or any form of a business or commercial entity.
- 5. "Relate to" means consist of, refer to, reflect or be in any way logically connected with the matter discussed.
- 6. "You" or "Your" refers to Frank's Gun Shop & Shooting Range LLC and to all other persons acting or purporting to act on behalf of Frank's Gun Shop & Shooting Range LLC, including agents and employees.
- 7. "ATF" refers to the U.S. Department of Justice Bureau of Alcohol, Tobacco, Firearms and Explosives, and the Alcohol, Tobacco, Firearms and Explosives Philadelphia Field Division.
- 8. "And" and "Or" shall be construed either disjunctively or conjunctively, as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope. The term "each" shall be construed to include the word "every," and "every" shall be construed to include the word "each." The term "any" shall be construed to include the word "all," and "all" shall be construed to include the word "any."

9. As used herein, the terms “refer” or “relate to” shall mean consisting of, reflecting, referring to, concerning, regarding, supporting, involving, evidencing, constituting, purporting, embodying, establishing, comprising, commenting on, responding to, describing, discussing, or in any way having a legal, logical, evidential, or factual connection with (whether to support or to rebut) the subject matter designated in the Request. A request that “refers” or “relates to” a specified subject matter always shall include notes and memoranda (whenever prepared) relating to the subject matter of the request.
10. “Frank’s Straw Purchasers” shall mean Johnnie Ballard, Khalil Hayes, Sakinah Braxton, Robert Otis Cooper III, Morgan Johnson, Kevin Gupton, Nafissa Prosser, Dominick Weatherbe, Amal Samuels, Bryan Johnson, Dajuan Coffee, Carmella Logan, Kevin Logan, Larry Williams, Malik Rowell-Jernigan, Mercedes Kinderlan, Rayshaun James, Jamie Landis, Anthony Brophy, Nick Palmer, Tyrone Gresham, Emmitt Smith, Gregg Dreghorn, Carlos Rosario-Figueroa, Vaishuan Convington, and Tyrone Dansby.

SCOPE

Except where otherwise indicated, these Requests cover the period from January 1, 2018 to the present (the “Relevant Time Period”). If an otherwise responsive Document was created or transmitted prior to the Relevant Time Period, but concerns facts that occurred and/or policies that were in effect during the Relevant Time Period, it should be produced. These Requests are of a continuing nature, requiring You to amend or supplement responses, which may be acquired by You, Your attorneys, investigators, agents or others employed by or acting in Your behalf, following the original responses.

INSTRUCTIONS

1. The Requests extend to all Documents in your possession, custody, or control. In responding to these Requests, You are directed to search for responsive Documents in all potentially relevant locations.
2. No Request should be interpreted as an implicit or explicit restriction on any other Request, except that Documents responsive to more than one Request need be produced only once.
3. You are to produce all responsive Documents prepared, sent, or received, in whole or part.
4. For each Request, responsive Documents are to be produced and identified by Bates number.
5. For each Request, if You are unable to produce the requested documents in full or in part, please explain why You are unable to produce those requested documents.
6. In the event that more than one copy of a Document exists, produce every copy on which there appears any notation or marking of any sort not appearing on any other copy (including routing or filing instructions) or any copy containing different attachments from any other copy.
7. Pursuant to Pennsylvania Rule of Civil Procedure 4007.4(2), You are under a duty to seasonably amend any of your responses to these Requests if You obtain information upon the basis of which You know the response was incorrect when made or, though correct when made, is no longer true.
8. If You contend that You are entitled to withhold any requested Documents on the basis of privilege, identify the privilege claimed and state the basis for that claim, identifying the pertinent circumstances with sufficient specificity to permit the court to assess the applicability of the privilege. If You claim that the Document requested relates to privileged communication, identify (a) the nature of the communication; (b) the

participants; (c) the identities of all other persons who were present or who otherwise received or had access to the communication; (d) the date and place of the communication; (e) the subject matter of the communication; and (f) the basis for your claim of privilege.

If You, for any reason, including the assertion of privilege, withhold information or Documents responsive to any part of any Request, respond to any part of the Request which is not alleged to be objectionable.

9. To the extent You object to any of the Requests below and refuse to produce any requested information or Documents, You should produce any responsive information or Documents that are not objectionable and explain the grounds for each objection with specificity.
10. The Requests shall operate and be construed independently and shall not be limited by any other Request, except that documents responsive to more than one Request need be produced only once.
11. The production of similar or identical Documents or Communications by another party or third party does not alleviate the requirement for You to produce all Documents and Communications responsive to these Requests.
12. If you encounter any ambiguity in construing a Request, You shall make Your best effort to interpret the Request reasonably and shall respond to all portions that You are able to respond to, as well as set forth the matter deemed ambiguous and the construction or interpretation chosen or used in responding.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: All Documents reflecting Your transaction records from the Relevant Time Period, relating to any transaction involving any of the Frank's Straw Purchasers, including but not limited to: acquisition and disposition records, ATF Form

4473s, Pennsylvania State Police Form SP4-113s, records of multiple sales, invoices, orders, shipping labels, receipts, and recordings.

REQUEST FOR PRODUCTION NO. 2: Documents sufficient to show all customer profiles of the Frank's Straw Purchasers.

REQUEST FOR PRODUCTION NO. 3: Documents sufficient to show how You maintain acquisition and disposition records, transaction records, and/or customer records, including manuals for electronic databases or point of sale systems, including but not limited to Your formal or informal policies.

REQUEST FOR PRODUCTION NO. 4: All Documents that You or any of Your employees, owners, or other representatives sent to or shared with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency during the Relevant Time Period concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

REQUEST FOR PRODUCTION NO. 5: All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

REQUEST FOR PRODUCTION NO. 6: All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the

Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning:

- a) Actual, planned, or attempted straw purchasing of firearms by residents of Philadelphia;
- b) Actual, planned, or attempted straw purchasing of firearms on behalf of or intended for transfer to individuals or criminal organizations located in Philadelphia;
- c) Actual, planned, or attempted trafficking of firearms into Philadelphia;
- d) Any sting operation involving the actual, planned, or attempted purchase of a firearm, firearm component, firearm accessory, or ammunition at Frank's;
- e) The recovery in Philadelphia of any firearm sold or transferred by Frank's.

REQUEST FOR PRODUCTION NO. 7: All Communications during the Relevant Time Period that You or any of your employees, owners, or other representatives had with any of the Frank's Straw Purchasers or any person to whom these individuals are known to have provided a firearm purchased from You, or that concern discussions about any of these individuals.

REQUEST FOR PRODUCTION NO. 8: All video surveillance for April 30, 2018, September 20, 2018, September 21, 2018, February 20, 2019, June 21, 2020, June 25, 2020, July 2, 2020, July 9, 2020, July 12, 2020, July 15, 2020, July 25, 2020, July 29, 2020, August 7, 2020, August 14, 2020, August 20, 2020, August 21, 2020, September 5, 2020, December 26, 2020, March 8, 2021, March 13, 2021, May 4, 2021, June 21, 2021, June 29, 2021, July 8, 2021, July 9, 2021, July 17, 2021, July 24, 2021, August 2, 2021, August 16, 2021, August 23, 2021, August 24, 2021, October 25, 2021, November 22, 2021, and December 18, 2021.

REQUEST FOR PRODUCTION NO. 9: All trace requests You received from ATF for firearms sold to the Frank's Straw Purchasers.

REQUEST FOR PRODUCTION NO. 10: All Documents reflecting audits, inspections, reports, notices, reports of violations, warning letters, and warning conference letters that You received from ATF or the U.S. Department of Justice during the Relevant Time Period. This request shall include, but not be limited to:

- a) Any notices of violations of any law or regulations;
- b) All Firearms Inspection Reports, Firearms Qualification Reports, memos, and any other communications issued by ATF;
- c) Notice(s) of license suspension or revocation, denial(s) of license application, and/or notice(s) of fine(s); or
- d) Communications with ATF or the U.S. Department of Justice concerning any of the above.

REQUEST FOR PRODUCTION NO. 11: All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF regarding your involvement in ATF's Demand 2 Program, as well as any reports You had to submit as a result.

REQUEST FOR PRODUCTION NO. 12: Documents sufficient to show Your formal or informal policy during the Relevant Time Period concerning working with or cooperating with law enforcement and/or reporting suspicious activity to any law enforcement agency.

REQUEST FOR PRODUCTION NO. 13: Documents sufficient to show Your formal or informal policies —and trainings attended by any of Your employees, owners or other representatives—during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior concerning purchases or attempted purchases

of firearms, multiple purchases of firearms, denied sales of firearms, and detecting or preventing straw purchasing of firearms or trafficking of firearms.

REQUEST FOR PRODUCTION NO. 14: All Communications during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior in connection with purchases or attempted purchased of firearms, multiple purchases of firearms, and detecting or preventing straw purchasing or trafficking of firearms.

REQUEST FOR PRODUCTION NO. 15: All Documents reflecting instances during the Relevant Time Period in which any of Your employees, owners, or other representatives failed to comply, and/or was reprimanded or disciplined for failing to comply, with company policies or regulations pertaining to the acquisition and disposition of firearms or with federal, state, or local firearms laws.

REQUEST FOR PRODUCTION NO. 16: All Documents that support or concern Your claims or defenses.

REQUEST FOR PRODUCTION NO. 17: All Documents You identified or relied on in response to Plaintiff's First Set of Interrogatories to Defendant Frank's Gun Shop & Shooting Range LLC.

DATED this 5th day of March, 2024.

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Jordan Estes*
Drew Zagami*
1177 Avenue of the Americas
New York, NY 10036
Phone: (212) 715-9100
jestes@kramerlevin.com

/s/ James E. Miller
EVERYTOWN LAW
Eric Tirschwell*
James E. Miller*
Eugene Nam*
450 Lexington Avenue
P.O. Box # 4184
New York, NY 10017
Phone: (646) 324-8222
etirschwell@everytown.org

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Chloe Bootstaylor*
2000 K Street NW
Washington, DC 20006
Phone: (202) 775-4522
cbootstaylor@kramerlevin.com

EVERYTOWN LAW

Alla Lefkowitz*
P.O. Box 14780
Washington, DC 20044
Phone: (202) 545-3257
alefkowitz@everytown.org

**Admitted pro hac vice*

**ATTORNEYS FOR PLAINTIFF
CITY OF PHILADELPHIA,
PENNSYLVANIA**

CITY OF PHILADELPHIA DEPT. OF LAW

Renee M. Garcia, Acting City Solicitor
Attorney I.D. No. 315622
Benjamin H. Field, Chief Deputy City
Solicitor
Attorney I.D. No. 204569
Lydia M. Furst, Deputy City Solicitor
Attorney I.D. No. 307450
Melissa Medina, Deputy City Solicitor
Attorney I.D. No. 327048
Ryan B. Smith, Assistant City Solicitor
Attorney I.D. No. 324643
1515 Arch Street, 15th Floor
Philadelphia, PA 19102-1595
Phone: (215) 683-3573
Lydia.Furst@phila.gov

CERTIFICATE OF SERVICE

I, James E. Miller, hereby certify that on the date below, I served the foregoing First Set of Requests for Production of Documents to Defendant Frank's Gun Shop & Shooting Range LLC on the following counsel by electronic mail:

| | |
|--|--|
| Walter S. Zimolong, Esq. wally@zimolonglaw.com | James J. Fitzpatrick, Esq. James@zimolonglaw.com |
|--|--|

Dated: March 5, 2024

/s/ James E. Miller
EVERYTOWN LAW

EXHIBIT 2

Walter S. Zimolong, Esquire
Attorney I.D. #89151
James J. Fitzpatrick, Esquire
Attorney I.D. #320497
ZIMOLONG, LLC
P. O. Box 552
Villanova, PA 19085
(215) 665-0842

CITY OF PHILADELPHIA

Plaintiff

V.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

No. 230702394

**ANSWERS AND OBJECTIONS TO REQUESTS FOR PRODUCTION
DIRECTED TO FRANK'S GUN SHOP & SHOOTING RANGE LLC**

Defendant, Frank's Gun Shop & Shooting Range LLC ("Frank's"), answers and objects to the plaintiff's requests for production of documents as follows:

General Objections to Requests for Production

Frank's objects to the requests for production of documents to the extent that they:

1. Seek information or things not reasonably calculated to the discovery of admissible evidence.
2. Seek documents or things that are subject to the attorney-client privilege, constitute attorney work product, or are otherwise immune from discovery.

3. Seek documents or things equally available to the party propounding the discovery.

4. Seek documents or things that are not in the possession, care, custody, or control or the party seeking discovery.

5. Are overly broad, unduly burdensome or oppressive because they seek the production of all documents that are responsive to the request.

6. Seek to impose discovery obligations beyond those provided for by the Rules of Civil Procedure.

7. Seeks production of documents prohibited from disclosure by state and federal law.

8. Frank's incorporates each of the foregoing general objections into each of its responses to defendants' document requests. Subject to the foregoing general objections, Conlin provides the following responses:

REQUESTS FOR PRODUCTION

1. All Documents reflecting Your transaction records from the Relevant Time Period, relating to any transaction involving any of the Frank's Straw Purchasers, including but not limited to: acquisition and disposition records, ATF Form 4473s, Pennsylvania State Police Form SP4-113s, records of multiple sales, invoices, orders, shipping labels, receipts, and recordings.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

2. Documents sufficient to show all customer profiles of the Frank's Straw Purchasers.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

3. Documents sufficient to show how You maintain acquisition and disposition records, transaction records, and/or customer records, including manuals for electronic databases or point of sale systems, including but not limited to Your formal or informal policies.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

4. All Documents that You or any of Your employees, owners, or other representatives sent to or shared with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency during the Relevant Time Period concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it

is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

5. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

6. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning:

a) Actual, planned, or attempted straw purchasing of firearms by residents of Philadelphia;

b) Actual, planned, or attempted straw purchasing of firearms on behalf

of or intended for transfer to individuals or criminal organizations located in Philadelphia;

- c) Actual, planned, or attempted trafficking of firearms into Philadelphia;
- d) Any sting operation involving the actual, planned, or attempted purchase of a firearm, firearm component, firearm accessory, or ammunition at Frank's;
- e) The recovery in Philadelphia of any firearm sold or transferred by Frank's.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. However, without waiving these objections, Frank's will produce relevant communication that is not protected by state or federal laws, redacted if necessary.

7. All Communications during the Relevant Time Period that You or any of your employees, owners, or other representatives had with any of the Frank's Straw Purchasers or any person to whom these individuals are known to have provided a firearm purchased from You, or that concern discussions about any of these individuals.

RESPONSE: Frank's does not maintain documents responsive to this

request.

8. All video surveillance for April 30, 2018, September 20, 2018, September 21, 2018, February 20, 2019, June 21, 2020, June 25, 2020, July 2, 2020, July 9, 2020, July 12, 2020, July 15, 2020, July 25, 2020, July 29, 2020, August 7, 2020, August 14, 2020, August 20, 2020, August 21, 2020, September 5, 2020, December 26, 2020, March 8, 2021, March 13, 2021, May 4, 2021, June 21, 2021, June 29, 2021, July 8, 2021, July 9, 2021, July 17, 2021, July 24, 2021, August 2, 2021, August 16, 2021, August 23, 2021, August 24, 2021, October 25, 2021, November 22, 2021, and December 18, 2021.

RESPONSE: Frank's does not maintain any such footage.

9. All trace requests You received from ATF for firearms sold to the Frank's Straw Purchasers.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers."

10. All Documents reflecting audits, inspections, reports, notices, reports of violations, warning letters, and warning conference letters that You received from ATF or the U.S. Department of Justice during the Relevant Time Period. This request shall include, but not be limited to:

- a) Any notices of violations of any law or regulations;
- b) All Firearms Inspection Reports, Firearms Qualification Reports, memos, and any other communications issued by ATF;
- c) Notice(s) of license suspension or revocation, denial(s) of license application, and/or notice(s) of fine(s); or
- d) Communications with ATF or the U.S. Department of Justice concerning any of the above.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's does not maintain any documents that are responsive to this request.

11. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF regarding your

involvement in ATF's Demand 2 Program, as well as any reports You had to submit as a result.

RESPONSE: See answer to request number 6.

12. Documents sufficient to show Your formal or informal policy during the Relevant Time Period concerning working with or cooperating with law enforcement and/or reporting suspicious activity to any law enforcement agency.

RESPONSE: Frank's objects to this request as it is vague and ambiguous. Without waiving this objection, Frank's does not maintain documents responsive to this request.

13. Documents sufficient to show Your formal or informal policies—and trainings attended by any of Your employees, owners or other representatives—during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior concerning purchases or attempted purchases.

RESPONSE: Frank's objects to this request as it is vague and ambiguous. Without waiving this objection, Frank's does not maintain documents responsive to this request.

14. All Communications during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior in connection with purchases or attempted purchased of firearms, multiple purchases of firearms, and detecting or preventing straw purchasing or trafficking of firearms.

RESPONSE: Frank's objects to this request because it is vague and

ambiguous. Without waiving said objection, Frank's complies with all state and federal firearms laws including, without limitation, completing required background checks on all purchasers and maintain required records of firearms sales.

15. All Documents reflecting instances during the Relevant Time Period in which any of Your employees, owners, or other representatives failed to comply, and/or was reprimanded or disciplined for failing to comply, with company policies or regulations pertaining to the acquisition and disposition of firearms or with federal, state, or local firearms laws.

RESPONSE: None.

16. All Documents that support or concern Your claims or defenses.

RESPONSE: Frank's objects to this request because it seeks information protected by the attorney client privilege and work product doctrine. Frank's reserves the right to supplement its answers to this request consistent with the Rules of Civil Procedure and the Court's Case Management Order.

17. All Documents You identified or relied on in response to Plaintiff's First Set of Interrogatories to Defendant Frank's Gun Shop & Shooting Range LLC.

RESPONSE: Frank's objects to this request because it seeks information protected by the attorney client privilege and work product doctrine. Frank's reserves the right to supplement its answers to this request consistent with the Rules of Civil Procedure and the Court's Case Management Order.

Dated: May 2, 2024

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorney I.D. No.

James J. Fitzpatrick, Esquire

Attorney I.D. 320497

ZIMOLONG LLC

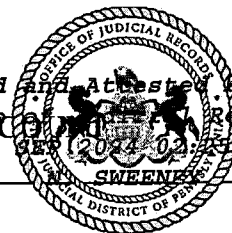
Attorneys for Defendant,

Frank's Gun Shop & Shooting Range LLC

EXHIBIT 3

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

Filed and Attested by the
Office of Judicial Records
05 SEP 2024 02:27 pm



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.

CIVIL DIVISION

Case No. 230702394

DOCKETED
SEP 27 2024
D. STEWART
JUDICIAL RECORDS

ORDER

AND NOW this 26th day of SEPT., 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. *WITHIN 20 DAYS OF DOCKETING*
THIS ORDER.

BY THE COURT:

MOTION SUBMITTED

SEP 25 2024

UNCONTESTED

ORDER-City Of Philadelphia Vs Tanner Operations, Llc Eta [DNW]



23070239400148

_____, J.

Certification Due Date: 09/12/2024
Response Date: 09/19/2024
Case ID: 230702394
Control No.: 24090925
Case ID: 230702394
Control No.: 24112074

EXHIBIT 4

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

CITY OF PHILADELPHIA

Plaintiff

v.

TANNER OPERATIONS, ET
AL.

Defendants

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS
:

: No. 230702394
:
:
:
:
:
:

ORDER-City Of Philade'phia Vs Tanner Operations, Llc Eta [SHJ]



23070239400157

ORDER

AND NOW, this 24th day of Oct, 2024, upon the Motion for
Reconsideration of this Court's Order dated September 27, 2024, regarding Motion at
Control Number 24090925, and any response in opposition thereto, it is hereby
ORDERED that ^{for Reconsideration} *said Motion* is DENIED.

BY THE COURT:



, J.

EXHIBIT 5



Fwd: Philadelphia v. WRT et al: Frank's Discovery

----- Forwarded message -----

From: **Alla Lefkowitz** <alefkowitz@everytown.org>

Date: Fri, Nov 1, 2024 at 11:13AM

Subject: Philadelphia v. WRT et al: Frank's Discovery

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Melissa Medina <Melissa.Medina@phila.gov>, James Fitzpatrick <james@zimolonglaw.com>, Lydia Furst <Lydia.Furst@phila.gov>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Eugene Nam <enam@everytown.org>, Jed Miller <jedmiller@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Jonathan Goldstein <jgoldstein@goldsteinlp.com>, Britain Henry <bhenry@goldsteinlp.com>, John Benson <jbenson@penglaseandbenson.com>

Mr. Zimolong,

On September 26, 2024, the Court granted the City's motion to compel and ordered Frank's to "produce all documents responsive to the City's Requests for Production, and to meaningfully answer the City's Interrogatories without objections within 20 days of docketing this order"—October 17, 2024. Frank's motion for reconsideration of the Court's order was denied on October 24, 2024.

Please respond with Frank's plan for coming into compliance with the Court's order by November 6.

Thank you,
Alla



Fwd: Philadelphia v. WRT et al: Frank's Discovery

----- Forwarded message -----

From: **Wally Zimolong** <wally@zimolonglaw.com>

Date: Mon, Nov 4, 2024 at 3:32 PM

Subject: Re: Philadelphia v. WRT et al: Frank's Discovery

To: Alla Lefkowitz <alefkowitz@everytown.org>

Cc: Melissa Medina <Melissa.Medina@phila.gov>, James Fitzpatrick <james@zimolonglaw.com>, Lydia Furst <Lydia.Furst@phila.gov>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Eugene Nam <enam@everytown.org>, Jed Miller <jedmiller@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Jonathan Goldstein <jgoldstein@goldsteinlp.com>, Britain Henry <bhenry@goldsteinlp.com>, John Benson <jbenson@penglaseandbenson.com>

Please see the attached.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com



Walter S. Zimolong, Esquire
Attorney I.D. #89151
James J. Fitzpatrick, Esquire
Attorney I.D. #320497
ZIMOLONG, LLC
P. O. Box 552
Villanova, PA 19085
(215) 665-0842

| | | |
|---------------------------|---|-----------------------|
| CITY OF PHILADELPHIA | : | PHILADELPHIA COUNTY |
| | : | COURT OF COMMON PLEAS |
| Plaintiff | : | |
| | : | No. 230702394 |
| v. | : | |
| | : | |
| TANNER OPERATIONS, ET AL. | : | |
| | : | |
| Defendants | : | |
| | : | |
| | : | |

**AMENDED ANSWERS AND OBJECTIONS TO REQUESTS FOR
PRODUCTION DIRECTED TO
FRANK'S GUN SHOP & SHOOTING RANGE LLC**

Defendant, Frank's Gun Shop & Shooting Range LLC ("Frank's"), answers and objects to the plaintiff's requests for production of documents as follows:

General Objections to Requests for Production

Frank's objects to the requests for production of documents to the extent that they:

1. Seek information or things not reasonably calculated to the discovery of admissible evidence.
2. Seek documents or things that are subject to the attorney-client privilege, constitute attorney work product, or are otherwise immune from discovery.
3. Seek documents or things equally available to the party propounding

the discovery.

4. Seek documents or things that are not in the possession, care, custody, or control or the party seeking discovery.

5. Are overly broad, unduly burdensome or oppressive because they seek the production of all documents that are responsive to the request.

6. Seek to impose discovery obligations beyond those provided for by the Rules of Civil Procedure.

7. Seeks production of documents prohibited from disclosure by state and federal law.

8. Frank's incorporates each of the foregoing general objections into each of its responses to defendants' document requests. Subject to the foregoing general objections, Conlin provides the following responses:

REQUESTS FOR PRODUCTION

1. All Documents reflecting Your transaction records from the Relevant Time Period, relating to any transaction involving any of the Frank's Straw Purchasers, including but not limited to: acquisition and disposition records, ATF Form 4473s, Pennsylvania State Police Form SP4-113s, records of multiple sales, invoices, orders, shipping labels, receipts, and recordings.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the

specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

2. Documents sufficient to show all customer profiles of the Frank's Straw Purchasers.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

3. Documents sufficient to show how You maintain acquisition and disposition records, transaction records, and/or customer records, including manuals for electronic databases or point of sale systems, including but not limited to Your formal or informal policies.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without

limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

4. All Documents that You or any of Your employees, owners, or other representatives sent to or shared with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency during the Relevant Time Period concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

5. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning any of the Frank's Straw Purchasers, or any person to whom these individuals are known to have provided a firearm purchased from You.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

6. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF, the Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, or any other Pennsylvania law enforcement agency concerning:

a) Actual, planned, or attempted straw purchasing of firearms by residents of Philadelphia;

- b) Actual, planned, or attempted straw purchasing of firearms on behalf of or intended for transfer to individuals or criminal organizations located in Philadelphia;
- c) Actual, planned, or attempted trafficking of firearms into Philadelphia;
- d) Any sting operation involving the actual, planned, or attempted purchase of a firearm, firearm component, firearm accessory, or ammunition at Frank's;
- e) The recovery in Philadelphia of any firearm sold or transferred by Frank's.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. However, without waiving these objections, Frank's will produce relevant communication that is not protected by state or federal laws, redacted if necessary. Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

7. All Communications during the Relevant Time Period that You or any of your employees, owners, or other representatives had with any of the Frank's Straw Purchasers or any person to whom these individuals are known to have provided a firearm purchased from You, or that concern discussions about any of these

individuals.

RESPONSE: Frank's does not maintain documents responsive to this request.

8. All video surveillance for April 30, 2018, September 20, 2018, September 21, 2018, February 20, 2019, June 21, 2020, June 25, 2020, July 2, 2020, July 9, 2020, July 12, 2020, July 15, 2020, July 25, 2020, July 29, 2020, August 7, 2020, August 14, 2020, August 20, 2020, August 21, 2020, September 5, 2020, December 26, 2020, March 8, 2021, March 13, 2021, May 4, 2021, June 21, 2021, June 29, 2021, July 8, 2021, July 9, 2021, July 17, 2021, July 24, 2021, August 2, 2021, August 16, 2021, August 23, 2021, August 24, 2021, October 25, 2021, November 22, 2021, and December 18, 2021.

RESPONSE: Frank's does not maintain any such footage.

9. All trace requests You received from ATF for firearms sold to the Frank's Straw Purchasers.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

10. All Documents reflecting audits, inspections, reports, notices, reports of violations, warning letters, and warning conference letters that You received from ATF or the U.S. Department of Justice during the Relevant Time Period. This request shall include, but not be limited to:

- a) Any notices of violations of any law or regulations;
- b) All Firearms Inspection Reports, Firearms Qualification Reports, memos, and any other communications issued by ATF;
- c) Notice(s) of license suspension or revocation, denial(s) of license application, and/or notice(s) of fine(s); or
- d) Communications with ATF or the U.S. Department of Justice concerning any of the above.

RESPONSE: Frank's objects to this request because it is prohibited from disclosing this information pursuant to state and federal law, including, without limitation, 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. Frank's further objects to these requests because it is vague and ambiguous and Frank's is unable to decipher the specific documents requested. Frank's further objects to this request because it is overly broad and seeks information that is not relevant to the claims or defenses in this matter. Frank's further objects to the term "Frank's Straw Purchasers." Without waiving these objections, Frank's does not maintain any documents that are responsive to this request. Without waiving these objections, Frank's has no documents in its care, custody, and control responsive to this request.

11. All Communications that You or any of Your employees, owners, or other representatives had during the Relevant Time Period with ATF regarding your involvement in ATF's Demand 2 Program, as well as any reports You had to submit as a result.

RESPONSE: See answer to request number 6.

12. Documents sufficient to show Your formal or informal policy during the Relevant Time Period concerning working with or cooperating with law enforcement and/or reporting suspicious activity to any law enforcement agency.

RESPONSE: Frank's objects to this request as it is vague and ambiguous. Without waiving this objection, Frank's does not maintain documents responsive to this request.

13. Documents sufficient to show Your formal or informal policies —and trainings attended by any of Your employees, owners or other representatives—during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior concerning purchases or attempted purchases.

RESPONSE: Frank's objects to this request as it is vague and ambiguous. Without waiving this objection, Frank's does not maintain documents responsive to this request.

14. All Communications during the Relevant Time Period concerning compliance with federal, state, and local firearms laws, suspicious conduct or behavior in connection with purchases or attempted purchased of firearms, multiple purchases

of firearms, and detecting or preventing straw purchasing or trafficking of firearms.

RESPONSE: Frank's objects to this request because it is vague and ambiguous. Without waiving said objection, Frank's complies with all state and federal firearms laws including, without limitation, completing required background checks on all purchasers and maintain required records of firearms sales.

15. All Documents reflecting instances during the Relevant Time Period in which any of Your employees, owners, or other representatives failed to comply, and/or was reprimanded or disciplined for failing to comply, with company policies or regulations pertaining to the acquisition and disposition of firearms or with federal, state, or local firearms laws.

RESPONSE: None.

16. All Documents that support or concern Your claims or defenses.

RESPONSE: Frank's objects to this request because it seeks information protected by the attorney client privilege and work product doctrine. Frank's reserves the right to supplement its answers to this request consistent with the Rules of Civil Procedure and the Court's Case Management Order.

17. All Documents You identified or relied on in response to Plaintiff's First Set of Interrogatories to Defendant Frank's Gun Shop & Shooting Range LLC.

RESPONSE: Frank's objects to this request because it seeks information protected by the attorney client privilege and work product doctrine. Frank's reserves the right to supplement its answers to this request consistent with the Rules of Civil Procedure and the Court's Case Management Order.

Dated: October 28, 2024

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorney I.D. No.

James J. Fitzpatrick, Esquire

Attorney I.D. 320497

ZIMOLONG LLC

Attorneys for Defendant, *Frank's Gun*

Shop & Shooting Range LLC



Fwd: Philadelphia v. WRT et al: Frank's Discovery

----- Forwarded message -----

From: **Alla Lefkowitz** <alefkowitz@everytown.org>

Date: Tue, Nov 5, 2024 at 12:39 PM

Subject: Re: Philadelphia v. WRT et al: Frank's Discovery

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Melissa Medina <Melissa.Medina@phila.gov>, James Fitzpatrick <james@zimolonglaw.com>, Lydia Furst <Lydia.Furst@phila.gov>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Eugene Nam <enam@everytown.org>, Jed Miller <jedmiller@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Jonathan Goldstein <jgoldstein@goldsteinlp.com>, Britain Henry <bhenry@goldsteinlp.com>, John Benson <jbenson@penglaseandbenson.com>

Mr. Zimolong,

As you are aware, gun stores are legally required to maintain transaction documents, and all litigants are required to preserve evidence that may be relevant to an ongoing litigation. The City requested in March, and the Court has ordered production of, a variety of transaction records and other documents from Frank's. Frank's new representation that it does not possess responsive documents is inconsistent with these obligations. Please inform us within the next 24 hours where the requested records are.

Best,
Alla



Caroline Weil <cweil@everytown.org>

Fwd: Philadelphia v. WRT et al: Frank's Discovery

----- Forwarded message -----

From: **Wally Zimolong** <wally@zimolonglaw.com>

Date: Tue, Nov 5, 2024 at 12:51 PM

Subject: Re: Philadelphia v. WRT et al: Frank's Discovery

To: Alla Lefkowitz <alefkowitz@everytown.org>

Cc: Melissa Medina <Melissa.Medina@phila.gov>, James Fitzpatrick <james@zimolonglaw.com>, Lydia Furst

<Lydia.Furst@phila.gov>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Zagami, Drew

<DZagami@kramerlevin.com>, Eugene Nam <enam@everytown.org>, Jed Miller <jedmiller@everytown.org>, Laura

Keeley <lkeeley@everytown.org>, Jonathan Goldstein <jgoldstein@goldsteinlp.com>, Britain Henry

<bhenry@goldsteinlp.com>, John Benson <jbenson@penglaseandbenson.com>

Ms. Lefkowitz:

I am very confused by your email. Frank's has provided answers to your client's requests for production of documents.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |www.zimolonglaw.com



Fwd: Philadelphia v. WRT et al: Frank's Discovery

----- Forwarded message -----

From: **Alla Lefkowitz** <alefkowitz@everytown.org>

Date: Tue, Nov 5, 2024 at 1:31 PM

Subject: Re: Philadelphia v. WRT et al: Frank's Discovery

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Melissa Medina <Melissa.Medina@phila.gov>, James Fitzpatrick <james@zimolonglaw.com>, Lydia Furst <Lydia.Furst@phila.gov>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Eugene Nam <enam@everytown.org>, Jed Miller <jedmiller@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Jonathan Goldstein <jgoldstein@goldsteinlp.com>, Britain Henry <bhenry@goldsteinlp.com>, John Benson <jbenson@penglaseandbenson.com>

Mr. Zimolong,

Franks' answer states that it has no responsive firearms transaction documents in its possession. These are forms that are required to be maintained by federal and state law, and that you have previously represented in court filings that Franks maintains. See e.g. Oct. 8 Supplemental Brief at 2 (asserting need for stay on grounds that "any order compelling discovery would cause irreparable harm to Frank's because it will have been required to produce documents in a suit in which [it] enjoys immunity[.]")

Please inform us where the documents are. If they have been transferred, when and to whom were they transferred?

Best,
Alla



Fwd: Philadelphia v. WRT et al: Frank's Discovery

----- Forwarded message -----

From: **Wally Zimolong** <wally@zimolonglaw.com>

Date: Tue, Nov 5, 2024 at 1:36 PM

Subject: Re: Philadelphia v. WRT et al: Frank's Discovery

To: Alla Lefkowitz <alefkowitz@everytown.org>

Cc: Melissa Medina <Melissa.Medina@phila.gov>, James Fitzpatrick <james@zimolonglaw.com>, Lydia Furst <Lydia.Furst@phila.gov>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Eugene Nam <enam@everytown.org>, Jed Miller <jedmiller@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Jonathan Goldstein <jgoldstein@goldsteinlp.com>, Britain Henry <bhenry@goldsteinlp.com>, John Benson <jbenson@penglaseandbenson.com>

Ms. Lefkowitz:

The answers are full, complete, and accurate. Thank you.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com



EXHIBIT 6

| LIC_REGN | LIC_DIST | LIC_CNTY | LIC_TYPE | LIC_XPRDTE | LIC_SEQN | LICENSE_NAME | BUSINESS_NAME | PREMISE_STREET | PREMISE_CITY | PREMISE_STATE | PREMISE_ZIP_CODE | MAIL_STREET | MAIL_CITY | MAIL_STATE | MAIL_ZIP_CODE | VOICE_PHONE |
|----------|----------|----------|----------|------------|----------|--------------------------------------|---------------------------|---|--------------|---------------|------------------|-----------------------------|--------------|------------|---------------|-------------|
| 8 | 23 | 101 | 01 | 7D | 07949 | MAD MINUTE ENTERPRISES LLC | DELIAS GUN SHOP | 6104 TORRESDALE AVE | PHILADELPHIA | PA | 19135 | 6104 TORRESDALE AVE | PHILADELPHIA | PA | 19135 | 2153327733 |
| 8 | 23 | 101 | 01 | 5H | 06461 | FRANKS GUN SHOP & SHOOTING RANGE LLC | | 4730 BLAKISTON ST | PHILADELPHIA | PA | 19136 | 510 RESERVOIR RD | WEST CHESTER | PA | 19380 | 2156241015 |
| 8 | 23 | 101 | 01 | 7B | 10922 | ATLANTIC TACTICAL INC | ATLANTIC TACTICAL | 7970 STATE RD | PHILADELPHIA | PA | 19136 | 7970 STATE RD | PHILADELPHIA | PA | 19136 | 2156320341 |
| 8 | 23 | 101 | 01 | 7J | 14467 | THE GUN RANGE 2 0, LLC | | 7430 STATE ROAD | PHILADELPHIA | PA | 19136 | 607 ALBURGER AVENUE | PHILADELPHIA | PA | 19115 | 2679970662 |
| 8 | 23 | 101 | 01 | 7J | 16838 | TONS OF GUNS, LLC | | 4730 BLAKISTON ST | PHILADELPHIA | PA | 19136 | 4730 BLAKISTON ST | PHILADELPHIA | PA | 19136 | 2154311256 |
| 8 | 23 | 101 | 01 | 5K | 36916 | VALENTINO, DOMINIC J | VALENTINO'S GUN SHOP | 4391 RICHMOND ST | PHILADELPHIA | PA | 191371925 | PO BOX 5972 | PHILADELPHIA | PA | 191371925 | 2157443343 |
| 8 | 23 | 101 | 01 | 6D | 18954 | FIRING LINE INC | | 1532 S FRONT ST | PHILADELPHIA | PA | 19147 | 1532 S FRONT ST | PHILADELPHIA | PA | 19147 | 2153361710 |
| 8 | 23 | 101 | 01 | 7M | 05830 | PHILADELPHIA TRAINING ACADEMY INC | | 831-833 ELLSWORTH ST | PHILADELPHIA | PA | 19147 | 831-833 ELLSWORTH ST | PHILADELPHIA | PA | 19147 | 2155514544 |
| 8 | 23 | 101 | 08 | 5K | 39663 | DUCKWORTH, ROSS ALAN | | 909 FEDERAL STREET | PHILADELPHIA | PA | 19147 | 777 WILLIAM PENN ANNEX | PHILADELPHIA | PA | 191050777 | 2022518250 |
| 8 | 23 | 101 | 09 | 5E | 11867 | FIRING LINE INC | | 1532 S FRONT STREET | PHILADELPHIA | PA | 191470000 | 1532 S FRONT STREET | PHILADELPHIA | PA | 191470000 | 2153361710 |
| 8 | 23 | 101 | 01 | 7D | 35311 | RX SPORTING GOODS INC | | 7520 CASTOR AVE LOWER LEVEL | PHILADELPHIA | PA | 19152 | 7520 CASTOR AVE LOWER LEVEL | PHILADELPHIA | PA | 19152 | 6102913286 |
| 8 | 23 | 101 | 01 | 6G | 10326 | BRINK'S, INCORPORATED | | 7400 HOLSTEIN AVENUE | PHILADELPHIA | PA | 19153 | 555 DIVIDEND DR | COPPELL | TX | 75019 | 4695497000 |
| 8 | 23 | 029 | 01 | 7G | 05590 | LEGACY COLLECTIBLES LLC | | 12 CHESTNUT RD | PAOLI | PA | 19301 | 12 CHESTNUT RD | PAOLI | PA | 19301 | 6109816041 |
| 8 | 23 | 029 | 08 | 5G | 06370 | LEGACY COLLECTIBLES LLC | LC | 12 CHESTNUT RD | PAOLI | PA | 19301 | 12 CHESTNUT RD | PAOLI | PA | 19301 | 6109816041 |
| 8 | 23 | 029 | 10 | 6G | 00555 | ACTION MANUFACTURING CO | | 500 BAILEY CROSSROADS RD | ATGLEN | PA | 19310 | 500 BAILEY CROSSROADS RD | ATGLEN | PA | 19310 | 6105931800 |
| 8 | 23 | 029 | 01 | 5F | 09219 | LIBERTY SHOOTING RANGE LLC | TARGET SHOOTING SOLUTIONS | 1056 GAP NEWPORT PIKE | AVONDALE | PA | 19311 | 1056 GAP NEWPORT PIKE | AVONDALE | PA | 19311 | 6109100100 |
| 8 | 23 | 029 | 07 | 6L | 16462 | MOUTAI DEFENSE LLC | | 527 ANNADALE DR | BERWYN | PA | 19312 | 527 ANNADALE DR | BERWYN | PA | 19312 | 4843185359 |
| 8 | 23 | 029 | 01 | 7A | 38509 | GEARY, GEORGE A SR | PETES OUTDOOR'S | 80 OLD ORCHARD LANE | CHADDS FORD | PA | 19317 | 80 OLD ORCHARD LANE | CHADDS FORD | PA | 19317 | 6103880316 |
| 8 | 23 | 045 | 01 | 5M | 03122 | GUNNER LLC | | 255 WILMINGTON W CHESTER PIKE STE 3 | CHADDS FORD | PA | 19317 | PO BOX 108 | CHADDS FORD | PA | 19317 | 6104595400 |
| 8 | 23 | 045 | 01 | 7K | 35801 | TOMMY GUN INC | TARGETMASTER | 255 WILMINGTON WEST CHESTER PIKE RT 202 | CHADDS FORD | PA | 19317 | PO BOX 525 | CHADDS FORD | PA | 19317 | 6104595400 |
| 8 | 23 | 045 | 06 | 7K | 35802 | TOMMY GUN INC | TARGETMASTER | 255 WILMINGTON WEST CHESTER PIKE RT 202 | CHADDS FORD | PA | 19317 | PO BOX 525 | CHADDS FORD | PA | 19317 | 6104595400 |
| 8 | 23 | 045 | 07 | 5B | 38975 | TOMMY GUN INC | TARGETMASTER | 255 WILMINGTON W CHESTER PK RT 202 | CHADDS FORD | PA | 193170000 | PO BOX 525 | CHADDS FORD | PA | 193170000 | 6104595400 |
| 8 | 23 | 029 | 01 | 4J | 11337 | PHILLY PHINEST LLC | PHILLY PHIREARMS | 127 CYPRUS LN | COATESVILLE | PA | 19320 | 7955 TEMPLE RD | PHILA | PA | 19150 | 6104286469 |
| 8 | 23 | 029 | 01 | 4L | 14664 | ACCELERATED METALS LLC | | 107 PARK AVE | COATESVILLE | PA | 19320 | 107 PARK AVE | COATESVILLE | PA | 19320 | 4842020056 |
| 8 | 23 | 029 | 01 | 5A | 14983 | GOT YOUR 6 FIREARMS & AMMO LLC | | 41 PELHAM DR | COATESVILLE | PA | 19320 | 41 PELHAM DR | COATESVILLE | PA | 19320 | 4844015303 |
| 8 | 23 | 029 | 01 | 5K | 09539 | ABSOLUTE PUBLIC SAFETY LLC | | 615 N CALN RD | COATESVILLE | PA | 19320 | 615 N CALN RD | COATESVILLE | PA | 19320 | 2674601911 |

EXHIBIT 7



[FFL Search](#)
[FFL Download](#)

Federal Firearms License Results

You Entered FFL Number: 8-23-XXX-XX-XX-06461

If you are certain you entered the correct license number, there is a strong possibility that the FFL you are attempting to verify is invalid and/or this may be an attempt at a fraudulent transaction.

You should not complete the transaction without first contacting ATF at 1-877-560-2435 for assistance.

If you only have general questions concerning this web site, or the information displayed above, please contact ATF using the Problem Report link provided at the end of this page.

CLICK [THIS LINK](#) TO REPORT ISSUES TO ATF.



If you have difficulty accessing any information in the site due to a disability, please contact us via email (webmaster@atf.gov) and we will do our best to make the information available to you.

This site is best viewed at 1024 x 768 screen resolution or higher using Internet Explorer 5.5 or higher.

ATTENTION: Users may experience compatibility problems when attempting to view PDF files using Internet Explorer browser version 5 and above and Adobe Acrobat Reader 4.0. If problems occur, consider the following options: Right-click on PDF link and save to local drive; Use an earlier version of Adobe Acrobat Reader; Use an earlier version of Internet Explorer; or convert PDF to text using [ATF's PDF Conversion Engine](#).


WARNING! This computer system is the property of the United States Department of Justice. The Department may monitor any activity on the system and search and retrieve any information stored within the system. By accessing and using this computer, you are consenting to such monitoring and information retrieval for law enforcement and other purposes. Users should have no expectation of privacy as to any communication on or information stored within the system, including information stored on the network and stored locally on the hard drive or other media in use with this unit (e.g., floppy drives, CD-ROMS, etc.).

[Privacy Policy](#)

EXHIBIT 8

PA

An Official **Pennsylvania** Government Website



Home

Search

Initial Forms

Help

Business

UCC

Trademark

CROP

Business Search

As of 11/11/2024 we have processed all business filings received in our office through 11/04/2024.

Business Search Info:

Tons of Guns

Advanced

Results: 1

| Filing Information | Initial Filing Date | Status | Entity Type | Formed In | Address |
|------------------------------|---------------------|--------|------------------------------------|--------------|--------------------------------------|
| Tons of Guns, LLC (13915326) | 07/30/2024 | Active | Domestic Limited Liability Company | PENNSYLVANIA | 4125 CHESTNUT AVE, TREVOSE, PA 19053 |

Tons of Guns, LLC (13915326)

Request Certificate

Initial Filing Date

Status

Formed In

Filing Type

Filing Subtype

Registered Office

07/30/2024

Active

PENNSYLVANIA

Domestic Limited Liability Company

Limited Liability Company

4125 CHESTNUT AVE
TREVOSE, PA 19053
County: BUCKS

View History

Request Access

[Skip to main content](#)


PRIVACY & DISCLAIMERS

Copyright © 2024 Common

EXHIBIT 9

PA

An Official **Pennsylvania** Government Website



Home

Search

Initial Forms

Help

Business

UCC

Trademark

CROP

Business Search

As of 11/11/2024 we have processed all business filings received in our office through 11/04/2024.

Business Search Info:

Frank's Gun Shop & Double Tap Shooting Range

Advanced

Results: 1

| Filing Information | Initial Filing Date | Status | Entity Type | Formed In | Address |
|---|---------------------|--------|-----------------|--------------|---|
| Frank's Gun Shop & Double Tap Shooting Range (13958859) | 09/19/2024 | Active | Fictitious Name | PENNSYLVANIA | 4730 BLAKISTON ST, PHILADELPHIA, PA 19136 |

Request Certificate

Initial Filing Date

Status

Formed In

Filing Type

Principal Address

Interested Entities

09/19/2024

Active

PENNSYLVANIA

Fictitious Name

4730 BLAKISTON ST
PHILADELPHIA, PA 19136

Interested Entity
Tons of Guns, LLC

View History

Request Access

Skip to main content

PRIVACY & DISCLAIMERS

Copyright © 2024 Commonwealth of Pennsylvania

EXHIBIT 10

| LIC_REGN | LIC_DIST | LIC_CNTY | LIC_TYPE | LIC_XPRDTE | LIC_SEQN | LICENSE_NAME | BUSINESS_NAME | PREMISE_STREET | PREMISE_CITY | PREMISE_STATE | PREMISE_ZIP_CODE | MAIL_STREET | MAIL_CITY | MAIL_STATE | MAIL_ZIP_CODE | VOICE_PHONE |
|----------|----------|----------|----------|------------|----------|--------------------------------------|---------------------------|---|--------------|---------------|------------------|-----------------------------|--------------|------------|---------------|-------------|
| 8 | 23 | 101 | 01 | 7D | 07949 | MAD MINUTE ENTERPRISES LLC | DELIAS GUN SHOP | 6104 TORRESDALE AVE | PHILADELPHIA | PA | 19135 | 6104 TORRESDALE AVE | PHILADELPHIA | PA | 19135 | 2153327733 |
| 8 | 23 | 101 | 01 | 5H | 06461 | FRANKS GUN SHOP & SHOOTING RANGE LLC | | 4730 BLAKISTON ST | PHILADELPHIA | PA | 19136 | 510 RESERVOIR RD | WEST CHESTER | PA | 19380 | 2156241015 |
| 8 | 23 | 101 | 01 | 7B | 10922 | ATLANTIC TACTICAL INC | ATLANTIC TACTICAL | 7970 STATE RD | PHILADELPHIA | PA | 19136 | 7970 STATE RD | PHILADELPHIA | PA | 19136 | 2156320341 |
| 8 | 23 | 101 | 01 | 7J | 14467 | THE GUN RANGE 2.0, LLC | | 7430 STATE ROAD | PHILADELPHIA | PA | 19136 | 607 ALBURGER AVENUE | PHILADELPHIA | PA | 19115 | 2679970662 |
| 8 | 23 | 101 | 01 | 7J | 16838 | TONS OF GUNS, LLC | | 4730 BLAKISTON ST | PHILADELPHIA | PA | 19136 | 4730 BLAKISTON ST | PHILADELPHIA | PA | 19136 | 2154311256 |
| 8 | 23 | 101 | 01 | 5K | 36916 | VALENTINO, DOMINIC J | VALENTINO'S GUN SHOP | 4391 RICHMOND ST | PHILADELPHIA | PA | 191371925 | PO BOX 5972 | PHILADELPHIA | PA | 191371925 | 2157443343 |
| 8 | 23 | 101 | 01 | 6D | 18954 | FIRING LINE INC | | 1532 S FRONT ST | PHILADELPHIA | PA | 19147 | 1532 S FRONT ST | PHILADELPHIA | PA | 19147 | 2153361710 |
| 8 | 23 | 101 | 08 | 5K | 39663 | DUCKWORTH, ROSS ALAN | | 909 FEDERAL STREET | PHILADELPHIA | PA | 19147 | 777 WILLIAM PENN ANNEX | PHILADELPHIA | PA | 191050777 | 2022518250 |
| 8 | 23 | 101 | 01 | 4M | 05830 | PHILADELPHIA TRAINING ACADEMY INC | | 831-833 ELLSWORTH ST | PHILADELPHIA | PA | 191470000 | 831-833 ELLSWORTH ST | PHILADELPHIA | PA | 191470000 | 2155514544 |
| 8 | 23 | 101 | 09 | 5E | 11867 | FIRING LINE INC | | 1532 S FRONT STREET | PHILADELPHIA | PA | 191470000 | 1532 S FRONT STREET | PHILADELPHIA | PA | 191470000 | 2153361710 |
| 8 | 23 | 101 | 01 | 7D | 35311 | RX SPORTING GOODS INC | | 7520 CASTOR AVE LOWER LEVEL | PHILADELPHIA | PA | 19152 | 7520 CASTOR AVE LOWER LEVEL | PHILADELPHIA | PA | 19152 | 6102913286 |
| 8 | 23 | 101 | 01 | 6G | 10326 | BRINK'S, INCORPORATED | | 7400 HOLSTEIN AVENUE | PHILADELPHIA | PA | 19153 | 555 DIVIDEND DR | COPPELL | TX | 75019 | 4695497000 |
| 8 | 23 | 029 | 01 | 7G | 05590 | LEGACY COLLECTIBLES LLC | | 12 CHESTNUT RD | PAOLI | PA | 19301 | 12 CHESTNUT RD | PAOLI | PA | 19301 | 6109816041 |
| 8 | 23 | 029 | 08 | 5G | 06370 | LEGACY COLLECTIBLES LLC | LC | 12 CHESTNUT RD | PAOLI | PA | 19301 | 12 CHESTNUT RD | PAOLI | PA | 19301 | 6109816041 |
| 8 | 23 | 029 | 10 | 6G | 00555 | ACTION MANUFACTURING CO | | 500 BAILEY CROSSROADS RD | ATGLEN | PA | 19310 | 500 BAILEY CROSSROADS RD | ATGLEN | PA | 19310 | 6105931800 |
| 8 | 23 | 029 | 01 | 5F | 09219 | LIBERTY SHOOTING RANGE LLC | TARGET SHOOTING SOLUTIONS | 1056 GAP NEWPORT PIKE | AVONDALE | PA | 19311 | 1056 GAP NEWPORT PIKE | AVONDALE | PA | 19311 | 6109100100 |
| 8 | 23 | 029 | 07 | 6L | 16462 | MOUTAI DEFENSE LLC | | 527 ANNADALE DR | BERWYN | PA | 19312 | 527 ANNADALE DR | BERWYN | PA | 19312 | 4843185359 |
| 8 | 23 | 029 | 01 | 7A | 38509 | GEARY, GEORGE A SR | PETES OUTDOOR'S | 80 OLD ORCHARD LANE | CHADDS FORD | PA | 19317 | 80 OLD ORCHARD LANE | CHADDS FORD | PA | 19317 | 6103880316 |
| 8 | 23 | 045 | 01 | 4K | 35801 | TOMMY GUN INC | TARGETMASTER | 255 WILMINGTON WEST CHESTER PIKE RT 202 | CHADDS FORD | PA | 19317 | PO BOX 525 | CHADDS FORD | PA | 19317 | 6104595400 |
| 8 | 23 | 045 | 01 | 5M | 03122 | GUNNER LLC | | 255 WILMINGTON W CHESTER PIKE STE 3 | CHADDS FORD | PA | 19317 | PO BOX 108 | CHADDS FORD | PA | 19317 | 6104595400 |
| 8 | 23 | 045 | 06 | 4K | 35802 | TOMMY GUN INC | TARGETMASTER | 255 WILMINGTON WEST CHESTER PIKE RT 202 | CHADDS FORD | PA | 193170000 | PO BOX 525 | CHADDS FORD | PA | 193170000 | 6104595400 |
| 8 | 23 | 045 | 07 | 5B | 38975 | TOMMY GUN INC | TARGETMASTER | 255 WILMINGTON W CHESTER PK RT 202 | CHADDS FORD | PA | 193170000 | PO BOX 525 | CHADDS FORD | PA | 193170000 | 6104595400 |
| 8 | 23 | 029 | 01 | 4J | 11337 | PHILLY PHINEST LLC | PHILLY PHIREARMS | 127 CYPRIUS LN | COATESVILLE | PA | 19320 | 7955 TEMPLE RD | PHILA | PA | 19150 | 6104286469 |
| 8 | 23 | 029 | 01 | 4L | 08620 | CLARK SECURITY GROUP LLC | GOTTAGUN | 134 CREAMERY RD | COATESVILLE | PA | 19320 | 134 CREAMERY RD | COATESVILLE | PA | 19320 | 4847985629 |
| 8 | 23 | 029 | 01 | 4L | 14664 | ACCELERATED METALS LLC | | 107 PARK AVE | COATESVILLE | PA | 19320 | 107 PARK AVE | COATESVILLE | PA | 19320 | 4842020056 |
| 8 | 23 | 029 | 01 | 4M | 11617 | MINICHINI, NICHOLAS | | 625 REECEVILLE ROAD | COATESVILLE | PA | 19320 | 625 REECEVILLE ROAD | COATESVILLE | PA | 19320 | 7322664279 |
| 8 | 23 | 029 | 01 | 5A | 14983 | GOT YOUR 6 FIREARMS & AMMO LLC | | 41 PELHAM DR | COATESVILLE | PA | 19320 | 41 PELHAM DR | COATESVILLE | PA | 19320 | 4844015303 |
| 8 | 23 | 029 | 01 | 5K | 09539 | ABSOLUTE PUBLIC SAFETY LLC | | 615 N CALN RD | COATESVILLE | PA | 19320 | 615 N CALN RD | COATESVILLE | PA | 19320 | 2674601911 |

EXHIBIT 11

Walter S. Zimolong, Esquire
Attorney I.D. #89151
James J. Fitzpatrick, Esquire
Attorney I.D. #320497
ZIMOLONG, LLC
P. O. Box 552
Villanova, PA 19085
(215) 665-0842

CITY OF PHILADELPHIA

Plaintiff

v.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

No. 230702394

**FRANK'S GUN SHOP & SHOOTING RANGE LLC ANSWERS AND OBJECTIONS
TO PLAINTIFF'S FIRST SET OF INTERROGATORIES**

Frank's Gun Shop & Shooting Range LLC (Frank's) answers and objects to the plaintiff's interrogatories as follows:

General Objections to Interrogatories

1. Frank's objects to these Interrogatories to the extent they seek to require information other than that which may be obtained through reasonably diligent search of their records.
2. Frank's objects to these Interrogatories to the extent they seek information protected by the attorney client privilege or work product doctrine.
3. Frank's objects to these Interrogatories to the extent they seek information beyond the scope of discovery permissible under the Rules of Civil Procedure.

4. Frank's objects to these Interrogatories to the extent they seek information regarding the identification of documents. Responsive documents will be produced rather than identified.

5. Frank's objects to these Interrogatories to the extent they seek information that is equally available to Plaintiffs and Defendants or information already in the care, custody, or control of Plaintiffs.

6. Frank's objects to these Interrogatories to the extent they seek information that is unduly burdensome to produce.

7. Frank's objects to these Interrogatories to the extent they are vague and ambiguous.

Subject to the foregoing objections and limitations which are applicable to each of the numbered paragraphs of the interrogatories, and subject to any documents begin in existence and recoverable reasonably diligent search, and without representing that any particular document or documents are or are not thus existing and recoverable, Frank's further responds to each individual interrogatory without waiver and with preservation of:

The right to object to the use of any responses, or the subject matter thereof, on any ground in any proceedings in any actions (including any trials);

The right to object on any grounds at any time to a demand or request for a further response to this discovery request or to any other interrogatories, document requests, or other discovery proceedings including or relating to the subject matter of the discovery requests herein responded to; and

INTERROGATORIES

1. Identify the name, address, and phone number of each person involved

Case ID: 230702394
Control No.: 24112074

in providing information to respond to these interrogatories.

ANSWER: Frank Stelmach. Frank Stelmach can be contacted through counsel.

Sebastian Stelmach, Sebastian Stelmach can be contacted through counsel.

2. For each firearm or ammunition transaction that You conducted with any of the Frank's Straw Purchasers, identify the date, the transferor and transferee and (i) for a firearm, the make, model, and serial number of that firearm, or (ii) for ammunition, the brand, caliber, and quantity of ammunition.

ANSWER: Frank's objects to this interrogatory because it seeks information that Frank's is prohibited from disclosing under state and federal law, including, without limitation, 18 U.S.C. § 926 and 18 Pa.C.S.A. § 6111(i).

3. State whether any employee, owner, or other representative of Frank's spoke in-person or telephonically, or communicated by text message, email, or other electronic communication, during the Relevant Time Period, with any of the Frank's Straw Purchasers or any other person to whom any of these individuals transferred a firearm that they purchased or otherwise obtained from You, and for each such communication list the date, location, means of communication, Frank's employee(s), owner(s), and representative(s) involved, and the subject matter of the communication.

ANSWER: Frank's did not engage in this written communication with any of the individuals that plaintiff defines as "Frank's Straw Purchasers."

4. State whether any employee, owner, or other representative of Frank's spoke in person or telephonically, or communicated by text message, email, or other electronic communication, during the Relevant Time Period, with an employee, agent, or other representative of the ATF, Philadelphia Police Department, the Philadelphia Sheriff's Office, the Pennsylvania State Police, the Pennsylvania

Attorney General's Office, or any other Pennsylvania law enforcement agency concerning actual, planned, or attempted straw purchasing of firearms at Frank's, or about any of the Frank's Straw Purchasers, and for any such communication list the date, means of communication, Frank's employee(s), owner(s), and representative(s) involved, other person(s) involved, and the subject matter of the communication.

ANSWER: Frank's was in communication telephonically on multiple occasions with the Philadelphia Gun Violence Task Force. It is possible that Frank's communicated with the ATF telephonically. Frank's does not recall the exact dates that it spoke on the telephone with the Philadelphia Gun Violence Task Force or ATF. Frank's also communicated with representatives of the Philadelphia Gun Violence Task Force by text message. The subject matter of the communication was to alert law enforcement about multiple handgun sales.

5. State whether You conducted any investigation into any of the Frank's Straw Purchasers or Your firearms transactions with any of them, and, if so, identify 1) the date that investigation was commenced, (2) the individual(s) who conducted the investigation, and (3) state whether that investigation resulted in any written notes, summary, or report.

ANSWER: Frank's objects to this request on the grounds that it is vague and ambiguous because the term "investigation" is undefined. Without waiving said objection, Frank's does not perform investigation into potential purchasers of firearms. However, Frank's does perform all prerequisites required of it before transferring a firearm to an individual, making a copy of the Pennsylvania drivers

licenses, requiring the purchaser to complete an ATF Form 4473, and a Pennsylvania State Police handgun form. Frank's runs a background check with the Pennsylvania State Police PICS system through an online portal or telephone line. Frank's supplies the Pennsylvania State Police with the purchaser's driver's license number, place of birth, and employer to conduct a background check. The Pennsylvania State Police then supplies Frank's with an approval code which Frank's writes onto the Form 4473.

6. Identify the number of firearm trace requests You received annually from ATF during the Relevant Time Period, the location where and manner how those trace requests are stored, and, for any trace request that involved a firearm transferred to any of the Frank's Straw Purchasers, the date such trace request was received by You.

ANSWER: Frank's does not now the number of trace requests received from the ATF during the Relevant Time Period.

7. Describe any policies that You had in place during the Relevant Time Period related to preventing the trafficking of firearms or straw purchasing.

ANSWER: Frank's adhered to all federal and state laws related to preventing the trafficking of firearms or straw purchasing.

8. Identify any trainings that any of Your employees, owners, or other representatives conducted or attended, during the Relevant Time Period, related to federal and/or state firearms laws, firearms trafficking, or straw purchases, or that were conducted by ATF or any state or local law enforcement agency.

ANSWER: Frank's is not aware of any training conducted by the ATF or "state or local law enforcement."

9. Identify the name, title, and duties of each of Your employees, managers, officers, owners, agents, contractors, volunteers or other representatives, during the Relevant Time Period.

ANSWER:

Franciszek ("Frank") Stelmach. Frank Stelmach is the owner of Frank's. Frank Stelmach oversees all operations of Frank's.

Sebastian Stelmach. Sebastian Stelmach is the manager of Frank's. Among other things he oversees the employees of Frank's and runs the day-to-day operations of the store.

Andrea Sondag. Sondag worked as a salesperson. Sondag performed sales and clerical tasks.

Hector Martinez. Martinez was salesman.

Samuel Maturo. Maturo is a salesman and cashier.

10. Identify the account holder, phone number, and service provider for each telephone number used to conduct Your business – including any personal telephone numbers for Your employees, owners, or other representatives – during the Relevant Time Period; for each account, state the dates during which the account was active and the person(s) who used such account or telephone number.

ANSWER: Frank Stelmach, 215-624-1015, Verizon, Active during relevant dates, used by shop employees.

Sebastian Stelmach, 484-321-1824, T-Mobile, active during relevant dates, used by Sebastian Stelmach.

11. Identify every list-serve, message board, website advertising, or

firearms sales brokering website You used, during the Relevant Time Period, to advertise or conduct business relating to firearms; for each listed site, identify the name or username associated with the account, the URL or name of the list-serve or message board or website, the email address associated with the account, the dates You maintained the account, and state whether that account is still active.

ANSWER: None.

12. Identify 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 identify the custodian of the statement.

ANSWER: None.

13. Identify 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:

Sebastian Stelmach. Sebastian Stelmach has knowledge of the procedures that Frank's follows to comply with federal and state law. Sebastian also has knowledge of Frank's proactive cooperation with law enforcement regarding multiple handgun sales.

Eric Fry. Upon information and belief, Fry is or was a member of the Philadelphia Police Department Gun Violence Task Force. Fry has information related to multiple

firearms sales that Frank's alert the Philadelphia Police about and statements by the Philadelphia Police Department that the sale should proceed.

Marta Santos. Upon information and belief, Marta is or was a member of the Philadelphia Police Department Gun Violence Task Force. Marta has information related to multiple firearms sales that Frank's alert the Philadelphia Police about and statements by the Philadelphia Police Department that the sale should proceed.

Michael Baldwin. Baldwin is an agent with the Bureau of Alcohol, Tabaco, and Firearms. Baldwin has knowledge of Frank's compliance with state and federal law.

Lawrence Krasner. Krasner is the Philadelphia District Attorney. Krasner has knowledge of his refusal to prosecute gun crimes and the resultant surge in gun violence because of his soft of crime policies.

John McNesby. McNesby has knowledge of Krasner's refusal to prosecute gun crimes and the resultant surge in gun violence because of Krasner's soft on crime policies. McNesby also has knowledge of Krasner's antagonism towards law enforcement and pro-criminal policies.

Respectfully submitted,

Dated: May 2, 2024

/s/Walter S. Zimolong
Walter S. Zimolong, Esquire
Attorney I.D. No.
James J. Fitzpatrick, Esquire
Attorney I.D. 320497
ZIMOLONG LLC
Attorneys for Defendant,
*Frank's Gun Shop &
Shooting Range LLC*

VERIFICATION

I, Sebastian Stelmach, verify that that the facts contained in the foregoing are true and correct based upon my knowledge, information, and belief. However, while the facts are true and correct based upon my knowledge, information, and belief, the words contained in the foregoing are those of counsel and not mine. I understand that statements herein are made subject to the penalties set forth in 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Sebastian Stelmach

EXHIBIT 12



Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

On Tue, Jul 9, 2024 at 10:22 AM Jed Miller <jedmiller@everytown.org> wrote:

Dear Mr. Zimolong,

I have attached a letter concerning the responses and objections lodged by Frank's Gun Shop & Shooting Range LLC to the City's first interrogatories and requests for production. We'd like to set up a meet and confer to discuss with you; could you please let us know your availability for a zoom call on July 12, 16, or 17? Thank you,

-Jed Miller

--

JAMES E. MILLER | SENIOR COUNSEL, AFFIRMATIVE LITIGATION

JEDMILLER@EVERYTOWN.ORG 646-324-8220

PRONOUNS: HE/HIM/HIS



Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

From: Jed Miller <jedmiller@everytown.org>
Date: Tuesday, July 16, 2024 at 3:33 PM
To: Wally Zimolong <wally@zimolonglaw.com>
Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>
Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Mr. Zimolong,

I sent a letter on behalf of the City a week ago itemizing deficiencies in your client's responses and objections to the City's initial discovery requests. I also asked for your availability to meet and confer so that we can understand and clarify your client's objections. To date we have not received a response.

Please let us know at your earliest convenience the date(s) and time(s) you are available to discuss this discovery. I look forward to your prompt reply,

-Jed Miller



Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

On Thu, Jul 18, 2024 at 10:14 AM Wally Zimolong <wally@zimolonglaw.com> wrote:

Hi Jed:

I have been swamped with the election. (President Trump's momentum is unreal!) I am away this week. I head away again on Sunday. I am back a few days in early August but then head away again. Do you have any time the week of August 8? I can check my schedule.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com





Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

From: Jed Miller <jedmiller@everytown.org>

Date: Tuesday, July 23, 2024 at 3:04 PM

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>

Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

Our team is available to meet and confer at any time on August 8. Please let us know when you are available on August 8 and we will circulate a dial-in. We are eager to work through these issues and avoid unnecessary delay, so if you have availability before that please let us know. Thanks,

-Jed



Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

On Wed, Jul 24, 2024 at 7:03 AM Wally Zimolong <wally@zimolonglaw.com> wrote:

Jed:

I am no longer available on August 8. I have to fly to Palm Beach for a meeting related to the upcoming election. How is Friday, August 23?

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com

Error! Filename not specified.



Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

From: Jed Miller <jedmiller@everytown.org>

Date: Thursday, July 25, 2024 at 1:16 PM

To: Wally Zimolong <wally@zimolonglaw.com>

Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>

Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

Wally,

We understand that you have more on your plate than just this case—we do, too. But this timeline is not reasonable.

We served discovery in this case on March 5th, granted an extension at your request, and then received your responses and objections a few days past the extension on May 3rd. We initially approached you about a meet & confer on July 9th. After not hearing from you, we followed up on July 16th. You offered a date three weeks away, August 8th. We responded that we could be available any time that day, and you have now instead offered a date two additional weeks into the future, August 23rd. That is 45 days—more than six weeks—from when we initially solicited a meet and confer to resolve the parties' apparent discovery dispute.

We consider your refusal to meet and confer within a reasonable time to be a constructive denial of the City's request. Unless you confirm by Friday of this week that someone else from your firm is available to meet on or before August 8, we will proceed with filing a motion to compel. Best regards,

-Jed



Fwd: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

----- Forwarded message -----

From: **Wally Zimolong** <wally@zimolonglaw.com>

Date: Thu, Jul 25, 2024 at 3:44 PM

Subject: Re: City of Philadelphia v. WRT Management, Inc. -- discovery correspondence

To: Jed Miller <jedmiller@everytown.org>

Cc: Renee Garcia <Renee.Garcia@phila.gov>, Lydia Furst <Lydia.Furst@phila.gov>, Melissa Medina <Melissa.Medina@phila.gov>, Ryan Smith <Ryan.Smith@phila.gov>, Alla Lefkowitz <alefkowitz@everytown.org>, Laura Keeley <lkeeley@everytown.org>, Eugene Nam <enam@everytown.org>, Estes, Jordan <jestes@kramerlevin.com>, Zagami, Drew <DZagami@kramerlevin.com>, Bootstaylor, Chloe <CBootstaylor@kramerlevin.com>, Eric Tirschwell <etirschwell@everytown.org>

Mr. Miller:

I do not think your email is a fair characterization. It is also not fair to say your busy schedule is the same as mine. You have 3 dozen lawyers working on this case and my firm consists of Mr. Fitzpatrick and myself.

Are you available August 21, 2024?

I am not sure of what the procedure is in New York, but you are not likely to get a hearing date in Philadelphia before August 21 on a motion to compel. Then the Court will ask us to talk before the hearing. I am not sure if that changes your position.

If you need to proceed with the motion to compel, that is your decision.

Wally Zimolong, Esquire

Main Office

353 West Lancaster Avenue, Suite 300, Wayne, PA 19087

Mailing Address

P.O. Box 552, Villanova, PA 19085-0552

Office: 215.665.0842 | **Mobile:** 609.932.8836 | **Email:** wally@zimolonglaw.com |

www.zimolonglaw.com



EXHIBIT 13

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



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.

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.: 24090075

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

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.

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
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.

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.

KRAMER LEVIN NAFTALIS & FRANKEL LLP
Jordan Estes*
Drew Zagami*

/s/
EVERYTOWN LAW
Eric Tirschwell*
James E. Miller*

1177 Avenue of the Americas
New York, NY 10036
Phone: (212) 715-9100
jestes@kramerlevin.com

Eugene Nam*
Laura Keeley*
450 Lexington Avenue
P.O. Box # 4184
New York, NY 10017
Phone: (646) 324-8222
etirschwell@everytown.org

KRAMER LEVIN NAFTALIS & FRANKEL LLP

Chloe Bootstaylor*
2000 K Street NW
Washington, DC 20006
Phone: (202) 775-4522
cbootstaylor@kramerlevin.com

EVERYTOWN LAW

Alla Lefkowitz*
P.O. Box 14780
Washington, DC 20044
Phone: (202) 545-3257
alefkowitz@everytown.org

**Admitted pro hac vice*

CITY OF PHILADELPHIA LAW DEPT.

Renee M. Garcia, City Solicitor
Attorney I.D. No. 315622
Lydia M. Furst, Chief Deputy City Solicitor
Attorney I.D. No. 307450
Melissa Medina, Divisional Deputy City Solicitor
Attorney I.D. No. 327048
Ryan B. Smith, Deputy City Solicitor
Attorney I.D. No. 324643
1515 Arch Street, 15th Floor
Philadelphia, PA 19102-1595
Phone: (215) 683-357
Attorneys For Plaintiff
City Of Philadelphia, Pennsylvania

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.: 24090075

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.: 24090075

EXHIBIT 14

Walter S. Zimolong, Esquire
Attorney I.D. #89151
James J. Fitzpatrick, Esquire
Attorney I.D. #320497
ZIMOLONG, LLC
P. O. Box 552
Villanova, PA 19085
(215) 665-0842

CITY OF PHILADELPHIA

Plaintiff

v.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

No. 230702394

RESPONSE IN OPPOSITION TO MOTION TO COMPEL

Defendant, Frank's Gun Shop & Shooting Range LLC ("Frank's") files this response in opposition to the motion to compel as follows:

Frank's opposes plaintiff's motion to compel because plaintiff seeks discovery of information that is privileged from disclosure under Commonwealth and federal law. Under Section 6111(i) of the Pennsylvania Uniform Act ("UFA"), 18 Pa.C.S.A. § 6111(i), "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.**" To enforce these confidentiality provisions, the UFA subjects any "person, licensed dealer, State or local government

agency or department,” who violates this confidentiality provision to civil damages of \$1,000 per occurrence, treble damages, and reasonable attorneys fees. 18 Pa.C.S.A. § 6111(i). Likewise, 18 U.S.C. § 926, except in criminal investigation, prohibits the records of firearms dealers maintain to be transferred to “any State or political subdivision.” But neither of these statutes has stopped plaintiff from requesting records of firearm’s transactions in the care, custody, and control of Frank’s. These records are clearly protected under 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926, and the plaintiff’s motion should be denied.

This interrogatory requests information that is squarely protected by 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926. While some of the discovery requests are limited to Frank’s interactions with so-called “Straw Purchasers,” it is irrelevant that plaintiff’s seek only information related to “Straw Purchasers.” The statutes make no except for records related to “Straw Purchasers” and plaintiff’s mere allegation that certain individual were “Straw Purchasers” is insufficient. If Frank’s were to disclose this information, the alleged “Straw Purchasers” could sue Frank’s and subjected it to significant liability. Other requests go well beyond the alleged “Straw Purchasers.” For example, in request for production number 6, the plaintiff’s request information related to firearm’s purchases by all residence of the city of Philadelphia.

In *Doe v. Franklin Cnty.*, 139 A.3d 296 (Pa. Commw. Ct. 2016), rev’d on other grounds, 644 Pa. 1, 174 A.3d 593 (2017) the Commonwealth Court held that “Section 6111(i) of the UFA to mean that ‘any person, licensed dealer, State or local governmental agency or department’ violates Section 6111(i) of the UFA by revealing

an applicant's name or identity' to a person not (1) authorized to receive such information by statute; (2) involved in the operation or management of the sheriff's office; (3) representing a law enforcement or criminal justice agency; or (4) otherwise authorized by an applicant." *Id.* at 307. And that "disclosure to any other person constitutes 'public disclosure'" under Section 6111(i). *Id.*

Plaintiff is not within the four enumerated classes of persons authorized to receive the confidential information Frank's maintains regarding firearms transactions. Therefore, disclosure of the information requested would constitute a "public disclosure" and would violated the confidentiality provisions of Section 6111(i) and subject Frank's to liability.

Accordingly, the Court should deny plaintiff's motion.

Respectfully submitted,

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorneys for Defendant, *Frank's Gun Shop & Shooting Range LLC*

Dated: September 24, 2024

CERTIFICATE OF SERVICE

I, Walter S. Zimolong, hereby certify that on the date set forth below, in accordance with Pa.R.Civ.P. 205.4(g)(1)(ii), the foregoing was electronically filed with the Philadelphia County Court of Common Pleas electronic filing system website and is available for review on the Philadelphia County Court of Common Pleas electronic filing system's website, which filing constitutes proper service upon counsel of record.

Dated: September 24, 2024

/s/ Walter S. Zimolong

EXHIBIT 15

PHILADELPHIA COURT OF COMMON PLEAS
PETITION/MOTION COVER SHEET

| FOR COURT USE ONLY | |
|---|-----------------------|
| ASSIGNED TO JUDGE: | ANSWER/RESPONSE DATE: |
| <i>Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at http://courts.phila.gov</i> | |

CONTROL NUMBER:

24095773

(RESPONDING PARTIES MUST INCLUDE THIS
NUMBER ON ALL FILINGS)

July 2023
Month Term, Year
No. 02394

CITY OF PHILADELPHIA VS TANNER
OPERATIONS, LLC ETA

Name of Filing Party:

FRANK'S GUN SHOP & SHOOTING RANGE

INDICATE NATURE OF DOCUMENT FILED:

☐ Petition (*Attach Rule to Show Cause*) ☒ Motion
☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☒ Yes ☐ No

Is another petition/motion pending? ☒ Yes ☐ No

If the answer to either question is yes, you must identify the judge(s):

GWENDOLYN BRIGHT

| | | |
|--|--|---|
| TYPE OF PETITION/MOTION (see list on reverse side) MOTION FOR RECONSIDERATION | | PETITION/MOTION CODE (see list on reverse side) MTRCS |
| ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding): | | |
| I. CASE PROGRAM DAY FORWARD/MAJOR JURY PROGRAM Name of Judicial Team Leader: <u>JUDGE GWENDOLYN BRIGHT</u> Applicable Petition/Motion Deadline: <u>02/03/2025</u> Has deadline been previously extended by the Court: <u>NO</u> | II. PARTIES (<i>required for proof of service</i>) (Name, address and telephone number of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.) WALTER S ZIMOLONG ZIMOLONG LLC P.O. BOX 552 , VILLANOVA PA 19085 JOHN S BENSON 18 N MAIN ST , DOYLESTOWN PA 18901 BRITAIN R HENRY 11 CHURCH RD SUITE 1A , HATFIELD PA 19440 RENEE GARCIA 1515 ARCH STREET, 17TH FLOOR , PHILADELPHIA PA 19102 | |
| III. OTHER | | |

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

| | |
|--|---|
| <u>September 30, 2024</u> | <u>WALTER S. ZIMOLONG</u> |
| (Attorney Signature/Unrepresented Party) | (Date) (Print Name) (Attorney I.D. No.) |

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.
No extension of the Answer/Response Date will be granted even if the parties so stipulate.

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

CITY OF PHILADELPHIA

Plaintiff

v.

TANNER OPERATIONS, ET
AL.

Defendants

: PHILADELPHIA COUNTY
: COURT OF COMMON PLEAS
:
: No. 230702394
:
:
:
:
:
:

ORDER

AND NOW, this ____ day of _____, 2024, upon the Motion for Reconsideration of this Court's Order dated September 27, 2024, regarding Motion at Control Number 24090925, and any response in opposition thereto, it is hereby **ORDERED** that the Order dated September 27, 2024, regarding Motion at Control Number 24090925 is **VACATED**.

BY THE COURT:

, J.

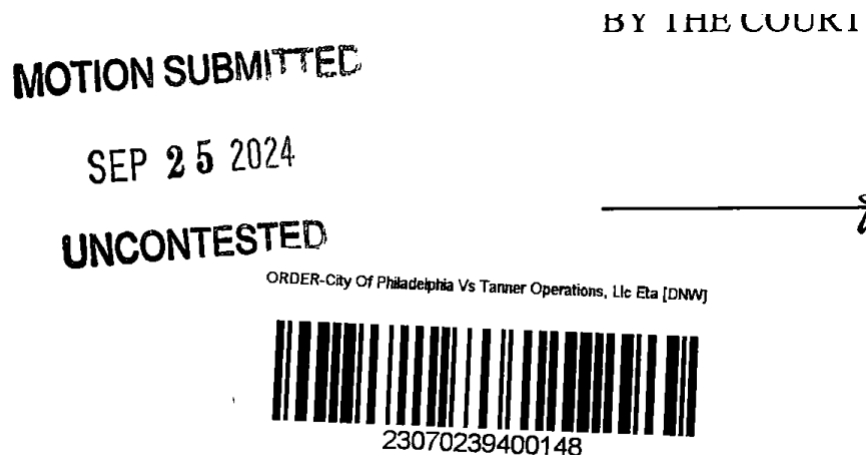
| | | |
|---------------------------|---|-----------------------|
| CITY OF PHILADELPHIA | : | PHILADELPHIA COUNTY |
| | : | COURT OF COMMON PLEAS |
| Plaintiff | : | |
| | : | No. 230702394 |
| v. | : | |
| | : | |
| TANNER OPERATIONS, ET AL. | : | |
| | : | |
| Defendants | : | |
| | : | |
| | : | |

Case ID: 230702394
Control No.: 24092073

Contractors Inc. v. Selective Way Ins. Co., No. 2006 CV 4193, 2008 WL 5575968 (Pa. Com. Pl. Sept. 9, 2008); *Bada v. Comcast Corp.*, 2015 WL 6675399 (Pa. Super. Ct. Aug. 21, 2015)(unreported opinion).

3. Frank's files this Motion for Reconsideration because the Court committed a clear error when it entered its Order dated September 27, 2024, which granted plaintiff's motion to compel directed to Frank's, because plaintiff's motion was allegedly "Uncontested." A copy of this Court's Order dated September 27, 2024 is attached at Exhibit "A."

4. The Court's September 27, 2024, Order is marked as "Motion Submitted Uncontested."



See Order at Ex. "A."

5. However, on September 12, 2024, plaintiff filed a certificate that the Motion was **CONTESTED** and on September 24, 2024, Frank's filed a response in opposition to the motion to which the Order relates. A copy of plaintiff's Certificate of Contested Discovery Motion is attached at Exhibit "B."

6. Finally, on September 27, 2024, the Honorable Gwendolyn Bright of this Court held a discovery hearing on plaintiff's motion to compel, Control No. 24085231.

7. That motion was directed to defendant, Mad Minute Enterprises, LLC, but involved the common disputed discovery issue in the motion directed to Frank's: whether the plaintiff's sought discovery of information protected under 18 Pa.C.S.A. § 6111(i) and 18 U.S.C. § 926.

8. Frank's participated in that September 27, 2024 hearing because it concerned a common controlling issue of law relevant to both discovery disputes and it was heard by the Court

9. At that hearing, Judge Bright relisted the discovery hearing for October 29, 2024, and instructed **all parties** to file supplemental briefing on the issue within two weeks.

10. However, notwithstanding plaintiff indicating to this Court that its motion was contested, Frank's filing an opposition to that motion, and the Court's instruction to submit supplemental briefing on the issue, on September 27, 2024, this Court entered an order granting plaintiff's motion to compel as to Frank's as **"Uncontested"** and instructing Frank's to supply plaintiff with documents within twenty (20) days.

11. Accordingly, Frank's respectfully submits that the Court erred in entering its September 27, 2024, Order, which granted plaintiff's discovery motion as **"Uncontested."**

WHEREFORE, defendants, Frank's Gun Shop & Shooting Range, LLC, respectfully requests that this Court grant its Motion for Reconsideration and vacate its order dated September 27, 2024.

Respectfully submitted,

/s/Walter S. Zimolong
Walter S. Zimolong, Esquire
Attorneys for Defendant,
*Frank's Gun Shop &
Shooting Range LLC*

Dated: September 28, 2024

Walter S. Zimolong, Esquire
Attorney I.D. #89151
James J. Fitzpatrick, Esquire
Attorney I.D. #320497
ZIMOLONG, LLC
P. O. Box 552
Villanova, PA 19085
(215) 665-0842

CITY OF PHILADELPHIA

Plaintiff

V.

TANNER OPERATIONS, ET AL.

Defendants

PHILADELPHIA COUNTY
COURT OF COMMON PLEAS

No. 230702394

**MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR RECONSIDERATION
OF COURT'S ORDER DATED SEPTEMBER 27, 2024**

Defendant, Frank's Gun Shop & Shooting Range LLC ("Frank's") files this memorandum of law in support of its motion for consideration and avers as follows:

I. MATTER BEFORE THE COURT

Motion for Consideration of Court's Order dated September 27, 2024.

II. STATEMENT OF QUESTIONED INVOLVED

This Court should reconsider its order when that Order is based on a clear mistake of fact. Here, the Court made a mistake of fact when it granted plaintiff's motion to compel as "Uncontested" because the motion was contested and is subject to an order of the Court for further briefing and argument. Should the Court reconsider its September 27, 2024, order and vacate it?

Case ID: 230702394
Control No.: 24092073

Suggested answer: Yes.

III. BACKGROUND

On September 5, 2024, plaintiff filed a motion to compel answers to plaintiff's request for production. On September 12, 2024, plaintiff filed a certificate that the Motion was **CONTESTED**. A copy of plaintiff's Certificate of Contested Discovery Motion is attached at Exhibit "B." On September 24, 2024, Frank's filed a response in opposition to the motion to which the Order relates. Finally, on September 27, 2024, the Honorable Gwendolyn Bright of this Court held a discovery hearing on plaintiff's motion to compel, Control No. 24085231. Frank's participated in that September 27, 2024, hearing because it concerned a common controlling issue of law relevant to both discovery disputes and it was heard by the Court. At that hearing, Judge Bright relisted the discovery hearing for October 29, 2024, and instructed all parties to file supplemental briefing on the issue within two weeks.

However, notwithstanding plaintiff indicating to this Court that its motion was contested, Frank's filing an opposition to that motion, and the Court's instruction to submit supplemental briefing on the issue, on September 27, 2024, this Court entered an order granting plaintiff's motion to compel as to Frank's as "**Uncontested**" and instructing Frank's to supply plaintiff with documents within twenty (20) days. *See* Ex. "A."

MOTION SUBMITTED

BY THE COURT

SEP 25 2024

UNCONTESTED

ORDER-City Of Philadelphia Vs Tanner Operations, Llc Eta [DNW]



23070239400148

See Order at Ex. "A."

This is a clear mistake of fact.

IV. ARGUMENT

"Except as otherwise provided or prescribed by law, a court upon notice to the parties may modify or rescind any order within 30 days after its entry, notwithstanding the prior termination of any term of court, if no appeal from such order has been taken or allowed." *Manufacturers & Traders Tr. Co. v. Greenville Gastroenterology, SC*, 108 A.3d 913, 917 (Pa. Super. Ct. 2015). A court should reconsider its ruling when a clear error in applying the facts or law has occurred. *See generally, Cox v. Monica*, 2008 WL 111991 (M.D. Pa. 2008); *Ellenbogen v. PNC Bank N.A.*, 731 A.2d 175 (Pa. Super. 1999); *Scartelli Gen. Contractors Inc. v. Selective Way Ins. Co.*, No. 2006 CV 4193, 2008 WL 5575968 (Pa. Com. Pl. Sept. 9, 2008); *Bada v. Comcast Corp.*, 2015 WL 6675399 (Pa. Super. Ct. Aug. 21, 2015)(unreported opinion).

Here, the Court committed a clear error when it entered its Order dated September 27, 2024, which granted plaintiff's motion to compel directed to Frank's,

because plaintiff's motion was allegedly "Uncontested." *See* Exhibit "A." But that motion is clearly contested and is subject to further briefing and argument before the Court. Accordingly, Frank's respectfully submits that the Court erred in entering its September 27, 2024 Order, which granted plaintiff's discovery motion as "Uncontested."

Respectfully submitted,

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorneys for Defendant,

Frank's Gun Shop &

Shooting Range LLC

Dated: September 28, 2024

CERTIFICATE OF SERVICE

I, Walter S. Zimolong, hereby certify that on the date set forth below, in accordance with Pa.R.Civ.P. 205.4(g)(1)(ii), the foregoing was electronically filed with the Philadelphia County Court of Common Pleas electronic filing system website and is available for review on the Philadelphia County Court of Common Pleas electronic filing system's website, which filing constitutes proper service upon counsel of record.

Dated: September 30, 2024

/s/ Walter S. Zimolong

EXHIBIT 16

PHILADELPHIA COURT OF COMMON PLEAS
PETITION/MOTION COVER SHEET

| FOR COURT USE ONLY | |
|---|-----------------------|
| ASSIGNED TO JUDGE: | ANSWER/RESPONSE DATE: |
| Do not send Judge courtesy copy of Petition/Motion/Answer/Response. Status may be obtained online at http://courts.phila.gov | |

CONTROL NUMBER:

24085231

(RESPONDING PARTIES MUST INCLUDE THIS
NUMBER ON ALL FILINGS)

July 2023
Month Term, Year
No. 02394

CITY OF PHILADELPHIA VS TANNER
OPERATIONS, LLC ETA

Name of Filing Party:

FRANK'S GUN SHOP & SHOOTING RANGE

INDICATE NATURE OF DOCUMENT FILED:

- ☐ Petition (Attach Rule to Show Cause) ☐ Motion
☐ Answer to Petition ☐ Response to Motion

Has another petition/motion been decided in this case? ☐ Yes ☐ No

Is another petition/motion pending? ☐ Yes ☐ No

If the answer to either question is yes, you must identify the judge(s):

| | | |
|---|---|---|
| TYPE OF PETITION/MOTION (see list on reverse side) MOTION/PETITION BRIEF FILED | | PETITION/MOTION CODE (see list on reverse side) BREFM |
| ANSWER / RESPONSE FILED TO (Please insert the title of the corresponding petition/motion to which you are responding): DSCIM - DISCOVERY MOTION FILED | | |
| I. CASE PROGRAM DAY FORWARD/MAJOR JURY PROGRAM Court Type: JUDGE GWENDOLYN BRIGHT Applicable Petition/Motion Deadline: N/A Has deadline been previously extended by the Court: N/A | II. PARTIES (required for proof of service) (Name, address and telephone number of all counsel of record and unrepresented parties. Attach a stamped addressed envelope for each attorney of record and unrepresented party.) WALTER S ZIMOLONG ZIMOLONG LLC P.O. BOX 552 , VILLANOVA PA 19085 JOHN S BENSON 18 N MAIN ST , DOYLESTOWN PA 18901 BRITAIN R HENRY 11 CHURCH RD SUITE 1A , HATFIELD PA 19440 RENEE GARCIA 1515 ARCH STREET, 17TH FLOOR , PHILADELPHIA PA 19102 | |
| III. OTHER | | |

By filing this document and signing below, the moving party certifies that this motion, petition, answer or response along with all documents filed, will be served upon all counsel and unrepresented parties as required by rules of Court (see PA. R.C.P. 206.6, Note to 208.2(a), and 440). Furthermore, moving party verifies that the answers made herein are true and correct and understands that sanctions may be imposed for inaccurate or incomplete answers.

| | | | |
|---|---------------------------|------------------------------------|------------------------------|
| _____ (Attorney Signature/Unrepresented Party) | October 8, 2024 (Date) | WALTER S. ZIMOLONG (Print Name) | _____ (Attorney I.D. No.) |
|---|---------------------------|------------------------------------|------------------------------|

The Petition, Motion and Answer or Response, if any, will be forwarded to the Court after the Answer/Response Date.
No extension of the Answer/Response Date will be granted even if the parties so stipulate.

Walter S. Zimolong, Esquire
Attorney I.D. #89151
James J. Fitzpatrick, Esquire
Attorney I.D. #320497
ZIMOLONG, LLC
P. O. Box 552
Villanova, PA 19085
(215) 665-0842

| | | |
|---------------------------|---|-----------------------|
| CITY OF PHILADELPHIA | : | PHILADELPHIA COUNTY |
| | : | COURT OF COMMON PLEAS |
| Plaintiff | : | |
| | : | No. 230702394 |
| v. | : | |
| | : | |
| TANNER OPERATIONS, ET AL. | : | |
| | : | |
| Defendants | : | |
| | : | |
| | : | |

**SUPPLEMENTAL MEMORANDUM IN SUPPORT OF THE RESPONSE IN
OPPOSITION TO MOTION TO COMPEL**

Pursuant to the Court’s directive at its September 24, 2024 discovery hearing, Defendant, Frank’s Gun Shop & Shooting Range LLC (“Frank’s”) files this response in opposition to plaintiff’s motion to compel.

First and foremost, Frank’s incorporates by reference the response in opposition to plaintiff’s motion filed on September 24, 2024. Frank’s also incorporates the arguments set forth in the response in opposition to the motion to compel of Mad Minute Enterprises, LLC filed on September 10, 2024.

Second, as set forth at the hearing, Frank’s submits that the Court should hold any action on plaintiff’s motion to compel in abeyance until the Commonwealth Court decides Frank’s pending petition for allowance of appeal. As the Court is aware, that

petition involves a dispositive issue of whether Frank's – and the other defendants – enjoys immunity from plaintiff's claims and whether this Court has subject matter jurisdiction over plaintiff's claims under 18 Pa.C.S.A. §§ 6120(a) and 6120(a.1). This Court should wait until the Commonwealth Court decides that petition for allowance of appeal. If the Commonwealth Court agrees to hear the appeal and ultimately decides in favor of Frank's, any order compelling discovery would cause irreparable harm to Frank's because it will have been required to produce documents in a suit in which enjoys immunity and over which this Court lacks jurisdiction. An adverse ruling before the Commonwealth Court rules, will also cause Frank's to seek further relief from the Commonwealth Court under the collateral order doctrine.

Conversely, there is no prejudice to plaintiff if the Court were to hold this matter in abeyance until after the Commonwealth Court rules. The petition for allowance for appeal have been before the Commonwealth Court for several months. As such, a ruling should be forthcoming shortly. Indeed, the lengthy consideration by the Commonwealth Court further militates in favor of an abeyance because it suggests the Commonwealth Court is interested in granting the petition for allowance of appeal considering an important issue of Commonwealth law.

Accordingly, Frank's respectfully requests that the Court deny the motion to compel.

Respectfully submitted,

/s/Walter S. Zimolong

Walter S. Zimolong, Esquire

Attorneys for Defendant, *Frank's Gun Shop & Shooting Range LLC*

Dated: September 24, 2024

CERTIFICATE OF SERVICE

I, Walter S. Zimolong, hereby certify that on the date set forth below, in accordance with Pa.R.Civ.P. 205.4(g)(1)(ii), the foregoing was electronically filed with the Philadelphia County Court of Common Pleas electronic filing system website and is available for review on the Philadelphia County Court of Common Pleas electronic filing system's website, which filing constitutes proper service upon counsel of record.

Dated: October 8, 2024

/s/ Walter S. Zimolong

CERTIFICATE OF SERVICE

I, Melissa Medina, hereby certify that on the date below, the City's Emergency Petition for Special and Preliminary Injunction and Rule to Show Cause Against Defendant Frank's was served on all counsel of record by electronic filing and is available for viewing and downloading.

Dated: November 12th, 2024

/s/ Melissa Medina

Melissa Medina

Divisional Deputy City Solicitor